

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-5.002 Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time which the licensee is absent from the State of Florida due to the spouse's duties with the Armed Forces. The licensee must document the absence and the spouse's military status to the Board.

Specific Authority 455.507(2), 486.025 FS. Law Implemented 455.507(2) FS. History--New

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Vessel Registration and Boating Safety

RULE TITLE: Management Provisions RULE NO.: 68D-24.003

PURPOSE AND EFFECT: Through this rulemaking, the Fish and Wildlife Conservation Commission (FWC) will delegate to the Executive Director the authority to approve establishment of certain boat speed and wake restrictions. This authority will be limited to noncontroversial restricted areas that meet the criteria discussed below. The effect will be to lessen the time that the boating public is exposed to a demonstrable public safety hazard while a consensus driven rule awaits Commission approval.

SUBJECT AREA TO BE ADDRESSED: The rule addresses the delegation of authority to approve and file rules for adoption establishing or amending boating restricted areas necessary for the protection of public safety on waters of the state. This delegation would be subject to the following criteria: a local government has passed a resolution requesting that the area be established; the area is designed to protect public safety; the requested area is in the immediate vicinity of a bridge, public boat ramp, public dock, public marina, public fueling facility, public sewage pump-out facility, or a specific navigational hazard (such as a sharp corner or blind curve that obstructs visibility); FWC Division of Law Enforcement personnel confirm that the proposed area presents a danger to public safety if it remains unregulated; the area will be regulated at one of the following levels – "Idle Speed No Wake," "Slow Speed Minimum Wake," or "30 Miles per Hour"; neither the United States Coast Guard nor the Army Corps of Engineers has objected to the establishment; no timely request for a public hearing is received and no timely challenge to the proposed rule is filed; no correspondence or other communication is received showing organized public opposition.

SPECIFIC AUTHORITY: 327.46 FS.

LAW IMPLEMENTED: 327.46 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: Captain Alan S. Richard, Boating Law and Waterway Management, Office of Enforcement Planning and Policy, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

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

**Section II
Proposed Rules**

DEPARTMENT OF INSURANCE

Division of Treasury

RULE TITLE: Department Procedures Regarding Distribution of Pension Fund Monies RULE NO.: 4C-10.001

PURPOSE AND EFFECT: Repeal Rule 4C-10.001, FAC. pursuant to Section 120.536(2)(b), F.S. review. With Laws of Florida, Chapter 93-193 and 95-249/250, all pension fund responsibilities were transferred from the Department of Insurance to the Department of Management Services. The Division of Retirement has the responsibility for the oversight and monitoring for actuarial soundness of the firefighters' and policemen's pension funds, to include rulemaking authority (sections 715.341(2) and 185.23(2), F.S.)

SUMMARY: Repeal pursuant to section 120.536(2)(b), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 626.8473, 627.776(1)(m), 628.151 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., March 15, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kenneth Nipper, Division Director, Administration, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0300, phone number (850)413-2000

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Kenneth Nipper, (850)922-3100, Ext. 2000.

THE FULL TEXT OF THE PROPOSED RULE IS:

4C-10.001 Department Procedures Regarding Distribution of Pension Fund Monies.

Specific 175.341(2), 185.23(3) FS. Law Implemented 175.111, 175.121(1),(2),(3), 175.122, 175.341(1),(2), 185.09, 185.10(1),(2), 185.23(1),(2) FS. History—New 9-19-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fred Whitson, Division of Legal Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bruce Gillander, Bureau Chief, Div. of Treasury, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2000

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER TITLE: Florida Building Commission –

Operational Procedures

RULE TITLE: State Building Code Adopted

PURPOSE AND EFFECT: Replace adoption of state minimum building codes with adoption of the Florida Building Code, effective January 1, 2001.

SUMMARY: Adopts the Florida Building Code as the building code for the State of Florida, effective January 1, 2001.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.73(1) FS. (1999)

LAW IMPLEMENTED: 553.72, 553.73 FS. (1999)

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

TIME AND DATE: 9:00 a.m., March 13, 2000

PLACE: Wyndham Hotel, 1601 Biscayne Boulevard, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mo Madani, Planning Manager, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, SUNCOM 277-1824

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Mo Madani, Planning Manager, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, SUNCOM 277-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-3.047 State ~~Minimum~~ Building Codes Adopted.

(1) The Florida Building Code is hereby adopted and incorporated by reference as the building code for the State of Florida. ~~In order to authorize the use of the most recent advances in technology and materials in building construction, the Commission hereby adopts the following revisions and amendments to the State Minimum Building Codes:~~

~~(a) Standard Codes, 1997 edition:~~

~~1. Standard Building Code, including the engineering design criteria contained in Section 1606 excluding Chapter 11, "Accessibility for People with Physical Disabilities"; Section 2405.2.1.6 relating to safety glazing near swimming pools, and Appendix E, "Energy Conservation".~~

~~2. Standard Mechanical Code.~~

~~3. Standard Gas Code.~~

~~(b) South Florida Building Code (Dade County), 1994 edition.~~

~~(c) South Florida Building Code (Broward County), 1996 edition.~~

~~(d) EPCOT Code, 1996 edition.~~

~~(e) One and Two Family Dwelling Code, 1995 edition excluding Section 308.4.9 relating to safety glazing near swimming pools.~~

~~(f) Section 1606 of the Standard Building Code shall be the minimum wind load criteria used for the design of all one and two family dwellings. Compliance with the engineering design criteria contained in Section 1606 may be achieved by using the Southern Building Code Congress International, Inc., Standard SSTD 10-97 for Hurricane Resistant Residential Construction, the Wood Products Promotion Council — High Wind Project, Guide to Wood Construction in High Wind Areas 1997 edition, "the Builder's Guide", the Wood Frame Construction Manual for One and Two Family Dwellings, 1995 High Wind Edition, or the Guide to Concrete Masonry Residential Construction in High Wind Areas, the "Masonry Guide". The Builder's Guide implementation shall be limited to the construction and design of wood frame single story~~

~~buildings with wind speed design parameters of 100 and 110 miles per hour. The Manual is limited to residential buildings of three stories or less, a mean roof height not exceeding 33 feet and wind speed design parameters between 90 and 120 miles per hour. The Masonry Guide is limited to residential buildings of one story with a maximum height not exceeding 25 feet and wind speed design parameters of 90, 100, and 110 miles per hour (fastest mile).~~

~~(2) Application. The construction provisions contained within these referenced codes shall apply as required by Part VII, Chapter 553, Florida Statutes. Each local government and state agency with building construction regulation responsibilities shall adopt one of the state minimum building codes as its building code, which shall govern the construction, erection, alteration, repair or demolition of any building for which the local government or state agency has responsibility. If the One and Two Family Dwelling Code is adopted for residential construction, then one of the other recognized model codes must be adopted for the regulation of other residential and nonresidential structures.~~

~~Specific Authority 553.73(1) 553.73(3), 553.73(9) FS. Law Implemented 553.72, 553.73 FS. History—New 7-18-90, Amended 3-30-93, 10-17-93, 8-28-95, 9-24-96, 12-26-96, 4-27-97, 10-5-97, 10-14-97.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Mo Madani, Planning Manager, Codes and Standards, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Pierce, Division Director, Division of Housing and Community Development, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 20, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 30, 1999

**DEPARTMENT OF COMMUNITY AFFAIRS
Division of Housing and Community Development**

RULE CHAPTER TITLE: Florida Building Commission –

Building Code Training Program 9B-70

RULE TITLE: Building Code Training Program RULE NO.: 9B-70.001

PURPOSE AND EFFECT: Adoption of Building Code Training Program relating to the Florida Building Code.

SUMMARY: Adopts the Building Code Training Program for the purpose of educating licensed building department personnel, contractors and design professionals through a required core curriculum course or equivalency examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.841(2) FS. (1999)

LAW IMPLEMENTED: 553.841 FS. (1999)

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

TIME AND DATE: 8:30 a.m. – 9:00 a.m., March 13, 2000

PLACE: Wyndham Hotel, 1601 Biscayne Boulevard, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Program Administrator, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, SUNCOM 277-1824

Any person requiring special accommodation at the workshop because of a disability or physical impairment should contact Ila Jones, Program Administrator, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, SUNCOM 277-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-70.001 Building Code Training Program.

The purpose of the Building Code Training Program is to educate licensed building department personnel, contractors, and design professionals through a required core curriculum course or equivalency examination that addresses the Florida Building Code.

(1) The Core Curriculum Course:

(a) The core course shall consist of one four (4) hour course that licensees regulated under chapters 468, part XII, 481, and 489, parts I and II, shall be required to complete as a condition of renewal of their certificate or registration. Licensees regulated under chapter 471 are required to complete the core curriculum only if the licensee actively participates in designing buildings, structures, or facilities covered by the Florida Building Code.

(b) Licensees who complete the core curriculum will receive four (4) hours of continuing education credit.

(c) Licensees who hold more than one certificate or registration issued by a board and licensees regulated by more than one board will be required to complete the core course one time.

(d) The core course shall be delivered through customized instructor-led training at multiple sites, Internet, or CD-ROM supported interactive multimedia training materials.

(e) The Florida Building Commission shall assign a generic course number which must be used by all providers when reporting completion of the core course by electronic means to the Department of Community Affairs and Department of Business and Professional Regulation.

(f) The core course shall be effective until the adoption of the new edition of the Florida Building Code every third year, at which time the curriculum will be updated to reflect amendments and changes to the unified code. The licensee shall only be required to complete the core course one time.

(2) Equivalency examination:

(a) The equivalency examination shall include and measure the same areas of competency covered in the core course. The equivalency examination will be updated every third year to reflect the new edition of the Florida Building Code.

(b) Passing the equivalency examination shall be considered equivalent to completing the core course and the licensee will receive four (4) hours of continuing education credit.

(c) The licensee shall be required to achieve a passing status on the equivalency examination to receive four (4) hours continuing education credit.

(d) The equivalency examination shall be administered at multiple sites located throughout the state.

(e) Security measures as set forth by the Department of Business and Professional Regulation's Rule 61-11.014, F.A.C., shall be followed during the administration of the equivalency examination.

(f) If the licensee does not pass the equivalency examination, and subsequently completes the core curriculum, the licensee shall be deemed to have met the requirements for license renewal and will receive four (4) hours of continuing education credit.

(3) The Florida Building Commission shall have the authority to contract for the purpose of administering the core course and equivalency examination.

Specific Authority 553.841(2) FS. Law Implemented 553.841 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Program Administrator, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)4871824, Suncom 277-1824

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Pierce, Division Director, Division of Housing and Community Development, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 1999

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Definitions	12-11.002
Requests for Technical Assistance Advisements	12-11.003
Requests for Conference Discussion	12-11.004
Deletion of Private or Confidential Information	12-11.005
Processing Requests for, and Obtaining Copies of, Technical Assistance Advisements	12-11.006
Effect of Advisements	12-11.007
Requests by Representatives	12-11.008
Informal Technical Tax Statements	12-11.013

PURPOSE AND EFFECT: The purpose of these proposed rule amendments is to revise the procedures that implement the Department's statutory authority to issue written, binding statements called Technical Assistance Advisements (TAAs) to taxpayers who request them, and to establish procedures for issuing written, informal technical tax statements called Tax Information Publications. The effect of these proposed rules is to ensure that the public knows how the Department will issue advice on tax matters.

SUMMARY: A) The proposed amendments to Rule 12-11.002, FAC., revise the definition of a Technical Assistance Advisement (TAA) to include a TAA issued to a taxpayer association; define "taxpayer association" to mean an organization authorized by its members to act on their behalf; and define a Tax Information Publication (TIP) to mean a written, informal statement issued by the Department of Revenue (DOR). B) The changes to Rule 12-11.003, FAC., allow DOR to issue a TAA to a taxpayer association; clarify that a TAA request must include copies of pertinent documents; identify the information that must accompany an association's request for a TAA, including a written description of all relevant facts, an explanation of the entire transaction, a discussion of any determination the association proposes, a statement from the association promising to distribute the TAA to all its members, and a statement allowing the TAA to be published; provide that an association's TAA request should be submitted to the DOR's Director of Industry and Intergovernmental Relations, who will determine if the issue is appropriate for DOR to issue a TAA; implement a 1998 legislative change authorizing DOR to issue a TAA at any time, if it deals with the sales and use tax exemption granted to general groceries or medical items; and, add a taxpayer association's request for a TAA within the existing TAA procedures. C) The proposed amendments to Rule 12-11.004, FAC., provide that a taxpayer association can request a conference with DOR regarding its request for a TAA. D) The suggested revisions to Rule 12-11.005, FAC., clarify that the requestor of a TAA is granted the opportunity to identify information that DOR cannot disclose pursuant to confidentiality concerns. E) The proposed revisions to Rule 12-11.006, FAC., explain how a taxpayer's association can check on the status of a TAA request that has been submitted to

DOR; clarify that the fee imposed on requests for copies of previously-issued TAAs does not apply when someone accesses and prints a TAA from DOR's Internet website; provide that this copying fee does apply to requests for copies of supporting information, and states that the fee must be paid before the TAA or supporting information copies will be sent to the requestor by the Department. F) The changes to Rule 12-11.007, FAC., state that a TAA issued to a taxpayer association provides guidance to all members of the association who engage in the transaction discussed in the TAA; and, clarify that, if a member of the association decides to not follow the TAA, such member could be liable for the tax consequences of such a decision. G) The proposed amendments to Rule 12-11.008, FAC., add taxpayer association requests for TAA to the provisions governing how representatives of taxpayers can act on behalf of clients who need a TAA. H) The creation of Rule 12-11.013, FAC., discusses DOR's authority to issue informal technical tax statements known as Tax Information Publications (TIPs); explains that TIPs are meant to guide taxpayers and help them comply with tax laws and rules, promote uniform compliance with the tax laws, notify taxpayers about law changes or legal decisions, and explain to taxpayers the rights they are granted by statutes and rules; states that TIPs do not supersede or change any provision of tax law, Department rule, or other law; clarifies that TIPs are not considered rules pursuant to Chapter 120, F.S.; and, reminds taxpayers who rely on a TIP that they must be aware of subsequent law or rule changes that render a previously-issued TIP obsolete.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rules only deal with procedures concerning the issuance of tax advice by the Department, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 213.06(1), 213.22(3) FS.

LAW IMPLEMENTED: 213.015(1), 213.22, 213.2201 FS.

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

TIME AND DATE: 10:00 a.m., March 14, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

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 FULL TEXT OF THE PROPOSED RULES IS:

12-11.002 Definitions.

(1) "Technical Assistance Advisements" (TAA) or "Advisements" are written statements issued to taxpayers or to industry or trade associations by the Department of Revenue, setting forth the Department's position on the tax consequences of a specific transaction or event under applicable statutes and rules.

(2) "Internal Technical Advisements" (ITA) are written statements issued to Department personnel, in response to a Request for Technical Assistance (RTA), which state the Department's position on the tax consequences of a specific transaction or event under applicable statutes and rules.

(3) through (7) No change.

(8) "Taxpayer Association" shall mean an organization that has been authorized by its members to represent the interests of the members.

(9) "Tax Information Publication" (TIP) shall mean a written, informal statement developed and issued by the Department.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22 FS. History--New 5-27-82, Formerly 12-11.02, Amended 10-24-96, _____.

12-11.003 Requests for Technical Assistance Advisements.

(1) No change.

(2) Each written request for a technical assistance advisement (TAA) from a taxpayer or his or her representative related to the specific circumstances of an individual taxpayer must contain:

(a) No change.

(b) In addition, true copies of all contracts, wills, deeds, agreements, instruments, and other documents involved in the transaction ~~must~~ ~~should~~ be submitted with the request:

1. For prompt disposition, relevant facts reflected in documents submitted ~~must~~ ~~should~~ be included in the taxpayer's statement and not merely incorporated by reference, and;

2. ~~Must~~ ~~Should~~ be accompanied by an analysis of their bearing on the issue or issues, specifying the pertinent provisions.

(c) An explanation of an entire, integrated transaction when the request pertains to only a portion of that transaction. Where the request pertains to only one step of a larger integrated transaction, the facts, circumstances, etc., should be submitted with respect to the entire transaction.

(d) No change.

(3) Each written request for a technical assistance advisement from a taxpayer association or the association's representative must contain:

(a) A complete description of all relevant facts relating to the potential transaction(s).

(b) An explanation of an entire, integrated transaction when the request pertains to only a portion of that transaction.

(c) If the taxpayer association asserts a particular determination of the issues, an explanation of the grounds for the determination, and a statement of relevant authorities in support of the position asserted should be furnished. Even though the taxpayer association is urging no particular determination with regard to a proposed transaction, the association's views as to the tax consequences of the proposed action should be stated and a statement of relevant authorities to support such views should be furnished. In addition, the taxpayer association should, for prompt disposition, inform the Department of any legislation, court decisions, or regulations that the taxpayer association determines to be contrary to the position advanced. If the taxpayer association determines that there are no contrary authorities, a statement to this effect should be included in the advisement request.

(d) A statement from the taxpayer association agreeing to disseminate the TAA to all of its members and related interested parties.

(e) A statement waiving the provisions of s. 213.22(2), F.S., to allow the TAA to be published.

(4) Upon receipt of a request from a taxpayer association for a TAA, the Department's Director of Industry and Intergovernmental Relations will determine whether the issue is of general applicability and is appropriate for the issuance of an industry-wide TAA.

(5)(3) An advisement request, other than a request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S., must also contain a statement whether, to the best of knowledge of the taxpayer or his or her representative or the taxpayer association or its representative, the identical issue is involved in a return of the taxpayer or a member of the taxpayer association, and, if so, whether:

(a) The taxpayer or a member of the taxpayer association is under audit,

(b) The issue is being considered by the Department,

(c) The issue has been examined and the statutory period for assessment or refund has expired,

(d) The issue is pending in litigation in a case involving the taxpayer, a member of the taxpayer association, or a person who is a party to the transaction, or

(e) The issue, or a substantially similar issue, has been ruled on by the Department for the taxpayer or predecessor of the taxpayer, or a member of the taxpayer association, and the substance of the prior ruling or advisement.

After a request is filed, but before an advisement is issued, if a taxpayer or his or her authorized representative or the taxpayer association or its representative becomes aware that an examination of the issue by the Department has commenced, the taxpayer or his or her representative or the taxpayer association or its representative shall so notify the Department in writing.

