

(c) Until July 1, ~~2002~~ 2001, and only in the area of the Northwest Region specified herein, no more than two unconnected skimmer trawls meeting the following specifications:

1. The perimeter around the leading edge of any skimmer trawl shall not exceed 56 feet.
2. No more than two skimmer trawls, unconnected other than being attached to the same vessel, shall be deployed from a single vessel at any time.
3. The netting of a skimmer trawl shall be no larger in mesh area than specified by Rule 68B-31.0035(2).
4. No skimmer trawl shall be used to harvest shrimp except in the following described area in Apalachicola Bay in the Northwest Region: All waters of Apalachicola Bay in Franklin County bounded on the north by the John Gorrie Memorial Bridge, on the west by the Apalachicola Shipping Channel to Channel Marker No. 2, on the south by ICWW Channel, and on the east by the Bryant Patton Bridge.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-92, Amended 1-1-96, 8-17-98, 6-1-99, Formerly 46-31.010, Amended \_\_\_\_\_.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Resources**

RULE CHAPTER TITLE: Artificial Reef Program  
 RULE CHAPTER NO.: 68E-9

PURPOSE AND EFFECT: The purpose of this proposed rule development is to codify the procedures for submitting applications from local coastal governments and nonprofit corporations for grants and financial assistance, the criteria used for awarding grants and financial assistance for artificial reef siting and development and monitoring, and the criteria used to determine the eligibility of nonprofit corporations.

SUBJECT AREA TO BE ADDRESSED: Procedures for submitting an application for financial assistance for artificial reef siting and development, and for artificial reef monitoring and evaluation and the criteria for allocating available funds pursuant to §370.25, Florida Statutes.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const., 370.25(2),(4) FS.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const. 370.25(2),(4) FS.

A HEARING ON THE PROPOSED RULE DEVELOPMENT WILL BE CONDUCTED IN CONJUNCTION WITH THE COMMISSION'S REGULARLY SCHEDULED PUBLIC MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., each day, March 29-30, 2001  
 PLACE: Holiday Inn-Capital, 1355 Apalachee Parkway, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Robert Palmer, Chief, Bureau of Marine Fisheries Management  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

**Section II  
 Proposed Rules**

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE TITLES:	RULE NOS.:
Records to be Maintained by Check Cashers	3C-560.704
Postdated Check	3C-560.803
Money Transmitters	3C-560.805

PURPOSE AND EFFECT: Distinguish transactions that are outside of the scope of Chapter 560, Florida Statutes.

SUMMARY: The proposed rule specifies that any agreement to extend, renew or continue a check cashing transaction, for value, is outside of the scope of Chapter 560, Florida Statutes. To assure compliance, a check casher may not enter into a check cashing transaction with a drawer until the expiration of two days following negotiation for value of any payment instrument made by the same drawer and accepted by the check casher.

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

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

SPECIFIC AUTHORITY: 560.105(3) FS.

LAW IMPLEMENTED: 560.309, 560.310, 655.86 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 12, 2001

PLACE: Room 526, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Don Saxon, Director, Division of Securities and Finance, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3C-560.704 Records to be Maintained by Check Cashers.

(1) Every check casher shall maintain a records of all payment instruments cashed for each business day. The records shall include the following information with respect to each payment instrument accepted by the check casher:

- (a) The name of the maker;
- (b) The address of the maker;
- (c) The date appearing on the payment instrument;
- (d) The amount of the payment instrument;
- (e) The date of deposit by the check casher;
- (f) The fee charged to cash the payment instrument;
- (g) The verification fee, if any, imposed on the customer;

and

(h) A line item description of the steps taken to verify the customer's identity.

(2) The following additional information shall be maintained:

(a) Records relating to all returned payment instruments that shall include, if applicable, the following: ~~A daily business reconciliation; and~~

1. The date the payment instrument was returned to the check casher;

2. The name and address of the maker;

3. The amount of the returned payment instrument;

4. The date of deposit by the check casher;

5. The amount of the payment instrument;

6. The charge-back fees imposed by the check casher's financial institution;

7. The date on which collection is made from the customer; and

8. A description of the method by which collection was ultimately achieved.

(b) A daily summary of the business activities including the following documents: ~~Records of all returned items.~~

1. Bank deposit receipts;

2. Photocopies of checks evidencing withdrawal of funds from accounts maintained by the check casher; and

3. A daily cash reconciliation summarizing each day's activities and reconciling cash on hand at the close of business.

(c) Monthly bank statements for all accounts maintained.

(d) A copy, if applicable, of the customer's written authorization to electronically debit the customer's account.

(e) A copy of all payment instruments accepted by the check casher.

(f) A copy of the customer's verifiable means of identification, and any other documentation the money transmitter collects in order to verify the customer's identity.

Specific Authority 560.105(3) FS. Law Implemented 560.310 FS. History--New 9-24-97, Amended \_\_\_\_\_.

3C-560.803 Postdated Check.

(1) A check casher may accept a postdated check, subject to the fees established in Section 560.309(4), F.S.

(2) Any agreement to extend, renew or continue a check cashing transaction in any manner, including the substitution of a new check drawn by the drawer, if coupled with the imposition of any fees, compensation, or any other benefit, is outside of the scope of Chapter 560, F.S.

(3) A check casher may not enter into a check cashing transaction with a drawer until the expiration of two days following the negotiation for value of any payment instrument made by the same drawer and accepted by the check casher.

Specific Authority 560.105(3) FS. Law Implemented 655.86, 560.309 FS. History--New 9-24-97, Amended \_\_\_\_\_.

3C-560.805 Money Transmitters.

A money transmitter, or money transmitter-affiliated party, whether registered or unregistered, may not accept a postdated check or agree to delay negotiating a check unless accomplished pursuant to Rules 3C-560.803 and 3C-560.704, F.A.C. Nothing contained within Chapter 560, F.S., shall be construed as permitting a money transmitter to convert a Chapter 560, F.S. transaction into a loan.

Specific Authority 560.105(3) FS. Law Implemented 560.309 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick White, Financial Administrator

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Securities and Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2000

**DEPARTMENT OF INSURANCE**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Additional Contracts	4-191.036
Primary Care Physicians	4-191.046
Emergency Services Procedures	4-191.048
Contracted Providers	4-191.073

**PURPOSE AND EFFECT:** The rules were found to be unnecessary or lacking in delegated legislative authority during the 120.536(2)(b) analysis, and therefore should be repealed.

**SUMMARY:** Repeal of provisions regarding HMOs found to be unnecessary or lacking in delegated legislative authority during the 120.536(2)(b) analysis.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** 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: 641.36 FS.  
 LAW IMPLEMENTED: 641.19(6)(e), 641.31(12), 641.3101, 641.3905 FS.

IF REQUESTED IN WRITING 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: 9:30 a.m., March 14, 2001  
 PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Bracher, Bureau of Managed Care, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0347, phone (850)413-2500

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 Yvonne White, (850)413-4214.

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

**4-191.036 Additional Contracts.**

Specific Authority 641.36 FS. Law Implemented 641.3101 FS. History--New 2-22-88, Formerly 4-31.036, Amended 5-28-92, Repealed.

**4-191.046 Primary Care Physicians.**

Specific Authority 641.36 FS. Law Implemented 641.19(6)(e) FS. History--New 10-25-89, Formerly 4-31.046, Repealed.

**4-191.048 Emergency Services Procedures.**

Specific Authority 641.36 FS. Law Implemented 641.31(12) FS. History--New 2-22-88, Formerly 4-31.048, Amended 5-28-92, Repealed.

**4-191.073 Contracted Providers.**

Specific Authority 641.36 FS. Law Implemented 641.3905 FS. History--New 5-28-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Bracher, Bureau Chief, Bureau of Managed Care, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michelle Newell, Director, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2001

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS..
Specific Exemptions	12A-1.001
Schools Offering Grades K Through 12; Parent-Teacher Associations; and Parent-Teacher Organizations	12A-1.0011
Sales Tax Brackets	12A-1.004

Aircraft, Boats, Mobile Homes, and Motor Vehicles	12A-1.007
Receipts from Services Rendered by Insect or Pest Exterminators	12A-1.009
Cleaning Services	12A-1.0091
Receipts from Sales by Barber Shops and Beauty Shops	12A-1.010
Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business	12A-1.011
Credit for Taxes Paid in Error	12A-1.013
Refunds and Credits for Sales Tax Erroneously Paid	12A-1.014
Trade and Cash Discounts	12A-1.018
Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services	12A-1.037
Sales by Photographers, Photofinishers and Photostat Producers, Photoengravers, Wood Engravers and Public Officials of Public Records	12A-1.041
Vending Machines	12A-1.044
Sale of Agricultural Products	12A-1.048
Tax Due at Time of Sale; Tax Returns and Regulations	12A-1.056
Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements	12A-1.0565
Trade Stamps	12A-1.058
Registration	12A-1.060
Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats	12A-1.064
Sales by Governmental Agencies and Instrumentalities and Exempt Institutions	12A-1.069
Concession Prizes; The Sale of Food, Drink, and Tangible Personal Property at Concession Stands	12A-1.080
Partial Exemption for Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes	12A-1.087
Use Tax	12A-1.091
Authority to Issue Subpoenas and Subpoenas Duces Tecum	12A-1.0935
Revocation of Sales Tax Certificates of Registration	12A-1.0955
Industrial Machinery and Equipment for Use in a New or Expanding Business	12A-1.096
Public Use Forms	12A-1.097
Service Warranties	12A-1.105

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12A-1, F.A.C., is to: (1) remove provisions that are obsolete or redundant of statutory provisions; (2) create a single administrative rule containing

guidelines to schools offering grades K through 12, parent-teacher organizations, and parent-teacher associations and remove such provisions from other sections of Rule Chapter 12A-1, F.A.C.; (3) provide the effective sales tax brackets for transactions taxable at the rates of 2.5%, 6%, and 7% for counties that do not impose a discretionary sales surtax that are required by s. 212.12(11), F.S., as amended by s. 1, Chapter 2000-276, L.O.F.; (4) incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F., to provide that an application for refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax; (5) provide that charges for pest control services rendered to residential facilities used as living accommodations are not subject to tax, even though the rental or lease charges to guests to use such accommodations may be subject to the taxes imposed on transient rentals; (6) provide that charges for cleaning services for tangible personal property are not subject to tax; (7) incorporate the legislative changes to s. 212.07, F.S., which require dealers who purchase items for the purposes of resale to extend a copy of their Annual Resale Certificate to make tax exempt purchases; (8) incorporate the statutory requirements in s. 212.0515, F.S. (as amended by s. 2, Ch. 98-141, s.7, Ch. 98-342, and s. 1, Ch. 99-366, L.O.F.), for sales made through vending machines; (9) provide clarifying language regarding the sale of agricultural products; (10) provide a suggested exemption certificate to be issued by persons purchasing items for agricultural use and for purchases of equipment used on farm subject to tax at the rate of 2.5%; (11) incorporate the provisions of ss. 1 and 2, Chapter 2000-345, L.O.F. (amends ss. 212.031(1)(a)12. and (3), F.S.; creates s. 212.04(3), F.S.), which provide that tax collected on certain admission charges and real property rentals is not due to the state on the first day of the month following the date of the transaction; (12) incorporate the provisions of s. 1, Chapter 2000-206, L.O.F., which repealed s. 212.18(5), F.S., which required certain taxpayers to pay an annual registration fee; (13) incorporate the provisions of s. 1, Chapter 2000-276, L.O.F., which reduces to 2.5 percent the tax rate on certain farm equipment used in agricultural production (amends s. 212.08(5)(a), F.S.) and provides a definition of the term "agricultural production" (creates s. 212.02(34), F.S.); (14) incorporate the provisions of s. 54, Chapter 2000-165, L.O.F., which removed the requirement that a business entity be registered with the WAGES Program Business Registry to be eligible to receive an exemption for the purchase or lease of machinery and equipment used in a new or expanding business; (15) incorporate and certify the changes to forms that have been amended by the Department; (16) remove forms used internally by the Department in the administration of sales tax that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by

reference; (17) remove all obsolete forms that are no longer used by the Department; and (18) make necessary technical changes.

**SUMMARY:** The proposed amendments to Rule 12A-1.001, F.A.C., Specific Exemptions: (1) remove unnecessary references to other rules sections; (2) remove provisions regarding the exemption provided for religious publications that are clearly provided in s. 212.06(9), F.S.; (3) remove provisions regarding the sale of fertilizers, insecticides, fungicides, seeds, and the purchase of nets and other items by commercial fishermen that will be provided in Rules 12A-1.048 and 12A-1.087, F.A.C., as amended; (4) remove language that is redundant of the provisions of Rule 12A-1.064, F.A.C., regarding the purchase of certain items used in the repair and maintenance of vessels; (5) remove provisions regarding the sale of fuel that are provided in Rule 12A-1.059, F.A.C.; (6) remove provisions regarding the exemption provided for hospital rooms and meals that are clearly provided in s. 212.08(7)(i), F.S.; (7) remove obsolete provisions regarding the sale of advertising slides; (8) remove provisions regarding safety deposit boxes that are repetitive of Rule 12A-1.070, F.A.C.; (9) remove provisions regarding purchases by and sales by schools that will be provided in Rule 12A-1.0011, F.A.C., as created; (10) remove provisions regarding professional, insurance, or personal service transactions and the sale of information services that are redundant of the provisions of s. 212.08(7)(v), F.S., or Rule 12A-1.062, F.A.C.; (11) clarify provisions regarding the exemption provided for guide dogs and remove the unnecessary incorporation by reference of forms DR-151 and DR-152, which are not required to be adopted as a rule, as defined in s. 120.52(15), F.S.; (12) remove provisions regarding the sale of artificial commemorative flowers that are clearly provided in s. 212.08(7)(a), F.S.

The proposed creation of Rule 12A-1.0011, F.A.C., Schools Offering Grades K through 12; Parent-Teacher Organizations; and Parent-Teacher Associations: (1) consolidates guidelines for schools offering grades K through 12, parent-teacher associations (PTAs), and parent-teacher organizations (PTOs) into one administrative rule; (2) defines the terms "schools offering grades K through 12," "parent-teacher associations," and "parent-teacher organizations"; (3) provides guidelines for when school districts may make tax exempt purchases for parent-teacher associations or parent-teacher organizations; (4) provides guidelines for when schools offering grades K through 12, PTAs, and PTOs may pay tax on their purchases in lieu of collecting tax on their sales of taxable items, such as those sold in fund-raising projects; (5) provides guidelines for the taxability of admission charges; and (6) provides guidelines for the sale of school books and supplies, yearbooks and other publications, and food and beverages sold in the student lunchroom or dining room or sold or dispensed through vending machines or other dispensing devices.

The proposed substantial rewording of Rule 12A-1.004, F.A.C.: (1) changes the title to “Sales Tax Brackets” to reflect the substantial rewording of the rule text; (2) provides the effective sales tax brackets for transactions taxable at the rates of 2.5%, 6%, and 7% for counties that do not impose a discretionary sales surtax that are required by s. 212.12(11), F.S., as amended by s. 1, Chapter 2000-276, L.O.F.; (3) provides for easier reading of the sales tax brackets; and (4) removes the requirement to certify forms containing the sales tax brackets.

The proposed amendments to Rule 12A-1.007, F.A.C., Aircraft, Boats, Mobile Homes, and Motor Vehicles, incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F. Section 215.26, F.S., provides that an application for refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax. Section 213.255(3), F.S., provides that an application for a refund of tax paid will be considered complete when all requested information is received by the Department.

The proposed amendments to Rule 12A-1.009, F.A.C., Pest Control Services: (1) provide that charges for pest control services for tangible personal property are not subject to tax; (2) provide that charges for pest control services rendered to residential facilities used as living accommodations are not subject to tax, even though the rental or lease charges to guests to use such accommodations may be subject to the taxes imposed on transient rentals; (3) remove provisions regarding the Department’s presumption that pest control services rendered to public lodging establishments advertised or held out to the public as places regularly rented to transient guests are taxable as nonresidential pest control services; (4) remove all guidelines related to establishing whether the pest control services provided to such living accommodations are for nonresidential or for residential use; and (5) remove references to rules that are no longer applicable.

The proposed amendments to Rule 12A-1.0091, F.A.C., Cleaning Services, provide that charges for cleaning services for tangible personal property are not subject to tax.

The proposed amendments to Rule 12A-1.010, F.A.C., Receipts from Sales by Barber Shops and Beauty Shops: (1) incorporate the legislative changes to s. 212.07, F.S., which require dealers who purchase items for the purposes of resale to extend a copy of their Annual Resale Certificate to make tax exempt purchases; (2) clarify that when tax has been paid to a supplier on items that are resold by the owner or operator of the shop, a credit or refund may be obtained, as provided in Rule 12A-1.014, F.A.C.; and (3) make grammatical technical changes.

The proposed amendments to Rule 12A-1.011, F.A.C.: (1) change the title to “Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by

Restaurants or Other Like Places of Business” to reflect the removal of provisions for sales through vending machines; (2) remove provisions regarding sales to or sales by schools offering grades K through 12, PTAs, and PTOs that will be provided in Rule 12A-1.0011, F.A.C., as created; (3) remove the repetition of provisions regarding the sale of food and beverages by concessionaires that are provided in Rule 12A-1.080, F.A.C.; and (4) remove provisions regarding sales of food items through vending machines that are provided in s. 212.0515, F.S., or Rule 12A-1.044, F.A.C., as amended.

The proposed repeal of Rule 12A-1.013, F.A.C., Credit for Taxes Paid in Error, consolidates into Rule 12A-1.014, F.A.C., guidelines for when dealers are allowed to apply for a refund or allowed to take a credit for tax paid on certain property and for sales tax erroneously paid.

The proposed amendments to Rule 12A-1.014, F.A.C.: (1) change the title to “Refunds and Credits for Sales Tax Erroneously Paid”; and (2) incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F. Section 215.26, F.S., provides that an application for refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax. Section 213.255(3), F.S., provides that an application for a refund of tax paid will be considered complete when all requested information is received by the Department.

The proposed amendments to Rule 12A-1.018, F.A.C., Trade and Cash Discounts, clarify in an example that the value of the coupon reduces the sales price of the item sold; however, the amount of tax due in that example remains unchanged.

The proposed amendments to Rule 12A-1.037, F.A.C., Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services: (1) remove a reference to Rule 12A-1.038, F.A.C., that is no longer applicable; (2) remove provisions regarding sales to or sales by schools offering grades K through 12, PTAs, and PTOs that will be provided in the newly created Rule 12A-1.0011, F.A.C.; (3) remove provisions regarding sales made by qualified exempt organizations that are no longer necessary under the provisions of s. 212.08(7), F.S., as revised under s. 1, Chapter 2000-388, L.O.F.; and (4) remove the requirement that a sale of property acquired by exempt organizations and institutions through donation will only qualify as an exempt occasional or isolated sale if the donor paid the applicable taxes due on the donated property. Although this requirement is being removed, donors must continue to pay any applicable tax on property donated under the provisions of Rule 12A-1.077, F.A.C.

The proposed amendments to Rule 12A-1.041, F.A.C., Sales by Photographers, Photofinishers and Photostat Producers, Photoengravers, Wood Engravers and Public Officials of Public Records, remove provisions regarding sales to, or sales by, schools offering grades K through 12, PTAs, and PTOs that will be provided in the newly created Rule 12A-1.0011, F.A.C.

The proposed amendments to Rule 12A-1.044, F.A.C., Vending Machines: (1) incorporate the statutory requirements in s. 212.0515, F.S. (as amended by s. 2, Ch. 98-141, s.7, Ch. 98-342, and s. 1, Ch. 99-366, L.O.F.), for sales made through vending machines; (2) remove the statutory recitation of the terms “vending machine” and “vending machine operator,” as mandated by s. 120.74(1), F.S.; (3) consolidate the exemptions provided for certain items sold through vending machines into one subsection of this rule; (4) remove the recitation of the tax reporting divisors for sales made through vending machines that are provided in s. 212.0515(2), F.S.; (5) remove provisions for filing quarterly information reports (forms DR-15V, DR-15VOC, and DR-15VW) and the posting of notices that are no longer required or imposed under the provisions of s. 212.0515, F.S.; (6) remove the recitation of s. 212.0515(4), F.S., which imposes penalty and interest for failure to display the notice required in that subsection; (7) provide clarifying language regarding the registration requirements imposed on owners or operators of vending machines; and (8) provide that dealers are required to issue a copy of their Annual Resale Certificate to make tax exempt purchases for the purposes of resale.

The proposed amendments to Rule 12A-1.048, F.A.C.: (1) change the title to “Sale of Agricultural Products,” to reflect the proposed changes; (2) remove gender references; (3) reorganize the rule text to provide easier reading and clarity; (4) remove provisions regarding the sale of poultry and livestock that are provided in Rule 12A-1.049, F.A.C.; (5) clarify that sellers, including producers and other persons, who sell agricultural products that are not a marketable or finished product are not required to obtain an exemption certificate from the purchaser to make tax exempt sales of such agricultural products; (6) clarify that the sales of agricultural products as a marketable or finished product are subject to tax; (7) clarify that the sale of ornamental nursery stock, regardless of the state of growth or maturity, is subject to tax; (8) provide that the sales of certain items for agricultural use, as provided in s. 212.08(5), F.S., are exempt when the purchaser issues an exemption certificate to the seller; (9) remove the unnecessary listing of those items that are listed in the suggested exemption certificate provided in Rule 12A-1.087, F.A.C., as amended; and (10) provide that dealers who purchase ornamental nursery stock for resale must be registered as a dealer and extend a copy of their Annual Resale Certificate to make tax exempt purchases.

The proposed amendments to Rule 12A-1.056, F.A.C., Tax Due at Time of Sale; Tax Returns and Regulations: (1) incorporate the provisions of ss. 1 and 2, Chapter 2000-345, L.O.F. (amends ss. 212.031(1)(a)12. and (3), F.S.; creates s. 212.04(3), F.S.), which provide that tax collected on certain admission charges and real property rentals is not due to the state on the first day of the month following the date of the transaction; (2) remove the unnecessary provision regarding the Department’s authority to deny the collection allowance

when an incomplete return is filed that is clearly provided in s. 212.11(1)(a) and (b)1., F.S.; (3) provide guidelines that incorporate the provisions of s. 16, Chapter 2000-355, L.O.F. (amends s. 212.11(2)(c), F.S.), authorizing the Department to allow a taxpayer to continue on the same filing frequency when the increased payment would not permit the taxpayer to continue to file on the same frequency schedule; and (4) remove provisions for the payment of estimated tax on the waste newsprint disposal fee that is no longer imposed.

The proposed amendments to Rule 12A-1.0565, F.A.C., Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements, remove the incorporation by reference of form DR-654 (EDI Waiver Request), which does not meet the definition of a rule, as defined by s. 120.52(15), F.S., and is not required to be adopted by reference.

The proposed repeal of Rule 12A-1.058, F.A.C., Trade Stamps, removes from the administrative code an unnecessary rule regarding the sale of trade stamps.

The proposed amendments to Rule 12A-1.060, F.A.C., Registration: (1) incorporate the provisions of s. 1, Chapter 2000-206, L.O.F., which repealed s. 212.18(5), F.S., which required certain taxpayers to pay an annual registration fee; (2) provide technical changes to properly advise the titles of forms and how forms may be obtained from the Department and properly reference Rule 12A-1.039, F.A.C.; (3) remove the unnecessary incorporation by reference of forms that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference; and (4) remove unnecessary provisions regarding the requirement of bonds that are clearly provided in the statutes.

The proposed amendments to Rule 12A-1.064, F.A.C.: (1) remove the unnecessary listing of an exemption for nets and parts thereof that is listed in the suggested exemption certificate provided in Rule 12A-1.087, F.A.C., as amended; and (2) remove provisions regarding the charge for printing catalogs that will be provided in Rule 12A-1.027, F.A.C., as amended.