(6)(4) A request for an advisement must comply with the deletion requirements in Rule 12-11.005.

(7)(a)(5) A request for a technical assistance advisement by the Department from an individual taxpayer or his or her representative should be addressed to Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443.

(b) A request from a taxpayer association or its representative should be addressed to the Office of Industry and Intergovernmental Relations, Room 104, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida 32399-0100.

(8)(6) Any request for an advisement that does not comply with all the provisions of this rule paragraph will be acknowledged, and the requirements that have not been met will be pointed out. If a request for an advisement lacks essential information, the taxpayer or his or her representative, or the taxpayer association or its representative, will be advised that if the information is not forthcoming within 30 days, the request will be closed. If the information is received after the request is closed, the request will be reopened and treated as a new request as of the date of the receipt of the essential information.

(9)(7) When a taxpayer who is under audit or a taxpayer association that has a member who is under audit requests a Technical Assistance Advisement (TAA) on any tax being audited or a transaction or period being reviewed, other than a request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S., the taxpayer or the taxpayer association shall mail or hand-deliver to the authorized employee conducting the audit or review a copy of the TAA request at the same time the request is mailed to Technical Assistance and Dispute Resolution (TADR) or the Office of Industry and Intergovernmental Relations (I&IR) for a response. Upon receipt of the TAA request, the authorized employee will notify TADR or I&IR of his or her intent to provide any factual information, documents, arguments, or authorities which he or she wants considered. The authorized employee shall have 10 working days from the date of the TAA request in which to

forward any information to TADR or I&IR or to request additional time to submit information regarding the TAA request. The authorized employee shall not be obligated to suspend the audit or review pending issuance of the TAA. After issuance of a Notice of Proposed Assessment or billing, no TAA will be issued to a taxpayer or taxpayer association with respect to the tax liability reflected by the proposed assessment or billing, other than a TAA request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S.

(10)(8) No TAA will be issued to an individual a taxpayer who has received notification of the Department's intent to audit a specific tax, other than a TAA request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S., if an RTA by the authorized employee, with respect to the same taxpayer and issue, is pending. If the Department does not issue an ITA in this situation, the taxpayer may submit a request for a TAA.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22 FS. History--New 5-27-82, Formerly 12-11.03, Amended 10-24-96,_____.

12-11.004 Requests for Conference Discussion.

(1) A taxpayer, or the taxpayer's his or her representative who, or a taxpayer association or its representative that, desires an oral discussion of the issue or issues involved should indicate such desire in writing when filing the request in order that the conference may be arranged at that stage of consideration when it will be most helpful.

(2) If a conference has been requested, the taxpayer or taxpayer association will be notified of the time and place of the conference. Unless specifically agreed to by the Department, all conferences will be held at the Department's Department offices in Tallahassee, Florida, or by telephone conference call if requested by the taxpayer or taxpayer association. A conference is normally scheduled only when the Department agrees determines that it will be helpful in deciding the case, or when an adverse decision is indicated.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(4),-(3) FS. History--New 5-27-82, Formerly 12-11.04, Amended _____.

12-11.005 Deletion of Private or Confidential Information.

(1) In order to assist the Department in making the deletions of private and confidential materials and privileged financial and commercial information from the text of advisements and supporting information provided by the requestor to the Department which are open to public inspection, there must accompany requests for advisements and the submission of supporting information either a statement of the deletions proposed by the person requesting the advisements, or a statement that no information other than names, addresses, and taxpayer identification numbers needs to need be deleted.

(2) through (5) No change.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(4),-(3) FS. History--New 5-27-82, Formerly 12-11.05, Amended _____.

12-11.006 Processing Requests for, and Obtaining Copies of, Technical Assistance Advisements.

(1) No change.

(2) A taxpayer, or the taxpayer's authorized representative, or a taxpayer association or its representative, desiring to obtain information as to the status of the taxpayer's request may do so by contacting either Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443 or the Director of Industry and Intergovernmental Relations at Room 104, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida 32399-0100, depending on where the request was directed originally.

(3)(a) An individual who accesses and prints a copy of a previously-issued TAA using the Department's Internet website does not have to submit the fee required by paragraph (b). The Department's Internet address is shown inside the brackets [http://www.state.fl.us/dor/].

(b) A request for a copy of a previously-issued TAA or supporting information should be mailed or faxed to Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, FAX number (850)921-2983. An individual who mails or faxes a request for a paper copy of a previously-issued TAA or supporting information must first submit a check made payable to the Department of Revenue in an amount equal to 50 cents per page, with a minimum amount of \$5.00 for each TAA or supporting information document requested.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(4) FS. History--New 5-27-82, Formerly 12-11.06, Amended 10-24-96,_____.

12-11.007 Effect of Advisements.

(1) A taxpayer may not rely on an advisement issued to another taxpayer, except that an advisement issued to a taxpayer association provides guidance to those taxpayers who are members of the taxpayer association for the particular transaction(s) discussed in the TAA. An advisement may be revoked or modified at any time by the Department in the administration of the taxing statutes. If an advisement is revoked or modified, the revocation or modification shall be prospective only, and such revocation or modification shall not be applied retroactively against the taxpayer.

(2) An advisement, issued to a taxpayer or a taxpayer association, with respect to a particular transaction represents a holding of the Department on that transaction only. If the advisement is later found to be in error, or no longer in accord with the position of the Department, it will afford the taxpayer no protection with respect to a like transaction in the same or subsequent years.

(3) No change.

(4) As part of the determination of a taxpayer's liability, it is the responsibility of the Department to ascertain whether an advisement previously issued to the taxpayer or the taxpayer association has been properly applied. It should be determined whether the representations, upon which the advisement was based, reflected an accurate statement of the material facts and whether the transaction actually was carried out substantially as proposed.

(5) Members of a taxpayer association who choose not to follow the guidance provided in a TAA may be liable for the tax consequences of not adhering to the Department's position expressed in the TAA.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22 FS. History--New 5-27-82 Formerly 12-11.07, Amended _____.

12-11.008 Requests by Representatives.

(1) A request, by or for a taxpayer or a taxpayer association, must be signed by the taxpayer, an officer or director of the taxpayer association, or an his or her authorized representative of the taxpayer or the taxpayer association. If the request is signed by an authorized a representative of the taxpayer, he or she must either be:

(a) An attorney, who is a member in good standing of the Florida Bar or of the bar of the highest court of any state, possession, commonwealth, or the District of Columbia, and who files with the Department a written declaration that he or she is currently qualified as an attorney and he or she is authorized to represent the principal, or

(b) through (2) No change.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(1), (3) FS. History--New 5-27-82, Formerly 12-11.08, Amended _____.

12-11.013 Informal Technical Tax Statements.

Pursuant to the provisions of ss. 213.015(1) and 213.2201, F.S., the Department is authorized to issue informal written technical statements called Tax Information Publications (TIPs).

(1) Tax Information Publications are intended to:

(a) Provide guidance to taxpayers, tax practitioners, and the public;

(b) Promote the uniform application of the tax laws;

(c) Inform taxpayers about the Department's response to changes in:

1. United States or Florida tax laws; or,

2. Court or Division of Administrative Hearings decisions that interpret tax laws;

(d) Explain to taxpayers their rights and responsibilities under the tax laws; and,

(e) Assist taxpayers in complying with the tax laws.

(2)(a) TIPs cannot supersede, alter, or otherwise change any provision of Florida law, Department rule, or any other source of law. They are not binding on the Department or on taxpayers.

(b) A TIP is not a rule under the provisions of Chapter 120, F.S.

(3)(a) If there is an inconsistency between a TIP and a statute, rule, or court decision, the statute, rule, or court decision controls.

(b) Any person relying on a TIP is required to consider the effects of later statute or rule changes, or court decisions, that render the TIP inapplicable. A taxpayer who relies on the provision(s) contained in an inapplicable TIP cannot subsequently allege that he or she received inaccurate guidance from the Department.

Specific Authority 213.06(1) FS. Law Implemented 213.015(1), 213.2201 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 12, 1999 (Vol. 25, No. 45, pp. 5197-5201). The workshop was held on December 2, 1999. Testimony was offered during the workshop, and the comments received resulted in a change being incorporated into proposed Rule 12-11.003, F.A.C. This change deleted the proposed requirement that a Technical Assistance Advisement that is issued to a taxpayer association must be distributed by the association to "related interested parties."

DEPARTMENT OF REVENUE

RULE TITLE: Notification to Custodians; Custodial Responsibilities
 RULE NO.: 12-21.203

PURPOSE AND EFFECT: The purpose of these proposed rule amendments to Rule 12-21.203, FAC., is to implement a 1999 legislative change, and to remove the incorporation by reference of form DR-44, which is not a rule. The effect of these proposed amendments is to reduce the amount of a taxpayer's assets the Department must freeze, when the agency is garnishing the assets to collect an unpaid tax liability.

SUMMARY: These proposed rule changes authorize the Department to only freeze that portion of a taxpayer's assets which equals the taxpayer's unpaid liability, instead of the entire amount of a taxpayer's assets which are held by a

custodian (financial institution). However, this partial freeze can not be used if the taxpayer has a history of tax delinquencies. The incorporation by reference of form DR-44 is being deleted because the form is not a rule as defined in s. 120.52(15), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only deals with a minimal change to the procedures governing garnishment for unpaid taxes, there are no significant regulatory costs involved. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 72.011(2), 213.06(1) FS.

LAW IMPLEMENTED: 213.67 FS.

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

TIME AND DATE: 10:00 a.m., March 14, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

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 FULL TEXT OF THE PROPOSED RULE IS:

12-21.203 Notification to Custodians; Custodial Responsibilities.

(1) To initiate this garnishment procedure, the Department will prepare a Notice of Freeze (Form DR-44, ~~incorporated herein by reference, dated 09/98~~). ~~Defaced copies of this form may be obtained by written request to the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304.~~ This Notice shall be sent by registered mail to custodians exercising control or possession of a noncompliant taxpayer's assets. The following employees of the Department are authorized to initiate this administrative garnishment procedure:

- (a) The Executive Director or the Deputy Executive Director;
- (b) The General Counsel or Deputy General Counsel;

- (c) The Senior Program Director, General Tax Administration;

- (d) The Program Director, General Tax Administration; and

- (e) Any of the following positions within the Compliance Enforcement Process, General Tax Administration:

- 1. The Process Manager;
- 2. Regional Managers;
- 3. Service Center Managers; and
- 4. Process Group Managers.

- (f) Any of the following positions within the Taxpayer Services Process, General Tax Administration:

- 1. The Process Manager;
- 2. Revenue Administrator III; and
- 3. Revenue Specialist Supervisor.

(2) The notice shall state the Department's authority to initiate the garnishment procedure; specifically identify the noncompliant taxpayer subject to garnishment; specify the amount of tax, penalty, or interest owed by the taxpayer; indicate the dates during which the freeze of assets is effective; specify the amount of the taxpayer's assets which must be frozen by the custodian; and fully describe the custodian's responsibilities pursuant to s. 213.67, F.S., and this Rule.

(3) The Notice of Freeze (Form DR-44) informs the custodian that:

(a) The custodian is prohibited from disposing, transferring, or returning to the noncompliant taxpayer or other party the specified partial amount or the entire amount ~~any~~ of such taxpayer's assets in the custodian's control or possession at the time of receipt of the Notice of Freeze, or any additional assets of which the custodian subsequently acquires control or possession during the time period prescribed by this Notice, unless authorized by the Department in writing;

(b) The Notice of Freeze is effective as of the date of its receipt, and remains in effect until the Department consents to a transfer, disposition, or return, or until sixty (60) consecutive calendar days have elapsed from the date of its receipt, whichever occurs first. However, if the noncompliant taxpayer contests the intended levy in circuit court or under Chapter 120, F.S., within the time period specified under s. 213.67, F.S., the Notice of Freeze will remain effective until final resolution of the contest;

(c) If, during the time period prescribed by this Notice, a custodian makes any transfer or disposition of the assets required to be withheld, the custodian will be liable for any indebtedness owed to the department by the noncompliant taxpayer to the extent of the value of such assets if the state is unable to recover the indebtedness, solely by reason of the transfer or disposition.

(4) Each custodian who receives a Notice issued pursuant to this Rule must:

(a) Inform the Department in writing, within 5 days of the receipt of the notice, of those specific assets and their value attributable to the noncompliant taxpayer which the custodian controls, possesses, or is owed;

(b) Inform the Department in writing, within 5 days after coming into subsequent possession or control of assets attributable to the noncompliant taxpayer; and

(c) Comply with the statutory prohibition against disposing, transferring, or releasing the amount any of the noncompliant taxpayer's assets which the Department specified in the Notice of Freeze.

(5) through (6) No change.

Specific Authority 72.011(2), 213.06(1) FS. Law Implemented 213.67 FS. History—New 6-16-93, Amended 3-31-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 5, 1999 (Vol. 25, No. 44, pp. 5023-5025). The workshop was held on November 22, 1999. No one appeared to testify at the workshop, and no comments were submitted.

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Contract Auditor Prerequisites	12-25.004
Selection Procedures for Contract Auditors	12-25.005
Applicants Ranking Committee	12-25.0054
Applicant Ranking Process	12-25.0056
Dispute Resolution	12-25.0058

PURPOSE AND EFFECT: The purpose of these proposed rule amendments is to change the procedures governing the Contract Auditing program, based on issues identified during the initial years in which the program has operated. The effect of these proposed changes is to simplify and streamline the procedures associated with the Contract Auditing program.

SUMMARY: A) The proposed amendments to Rule 12-25.004, F.A.C., eliminate the requirements that an applicant be a certified public accountant in good standing in the state where the audit work will be done, and that the applicant file a sworn statement stating he or she has not been convicted of a

public entity crime; B) The recommended changes to Rule 12-25.005, F.A.C., transfer and revise statistical sampling procedures used to select applicants to rank for potential contracts when the applicant pool exceeds 75; provide that an applicant who is completing a contract audit is automatically included in the ranking process if the applicant meets specific criteria; explain how the “delivery date” for a submitted file or application will be determined when it is sent using an overnight delivery service; define the term “completed” case file to mean that the contract audit file is ready for departmental review; provide criteria a firm may use to substitute team members originally identified in the Request For Information; and, clarify the procedures used to determine if an application has been timely filed; C) The proposed amendments to Rule 12-25.0054, F.A.C., adjust various provisions to conform to a recent reorganization of the Department; provide that all meetings of the Applicants Ranking Committee will be noticed in the Florida Administrative Weekly; eliminate a discussion of the procedures used to pull a statistical sample of applicants when an applicant pool exceeds 75, since this procedure is moved to Rule 12-25.005, F.A.C.; authorize the chairperson of the Applicants Ranking Committee to designate an individual who will review the selection committee members’ completed ranking forms, resolve discrepancies, and enter ranking form scores into the database; establish procedures for determining how to handle selection scores that result in a tie among two or more applicants; D) The recommended changes to Rule 12-25.0056, F.A.C., change the scoring for the evaluation criterion which is based on “experience”; eliminate the requirement that applicants successfully pass tax courses and add Certified Audit program courses as part of the evaluation criterion based on “knowledge of Florida tax law”; state that a general law degree (i.e., one without a concentration in tax law) does not qualify for advanced degree points within the evaluation criterion based on “Advanced Degrees in Taxation”; eliminate the “Superior Performance” rating; revise the method for scoring performance evaluations; add an example explaining how the Department will calculate an applicant’s ranking; eliminate language concerning the exclusion of an applicant based on the existence of disciplinary actions by a Better Business Bureau; and, increase the weighted score granted to certified minority business enterprises; E) The proposed amendments to Rule 12-25.0058, F.A.C., adjust a provision to conform to a recent reorganization of the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rules deal with internal procedures governing the Contract Auditing program, there are no significant regulatory costs involved. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 213.06(1), 213.28(4) FS.

LAW IMPLEMENTED: 213.28 FS.

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

TIME AND DATE: 10:00 a.m., March 14, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

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 FULL TEXT OF THE PROPOSED RULES IS:

12-25.004 Contract Auditor Prerequisites.

An applicant and the applicant's firm, prior to being considered for a contract or renewal of a contract to provide auditing services pursuant to Section 213.28, F.S., shall comply with the following qualifying criteria:

(1) Must be a certified public accountant in good standing under the laws of the state in which the applicant is licensed; ~~and under the laws of the state where the audit services will be performed;~~

(2) through (4) No change.

~~(5) File a sworn statement with the Department that they have not been convicted of a public entity crime, as provided in Section 287.133, F.S.~~

~~(5)(6)~~ Comply with contractual requirements regarding the confidentiality of tax information, which acknowledges the applicant's legal responsibility to not disclose any taxpayer or departmental records.

~~(6)(7)~~ Timely provide the information, as specified by the Request for Information (when applicable), required by the Department for use in the applicant ranking procedure. "Timely provide" means the information must either be hand-delivered to the Contract Manager's Office or postmarked by the U. S. Postal Service by the deadline established in the Request for Information. Facsimile information will not be accepted.

~~(7)(8)~~ Shall not have any currently unpaid Florida state tax liability, and, to the best of the applicant's knowledge, be in compliance with Florida revenue laws. This provision applies to any business entity owned or controlled by, or related to, the applicant, including a parent, subsidiary, brother or sister company, or other affiliated entity.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212-10~~, 213.28 FS. History--New 5-11-92, Amended 3-20-94, 10-30-96, _____.

12-25.005 Selection Procedures for Contract Auditors.

(1) No change.

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

3. When the Department identifies the need to revise or replace the group of firms under contract, and the number of applicants exceeds 75, then the following statistical sampling techniques will be utilized to select applications to be ranked in that particular pool:

a. The population will be defined as the applications filed in a complete, timely manner (as determined by the Request For Information), for the subject contract size pool, exclusive of any applicant that has satisfactorily completed a contract at the time it submits an application and who meets all the criteria established in subsection (2) of this rule at the cut-off date established by the Contract Manager.

b. A random number generator software package will be used to select which applicants from the population will be ranked.

c. The size of this statistical sample will be of sufficient size to ensure that there are at least 2 firms competing for each available contract. The critical factor in determining the sample size will be the time available for the Applicants Ranking Committee to perform its function.

d. Any applicant that has completed a contract at the time it submits an application and who meets all the criteria established in subsection (2) of this rule at the cut-off date established by the Contract Manager will automatically be included in the ranking process.