The proposed repeal of Rule 12A-1.069, F.A.C., removes from the administrative code an unnecessary rule regarding sales by government entities and by exempt organizations that are clearly addressed in s. 212.08(6) and (7), F.S.

The proposed amendments to Rule 12A-1.080, F.A.C.: (1) amend the title to “Concession Prizes; The Sale of Food, Drink, and Tangible Personal Property at Concession Stands” and provide current guidelines for sales made at concession stands; (2) provide guidelines for the payment of tax due on prizes awarded for concession games; and (3) provide the method and tax divisor rates for concessionaires to remit tax due on sales.

The proposed amendments to Rule 12A-1.087, F.A.C.: (1) change the title to “Partial Exemption for Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes,” to reflect the changes made to the

rule; (2) incorporate the provisions of s. 1, Chapter 2000-276, L.O.F., which reduces to 2.5 percent the tax rate on certain farm equipment used in agricultural production (amends s. 212.08(5)(a), F.S.) and provides a definition of the term "agricultural production" (creates s. 212.02(34), F.S.); (3) provide that liquefied petroleum gas, diesel, and kerosene used for agricultural purposes are exempt; and (4) provide guidelines for the issuance of a certificate to purchase tax exempt items used for agricultural purposes and a suggested exemption certificate.

The proposed amendments to Rule 12A-1.091, F.A.C., Use Tax: (1) provide a definition for the term "legal holiday"; (2) remove provisions regarding the payment of use tax on promotional materials that are repetitive of those provided in Rule 12A-1.034, F.A.C.; and (3) remove technical cross references to other rule sections that no longer apply.

The proposed amendments to Rule 12A-1.0935, F.A.C., Authority to Issue Subpoenas and Subpoenas Duces Tecum: (1) remove the incorporation by reference of the Department's internal forms DR-13, DR-13A, and DR-13B, which do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference; (2) provide reference to the forms currently used internally in the Department's process to issue subpoenas and/or subpoena duces tecum; and (3) provide guidelines to third-party record keepers to submit a claim for reimbursement of expenses incurred.

The proposed amendments to Rule 12A-1.0955, F.A.C., Revocation of Sales Tax Certificates of Registration, remove the incorporation by reference of forms previously used by the Department in the process of revoking sales tax certificates of registration that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference.

The proposed amendments to Rule 12A-1.096, F.A.C., Industrial Machinery and Equipment for Use in a New or Expanding Business, incorporate the provisions of s. 54, Chapter 2000-165, L.O.F., which removed the requirement that a business entity be registered with the WAGES Program Business Registry to be eligible to receive an exemption for the purchase or lease of machinery and equipment used in a new or expanding business.

The proposed amendments to Rule 12A-1.097, F.A.C., Public Use Forms: (1) incorporate and certify the changes to forms that have been amended by the Department; (2) remove forms used internally by the Department in the administration of sales tax that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference; and (3) remove all obsolete forms that are no longer used by the Department.

The proposed amendments to Rule 12A-1.105, F.A.C., Service Warranties, incorporate the legislative changes to s. 212.07, F.S., that require dealers who purchase items for the purposes of resale to extend a copy of their Annual Resale Certificate to make tax exempt purchases.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed rules, proposed rule amendments, and proposed rule repeals only implement 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:** 72.011, 212.05(1), 212.0515, 212.08(5)(b)4., 212.12(11), 212.17(6), 212.18(2), 213.06(1), 213.21, 213.255(11) FS.

**LAW IMPLEMENTED:** 72.011, 92.142(1), 92.525, 95.091, 119.07(1), 119.085, 120.57(1),(2), 120.60(5), 120.80(14), 125.0104(3)(g), 125.0108(2)(a), 212.02(1),(2),(4),(7),(9),(10),(12),(14),(15),(16),(19)-(22),(24),(29)-(34), 212.03, 212.0305(3)(c),(h), 212.031, 212.04, 212.05, 212.0501, 212.0506, 212.0515, 212.052, 212.054, 212.055, 212.0596, 212.0598, 212.06, 212.0601, 212.0606, 212.07(1),(2),(5),(6),(7),(8), 212.08(1),(3)-(11), 212.0805, 212.0821, 212.085, 212.096, 212.11, 212.12(1)-(9),(11),(12), 212.13(1),(2), 212.14(2),(5),(7), 212.15(1),(2), 212.16(1),(2), 212.17(1),(6), 212.18(2),(3), 212.183, 212.21(2),(3), 213.12(2), 213.06(1), 213.20, 213.235, 213.255, 213.29, 213.35, 213.37, 213.755, 213.756, 215.01, 215.26(2), 366.051, 376.11, 403.715, 403.718, 403.7185, 634.011, 634.131, 634.401, 634.415 FS.

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

**TIME AND DATE:** 10:00 a.m., March 13, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

**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:

## 12A-1.001 Specific Exemptions.

~~Rulemaking power; rules promulgated by the Department of Revenue cannot be construed to extend exemptions beyond the scope of those intended by the statutes.~~

~~(1) ADMISSIONS. See Rule 12A-1.005.~~

~~(2) BIBLES.~~

~~(a) Bibles, hymn books, prayer books and religious publications similar thereto, altar paraphernalia, sacramental chalices, and like church service and ceremonial raiment and equipment are exempt. (See Rule 12A-1.008(11), F.S., for sale or purchase of religious publications.)~~

~~(b) Christian Science reading rooms are allowed to sell Bible and religious publications and literature tax exempt.~~

~~(c) A book of sermons does not fall within the specific exemptions provided under Rule 12A-1.001 and the sale thereof is taxable.~~

~~(1)(3) No change.~~

~~(4) DRUGS. Drugs and medicines are exempt. Certain disability appliances are also exempt. (See Rules 12A-1.020, 12A-1.021).~~

~~(5) FERTILIZERS, INSECTICIDES, FUNGICIDES.~~

~~(a) Fertilizers (including peat, topsoil, and manure, but not fill dirt), insecticides, pesticides, fungicides, herbicides and weed killers used for application on or in the cultivation of crops, groves and home vegetable gardens or by commercial nurserymen are exempt. These exemptions shall not be allowed unless the purchaser furnishes the seller a certificate stating that the item to be exempted is to be used exclusively for one of the foregoing purposes on a farm. When these items are used on lawns, golf courses, shrubbery, ornamentals, flower gardens, or for any purpose other than one of those specifically named herein as exempt, they are taxable. The sale of fill dirt is taxable.~~

~~(b) Insecticides, pesticides and fungicides, including disinfectants used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on livestock, are exempt.~~

~~(c) Sales of the items referred to in paragraph (a) above to commercial farm or grove caretakers, or to cooperatives or to anyone else for use on farms are exempt. (See Rule 12A-1.039, F.A.C.)~~

~~(6) FISHERIES.~~

~~(a) Nets and materials, parts and labor used in the repair thereof, are exempt when used exclusively by commercial fishermen. (Sponge fishermen qualify as commercial fishermen). To purchase such nets tax exempt, a certificate in substantial conformity with the certificate suggested in Rule 12A-1.039 must be executed.~~

~~(b) The sale of fuels, vessels, and equipment, including but not limited to, materials, parts and labor used in the repair and maintenance of such ships and equipment, are taxable to the~~

~~extend provided in Section 212.08(4) and (8), F.S. Items such as cleaning materials, lubricating oils and greases, ice, fish bait, charts, foul weather gear, gloves, boots, rain clothing, rope, fishing tackle, and logs are taxable to the extent provided in Rule 12A-1.064, F.A.C., when purchased by commercial fisheries and commercial fishermen to fulfill the purpose for which the vessel is designed. Bait purchased by commercial fishermen which is used solely for the entrapment of stone crabs and blue crabs is specifically exempt.~~

~~(c) Charter boats, party boats, pleasure fishing boats, and equipment, materials, parts and labor used in the repair and maintenance of such boats and equipment are taxable.~~

~~(d) Lumber, rope and plastic floats used in the construction of crawfish traps are taxable.~~

~~(e) The breeding and raising of fish constitutes an agricultural project. Equipment and supplies used for such purposes are subject to tax in the same manner as any other agricultural activity. (See Rule 12A-1.087.)~~

~~(7) FUELS. Fuels used by public or private unities, including municipal corporations and rural cooperative associations, in generating electric power or energy for sale to the general public are exempt from all taxes imposed under Chapter 212, F.S. (For other exempt and taxable fuels, see Rule 12A-1.059.)~~

~~(8) GASES. Gases used for medical or therapeutic purposes are exempt. For taxable gases, see Rule 12A-1.015.~~

~~(2)(9) No change.~~

~~(10) GROCERIES. See Rule 12A-1.011, F.A.C.~~

~~(11) HOSPITALS. Room charges and meals furnished to patients or inmates as a part of the room charges are exempt, as are rooms and meals furnished employees under their employment contract. This rule also applies to institutions designed and operated primarily for the care of persons who are ill, aged infirm, mentally or physically incapacitated, or for any reason dependent upon special care or attention.~~

~~(3)(12) RADIO AND TELEVISION STATIONS.~~

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

~~(d) The sale of an advertising slide for use in a television broadcast and the art work pertaining to its production are taxable.~~

~~(13) SAFETY DEPOSIT BOXES. The rental of safety deposit boxes is exempt.~~

~~(14) SCHOOLS AND SCHOOLBOOKS.~~

~~(a) The sale of schoolbooks, including printed textbooks and workbooks, containing printed instructional material, and questions and answers for school purposes used in regularly prescribed courses of study in public, parochial, or nonprofit private schools grades K through 12 are exempt. Schools as used herein shall mean tax supported or parochial, church, and nonprofit private schools conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, State Department of Education, the Florida Council of Independent~~



Schools, or Florida Association of Christian Colleges and Schools, Inc. Yearbooks, magazines, directories, bulletins, papers, and similar publications distributed by educational institutions to the students are classified as schoolbooks and are treated in the same manner as other schoolbooks. Sales of all such items by junior colleges and institutions of higher learning, as well as by newsstands, and sales to the general public are taxable. Sales of school materials and supplies are taxable regardless of by whom sold; however, for the sake of convenience, schools grades K through 12 and their respective P.T.A.'s or P.T.O.'s have been granted the privilege of paying tax to their suppliers on school materials and supplies that they purchase for resale to students and the tax is passed on to the student as part of the selling price. All others making sales of school supplies and materials are required to register as dealers and collect the tax thereon from the purchaser.

(b) The sale of photographs by photographers for use in students' yearbooks is taxable if the purchase and payment are made by the student. They are exempt only if payment is made from school funds.

(c) Band uniforms, athletic uniforms and equipment, caps and gowns, and other items of clothing bought and paid for by a school with ownership and title remaining in the school are exempt.

(d)1. Tangible personal property sold outright or rented through the school to students is taxable based on delivered cost to the school or on the amount charged the student upon sale or rental. Student photographs, candies, confections, and novelties sold to students or the public for fund raising purposes come within this rule.

2. Food and beverages sold through vending machines located in the student lunchrooms or dining rooms of schools grades K through 12 are exempt. Sales of food and beverages through vending machines that are located elsewhere on the school's premises, other than the student lunchroom or dining room, are taxable. Schools grades K through 12 and their respective P.T.A.'s or P.T.O.'s which operate food and beverage vending machines selling taxable items may pay the tax to their suppliers on the vended items or remit the tax to the Department on the total receipts from each machine. See Rule 12A-1.044, F.A.C.

(e) The same tax regulations which apply to schools also apply to parent teacher associations. Parent teacher associations may qualify for exemption as educational institutions and may make tax exempt purchases of items used in their customary activities or items donated by the associations to the schools. Parent teacher associations holding fund raising events such as spring festivals, fun houses, and games where prizes are given away shall pay the tax on all materials used, including the prizes awarded.

(15) SEEDS. Field and garden seeds sold for the purpose of growing vegetables and fruit for human consumption are exempt. Flower seeds are taxable except when sold to commercial nurserymen or by the producer as an agricultural product.

#### (4)(16) SERVICE TRANSACTIONS.

(a) Professional, insurance or personal service transactions which involve sales as inconsequential elements for which no separate charges are made are exempt.

(b) The exemption described in paragraph (a) does not apply to personal service transactions which involve sales of tangible personal property, whether or not as inconsequential elements, when the service provided is an information service involving the furnishing of printed, mimeographed, multigraphed matter, microfiche, microfilm, or matter duplicating written or printed matter. The furnishing of information, including a written report to a person of a personal or individual nature and which is not or may not be substantially incorporated in reports furnished to other persons, is not an information service within the meaning of the law and is exempt. In such cases the person furnishing the information is required to pay the tax on the purchases of tangible personal property used by him in connection therewith. (See Rule 12A-1.062, F.A.C.)

(c) through (e) renumbered (a) through (c) No change.

(f) The exemption described in paragraph (a) does not apply to services that are taxable under s. 212.05(1)(k), F.S., as detective, burglar protection, and other protection services enumerated in Industry Numbers 7381 and 7382 of the Standard Industrial Classification Manual, 1987, and nonresidential cleaning and nonresidential pest control services described in Industry Group Number 734 of that Manual. See Rule 12A-1.0161, F.A.C.

(g) The exemption described in paragraph (a) does not apply to any service warranty transaction taxable under s. 212.0506, F.S. See Rule 12A-1.105, F.A.C.

(h) The exemption described in paragraph (a) does not apply to the sale of electrical power or energy, telephone, telegraph, or other telecommunication services, or television system program services taxable under s. 212.05(1)(e), F.S. See Rules 12A-1.046 and 12A-1.053, F.A.C.

#### (5)(17) GUIDE DOGS FOR THE BLIND.

(a) A blind person who holds a Consumer's Certificate of Exemption for the Blind (form Form DR-152, incorporated by reference in Rule 12A-1.097, F.A.C.) issued by the Department Executive Director or the Executive Director's designee in the responsible program may purchase or rent a guide dog and purchase food or other items for the guide dog without payment of the tax at the time of purchase. The holder of the certificate is required to provide the certificate to the selling dealer at the time of purchase or lease. The selling exemption shall not be allowed unless the blind purchaser or lessee shall produce at the time of purchase or lease the Consumer's

~~Certificate of Exemption for the Blind (Form DR-152) and the dealer is required to shall record the name, address, and identification card number of the certificate holder purchaser or lessee on the invoice or other written evidence of the sale. The Executive Director or the Executive Director's designee in the responsible program will issue, without charge, the Consumer's Certificate of Exemption for the Blind (Form DR-152) to any blind person who either owns, rents, or contemplates the ownership of a guide dog for the blind and who holds an identification card as provided in Section 413.091, Florida Statutes and completes a Blind Person's Application for Certificate of Exemption (Form DR-151, incorporated by reference in Rule 12A-1.097, F.A.C.).~~

~~(b) Any person who holds an identification card, as provided in s. 413.091, F.S., issued by the Department of Education may apply to the Department to obtain a Consumer's Certificate of Exemption for the Blind (form DR-152). The application submitted to the Department must be signed by the applicant and contain the applicant's name, address, and number of the identification card issued pursuant to s. 413.091, F.S. This information may be submitted to the Department on form DR-151, Blind Person's Application for Certificate of Exemption.~~

~~(6)(18) No change.~~

~~(19) ARTIFICIAL COMMEMORATIVE FLOWERS. The sale of artificial commemorative flowers by a bona fide nationally chartered veterans' organization is exempt.~~

~~(20) through (21) renumbered (7) through (8) 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),(c),(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),(kk),(nn),(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, 4-2-00, 6-28-00.~~

12A-1.0011 Schools Offering Grades K Through 12; Parent-Teacher Associations; and Parent-Teacher Organizations.

(1)(a) For purposes of this rule, "schools offering grades K through 12" means state tax-supported, or parochial, church, and nonprofit private schools operated for and attended by pupils of grades K through 12.

(b) For purposes of this rule, "Parent-Teacher Organizations (PTOs)" and "Parent-Teacher Associations (PTAs)" mean those nonprofit organizations associated with schools whose purpose is to raise funds for schools teaching grades K through 12.

(2) PURCHASES BY SCHOOL DISTRICTS.

(a) School districts may purchase taxable goods and services necessary for parent-teacher associations or parent-teacher organizations tax exempt, as provided in s. 212.0821, F.S.

(b) The purchases made by the school district must be made with funds provided by the parent-teacher association or parent-teacher organization to the school district. The school district may extend a copy of its Consumer's Certificate of Exemption to the selling dealer at the time of the purchase to make such tax exempt purchases.

(3) SALES OF SCHOOL MATERIALS AND SUPPLIES AND FUND-RAISING ITEMS.

(a) The sale of school books used in regularly prescribed courses of study in schools offering grades K through 12 is exempt. School books include printed textbooks and workbooks containing printed instructional material, such as questions and answers, that are used in regularly prescribed courses of study in schools offering grades K through 12.

(b) The sale of yearbooks, magazines, newspapers, directories, bulletins, and similar publications distributed by schools offering grades K through 12 is exempt.

(c)1. Schools offering grades K through 12 and parent-teacher associations or parent-teacher organizations whose primary purpose is to raise funds for such schools may pay tax to their suppliers on the cost price of items in lieu of registering as a dealer, obtaining a Consumer's Certificate of Exemption, or collecting tax on their sales of the following taxable items:

a. School materials and supplies purchased, rented, or leased for resale or rental to students attending grades K through 12;

b. Items sold for fund raising purposes, such as candy, photographs, greeting cards, wrapping paper, and similar fund raising items;

c. Items sold through vending machines located on the school premises;

d. Food and beverages sold through vending machines located on school premises in locations other than the student lunchroom, student dining room, or other area specifically designated for student dining. See subsection (4).

2. Example: A parent-teacher association operates a book store selling school supplies, such as pencils, paper, and notebooks, to elementary school students. The parent-teacher association is not registered as a dealer. The parent-teacher association must pay tax to its suppliers on items sold to students in the book store, but is not required to collect sales tax from the students purchasing items from the book store.

(d)1. Schools offering grades K through 12, parent-teacher associations, and parent-teacher organizations that do not elect to pay tax to their suppliers on the purchase of items, as provided in paragraph (c), must register in the same manner as other dealers and collect and remit tax on taxable transactions. (See Rule 12A-1.060, F.A.C.) As registered dealers, schools offering grades K through 12, parent-teacher associations, and parent-teacher organizations may issue a copy of their Annual Resale Certificate (form DR-13) in lieu of paying tax on the purchased items for the purposes of resale.

2. Example: A parent-teacher organization holds a fund raising event to purchase additional computers for the school library. The students and faculty will obtain orders for a variety of gift items that will be purchased from a company engaged in the business of assisting schools with fund raising events. The parent-teacher organization collects the orders, determines the gift items that have been ordered in total, and places its order with the company. Payment to the company is made directly by the parent-teacher organization. If the parent-teacher organization does not pay sales tax to the company for its purchases of gift items, the parent-teacher organization must register as a dealer and collect and remit sales tax on its sales of the gift items. The parent-teacher organization may extend a copy of its Annual Resale Certificate to purchase the gift items tax exempt for the purposes of resale.

(4) SALES OF FOOD AND BEVERAGES.

(a) Food and beverages sold or served in the student lunchroom, student dining room, or other area designated for student dining in schools offering grades K through 12, as part of a school lunch to students, teachers, school employees, or school guests are exempt.

(b) Food and beverages sold or dispensed through vending machines or other dispensing devices located in the student lunchroom, student dining room, or other area designated for student dining in schools offering grades K through 12 are exempt.

(c) Food and beverages sold through vending machines or other dispensing devices located in a gymnasium, shop, teachers' lounge, corridor, or other area accessible to the general public and not specifically designated for student dining are subject to tax at the rates established in s. 212.0515(2), F.S.

(5) ADMISSION CHARGES.

(a) When only student or faculty talent is used in an athletic or other event sponsored by a school, admission charges are exempt.

(b) When a student is required to participate in a sport or recreation pursuant to a program or activity sponsored by, and under the jurisdiction of, the student's school, admission charges for participation imposed by the place of sport or recreation are exempt. The student's school will issue a certificate for the student to present to the organization charging the admission. If the student attends such place as a spectator, admission charges are taxable.

(c) When a state tax-supported school or other governmental entity sponsors, administers, plans, supervises, directs, and controls an athletic or recreational program, participation or sponsorship fees are exempt. The athletic or recreational program may be run in conjunction with a not-for-profit entity under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(d) When state tax-supported schools sponsor an athletic or other event and the talent to provide the event is not limited to students or faculty, admission charges to the event are exempt when:

1. The risk of success or failure for the event lies completely with the school sponsoring the event;
2. The funds at risk for the event must belong completely to the school sponsoring the event; and
3. The event is held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility.

(e) Admission charges, dues, and membership fees to an event or program sponsored by a school, parent-teacher association, or parent-teacher organization that qualifies as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, are exempt. A school, parent-teacher association, or parent-teacher organization will be considered as a sponsor of the event or program when it:

1. Actively participates in planning and conducting the event or program;
2. Assumes complete responsibility for the safety and success of the event or program, such that it will be subject to a suit for damages for alleged negligence in its conduct;
3. Is entitled to all the gross proceeds from the event or program and to all the net proceeds after payment of its costs; and
4. Is responsible for payments of all costs of the event or program and for bearing any net loss if the costs exceed gross proceeds.

Specific Authority 212.17(6), 212.18(3), 213.06(1) FS. Law Implemented 212.04(2)(a), 212.08(7)(o),(r),(nn), 212.0821 FS. History—New

(Substantial Rewording of Rule 12A-1.004 follows. See Florida Administrative Code for present text.)

12A-1.004 Sales Tax Brackets Involving Less Than One Dollar.

(1) The following effective tax brackets are applicable to all transactions taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 6% is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
.10 – .16	.01	.51 – .66	.04
.17 – .33	.02	.67 – .83	.05
.34 – .50	.03	.84 – 1.09	.06

(2) The following effective tax brackets are applicable to the transactions pursuant to s. 212.05(1)(e), F.S., that are taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 7% is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .14	.01	.58 – .71	.05
.15 – .28	.02	.72 – .85	.06
.29 – .42	.03	.86 – 1.09	.07
.43 – .57	.04		

(3) The following effective tax brackets are applicable to the sale, rental, lease, use, consumption, or storage for use in this state of self-propelled, power-drawn, or power-driven farm equipment taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$2.09, 5¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax
.10 – .40	.01
.41 – .80	.02
.81 – 1.20	.03
1.21 – 1.60	.04
1.61 – 2.09	.05

(4)(a) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties that do not impose a discretionary sales surtax and for counties that impose a discretionary sales surtax. Copies are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at <http://sun6.dms.state.fl.us/dor/taxes>. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

(b) For information regarding sales tax brackets effective for transactions in counties imposing discretionary sales surtaxes, see Rule 12A-15.002, F.A.C.

Specific Authority ~~212.05(1)(j)~~, 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(3),(6), 212.031(1)(c),(d), 212.04(1), 212.05(1), 212.08(3), 212.12(9),(11) FS. History—Revised 10-7-68, 6-16-72, Amended 9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, \_\_\_\_\_.

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.

- (1) through (23) No change.
- (24) Lemon Law.

(a) The following provisions shall apply when a manufacturer, pursuant to the provisions of s. 681.104, F.S., replaces or repurchases a motor vehicle:

- 1. No change.