(b) Until the Department identifies the need to revise or replace the group of firms under contract, the Contract Manager will develop a ranked list from those firms that have had contracts within the two immediately preceding program years for General Tax Administration (GTA) management approval. The approved ranked list will then be used by the Contract Manager to negotiate contracts, using the same procedure set forth in this rule section. The following method will be used to develop this ranked list, and the list discussed in paragraph (2)(a) of this rule:

1. Step A: The Contract Manager will establish a cut-off date prior to developing the ranked list. The Evaluation rating(s) and the Efficiency rating(s) for any individual audit submitted to the Department subsequent to the established cut-off date will not be considered in the current ranking process. ~~The cut-off date will be within six weeks of the date~~

the ranked list is presented to GTA management for approval. The Contract Manager will eliminate from the list of firms any firms that, at the cut-off date:

- a. No longer meet the prerequisites stated in Rule ~~number~~ 12-25.004, F.A.C.; or,
- b. Fail to comply with the requirements of Rule ~~number~~ 12-25.0056, F.A.C.; or,
- c. Have not submitted for review and approval at least 40 percent of their assigned audit hours. "Submitted" is defined as the completed audit file(s) delivered to the Department for final review on or before the cut-off date. If the applicant elects to use an overnight mail service to deliver its completed files, the delivery date is the date the service actually provides the files to the Department, not the date the completed files are provided to the overnight mail service, and not the date the overnight mail service is paid by the applicant. The U. S. Postal Service postmark ~~postmarked~~ date on the mailing envelope, which constitutes the mailing date, containing such completed file(s) will be used to determine if the file(s) were submitted on or before the cut-off date. The 40 percent will be calculated by dividing the sum of the budgets for the submitted audits by the sum of the total assigned hours for the subject program year. For the purposes of these rules, the term "completed" is defined as the case file being ready for final Department review – the Notice of Intent to Make Audit Changes has been issued, the taxpayer response received, necessary adjustments have been made to the file, and all required work papers have been prepared.

2. Step B: The Contract Manager will calculate at the cut-off date the overall evaluation rating provided in Rule ~~number~~ 12-25.0056, F.A.C., for each firm remaining after Step A is completed. The Contract Manager will eliminate from the list firms that do not have an overall weighted evaluation rating, as provided in Rule ~~number~~ 12-25.0056, F.A.C., of at least 1.50. ~~3.0~~.

3. Step C: The Contract Manager will calculate at the cut-off date the overall Efficiency rating provided in Rule ~~number~~ 12-25.0056, F.A.C., for each firm remaining after Step A is completed. The Efficiency rating will be taken to four decimal places.

4. Step D: The Contract Manager will ~~use weight~~ the ratings developed in Steps B and C, and the Fee Proposals use these weights to develop a ranked list of qualified applicants. A firm's points resulting from its overall Evaluation rating will be weighted at 33 percent, the points resulting from its overall Efficiency rating will be weighted at 17 percent, and the points resulting from its Fee Proposal will be weighted at 50 percent.

~~(e) When the Department identifies the need to revise or replace the group of firms under contract, the following statistical sampling techniques shall apply:~~

~~1. The population will be defined as the applications filed in a complete, timely manner (as determined by the Request for Information), for the subject contract size pool.~~

~~2. A random number generator software package will be used to select which applicants from the population will be ranked.~~

~~(3) through (4) No change.~~

~~(5)(a) Applicants must submit their written application in response to the Department's Request For ~~for~~ Information to the address specified in the subject Request For Information.:~~

~~Florida Department of Revenue
Contract Manager
Room 182, Building G, Capital Center Complex
Post Office Box 5139
Tallahassee, Florida 32314-5139.~~

~~(b) To be timely, an application in response to the Request For ~~for~~ Information must be postmarked by the U. S. Postal Service or hand-delivered within 30 calendar days of the issue date of the Florida Administrative Weekly in which the Request for Information is published. If the applicant elects to use an overnight mail service to deliver the application, the delivery date is the date the service actually provides the application to the Department, not the date the application is provided to the overnight mail service, and not the date the overnight mail service is paid by the applicant.~~

~~(6) The Department's Request For ~~for~~ Information will solicit information which reflects, at a minimum, the qualifications of the team identified by the applicant in its application to perform tax audit services for the Department, as follows:~~

~~(a) through (i) No change.~~

~~(j) The names of the professional staff and the engagement partner (i.e., the team) who will work on the audits. Except as discussed next, all team members listed in the response to the Request For Information must work on the contract. Once a contract is awarded, the Department is authorized to approve firm member substitutions if:~~

~~1. The original firm member cannot work on the contract due to either health reasons or because the member is no longer employed by the firm; and.~~

~~2. The substituted firm member has approximately at least the same number of months of professional experience, the same general educational background, and the same general position level within the firm; and~~

~~2. The original firm member cannot work on the contract due to either health reasons or because the member is no longer employed by the firm;~~

~~(k) through (l) No change.~~

~~(7) After reviewing those written responses to the Department's Request For ~~for~~ Information that are selected for ranking, the Applicants Ranking Committee will ~~determine~~ which applicants have the necessary qualifications to conduct tax compliance audits for the Department, and rank the applicants in order based on requested technical criteria and their fee proposal, for negotiation purposes.~~

(8) The Contract Audit Section will then enter into contract negotiations with the highest ranked applicants in order of their ranking. The negotiation process will continue until all the available contracts for the subject period are let.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212-10~~; 213.28 FS. History—New 5-11-92, Amended 3-20-94, 10-30-96, _____.

12-25.0054 Applicants Ranking Committee.

(1) Composition of the Committee.

(a) The Program Director of the General Tax Administration Program (GTA) Compliance and Education will appoint a seven-member committee, known as the “Applicants Ranking Committee,” to perform the ranking function.

(b)1. This Committee will include the Contract Manager, who will serve as chairperson, and six voting members.

2. The chairperson is authorized to recommend candidates for Committee membership to the Program Director of GTA Compliance and Education, schedule meetings, prepare agendas and necessary materials, and chair the meetings.

3. The chairperson will not prepare any qualification ranking forms, and will not “vote” on ranking issues.

(c) No change.

(d) The Program Director of GTA Compliance and Education will use the following criteria in making appointments to the Committee:

1. through 5. No change.

(e) Each member, including the chairperson, must complete a conflict of interest disclosure statement. The member must either state the absence of any existing business or family relationship with applicants, or must list any such relationships. If relationships do exist for a particular Committee member, then the Program Director of GTA Compliance and Education will excuse the member from participating in ranking the particular firm(s) with which the member has a relationship. The statements will be completed at the beginning of each fiscal year, prior to the start of the ranking process.

(2) Committee Meetings.

(a) No change.

(b) The Contract Manager will publicly notice the date, time, and location of any meeting held by the Applicants Ranking Committee. This notification will, at a minimum, be published in the Florida Administrative Weekly ~~mailed or publicly posted~~ at least 14 calendar days prior to any scheduled meeting of the Committee.

(c) through (d) No change.

(3) Committee Procedures.

~~(a)1. If the number of applicants exceeds 75, then statistical sampling techniques will be utilized to select applications to be ranked in that particular pool. The size of this statistical sample will be determined through professional judgment. The sample will be of sufficient size to ensure that~~

~~there are at least 2 firms competing for each available contract. The critical factor in determining the sample size will be the time available for the Applicant Ranking Committee to perform their function.~~

~~2. Any applicant that has completed a contract at the time they submit an application and who meets all the criteria established in Rule number 12-25.005(2)(b) at the cut-off date established by the Contract Manager, will automatically be included in the ranking process.~~

~~(a)(b) No change.~~

~~(b)(c)1. At the meeting, the Committee will conduct an open discussion on each applicant’s qualifications prior to completing their individual qualification ranking form.~~

~~2. After the open discussion, the members must independently complete their individual qualification ranking forms. To ensure objective results, there must be no disclosure between members as to their respective scores. The members must sign and date each ranking form.~~

~~3. When each member has completed, signed, and dated a qualification ranking form for each applicant, the forms will be given to the chairperson. The chairperson will then compile and distribute copies of all completed ranking forms to the Committee members.~~

~~4. The chairperson or the chairperson’s designee will review the completed forms to verify that the supporting facts entered in the comments sections are consistent between members, and are accurate. The chairperson or the chairperson’s designee will resolve any discrepancies through discussion with the involved members and review of the facts documented in the subject application.~~

~~(c)(d) The chairperson or the chairperson’s designee will enter the scores from each form into a database to determine the total of the six scores of each of the applicants evaluated by the Committee. If a Committee member is excused from ranking a particular applicant due to a potential conflict of interest, then an average of the other five ~~5~~ members’ scores will be used as the sixth score. A Ranking Report for each pool will be prepared based on the composite scores of the applicants in the pool. The Ranking Reports will reflect, at a minimum:~~

- ~~1. Composite scores for each applicant in total; and~~
- ~~2. A ranking of the applicants in numerical order.~~

~~(d) In the event of a tie(s) on a ranking report, the following steps will be performed, in numeric order, until the tie(s) is broken:~~

~~1. The individual numeric calculations comprising the total score for each applicant will be recalculated to ten decimal places;~~

~~2. Then, if the tie(s) is not broken, the applicants will be ranked against each other based on the scores for the criteria specified in subparagraphs (b)1., 6., 7., 9., and 10. of subsection 12-25.0056(12), F.A.C.~~

3. Then, if the tie(s) is not broken, the applicants will be ranked against each other based on their scores for the criteria specified in subparagraph (b)9. of subsection 12-25.0056(12), F.A.C.

(4) No change.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212-10~~, 213.28 FS. History—New 3-20-94, Amended 10-30-96, _____.

12-25.0056 Applicant Ranking Process.

The criteria and definitions established in this rule will be used by the Applicants Ranking Committee to evaluate and rank the qualifications of applicants.

(1) Experience in Florida tax law. This term means working directly with the Florida statutes (tax law), Department rules, and the interpretative decisions, opinions, and rulings relevant to the subject tax. The type of experience can either be:

(a) No change.

(b) Preparation – assisting a taxpayer in, or preparing tax returns for, clients, or representing clients or others with respect to audit issues during the Department's tax compliance audit process.

(c) No change.

(d) Audit Experience =	Score
1 to 4 2 years	= 2
5 3 to 4 years	= 3
5 or more years	= 5

Points awarded for experience are based on the sum of the experience of individual team members. For team members who have previously worked on Section 213.28, F.S., contracts, one year of audit experience is awarded for each contract worked on.

(e) through (f) No change.

(2) Knowledge of Florida tax law. This is textbook/academic knowledge of the application, concepts, and issues concerning the statutes, Department rules, and rulings and decisions in administrative and court cases relevant to the subject tax. It is the combined knowledge (i.e., courses attended ~~and successfully passed~~) of the firm members named in the application who will work on the audits. The methods by which the applicant may have gained this knowledge are:

(a) Attended and, where applicable, successfully passed a course ~~that of the Florida Institute of Certified Public Accountants which is approved by the Department and which is designed specifically to teach audit applications for the Florida revenue law.~~

(b) Successfully completed a Department course in the Florida revenue laws (each of the Department's contract audit program and certified audit program ~~one day "update" or "review" courses meet this criterion~~ criteria).

(c) No change.

(3) Experience in Federal tax law. This is experience in working directly with the Federal Statutes, Internal Revenue Service rules and court cases relevant to the subject tax. It is the combined experience of the firm members named in the application who will work on the audits. The type of experience can either be:

(a) No change.

(b) Preparation – assisting a taxpayer in or preparing Federal tax returns for clients or representing clients on audit issues during the I.R.S. tax compliance audit process in the practice of public accounting.

(c) through (4) No change.

(5) Advanced Degrees in Taxation.

(a) These are qualifications above those of an undergraduate accounting degree, ~~specifically~~ Specifically, masters or doctoral degrees in taxation. Advanced business, accounting, or law degrees with a stated major in taxation will be scored as a master's degree in taxation. Possession of a law degree without a stated concentration in taxation does not qualify for receiving advanced degree points. The score will be based on the combined number of advanced degrees, if any, of the firm members named in the application who will work on the audits.

(b) through (6) No change.

(7) Performance Evaluation.

(a) The Contract Manager or his/her designee will complete a Performance Evaluation Form for each contract audit completed, excluding surveys, when the General Tax Administration program has completed the review of the subject audit. The contract C.P.A. firm will be evaluated in four areas:

1. through (b) No change.

(c) The Contract Manager is authorized to perform a special performance evaluation at any point, based on the contract firm's failure to comply with contract terms, Department policies and procedures, or the Contract Manager's express written instructions. The special performance evaluation will be weighted at 10 percent of the total hours used as the denominator in the calculation discussed in this subsection ~~assigned under the subject contract~~, and will be included in the ranking process.

(d)1. The Contract Manager or his/her designee will rate the subject firm on each of the line items for the four criteria discussed in this subsection (Communication, Knowledge of Florida Tax Law, Preparation of Audit File, and Professional Conduct) and then determine an overall score for each evaluation completed.

2. Each individual line item in the performance evaluation will be rated as "Below Performance Standards," "Achieves Performance Standards," or "Exceeds Performance Standards," ~~or "Superior Performance"~~. The ratings will carry the following numerical ratings:

a. "Below Performance Standards" equals 2-0;

- b. "Achieves Performance Standards" equals 3.0;
- c. "Exceeds Performance Standards" equals 5.0, ~~4.0~~;
- d. ~~"Superior Performance" equals 5.0;~~

The individual line item scores for each performance evaluation will be totaled and divided by the number of line items rated. The resulting average will be the overall rating for that performance evaluation.

3. The Contract Manager or his/her designee will provide supporting comments for any area rated anything other than "Achieves Performance Standards." All evaluations require Contract Manager approval prior to becoming final.

(e) The methodology for scoring this category is determined as follows:

Performance Evaluation	
Overall Weighted Rating =	Ranking Equation Points
2.9 or less	= 0
3.0 to 3.5	= 2
3.6 to 4.5	= 4
4.6	= 5

(f)1. The performance evaluation points awarded a firm will be determined using the weighted total of the overall ratings for performance evaluations.

2. For a performance evaluation to be considered in a ranking process, the associated audit # must have been:

- a. Assigned and completed by the cut-off date provided in Rule ~~number~~ 12-25.005, F.A.C. (if applicable);
- b. And the Performance Evaluation must be dated ~~Dated~~ no earlier than the two immediately preceding program funding years; and
- c. Not included in any previous ranking process.

3. The weight assigned to each included performance evaluation will be the ratio which the incurred audit hours, up to the approved budget, in the subject audit bear to the total of the hours for all audits for all included performance evaluations.

4. An example of the calculation for any C.P.A. firm is as follows:

Step 1: For example – A firm has two Performance Evaluations eligible for the subject ranking process. The firm received two "Below Performance Standards", 12 "Achieves Performance Standards" and four "Exceeds Performance Standards" on the Performance Evaluation for audit #1, which had a 900 hour budget. The overall rating for that Performance Evaluation would be 3.1 (56 total points divided by 18 line items). The firm received six "Achieves Performance Standards" and 12 "Exceeds Performance Standards" on the Performance Evaluation for audit #2, which had a 100 hour budget. The overall rating for the second Performance Evaluation would be 4.3 (78 total points divided by 18 line items.)

OVERALL SCORE	AUDIT HOURS	FACTOR X	OVERALL WEIGHTED SCORE
Audit # 1- 3.1 <u>3.5</u>	900	90% (900/1000)	<u>2.8</u> 3.15
Audit # 2- 4.3 <u>2.7</u>	100	10% (100/1000)	<u>.4</u> .27
	1000	100%	<u>3.2</u> 3.42

Step 2: 3.2 points for Performance Evaluations would be used in the subject weighted ranking equation. 3.42 is between 3.0 to 3.5, which equates to 2 ranking equation points, as provided in this rule.

Any points resulting from performance evaluations accrue only to the legal entity with which the Department entered into the contract.

(8) through (10) No change.

(11) Exclusion from Ranking Process. An applicant will be excluded from the ranking process for the subject fiscal year if:

(a) The applicant has been found guilty in a Board of Accountancy disciplinary action within the last three years.

(b) There are two or more disciplinary actions taken by the Division of Consumer Services, Department of Agriculture and Consumer Services, or similar agency in the applicant firm's state of domicile, ~~or by in state or out of state Better Business Bureaus against the subject applicant.~~

(c) The applicant misrepresents any material fact affecting the applicant's weighted score.

(d) The applicant ~~or any business entity owned by, or related to, the applicant, including a parent, subsidiary, brother or sister company or other affiliated entity,~~ has any currently unpaid Florida state tax liability or has failed to comply with Florida revenue laws.

(12) Criteria and Weighted Equation.

(a) The criteria and associated weights provided in this section, in conjunction with the provisions ~~provision~~ of subsections (1) through (9) of this rule section, will be employed in the applicant ranking process whenever a Request For for Information has been published. The information used in applying the described criteria will primarily be provided by the applicants' responses to the Request For for Information. Other sources are described in this section.

(b)(~~a~~) Weighting is accomplished by multiplying the scores for each criterion ~~criteria~~ by an assigned percentage, with the sum of the percentages equaling 100 percent, as follows:

CRITERIA	MAXIMUM POINTS	X WEIGHT	= SCORE
1. Experience in Florida tax law	5	15%	.75
2. Knowledge of Florida tax law	4	5%	.20
3. Experience in Federal tax law	5	5%	.25
4. Results of On-Site Quality Review or Peer Review	4	5%	.20
5. Advanced Degrees in Taxation	4	5%	.20
6. Certified Minority Business Enterprise	5	<u>10</u> 5%	<u>50</u> .25
7. Performance Evaluation	5	<u>15</u> 20%	<u>.75</u> 1.00
8. Other	5	5%	.25
9. Fee Proposal	5	25%	1.25
10. Efficiency Calculation	5	0%	.50

(13) The Committee is authorized to award a bonus score, ranging from .25 to 1.00 points, to any applicant that develops developing significant improvements in audit tools and techniques. The subject improvements must have been successfully used in a Department tax compliance audit file which was reviewed and approved by the Contract Audit Section. The Department is contractually authorized to take such improvements for use by its own audit staff. The Contract Manager is responsible for informing the Committee of any improvements, so the Committee can evaluate awarding the bonus. Also, the Committee is authorized to award a bonus score of 1.00 to any applicant that lists on its response to the Request For Information experience that the contract manager has identified as beneficial for the subject program year. The bonus will be added to the total calculated weighted score. Accordingly, the maximum score a contract firm could receive is 6.85 ~~5.80~~ (4.85 ~~4.80~~ plus 1.00 plus 1.00 equals 6.85 ~~5.80~~).

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212-10~~, 213.28 FS. History—New 3-20-94, Amended 10-30-96, _____.

12-25.0058 Dispute Resolution.

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

(e) The Process Manager, Compliance Support Process process, will provide a written response within 45 calendar days of receipt of the request for reconsideration.

(f) No change.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212-10~~, 213.28 FS. History—New 3-20-94, Amended 10-30-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 5, 1999 (Vol. 25, No. 44, pp. 5025-5031). The workshop was held on November 22, 1999. No one appeared to testify at the workshop, and no comments were submitted.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:

RULE NO.:

Specific Exemptions

12A-1.001

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.001, FAC., is to implement s. 3, Chapter 99-238, L.O.F., which expanded the exemption contained in s. 212.08(7)(dd), F.S., to include the purchase or importation of works of art for donation to an educational institution. The effect of these amendments will be to provide current guidelines regarding this exemption in paragraph (3)(f) of Rule 12A-1.001, FAC.

SUMMARY: The proposed amendments provide guidelines regarding the tax exemption provided to works of art purchased or imported into Florida for the purposes of being donated to, or being loaned to and made available for display by, an educational institution. The amendments provide a suggested format of the affidavit that is required to be provided by the purchaser, or the authorized agent, to the vendor of the art work. The proposed amendments also remove obsolete guidelines effective prior to this statutory change.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
 LAW IMPLEMENTED: 92.525, 212.02(10),(12),(16),
 (20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515,
 212.06(2),(9), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d),(f),(g),
 (h),(i),(k),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd),
 (8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS.

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

TIME AND DATE: 10:00 a.m., March 14, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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

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 FULL TEXT OF THE PROPOSED RULE IS:

12A-1.001 Specific Exemptions.

(1) through (2) No change.

(3)(a) through (3)(f)2. No change.

3.a. A "work of art," as defined in s. 212.08(7)(dd)8., F.S., is exempt from sales and use tax if the work of art is sold to or used by an educational institution, as defined in subparagraph 2., or if ~~it is sold to or used by any person under all of the following conditions specified in sub-subparagraphs b. through i.:~~

~~b. The work of art must have been purchased in Florida or imported into Florida within six months from the date of purchase by any person exclusively for the purpose of being donated to, or being loaned to and made available for display by, an educational institution. A work of art is presumed to have been purchased in or imported into this state exclusively for loan to an educational institution if it is so loaned or placed in storage in preparation for such a loan within 90 days after purchase or importation, whichever is later. A work of art will not be deemed to be "in storage" for purposes of this subparagraph if it is displayed at any place other than an educational institution.~~

~~b.e. The purchaser or his authorized agent must: (1) complete an affidavit documenting entitlement to the exemption provided in s. 212.08(7)(dd), F.S., by stating that the purchaser has or will enter into a written loan agreement with an educational institution, which is or will be identified by~~

~~its name and address, for a period of at least ten years, (2) present the affidavit to the seller of the work or works of art, and (3) forward a copy of the affidavit to the Department of Revenue when it is presented to the vendor. A purchaser may authorize his or her agent to execute such affidavit by a documented Power of Attorney filed with the Department. The Department prescribes Form DR-835, Power of Attorney (incorporated by reference in Rule 12A-1.097, F.A.C.), as the form to be used for such purposes.~~

~~c.d. The following is a suggested format of the affidavit to be provided by the purchaser or the his authorized agent to the vendor of the work of art:~~

AFFIDAVIT FOR EXEMPTION OF A WORK
 OF ART TO BE DONATED ~~SOLD TO~~ OR LOANED TO
 AN EDUCATIONAL INSTITUTION
 STATE OF FLORIDA
 COUNTY OF _____

Personally appears the below named affiant, who being duly sworn, deposes and says:

1. I claim exemption under s. 212.08(7)(dd), F.S., from Florida sales and use tax on the work(s) ~~or works~~ of art, described below, purchased in Florida or imported into Florida exclusively for the purpose of being (check one)

a. donated to _____, an educational institution as defined in s. 212.08(7)(o)2.d., F.S.

b. _____ loaned to and made available for display for a period of at least 10 years to _____, an educational institution as defined in s. 212.08(7)(o)2.d., F.S.

2. If a donation, title to the work(s) of art is being or will be transferred to the educational institution, and at the time of transfer, I will submit to the Department an affidavit evidencing the transfer of title.

3. If a loan:

a. The work(s) of art will be loaned to the educational institution or placed in storage in preparation for loan within 90 days after it was purchased in or imported into Florida. If placed in storage, it will not be displayed until such time as it is delivered to the educational institution.

~~b.2. I have entered into a written agreement with the educational institution providing for a loan of the work(s) of art and making the work(s) of art available to the educational institution for display for a term of not less than 10 years, with the educational institution designated below, or will do so before the transfer of possession of the work(s) of art to the educational institution occurs. A copy of the loan agreement will be provided to the Florida Department of Revenue at the time that the agreement is executed.~~

~~c.3. I understand that the exemption provided in s. 212.08(7)(dd), F.S., is allowed during the period of time in which the work(s) or works of art, as designated below, is in the possession of the educational institution designated below, and:~~

d.4. I understand that tax based upon the sales price as stated below will shall become due and payable at the time the provisions of s. 212.08(7)(dd), F.S., are no longer met, and the statute of limitations as provided in s. 95.091, F.S., will shall begin to run at that time. However, if I donate the work(s) of art to an educational institution after the loan ceases, no tax will be due.

5. The work or works of art as designated below will be loaned to the educational institution designated below or placed in storage in preparation for loan within 90 days after it was purchased in or imported into Florida. If placed in storage, it will not be displayed until such time as it is delivered to the educational institution designated below.

4.6. A signed copy of this affidavit is being has been forwarded to the Florida Department of Revenue at the time the original is given to of forwarding to the seller of the work(s) or works of art designated below of another signed copy of this affidavit.

Name of Purchaser _____
Purchaser's Permanent Address _____ (Street)
_____ (City) _____ (State)

Name of Seller _____
Seller's Permanent Address _____ (Street)
_____ (City) _____ (State)

DESCRIPTION OF WORK(S) OF ART

Sales Price _____ Date of Sale _____

Name of Educational Institution _____
Institution's Address _____ (Street)
_____ (City) _____ (State)

Educational Institution's Florida Consumer's Certificate of Exemption Number _____

(-) I have entered into an agreement with the educational institution designated above.

(-) The work of art is in storage and I have not entered into a loan agreement with an educational institution. However, I will notify the Florida Department of Revenue at such time that I enter into a loan agreement with an educational institution and provide the Department a copy of the loan agreement, the date on which the loan agreement was entered into, the name of the educational institution, the institution's address, and the educational institution's Florida Consumer's Certificate of Exemption Number.

Under the penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

(Signature of Purchaser or Authorized Agent)

Sworn to and
subscribed before me
this _____ day of
_____ (Month), 19 _____ (Year).

Notary Public, State of Florida
My commission expires: _____

NOTARY SEAL
Personally known ()
Produced Identification () Type: _____

Original to be retained by the seller and made part of the seller's records

1st Copy to be submitted to the Florida Department of Revenue, Compliance Enforcement, Enforcement Operations, P. O. Box 6417, Tallahassee, Florida 32314-6417

2nd copy: Purchaser's copy

d. The following is a suggested format of an affidavit of transfer of title to be provided by the purchaser or the authorized agent to the educational institution, as defined in s. 212.08(7)(o)2.d., F.S., upon donation of a work of art to that institution:

AFFIDAVIT TRANSFERRING TITLE TO A WORK OF ART TO AN EDUCATIONAL INSTITUTION
STATE OF FLORIDA
COUNTY OF _____

Personally appears the below named affiant, who being duly sworn, deposes and says:

1. I claim exemption under s. 212.08(7)(dd), F.S., from Florida sales and use tax on the work(s) of art described below that was purchased in Florida or imported into Florida for the exclusive purpose of being donated to _____, an educational institution as defined in s. 212.08(7)(o)2.d., F.S. A copy of the affidavit provided to the vendor of the work(s) of art at the time of purchase is attached.

2. Title to the work(s) of art has been, or is being, transferred to the educational institution, effective _____ (date; no later than the date of this affidavit). Copies of any other documents evidencing the transfer of title to the educational institution are attached to this affidavit and are being forwarded to the Florida Department of Revenue with the affidavit.

3. A signed copy of this affidavit is being forwarded to the Florida Department of Revenue at the time the original is given to the educational institution.

Name _____ of
Transferor
Transferor's Permanent Address _____ (Street)
_____ (City) _____ (State)

DESCRIPTION OF WORK(S) OF ART

Date Purchased _____

Name and Address of Person from Whom Purchased _____

Name of Educational Institution _____

Institution's Address _____ (Street)

_____ (City) _____ (State)

Educational Institution's Florida Consumer's Certificate of Exemption Number _____

Under the penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

(Signature of Transferor)

Sworn to and subscribed before me this ___ day of ___ (Month), ___ (Year).

Notary Public, State of Florida
My commission expires: _____

NOTARY SEAL
Personally known ()

Produced identification () Type: _____
Original to be retained by the educational institution and made part of that institution's records

1st Copy to be submitted to the Florida Department of Revenue, Compliance Enforcement, Enforcement Operations, P. O. Box 6417, Tallahassee, Florida 32314-6417

2nd copy: Donor's copy

e. The exemption of the purchaser or owner from sales and use tax for the loan of a work of art applies only for the period during which the work of art is in the possession of the educational institution or is in storage before transfer of possession to the educational institution. The exemption provided to the purchaser of a work of art loaned to an educational institution is not terminated if the educational institution, which entered into a loan agreement with the purchaser of the work of art, loans the a work of art which is exempt under this subparagraph to another educational institution(s) and the physical custody of such work of art is returned to the lending educational institution at the termination of the loan agreement(s). Any educational institution which transfers possession of a work of art that is exempt under this subparagraph to other educational institutions is required to notify the Department within 60 days of such transfers. The notification must shall include a description of the work of art, the name and address of the purchaser who loaned it, the names and addresses of each of the educational institutions receiving the work of art for

display, and the time periods that the work of art will be displayed at each identified educational institution. Tax is due to the Department from the owner when the work of art loaned to an educational institution ceases to be so possessed or held, based on the cost price paid by the owner. The statute of limitations provided in s. 95.901, F.S., shall begin to run at the time the work of art is no longer so possessed or held.

f. Any educational institution in this state that has received from a purchaser a work of art which is exempt under this subparagraph is required to notify the Department within 60 days that it has received the work of art. The notification to the Department must shall include a description of the work of art, the name and address of the purchaser who loaned it, and the date on which the transfer of possession occurred.

g. Any educational institution which displays a work of art received on loan that is exempt under s. 212.08(7)(dd), F.S., this subparagraph is required to maintain any written agreements, notifications, affidavits, and any other documentation which substantiates the educational institution's right to display the work of art until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S., and such documentation shall be made available to the Department upon request.

h. Any educational institution that transfers from its possession a work of art received on loan that is exempt under s. 212.08(7)(dd), F.S., this subparagraph is required to notify the Department within 60 days after the transfer, except for transfers which do not terminate the exemption provided by s. 212.08(7)(dd), F.S., in this subparagraph for purposes such as storage, repairs, conservation and restoration, authentication, insurance examination, valuation, appraisal, research, photography and reproduction, or fumigation during which the work of art is not displayed and the educational institution maintains documentation to substantiate that such transfers do not constitute a transfer of possession for purposes of display of such work of art. The notification to the Department must shall include a description of the work of art, the name and address of the purchaser who loaned it, the name and address of to whom which the work of art is transferred, and the date on which the transfer of possession occurred.

i. For purposes of the exemption described in this subparagraph, the term "work of art" includes pictorial representations, sculpture, jewelry, antiques, stamp collections and coin collections, and other tangible personal property, the value of which is attributable predominantly to its artistic, historical, political, cultural, or social importance.

j. The exemption described by this subparagraph applies to any taxes that remain open to assessment or contest on July 1, 1992.

k. Documents and notifications, as required in this subparagraph to be provided to the Department, should shall be mailed to the following address:

Florida Department of Revenue
 Compliance Enforcement
 Enforcement Operations
 P. O. Box 6417
 Tallahassee, Florida 32314-6417

(g) through (t) No change.
 (4) through (21) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525, 212.02(10),(12),(16),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2),(9), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d),(f),(g),(h),(i),(k),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd),(8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS. History—Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Robert D. Heyde, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4714

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 12, 1999 (Vol. 25, No. 45, pp. 5201-5204). The workshop was held on December 1, 1999. No one appeared at the workshop to testify and no one submitted written comments.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Industrial Machinery and Equipment For Use in a New or Expanding Business	12A-1.096
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: A) The proposed amendments to Rule 12A-1.096, FAC., are necessary to address significant changes made during the 1996, 1998, and 1999 legislative sessions to Section 212.08(5)(b), F.S., which provides an exemption from sales and use tax on purchases of machinery and equipment made by new and expanding businesses. The 1996 Legislature lowered the tax threshold for expanding businesses from \$100,000 to \$50,000 per calendar year, eliminated the express exclusion of printing firms and certain publishing firms from the exemption, and established the requirement that businesses seeking the exemption must register with the WAGES Program Business Registry. The

1998 Legislature exempted expanding printing businesses from the \$50,000 tax threshold requirement. The 1999 Legislature eliminated the express exclusion of phosphate or other solid minerals severance, mining or processing operations from the exemption. However, the 1999 Legislature further provided that those new and expanding mining-related businesses must demonstrate the creation of a certain number of new Florida jobs in order to qualify for the exemption and those businesses may only get the exemption by way of a prospective credit against severance taxes. The 1999 Legislature also provided that new and expanding businesses engaged in spaceport activities do not have to manufacture, process, compound, or produce tangible personal property for sale in order to qualify for the exemption.

B) The amendments to subsection (1) of Rule 12A-1.096, FAC., revise the existing definitions for the terms “fixed location,” “industrial machinery and equipment,” “physically comparable,” “production process,” and “productive output.” The amendments provide additional definitions for the terms “integral to,” “manufacture, process, compound, or produce,” “mining activities,” and “spaceport activities.” The existing separate definition of “process” is deleted, since that term is incorporated within the new definition of “manufacture, process, compound, or produce.”

C) The amendments to subsection (2) of Rule 12A-1.096, FAC., clarify that the labor necessary to install machinery and equipment at a new business is exempt; clarify that machinery and equipment must be purchased, or a purchase agreement made, before the start of production or the beginning of spaceport activities; provide guidance to the qualification for exemption of amendments, change orders, or substitutions to purchase agreements; provide guidance as to when production or spaceport activities begin at a new business; clarify general examples of what represents a new business and eliminate specific examples of new businesses; and replace the concept that a new business means the production of an item of tangible personal property that is not physically comparable to an item or other items, which have been or are being produced by that business, with the concept that a new business means the production of an item of tangible personal property that represents a distinct and separate economic activity from other items that have been or are being produced by that business.

D) The amendments to subsection (3) of Rule 12A-1.096, FAC., clarify that the labor necessary to install machinery and equipment at an expanding business is exempt; reflect the lowering of the tax threshold for expanding businesses from \$100,000 to \$50,000 and provide that printing firms are not subject to the threshold; clarify that only purchases of qualifying machinery and equipment count toward the fulfillment of the tax threshold; update referenced years in examples for greater relevance; clarify general examples of what represents an expanding business and eliminate specific examples of expanding businesses; and provide that expanding

spaceport activities are not subject to the productive output increase requirement, which is imposed upon other expanding businesses.

E) A new subsection (4) is added to Rule 12A-1.096, FAC., providing that new and expanding mining activities may only receive the exemption by way of a prospective credit against severance taxes; providing requirements for creating new Florida jobs; defining new Florida jobs; and providing that the exemption for mining activities may not be approved until such time as the Office of Tourism, Trade, and Economic Development has certified to the Department of Revenue that the required number of new Florida jobs have been created.

F) Existing subsection (4) of Rule 12A-1.096, FAC., which provides a flowchart illustrating whether purchases of machinery and equipment will or will not qualify for exemption, is eliminated as having historically shown no practical value in the actual administration of the exemption.

G) A new subsection (5) of Rule 12A-1.096, FAC., provides six classification factors to be considered by the Department of Revenue when determining whether an applicant business should be classified as new or expanding for the purposes of the exemption.

H) Existing subsection (5) of Rule 12A-1.096, FAC., is renumbered (6) and eliminates the requirement for applicant businesses to submit obsolete forms DR-1207 and DR-1208; provides that, to receive a permit or a refund, a new or expanding business must submit form DR-1214; provides that, to receive the exemption for mining activities, a qualifying business entity must also submit form DR-1214; provides that a temporary tax exemption permit will not be issued to mining businesses, since those businesses may only receive the exemption by way of a prospective credit against severance taxes; provides that a certified statement is not needed where the business claiming a refund has self-accrued and remitted the tax directly to the State of Florida; provides timing criteria for when new and expanding manufacturing or printing businesses and those businesses engaged in spaceport activities must file an application for a refund of previously paid tax; provides criteria for when an application for a refund is considered to be complete; provides timing criteria for when new and expanding businesses engaged in mining activities are allowed a credit for previously paid tax; and deletes obsolete language concerning the statute of limitations for refund requests.

I) Existing subsection (6) of Rule 12A-1.096, FAC., is renumbered (7).

J) Existing subsection (7) of Rule 12A-1.096, FAC., is renumbered (8) and removes obsolete language that excludes phosphate or other solid minerals severance, mining or processing operations, printing firms, and certain publishing firms from the exemption; deletes the term "fabricate" from the subsection, since that term is not used in the exemption statute;

and provides that where a publisher is also a printer, that business will be considered a printer for the purposes of the exemption.

K) Existing subsection (8) of Rule 12A-1.096, FAC., is renumbered (9) and provides additional examples of machinery and equipment that will or will not qualify for exemption; provides that parts and accessories purchased tax exempt pursuant to s. 212.08(7)(eee), F.S., for replacement, maintenance, or repair shall not be allowed an exemption for the same amount of tax pursuant to the exemption provided by s. 212.08(5)(b), F.S.; and eliminates verbose language within the enumerated examples.

L) Existing subsection (9) of Rule 12A-1.096, FAC., is renumbered (10) and clarifies that the exemption only applies to the original term of an operating lease and provides that a purchase option at the end of an operating lease is considered to be a purchase made after the start of production and is subject to tax.