2.a. When the manufacturer repurchases the motor vehicle, the Department of Revenue shall refund to the manufacturer any Florida sales tax ~~that~~ which the manufacturer refunded to the consumer, lienholder, or lessor under the provisions of s. 681.104, F.S. To receive the refund ~~the manufacturer must file, within 3 years from the date of payment of the tax, an Application for Refund from the State of Florida (Form DR-26), incorporated by reference in Rule 12-26.008, F.A.C.) must be filed by the manufacturer within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. Applications for Refund (Form DR-26) are available by: 1) writing Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331. ~~The~~ In addition to the application for refund, the manufacturer must also shall submit, to the Department of Revenue, in conjunction with its application for refund, the following documentation: 1) a copy of the written agreement signed by the consumer, lienholder, or lessor under which the manufacturer refunded the Florida sales tax to the consumer, lienholder, or lessor; 2) a copy of the original sales invoice made out by the seller which affirmatively demonstrates payment of Florida sales tax on the purchase of the motor vehicle for which the refund is being sought; and 3) written documentation that the manufacturer refunded the Florida sales tax to the consumer, lienholder, or lessor. 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 manufacturer provides such documentation.~~

- b. No change.
- (b) No change.
- (25) through (29) No change.

Specific Authority 212.05(1), ~~(5)(b)~~, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(4),(10),(14),(15),(16),(19),(20), 212.03, 212.05(1), 212.06(1),(2),(4),(5),(7),(8),(10),(12), 212.0601, 212.07(2),(7), 212.08(5)(i),(7)(t),(aa),(cc),(ff),(10),(11), 212.12(2),(12), 213.255(1),(2),(3), 215.26(2) FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00, \_\_\_\_\_.

12A-1.009 Receipts from Services Rendered by Insect or Pest Exterminators.

(1)(a) ~~Nonresidential~~ ~~On or after September 1, 1992,~~ ~~nonresidential~~ pest control services are subject to tax. Nonresidential pest control services are those services (not involving repair) rendered to minimize or eliminate any infestation of nonresidential buildings by vermin, insects, and other pests ~~that do not include services provided for tangible personal property,~~ and include ~~such,~~ but are not limited to, the following services ~~as~~ which are subject to the State's sales and use tax:

1. Bird proofing;
2. Exterminating services;
3. Fumigating services;
4. Pest control in structures; and
5. Termite control.

(b)~~1.~~ ~~Residential pest~~ Pest control services rendered to residential buildings are not taxable. ~~Charges for pest control services provided at residential facilities~~ For the purpose of this rule, residential buildings are buildings that are used as living accommodations homes or regular places of abode for persons, (such as detached or single family dwellings, apartments, duplexes, triplexes, quadraplexes, residential condominiums, residential cooperatives, residential time-share units, beach cottages, nursing homes, and mobile home parks, and the common areas of those residential facilities, are not subject to tax. Residential facilities include multiple unit structures where each unit or accommodation is intended for use as a private temporary or permanent residence, but do not include a facility that is intended for commercial or industrial purposes. Charges for pest control services provided at residential facilities that provide temporary or permanent residences are not subject to tax, even though the rental, lease, letting, or licensing of such living accommodations may be subject to the tax imposed under s. 212.03, F.S. ~~apartments, duplexes, triplexes, condominiums, or cooperatives, or other similar facilities) which do not regularly cater to the traveling public. Public lodging establishments, as defined in s. 509.013, F.S., or portions thereof, and any other facilities or portions of facilities, which are advertised or generally held out to the public as places regularly rented to transients are presumed to be nonresidential buildings. Pest control services rendered to such nonresidential facilities are taxable. Sufficient documentation must be provided to substantiate whether the pest control service is provided to a residential or nonresidential building. See subsection (10) below for documentation requirements.~~

2. When a pest control service provider is contracted by a real estate agent, management company, or similar business to provide pest control services to a building or units within a building, and the service provider cannot determine whether the building or units are advertised or generally held out to the public as a place regularly rented to transients, the charges for

such services are fully taxable, unless the real estate agency, management company, or similar business furnishes the service provider a written statement that the entire building or specific units within the building are residential. See subsection (10) below for specific allocation methods. Any pest control service provider who receives from the purchaser a written statement showing the percentage or portion, if any, of the property which is nonresidential, and who collects tax according to such statement, shall be entitled to rely upon the allocation provided in writing by the purchaser of the pest control service, unless the pest control service provider has reason to believe that such written statement is fraudulent.

a. Example: An apartment complex has 200 units of which 50 units operate under a collective license as a public lodging establishment and are advertised as available for rent on a daily or weekly basis. With proper documentation, only the 50 units are considered nonresidential and the pest control services for such units are taxable.

b. Example: Pest control services are rendered to a 500 unit condominium complex. The pest control services are contracted through the residing manager for the complex. The service provider cannot determine which units are residential and which units are nonresidential. The total charges for pest control services are taxable, unless the residing manager or owner(s) of the unit(s) furnishes the service provider a written statement identifying which unit(s) are residential.

(c) The services described in this rule are not taxable when provided by employees to their employers. See Rule 12A-1.0161, F.A.C.

(2) Where a person is providing pest control services to a nonresidential building and is required to spray in and around the building, the total charge is taxable.

(3) through (7) renumbered (2) through (6) No change.

(7)(8) Pest control services provided to farmers for agricultural purposes are not taxable. See Rules 12A-1.001(5) and 12A-1.087, F.A.C.

(8)(9) Aircraft, boats, motor vehicles and other vehicles, except mobile homes, are not considered to be nonresidential buildings. Therefore, the charge for pest control services provided to such vehicles items is not taxable.

(10)(a)1. Any person providing pest control services is required to document by notations on the sales invoice the name of the purchaser, the date of the service, the type of service, the price of the service, whether the service is for a residential or nonresidential building, if the building is used for both residential and nonresidential purposes, and the price of the service for each purpose.

2. Any pest control service provider who fails to provide the notations described in subparagraph 1. above and who neglects, fails, or refuses to collect the tax herein provided upon any sales of pest control services which are subject to the tax, shall be liable for and pay the tax himself.

~~(b)1. If a building is used for both residential and nonresidential purposes and the proportional mixed use is not subject to change, when the charges for residential and nonresidential pest control services are separately described and itemized, the total charge shall be allocated based on the square footage serviced for each exclusive purpose. Common areas such as lounges, day rooms, and hallways shall be allocated on the same proportion as the exclusively residential and nonresidential areas. However, an alternate method may be allowed if the service provider documents the basis and rationale for the alternate method.~~

~~2. Example: A condominium complex has 600 units of which 200 units are used as a permanent residence by their owners. A pest control company charges the condominium complex for the treatment of all units in the complex, including the 200 owner-occupied units and the common area facilities such as the complex club house. Since all living units in the complex are approximately equal in square footage area, one-third (200 permanent residential units divided by 600 total units) of the total charge made by the pest control company may be made tax exempt, provided the pest control company makes a separate line item charge for the residential units and obtains the necessary certification by the residing manager or owners of the residential units.~~

~~(e)1. If a building is used for both residential and nonresidential purposes and the proportional mixed use is subject to frequent or periodic change, such as time share resorts and other facilities or portions of facilities which are advertised or generally held out to the public as regularly rented to transients, the tax on pest control services shall be allocated to the total percentage of time which was made available for rent to the general public during the prior calendar quarter. Such time allocation shall be made on the basis of the smallest time unit denominator available for rent. So called "weekend" rentals shall be computed on and use days as the denominator. The entity managing the time share resort pursuant to s. 721.13, F.S., or other managing entity shall prepare and present to any pest control service provider, a written statement specifying the percentage of time made available for rent to transient guests during the preceding quarter as the basis for the amount of pest control services subject to tax.~~

~~2. Example: A fee time share resort consists of 100 time share units for which 5,100 time share occupancy periods would typically be sold, i.e., 51 weeks per year per time share unit. In a calendar quarter, 1,275 time share weeks (5,100 divided by 4) would be available for use by the time share unit purchasers or the developer. During the last calendar quarter, 300 time share weeks were available for sale or rent by the developer and 125 time share purchasers requested that the managing entity make their time share weeks available for rent to the traveling public. These time share occupancy weeks owned by time share purchasers and by the developer which~~

~~were available for rent to the traveling public are considered nonresidential and the pest control services sold for such units are taxable. One-third (425 total weeks available for rent divided by 1,275 weeks in the quarter) of the charges for pest control services will be subject to sales tax.~~

~~3. Example: The owner of a beach cottage has an agreement with a local realtor whereby the realtor may rent the cottage to the traveling public for any length of time except for specific days or weekends reserved for use by the owner of the cottage. During the last calendar quarter, the owner of the cottage reserved the property for a total of 18 days while the remaining days were either rented or made available to the traveling public. Only 20 percent (18 owner reserved days divided by 90 days in the quarter) of the charges for pest control services will be exempt from sales tax.~~

~~(d) If the charges for residential and nonresidential pest control services are not separately described and itemized, then the entire transaction is taxable.~~

~~(9)(11) No change.~~

~~Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j)(k), 212.07(2) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.09, Amended 5-13-93, 3-20-96, 4-2-00, \_\_\_\_\_.~~

~~12A-1.0091 Cleaning Services.~~

~~(1)(a) Nonresidential cleaning service are subject to tax. Nonresidential cleaning services are those services (not involving repair) rendered to maintain the clean and sanitary appearance and operating condition of a nonresidential building, but do not include cleaning services provided for tangible personal property. Examples of and include such services are:~~

- ~~1. through 18. No change.~~
- ~~(b) through (6) No change.~~

~~Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j), 212.07(2) FS. History-New 5-13-93, Amended 3-20-96, 7-1-99, 4-2-00, \_\_\_\_\_.~~

~~12A-1.010 Receipts from Sales by Barber Shops and Beauty Shops.~~

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

~~(3)(a) As a registered dealer, the owner or operator of the barber or beauty shop may provide a copy of the dealer's Annual Resale Certificate to purchase products and other items for resale in lieu of paying tax to the selling dealer. The operator or owner is required to pay use tax on any products or other items that are used or consumed in providing services. A resale certificate as provided in Rules 12A-1.038 and 12A-1.039, F.A.C., may be presented to the supplier in lieu of paying tax on products purchased for resale.~~

~~(a) If the barber or beauty shop owner or operator gives a resale certificate and thereafter consumes some of the materials and supplies purchased in performance of his services, use tax~~

must be paid on the cost price of these materials and remitted on the sales and use tax return in addition to the sales tax due on any retail sales made by the business.

(b) An owner or operator of a barber or beauty shop who has paid tax on the purchase of materials and supplies may take a credit, or obtain a refund, as provided in Rule 12A-1.014, F.A.C., for the amount of tax paid on materials and supplies that are resold. The owner or operator must collect tax on the sale of the materials and supplies. If the barber or beauty shop owner or operator purchases materials and supplies without a resale certificate and subsequently sells some of them at retail or uses or consumes the items during the performance of services rendered, he must collect the tax on the sale of such items and report and pay same to the Department of Revenue. In such cases the owner may take a credit on the sales and use tax return for the sales tax paid to the supplier on the items sold.

(4)(a) When the owner or operator of a barber or beauty shop provides space to beauticians, manicurists, specialists of massage, pedicures, or make-overs, or any person, the amount charged by the owner or operator to such person is a rental charge or license fee to use real property and is taxable, as provided in Rule 12A-1.070, F.A.C.

(b) When the owner or operator of the business is also a lessee or licensee, a credit may be taken on the owner's or operator's sales and use tax return for the amount of tax paid on the floor space that is subleased or assigned which he subleases or assigns on a pro rata basis, as provided in Rule 12A-1.070, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(20), 212.031, 212.05(1), ~~212.054, 212.055, 212.07(1),(2), 212.08(7)(v), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS.~~ History-Revised 10-7-68, 6-16-72, Formerly 12A-1.10, Amended 12-16-91, 3-20-96,\_\_\_\_\_.

12A-1.011 Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants, ~~Vending Machines~~ or Other Like Places of Business.

(1)(a) No change.

1.a. No change.

b. ~~School organizations which sell candy to raise money for their various activities may pay tax to their suppliers on the cost of the candy.~~

2. through (3) No change.

~~(4)(a) When surveys of the operations of concession stands selling food, drinks, tobacco products, etc., at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business reveal it may be impracticable to separately state Florida tax on the sales slip, invoice, or other tangible evidence of sale, the dealer shall remit tax at the rate of 6.59 percent of the total taxable sales, unless the records of the dealer clearly demonstrate without exception a lesser rate. To compute the correct amount of tax due, the dealer should~~

~~divide his total receipts by 1.0659 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 6.59 percent rate recognizes the variations resulting from multiple sales transactions.~~

~~(b) Dealers operating concession stands selling food, drinks, tobacco products, etc., at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business and who separately record the sales price of the items sold and the tax thereon, must maintain accurate records of the tax so collected and the exact amount of tax must be remitted to the state.~~

(5) through (7) renumbered (4) through (6) No change.

~~(8)(a) Food and drinks sold through vending machines are taxable; however, food and drinks sold through vending machines located in dining rooms, lunchrooms, or cafeterias of elementary, junior high schools, and high schools are exempt. Food and drinks sold through vending machines located on the premises of elementary schools, junior high schools, and high schools other than in dining rooms, lunchrooms, and cafeterias, such as in shops, gyms, corridors, and teacher lounges are taxable. See Rule 12A-1.044, F.A.C., for method of remitting tax.~~

~~(b) The sale of food and drinks for human consumption sold for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit organization is exempt from sales tax. To receive the exemption the sponsoring organization must be qualified as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended. The name and address of the qualified sponsoring organization must be affixed to each machine used for such exempt purpose.~~

(9) through (21) renumbered (7) through (19) No change.

~~(20)(22)(a)~~ Tax is not due on the sale of food and beverages when:

~~1. Served as part of a school lunch to students, teachers, school employees or school guests in public, parochial or nonprofit schools operated for and attended by pupils in grades K through 12;~~

2. through 4. renumbered (a) through (c) No change.

(23) through (25) renumbered (21) through (23) No change.

~~(26) If meals for members of school organizations are paid for out of school funds, the person paying for them may give a certificate to the person collecting for them stating that the meals are purchased from school funds for school purposes. This will relieve the seller of the responsibility of collecting sales tax on the meals.~~

(27) through (31) renumbered (24) through (28) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02, 212.07(2), 212.08(1),(4)(a)1.,(7), 212.18(2) FS. History-Revised 10-7-68, 6-16-72, 9-28-78, 10-29-81, Formerly 12A-1.11, Amended 12-8-87, 1-2-89, 8-10-92,\_\_\_\_\_.

12A-1.013 Credit for Taxes Paid in Error.

If a dealer pays to his supplier tax on any purchase of tangible personal property which is later resold, he may, within 36 months from the date of payment, take the amount so paid as a credit against the tax to be remitted to the Department of Revenue. If a dealer purchases tangible personal property for resale and does not pay tax thereon, but consumes the property purchased, he is required to include the cost thereof and pay tax thereon in his report to the Department of Revenue.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(a), 212.05(1),(2), 212.17(1), 215.26(2) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.13, Repealed.

12A-1.014 Refunds and Credits for Sales Tax Erroneously Paid on Returned Merchandise and Exempt Sales.

(1) All dealers must maintain records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S., and make such records available to the Department upon request.

(1)(2) When a any sale, upon which the tax has been paid to the dealer by the purchaser, is cancelled or refunds the sales, lease, or rental price of admissions, tangible personal property, transient rentals, real property, or services upon which tax has been paid by the purchaser or lessee sold is returned to the dealer and remitted by the dealer to the state, and the sale price is refunded to the purchaser, the dealer shall also refund to the purchaser the tax paid by the purchaser. If, in lieu of a refund of the sale price, the dealer credits such amount on the purchaser's account, a corresponding credit for sales tax previously paid by the customer shall be made.

(2) A dealer who has paid tax on property acquired for use may take a credit, or obtain a refund, for the amount of tax paid on the acquired property if:

- (a) The dealer sells the property within 3 years from the date of payment of the tax; and
- (b) The dealer did not use the property prior to the date of sale.

(3) Any dealer who makes taxable sales to nontaxable persons, or refunds taxes paid to any purchaser, or pays any tax in error for which he later claims a refund or credit shall keep internal records to support such sales.

(4)(a) When any dealer refunds the tax paid by a purchaser, the Department of Revenue will refund such tax if application therefor is made in writing within 36 months from the date of payment of the tax to the state. The application for refund must state in clear and convincing terms the grounds for refund.

(b) Any dealer who is entitled to a refund of taxes paid to the Department of Revenue may, in lieu of applying to the Department for a refund, take credit for such amount on any subsequent report filed within 36 months of the date on which the dealer remitted the tax to the state. Such credits must be supported by schedules attached to the tax report and if, in the discretion of the Department, said credit is improperly taken, it

may be disallowed by the Department within thirty-six (36) months of the date on which such credit is taken by the dealer. (See subparagraphs (2) and (3) of Rule 12A-1.012 for tax credits or refunds on repossessions and tax credits on bad debts written off.)

(5) Adequate records showing the amounts of returned merchandise, cancelled sales and merchandise purchased for use or consumption and subsequently resold which form the basis for a credit or refund, must be maintained by the dealer.

(6) through (7) renumbered (3) through (4) No change.

(5)(a) Any dealer entitled to a refund of tax paid to the Department of Revenue may seek a refund by filing an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26, 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., and must meet the requirements of s. 213.255, F.S., and Rule 12-26.003, F.A.C.

1. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

2. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(b) In lieu of a refund to which the dealer is entitled, the dealer may take a credit on the dealer's sales and use tax return within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S.

(6) Any dealer who takes a credit, or applies for a refund, for tax paid to the state is required to keep and preserve all information and documentation necessary to substantiate the dealer's entitlement to a refund or credit of tax paid until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S.

Cross Reference - Rules 12A-1.007, 12A-1.034, and 12A-1.096, F.A.C., and Rule Chapter 12-26, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 213.255(11) FS. Law Implemented 95.091, 420.55(1)(a)4., 212.095, 212.12(6), 212.13(1), 212.17(1),(2),(3),(7), 212.67, 213.255(1),(2),(3) 213.35, 215.26(2) FS. History-Revised 10-7-68, Amended 1-17-71, Revised 6-17-72, Amended 10-21-75, 9-28-78, 11-15-82, 10-13-83, Formerly 12A-1.14, Amended 6-10-87, 1-2-89, 8-10-92, 3-17-93, 1-3-96, 3-20-96.

12A-1.018 Trade and Cash Discounts.

(1) through (3) No change.

(4) A dealer's discount is a reduction in selling price if taken at the moment of sale or purchase of a product as illustrated by the following examples.

(a) No change.

(b) Example B: A customer has a coupon issued by the dealer which allows \$.50 off the sale price of a box of soap powder which retails for \$1.50. The dealer collects \$1.00 from the customer along with the coupon. Tax is due on \$1.00. The



taxable base is \$1.00 since the redemption of the coupon reduces by the dealer does not affect the sales price of the product to that amount.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.07(2), 212.12(9) FS. History—Revised 10-7-68, 6-16-72, Amended 6-3-80, Formerly 12A-1.18, Amended \_\_\_\_\_.

12A-1.037 Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services.

(1) through (2) No change.

(a) The isolated sales exemption does not apply to:

1. No change.

2. The distribution or sale of inventory. ~~(However, for the sale of inventory see Rule 12A-1.038, F.A.C.)~~

3. through (6) No change.

~~(7) A sale or series of sales of tangible personal property purchased or acquired by nonprofit charitable, civic, educational, neighborhood, religious (except churches or synagogues), volunteer fireman organizations, and other nonprofit organizations or institutions qualify as exempt occasional sales, provided such sales comply with the requirements set forth herein and in subsection (3), above, and provided none of the elements set forth in subsection (5), above, are present.~~

~~(a) Such organization or institution must have paid any applicable tax on that tangible personal property, or if such organization or institution acquired the tangible personal property through a gift or donation, the donor must have paid any applicable tax on the purchase of such property which was donated, unless at the time of such transfer the statute of limitations for assessment of sales and use tax on the property had expired, as provided in s. 95.091, F.S.;~~

~~(b) However, for the sake of convenience, school grades K through 12 and their respective P.T.A.'s or P.T.O.'s have been granted the option of collecting sales tax on all their taxable sales, or of paying tax to their suppliers on all school materials and supplies, without the limitations regarding the frequency and duration of such sales that they make. When the schools and their respective P.T.A.'s or P.T.O.'s make purchases for resale to students and pay the applicable tax to their vendors, the tax is passed on to the students as part of the selling price. All other persons making sales of school supplies and materials are required to register as dealers and collect the tax thereon from the purchaser.~~

~~(7)(8) The sales of second hand goods in a second hand store (including sales made by nonprofit organizations, other than churches) are not occasional sales, because second hand stores are in the business of selling such goods, and such items were purchased or acquired for resale; therefore, such sales are taxable as retail sales made in the regular course of business, and are not occasional sales.~~

(9) through (18) renumbered (8) through (17) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1),(2),(10)(g),(12),(14),(16),(19), 212.04, 212.05(1)(c),(d),(f),(h),(j), 212.06(1)(a),(2),(3),(8),(10), 212.07(1), ~~212.08(6),(7)(e)~~, 212.11(2),(3), 212.12(9), 212.18(2), 212.21(2), 213.06(1), 213.35 FS. History—Revised 10-7-68, 6-16-72, Amended 10-18-78, 5-8-79, 12-23-80, 12-3-81, 7-20-82, Formerly 12A-1.37, Amended 1-2-89, 8-15-94, \_\_\_\_\_.

12A-1.041 Sales by Photographers, Photofinishers and Photostat Producers, Photoengravers, Wood Engravers and Public Officials of Public Records.

(1) through (5) No change.

~~(6) The sale of photographs for use in students' yearbooks is taxable if the purchase and payment are made by the student. They are exempt only if payment is made from school funds.~~

(7) through (9) renumbered (6) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 119.07(1), 119.085, 212.02(2),(14),(15),(16), 212.08(5),(6),(7)(e),(v) FS. History—Revised 10-7-68, Amended 12-8-68, 1-7-71, Revised 6-16-72, Amended 12-11-74, 5-27-75, Formerly 12A-1.41, Amended 7-30-91, 8-10-92, \_\_\_\_\_.

12A-1.044 Vending Machines.

~~(1)(a) For purposes of Definitions—The following terms and phrases when used in this rule, the terms "vending machine" and "vending machine operator" shall have the meaning ascribed to them in s. 212.0515(1), F.S. except where the context clearly indicates a different meaning:~~

~~(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food, beverages, or other items of tangible personal property.~~

~~(b) "Vending machine operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from the machine.~~

~~(b)(e) No change.~~

~~(2) Vending machine sales; levy of tax; effective tax rates.~~

~~(2)(a) All sales made through vending machines of food, beverages, or other items are taxed in the manner and at the rates established in s. 212.0515(2), F.S., except as provided in paragraphs (a)-(c), taxable, unless specifically exempt. (See subsection (7) below.)~~

~~(a) Receipts from vending machines owned and operated by churches or synagogues are exempt. Such entities are not required to post a notice as required in subsection (4). However, the name and address of the church or synagogue should be affixed to such machines.~~

~~(b) Food and drinks sold for human consumption for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit corporation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended, are exempt. The name and address of the qualified sponsoring organization must be affixed to each machine used for this exempt purpose. Operators of vending machines from which items of taxable merchandise, including soft drinks, are sold individually for 10 cents or more will be considered to be~~

remitting sales tax at the rates prescribed by law if their remittances on the gross sales of such items do not fall below the effective tax rates established by this rule. These rates recognize the variations resulting from multiple sales. It is presumed that the selling price of the item vended was adjusted to include tax; therefore, the vendor should deduct the tax from the total gross receipts to arrive at gross sales.

(c)4. Food and beverages sold or dispensed through vending machines or other dispensing devices located in the student lunchroom, student dining room, or other area designated for student dining in state-supported or parochial, church, and nonprofit private schools operated for and attended by pupils of grades K through 12 are exempt. See Rule 12A-1.0011, F.A.C. Effective January 1, 1992, sales of beverages, including, but not limited to, soft drinks, coffee, tea, natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products; or natural fruit or vegetable juices through a vending machine are taxable at the rate of 6.65 percent. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0665 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due. The milk products, natural fruit or vegetable juices are taxable at the rate of 6.65 percent until July 1, 1993.