M) Existing subsection (10) of Rule 12A-1.096, FAC., is renumbered (11) and eliminates verbose language referring to the Executive Director or designee in the responsible program.

N) Subsection (12) is added to Rule 12A-1.096, FAC., to provide that no machinery and equipment purchased or leased will be eligible for the exemption without the business seeking the exemption being registered with the WAGES Program Business Registry.

O) The proposed amendments to Rule 12A-1.097, FAC., eliminate forms DR-1207 (Florida Contract Data Form) and DR-1208 (Schedule of Contractors) as not necessary to the administration of the application process; and the reference to form DR-1214 (Application for Temporary Tax Exemption Permit) is updated to reflect the current version of the form.

SUMMARY: A) The subsections within Rule 12A-1.096, FAC., to be addressed concern: the definitions of terms; qualifying purchases by, the start of production by, and examples of, new businesses; threshold amounts for, examples of, and productive output requirements for, expanding businesses; requirements for mining activities for the creation of new Florida jobs; the elimination of an unnecessary illustrative flowchart; the provision of factors for consideration by the Department of Revenue when determining whether an applicant business should be classified as new or expanding for the purposes of the exemption; the forms that must be filed by an applicant business in order to obtain the exemption; the provisions that mining businesses will not be issued a temporary tax exemption permit and may only receive the exemption by way of a credit against severance taxes; the timing criteria for when a refund application must be filed; and the criteria that must be satisfied before a refund application is considered complete and a refund may be issued or a credit authorized for a new or expanding business.

B) Existing subsections (28), (29) and (30) of Rule 12A-1.097, FAC., concerning the elimination of forms DR-1207 and DR-1208 and the current version of form DR-1214 will be affected by the amendments.

SPECIFIC AUTHORITY: 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(4),(14),(21),(22), 212.05, 212.06, 212.08(5)(b), 212.13(2), 212.17(6), 212.18(2), 215.26(2) FS., Section 2, Chapter 99-171 Laws of Florida.

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

TIME AND DATE: 10:00 a.m., March 14, 2000

PLACE: Room B-12, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

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 RULES IS: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

THE FULL TEXT OF THE PROPOSED RULES IS:

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

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

(a) “Fixed location” means being permanently affixed to one location or plant site. The term also includes, or any portable plant which is set up for a period of not less than six months in a stationary manner so as to perform the same industrial manufacturing, processing, compounding, or production process that could be performed at a permanent location or plant site. The geographical limits of the “fixed location”² for purposes of this rule are limited to the immediate permanent location or plant site. Facilities or plant units that are within the same building, or that are on the same parcel of land if not contained in a building, are considered to be one fixed location.

(b) “Industrial machinery and equipment” means tangible personal property or other property with a depreciable life of 3 years or more that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. Buildings and their structural components

are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment itself is replaced. Heating and air conditioning systems are not considered industrial machinery and equipment, unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees, or serves, to an insubstantial degree, non-production activities. For example, a dehumidifier installed for the sole purpose of conditioning air in a factory, where the manufacturing of electronic components requires a controlled-humidity environment, will be considered industrial machinery and equipment. (See subsection (9) of this rule.) “Section 38 Property” as defined in Section 48(a)(1)(A) and (B)(i) of the United States Internal Revenue Code, as amended, and includes parts and accessories, essential to the manufacturing, processing, compounding or producing of tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S. “Industrial machinery and equipment” also means pollution control equipment, or sanitizing and sterilizing equipment which is essential to manufacturing, processing, compounding or producing items of tangible personal property. “Industrial machinery and equipment” also means monitoring machinery and equipment which is essential to manufacturing, processing, compounding or producing items of tangible personal property. In determining what is essential to manufacturing, processing, compounding or producing items of tangible personal property, the examination will not turn on how vertically integrated the taxpayer is but rather on the specific activity that the taxpayer asserts is part of the production process. For example, if the activity is essentially one of transportation or storage, associated equipment and machinery will not qualify for exemption unless specifically exempted in subsection (8) of this rule.

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

(d) “Manufacture, process, compound, or produce for sale” means the various industrial operations of a business where raw materials will be put through a series of steps to make an item of tangible personal property that will be sold. The industrial operations must bring about a change in the composition or physical nature of the raw materials. Where materials are merely repackaged or redistributed, those operations are not manufacturing, processing, compounding, or producing for sale. The item of tangible personal property may be sold to another manufacturer for further processing or for inclusion as a part in another item of tangible personal property that will be sold, or the item may be sold as a finished product to a wholesaler or an end consumer. The business performing

the manufacturing, processing, compounding, or production process may or may not own the raw materials. However, the phrase "manufacture, process, compound, or produce for sale" does not include fabrication, alteration, modification, cleaning, or repair services performed on items of tangible personal property belonging to others where such items of tangible personal property are not for sale.

(e) "Mining activities" means phosphate and other solid minerals severance, mining, or processing operations. Mining activities end at the point where the mineral is readily identifiable as the final product of mining or where it is ready to be compounded or mixed with other materials to form a new material. (See subsection (4) of this rule.)

(f)(e) "Physically comparable" means the similarity or equivalency of the characteristics of the items of tangible personal property being manufactured, processed, compounded, or produced. Physical comparability applies to the units used to measure the increase in productive output of an expanding business. ~~The taxpayer shall have the burden of demonstrating that items of tangible personal property are not physically comparable to other items which have been or are being produced at that particular fixed location. Such demonstration may require the submission of an independent engineer's report by the taxpayer if Department personnel are unable to determine if items are, or are not, physically comparable.~~

(d) "Process" means a series of operations conducting to an end which is an item of tangible personal property for sale or for exclusive use in spaceport activities as defined in s. 212.02, F.S.

(g)(e) "Production process" or "production line" means those industrial ~~production~~ activities beginning when raw materials are delivered ~~to at the fixed location of the new or expanding business' fixed location facility~~ and generally ending when the items of tangible personal property have been packaged for sale, or are in saleable form if packaging is not done, ~~or are for exclusive use in spaceport activities as defined in s. 212.02, F.S.~~ However, the production process may include quality control activities ~~for perishable food goods for human consumption~~ after the ~~items have food good has~~ been packaged (or are is in saleable form if packaging is normally not done), if such quality control activities are required by good manufacturing practices or mandated by state or federal government agencies. ~~The One~~ production process may encompass more than one fixed location if the qualifying business transfers work-in-process from one ~~the first~~ fixed location to a ~~the~~ second fixed location for further manufacturing, processing, compounding, or production ~~producing of the items of tangible personal property for sale or for exclusive use in spaceport activities as defined in s. 212.02, F.S.~~ For example, a company purchases machinery and equipment to produce raw orange juice at one fixed location, and this raw orange juice is transferred as work-in-process to a

second fixed location where the company will use the raw orange juice to make five different products. A production "Production process" does not include natural processes occurring before raw material is delivered to the receiving operation or after the packaging operation "production process" (as defined in this paragraph, (1)(e), above) that produces the items of tangible personal property. For example, the natural transformation of grass or feed into raw milk by cows is not part of the production process. In this case, the production process begins when the cows (i.e., raw materials) are brought into the milking parlor. Neither is the planting, growing, or harvesting of crops, nor the raising of livestock or poultry, part of the production process. ~~Furthermore, machinery and equipment qualifying for partial exemption under s. 212.08(3), F.S., is not eligible for the exemption under s. 212.08(5)(b), F.S.~~ Also, the natural aging or fermentation of alcoholic beverages or other food products, after they have been packaged, is not part of the production process. There, Here the production process ends when the alcoholic beverage or other food product has been packaged for sale. (See paragraph (9)(8)(b) of this rule.)

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

(i) "Spaceport activities" means those activities as defined in Section 212.02, Florida Statutes.

(2) New Business.

(a) ~~The purchase and installation of industrial machinery and equipment, parts and accessories, and the parts and installation labor thereof, is exempt from tax when purchased by a new business which uses such machinery and equipment at a fixed location in this state for exclusive use in spaceport activities, or to manufacture, process, compound, or produce in manufacturing, processing, compounding or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S.; items of tangible personal property for sale.~~

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

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

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

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

equipment at less than full capacity, where the products made are inventoried or immediately sold, is considered to be the start of production.

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

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

(e) ~~The Executive Director or the Executive Director's designee shall determine if a business qualifies for the exemption as a new business, status based on the facts in each particular case, using the following guidelines, provided the requirements of paragraphs (2)(a), (b), (c), and (d) are complied with:~~

1. A new business means a newly-formed company that opens a new facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce items of tangible personal property which manufactures, processes, compounds or produces for sale, or to exclusively use industrial machinery and equipment for exclusive use in spaceport activities as defined in s. 212.02, F.S., an item of tangible personal property at a fixed location in the state.

2. A new business means an addition to, or the enlargement of, an existing facility or plant, or the installation of additional machinery and equipment, for the purpose of manufacturing, processing, compounding, or producing items of tangible personal property for sale that represent a distinct and separate economic activity from other items that have been or are being produced at that same fixed location, or to exclusively use industrial machinery and equipment in distinct and separate spaceport activities. (See subsection (5), of this rule.) for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., items of tangible personal property which are not physically comparable to other items which have been or are being produced at that particular fixed location. The taxpayer shall have the burden of demonstrating that items of tangible personal property are not physically comparable to other items which have been or are being produced at that particular fixed location. Such demonstration may require the submission of an independent engineer's report by the taxpayer if Department personnel are unable to determine if items are, or are not, physically comparable.

3. A new business means opening a new facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce an item of tangible personal property which manufactures, processes, compounds or produces for sale, or to exclusively use industrial machinery and equipment for exclusive use in spaceport activities, ~~as defined in s. 212.02, F.S., an item of tangible personal property provided no other facility or plant in this state that which manufactured, processed, compounded, or produced the same or a similar for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., a physically comparable item of tangible personal property, or performed the same or a similar spaceport activity,~~ at a fixed location in this state, was closed to open the new facility or plant, or will be closed within 12 months. However, this limitation concerning the closure of a facility or plant is not applicable to a mining activity when a mine is closed due to the exhaustion or depletion of the mined resource such that mining is no longer economically feasible at that location.

4. A new business does not mean the change of ownership of an existing facility or plant, at a fixed location in this state, that which manufactures, processes, compounds, or produces items of tangible personal property for sale, or exclusively uses industrial machinery and equipment for exclusive use in spaceport activities, ~~as defined in s. 212.02, F.S., an item of tangible personal property at a fixed location in this state by a purchase arrangement, merger, or some other similar means, unless such facility or plant ceased doing productive operations for a period of 12 months one year.~~

(f) ~~Activities presumed to be a new business include, but are not limited to, assuming the requirements of paragraphs (2)(a), (b), (c), and (d) are complied with:~~

~~1. A company opens a new manufacturing plant in the State of Florida, without closing any existing manufacturing facilities within the state.~~

~~2. A company which manufactures leather baseball gloves purchases additional machinery and equipment which will be used to manufacture aluminum baseball bats in its existing facility.~~

~~3. A company which manufactures automobile parts and accessories purchases additional machinery and equipment which will be used to manufacture golf clubs in its existing facility.~~

~~4. A company which manufactures automobile rubber heat shields purchases additional machinery and equipment which will be used to manufacture spark plug boots in its existing facility.~~

~~5. A company which manufactures automobile engine manifolds enlarges its existing facility and purchases additional machinery and equipment which constitutes a new dedicated assembly line and which will be operated by the company as a separate cost center in order to manufacture automobile engines.~~

~~6. A company purchases an existing manufacturing facility which had been closed for 12 months and retools the facility in order to manufacture the same product which was manufactured at the facility prior to its closing.~~

(3) Expanding Business.

(a) Industrial machinery and equipment, ~~and the parts and accessories, and the installation labor~~ thereof, purchased by a business for the purpose of expanding spaceport activities, or the operation of a plant which uses such machinery and equipment in manufacturing, processing, compounding or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., an item of tangible personal property at an existing fixed location in this state to manufacture, process, compound, or produce items of tangible personal property for sale is exempt from any amount of taxes ~~imposed due~~ in excess of \$50,000 \$100,000 per calendar year. The taxpayer may elect to pay the entire \$50,000 \$100,000 in tax directly to the Department at the beginning of the expansion project or at the beginning of the calendar year, ~~whichever occurs first,~~ or accrue or pay the tax on each qualifying purchase until the \$50,000 \$100,000 tax limitation is reached. The business entity may ~~then obtain and~~ extend a Temporary Tax Exemption Permit in lieu of paying any additional sales tax in excess of the \$50,000 \$100,000 in tax for the remainder of the calendar year. For each subsequent year the project is ongoing, the taxpayer may again elect to pay the entire \$50,000 \$100,000 in tax directly to the Department at the beginning of the calendar year, or accrue or pay the tax on each qualifying purchase until the \$50,000 \$100,000 tax limitation is reached.

(b)1. Only the actual sales or use tax imposed on qualifying purchases for the calendar year shall apply to the \$50,000 \$100,000 tax threshold limitation even though the tax may be paid in a subsequent calendar year.

2. EXAMPLE 1. Sales or use tax paid to the state in January ~~1999, 1991,~~ for the period ending December 31, ~~1998 1990,~~ would be allowed as part of the \$50,000 \$100,000 tax threshold limitation for ~~1998 1990,~~ since the tax paid with the December ~~1998, 1990,~~ sales tax return would have been imposed in ~~1998 1990.~~

3. EXAMPLE 2. Sales or use tax paid to the state in January ~~1999, 1991,~~ for the period ending December 31, ~~1998 1990,~~ would not be allowed as part of the \$50,000 \$100,000 tax threshold limitation for ~~1999 1991,~~ since the tax paid with the December ~~1998, 1990,~~ sales tax return would have been imposed in ~~1998 1990.~~

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

(c) The Executive Director or the Executive Director's designee shall determine whether if a business qualifies for the exemption as an expanding business, status based upon the

facts of each case using the following guidelines, provided the requirements of paragraphs (3)(a) and ~~(d)(e)~~ are complied with:

1.a. ~~An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to manufacture, process, compound, or produce which manufactures, processes, compounds or produces for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., an item of tangible personal property which is already being produced at that the fixed location in this state or which is similar physically comparable to an the item of tangible personal property which is already being produced at that the fixed location in this state.~~

b. ~~An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to perform a spaceport activity that is already being performed, or is similar to an activity that is already being performed, at that fixed location.~~

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

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

~~(d) Activities that are presumed to be an expanding business include, but are not limited to, assuming the requirements of subsections (3)(a) and (c) are complied with:~~

1. ~~A company opens a new manufacturing plant in the State of Florida, but closes an existing manufacturing facility in this state which produced the same or a physically comparable product.~~

2. ~~A company which manufactures tennis shoes purchases additional machinery and equipment which will be used to manufacture track shoes in its existing facility.~~

3. ~~A company which manufactures boats retools for a new model year.~~

4. ~~A company which produces domestic sausage adds a smoked sausage line which will be produced on a dedicated production line at their existing facility where the smoked sausage line will be marketed under a different product logo.~~

5. ~~A company purchases an existing manufacturing facility which had been closed for less than 12 months and retools the facility in order to manufacture the same product which was manufactured at the facility prior to its closing.~~

~~(d)(e) In order to qualify for an exemption as an expanding business, the taxpayer shall provide information to the satisfaction of the Executive Director or the Executive Director's designee Department that the items purchased shall~~

be used to increase the productive output of the existing facility or specific product line(s) by not less than 10 percent. An expanding business is allowed to specify whether the 10 percent increase in productive output is for the entire plant or for specific product line(s). However, where the increase in productive output applies to a product that becomes part of different product lines, the increase in productive output will be determined by measuring the increase in the combined output of the different product lines. For example, if a company purchases machinery and equipment that increases its production of raw orange juice by 25 percent, and this raw orange juice is used by the company to make five different products, the increase in productive output would be determined by measuring the volume increase in the combined output of all five different products. Expanding spaceport activities are not subject to the increase in productive output requirement.

(4) Mining Activities.

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

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

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

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

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

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

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

(4) Decision Flow Chart.

(a) The following is a flow chart that graphically illustrates the analysis sequence that will assist the Department in determining if industrial equipment and machinery qualifies for sales tax exemption under s. 212.08(5)(b), F.S. Note that this analysis is subsequent to the analysis required to determine if there is a new or expanded business.

(b) Flow analysis of whether equipment or machinery qualifies for exemption:

Is equipment or machinery Section 38 property?	no	
yes		
As defined in Section 48(a)(1)(A) or (B)(i) of IRC?	no	
yes		
Used as an essential part of manufacturing, processing, compounding, or producing?	no	
yes		
Items of Tangible Personal Property (TPP) produced?	no	
yes		
At fixed locations?	no	
yes		
TPP produced for sale or for exclusive use in Spaceport Activities?	no	
yes		
Machinery and equipment qualifies for exemption	Property doesn't qualify for exemption	

(5) Manufacturing Business Classification Factors.

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

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

1. The general nature of the applicant's predominant existing business;
2. The Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) industry number of the existing product(s) versus the additional product;
3. The raw materials or components used to make the existing product(s) versus the additional product;
4. Whether the additional product is an alternative to, or represents a replacement for, the existing product(s);
5. The differences in machinery and equipment needed to make the existing product(s) versus the additional product; and
6. The units used to measure production of the existing product(s) versus the additional product.

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

(d) Products that merely differ in size, color, flavor, style, packaging, or model line are not considered to be a distinct and separate economic activity.

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

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

(a) To receive the exemption provided by subsections (2) or (3), a qualifying business entity must apply to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443, for a temporary tax exemption permit. (See subsection (12) for registration requirements with the WAGES Program Business Registry.) The business entity seeking a applying for the temporary tax exemption permit must file an form DR-1214, Application for Temporary Tax Exemption Permit, Form DR-1214, incorporated by reference in Rule 12A-1.097, F.A.C., 10/82, form DR-1207, Florida Contract Data, 1/82, and form DR-1208, Schedule of Contractors, 1/82, with the Department prior to receiving a permit or refund for starting the construction of the new or expanded business. These forms, adopted herein by reference, may be obtained at no cost from the above address or from a local Department of Revenue Taxpayer Service Center or by calling 1-800-FLA-DORI. Form DR-1214 must state that a temporary tax exemption permit number is being requested by either a new or an expanding business entity. Upon a tentative

~~affirmative positive~~ determination of the business's qualification for exemption by the Executive Director or the Executive Director's designee, a temporary tax exemption permit shall be issued to, ~~or a refund authorized for,~~ the principal business entity.