2. Effective July 1, 1993, sales of natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices, or natural vegetable juices through a vending machine are taxable at the rate of 6.45 percent. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0645 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

3. Effective January 1, 1992, sales of food items through a vending machine are taxable at the rate of 6.45 percent. For the purpose of this rule, gum and breath mints are considered food items. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0645 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

4. All other sales through a vending machine are taxable at the rate of 6.59. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0659 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

5. When there is a combination of beverages, food, or other items that are sold through the same vending machine, the vending machine operator may, if the operator can identify and account for each type of items vended, remit the tax at the appropriate rate for each type of items vended. Example: A

vending machine contains various types of food and novelty items at different prices. If the operator can account for and identify the total number of food items vended times the sales price for the food items, the operator may remit the tax at the rate of 6.45 percent for the food items and 6.59 percent for the novelty items. When an operator cannot identify and account for each type of items sold through the vending machines, the highest tax rate for a product vended shall be used for all products sold through that machine.

(d) When a dealer can demonstrate to the satisfaction of the Department through its books and records that a lower rate than that which is provided in the preceding paragraphs of this rule is applicable, except for food and beverage vending machines on and after January 1, 1992, the total of the state tax and the surtax that is payable on sales through a vending machine shall be at that rate.

1.a. In order to substantiate a lower effective tax rate, a vending machine operator is required to maintain books and records which contain the total number of items sold in each machine in which similar kinds of items are vended and the sales price for each item vended.

b. Example: Company X wants to establish a lower effective tax rate for novelty items vended. The company must use the sale of all novelty items from each vending machine and the sales price of each item vended. The company should not include its food or drink sales in trying to establish a lower effective tax rate for its novelty items.

2. If an operator establishes a lower effective tax rate on a per vending basis, the operator must also establish an effective tax rate for any machine which produces a rate higher than that prescribed in this rule.

3. Operators using an effective tax rate other than the applicable rate prescribed within this rule must recompute the rate on a monthly basis.

(3) Quarterly information reports; penalties and interest.

(a)1. Effective October 1, 1991, a SALES AND USE TAX VENDING MACHINE OPERATOR QUARTERLY REPORT (Form DR-15VO), and a SALES AND USE TAX VENDING MACHINE OPERATOR QUARTERLY CONSOLIDATED REPORT (Form DR-15VOC), which are incorporated by reference in Rule 12A-1.097, F.A.C., are required to be filed by operators of food or beverage vending machines. Form DR-15VO is to be completed for each county sales tax registration, by operators who file separate sales and use tax returns. Forms DR-15VO and DR-15VOC are to be completed by operators filing a consolidated sales and use tax return. The reports provide the number of food or beverage vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the total receipts from the operation of the machines during the

quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county.

2. Effective October 1, 1991, a SALES AND USE TAX VENDING MACHINE WHOLESALER QUARTERLY REPORT (Form DR-15VW), which is incorporated by reference in Rule 12A-1.097, F.A.C., is required from any person who sells food or beverages for resale. Effective July 8, 1992, the report is required to be filed only by persons who sell food or beverages to an operator for resale through vending machines or by persons who sell 25 cases or more of soft drinks per transaction as a tax-free sale for resale. The report identifies, by dealer registration number, each operator described in paragraph (4)(a) of this rule, who has purchased such items from said person and states the net dollar amount of purchases made by each operator from said person. In addition, the report shall also include the dealer's name, dealer registration number, and net dollar amount of any single purchase for resale of canned soft drinks of 25 cases or more for reports required to be filed after July 8, 1992.

3. Any person may file the quarterly reports, Forms DR-15VO, DR-15VOC, or DR-15VW, on magnetic media or floppy disks. Magnetic tape and floppy disk specifications and file descriptions may be obtained from Returns Reconciliation, 5050 West Tennessee Street, Building F-4, Tallahassee, Florida 32399-0100. The magnetic media shall be labeled, indicating name of company, Florida sales and use tax certificate of registration number, applied date, and type of tax information included on tape. Magnetic tapes shall be identified by reel number and disks by identification number. Submitters of magnetic media shall file the face of the report containing grand totals and the reel or disk identification number.

4. The Department has the authority to require that the quarterly reports be filed on magnetic media or floppy disks, and this method of report filing may be required in the future. The industry will be notified within a reasonable time period before it is required to file the reports on magnetic media or floppy disks.

(b) A penalty of \$250 is imposed on any person required to file the quarterly reports who fails to timely file these reports or who files false information. The \$250 penalty shall accrue interest at the rate of 1 percent per month from the date the report is due until the date the penalty is paid.

(c) Persons who sell food or beverages for 25 cents or less through a vending machine sponsored by an organization qualifying as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended, are not required to file the quarterly reports.

(4) Annual certificate required to be given by operators to food and beverage vendors; penalties and interest.

(a) Effective November 1, 1991, an ANNUAL CERTIFICATION TO FOOD OR BEVERAGE WHOLESALER is required to be provided by all operators to their food and beverage vendors when food or beverages are purchased for resale in vending machines. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate is due beginning November 1, 1991, and by November 1 of each year thereafter. If the first transaction between the parties occurs before November 1, then the certificate is due on the date of the transaction and by November 1 of each year thereafter. The following is a suggested form of the certificate to be completed by the operator purchasing food or beverages for resale in vending machines to be furnished to the selling dealer of the food and beverages.

INSTRUCTIONS

Florida law requires each sales tax dealer who purchases food or beverages for resale through vending machines to provide a completed copy of this certification to his Florida food or beverage supplier(s) by November 1, 1991, or upon first entering into a transaction with the supplier, and by November 1 of each year thereafter.

The certification need not be on a form provided by the Department of Revenue but must contain all the information listed hereon. This certification is in addition to the resale certificate required for a tax free purchase.

ANNUAL CERTIFICATION TO FOOD OR BEVERAGE WHOLESALER

Wholesaler to whom this certification is being presented:

Business Name \_\_\_\_\_

Business Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Name and address of purchaser making this certification:

Business Name \_\_\_\_\_

Business Address \_\_\_\_\_

\_\_\_\_\_

Florida Sales Tax Federal Employer

Registration Number Identification Number or

Social Security Number

The business or individual making this certification operates one or more food or beverage vending machines in Florida.

The undersigned signature certifies that the above information is true and correct.

\_\_\_\_\_

Signature of Owner, Date

Partner, or Officer

(b) Effective July 8, 1992, a \$250 penalty is imposed on any vending machine operator who operates vending machines and who fails to provide the certificate to its food and beverage vendor(s) or who provides its vendor(s) with false information.

The penalty shall accrue interest at the rate of 1 percent per month from the date the certificate is due until the date the penalty is paid.

~~(c) Persons who sell food or beverages for 25 cents or less through a vending machine sponsored by an organization qualifying as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended, are not required to submit the annual certificate to their food and beverage vendors.~~

~~(3)(5) Registration. Before any person may operate a vending machine in this state, such person must register with the Department of Revenue for sales and use tax purposes unless such person is already registered as a dealer. Owners or operators Operators of vending machines must obtain a separate Sales and Use Tax Certificate of Registration (form Form DR-11) for each county in which the such machines are located. One Sales and Use Tax Certificate of Registration (Form DR-11) is sufficient for all the owner's or operator's machines within a single county. See Rule 12A-1.060, F.A.C. To receive a Certificate of Registration each person or business must file an Application for Sales and Use Tax Registration (Form DR-1). These forms are incorporated by reference in Rule 12A-1.097(7), F.A.C. A notice must be affixed to each vending machine which dispenses items of tangible personal property other than food and beverages showing the operator's name, address, and dealer's certificate of registration number. Agents of the Department of Revenue are authorized to seal vending machines upon which this information is not clearly posted.~~

~~(4)(6) Notice to be displayed on each vending machine; penalty and interest for failing to display notice; informant's fees.~~

~~(a) No change.~~

~~1. through 3. renumbered (b) through (d) No change.~~

~~(c)(b) Any vending machine operator who fails to properly obtain and display the required notice on any vending machine is subject to the penalties and interest as provided in s. 212.0515(4), F.S. Upon a determination that a violation has occurred, the Department shall pay the informant up to 10 percent of previously unpaid sales tax and fees recovered as a result of the information provided. See Rule 12-18.008, F.A.C., for additional information on informant fees.~~

~~(7) Exemptions:~~

~~(a) Receipts from vending machines owned and operated by churches or synagogues are not taxable. The church or synagogue is not required to post a notice as required above on vending machines.~~

~~(b) Foods and drinks sold to students and faculty of elementary, middle school, junior high, and high schools through vending machines or dispensing devices located in dining rooms, lunchrooms, or cafeterias operated on the premises of such institutions are exempt. Sales of food and drinks through vending machines or devices located elsewhere~~

on the grounds, such as in gyms, teacher's lounges, corridors, and shops, are taxable. Foods and drinks sold at junior colleges and institutions of higher learning are taxable no matter where or how sold.

~~(c) Food and drinks sold for human consumption for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit organization are exempt from sales tax. To receive the exemption the sponsoring organization must be qualified as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended. The name and address of the qualified sponsoring organization must be affixed to each machine used for such exempt purpose.~~

~~(d) The sales through vending machines of ice cream or milk in quarts or larger containers are presumed to be for home consumption and are exempt. The sale of drinking water, including waters that contain minerals or carbonation in their natural state, is exempt. The sale of water to which carbonation or minerals have been added is taxable.~~

~~(e) The notice requirement provision in subsection (6) applies to all vending machines dispensing exempt food or beverage products, except vending machines owned and operated by churches or synagogues. This notice requirement is in addition to any other notice required to be posted on the vending machine, such as, the name and address of sponsoring organizations as required in paragraph (c) above. The penalty and interest provisions contained in subsection (6) for failing to post such notice, shall likewise apply.~~

~~Cross Reference — Rule 12A-1.011, F.A.C.~~

~~(5)(8) Purchases or leases of vending machines.~~

~~(a) No change.~~

~~(b) The purchase of machines, machine parts and repairs, and replacements thereof that which are a component part of the machine, by the machine owner or lessor for exclusive rental is exempt. The machine owner or lessor must registered with the Department and must issue a copy of the dealer's Annual Resale Certificate A resale certificate shall be presented to the selling dealer to purchase seller of these items by the purchaser in lieu of paying tax exempt for the purposes of leasing or renting the machine.~~

~~(c) through (d) No change.~~

~~(6)(9) No change.~~

~~(7)(10) The following examples are intended to provide further clarification of the provisions of this section:~~

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

~~(d) Example: When a A bottler who removes from inventory a drink vending machine to be placed at a location under an agreement where the location owner is the operator, the bottler, as a registered dealer, may extend a copy of the dealer's Annual Resale Certificate (form DR-13) to a resale certificate in lieu of paying tax on the purchase of vending machines or component parts for exclusive rental. The rental of the vending machine may either be on a per case basis or a flat~~

monthly rate. In such instances, the tax must be collected by the bottler and remitted at the rate of 6 percent of the amount received as rental. Also, tax is due on all merchandise sold through the machine by the location owner (operator).

~~(8)(H)~~ If any vending machine used on a full service basis or for exclusive rental is later sold as a "used" machine, the sale it becomes fully taxable to the purchasing customer is subject to tax buying it at the time of sale.

Specific Authority 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(24), 212.031, 212.05(1)(i), 212.0515, ~~212.054, 212.055,~~ 212.07(1),(2), 212.08(1),(7),(8), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS. History—Revised 10-7-68, 6-16-72, 1-10-78, Amended 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 9-14-93, 12-13-94, 3-20-96, 7-1-99, \_\_\_\_\_.

~~12A-1.048 Sale of Agricultural Products, Including Poultry and Livestock.~~

~~(1)(a)~~ The sale of agricultural products, ~~poultry, and livestock~~ direct from the farm when made directly by the ~~producer producers~~ is exempt. The producer is not required to obtain an exemption certificate from the purchaser to make tax exempt sales of agricultural products. This exemption does not apply to the sale of ornamental nursery stock. ~~Agricultural products that are produced by the farmer and used by him and members of his family or employees on his farm are not subject to tax.~~

~~(b)~~ Agricultural products that are produced by the farmer and used by the farmer or the farmer's family or employees on the farm are not subject to tax.

~~(c)~~ The sale of agricultural products by persons who do not produce agricultural products to any person who does not directly consume the product, but acquires the raw product for resale to the ultimate retail customer, or for use in the process of preparing, finishing, or manufacturing agricultural products for the ultimate retail consumer trade, is exempt. No certificate is required to be issued by the purchaser or obtained by the seller.

~~(d)~~ The sale of agricultural products by any person, other than the producer, as a marketable or finished product to the ultimate consumer, except in the form of food or food products, is subject to tax. Example: Marketable products, such as nursery stock, and finished products, such as hides, bones, hooves, and feathers, are subject to tax.

~~(2)(a)~~ The sale of ornamental nursery stock by any person, including producers of agricultural products, is subject to tax. The term "ornamental nursery stock" applies to all plants, shrubs, and trees customarily sold by nurseries for landscaping purposes, regardless of the state of growth or maturity, but does not include excluding plants used to produce food for human consumption. Sod and ferns are examples of ornamental nursery stock.

~~(b)1.~~ The rental of ornamental nursery stock, such as plants, shrubs, or trees, is subject to tax, including the rental by the producer of the ornamental nursery stock. The sale of ornamental nursery stock by the producer to anyone for any

purpose other than resale is subject to the tax. All sales of ornamental nursery stock will be presumed to be retail sales and subject to the tax, unless the seller shall have obtained a resale certificate from his customer in accordance with the provisions contained in the Florida Department of Revenue Rule 12A-1.038 and Rule 12A-1.039 or, in the case of an out-of-state dealer, an affidavit in accordance with the provisions contained in Rule 12A-1.064(2)(b)1., F.A.C.

~~2.~~ For example: The sale by the producer of ornamental nursery stock (regardless of state of growth or maturity) to a broker, wholesaler or retailer will be regarded as a retail sale and taxable unless the purchaser furnishes the seller with a resale certificate or affidavit as provided in subparagraph (b)1.

~~(c) through (e)~~ No change.

~~(3)~~ The sale of agricultural products to any person who purchases them for the purpose of acquiring raw products not for direct consumption but for the use or for sale in the process of preparing, finishing or manufacturing such agricultural products for the ultimate retail consumer trade is exempt.

~~(4)~~ A sale of such agricultural products or any part thereof, when sold by any person other than the producer as a marketable or finished product to the ultimate consumer (except in the form of general groceries, including food and food products) is taxable. Example: Marketable products, such as nursery stock, and finished products, such as hides, bones, hooves, and feathers, are taxable. For the sale of ornamental nursery stock by the producer, see subsection (1) of this rule.

~~(3)(5)~~ The sale of topsoil, Topsoil, peat moss, sand used for rooting purposes, compost, and manure are exempt as agricultural products when sold by the producer, but are taxable when sold by anyone other than the producer. The sale of sod and ferns is taxable as the sale of ornamental nursery stock.

~~(4)(6)~~ The sale of fill dirt is not the sale of an agricultural product and is subject to tax taxable.

~~(5)~~ The sales of certain items for agricultural use and items for agricultural purposes, as provided in s. 212.08(5)(a) and (e), F.S., are exempt. The exemption will not be allowed unless the purchaser furnishes the seller a written certificate stating that the purchased items qualify for exemption under s. 212.08(5)(a) or (e), F.S. The format of a suggested certificate is contained in Rule 12A-1.087(11), F.A.C.

~~(6)~~ The sale of ornamental nursery stock for the purposes of resale, or for the purposes of producing for resale, is exempt. The seller must obtain a copy of the purchaser's Annual Resale Certificate (form DR-13) to make tax exempt sales for the purposes of resale.

~~(7)~~ Plants used to produce food for human consumption are exempt.

~~(8)~~ Nurserymen are in the same category as farmers and are entitled to the same exemptions on their purchases of tangible personal property for use exclusively in farming.

~~(9) Materials, containers, labels, sacks, or bags to be used one time only for packaging tangible personal property for shipment for sale, including burlap used to make bags for packaging plants and used cans for potting, are exempt to the commercial nurseryman.~~

~~(10) Clay pots and plastic containers used in potting and growing foliage and other plants are exempt to the commercial nurseryman. Pots and receptacles used for this purpose are classified as containers, and when eventually sold at retail along with the plant, they become a part of the tangible personal property sold and are taxable to the retail consumer.~~

~~(11) Registered dealers may extend resale certificates in writing to their suppliers in lieu of tax on items for resale as well as items entitled to exemption because of exclusive agricultural use.~~

~~(12) Items entitled to exemption when purchased for use on a farm include cloth, plastic, and other similar materials used for shade, mulch, and protection from frost or insects.~~

~~(13) Topsoil, sand used for rooting purposes, moss, compost, and manure, but not fill dirt, are exempt to a nurseryman when bought for exclusive use in crop production or when sold directly by the producer. (See subsection (1) of this rule.) When sold by other than the producer or purchased for other than crop production, these items are taxable.~~

~~(14) Nursery stock, plants, shrubs, and trees, purchased by one nurseryman from another for stock are exempt. Nursery stock purchased for direct resale and sold at retail is required to be purchased with a resale certificate and is subject to tax when sold to the ultimate consumer.~~

~~(16) Rentals of plants, shrubs, trees, etc., by the producer are taxable.~~

~~(17) The sale of field and garden seeds, including flower seeds, is exempt.~~

Specific Authority 212.17(6), 212.18(2), 213.06 FS. Law Implemented 212.02(29), 212.07(5),(6),(7), 212.08(5)(a),(e), 212.18(2) FS. History—Revised 10-7-68, 6-16-72, 12-11-74, Amended 7-20-82, Formerly 12A-1.48, Amended 3-1-00,\_\_\_\_\_.

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

(1)(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., Rule 12A-1.005, F.A.C., Rule 12A-1.070, F.A.C., and this rule, all taxes required to be collected in any month by Chapter 212, F.S., are due the Department of Revenue on the first day of the month following the date of sale or transaction. The payment and return must either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. When the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns

will be accepted as timely if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Ch. 683, F.S., and Sec. 7503 of the Internal Revenue Code. A "legal holiday" pursuant to Section 7503 of the 1986 Revenue Code, as amended, means a legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) No change.

(c) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to s. 212.11(1)(c) or (d), F.S., the tax is due the first day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

(d) Quarterly, semiannual, or annual filers that remit an excessive tax payment for the period July 1 through June 30 which represents a nonrecurring business activity can request to continue to file their returns quarterly, semiannual, or annually by submitting a written request to the Florida Department of Revenue, Central Registration, Post Office Box 6480, Tallahassee, Florida 32314-6480. When a dealer makes a written request to continue on the same filing frequency, the Executive Director or the Executive Director's designee will determine whether the dealer's request is based on a nonrecurring business activity, based upon the facts of each case, using the following guidelines:

1. The type of activity. The type of activity, as opposed to the level of activity, that makes that dealer's remittance unusual for its particular business.

2. The focus of the dealer's business. A change in the dealer's business focus will not be considered nonrecurring business activity.

3. The number of occurrences. When the dealer's remittance amount continues to exceed the maximum amount allowed for a quarterly, semi-annual, or annual filing frequency, the remittance will not be considered nonrecurring.

4. Regularity. If the events are so regular that the amounts exceeding the maximum remittance amounts allowed for a quarterly, semi-annual, or annual frequency can be predicted, the remittance will not be considered nonrecurring.

(2) through (3) No change.

(4) The following are not required to be included in computing the estimated tax liability due and payable;

(a) Any local option sales tax, such as the tourist development tax levied under authority of s. 125.0104, F.S.; the tourist impact tax levied under the authority of s. 125.0108, F.S.; the convention development tax levied under authority of s. 212.0305, F.S.; or the discretionary sales surtaxes levied under authority of s. 212.055, F.S.

(b) The rental car surcharge levied under the authority of s. 212.0606, F.S.

(c) Any solid waste fee, such as the new tire fee levied under the authority of s. 403.718, F.S., ~~or; the lead-acid battery fee levied under authority of s. 403.7185, F.S.; the waste newspaper disposal fee levied under the authority of s. 403.7195, F.S.; or the advance disposal fee levied under the authority of s. 403.7197, F.S.~~

(5)(a) No change.

(b) If the Executive Director or the Executive Director's designee in Return Reconciliation determines that the information required for the making of an accurate return cannot reasonably be compiled by a taxpayer on a calendar month basis, the Executive Director or the Executive Director's designee in the Return Reconciliation will notify the dealer in writing that the deviation from monthly filing of returns and remitting of tax is authorized. Such returns shall be due and payable on the first day succeeding the end of the reporting period and shall be delinquent on the twenty-first day succeeding the end of the reporting period. ~~However, any dealer who is subject to estimated tax filing provisions of this rule is required to remit by the 20th day of the reporting period for which the liability applies an estimated tax payment in the time and manner prescribed in 12A-1.056(2), F.A.C.~~

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

~~(e)1. The Executive Director of the Executive Director's designee is authorized to reduce the collection allowance by 10 percent when a dealer files an incomplete return as defined in subparagraph 2. of this paragraph.~~

~~2. An "incomplete return" means a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished, including but not limited to, the failure to provide the amount of gross sales, exempt sales, taxable sales, tax collected or due, lawful refunds, deductions, or credits claimed, collection allowance, penalty, interest, estimated tax liability, and total amount due with the return.~~

~~(e)(f) No change.~~

(7) through (11) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c),(h), 212.031(3), 212.04(3),(4),(5), 212.0506(4),(10), 212.054(4), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1),(2),(3),(4),(5), 212.14(2), 212.15(1), 213.235, 213.29, 213.755, 215.01, 376.11, 403.718, 403.7185 FS. History-Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, \_\_\_\_\_.

12A-1.0565 Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements.

(1) Section 212.11(1)(f), Florida Statutes, authorizes the Department to require certain taxpayers to submit their sales and use tax returns using an electronic data interchange (EDI) method. Furthermore, this statute allows the Department to grant a waiver from this EDI requirement. To qualify for this waiver, the taxpayer or the owner or an officer, or the taxpayer's accountant or bookkeeper, must file an EDI Waiver

Request (form DR-654) with the Department and certify that he or she meets at least one of the criteria established in subsection (2).

(2) through (4) No change.

~~(5)(a) The Department prescribes Form DR-654 (Florida EFT Program Electronic Tax Payment System, EDI Waiver Request; R-10/97), incorporated herein by reference, as the form to be used by persons to request a waiver pursuant to this rule.~~

~~(b) A taxpayer can obtain this form by using one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address show inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.~~

Specific Authority 212.18(2), 213.06(1) FS. Law Implemented 212.11(1)(f) FS. History-New 12-6-98, Amended \_\_\_\_\_.

12A-1.058 Trade Stamps.

(1) The amount charged by a trade stamp company to a dealer for the privilege of distributing trade stamps which are redeemable by the trade stamp company either in cash or in premiums is exempt.

(2) The trade stamp company is the final purchaser of and shall pay tax on the purchase of all trade stamps, stamp collection bonds, premium catalogs, advertising, promotional and similar materials that it uses or furnishes to its dealers at no specific charge.

~~(3) When a trade stamp company accepts trade stamps or a combination of trade stamps and cash in exchange for premiums, the transaction is taxable and the company shall collect tax from the surrenderor of the stamps computed on the total value of the stamp book and any cash paid. The trade stamp company is exempt on the purchase of such premiums, but should furnish its suppliers resale certificates as provided in Rule 12A-1.038.~~

Specific Authority 212.17(6), 212.18(2), 213.06 FS. Law Implemented 212.02(15),(19), 212.18(2) FS. History-Revised 10-7-68, 6-16-72, Amended 7-20-82, Formerly 12A-1.58, Repealed \_\_\_\_\_.