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

(b)l. A temporary tax exemption permit may be issued only to the qualified business entity which will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing, compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., ~~items of tangible personal property~~. Such permit may be extended by the business entity to its vendor(s) or to its authorized contractor(s) operating under lump sum, cost plus, fixed fee, guaranteed price, or any other type of contract executed for the purpose of constructing a new or expanded business. The authorized contractor(s) may, likewise, extend the temporary tax exemption permit to its vendor(s) for use in purchasing qualifying machinery and equipment tax exempt. The business entity that extends the temporary tax exemption permit to a contractor or subcontractor for the purpose of authorizing that ~~the~~ contractor or subcontractor to purchase qualifying machinery and equipment tax exempt will be responsible for paying the sales and use tax on any nonqualified items purchased tax exempt by the contractor or subcontractor.

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

(c)l. If a qualifying business entity fails to apply for a temporary tax exemption permit before purchasing qualifying machinery and equipment for a new or expanded business, or if the initial determination by the Executive Director or the Executive Director's designee is negative, the exemptions provided by subsections (2) and (3) above may be obtained only by a refund to the business entity of previously paid taxes. Refunds shall not be allowed until information has been provided to the satisfaction of the Executive Director or the Executive Director's designee that such machinery and equipment meets the requirements of this rule and is used as designated herein. Only the qualified business entity which will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing,

compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities ~~as defined in s. 212.02, F.S.,~~ items of tangible personal property is entitled to request a refund of sales or use taxes paid on qualifying industrial machinery and equipment, or installation thereof. A qualifying mining activity business under subsection (4) of this rule will receive the exemption by way of a credit against severance taxes instead of a refund of sales and use tax.

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

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

b. The prime contractor must ~~obtain have obtained~~ a certified statement from its ~~his~~ supplier(s) and subcontractor(s) certifying that the supplier or subcontractor has remitted the tax to the State, or certifying that the prime contractor has remitted use tax directly to the State. The prime contractor must then extend the statement(s) it ~~he~~ has executed or obtained from its ~~his~~ supplier(s) or subcontractor(s) to the qualifying new or expanded business entity to support the refund claim.

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

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

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

Dated at _____ County _____, Florida, this _____ day of _____, 2019_____.

AUTHORIZED OFFICER OF COMPANY
BY: _____
TITLE: _____

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

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

1. New Businesses.

a. An application for refund must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. However, an application for refund shall not be considered complete pursuant to s. 213.255(3), F.S., and a refund shall not be approved, before the date The right to a refund of sales or use taxes paid on qualifying industrial machinery and equipment, or installation thereof, shall accrue when the new manufacturing or printing business first places a product in inventory or immediately sells a product, or before the date a new business engaged in spaceport activities begins those activities.

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

2. Expanding Businesses.

a. An application for refund must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. However, an application for refund shall not be considered complete pursuant to s. 213.255(3), F.S., and a refund shall not be approved, before the date The right to a refund of sales or use taxes paid on qualifying industrial machinery and equipment and installation thereof for an expanding manufacturing or printing business shall accrue when the expanding business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 10 percent, or for an expanding business engaged in spaceport activities, before the date of completion of the installation of the machinery and equipment or more.

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

3. Application for refunds shall be filed within 3 years after the right to refund accrues, or else such right shall be barred.

(7)(6) Record Keeping Requirements.

The applicant shall maintain all necessary books and records to support the exemption. All such books, invoices, certified statements, and other records shall be open for inspection by the Department at all reasonable hours at the qualifying

business entity's location in this state. Any qualifying business entity which maintains such books and records at a point outside this state shall make such books and records available for inspection by the Department where the general records are kept.

(8)(7) Exclusions.

(a) The exemptions provided by subsections (2), (3), and (4) and (3) above shall not apply to machinery and equipment purchased or used by electric utility companies; communication companies; phosphate or other solid minerals severance, mining or processing operations; oil or gas exploration or production operations; printing or publishing firms that do not export at least 50 percent of their finished product out of the state; any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; or any firm which does not manufacture, process, compound, fabricate or produce items of tangible personal property for sale, or exclusively use machinery and equipment for exclusive use in spaceport activities as defined in s. 212.02, F.S., items of tangible personal property.

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

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

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

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

(b) The exemption for industrial machinery and equipment ends at that stage of the production process where at which point the product produced is placed in a package (or is in saleable form if packaging is normally not done) to be sold to the wholesaler, or retailer, or other purchaser. However, the production process may include quality control activities for perishable goods after the item of tangible personal property has been packaged (or is in saleable form if packaging is normally not done), if such quality control activities are required by good manufacturing practices mandated by state or federal government agencies.

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

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

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

(f) The materials used in the construction of a railroad spur that is on the property of a new or expanding business and belongs to such business for the purpose of transporting raw materials shall be exempt. If a railroad spur is used solely for the purpose of transporting the finished product, tax will apply to the total cost of the materials used in the construction of that railroad spur.

(g) Pollution control equipment, or sanitizing and sterilizing equipment ~~that is an integral part of the production process essential to the "production process" as defined in subsection (1)(e), above, which is used in manufacturing, processing, compounding or producing items of tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S.,~~ qualifies for exemption.

(h) Monitoring machinery and equipment ~~that is an integral part of the production process essential to the "production process" as defined in subsection (1)(e), above, which is used in manufacturing, processing, compounding or producing items of tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S.,~~ qualifies for exemption.

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

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

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

2. An expanding business before the completion of the expansion project ~~production begins~~.

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

(k) Conveyers or related equipment used to transport raw materials from the storage area located at the fixed location to the production line will qualify for exemption.

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

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

(n) ~~Masks, molds, jigs, or templates Machinery and equipment which is essential in the manufacture, production, processing or compounding of tangible personal property, such as masks or molds, where such property is integral essential to the production process manufacture, production, compounding or processing of an item of tangible personal property for sale will qualify for exemption. The machinery and equipment that which is integral to the creation or maintenance of those masks, molds, jigs, or templates essential to manufacture, produce, process or compound the tangible personal property, such as masks or molds, will also qualify for exemption even though such machinery and equipment is not a direct part of may be located at a point in the production process prior to the introduction of the raw materials which are used to manufacture, produce, compound or process an item of tangible personal property.~~

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

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

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

(r) Office equipment, such as telephones, copy machines, typewriters, or calculators, will not qualify for the exemption.

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

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

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

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

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

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

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

(d) The exercise of a purchase option in an operating lease is considered to be a purchase made after the start of production and is subject to tax.

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

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

(b) In the case of a capital lease, sales-type lease, or direct financing lease, ~~the Executive Director or designee in the responsible program will consider~~ such leases will be considered to be sales and purchases at ~~from~~ their inception.

(12) WAGES Program Business Registry.

No machinery and equipment purchased, or lease payments made, by any new or expanding business will be eligible for the exemption without that business being registered with the WAGES Program Business Registry.

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (14), (21), (22), 212.05, 212.06, 212.08(5)(b), 212.13(2), 215.26(2) FS., Section 2, Chapter 99-171, Laws of Florida. History--New 5-11-92, Amended 7-1-99,_____.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
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(2) through (27) No change.

(28) DR-1207	Florida Contract Data Form (N-01/82)	08/92
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(29) DR-1208	Schedule of Contractors (N-01/82)	08/92
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(28) (30) DR-1214	Application for Temporary Tax Exemption Permit (r. <u>09/99 05/92</u>)	<u>08/92</u>
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~~(29)~~~~(31)~~ No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-1.096, FAC., Industrial Machinery and Equipment for Use in a New or Expanding Business, were previously noticed for a Rule Development Workshop in the Florida Administrative Weekly on January 3, 1997 (Vol. 23, No. 1, pp. 5-16) and on February 20, 1998 (Vol. 24, No. 8, pp. 864-874). Rule development workshops were respectively held on January 23, 1997, in Room B-2 and on March 11, 1998, in room 435, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida 32399. Comments received at the workshops are incorporated into the proposed rule amendments. The proposed amendments to Rule 12A-1.096, FAC., Industrial Machinery and Equipment for Use in a New or Expanding Business, and Rule 12A-1.097, FAC., Public Use Forms, were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 5, 1999 (Vol. 25, No. 44, pp. 5031-5042). A rule development workshop was held on December 1, 1999, in Room B-12, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida 32399. Comments received at the workshop are incorporated into the proposed rule amendments.

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Public Employees Relations Commission

RULE TITLE: Attorney's Fees, Expert Witness Fees, and Cost of Litigation
RULE NO.: 38D-14.004

PURPOSE AND EFFECT: The proposed repeal is intended to eliminate a rule which is unnecessary to the operation of the Public Employees Relations Commission.

SUMMARY: Rule 38D-14.004 provides for the filing of a motion of attorney's fees and costs to a prevailing party in an unfair labor practice proceeding.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.536, 120.54(3) FS.

LAW IMPLEMENTED: 120.536, 120.54(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stephen A. Meck, General Counsel, Public Employees Relations Commission, 2586 Seagate Drive, Tallahassee, Florida 32301-5032

THE FULL TEXT OF THE PROPOSED RULE IS:

38D-14.004 Attorney's Fees, Expert Witness Fees, and Cost of Litigation.

Specific Authority 447.207(1) FS. Law Implemented 447.207(6), 447.503(6)(c) FS. History--New 5-6-79, Amended 1-17-80, 7-14-83, Formerly 38D-14.04, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephen A. Meck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Maggert Poole, Chair, Public Employees Relations Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2000

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Public Employees Relations Commission

RULE TITLES: Oral Argument
RULE NOS.: 38D-15.003
Motion for Reconsideration 38D-15.005

PURPOSE AND EFFECT: The proposed repeal is intended to eliminate rules which are unnecessary to the operation of the Public Employees Relations Commission.

SUMMARY: Rule 38D-15.003 provides for oral argument in any cause before the Public Employees Relations Commission. Rule 38D-15.005 provides for the filing of a motion of reconsideration of a dispositive Commission order.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.536, 120.54(3) FS.

LAW IMPLEMENTED: 120.536, 120.54(3) 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: Stephen A. Meck, General Counsel, Public Employees Relations Commission, 2586 Seagate Drive, Tallahassee, Florida 32301-5032

THE FULL TEXT OF THE PROPOSED RULES IS:

38D-15.003 Oral Argument.

Specific Authority 120.53(1), 447.207(1) FS. Law Implemented 120.53(1), 447.207(6) FS. History--New 5-6-79, Amended 1-25-82, Formerly 38D-15.03, Repealed.

38D-15.005 Motion for Reconsideration.

Specific Authority 120.53(1), 447.207(1) FS. Law Implemented 120.53(1), 120.57(2), 447.207(6) FS. History--New 5-6-79, Amended 1-17-80, 11-12-82, Formerly 38D-15.05, Amended 10-16-89, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephen A. Meck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Maggert Poole, Chair, Public Employees Relations Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2000

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Public Employees Relations Commission

RULE TITLE: Back Pay Proceedings
RULE NO.: 38D-21.010

PURPOSE AND EFFECT: The proposed repeal is intended to eliminate a rule which is unnecessary to the operation of the Public Employees Relations Commission.

SUMMARY: Rule 38D-21.010 provides for back pay proceedings after a Commission order directing the payment of back pay or after enforcement of such an order by court decree.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.536, 120.54(3) FS.

LAW IMPLEMENTED: 120.536, 120.54(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stephen A. Meck, General Counsel, Public Employees Relations Commission, 2586 Seagate Drive, Tallahassee, Florida 32301-5032

THE FULL TEXT OF THE PROPOSED RULE IS:

38D-21.010 Back Pay Proceedings.

Specific Authority 447.207(1) FS. Law Implemented 447.207(6), 447.208(3)(b), 447.503(6)(a) FS. History-New 5-6-79, Amended 1-17-80, Formerly 38D-21.10, Amended 6-3-87, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephen A. Meck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Maggert Poole, Chair, Public Employees Relations Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2000

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Public Employees Relations Commission

RULE TITLE: Back Pay Procedure RULE NO.: 38D-24.012

PURPOSE AND EFFECT: The proposed repeal is intended to eliminate a rule which is unnecessary to the operation of the Public Employees Relations Commission.

SUMMARY: Rule 38D-24.012 provides for back pay proceedings after the Commission or a court determines that back is appropriate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.536, 120.54(3) FS.

LAW IMPLEMENTED: 120.536, 120.54(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stephen A. Meck, General Counsel, Public Employees Relations Commission, 2586 Seagate Drive, Tallahassee, Florida 32301-5032

THE FULL TEXT OF THE PROPOSED RULE IS:

38D-24.012 Back Pay Procedure.

Specific Authority 110.227, 120.53, 447.207, 447.208 FS. Law Implemented 110.227, 120.53, 447.207, 447.208 FS. History-New 9-2-86, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephen A. Meck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Maggert Poole, Chair, Public Employees Relations Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2000

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Medicaid

RULE TITLE: Hearing Services RULE NO.: 59G-4.110

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999. The effect will be to incorporate by reference in the rule the current Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 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: 9:00 a.m. – 12:00 a.m., March 13, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Helen Sancho, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7322

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.110 Hearing Services.

(1) No change.

(2) All physicians, audiologists and hearing aid specialists enrolled in the Medicaid program must be in compliance ~~comply~~ with the provisions of the Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999 ~~January 1998~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History--New 8-3-80, Amended 7-21-83, Formerly 10C-7.522, Amended 4-13-93, Formerly 10C-7.0522, Amended 12-21-97, 10-13-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Helen Sancho

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 17, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLES: RULE NOS.:

Required Records Maintained by 61G6-9.009
Course Sponsors

Audit of Certifications of Completion 61G6-9.011

PURPOSE AND EFFECT: The Board proposes to amend 61G6-9.009 by updating the rule text requiring course sponsors to provide required records to the Department electronically. Rule 61G6-9.011 is being repealed because the Department will audit every licensee.

SUMMARY: Rule 61G6-9.009 requires the course sponsors to electronically supply the Department the required records, and Rule 61G6-9.011 is being repealed because the rule is no longer necessary.

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: 455.225, 455.227, 489.507(3) FS.

LAW IMPLEMENTED: 489.507(3), 489.517, 489.531(1)(f), 489.533(1)(b),(e),(f) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G6-9.009 Required Records Maintained by Course Sponsors.

(1) through (7) No change.

(8) The records must be maintained for at least four ~~three~~ years following the date the course is completed.

(9) Each course sponsor shall electronically provide the ~~board with copies of any of these required records, upon request by the board~~ department with such information no later than 5 business days after a licensee completes the course.

Specific Authority 489.507(3) FS. Law Implemented 489.507(3), 489.517 FS. History--New 11-30-94, Amended 6-13-96, 12-25-96, 3-24-99,_____.

61G6-9.011 Audit of Certifications of Completion.

Specific Authority 455.225, 455.227, 489.507(3) FS. Law Implemented 489.517, 489.531(1)(f), 489.533(1)(b),(e),(f) FS. History--New 11-30-94, Amended 3-24-99, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Electrical Contractors Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 1999

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO: 99-37R

RULE TITLE: RULE NO.:

Federal Regulations Adopted by Reference 62-204.800

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments update through December 31, 1999, the adoptions by reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR Parts 60, 61, and 63.

SPECIFIC AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. SUBSTANTIALLY AFFECTED PERSONS MAY FILE OBJECTIONS WITH THE ENVIRONMENTAL REGULATION COMMISSION AT

THE FOLLOWING ADDRESS: 3900 Commonwealth Boulevard, Mail Station 18, Tallahassee, Florida 32399-3000, Attention: Jacki McGorty. Objections must be received within 14 days of publication of this notice and must specify the portions of the proposed rule to which the person objects and the reason for the objection. Objections which are frivolous will not be considered sufficient to prohibit adoption of the rule as published.

WRITTEN COMMENTS: The Secretary of the Department of Environmental Protection will consider written comments received within 21 days of publication of this notice. Comments should be submitted to Ms. Sandy Ladner, Division of Air Resource Management, Department of Environmental Protection, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.

(1) through (6) No change.

(7) Chapter 40, Code of Federal Regulations, Part 60, Standards of Performance for New Stationary Sources.

(a) through (d) No change.

(e) Appendices Adopted. The following appendices of 40 CFR Part 60, revised as of July 1, 1996, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 CFR 60, Appendix A, Test Methods, amended October 7, 1997, 62 FR 52384; February 9, 1998, 63 FR 6493; and February 12, 1998, 63 FR 7199; July 9, 1999, 64 FR 37196; July 15, 1999, 64 FR 38241; and September 30, 1999, 64 FR 53027 (effective April 1, 2000).

2. 40 CFR 60 Appendix B, Performance Specifications, ~~amended September 30, 1999, 64 FR 53032 (effective April 1, 2000).~~

3. through (9) No change.

(10) Chapter 40, Code of Federal Regulations, Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.

(a) No change.

(b) Standards Adopted. The following National Emission Standards for Hazardous Air Pollutants contained in 40 CFR Part 63, revised as of July 1, 1996, or later as specifically indicated, are adopted and incorporated by reference:

1. through 7. No change.

8. 40 CFR 63, Subpart O, Ethylene Oxide Emissions Standards for Sterilization Facilities, amended December 9, 1997, 62 FR 64736, ~~and~~ December 4, 1998, 63 FR 66990 (effective April 1, 1999); and December 3, 1999, 64 FR 67789 (effective April 1, 2000).

9. through 11. No change.

12. 40 CFR 63, Subpart T, Halogenated Solvent Cleaning, amended May 5, 1998, 63 FR 24749; ~~and~~ December 11, 1998, 63 FR 68397 (effective April 1, 1999); August 19, 1999, 64 FR 45187; and December 3, 1999, 64 FR 67793 (effective April 1, 2000).

13. through 19. No change.

20. 40 CFR 63, Subpart DD, Off-Site Waste and Recovery Operations, promulgated July 1, 1996, 61 FR 34140; amended July 20, 1999, 64 FR 38950 (effective April 1, 2000).

20. through 26. renumbered 21. through 27. No change.

28. 40 CFR 63, Subpart OO, Tanks-Level 1, promulgated July 1, 1996, 61 FR 34184; amended July 20, 1999, 64 FR 38959 (effective April 1, 2000).

29. 40 CFR 63, Subpart PP, Containers, promulgated July 1, 1996, 61 FR 34186; amended July 20, 1999, 64 FR 38959 (effective April 1, 2000).

30. 40 CFR 63, Subpart QQ, Surface Impoundments, promulgated July 1, 1996, 61 FR 34190; amended July 20, 1999, 64 FR 38960 (effective April 1, 2000).

31. 40 CFR 63, Subpart RR, Individual Drain Systems, promulgated July 1, 1996, 61 FR 34193; amended July 20, 1999, 64 FR 38960 (effective April 1, 2000).

~~32.~~ 40 CFR 63, Subpart SS, Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process, promulgated June 29, 1999, 64 FR 34854 (effective October 1, 1999); amended November 22, 1999, 64 FR 63702 (effective April 1, 2000).

~~33.~~ 40 CFR 63, Subpart TT, Equipment Leaks – Control Level 1, promulgated June 29, 1999, 64 FR 34854 (effective October 1, 1999); amended November 22, 1999, 64 FR 63702 (effective April 1, 2000).

~~34.~~ 40 CFR 63, Subpart UU, Equipment Leaks – Control Level 2 Standards, promulgated June 29, 1999, 64 FR 34854 (effective October 1, 1999); amended November 22, 1999, 64 FR 63702 (effective April 1, 2000).

35. 40 CFR 63, Subpart VV, Oil-Water Separators and Organic-Water Separators, promulgated July 1, 1996, 61 FR 34195; amended July 20, 1999, 64 FR 38991 (effective April 1, 2000).

~~36.~~ 40 CFR 63, Subpart WW, Storage Vessels (Tanks) – Control Level 2, promulgated June 29, 1999, 64 FR 34854 (effective October 1, 1999); amended November 22, 1999, 64 FR 63702 (effective April 1, 2000).

~~37.~~ 40 CFR 63, Subpart YY, Generic Maximum Achievable Control Technology Standards, promulgated June 29, 1999, 64 FR 34854 (effective October 1, 1999); amended November 22, 1999, 64 FR 63695; and November 22, 1999, 64 FR 63702 (effective April 1, 2000).

32. through 33. renumbered 38. through 39. No change.

~~40.34.~~ 40 CFR 63, Subpart EEE, Hazardous Waste Combustors ~~Combustors~~, promulgated June 19, 1998, 63 FR 33782; amended September 30, 1999, 64 FR 53038; and amended November 19, 1999, 64 FR 63209 (effective April 1, 2000).

35. through 38. renumbered 41. through 44. No change.

~~45.39.~~ 40 CFR 63, Subpart LLL, Portland Cement Manufacturing Industry, promulgated June 14, 1999, 64 FR 31898 (effective October 1, 1999); amended September 30, 1999, 64 FR 53070 (effective April 1, 2000). If a facility becomes subject to the permitting requirements of Chapter 62-213, F.A.C., solely because it is subject to the emission limiting requirements of 40 CFR Part 63, Subpart LLL, the facility shall submit an application for such permit no later than October 1, 2000.

40. through 43. renumbered 46. through 49. No change.

~~50.~~ 40 CFR 63, Subpart VVV, Publicly Owned Treatment Works, promulgated October 26, 1999, 64 FR 57572 (effective April 1, 2000).

~~51.44.~~ No change.

Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History--New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99,

NAME OF PERSON ORIGINATING PROPOSED RULE: Howard L. Rhodes, Director, Division of Air Resource Management
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, Deputy Secretary, Department of Environmental Protection
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 1998

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 DOCKET NO.: 99-39R

RULE CHAPTER TITLE: Environmental Resource Permitting
 RULE CHAPTER NO.: 62-330

RULE TITLE: Rules Adopted by Reference
 RULE NO.: 62-330.200

PURPOSE AND EFFECT: The Department proposes to revise Figure 12.2.8-1, entitled "SJRWMD Drainage Basin Map for Cumulative Impacts Evaluation" to conform to identical revisions being proposed by the St. Johns River Water Management District per a Notice of Proposed Rulemaking to be published by the St. Johns River Water Management District in the February 11, 2000, Florida Administrative Weekly (FAW). The drainage basins are referenced in the St. Johns River Water Management District "Applicant's Handbook: Management and Storage of Surface Waters," portions of which have been adopted by the Department, and are relevant to certain permitting criteria applicable to environmental resource permit (ERP) applications.

Specifically, the drainage basins are used in the evaluation of whether a regulated activity will cause unacceptable cumulative impacts upon wetlands and other surface waters. With one exception, the proposed basins and watersheds are either increased in size or are the same size as those in the existing rules. The one exception is the proposed Western Etonia Lakes basin, which is proposed as a portion of the existing Etonia Creek basin. Five of the basins/watersheds are proposed to be "nested" which means that these areas are both individual basins/watersheds and part of larger basins/watersheds. The effect of this designation for a drainage basin is that, for impacts that are outside of a nested area but within the larger basin of which it is a part, mitigation in the nested area will be considered to be in the same drainage basin for cumulative impact review purposes. For impacts that are located within a nested area, mitigation that is located outside of the nested area but within the larger basin of which it is a part will be considered to be outside the basin for cumulative impact review purposes.

SUMMARY: Figure 12.2.8-1 is incorporated by reference in rule 62-330.200(2)(i). This rule is proposed to be amended to incorporate by reference the revised map described above. A copy of Figure 12.2.8-1, as it is proposed to be amended, is included in this notice.

Rule development workshops were conducted jointly with the St. Johns River Water Management District on November 5, 1999, in Orlando and Jacksonville.

SPECIFIC AUTHORITY: 373.026(7), 373.043, 373.118, 373.406(5), 373.414, 373.415, 373.418, 373.4211(22), 373.4211(25), 373.461, 380.06(9), 403.805(1) FS.

LAW IMPLEMENTED: 373.019, 373.042, 373.0421, 373.085, 373.086, 373.109, 373.118, 373.119, 373.129, 373.136, 373.403, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.419, 373.421(2)-(6), 373.4211(22), 373.4211(25), 373.422, 373.423, 373.426, 373.427, 373.429, 373.430, 373.433, 373.436, 373.439, 373.461, 380.051, 380.06(9), 403.0877, 403.813(2), 403.814 FS.

A HEARING WILL BE HELD BEFORE THE DEPARTMENT IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE.

TIME AND DATE: 10:00 a.m. (Thursday), March 16, 2000

PLACE: Department of Environmental Protection, Room A204, Lab Bldg., 2600 Blair Stone Road, Tallahassee, Florida
 If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or (800)955-8771 (TDD), at least seven days before the meeting.

A HEARING ON THE ANALOGOUS RULE PROPOSED BY THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT also will be conducted by the St. Johns River Water Management District following the regularly scheduled Governing Board Meeting which begins at 9:00 a.m., on

March 8, 2000, at the St. Johns River Water Management District, Highway 100 West, Palatka, Florida 32177, as noticed in the February 11, 2000, issue of the FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Douglas Fry, Florida Department of Environmental Protection, 2600 Blair Stone Road, Bureau of Submerged Lands and Environmental Resources, MS 2500, Tallahassee, Florida 32399-2400, telephone (850)921-9890 or Doug.Fry@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-330.200 Rules Adopted by Reference.

The Department hereby adopts by reference the following rules. The rules adopted by reference are available for inspection at the Department's Tallahassee and District offices:

(1) No change.

(2) The following rules are adopted by reference for application by the Department within the geographical jurisdiction of St. Johns River Water Management District as set forth in Section 373.069, F.S.:

(a) through (h) No change.

(i) Subsections 1.1, 1.2, 1.3, 1.4, 1.5, section 2.0, subsections 3.1, 3.2, 3.3, 3.4, 7.1, 7.2, and 7.4 of Part I "Policy and Procedures;" Part II "Criteria for Evaluation," except for sections 12.4 and 12.5; subsections 18.0, 18.1, 18.2, and 18.3 of Part III "Methodologies," and Appendix K "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Ocklawaha River Hydrologic Basin," "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Econlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," and "Legal Description of the Sensitive Karst Areas Basin, Marion County" of the document entitled Applicant's Handbook: Management and Storage of Surface Water (10-3-95), except as provided in subparagraphs 1. through 3.

1. through 2. No change.

3. Figure 12.2.8-1, effective [effective date of rule].

(j) No change.

(3) through (4) No change.

INSERT FIGURE 12.2.8-1 (62-330)

Specific Authority 373.026(7), 373.043, 373.044, 373.046, 373.113, 373.118, 373.406(5), 373.414, 373.415, 373.418, 373.4211(22), 373.4211(25), 373.461, 380.06(9), 403.805(1) FS. Law Implemented 373.019, 373.026, 373.042, 373.0421, 373.043, 373.046, 373.085, 373.086, 373.109, 373.117, 373.118, 373.119, 373.129, 373.136, 373.403, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.419, 373.421(2)-(6), 373.4211(22), 373.4211(25), 373.422, 373.423, 373.426, 373.427, 373.429, 373.430, 373.433, 373.436, 373.439, 373.461, 380.051, 380.06(9), 403.0877, 403.813(2), 403.814 FS. History—New 12-7-92, Formerly 17-330.200, Amended 10-3-95, 6-6-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mimi Drew, Director, Division of Water Resource Management, Department of Environmental Protection

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Secretary of the Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 29, 1999

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-38R

RULE CHAPTER TITLE: Mitigation Banking

RULE CHAPTER NO.: 62-342

RULE TITLE: Definitions

RULE NO.: 62-342.200

PURPOSE AND EFFECT: The Department proposes to revise Figure 3 used in the definition of regional watersheds for mitigation banks within the geographical territory of the St. Johns River Water Management District. This figure is incorporated by reference in rule 62-342.200(9) and is referenced in rule 62-342.600, F.A.C. The figure is entitled "Regional Watersheds of the SJRWMD for Mitigation Banks." The regional watersheds are considered in the establishment of the mitigation bank service area, the analysis of ecological benefits of proposed mitigation banks, and are used as part of the determination of the number of mitigation credits needed to offset a given wetland impact. A copy of Figure 3, as it is proposed to be amended, is included in this notice. This rulemaking will conform with identical revisions being proposed by the St. Johns River Water Management District per a Notice of Proposed Rulemaking to be published by the St. Johns River Water Management District in the February 11, 2000, Florida Administrative Weekly (FAW). With one exception, the proposed watersheds are either increased in size or are the same size as those in the existing rules.

The proposed basin/watershed boundaries have been developed with the assistance of a technical advisory committee consisting of representatives from private environmental consulting firms, environmental groups, environmental agencies and a mitigation banking association. The existing referenced figure has 46 basins/watersheds, while the proposed amended figure will have 22 basins/watersheds. Generally, the basins and watersheds are proposed to increase in size by combining existing basins/watersheds, or to remain essentially the same size as in the existing rules. The one exception is the proposed Western Etonia Lakes basin, which is proposed as a portion of the existing Etonia Creek basin.

Five of the basins/watersheds are proposed to be "nested," which means that these areas are both individual basins/watersheds and part of larger basins/watersheds. The effect of this designation for a drainage basin is that, for impacts that are outside of a nested area but within the larger basin of which it is a part, mitigation in the nested area will be considered to be in the same drainage basin for cumulative impact review purposes. For impacts that are located within a nested area, mitigation that is located outside of the nested area but within the larger basin of which it is a part will be considered to be outside the basin for cumulative impact review purposes.

The effect of the "nested" designation for a regional watershed is that, when a mitigation bank is located outside of a nested regional watershed, the regional watershed for that mitigation bank will not include the nested regional watershed. When a mitigation bank is located within a nested regional watershed, the regional watershed for mitigation bank will be the larger regional watershed, including the nested regional watershed.

SUMMARY: Figure 3 is referenced in the definition of "Regional Watershed" in rule 62-342.200(9). This rule is being amended to incorporate by reference the revised map described above. A copy of Figure 3, as it is proposed to be amended, is included in this notice. Rule development workshops were conducted jointly with the St. Johns River Water Management District on November 5, 1999, in Orlando and Jacksonville.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 373.4136(11) FS.

LAW IMPLEMENTED: 373.4135, 373.4136 FS.

A HEARING WILL BE HELD BEFORE THE DEPARTMENT, IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE.

TIME AND DATE: 10:00 a.m. (Thursday), March 16, 2000

PLACE: Department of Environmental Protection, Room A204, Lab Bldg., 2600 Blair Stone Road, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or (800)955-8771 (TDD), at least seven days before the meeting.

A HEARING ON THE ANALOGOUS RULE PROPOSED BY THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT also will be conducted by the St. Johns River Water Management District following the regularly scheduled Governing Board Meeting which begins at 9:00 a.m., on

March 8, 2000, at the St. Johns River Water Management District, Highway 100 West, Palatka, Florida 32177, as noticed in the February 11, 2000, issue of the FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Douglas Fry, Florida Department of Environmental Protection, 2600 Blair Stone Road, Bureau of Submerged Lands and Environmental Resources, MS 2500, Tallahassee, Florida 32399-2400, telephone (850)921-9890 or Doug.Fry@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-342.200 Definitions.

Terms used in this chapter shall have the meanings specified below.

- (1) through (8) No change.
- (9) Figure 3 amended.
- (10) No change.

INSERT APPENDIX "M" (62-342)

Specific Authority ~~373.4136(11), 373.4135, 373.418, 403.061~~ FS. Law Implemented ~~373.4135, 373.4136~~ FS. History--New 2-2-94, Formerly 17-342.200, Amended 12-19-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi Drew, Director, Division of Water Resource Management, Department of Environmental Protection
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Secretary of the Department of Environmental Protection
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 29, 1999

**DEPARTMENT OF HEALTH
 Board of Chiropractic Medicine**

RULE TITLE: Citations
 RULE NO.: 64B2-16.0075

PURPOSE AND EFFECT: The Board proposes to amend this rule to add new rule text with regard to citations.

SUMMARY: The Board is amending this rule to notify licensees of the penalties to be charged for first time failure to complete the required continuing education and failure to complete less than 10 hours or failure to complete 10 or more hours. Licensees will also be required to take two additional hours of continuing education for each of the continuing education deficiencies.

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: 455.617, 460.405 FS.

LAW IMPLEMENTED: 455.621, 455.624(3), 455.717 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Chiropractic Medicine/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-16.0075 Citations.

(1) through (3) No change.

(4) First time failure to complete the required continuing education during the biennial license period; s. 455.624(3), F.S.

(a) failure to complete less than 10 hours shall result in a penalty of \$500;

(b) failure to complete 10 or more hours will result in a penalty of \$1000.

In addition, licensees shall take two additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.

(4) through (8) renumbered (5) through (9) No change.

Specific Authority 455.617, 460.405 FS. Law Implemented 455.621, ~~455.624(3)~~, 455.717 FS. History--New 1-19-92, Amended 4-26-93, Formerly 21D-16.0075, 61F2-16.0075, Amended 7-18-95, Formerly 59N-16.0075, Amended 2-11-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 21, 2000

**DEPARTMENT OF HEALTH
 Board of Hearing Aid Specialists**

RULE TITLE: Wall Certificate and Duplicate License Fee
 RULE NO.: 64B6-4.007

PURPOSE AND EFFECT: The Board proposes to reword this rule to include language that explains fees and how to obtain a wall certificate, a duplicate wall certificate as well as a duplicate license.

SUMMARY: Fees for wall certificates, duplicate wall certificates and duplicate licenses.

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: 455.587(2),(6), 484.044 FS.

LAW IMPLEMENTED: 455.564(2), 455.587(6) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists, Northwood Centre, 1940 N. Monroe Street, Bin C08, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-4.007 Wall Certificate and Duplicate License Fee.

(1) Licensees licensed prior to July 1, 1998, may obtain wall certificates by submitting a written request to the Board along with a \$25.00 fee.

(2) Licensees may obtain a duplicate wall certificate by submitting a written request to the Board along with a \$25.00 fee.

(3) The fee for issuance of a duplicate license shall be \$25.00.

Specific Authority 455.587(2), (6), 484.044 FS. Law Implemented 455.564(2), 455.587(6) FS. History--New 10-21-91, Formerly 21JJ-4.015, 61G9-4.015, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 1999

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLE: Continuing Education Fees
RULE NO.: 64B14-2.010

PURPOSE AND EFFECT: The purpose of this amendment is to increase fees to become an approved continuing education provider.

SUMMARY: The Board proposes to amend the existing rule to increase fees to become an approved continuing education provider.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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: 455.521, 455.587(4), 468.806(3) FS.

LAW IMPLEMENTED: 455.521, 455.587(4), 468.806(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Orthotists and Prosthetists/MQA, 2020 Capital Circle, S. E., Bin #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-2.010 Continuing Education Fees.

~~The fee for application for approval of a continuing education course is \$200.~~

(1) The fee for application for approval as a continuing education provider is \$250.00.

(2) The renewal fee for continuing education provider approval is \$250.00.

Specific Authority 455.521, 455.587(4), 468.806(3) FS. Law Implemented 455.521, 455.587(4), 468.806(3) FS. History--New 5-21-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 1999

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLES:	RULE NOS.:
Continuing Education Requirement	64B14-5.002
Continuing Education Course Criteria	64B14-5.003
Provider Application	64B14-5.004

PURPOSE AND EFFECT: Rule 64B14-5.002, the purpose for the rule is to provide procedures relating to Continuing Education Requirements. In Rules 64B14-5.003 and 64B14-5.004, The Board proposes to promulgate new rules entitled "Continuing Education Course Criteria" and "Provider Application."

SUMMARY: The rule amendments are for the purpose of updating the continuing education requirements, and provider application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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: 468.802, 468.806, 455.564(8) FS.

LAW IMPLEMENTED: 468.806(3), 455.564(8) 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: Joe R. Baker, Jr., Executive Director, Board of Orthotists and Prosthetists/MQA, 2020 S. E. Capital Circle, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 61G14-5.002 follows. See Florida Administrative Code for present text.)

64B14-5.002 Continuing Education Requirement.

(1) As a condition of license renewal or recertification, each licensee must complete approved continuing education.

(a) For the biennium ending May 31, 2001, each licensee must complete 10 hours of continuing education.