12A-1.060 Registration.

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

2. The agent, representative, or management company may collectively register properties described in subparagraph 1., above, that are located in a single county by filing an

Application for Collective Registration for Rental of Living or Sleeping Accommodations (~~form Form DR-1C, incorporated by reference in Rule 12A-1.097, F.A.C.~~) for each county.

3. through 7. No change.

(d) ~~Applications to Collect and or Report for Sales and Use Tax in Florida Registration (form Form DR-1) and Applications for Collective Registration for Rental of Living or Sleeping Accommodations (form Form DR-1C) are available, without cost, by: 1) writing the Florida upon written request to: Department of Revenue, Forms Distribution Center, 168 Blountstown Highway Bureau of Tax Information, P. O. Box 7443, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call 32314-7443. Persons with FAX machines may obtain selected forms immediately from the Department's FAX on Demand System at 850-922-3676; or, 4) visiting any local Department of Revenue Center to personally obtain a copy; or, by calling 904-922-3676 from a touch-tone telephone connected to a FAX machine. Applications are also available by 5) calling the Forms Request Line during regular office hours at 1-800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>) (904)488-6800 or at any local taxpayer service center. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.~~

(e) ~~The Department will issue a The Executive Director or the Executive Director's designee in the responsible division, upon receipt of such application, will grant to the applicant a separate Sales and Use Tax Certificate of Registration (form Form DR-11, incorporated by reference in Rule 12A-1.097, F.A.C.) for each place of business for which it receives an application for registration. Engaging in a business listed in paragraph (a) of this subsection without first obtaining a Sales and Use Tax Certificate of Registration (Form DR-11) or after such certificate has been canceled by the Executive Director or the Executive Director's designee in the responsible division is prohibited. The failure or refusal of any person to register as a dealer is a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., or subject to injunctive proceeding as provided by law.~~

(f)1. No change.

2. An exhibitor is not required to register as a dealer if the agreement provides that the exhibitor shall make only wholesale sales, provided the exhibitor receives from each purchaser a copy of its Annual Resale Certificate resale certificate that meets the requirements of Rules 12A-1.038 and 12A-1.039, F.A.C. If an exhibitor fails to comply with these conditions, the exhibitor is required to register as a dealer if the exhibitor is a dealer within the definition of "dealer," as provided in s. 212.06(2) in subsection (2) of section 212.06, F.S.

3. through (2) No change.

(3)(a) ~~The Executive Director or the Executive Director's designee in the responsible division is authorized to require any person liable for any tax imposed by Chapter 212, F.S., to place with the Department, before or after a dealer's certificate of registration is issued, a cash deposit, bond or other security as the Executive Director or the Executive Director's designee in the responsible division may determine necessary to secure the payment of any tax, interest, or penalty which may become payable. In making the determination as to whether security should be required and the amount of such security, the Executive Director or the Executive Director's designee in the responsible division shall consider and be guided by:~~

1. ~~The prior history, if any, of the applicant's or dealer's compliance or noncompliance with the provisions of the law.~~

2. ~~The type of business, including the transient or nontransient nature of the business.~~

3. ~~The type of inventory, including whether the applicant or dealer has any equity in such inventory and the mobility of such inventory.~~

4. ~~The location of the business.~~

5. ~~The financial status of the applicant or dealer, including existence of money judgments against the applicant or dealer.~~

6. ~~The anticipated volume of business.~~

(b) ~~The security requested shall be an amount equal to three months' anticipated tax liability, or in the case of a registered dealer, an amount equal to three months' tax liability based on an average of the tax due for the preceding twelve months. An adjustment shall be made to the next highest \$100 when the anticipate liability is not in even \$100 amounts. In any case where a bond is required as a condition to registration or retention of a dealer's certificate of registration, the minimum amount of such bond shall be \$100.~~

(c) ~~If any taxpayer is delinquent in the payment of taxes imposed by Chapter 212, F.S., the Executive Director or the Executive Director's designee in the responsible division may, upon ten (10) days' notice, proceed against the bond to effect collection of the delinquent taxes, interest and penalties.~~

(d) ~~No interest shall be paid by the state to any person for the deposit of security.~~

(e) ~~The Department prescribes the following forms, incorporated by reference in Rule 12A-1.097, F.A.C., to be utilized in the administration of cash deposits and bonds it may determine necessary to secure the payment of any tax, interest, or penalty which may become payable.:~~

1. ~~Form DR-17, Sales and Use Tax Cash Bond;~~

2. ~~Form DR-29, Refund of Cash Bond;~~

3. ~~Form DR-76, Florida Contract Data Form;~~

4. ~~Form DR-77, Contractor's Sales or Use Tax Bond;~~

5. ~~Form DR-77A, Contractor's Sales or Use Tax Bond (Open Bond);~~

6. ~~Form DR-92-1, Surety Bond—Sales and Use Tax.~~



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

~~(5)(a) In addition to the initial registration fee referred to in paragraph (1)(a), and any other fee, any person who holds a certificate of registration shall, with returns described in paragraph (b), pay an additional annual registration fee in the amount provided in paragraph (c) for each certificate of registration granted.~~

~~(b) Each such annual registration fee shall be due and payable with the person's January return or first quarterly return for each year. The Department prescribes Form DR-7AR, Annual Registration Fee (incorporated by reference in Rule 12A-1.097, F.A.C.), as the form to be utilized by dealers filing a consolidated sales and use tax return, and Form DR-15AR, Annual Registration Fee (incorporated by reference in Rule 12A-1.097, F.A.C.), as the form to be used by other dealers.~~

~~(c) The amount of each annual registration fee shall be as follows:~~

~~1. If the certificate holder's taxable sales or purchases during the calendar year immediately preceding the filing of the return were less than \$30,000, no annual registration fee shall be payable.~~

~~2. If such taxable sales or purchases were at least \$30,000 but less than \$200,000, the fee shall be \$25.~~

~~3. If such taxable sales or purchases were \$200,000 or more, the fee shall be \$50.~~

~~a. Example: Certificate holder had a total of \$185,000 taxable sales and \$134,000 taxable purchases during 1988. Since neither total exceeded \$200,000 (although the total of the two exceeded \$200,000) but each exceeded \$30,000, the annual registration fee due in 1989 would be \$25.~~

~~b. Example: Certificate holder had a total of \$22,000 of taxable purchases and a total of \$32,000 taxable sales during 1988. Since one of these totals exceeded \$30,000, the annual registration fee due in 1989 would be \$25.~~

~~(d) The annual registration fee for any dealer who files a consolidated return pursuant to s. 212.11, F.S., shall not exceed \$10,000.~~

~~(e) The collection allowance for the keeping of required records, accounting for, and remitting tax shall not be allowed for the annual registration fee.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(2), 212.04(4), 212.06(2), 212.12(2),(5),(6), 212.16(1),(2), 212.18(3),(5) FS., s. 14, ch. 99-208, L.O.F. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, \_\_\_\_\_.

12A-1.064 Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats.

(1) through (5)(k) No change.

(4) Parts used in the repair of nets are exempt when used exclusively by commercial fishermen. (Sponge fishermen qualify as commercial fishermen.) To purchase such nets and

parts thereof tax exempt, a certificate in substantial conformity with the certificate suggested in Rule 12A-1.039, F.A.C., must be executed.

(m) through (n) renumbered (1) through (m) No change.

(6) through (7) No change.

~~(8) A Florida dealer who prints his own catalogs and ships them free of charge to his representatives in other states is the consumer of such catalogs and is taxable on their cost as provided in Rule 12A-1.034.~~

(9) through (13) renumbered (8) through (12) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.0598, 212.06(2),(5), 212.08(4)(a),(8),(9), 212.12(8), 212.13(1), 212.16, 212.21(3) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-28-84, Formerly 12A-1.64, Amended 1-2-89, 10-16-89, 7-30-91, 3-20-96, 11-30-97, 7-1-99, \_\_\_\_\_.

12A-1.069 Sales by Governmental Agencies and Instrumentalities and Exempt Institutions.

~~(1) The State of Florida, any county, municipality, political subdivision, agency, bureau or department or other state or local governmental instrumentality or any institution making sales subject to the tax imposed by Chapter 212, F.S., shall qualify as a dealer and shall collect and remit the applicable tax.~~

~~(2) Churches are not required to collect tax on sales or rental of tangible personal property and are not required to register as dealers for such transactions.~~

~~(3) When churches, nonprofit religious, nonprofit educational or nonprofit charitable institutions rent or lease to others any real property as defined in Rule 12A-1.070, or rent or lease to others any parking or docking spaces as defined in Rule 12A-1.073, such institutions shall register as dealers and collect and remit tax on such transactions.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(12),(15), 212.05(1), 212.06(2), 212.08(7)(o),(10), 212.21(2) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Formerly 12A-1.69, Repealed \_\_\_\_\_.

12A-1.080 Concession Prizes; The Sale of Food, Drink, and Tangible Personal Property at Concession Stands.

(1) Operators of game concessions and other concessionaires who customarily award tangible personal property as prizes are the ultimate consumers of such property. Operators may pay tax on the cost price of such property or pay tax on As a basis for determining their tax liability for such prizes, concessionaires will be charged sales tax computed at 6 percent of 25 percent of the gross receipts from all such concession activity games.

(2)(a) Concessionaires Vendors at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business events; where it is impracticable due to the nature of the business practices within that industry to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, may calculate tax due by using a divisor of 1.0659 in counties that do not impose a discretionary

~~sales surtax shall be taxed at 6.59 percent of gross sales. To calculate compute the correct amount of tax due, the dealer should divide the his total gross receipts by 1.0659 to compute taxable sales. Subtract and then subtract taxable sales from the total gross receipts to compute arrive at the amount of tax due. The 6.59 percent recognizes the variation resulting from multiple sales transactions. See Rule 12A-15.010, F.A.C., for divisors in counties imposing a discretionary sales surtax.~~

(b) ~~Concessionaires Vendors at carnivals, fairs, and similar events that separately state Florida sales tax on their charge tickets, sales slips, invoices, or other tangible evidence of sale must remit to the state the amount of tax collected and due on their sales recording the sales price of the items sold and the tax thereon, must maintain accurate records of the tax so collected, and the amount of tax so collected and/or due must be remitted to the state.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(19), 212.05(1)(a)1.a., ~~(n), (2), (3), (4), 212.06, 212.07(2), 212.12(6)~~ FS. History—Revised 10-7-68, 6-16-72, Amended 7-20-82, Formerly 12A-1.80, Amended 12-13-88, \_\_\_\_\_.

12A-1.087 Partial Exemption for Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1)(a) The sale, rental, lease, use, consumption, or storage of self-propelled, power-drawn, or power-driven farm equipment is taxable at the rate of ~~2.5~~ 3 percent. To qualify for the partial exemption, such equipment must be used exclusively on a farm or in a forest in the agricultural production of plowing, planting, cultivating, or harvesting crops or products as produced by those agricultural industries included in s. 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products. Self-propelled, power-drawn, or power-driven farm equipment that is not purchased, leased, or rented for exclusive use in the agricultural production of planting, plowing, cultivating, or harvesting agricultural products, or for fire prevention or suppression work with respect to such crops or products, does not qualify for this partial exemption. This partial exemption is not forfeited by moving qualifying farm equipment between farms or forests.

(b) The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the limitation under s. 212.08(3), F.S. ~~The format of Although the Department does not furnish the printed form to be executed by farmers by purchasing or leasing qualifying equipment,~~ a suggested certificate is contained in subsection (11) Rule 12A-1.039, F.A.C.

(c) Dealers who accept in good faith the required certificate from the purchaser will not be assessed sales tax in excess of ~~2.5~~ 3 percent on sales of qualifying equipment purchased for a nonexempt use. In such instances, the Department will look solely to the purchaser for any additional sales tax due.

(2) For purposes of this rule, the following definitions will apply:

(a) No change.

(b) Agricultural production, as defined in s. 212.02(34), F.S., means the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products or any other practices necessary to accomplish production through the harvest phase, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(b) through (d) renumbered (c) through (e) No change.

~~(f)(e)~~ Harvesting means the act or process of cutting, reaping, digging up, or gathering an agricultural product or crop from a place where grown. Harvesting does not include the processing of crops or products.

~~(g)(f)~~ No change.

(3) Self-propelled farm equipment, as defined in s. 212.02(30), F.S., means equipment that contains within itself the means for its own propulsion, including, but not limited to tractors. In addition to tractors, qualifying self-propelled farm equipment also includes, but is not limited to:

(a) through (b) No change.

(c) Boats and boat motors, purchased together or separately, for use in the agricultural production of planting, cultivating, or harvesting aquaculture products on a farm. See subsection (4) of this rule regarding specific guidelines for persons engaging in aquaculture activities.

(d) through (j) No change.

(4)(a) Persons engaged in the agricultural production of planting, cultivating, and harvesting aquaculture products qualify for the partial exemption on their purchase or lease of a boat or boat motor to be used exclusively for aquacultural purposes. To qualify for exemption, such person must be registered with the Department of Agriculture and Consumer Services under s. 597.004, F.S., as a person engaged in aquaculture. For purposes of this rule, a farm includes submerged sites leased from the state under the authority of s. 253.68, F.S., by a person engaged in aquaculture activities.

(b) Example: A clam farmer leases a submerged site from the state pursuant to s. 253.68, F.S., and is certified under s. 597.004, F.S., with the Department of Agriculture and Consumer Services. The clam farmer qualifies for the partial exemption on the purchase or lease of a boat used exclusively in the agricultural production of for planting, cultivating, or harvesting clams on the leased site. The exemption is not forfeited by moving boats between farms.

(5) through (8)(a) No change.

(b)1. Generators purchased, rented, or leased for use on a poultry farm are exempt from sales tax under s. 212.08(5)(a), F.S. The exemption will not be allowed unless the purchaser or lessee issues to the seller a signed certificate stating the

generator is purchased or leased for exclusive use on a poultry farm. Although the Department does not furnish the printed form to be executed by farmers when purchasing qualifying generators, a suggested certificate is contained in subsection (11) Rule 12A-1.039, F.A.C.

2. through (9) No change.

(10)(a) The following sales and uses of liquefied petroleum gas, diesel, and kerosene are exempt when:

1. Sold for use in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

2. Consumed in transporting farm vehicles and farm equipment between farms.

3. Sold for use to heat a structure in which started pullets or broilers are raised.

4. Sold for use to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

(b) Liquefied petroleum gas, diesel, and kerosene sold for use in any tractor or vehicle driven or operated upon the public highways of the state is subject to tax.

(11) Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(a) Any person who purchases items that qualify for the limitation under s. 212.08(3), F.S., must issue an exemption certificate to the selling dealer to purchase qualifying equipment at the rate of 2.5 percent. Any purchaser who purchases items for agricultural purposes must also issue an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name, address, the reason for which the use of the item qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser.

(b) The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

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

(d) The following is a suggested format of an exemption certificate to be issued by any person purchasing items that qualify for the limitation under s. 212.08(3), F.S., or qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the suggested format that are not relevant to the purchaser may be eliminated from the certificate.

EXEMPTION CERTIFICATE  
ITEMS FOR AGRICULTURAL USE OR FOR  
AGRICULTURAL PURPOSES  
AND CERTAIN FARM EQUIPMENT

This is to certify that the items identified below, purchased on or after \_\_\_\_\_ (date) from \_\_\_\_\_ (Selling Dealer's Business Name) are purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

( ) Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.

( ) Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.

( ) Generators purchased, rented, or leased for exclusive use on a poultry farm.

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

( ) Nets, and parts used in the repair of nets, purchased by commercial fisheries.

( ) Nursery stock, seedlings, cuttings, or other propagative material for growing stock.

( ) Portable containers, or moveable receptacles in which portable containers are placed, that are used for harvesting or processing farm products.

( ) Seeds, including field and garden seeds and flower seeds.

( ) Seeds, seedlings, cuttings, and plants used to produce food for human consumption.

( ) Items that are used by a farmer to contain, produce, or process an agricultural commodity, such as: glue for tin and glass for use by apiarists; containers, labels, and mailing cases for honey; wax moth control with paradichlorobenzene; cellophane wrappers; shipping cases; labels, containers, clay pots and receptacles, sacks or bags, burlap, cans, nails, and other materials used in packaging plants for sale; window cartons; baling wire and twine used for baling hay; and other packaging materials for one time use in preparing an agricultural commodity for sale.

( ) Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

( ) Liquefied gas, diesel, or kerosene used to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

( ) Liquefied petroleum gas, diesel, or kerosene used for agricultural purposes in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

( ) Self-propelled, power-drawn, or power-driven equipment, when purchased, rented, or leased for exclusive use in the agricultural production of crops or products as produced by those agricultural industries included in s. 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products, taxable at the rate of 2.5 percent.

( ) Other (include description and statutory citation): \_\_\_\_\_

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

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

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

Purchaser's Name \_\_\_\_\_

Purchaser's Address \_\_\_\_\_

Name and Title of Purchaser's Authorized Representative \_\_\_\_\_

Sales and Use Tax Certificate of Registration No. (if applicable) \_\_\_\_\_

By \_\_\_\_\_

(Signature of Purchaser or Authorized Representative) \_\_\_\_\_

Title \_\_\_\_\_

(Title - only if purchased by an authorized representative of a business entity) \_\_\_\_\_

Date \_\_\_\_\_

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c),(30),(31),(32),(33),(34), 212.05(1), 212.0501, 212.06(1), 212.07(5), 212.08(3),(5)(a),(e) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, \_\_\_\_\_.

12A-1.091 Use Tax.

(1) through (13) No change.

(14)(a) Any person, whether registered or unregistered, who has purchased or leased tangible personal property either in this state or from out-of-state for use, consumption, or distribution, or for storage to be used or consumed in this state without having paid sales tax on such property if subject to tax, is required to remit use tax on the cost price and on the lease of such property. If such person is registered, use tax is to be remitted with the dealer's sales and use tax return. If such person is unregistered, use tax is to be remitted on Form DR-15MO, Mail Order/Use Tax Return (incorporated by reference in Rule 12A-1.097, F.A.C.), on or before the 20th day of the first month after the end of the calendar quarter during which any such property first came to rest and became a part of the general mass of property in this state. ~~When in those cases where~~ the 20th day falls on Saturday, Sunday, or a federal or state legal holiday, payments accompanied by returns will shall be accepted as timely if postmarked or

delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the Internal Revenue Code. A "legal holiday" pursuant to Section 7503 of the 1986 Internal Revenue Code, as amended, means a legal holiday in the District of Columbia or a Statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (d) No change.

~~(15) The use tax applies to promotional materials, as defined in s. 212.06(11)(b), F.S., including mail order sales as defined in s. 212.0596, F.S. After July 1, 1992, an exemption is provided on promotional materials which are subsequently exported outside this state through a refund of previously paid taxes or by the dealer self-accruing taxes as provided in Rule 12A-1.0911, F.A.C. While a dealer purchasing and distributing the promotional materials and the seller of the promoted subscriptions to publications are not required to be the same person, the exemption only applies when the seller of the promoted subscriptions to publications sold in this state is a registered dealer and is remitting sales tax to the Department on publications sold in this state. See Rule 12A-1.034, F.A.C., to obtain a refund of tax previously paid on promotional materials.~~

~~(15)(16) For use tax on services taxable under Part I, Chapter 212, F.S., see Rule 12A-1.0161, F.A.C.~~

~~Cross Reference: Rules 12A-1.0161, 12A-1.034, and 12A-1.0911, F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(7),(20),(21), 212.05(1), 212.0596(7), 212.06(1),(2),(4),(7),(8),(11), 212.07(8)(9), 212.183 FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 11-6-85, Formerly 12A-1.91, Amended 7-7-92, 6-2-93, 11-16-93, 1-4-94, 5-18-94, \_\_\_\_\_.

12A-1.0935 Authority to Issue Subpoenas and Subpoenas Duces Tecum.

(1) through (3) No change.

(4) Procedure for issuing a subpoena or subpoena duces tecum.

(a) Any employee in the Compliance Support Process or the Compliance Enforcement Process of the General Tax Administration Program may apply for the issuance of a subpoena or subpoena duces tecum. The applicant must use an Application for Subpoena and/or Subpoena Duces Tecum Issued under Section 212.14, F.S. (form DR-400100) form DR-13, APPLICATION FOR SUBPOENA and/or SUBPOENA DUCES TECUM. The application must be sworn to by the applicant, and must include:

1. through 6. No change.

(b) After approving the application for issuance of a subpoena, the executive director or other Department employee designated in subsection (3) ~~of this rule section~~ must sign the Subpoena and/or Subpoena Duces Tecum (form DR-400101) subpoena or subpoena duces tecum, prior to it being issued for service to the intended party. ~~Form DR-13A, SUBPOENA and/or SUBPOENA DUCES TECUM, must be used for this purposes.~~

(c) Service of the Subpoena. The subpoena or subpoena duces tecum must:

1. through 4. No change.

5. The Department must notify the affected taxpayer that a subpoena or subpoena duces tecum is being issued to a recipient. ~~This notification must occur~~ within three working days after the day the subpoena or subpoena duces tecum is served or delivered to the recipient. The Department will issue a Notice of Subpoena and/or Subpoena Duces Tecum (form DR-400102) to notify ~~must use form DR-13B, NOTICE OF SUBPOENA and/or SUBPOENA DUCES TECUM, for this notification to~~ the affected taxpayer.

(d) through (e) No change.

(f) ~~Form DR-13, APPLICATION FOR SUBPOENA and/or SUBPOENA DUCES TECUM, dated March, 1995, Form DR-13A, SUBPOENA and/or SUBPOENA DUCES TECUM, dated March, 1995, and Form DR-13B, NOTICE OF SUBPOENA and/or SUBPOENA DUCES TECUM, dated March, 1995, are hereby adopted by reference as the forms used by the Department of Revenue for the purposes of this rule. An invalid copy of any of these forms may be obtained by writing to: Florida Department of Revenue, Taxpayer Assistance, P. O. Box 7443, Tallahassee, Florida 32314-7443.~~

(5) through (8) No change.

(9) Compensation for Travel or Production of Records.

(a) through (b) No change.

(c) After the subpoena duces tecum is served, the third-party record-keeper is required to keep accurate records of personnel search time, the actual distance traveled to and from the courts as required in s. 92.142, F.S., and the number of reproductions made. To request compensation, the third-party record-keeper is required to submit an invoice to the employee of the Department who served the subpoena. The invoice should contain: the requestor's name and Federal Employer Identification Number (FEIN); the name of the Department employee who served the subpoena; the case name and number; the name of the taxpayer to whom the records pertain; and an itemized listing of the incurred costs being submitted for compensation.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.142(1), 212.14(7) FS. History--New 3-27-95, Amended.

12A-1.0955 Revocation of Sales Tax Certificates of Registration.

(1) No change.

(2) The Department may commence a revocation action through issuance of a Preliminary Notice of Revocation ~~(Form DR-1PN)~~ to the last known address of record furnished by the dealer. This Notice informs the dealer that:

(a) through (3) No change.

(4) To challenge a revocation as stated in an Administrative Complaint, the dealer shall submit a ~~completed Request for Hearing (Form DR-1AC) or a~~ written petition requesting a hearing, postmarked or hand-delivered no later than 21 consecutive calendar days after the issuance date on the Complaint.

(a) No change.

(b) The written petition for a hearing ~~or the Request for Hearing form~~ submitted by the dealer shall include all the following information:

1. through 7. No change.