(b) For each biennium ending after May 31, 2001, each licensee must complete the following continuing education within 24 months immediately preceding the date license renewal is due:

1. Orthotists/Prosthetists: 30 hours.

2. Pedorthists: 30 hours.

3. Orthotic Fitters 20 hours.

4. Orthotic Fitter Assistants: 10 hours

5. Any licensee holding more than 1 license must complete a maximum of 30 hours of continuing education.

(c) For each biennium ending after May 31, 2001, each licensee's continuing education must include one hour of continuing education on cardiopulmonary resuscitation; one hour on infectious diseases including HIV/AIDS and two hours on Chapter 455, Part II, F.S., Chapter 468; Part XIV, F.S., and Rule Chapter 64B14, FAC.

(2) At least 90% of the continuing education hours used to meet the requirements of these rules shall consist of one or more of the following:

(a) Orthotics/prosthetics/Pedorthics practice areas and special health care problems;

(b) biological, physical, and behavioral sciences.

(3) Up to 10% of the continuing education requirement of these rules may be satisfied by courses in business and practice management including courses covering the following topics:

(a) legal aspects of health care;

(b) management of health care personnel;

(c) health insurance issues;

(d) facility management;

(e) practice and risk management.

(4) Each licensee may receive one hour of continuing education credit in risk management by attending a meeting of the Board at which disciplinary cases are heard.

(5) Credit for continuing education is approved for the following:

(a) Courses offered by a provider approved by the Board.

(b) Courses offered for continuing education by ABC or BCP for their respective professions

(c) Courses intended for use as continuing education provided by a regionally accredited college or university, whose graduates are eligible for licensure under this chapter which meet the requirements of Rule 64B14-5.003.

(d) Graduate level academic courses provided by a regionally accredited college or university, provided such courses are offered by a graduate program in a health care profession.

(6) The licensee shall retain the original continuing education certificates of attendance for a minimum of four years.

(7) The Board will audit at random a number of licensees as necessary to assure that the continuing education requirements are met. Within 21 days of a request from the Board, the licensee must provide evidence of completion of the continuing education requirements by submission of one or more of the following:

(a) certificates of attendance from approved courses.

(b) an official transcript and copy of course syllabus of any graduate level course taken from a regionally accredited college or university.

(8) A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time which the licensee is absent from the State of Florida due to the spouse's duties with the Armed Forces. The licensee must document the absence and the spouse's military status to the Board.

Specific Authority 468.802, 468.806 FS. Law Implemented 468.806(3) FS. History—New 7-1-98, Amended _____.

64B14-5.003 Continuing Education Course Criteria.

(1) To be eligible for credit toward the licensee's continuing education requirement, a continuing education course shall be designed to enhance the learning and promote the continued development of knowledge and skills of the individual licensee's professional practice. The course content shall be specifically designed to the stated level and learning needs of the participants.

(2) Each course must have stated learning objectives which describe expected learner outcomes in behavioral terms, can be evaluated, are attainable, and are relevant to current professional practice. The objectives shall determine the content, teaching methodology and plan for evaluation.

(3) The course faculty shall demonstrate academic preparation and/or experience in the subject matter of the course.

(4) Course length shall be sufficient to provide meaningful education in the subject matter presented. Courses must include 50 minutes of didactic instruction or 100 minutes of lab/clinical experience for each hour of credit awarded. All courses must be at least 50 minutes in length.

(5) Distance learning courses, which include home study, correspondence, computer interactive, video cassette and audio cassette courses must meet all the requirements of this rule and must include a testing mechanism on which a passing score

must be attained by the licensee prior to the issuance of continuing education credit. Videocassette courses shall not exceed 5 hours per subject.

(6) Currency and accuracy of the content of the course shall be documented by references and/or bibliography.

(7) Each course shall include a certificate of attendance given to each participant, provider, the name of the course, which shall be the same as the name submitted to the Board, the provider number assigned by the Board, the name of the participant, the date the course was taken; the number of hours of continuing education credit awarded; and the signature of the provider, official representative or instructor.

(8) Each licensee attending a course must be required to sign in and out, and must attend all of the course in order to be awarded continuing education credit.

Specific Authority 455.564, 468.802, 468.806 FS. Law Implemented 455.564(8), 468.806 FS. History—New _____.

64B14-5.004 Provider Application.

(1) Submit a completed Continuing Education Provider Application (Form No. XX, effective 8/1/99, incorporated herein by reference), with the application fee stated in Rule 64B14-2.010. The form may be obtained from the Board office 2020 Capital Circle, S. E., Bin #C06, Tallahassee, Florida 32399-3255.

(2) Provide an identifiable person to be responsible for ensuring that each program presented under their provider number meets program requirements set forth in (3) below.

(3) Retain a "sign-in-sheet" with the signature of participants and copies of any promotional materials for at least 3 years following the course.

(4) Provide each participant with a certificate of attendance verifying the program has been completed. The certificate shall not be issued until completion of the program and shall contain the provider's name and number title of program, and program number, instructor, date, number of contact hours of credit, the licensee's name and license number.

(5) Notify the Board of any significant changes relative to the maintenance of standards as set forth in these rules.

(6) Each program presented by an approved provider shall meet the standards of Rule 64B14-5.003(2) or (3) and 64B14-5.004.

(7) The Board retains the right and authority to audit and/or monitor programs given by any provider. The board will rescind provider status if the provider has disseminated any false or misleading information in connection with the continuing education program or if the provider has failed to conform to these rules or the rules of the Board.

(8) Provider numbers must be renewed biennially on or before the renewal date for licenses under Chapter 468, Part XIV. The provider must return the renewal form provided by the department together with the renewal fee stated in Rule

64B14-2.010. If the renewal form and renewal fee are not received by the department on or before the renewal date, the provider must submit a new application and, if approved, receive a new provider number.

Specific Authority 455.564(8), 468.806 FS. Law Implemented 455.564(8), 468.806 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLES: Organization RULE NOS.: 64B32-1.001

Delegation of Powers and Duties to Respiratory Care Council 64B32-1.002

Designation of Official Reporter 64B32-1.004

PURPOSE AND EFFECT: Rule 64B32-1.001 is being repealed because the Board deems it unnecessary due to frequent changes, and Rules 64B32-1.002 and 64B32-1.004 are being repealed because Respiratory Care is now a Board and no longer a Council.

SUMMARY: These Rules no longer apply since Respiratory Care is now a Board and not a Council.

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: 120.53(2), 468.353(1), (3) FS.

LAW IMPLEMENTED: 120.53(2), 468.353(1),(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Board of Respiratory Care/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B32-1.001 Organization.

Specific Authority 468.353(1) FS. Law Implemented 468.353(1) FS. History--New 4-29-85, Formerly 21M-33.02, 21M-33.002, 61F6-33.002, 59R-70.002, Amended 2-2-98, Formerly 64B8-70.002, Repealed.

64B32-1.002 Delegation of Powers and Duties to Respiratory Care Council.

Specific Authority 468.353(1), (3) FS. Law Implemented 468.353(3) FS. History--New 4-29-85, Formerly 21M-33.03, 21M-33.003, Amended 1-2-94, Formerly 61F6-33.003, 59R-70.003, 64B8-70.003, Repealed.

64B32-1.004 Designation of Official Reporter.

Specific Authority 120.53(2) FS. Law Implemented 120.53(2) FS. History--New 4-29-85, Formerly 21M-33.06, 21M-33.006, 61F6-33.006, 59R-70.006, 64B8-70.006, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Respiratory Care

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2000

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: WAGES Early Exit Diversion Program

RULE NO.: 65A-4.101

PURPOSE AND EFFECT: This rule implements the requirements of Ch. 414.1525, WAGES Early Exit Diversion Program.

SUMMARY: This proposed rule provides for: the form for eligibility and agreement not to apply for cash assistance for six months; verification of income; ineligibility for payment in the last month of time limited benefits; criteria for emergency situations; and notification of impact on eligibility for Medicaid and food stamps. Additionally, it provides clarification that receipt of payment will have no effect on eligibility for WAGES support services.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.45, 414.1525 FS.

LAW IMPLEMENTED: 414.1525 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., March 20, 2000

PLACE: 1317 Winewood Blvd., Building 3, Room 414, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Ginn, Program Administrator, Public Assistance Policy, 1317 Winewood Boulevard, Building 3, Room 408L, Tallahassee, Florida 32399-0700, Telephone (850)921-5581

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.101 WAGES Early Exit Diversion Program.

(1) The Public Assistance Specialist will identify individuals who receive temporary cash assistance payments of less than \$100 and will inform them about the early exit diversion option and how this payment will be considered in determining eligibility for food stamps and Medicaid. If a WAGES coalition contract service provider is contacted about the early exit payment option, they will refer the individual to the local department office. The determination of eligibility for a WAGES Early Exit Diversion payment and the agreement not to apply for temporary cash assistance for six months will be documented on CF-ES 2286, WAGES Early Exit Diversion Agreement, Dec 99 (incorporated by reference). A copy of this form will be provided to the individual. Participation in the Early Exit Diversion Program is at the individual's option.

(2) The individual requesting a WAGES Early Exit Diversion payment must document earned income in order to be eligible to receive the payment. The individual's statement on the CF-ES 2286 regarding expectation of employment lasting at least 6 months is sufficient to meet this requirement.

(3) The individual will not be eligible for a WAGES Early Exit Diversion payment if the individual is in the last month of time limited benefits.

(4) If the individual demonstrates an emergency to the department, the individual is not bound by the agreement not to apply for temporary cash assistance for six months following the receipt of the WAGES Early Exit Diversion payment. The following are considered acceptable emergencies:

(a) hospitalization or illness documented by a physician licensed under Ch. 458 or 459, F.S., resulting in the loss of at least two weeks' income or loss of employment;

(b) loss of earned income due to reasons other than resignation without good cause or termination for cause.

(c) loss of housing;

(d) natural disaster resulting in destruction of an assistance group's major property;

(e) the individual demonstrates that they are subject to domestic violence, or

(f) other similar situations affecting the individual's employment.

(5) The receipt of a WAGES Early Exit Diversion payment will have no effect on the determination of eligibility for WAGES support services.

(6) Copies of form CF-ES 2286, WAGES Early Exit Diversion Agreement, may be obtained from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

Specific Authority 414.45, 414.1525 FS. Law Implemented 414.1525 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lonna Cichon, Operations and Management Consultant II, 488-8004

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Linda Ginn, Program Administrator, Public Assistance Policy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 1999

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Manatees

CHAPTER TITLE: Manatees
CHAPTER NO.: 68C-22
RULE TITLE: Lee County Zones
RULE NO.: 68C-22.005

PURPOSE AND EFFECT: The purpose of the proposed amendment is to allow boaters to more easily navigate on Mullock Creek during low water conditions while still maintaining adequate manatee protection. The effect of the amendment would be to allow speeds of up to 25 mph on a portion of the creek during those times when the water depth within that portion of the creek is two feet or less. Slow Speed would be required in this area when the depth is greater than two feet. The 25 mph channel starting at the mouth of Mullock Creek would also be extended from marker "16" to marker "18."

SUMMARY: The amendment would revise the zones on Mullock Creek to allow speeds of up to 25 mph between channel markers "18" and "47" during those times when the water depth within that portion of the creek (as measured at marker "46") is two feet or less. Slow Speed would be required on this portion of the creek when the depth is greater than two feet. The year-round 25 mph channel starting at the mouth of Mullock Creek would also be extended from marker "16" to marker "18." No changes are proposed for any other areas; Slow Speed would still be required at all times on all remaining areas of Mullock Creek as well as all of Tenmile Canal.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs (SERC) has been prepared.

Any person who wishes to provide information regarding a SERC, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice. SPECIFIC AUTHORITY: 370.12(2)(f),(m),(n) FS.

LAW IMPLEMENTED: 370.12(2)(d),(f),(i),(j),(m),(n) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Scott Calleson, Environmental Specialist III, Florida Fish and Wildlife Conservation Commission, Bureau of Protected Species Management (OES-BPS), 620 South Meridian Street, Tallahassee, Florida 32399, telephone (850)922-4330

THE FULL TEXT OF THE PROPOSED RULE IS:

68C-22.005 Lee County Zones.

(1) No change.

(2) The following year-round and seasonal zones are established, which shall include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, and boat basins unless otherwise designated or excluded. Access to the NO ENTRY zones designated in paragraph (2)(a) will be provided in accordance with procedures set forth in subsection (4), hereunder, and applicable provisions of Rule 68C-22.003.

(a) through (c) No change.

(d) SLOW SPEED (All Year) –

1. through 7. No change.

8. Tenmile Canal and Mullock Creek Area: All waters of Mullock Creek west of U.S. Highway No. 41, and east and northeast of a line that bears 135° and 315° from Red Channel Marker "18 16" (approximate latitude 26° 27' 46 40" North, approximate longitude 81° 52' 00 03" West); and all waters of Tenmile Canal south of a line (approximate latitude 26° 30' 00" North) 200 feet north of the centerline of U.S. Highway No. 41, excluding the portion of Mullock Creek otherwise designated under subparagraph (2)(i).

9. No change.

(e) No change.

(f) SLOW SPEED (April 1 – November 15)/25 MPH (Remainder of Year) –

1. through 2. No change.

3. North Estero Bay and Hendry Creek Area: All waters of Hendry Creek south of a line that bears 270° from a point (approximate latitude 26° 28' 40" North, approximate longitude 81° 52' 56" West) on the eastern shoreline of Hendry Creek; and all waters of Estero Bay southeast and east of Hell Peckney Bay, a line that bears 340° from a point (approximate latitude 26° 25' 56" North, approximate longitude 81° 54' 25" West) on the northern tip of an unnamed mangrove peninsula on the northeastern shoreline of Estero Island, and the northern shoreline of Estero Island, south of Hendry Creek and a line

that bears 135° and 315° from Red Channel Marker “~~18~~ ~~46~~” (approximate latitude 26° 27' ~~46~~ ~~40~~” North, approximate longitude 81° 52' ~~00~~ ~~03~~” West) in Mullock Creek, and north of a line that bears 72° from the northernmost point (approximate latitude 26° 24' 22” North, approximate longitude 81° 52' 34” West) of Black Island, including the waters of Buccaneer Lagoon at the southern end of Estero Island, but excluding the portions of the marked channels otherwise designated under subparagraph (2)(h)9., the Estero River, and the waters of Big Carlos Pass east of a line beginning at a point (approximate latitude 26° 24' 34” North, approximate longitude 81° 53' 05” West) on the eastern shoreline of Estero Island and bearing 36° to a point (approximate latitude 26° 24' 40” North, approximate longitude 81° 53' 00” West) on the southern shoreline of Coon Key, south of a line beginning at a point (approximate latitude 26° 24' 36” North, approximate longitude 81° 52' 30” West) on the eastern shoreline of Coon Key and bearing 106° to a point (approximate latitude 26° 24' 39” North, approximate longitude 81° 52' 34” West) on the southwestern shoreline of the unnamed mangrove island north of Black Island, and west of a line beginning at a point (approximate latitude 26° 24' 36” North, approximate longitude 81° 52' 30” West) on the southern shoreline of said unnamed mangrove island north of Black Island and bearing 192° to the northernmost point (approximate latitude 26° 24' 22” North, approximate longitude 81° 52' 34” West) of Black Island.

- 4. No change.
- (g) No change.
- (h) 25 MPH (All Year) –
- 1. through 8. No change.

9. Estero Bay Area channels: All waters within the portions of the marked channels of Estero Bay and Big Hickory Bay as described below:

a. through b. No change.

c. Mullock Creek Channel: All waters of the marked channel leading to Mullock Creek north of a line beginning at a point (approximate latitude 26° 24' 36” North, approximate longitude 81° 52' 30” West) on the eastern shoreline of Coon Key and bearing 106° to a point (approximate latitude 26° 24' 39” North, approximate longitude 81° 52' 34” West) on the southwestern shoreline of the unnamed mangrove island north of Black Island, and south of Red Channel Marker “~~18~~ ~~46~~” (approximate latitude 26° 27' ~~46~~ ~~40~~” North, approximate longitude 81° 52' ~~00~~ ~~03~~” West).

d. through h. No change.

10. through 11. No change.

(i) DEPTH-DEPENDENT SLOW SPEED or 25 MPH – All waters of Mullock Creek, excluding side creeks and embayments, between Red Channel Marker “18” (approximate latitude 26° 27' 46” North, approximate longitude 81° 52' 00” West) and Green Channel Marker “47” (approximate latitude 26° 28' 11” North, approximate longitude 81° 51' 34” West). Slow Speed is required in this area whenever the water depth, as measured at Red Channel Marker “46” (approximate latitude 26° 28' 05” North, approximate longitude 81° 51' 36” West), is greater than two feet. Speeds of up to 25 MPH are allowed whenever the water depth at said marker “46” is two feet or less.

(3) through (5) No change.

INSERT MAP 6 FOR LEE COUNTY (68C-22)

Specific Authority 370.12(2)(f),(m),(n) FS. Law Implemented 370.12(2)(d),(f),(i),(j),(m),(n) FS. History—New 3-19-79, Formerly 16N-22.05, Amended 12-5-89, Formerly 16N-22.005, Formerly 62N-22.005, Amended 11-30-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. David Arnold, Chief of the Bureau of Protected Species Management, Florida Fish and Wildlife Conservation Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Bradley J. Hartman, Director of the Office of Environmental Services, Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14, 2000

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Investor Protection

RULE NO.: RULE TITLE:
3E-600.005 Examinations/Qualifications

NOTICE OF CHANGE

Notice is hereby given that the Department has made the following change to the above rule based on public comments to correct the name of the Certified Financial Planner Board of Standards, Inc. This rule was originally published in the Vol. 26, No. 3, January 21, 2000 issue of the Florida Administrative Weekly. When adopted, paragraph (5) of the rule will read:

(5) The examination requirement for investment adviser principals, investment adviser representatives, and associated persons of issuer dealers shall not apply to an individual who currently holds one of the following professional designations: 1. Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; 2. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, PA; 3. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; 4. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; 5. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.: RULE CHAPTER TITLE:
5L-1 Comprehensive Shellfish Control Code

RULE NOS.: RULE TITLES:
5L-1.004 Shellfish Harvesting Area Standards

5L-1.010 Container Identification, Terminal Sale Date; Prohibitions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 4, January 28, 2000, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: RULE TITLE:
61G10-11.001 Examination for Licensure

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 24, No. 24, June 12, 1998, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-9.013 Change of Status Fee

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 36, of the September 10, 1999, issue of the Florida Administrative Weekly. The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The change shall be a new sentence added to the end of the rule to read as follows: "This fee shall be assessed only when such an application is made at times other than at the time for licensure renewal."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-11.004 Provider Approval Procedures