(5) In the event a dealer fails to submit a timely written petition for a hearing ~~or a Request for Hearing (Form DR-1AC)~~, or fails to submit a written petition ~~or a Request for Hearing~~ which complies with all the requirements set forth in subsection (4) above, the Department shall, without conducting a hearing, issue a Final Order revoking the dealer's certificate of registration. Issuance of a Final Order shall constitute Final Agency Action.

(6) When a dealer submits a timely written petition ~~or Request for Hearing (Form DR-1AC)~~ which complies with all the requirements set forth in subsection (4) above:

(a) Any case involving disputed issues of material fact will proceed pursuant to the requirements of s. 120.57(1), F.S., unless waived by all parties. A written petition ~~or Request for Hearing~~ subject to this paragraph shall be filed with the Division of Administrative Hearings by the Department, within 10 consecutive calendar days of the date the Department receives the petition Request, if the Division is going to conduct the hearing. The Division of Administrative Hearings will subsequently assign a hearing officer and schedule a hearing pursuant to s. 120.57(1), F.S.

(b) All other cases will proceed pursuant to the requirements of s. 120.57(2), F.S. Such cases will be subject to the following informal hearing process within the Department:

1. Upon receipt of a timely written petition ~~or Request for Hearing~~, the Executive Director or the Executive Director's his designee will schedule and conduct an informal hearing, no earlier than 7 consecutive calendar days nor later than 20 consecutive calendar days after the date the Department receives the petition or request.

2. through 4. No change.

(7) through (9) No change.

(10) In addition to the forms prescribed in Chapter 12A-1, F.A.C. the following public use forms and instructions are employed by the Department in its dealings with the public when administering this rule, and are incorporated herein by reference. Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 1-800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

Form Number	Title	Effective Date
(1) DR-1PN	Preliminary Notice of Revocation	12/92
(2) DR-1AG	Agreement	12/92
(3) DR-1AC	Administrative Complaint/Request for Hearing	12/92

Specific Authority 72.011, 212.17(6), 212.18(2), 213.06(1), 213.21 FS. Law Implemented 72.011, 120.57(1),(2), 120.60(5), 120.80(14), 212.18(3) FS. History--New 12-8-92, Amended \_\_\_\_\_.

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

- (1) through (5) No change.
- (6) Temporary Tax Exemption Permit-Refund or Credit.
  - (a)1. To receive the exemption provided under 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 temporary tax exemption must file an Application for Temporary Tax Exemption Permit (form Form DR-1214), incorporated by reference in Rule 12A-1.097, F.A.C., with the Department prior to receiving a permit or refund for the new or expanded business. Upon a tentative affirmative determination of the business's qualification for exemption by the Executive Director or the Executive Director's designee, a temporary tax exemption permit shall be issued to, or a refund authorized for, the business entity.

2. through (11) No change.

(12) WAGES Program Business Registry. No machinery and equipment purchased, or leases 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), 212.0805, 212.13(2), 215.26(2) FS. History--New 5-11-92, Amended 7-1-99, 6-28-00, \_\_\_\_\_.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(2) DR-1	Application to Collect and/or Report and Use Tax in Florida Registration (r. 08/00 04/92)	___ 08/92
(3) DR-2A	Sales Tax Brackets Effective 6% Taxable Transactions (r. 02/88)	08/92
(4) through (5) renumbered (3) through (4) No change.		
(5)(6)(a) DR-7	Consolidated Sales and Use Tax Return (r. 12/99 03/92)	___ 08/92
(b) DR-7AR	Annual Registration Fee (Consolidated Registration No.) (r. 01/92)	08/92
(7) *DR-11	Sales and Use Tax Certificate of Registration (r. 01/89)	08/92
(8) *DR-14	Consumer's Certificate of Exemption (r. 04/90)	08/92
(6)(a) DR-15	Sales and Use Tax Return (r. 01/01)	___
(9)(a) DR-15AR	Annual Registration Fee (r. 01/92)	08/92
(b) DR-15CS	Sales and Use Tax Return (r. 07/00 01/92)	___ 08/92
(c) DR-15CSN	DR-15CS Sales and Use Tax Return - Line-by-Line Instructions (for Completing Form DR-15CS) (r. 07/00 06/91)	___ 08/92
(d) DR-15EZ	Sales and Use Tax Return (r. 01/01)	___
(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns (r. 01/01)	___
(d) through (e) renumbered (f) through (g) No change.		
(h)(f) DR-15MO	Mail Order/Use Tax Return (r. 09/00 N. 01/91)	___ 08/92

(i) DR-15N	<u>Instructions for 2001 DR-15 Sales and Use Tax Returns (r. 01/01)</u>	_____	(24) DR-151	<u>Blind Person's Application for Certificate of Exemption</u>	08/92
(j)(g) DR-15SA	<u>Supplementary Sales and Use Tax Return [Semi-Annual] for Multi state Business (r. 01/01 04/88)</u>	_____ 08/92	(25) *DR-152	<u>Consumer's Certificate of Exemption for the Blind</u>	08/92
(h) DR-15VO	<u>Sales and Use Tax Vending Machine Operator Quarterly Report (N. 7/91)</u>	08/92	(17)(26) DR-1214	<u>Application for Temporary Tax Exemption Permit (r. 08/00 09/99)</u>	_____ 06/00
(i) DR-15VOC	<u>Sales and Use Tax Vending Machine Operator Quarterly Consolidated Report (N. 7/91)</u>	08/92	(27) DCAEZ-001	<u>Florida Department of Community Affairs Job Creation Annual Report (N. 01/89)</u>	08/92
(j) DR-15VW	<u>Sales and Use Tax Vending Machine Wholesales Quarterly Report (N. 7/91)</u>	08/92			
(10) DR-17	<u>Cash Bond, Sales and Use Tax (r. 04/77)</u>	08/92			
(7) DR-18	<u>Application for Amusement Machine Certificate (r. 02/00)</u>	_____			
(11) DR-29	<u>Refund of Cash Bond (r. 09/87)</u>	08/92			
(12) through (17)	renumbered (8) through (13) No change.				
(18) DR-76	<u>Florida Contract Data Form (r. 05/91)</u>	08/92			
(19)(a) DR-77	<u>Contractor's Sales and Use Tax Bond (r. 09/90)</u>	08/92			
(b) DR-77A	<u>Contractor's Sales and Use Tax Bond (Open Bond) (r. 04/91)</u>	08/92			
(20) DR-92-1	<u>Surety Bond Sales and Use Tax (r. 09/83)</u>	08/92			
(21)(a) DR-95	<u>Schedule of Sales Tax Credits Claimed on Bad Debts (r. 07/88)</u>	08/92			
(14)(a)(b) DR-95A	<u>Schedule of Florida Sales or Use Tax Credits Claimed on Tangible Personal Property Repossessed (r. 04/95 04/88)</u>	_____ 08/92			
(b)(e) DR-95B	<u>Schedule of Florida Sales or Use Tax Credits Claimed on Repossessed Motor Vehicles (r. 04/93 04/88)</u>	_____ 08/92			
(22) through (23)	renumbered (15) through (16) No change.				

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2),(3) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00,\_\_\_\_\_.

12A-1.105 Service Warranties.

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

(c) If the person receiving consideration from the service warranty agreement holder is not the person issuing such warranty, then the issuer of the service warranty shall take from that person, in lieu of sales tax, a copy of that person's Annual Resale Certificate (form DR-13) certificate to the effect that the service warranty was purchased for resale, consistent with the requirements stated in Rule 12A-1.038, F.A.C.

(d) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(14)(a),(16), 212.0506, 212.054, 212.055, 212.06, 212.08(7)(v), ~~212.17~~, 212.18(3), 634.011, 634.131, 634.401, 634.415 FS. History—New 1-2-89, Amended 12-11-89, 8-10-92, 1-4-94, 3-20-96, 4-2-00,\_\_\_\_\_.

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

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 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rules, proposed rule amendments, and proposed rule repeals were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 9, 2000 (Vol. 26, No. 45, pp. 5223-5250). The workshop was held on November 28, 2000. No one provided comments at the workshop; no written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
Newspapers, Community Newspapers, Shoppers, Magazines, and Other Periodicals	12A-1.008
Printing of Tangible Personal Property	12A-1.027
Sales to Persons Engaged in Printing	12A-1.028
The Printing of Promissory Notes, Securities and Checks	12A-1.030
The Printing of Lawyers' Briefs and Accountants' Reports	12A-1.031
Promotional Materials Exported from this State	12A-1.034
Information Services; Mailing Lists	12A-1.062

**PURPOSE AND EFFECT:** The purpose of the proposed substantial rewording of Rule 12A-1.008, F.A.C., Newspapers, Community Newspapers, Shoppers, Magazines, and Other Periodicals, is to provide current guidelines to taxpayers who sell copies of, and subscriptions to, newspapers, magazines, and periodicals.

The purpose of the proposed substantial rewording of Rule 12A-1.027, F.A.C., Printing of Tangible Personal Property, is to provide current guidelines to taxpayers who are engaged in the printing of tangible personal property or graphic matter for sale or for use.

The purpose of the proposed repeal of Rule 12A-1.028, F.A.C., Sales to Persons Engaged in Printing; Rule 12A-1.030, F.A.C., The Printing of Promissory Notes, Securities and Checks; and Rule 12A-1.031, F.A.C., Printing of Lawyers' Briefs and Accountants' Reports, is to remove rules that are redundant of provisions regarding the printing of tangible personal property that will be provided in Rule 12A-1.027, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-1.034, F.A.C., Promotional Materials Exported from this State, is to remove guidelines that are redundant of other administrative rules and provide when an application for refund of tax paid must be filed with the Department to obtain a refund of tax paid on promotional materials that are exported from this state.

The purpose of the proposed amendments to Rule 12A-1.062, F.A.C., Information Services; Mailing Lists, is to clarify the exemption provided for information services.

**SUMMARY:** The proposed substantial rewording of Rule 12A-1.008, F.A.C.: (1) changes the title to "Newspapers, Community Newspapers, Shoppers, Magazines, and Other Periodicals"; (2) removes provisions that have been rendered obsolete through statutory changes; (3) defines the term "periodicals" to include newspapers, newsletters, magazines, and other periodicals, but to exclude books, whether published

in serial form or otherwise; (4) provides guidelines for when sales of copies of periodicals, and sales of subscriptions to periodicals, are subject to tax; (5) provides guidelines for when a carrier that delivers newspapers for a publisher will be required to register as a dealer and collect tax; (6) provides guidelines for newspaper publishers that collect and remit tax on behalf of their carriers; (7) provides guidelines for the taxability of periodicals sold through rack machines; (8) provides guidelines for when inserts distributed with newspapers and magazines are exempt from tax; (9) provides that publications that are published on a regular basis, distributed free of charge, and whose content is primarily advertising, are exempt; (10) provides guidelines regarding the sale or distribution of periodicals by associations; and (11) provides guidelines for the taxability of materials, supplies, and publications that are either produced for sale by a publisher or used by the publisher.

The proposed substantial rewording of Rule 12A-1.027, F.A.C.: (1) changes the title to "Printing of Tangible Personal Property" to reflect the substantial changes to the rule provisions; (2) provides a definition of the term "printing" for purposes of this rule section; (3) provides that the sale of printed tangible personal property or graphic matter is subject to tax; (4) provides that charges for uncanceled postage that is separately stated are not subject to tax; (5) provides that any person who prints catalogs or other advertising materials that are distributed free of charge, in this state or outside this state, is required to pay tax on the cost of printing the materials; (6) incorporates the provisions of ss. 1 and 2, Chapter 2000-275, L.O.F., which provide that printers are not required to collect tax on printed materials that are shipped to persons located within and outside Florida; (7) provides guidelines for when sales to a nonresident print purchaser for printing tangible personal property are not subject to tax; (8) incorporates the provisions of s. 1, Chapter 99-368, L.O.F. (creates s. 212.08(7)(fff) [now (aaa)], F.S.), which provides an exemption for film and other printing supplies used by businesses with certain SIC Code Numbers; (9) provides guidelines for the taxability of materials and supplies that become a part of the printed product for sale or that are used by the printer; (10) provides that selling printers who accept in good faith the required exemption certificates will not be held liable for any additional tax due; and (11) provides that printers are required to maintain the required certificates in their books and records.

The proposed repeal of Rule 12A-1.028, F.A.C., Sales to Persons Engaged in Printing; Rule 12A-1.030, F.A.C., The Printing of Promissory Notes, Securities and Checks; and Rule



12A-1.031, F.A.C., Printing of Lawyers' Briefs and Accountants' Reports, removes rules that are redundant of the provisions regarding the printing of tangible personal property that will be provided in Rule 12A-1.027, F.A.C., as amended.

The proposed amendments to Rule 12A-1.034, F.A.C.: (1) change the title to "Promotional Materials Exported from this State" to reflect the changes made to the rule; (2) remove provisions regarding advertising materials and printed matter that are obsolete; (3) incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F. Section 215.26, F.S., provides that an application for a refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax. Section 213.255(3), F.S., provides that an application for a refund of tax paid will be considered complete when all requested information is received by the Department.

The proposed amendments to Rule 12A-1.062, F.A.C.: (1) change the title to "Information Services; Mailing Lists," to reflect the proposed changes to the rule; (2) clarify the exemption provided for information services furnished to radio and television stations; (3) incorporate the ruling rendered by the circuit court in SOM Publishing, Inc. v. Department of Revenue, Fla. 15th Cir. Ct. 1998 (Case No. CL 97-004482), which held that a publication deemed by the Department to be a magazine should be treated the same as a newspaper for the purposes of purchasing photo services exempt from tax; (4) clarify that information services furnished to publishers of newspapers, magazines, and similar publications are exempt; (5) remove portions of the definition of "information services" that are not consistent with the provisions of s. 212.08(7)(v), F.S.; and (6) provide that the charge for information services, such as press clipping services, is exempt.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed rule amendments and proposed rule repeals only implement 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:** 212.06(3)(b)1., 212.17(6), 212.18(2), 213.06(1) FS.

**LAW IMPLEMENTED:** 92.525(1)(b),(3), 95.091, 212.02(4),(14),(15),(16),(19),(20), 212.05(1), 212.0596(2)(j), 212.0598, 212.0515(1),(2), 212.06(1),(2),(3)(b),(5)(a),(9),(11),(16), 212.07(1),(2), 212.08(7)(o),(v),(w),(aaa), 212.18(3)(a), 212.183(6), 213.255(1),(2),(3), 213.37, 215.26(2) FS.

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

**TIME AND DATE:** 10:00 a.m., March 13, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

**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 RULES IS:**

(Substantial Rewording of Rule 12A-1.008 follows. See Florida Administrative Code for present text.)

12A-1.008 Newspapers, Community Newspapers, Shoppers, Magazines, and Other Periodicals.

(1) NEWSPAPERS, COMMUNITY NEWSPAPERS, SHOPPERS, MAGAZINES, AND OTHER PERIODICALS.

(a) For purposes of this rule, the term "periodicals" includes newspapers, community newspapers, shoppers, newsletters, magazines, and other periodicals, but excludes books, whether published in serial form or otherwise.

(b)1. The sale of copies of periodicals is subject to tax. The sale of subscriptions to periodicals that are delivered to a subscriber in this state by a carrier or means other than by mail, such as home delivery, is subject to tax. When the designation of delivery is in this state by means other than by mail at the beginning of the subscription period, and it is later changed to outside this state or to be delivered by mail, the sale of the subscription is subject to tax.

2. The sale of subscriptions to periodicals that are delivered to the subscriber by mail are exempt whether delivered to a customer in this state or outside this state. When the destination of delivery at the beginning of the subscription period is by mail, but it is changed during the subscription period to be delivered in this state by a carrier or by means other than by mail, the sale of the subscription is exempt.

(c) When a publisher bills or invoices the consumer directly for copies of or subscriptions to periodicals for delivery other than by mail, the publisher is required to register as a dealer and collect and remit tax. (See Rule 12A-1.060, F.A.C.)

(d)1.a. When a publisher sells newspapers to its carriers and the carriers bill their customers and collect the payments, the publisher may elect to remit the applicable tax due for the carriers. The Department will authorize a publisher that uses

carriers to sell its newspapers to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the carrier register as a dealer and remit the tax, if the publisher properly complies with the provisions of Rule 12A-1.0911, F.A.C., Self-Accrual Authorization.

b. A publisher that has elected to remit the tax due for its carriers may take a credit for the amount of tax paid on the uncollected charges for periodicals credited to the carrier's account. The publisher should obtain for its records a signed statement from the carrier indicating the uncollected amount of the retail sales price charged to its customers. (See Rules 12A-1.012 and 12A-1.014, F.A.C.)

c. For purposes of this rule, "carrier" means any independent contractor, agent, street news vendor, or other person distributing periodicals on their own account and not as an employee of the publisher.

2. Any person who purchases newspapers from a publisher that has not elected to remit the tax due as provided in subparagraph 1., is required to register as a dealer and collect and remit tax on the retail sales price of the newspaper. Dealers registered with the Department may extend a copy of their Annual Resale Certificate (form DR-13) to the publisher to purchase newspapers for resale tax exempt.

#### (2) PERIODICALS SOLD THROUGH RACK MACHINES.

(a) The sale of periodicals through rack machines is a sale of tangible personal property through vending machines, as defined in s. 212.0515(1), F.S., subject to tax at the rate established in s. 212.0515(2), F.S. A notice must be conspicuously displayed on the face of the rack machine that the purchase price of a copy includes sales tax.

1. If a rack machine is owned by a publisher and serviced by the publisher's employees, the publisher is required to remit tax on sales made through such machine.

2. If a rack machine is owned by a retail establishment and is serviced by the employees of that establishment, the retail establishment is required to remit tax on sales made through such machine.

3. If a rack machine is owned and serviced by a carrier of a publisher who has elected to remit tax for its carriers, as provided in paragraph (1)(d), the publisher is required to remit tax on sales made through such machine.

4. If a rack machine is owned and serviced by a carrier of a publisher that has not elected to remit tax for its independent carriers, the carrier is required to remit tax on sales made through such machine.

(b) Owners or operators of rack machines through which sales are made must obtain a separate Sales and Use Tax Certificate of Registration (form DR-11) for each county in which such machines are located. One Sales and Use Tax Certificate of Registration is sufficient for all the rack machines and devices within a single county. (See Rule 12A-1.060, F.A.C.)

(c) For guidelines on the purchase or repair of rack machines, see Rule 12A-1.044, F.A.C.

(d) When a rack machine is placed on location by the owner of the machine under a written agreement, the terms of the agreement will govern whether the lease is a lease or license to use tangible personal property or a lease or license to use real property. For guidelines on the purchase or lease of rack machines and the lease or license to use real property for the placement of rack machines, see Rule 12A-1.044, F.A.C.

#### (3) PERIODICALS EXEMPT FROM TAX.

(a) Periodicals that meet the following requirements are exempt from tax:

1. The periodical is published on a regular basis;

2. The periodical is distributed free of charge to the recipient by mail, home delivery, rack machines, newsstands, or similar method; and

3. The content of the periodical is primarily advertising.

(b) The sale of subscriptions to periodicals that are delivered to the subscriber by mail are exempt.

(c) Distributors of tax exempt periodicals may issue an exemption certificate to their vendors in lieu of paying tax on the publishing or printing costs of, or for the purchase of items, such as paper and ink, that are incorporated into and become a component part of, the publication.

#### (4) INSERTS DISTRIBUTED WITH PERIODICALS.

(a) Inserts, such as magazines, handbills, circulars, flyers, advertising supplements, and other printed materials distributed with a newspaper, community newspaper, shopper, or magazine are a component part of the newspaper, community newspaper, shopper, or magazine.

(b) Inserts are exempt from tax when:

1. The inserts are either printed by the publisher of the newspaper, community newspaper, shopper, or magazine delivered directly to the publisher by any other printer for inclusion in a distributed newspaper, community newspaper, shopper, or magazine;

2. The inserts are labeled as part of the designated newspaper, community newspaper, shopper, or magazine in the masthead, logo, gang logo, or supplement line of the newspaper, community newspaper, shopper, or magazine to which they are inserted; and

3. The purchaser of the inserts presents a copy of the purchaser's Annual Resale Certificate (form DR-13) or an exemption certificate, as provided in Rule 12A-1.038, F.A.C., stating that the publication is exempt from tax pursuant to s. 212.08(7)(w), F.S., to the printer.

#### (5) PERIODICALS SOLD OR DISTRIBUTED BY ASSOCIATIONS.

(a) Periodicals that are provided by an association to its members for a charge that is separate and apart from the payment of membership dues are considered to be sold by the association. If an association indicates on its dues invoices,

membership billing statements, dues notices, or membership applications that a specified portion of the dues payment by the member is attributed to a periodical subscription, the amount specified for the subscription constitutes a sale of a subscription to the specified periodical.

(b) The charge for copies of periodicals, and subscriptions to periodicals that are not delivered to the purchaser by mail, are subject to tax. However, charges for subscriptions to periodicals that are delivered by mail to the member are exempt, whether the charge for such subscription is separately stated or included in the members' dues.

(c) Associations that make taxable sales of copies of periodicals and of subscriptions to periodicals are required to register with the Department, and collect and remit the applicable tax on such sales. (See Rule 12A-1.060, F.A.C.) Associations may issue a copy of their Annual Resale Certificate to their vendors in lieu of paying tax on the publishing or printing costs of, or for the purchase of items, such as paper and ink, that are incorporated into and become a component part of, a periodical that is sold to its members.

(d)1. An association that publishes a periodical for distribution to its members is not selling such publications when:

a. Each member is entitled to receive the periodical in return for payment of dues; and

b. There is no charge made for the periodical separate and apart from the payment of, or designated as a component part of, membership dues.

2. The purchase of printing or the cost of producing such periodicals by the association is subject to tax. If the association prints or otherwise produces the periodical itself, it is required to pay tax on such publications, as provided in s. 212.06(16), F.S.

#### (6) MATERIALS, SUPPLIES, AND SERVICES USED IN PERIODICALS.

(a) The purchase of materials and supplies, which become a component part of a periodical for resale, or for distribution free of charge as provided in subsection (3), is exempt from sales and use tax. Examples of such items are: paper stock, including newsprint; printer's ink; and dry spray powder that is used to speed the drying of ink on printed matter. Publishers whose business activity is limited to the tax exempt distribution of periodicals, as provided in subsection (3), are not required to register with the Department as a dealer and may issue an exemption certificate, as provided in Rule 12A-1.038, F.A.C., to the selling dealer to purchase such supplies and materials tax exempt. Dealers registered with the Department may present a copy of the dealer's Annual Resale Certificate (form DR-13) to the selling dealer to purchase such supplies and materials tax exempt.

(b) If a newspaper company employs another company or a printer to print its newspapers, the charge for printing is exempt when the purchaser presents a copy of the purchaser's

Annual Resale Certificate (form DR-13) to the selling printer or newspaper company. Publishers whose business activity is limited to the tax exempt distribution of periodicals, as provided in subsection (3), may issue an exemption certificate, as provided in Rule 12A-1.038, F.A.C., stating that the publication is exempt from tax pursuant to s. 212.08(7)(w), F.S., to the selling printer or publishing company.

(c) The purchase of items and materials used one time only for packaging periodicals, without which the delivery of the periodical would be impractical, or for the convenience of the customer, is exempt. Examples of such packaging materials are: boxes, cans, mailing and wrapping paper, wax and plastic bags, twine, wire and steel band material, and shipping tags.

(d) The charge for information services, such as news research services, including photo and news services, furnished to newspapers is exempt. The charge for press clipping services is exempt. See Rule 12A-1.062, F.A.C.

(e) The purchase of expendable materials, supplies, and other items that do not become a component part of, or accompany, the periodical for sale is subject to tax. Examples of such items are: rosin paste, gummed paste, flash bulbs, felt packing, art supplies, photographs, engravings, cuts, mats, mat services, chemicals and additives used for processing printed materials, chemicals used as cleaning agents or detergents, blankets, rollers, matrix, wire machines, and other production and packaging equipment.

(f) The purchase, production, or creation of film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and negatives used in producing periodicals for sale is subject to tax. When such items are manufactured, produced, compounded, processed, fabricated, or created by the publisher for his or her own use, the publisher shall pay tax on the cost price of such items. See Rule 12A-1.043, F.A.C. For the tax exemption provided for the purchase, production, or creation of these items to printers whose business is classified in the Standard Industrial Classification (SIC) Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President, as SIC Industry Numbers 275, 276, 277, 278, or 279, see Rule 12A-1.027, F.A.C.

(g) The use by the publisher of copies of a periodical that does not meet the exemption requirements provided in subsection (3), through consumption of copies for use by the publisher or copies that are to be given away by the publisher, is taxable at the usual retail price thereof, if any, or at the cost price, as defined in s. 212.06(16), F.S.

Specific Authority 212.17(6), 212.18(2), 212.06(1) FS. Law Implemented 212.02(4), ~~212.034~~, 212.05(1)(a),(b),(h)(e),(d),(i), ~~212.054~~, 212.0515(1),(2), 212.06(1)(a),(b),(9),(16), 212.07(1),(2), 212.08(7)(o),(v),(w),(aaa), 212.18(3)(a) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Formerly 12A-1.08, Amended 4-22-86, 12-13-88, 1-30-91, 3-17-94, 3-20-96, \_\_\_\_\_.

(Substantial Rewording of Rule 12A-1.027 follows. See Florida Administrative Code for present text.)

12A-1.027 Sales by Persons Engaged in Printing of Tangible Personal Property.

(1) "Printing" is the transfer of an image or images by the use of ink, paint, dyes, or similar substrate from an original image to the final substrate through the process of letterpress, offset lithography, gravure, screen printing, or engraving. "Printing" includes the process of and the materials used in binding. "Printing" also includes reproducing an image or images from an original substrate through the electrophotographic, xerographic, laser, or offset process, or a combination of these processes, by which an operator can make more than one copy without handling the original, such as that used to reproduce publications.

(2)(a) The sale of printed tangible personal property or graphic matter is subject to tax. All charges to the consumer for materials, for the production or fabrication of items used, and for binding and finishing the printed property or graphic matter for distribution are subject to tax, even when such charges are separately stated on an invoice, customer bill, or other tangible evidence of sale.

(b) Charges for uncanceled postage that are separately stated on a customer's invoice, bill, or other tangible evidence of sale are not subject to tax.

(3) The charge for printing or imprinting items provided by the customer to the printer is subject to tax.

(4)(a) When a printer located in Florida delivers printed materials to the United States Postal Service for mailing, it is presumed that all materials printed at the Florida facility are mailed to persons located within Florida, and the printer must collect tax on the sale of printed materials.

(b)1. A printer is relieved of the responsibility of collecting tax on the sale of printed materials when the purchaser provides the printer a signed certificate which certifies that:

a. The printer is to deliver the printed materials to the United States Postal Service for mailing, at least in part, to an agreed list of persons, other than the purchaser, located outside Florida; and

b. The purchaser understands that, as a result of the issuance of the certificate, the purchaser must pay sales or use tax directly to the Department for all printed materials in the stated order that are mailed to persons located within Florida.

2. The purchaser is obligated to pay use tax directly to the Department of Revenue when, based on the order provided to the printer, more than an unsubstantial part of the printed matter is delivered by the printer to the United States Postal

Service to be mailed to persons located inside Florida. If the purchaser is a registered dealer, the tax due may be reported and paid on the dealer's sales and use tax return. If the purchaser is not required to register as a dealer under the provisions of Rule 12A-1.060, F.A.C., the use tax may be reported and paid on a Mail Order/Use Tax Return (form DR-15MO, incorporated by reference in Rule 12A-1.097, F.A.C.).

(c) The following is a suggested format of an exemption certificate to be completed by the purchaser and presented to the selling printer (dealer) at the time of sale:

EXEMPTION CERTIFICATE  
PRINTED MATERIALS TO BE MAILED PARTLY  
OUTSIDE FLORIDA

\_\_\_\_\_ (Name of Purchaser of  
Printed Materials) certifies that he or she has placed an order,  
dated or numbered or otherwise described as follows:

\_\_\_\_\_ with  
\_\_\_\_\_ (Name of Printing Facility) for the  
printing of certain materials, and as a part of that order the  
Printing Facility has agreed to deliver the printed materials to  
the United States Postal Service for mailing to an agreed list of  
persons.

The above-named Purchaser further certifies that, based  
on the mailing list, more than an unsubstantial part of the  
printed materials will be mailed to persons located outside  
Florida.

The Purchaser understands that, as a result of this  
certification, the Printing Facility has no obligation to collect  
any sales or use tax for the printed materials from the  
Purchaser, and that the Purchaser must pay sales or use tax  
directly to the Department of Revenue for all printed materials  
in the above order that are mailed to persons located within  
Florida. Such tax is due on the first day of the month following  
the sale of the materials and is delinquent on the 21st day of  
that month.

Under the penalties of perjury, I declare that I have read  
the foregoing Exemption Certificate for Printed Material to be  
Mailed Partly Outside Florida, and the facts stated in it are true.

_____ Purchaser's Name (Print or Type)	_____ Florida Sales Tax Number (if registered)
_____ Signature and Title	_____ Date
_____ Federal Employer Identification Number (F.E.I.) or Social Security Number	_____ Telephone Number

(Form to be retained in Printing Facility's records)

(5)(a) Sales to a nonresident print purchaser for printing of tangible personal property are not subject to tax. A "nonresident print purchaser" is an out-of-state purchaser who is not required to be registered with the Department as a dealer under the provisions of s. 212.0596(2), F.S., and is purchasing printing of tangible personal property in this state. The nonresident print purchaser is required to furnish to the selling printer (dealer), at the time of sale, a certificate stating that the printed material purchased will be resold by the nonresident print purchaser and that the nonresident print purchaser is not required to register as a dealer with the Department under the provisions of s. 212.0596(2), F.S.

(b) The following is a suggested format of an exemption certificate to be completed by the nonresident print purchaser and presented to the selling printer (dealer) at the time of sale:

**EXEMPTION CERTIFICATE  
PRINTED MATERIAL PURCHASED BY A  
NONRESIDENT PURCHASER**

Name of Printer: \_\_\_\_\_  
Address of Printer: \_\_\_\_\_ (Street)  
\_\_\_\_\_ (City) \_\_\_\_\_ (State)

This is to certify that all tangible personal property purchased after \_\_\_\_\_ (date) by the undersigned purchaser of printed material, who is not a dealer required to obtain a certificate of registration with the Florida Department of Revenue under the provisions of s. 212.0596(2), F.S., from the above named Florida printer, is printed material purchased for resale by the undersigned print purchaser and for no other purpose.

Under the penalties of perjury, I declare that I have read the foregoing Printed Material Exemption Certificate, and the facts stated in it are true.

Name of Nonresident Print Purchaser: \_\_\_\_\_  
Address of Purchaser: \_\_\_\_\_ (Street)  
\_\_\_\_\_ (City) \_\_\_\_\_ (State)  
Federal Identification Number: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Authorized Representative) Date

This certificate shall be considered a part of each order the Print Purchaser gives to the printer named above.

(6)(a) The purchase of materials and supplies that become a component part of printed matter for resale is exempt from the tax. Examples of such items are: paper stock, including newsprint; printer's ink; and dry spray powder that is used to speed the drying of ink on printed matter.

(b)1. The purchase, production, or creation of film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and negatives used in producing graphic matter for sale by printers is exempt if the printer's business is classified in the Standard Industrial

Classification (SIC) Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President, by one of the following classifications:

- a. SIC Industry Number 275, Commercial Printing;
- b. SIC Industry Number 276, Manifold Business Forms;
- c. SIC Industry Number 277, Greeting Cards;
- d. SIC Industry Number 278, Blankbooks, Looseleaf Binders, and Bookbinding and Related Work;
- e. SIC Industry Number 279, Service Industries for the Printing Trade.

2. The purchaser must extend an exemption certificate to the selling dealer to purchase tax exempt the items provided in paragraph (a). The following is a suggested exemption certificate:

**EXEMPTION CERTIFICATE  
PURCHASES OF FILM AND OTHER PRINTING  
SUPPLIES**

\_\_\_\_\_  
(Purchaser's Name) certifies that the film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and/or negatives purchased on or after \_\_\_\_\_ (date) will be used to produce graphic matter for sale.

\_\_\_\_\_  
(Purchaser's Name) further certifies that its four-digit SIC Industry Number is classified under SIC Industry Group Number 275, 276, 277, 278, or 279, as contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

The undersigned understands that if such film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and/or negatives do not qualify for exemption, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state a certificate or statement in writing in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

\_\_\_\_\_  
Purchaser's Name (Print or Type) Florida Sales Tax Number  
\_\_\_\_\_  
Signature and Title Date  
\_\_\_\_\_  
Federal Employer Identification Number Telephone Number  
(F.E.I.) or Social Security Number

3. Any person who prints or publishes tangible personal property that does not meet the requirements of this paragraph must pay tax on such items.

(c) The purchase of items and materials used one time only for packaging printed matter, without which the delivery of the matter would be impractical, or for the convenience of the customer, is exempt. Examples of such packaging materials are: boxes, cans, mailing and wrapping paper, wax and plastic bags, twine, wire and steel band material, and shipping tags.

(d) The purchase of expendable materials, supplies, and other items that do not become a component part of, or accompany, the printed matter for sale is subject to tax. Examples of such items are: rosin paste, gummed paste, flash bulbs, felt packing, art supplies, photographs, engravings, cuts, mats, mat services, chemicals and additives used for processing printed materials, chemicals used as cleaning agents or detergents, blankets, rollers, matrix, wire machines, and other production and packaging equipment.

(7)(a) Selling printers (dealers) who accept in good faith the certificates required to be obtained from the purchaser will not be assessed tax on their sales of printed materials to that purchaser. The Department will look solely to the purchaser for any additional tax due.

(b) The selling printer (dealer) is required to maintain the certificates required to be obtained by the seller from the purchaser until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 212.06(3)(b) FS. Law Implemented 92.525(1)(b),(3), 212.02(14),(15)(c),(19), 212.0596(2)(j), 212.06(2),(3)(b),(5)(a), 212.08(7)(aaa), 213.37 FS. History-Revised 10-7-68, 6-16-72, Amended 5-18-74, Formerly 12A-1.27, Amended 5-18-94, \_\_\_\_\_.

12A-1.028 Sales to Persons Engaged in Printing.

(1) The purchase by a printer, including publishers of newspapers, magazines, periodicals, etc., of materials and supplies which become a component of the printed matter for resale, are exempt from the tax. Examples of such items are: paper stock, including newsprint; printer's ink; and dry spray powder, which is used by printers in speeding up the drying process of ink on printed matter.

(2) Photo and news services are exempt.

(3) Items for packaging tangible personal property for sale, which actually accompany the product sold to the customer without which the delivery of the product is impractical on account of the character of the contents and for which there is no separate charge are exempt. Examples of such items are: Boxes, cans, mailing and wrapping paper, wax and plastic bags, twine, wire and steel band material, and shipping tags.

(4) The following items are taxable: Rosin paste, gummed paste, paste labels (except address labels), flash bulbs, felt packing, film, zinc, photographic paper, art supplies, photographs, engravings, cuts, mats, mat services, art works, typography, chemicals used in processing printing and also chemicals used as cleaning agents or detergents, metals,

including additives, blankets, rollers, wire machines and other packaging equipment, matrix and other printing plant production equipment.

(5) A printer who purchases, fabricates or produces expendable items of tangible personal property such as engravings, cuts, mats, art work, typography, photographs, perforating tape, printing plates, etc., for use in producing newspapers, magazines, or periodicals for sale or in processing a customer's engraving or printing order but which items themselves do not become an ingredient or component part of the finished product, is construed to be the consumer of such items and shall pay the tax on his cost thereof. When the printer purchases such expendable items, the entire purchase price is subject to the tax. When he produces or fabricates such expendable items himself, his fabrication labor is not taxable but he shall pay the tax on the cost of the materials and supplies that he uses in the production or fabrication thereof. However, if by terms of the sales agreement, the printer agrees to sell such expendable items to his customer for an amount equal to or greater than his cost of the items and the printer separately bills his customer therefore and collects the tax thereon, in addition to the charge that he makes to the customer for the printing order, the printer is not the consumer of such items and is not liable for tax on his cost of the items sold.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c) FS. History-Revised 10-7-68, 6-16-72, Amended 1-19-74, Formerly 12A-1.28, Repealed \_\_\_\_\_.

12A-1.030 The Printing of Promissory Notes, Securities and Checks.

The printing of promissory notes, securities, evidences of debts, evidence of intangible rights, checks, bills of exchange and drafts is deemed the printing of tangible personal property and is taxable.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14),(15), 212.08(7)(v) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.30, Repealed \_\_\_\_\_.

12A-1.031 The Printing of Lawyers' Briefs and Accountants' Reports.

The printing of lawyers' briefs, accountants' reports or other representations of professional services is deemed the printing of tangible personal property and is taxable.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.31, Repealed \_\_\_\_\_.

12A-1.034 Direct Mail Advertising Matter, Handouts, Throw-Aways, Circulars, and Promotional Materials Exported from this State.

(1) Upon final sales to ultimate consumers of direct mail advertising pieces, circulars, hand-outs, throw-aways and similar advertising matter, the dealer shall collect the sales tax upon the selling price thereof from his purchaser.

(2) Advertising pieces, circulars, hand-outs and similar advertising matter are taxable.

~~(3) A printer (dealer) who operates a printing plant in which printed matter is manufactured for his own consumption, or for use in connection with fulfilling contracts, is taxable upon all materials going into the manufactured product. Costs of labor, power and other plant expenses incurred with respect to such items of tangible personal property are taxable.~~

~~(4) Although a publication may contain matters of general interest and reports of current events, it does not necessarily constitute a newspaper.~~

~~(1)(5)(a) Promotional materials as defined in s. 212.06(11)(b), F.S., which are sold, purchased, imported, used, manufactured, fabricated, processed, printed, imprinted, assembled, distributed, or stored in this state after July 1, 1987, and are subsequently exported outside this state are exempt from sales tax.~~

~~(2)(b) Any dealer who has on or after July 1, 1992, incurred use tax on the use in this state of promotional materials, as defined in s. 212.06(11)(b), F.S., may apply for a refund of tax paid on the promotional materials which are subsequently exported outside this state only when the seller of the promoted subscriptions to publications sold in this state is a registered dealer and is remitting sales tax to the Department on publications sold in this state. The dealer purchasing and distributing the promotional materials for promoted subscriptions and the seller of the promoted subscriptions to publications are not required to be the same person.~~

~~(3)(e) Any dealer who is unable to determine at the time of purchase of promotional materials whether the promotional materials will be used in this state or exported from this state may also make a request in writing to the Department to obtain written consent from the Department to assume the obligation of self-accruing and remitting directly to the state the tax due on taxable purchases of promotional materials, as defined in s. 212.06(11)(b), F.S., only when the seller of the promoted subscriptions to publications sold in this state is a registered dealer and is remitting sales tax to the Department on publications sold in this state. (See Rule 12A-1.0911, F.A.C.)~~

~~(4)(d) For purposes of this rule subsection, "promotional materials," as defined in s. 212.06(11)(b), F.S., includes tangible personal property that is given away or otherwise distributed to promote the sale of a subscription; written or printed advertising material, direct-mail literature, correspondence, written solicitations, renewal notices, and billings for sales connected with or to promote the sale of a subscription to a publication; and the component parts of each of these types of promotional materials.~~

~~(5)(e) A claim for exemption as provided in this rule subsection shall not be denied on the basis that the exportation process was not continuous and unbroken, that a separate consideration was not charged for the promotional materials so exported, or that the taxpayer kept, retained, or exercised any~~

right, power, dominion, or control over the promotional materials before transporting them from the state or for the purpose of subsequently doing so.

~~(6)(f) To receive a refund of tax paid to the Department for promotional materials, the dealer must file an Application for Refund from the State of Florida (form Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. Applications for Refund from the State of Florida (Form DR-26) are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax-On-Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331. 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 promotional materials are exported from this state.~~

~~2. The right to a refund of taxes paid pursuant to this subsection shall accrue when both the tax has been paid and the promotional materials are exported from this state.~~

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

~~(a)4. When the dealer's claim for refund under this subsection has been approved, the amount refunded will be the amount of use tax paid by the dealer on promotional materials that were subsequently exported from this state.~~

~~(b)5. Such use tax shall be refunded whether or not the dealer who paid the tax has been granted self-accrual authorization. See Rule 12A-1.0911, F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091, 212.02(4),(14),(16),(20), 212.06(1)(b),(11), 212.183(6), 213.255(1),(2),(3), 215.26(2) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.34, Amended 5-19-93, 11-16-93.

#### 12A-1.062 Information Services; Mailing Lists.

(1) No change.

(2) The charge for information information services furnished to newspapers, such as news research services, including photo and news services, and radio and television stations is exempt.

(3) "Information services Services" means and includes the services of collecting, compiling or analyzing information of any kind of nature, or furnishing reports thereof to other

persons. The charge for furnishing information services, such as newsletters, tax guides, research publications, and other written reports of compiled information, ~~which are not produced for and provided exclusively to a single customer,~~ is taxable.

(4) The charge for news research and information services, such as press clipping services, is exempt, even though the charge may be based on the number of clippings provided and the per clipping charge may be separately stated from the charge for providing the research and information service.

(5) The sale of mailing lists provided to the purchaser in printed form or on tape cartridges or diskettes is subject to tax.

(4) through (5) renumbered (6) through (7) No change.

~~Cross Reference Rule 12A-1.001(17), F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.06(1), 212.08(7)(v) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.62, Amended 9-14-93,\_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments and proposed rule repeals were noticed for a Rule Development Workshop in the *Florida Administrative Weekly* on November 9, 2000 (Vol. 26, No. 45, pp. 5250-5258). The workshop was held on November 28, 2000. In addition to comments received at the rule development workshop, written comments were received by the Department. In response to these comments, changes were made to the proposed substantial rewording of Rule 12A-1.008, F.A.C., to clarify the exemption provided for shoppers and community newspapers, to correct the exemption requirements for inserts distributed with publications, and to clarify that news information and photo services are not subject to tax. Changes were also made to Rule 12A-1.062, F.A.C., to clarify that news information and photo services are not subject to tax. These changes are incorporated into the Notice of Proposed Rulemaking.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE: RULE NO.:

Equipment Used to Deploy Internet Related  
Broadband Technologies in a Florida

Network Access Point; Refund Procedures 12A-1.0141

PURPOSE AND EFFECT: The purpose of the proposed creation of Rule 12A-1.0141, F.A.C., is to implement the provisions of s. 37, Ch. 2000-164, L.O.F. These provisions create s. 212.08(5)(p), F.S., which provides a refund of Florida tax that is paid on equipment used to deploy broadband technologies in a Florida network access point. When adopted, these proposed amendments will provide guidelines on how taxpayers may obtain a refund of Florida tax paid on equipment used to deploy broadband technologies in a Florida network access point.

SUMMARY: The proposed creation of Rule 12A-1.0141, F.A.C.: 1) provides refund procedures for Florida tax paid on eligible equipment; 2) establishes criteria to determine when an Application for Refund is complete pursuant to s. 213.255, F.S.; and 3) provides a suggested certificate to be provided with the required refund application.

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

LAW IMPLEMENTED: 212.08(5)(p), 213.255 FS.

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

TIME AND DATE: 10:00 a.m., March 13, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

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-1.0141 Equipment Used to Deploy Internet Related Broadband Technologies in a Florida Network Access Point; Refund Procedures.

(1) Equipment used to deploy internet related broadband technologies in a Florida network access point purchased by a communications service provider on or after July 1, 2000, is exempt. The exemption is only available through a refund of tax imposed by Chapter 212, F.S., paid on the purchase of such equipment. Refunds are available only to the extent of the amount appropriated annually by the Legislature for this purpose.

(2) For purposes of this rule:

(a) The term "broadband technology," as defined in s. 212.08(5)(p), F.S., means packaged technology that has the capability of supporting transmission speeds of at least 1.544 megabits per second in both directions.

(b) The term "communications service provider," as defined in s. 212.08(5)(p), F.S., means a company that supports or provides individuals and other companies with access to the Internet and other related services.

(c) The term "equipment," as defined in s. 212.08(5)(p), F.S., includes asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optic connector equipment, database equipment, and other network equipment used to provide broadband technology and information services.

(d) The term "network access point" means a carrier-neutral, public-private Internet traffic exchange point established in this state.

(3) To obtain a refund of tax imposed and paid pursuant to Chapter 212, F.S., on eligible equipment, an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) must be filed with the Department within 6 months after the eligible property is purchased. An Application for Refund shall not be considered complete pursuant to s. 213.255(3), F.S., and a refund shall not be approved until the applicant provides the following information and documentation to the Department and certifies that the provided information and documentation are true and correct:

(a) The name, address, Federal Employer Identification (FEI) number, and Sales Tax Registration Number (if registered) of the applicant;

(b) A copy of the sales invoices, or other documentation, evidencing payment for the eligible equipment;

(c) A schedule of sales invoices, or other documentation, evidencing payment for eligible equipment containing the following information: the invoice date; the invoice number; the name of the selling dealer; a specific description of each item of equipment and its location, including the serial number or other permanent identification number of the equipment; the amount of tax to be refunded that was paid to the selling dealer;

the amount of tax to be refunded that was self-accrued and paid directly to the Department; copies of ledgers and journals, as necessary, to evidence the self-accrual and payment of tax for each purchase of equipment; and the total amount of the refund claimed; and

(d) a statement that the equipment is necessary for use in the deployment of internet related broadband technologies in Florida as part of the direct participation by the communications service provider in a project to create and develop a Florida network access point, as provided in s. 212.08(5)(p), F.S., and that the equipment has been purchased for use as a component part of a Florida network access point.

(4) The following is a suggested format for a certificate to be provided to the Department when applying for a refund of tax paid on the purchase of eligible equipment:

CERTIFICATE

INTERNET RELATED BROADBAND TECHNOLOGY  
EQUIPMENT PURCHASED  
BY A COMMUNICATIONS SERVICE PROVIDER

\_\_\_\_\_ (Name of Communications Service Provider), located at \_\_\_\_\_, incorporated in the State of \_\_\_\_\_, with the following federal/state (circle one) identification number \_\_\_\_\_, certifies that:

1. the purchaser is a communications service provider, as defined in s. 212.08(5)(p), F.S.;

2. the equipment is necessary for use in deployment of internet related broadband technologies in Florida as part of the direct participation by the communications service provider in a project creating and developing a Florida network access point, as provided in s. 212.08(5)(p), F.S., and the equipment has been purchased for use as a component part of a Florida network access point;

3. the attached schedule of sales invoices, or other documentation, evidencing payment for eligible equipment, containing the information necessary to substantiate this claim for refunds, is incorporated and becomes a part of this certification; and

4. the attached copies of the sales invoices, or other documentation, evidencing payment for eligible equipment, are true and correct.

The undersigned understands that, if such equipment does not qualify for exemption, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to the State of Florida a certificate or statement in writing in which an exemption from sales tax is claimed, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Under the penalties of perjury, I declare that I have read the foregoing Certificate and the attached schedules and the facts stated herein are true and correct to best of my knowledge and belief.

\_\_\_\_\_  
Purchaser's Name (Print or Type)                      Address

\_\_\_\_\_  
Signature and Title    Date

\_\_\_\_\_  
Federal Employer Identification Number (FEI) or Social Security Number      Telephone Number

[Certificate to be attached to the provider's application for refund (form DR-26).]

(5) Any communications service provider who applies for a refund of tax paid to the seller of eligible equipment or self-accrued and paid directly to the Department must maintain adequate records and documentation necessary to substantiate the provider's right to a refund of tax paid until the tax imposed pursuant to Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

Specific Authority 212.08(5)(p), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(p), 213.255 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

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 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for the first Rule Development Workshop in the Florida Administrative Weekly on October 20, 2000 (Vol. 26, No. 42, pp. 4802-4804). A rule development workshop was held on November 9, 2000, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, regarding the proposed creation of Rule 12A-1.0141, F.A.C. Changes were made to the proposed rule text to: (1) change the phrase "equipment used to deploy broadband technologies" to "equipment used to deploy Internet related broadband technologies" in the title of the rule and throughout the text of the rule; (2) clarify that the exemption applies to equipment that has been purchased for use as a component part of a Florida network access point; and (3) provide that the issuer of the suggested exemption certificate states that the facts contained therein are true and correct to the best of that person's knowledge. These changes are included in the Notice of Proposed Rulemaking.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Monuments and Tombstones	12A-1.026
Funerals; Related Merchandise and Services	12A-1.035
Cemetery Organizations	12A-1.052

**PURPOSE AND EFFECT:** The purpose of the proposed repeal of Rule 12A-1.026, F.A.C., is to remove obsolete guidelines for the taxability of tombstones and mausoleums. Current guidelines for the sale of monuments and related monument services will be provided in the proposed substantial rewording of Rule 12A-1.035, F.A.C., Funerals; Related Merchandise and Services.

The purpose of the proposed substantial rewording of Rule 12A-1.035, F.A.C., is to: 1) change the title of the rule section to "Funerals; Related Merchandise and Services"; 2) consolidate the administration of funerals and related items and services under one administrative rule; 3) provide current guidelines regarding the application of sales tax to sales of funeral or burial services and funeral or burial merchandise; and 4) remove the exclusion from tax for ambulance service, as it is unrelated to funerals and funeral services and is an unnecessary rule provision.

The purpose of the proposed repeal of Rule 12A-1.052, F.A.C., is to remove: 1) unnecessary provisions regarding the requirement to register as a dealer and collect tax on the sale of tangible personal property that are provided in Rule 12A-1.060, F.A.C.; and 2) provisions regarding the bricking of graves and the construction of foundations for monuments that will be provided in the proposed substantial rewording of Rule 12A-1.035, F.A.C., Funerals; Related Merchandise and Services.

**SUMMARY:** The proposed repeal of Rule 12A-1.026, F.A.C., removes obsolete guidelines for the taxability of tombstones and mausoleums.

The proposed substantial rewording of Rule 12A-1.035, F.A.C.: 1) changes the title of the rule to "Funerals; Related Merchandise and Services"; 2) consolidates the administration of funerals and related items and services under one administrative rule; 3) removes unnecessary provision that charges for ambulance service are not subject to sales tax; 4) defines, for the purposes of the rule, the terms "consumer," "funeral service or burial service," and "funeral or burial merchandise"; 5) provides guidelines for when at-need sales to consumers by any person licensed or registered under the provisions of Chapter 470 or 497, F.S., are not subject to tax; 6) provides when the sale of funeral or burial merchandise will be presumed to be sold in conjunction with the sale of a funeral or burial service; 7) provides that tax is due at the time of purchase of funeral or burial merchandise used in providing funeral or burial services; 8) provides that tax is due at the time of purchase of funeral or burial merchandise for installation at the consumer's designated location; 9) provides that charges to

a consumer for funeral or burial merchandise sold under a pre-need contract are not subject to tax; 10) provides when monuments and related services are not subject to tax when sold for the memorialization of humans and for the memorialization of animal remains; 11) provides examples of monuments and related services that are not subject to tax; 12) provides guidelines for when dealers are required to register and collect tax due on the sale of funeral or burial merchandise to consumers; 13) provides that any sales tax separately stated in any contract and collected from the consumer is required to be remitted to the Department at the time of execution of the contract; 14) provides when dealers may extend a copy of their Annual Resale Certificate to purchase funeral or burial merchandise tax exempt for the purposes of resale; 15) provides that the purchase of tools, supplies, and other tangible personal property used in providing funeral or burial services, or for installation, is subject to tax; and 16) provides that cemeteries that hold a Consumer's Certificate of Exempt may issue a copy of their certificate to the selling dealer to make tax exempt purchases of items for their own use tax exempt.

The proposed repeal of Rule 12A-1.052, F.A.C., removes: 1) unnecessary provisions regarding the requirement to register as a dealer and collect tax on the sale of tangible personal property that are provided in Rule 12A-1.060, F.A.C.; and 2) provisions regarding the bricking of graves and the construction of foundations for monuments that will be provided in the proposed substantial rewording of Rule 12A-1.035, F.A.C., Funerals; Related Merchandise and Services.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed rule repeals and proposed substantial rewording of Rule 12A-1.035, F.A.C., only implement 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:** 212.05(1)(a),(c), 212.06(1), 212.08(2),(7)(o),(v) FS.

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

**TIME AND DATE:** 10:00 a.m., March 13, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

**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:**

12A-1.026 Monuments and Tombstones.

~~(1) Tombstones are items of tangible personal property and the labor used in cutting and marking them may not be excluded in computing the tax thereon. The installation and erection of a tombstone is taxable.~~

~~(2) The building of a mausoleum is the construction of real property, and the builder is the consumer of and taxable on the material and supplies he uses.~~

~~Cross Reference — Rules 12A-1.016, 12A-1.052.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(a), 212.06(1) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.26, Repealed.

(Substantial Rewording of Rule 12A-1.035 follows. See Florida Administrative Code for present text.)

12A-1.035 Funerals; Related Merchandise and Services.

(1) As used in this rule:

(a) "Consumer" means any person legally authorized to make financial arrangements for the purchase of a funeral or burial service or funeral or burial merchandise.

(b) "Funeral service" or "burial service" means any observance, ceremony, or service in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains.

(c) "Funeral merchandise" or "burial merchandise" means any tangible personal property commonly sold or used in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains. Examples of such items are caskets, burial containers, vaults, alternative containers, cremation containers, urns, monuments, private mausoleums, clothing, flowers, shrubs, benches, vases, memory folders, acknowledgment cards, prayer cards, and register books. This list is not intended to be an exhaustive list.

(2)(a)1. The following at-need sales to consumers by any person licensed or registered under the provisions of Chapter 470 or 497, F.S., are not subject to tax:

a. The sale of funeral or burial services;

b. The sale of funeral or burial merchandise sold in conjunction with the sale of a funeral or burial service; and

c. The sale of funeral or burial merchandise that is installed at the consumer's designated location.

2. The sale of funeral or burial merchandise is presumed to be made in conjunction with the sale of funeral or burial services when the seller of the merchandise is required to deliver the merchandise to any person licensed to provide funeral or burial services.

3. The purchase of funeral or burial merchandise by any person licensed or registered under the provisions of Chapter 470 or 497, F.S., for use in providing funeral or burial services or for installation at the consumer's designated location is subject to tax at the time of purchase.

(b) Charges to a consumer for funeral or burial merchandise sold under the provisions of a pre-need contract authorized by Chapter 497, F.S., are not subject to tax. When merchandise is purchased by any person licensed under Chapter 470, F.S., or by a holder of a Certificate of Authority issued pursuant to Chapter 497, F.S., to be provided at the time of death of the individual for whom the contract was purchased, tax is due at the time of purchase.

(3)(a) Monuments, monument services, and related monument products for the purposes of memorializing human remains are not subject to tax when:

1. The merchandise is sold in conjunction with the sale of a funeral or burial service; or

2. The merchandise is installed at the consumer's designated location.

(b) The following sales of monuments, monument services, and related monument products sold for the memorialization of animal remains are not subject to tax:

1. The sale of services for the final disposition of animal remains;

2. The sale of merchandise sold in conjunction with services for the final disposition of animal remains; and

3. The sale of monuments, monument services, and related monument products sold for the memorialization of animal remains that are installed at the purchaser's designated location.

(c) The following are examples of sales of monuments, monument services, and related monument products to consumers for the memorialization of human remains, or for the memorialization of animal remains, that are not subject to sales tax. This list is not intended to be an exhaustive list.

1. The sale of monuments, copings, or bases that are installed with or without a foundation or base;

2. The sale of a marker installed at the grave site or affixed to real property improvements, such as niches, crypts, benches, mausoleums, and other cemetery improvements;

3. The building of a mausoleum, columbarium, or below ground crypt;

4. The construction of foundations for monuments;

5. The sale of lettering installed or affixed to real property improvements, such as niches, crypts, benches, mausoleums, and other cemetery improvements;

6. Charges for the inscription of a monument, marker, crypt, or niche;

7. Charges for the repair of monuments when the repair is made at the site of installation;

8. Charges for cleaning monuments.

(4) The sale of funeral or burial merchandise that does not meet the requirements of subsection (2) or (3) is subject to tax. Any person who makes such sales is required to register with the Department as a dealer and collect the tax from the consumer. (See Rule 12A-1.060, F.A.C.) Tax previously paid by the dealer on the purchase of merchandise may be taken as a credit against the sales tax collected at the time of sale. The dealer should remit to the Department the difference between the amount of tax collected and the amount of tax paid on the purchase of the merchandise.

(5) Any person who separately itemizes and collects sales tax on any contract for the sale of funeral or burial merchandise must remit the tax to the Department at the time of execution of the contract. (See Rule 12A-1.056, F.A.C.)

(6) An Annual Resale Certificate (form DR-13) may be extended to the selling dealer to purchase funeral or burial merchandise tax exempt for the purposes of resale when:

(a) The applicable tax is collected from the consumer at the time of sale;

(b) The merchandise is not purchased for use by any person licensed under Chapter 470 or 497, F.S., to provide funeral or burial services to a consumer; and

(c) The merchandise is not installed at the consumer's designated location.

(7) The purchase of tools, supplies, and other tangible personal property used in providing funeral or burial services, or in preparing funeral or burial merchandise for sale or for installation, is subject to tax.

(8) Any cemetery that holds a Consumer's Certificate of Exemption (form DR-14) issued by the Department may extend a copy of its certificate to the selling dealer to purchase funeral or burial merchandise, tools, supplies, and other tangible personal property for its own use tax exempt.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(a),(c), 212.06(1), 212.08(2),(7)(v) FS. History--Revised 10-7-68, 6-16-72, Formerly 12A-1.35, Amended \_\_\_\_\_.

12A-1.052 Cemetery Organizations.

~~Cemetery organizations are dealers and must procure dealers' certificates of registration and collect the sales tax on sales of tangible personal property to the ultimate consumer. When such organizations brick up graves or construct foundations for monuments, etc., the provisions of Rule 12A-1.051 will apply. Church cemeteries are exempt on their purchases. Cross Reference Rule 12A-1.026.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.06(1), 212.08(7)(o) FS. History--Revised 10-7-68, 6-16-72, Formerly 12A-1.52, Repealed \_\_\_\_\_.

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

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)922-9407

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendment and proposed rule repeals were noticed for the first Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, pp. 6911-6913). A rule development workshop was held on January 27, 1999, in Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida, regarding these proposed rule repeals and proposed substantial rewording of Rule 12A-1.035, F.A.C. Changes were made to the proposed substantial rewording of Rule 12A-1.035, F.A.C., and a revised proposed rule was noticed for workshop in the Florida Administrative Weekly on June 30, 2000 (Vol. 26, No. 26, pp. 3061-3063). A second rule development workshop was held on July 19, 2000, in Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. Changes were made to the proposed substantial rewording of Rule 12A-1.035, F.A.C., and presented at the second rule development workshop and a revised proposed rule was noticed for workshop in the Florida Administrative Weekly on September 8, 2000 (Vol. 26, No. 36, pp. 4157-4159). A third rule development workshop was held on September 26, 2000, in Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. Changes were also made to the proposed substantial rewording of Rule 12A-1.035, F.A.C., and included in the proposed substantial rewording of Rule 12A-1.035, F.A.C., as contained in the Notice of Proposed Rulemaking.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES: PUBLIC USE FORMS  
 Enterprise Zone and Florida Neighborhood Revitalization Programs

RULE NOS.: 12A-1.097  
 12A-1.107

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C., is to incorporate the creation of new forms and amendments to forms utilized by the Department in the administration of the Enterprise Zone and Florida Neighborhood Revitalization Programs.

The purpose of the proposed substantial rewording of Rule 12A-1.107, F.A.C., is to provide current guidelines on: (1) how to obtain an enterprise zone jobs credit; (2) how to obtain a refund of tax paid on building materials used in the rehabilitation of real property located in an enterprise zone, business property used in an enterprise zone, building materials for construction of single-family homes in an enterprise zone, empowerment zone, or Front Porch Florida Community, or building materials used in redevelopment projects; (3) how to claim an exemption for electrical energy used in an enterprise zone; and (4) the Florida neighborhood revitalization programs provided in s. 212.08(5)(n) and (o), F.S.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C., incorporate amendments to form DR-15JZ, Florida Enterprise Zone Jobs Credit Certificate of Eligibility, and form DR-15JEZ, Application for the Exemption of Electric Energy Used in an Enterprise Zone, and incorporate the creation of form DR-26RP, Florida Neighborhood Revitalization Program.

The proposed substantial rewording of Rule 12A-1.107, F.A.C.: (1) changes the title to "Enterprise Zone and Florida Neighborhood Revitalization Programs" to reflect the changes made to the rule; (2) provides guidelines on how to obtain an enterprise zone jobs credit and when the required form must be filed with the Department; (3) provides guidelines for when an Application for Refund must be filed with the Department to obtain a refund of tax paid on building materials used in the rehabilitation of real property located in an enterprise zone, business property used in an enterprise zone, building materials for construction of single-family homes in an enterprise zone, empowerment zone, or Front Porch Florida Community, or building materials used in redevelopment projects; (4) provides guidelines on how to claim an exemption for electrical energy used in an enterprise zone; (5) provides guidelines for the Florida neighborhood revitalization programs provided in s. 212.08(5)(n) and (o), F.S.; and (6) provides guidelines on how to obtain forms, who is required to certify or sign the required forms, and when such forms must be submitted to the Department to be eligible for an exemption from tax or a refund of tax paid.

SPECIFIC AUTHORITY: 212.08(5)(g)6., (h)6., (n)4., (o)4., (15)(e), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.08(5)(g),(h),(n),(o),(15), 212.096, 212.15(2), 212.17(6), 212.18(2),(3) FS.

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

TIME AND DATE: 10:00 a.m, March 13, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

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:

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
	(2) through (9)(c) No change.	
(d) DR-15JZ	<u>Florida Enterprise Zone Jobs Credit Certificate of Eligibility Application for the Credit Against Sales Tax Effective July 1, 1996 For Job Creation (r. 01/00 40/88)</u>	08/92
(e) DR-15JEZ	<u>Application for the Exemption of Electric Energy Used in an Enterprise Zone Effective July 1, 1995 (r. 10/97 6/87)</u>	08/92
	(f) through (10) No change.	
(11) DR-26RP	<u>Florida Neighborhood Revitalization Program (r. 06/00)</u>	
	(11) through (27) renumbered (12) through (28) No change.	

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2),(3) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00.

(Substantial Rewording of Rule 12A-1.107 follows. See Florida Administrative Code for present text.)

12A-1.107 Enterprise Zone and Florida Neighborhood Revitalization Programs ~~Program~~.

(1) ENTERPRISE ZONE JOBS CREDIT.

(a) How to Claim the Credit. An application that includes the information required by s. 212.096(3)(a)-(f), F.S., must be filed with the Enterprise Zone Development Agency for the enterprise zone where the business is located to claim the enterprise zone jobs credit. The Department of Revenue prescribes form DR-15JZ, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Sales Tax-Effective July 1, 1996 (incorporated by reference in Rule 12A-1.097, F.A.C.) for this purpose.

(b) Forms Required. Taxpayers claiming the enterprise zone jobs credit against sales and use tax, must use form DR-15JZ to apply for, calculate, and claim the credit with the Department of Revenue. Form DR-15JZ must be certified by the Enterprise Zone Development Agency, attached to a sales and use tax return, and delivered directly to the Department, or post-marked, within four months after the new employee is hired.

(2) BUILDING MATERIALS USED IN THE REHABILITATION OF REAL PROPERTY LOCATED IN AN ENTERPRISE ZONE.

(a) How to Claim the Refund. An application that includes the information required by s. 212.08(5)(g)1., F.S., must be filed with the Enterprise Zone Development Agency for the enterprise zone where the building materials are used, to claim a refund of tax paid on building materials used in the rehabilitation of real property located in an enterprise zone. The Office of Tourism, Trade, and Economic Development prescribes form EZ-M, Florida Enterprise Zone Program-Building Materials Sales Tax Refund Application for Eligibility (hereby incorporated by reference), for this purpose. For the applicant to be eligible to receive a refund, the Enterprise Zone Coordinator for the enterprise zone where the building materials are used must certify, using form EZ-M, that the applicant meets the criteria provided in s. 212.08(5)(g), F.S. The Enterprise Zone Coordinator will certify form EZ-M, including the required attachments, and return the form and attachments to the applicant. The applicant is responsible for attaching the certified form EZ-M and the required attachments to form DR-26 and forwarding the package to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) and form EZ-M with the Department of Revenue. Form DR-26 must be attached to form EZ-M and its attachments, and the package must be delivered directly to the Department, or postmarked, within 6 months after the rehabilitation of the property is deemed substantially completed by the local building inspector. The completed form DR-26, the certified form EZ-M, and the required attachment, should be mailed to:

Florida Department of Revenue  
Refund Subprocess  
P. O. Box 6490  
Tallahassee, Florida 32314-6490.

(3) BUSINESS EQUIPMENT USED IN AN ENTERPRISE ZONE.

(a) How to Claim the Refund. An application that includes the information required by s. 212.08(5)(h)2., F.S., must be filed with the Enterprise Zone Development Agency for the enterprise zone where the business is located to obtain a refund of tax paid on business property used in an enterprise zone. The Office of Tourism, Trade, and Economic Development

prescribes form EZ-E, Florida Enterprise Zone Program-Business Equipment Sales Tax Refund Application for Eligibility (hereby incorporated by reference), for this purpose. For an applicant to be eligible to receive a refund, the Enterprise Zone Coordinator for the enterprise zone where the business property is used, must certify, using form EZ-E, that the applicant meets the criteria set forth in s. 212.08(5)(h), F.S. The Enterprise Zone Coordinator will certify form EZ-E, including the required attachments, and return the form and attachments to the applicant. The applicant is responsible for attaching the certified form EZ-E, and the required attachments, to form DR-26 and forwarding the package to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund (form DR-26) and form EZ-E with the Department of Revenue. The applicant is responsible for submitting an Application for Refund (form DR-26), the completed and certified form EZ-E, and the required attachments to the Department of Revenue. Form DR-26 must be attached to form EZ-E and attachments and delivered directly to the Department, or postmarked, within 6 months after the business property is purchased. The completed form DR-26, the certified form EZ-E, and the required supporting documentation should be mailed to:

Florida Department of Revenue  
Refund Subprocess  
P. O. Box 6490  
Tallahassee, Florida 32314-6490.

#### (4) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.

(a) How to Claim the Exemption. An application that includes the information stated in s. 212.08(15)(b), F.S., must be filed with the Enterprise Zone Development Agency for the enterprise zone where the business is located to claim an exemption from sales tax imposed on electrical energy. The Department of Revenue prescribes form DR-15JEZ, Application for the Exemption of Electrical Energy Used in an Enterprise Zone Effective July 1, 1995 (incorporated by reference in Rule 12A-1.097, F.A.C.), for this purpose. For an applicant to be eligible to receive an exemption from tax on electrical energy purchased in an enterprise zone, the Enterprise Zone Coordinator for the enterprise zone where the business is located must certify that the applicant meets the criteria set forth in s. 212.08(15)(b), F.S. The Enterprise Zone Coordinator for the enterprise zone where the property is located will sign form DR-15JEZ and return it to the applicant. The applicant is responsible for forwarding the certified form DR-15JEZ to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the exemption must file form DR-15JEZ with the Department of Revenue. Form DR-15JEZ, must be certified by the Enterprise Zone Coordinator of the enterprise zone where the business is

located. Form DR-15JEZ must be delivered directly to the Department, or postmarked, within 6 months after qualifying for the exemption. Form DR-15JEZ should be mailed to:

Florida Department of Revenue  
Sales Tax Registration  
5050 W. Tennessee Street  
Tallahassee, Florida 32399-0100.

#### (5) BUILDING MATERIALS AND LABOR FOR CONSTRUCTION OF SINGLE-FAMILY HOMES IN AN ENTERPRISE ZONE, EMPOWERMENT ZONE, OR FRONT PORCH FLORIDA COMMUNITY.

(a) How to Claim the Refund. An application that includes the information required by s. 212.08(5)(n)2., F.S., must be filed with the Department of Revenue to obtain a refund of tax paid on building materials and labor used in construction of single-family homes. The Department of Revenue prescribes form DR-26RP, Florida Neighborhood Revitalization Program (incorporated by reference in Rule 12A-1.097, F.A.C.), for this purpose. When the building materials and labor are used for construction of single-family homes located within an enterprise zone or empowerment zone, or Front Porch Florida Community, the Enterprise Zone Coordinator or the Chair of the Front Porch Community where the single-family home is located must sign form DR-26RP. The Enterprise Zone Coordinator or the Chair of the Front Porch Community will sign the application and return it to the applicant. The applicant is responsible for forwarding the completed form DR-26RP, and the required documentation, to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund (form DR-26) with the Department of Revenue. Form DR-26RP, signed by the Enterprise Zone Coordinator or the Chair of the Front Porch Community, and all the documentation listed on form DR-26RP, must be attached and forwarded to the Department. Form DR-26, form DR-26RP, and the required documentation must be delivered directly to the Department, or postmarked, within 6 months after the date the single-family home is deemed to be substantially completed by the local building inspector. Form DR-26, form DR-26RP, and the required documentation should be mailed to:

Florida Department of Revenue  
Refund Subprocess  
P. O. Box 6490  
Tallahassee, Florida 32314-6490.

#### (6) BUILDING MATERIALS USED IN REDEVELOPMENT PROJECTS.

(a) How to Claim the Refund. An application that includes the information required by s. 212.08(5)(o)2., F.S., must be filed with the Department of Revenue to obtain a refund of tax paid on building materials used in redevelopment projects. The Department prescribes form DR-26RP, Florida Neighborhood Revitalization Program, for this purpose. The contact person of

the enterprise zone, empowerment zone, Front Porch Florida Community, Urban High Crime Area, Brownfield Area, or Urban Infill and Redevelopment Area where the building materials are used must sign form DR-26RP. The contact person will sign the completed form DR-26RP and return it to the applicant. The applicant is responsible for forwarding the completed form DR-26RP and the required documentation to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund (form DR-26) with the Department of Revenue. Form DR-26RP, signed by the contact person, and all the documentation listed on form DR-26RP, must be submitted to the Department. Form DR-26, form DR-26RP, and required documentation must be delivered directly to the Department, or postmarked, within 6 months after the date the housing project or mixed-use project is deemed to be substantially completed by the local building inspector. Form DR-26, form DR-26RP, and the required documentation should be mailed to:

Florida Department of Revenue  
Refund Subprocess  
P. O. Box 6490  
Tallahassee, Florida 32314-6490.

(7) OBTAINING FORMS.

(a) The forms referenced in this rule are available, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address show inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

(b) These forms may also be obtained from the Enterprise Zone Development Agency for the enterprise zone in which the business is located.

(8) Questions relating to enterprise zones created on July 1, 1995, should be directed to:

Executive Office of the Governor  
Tourism, Trade, and Economic Development  
The Capitol  
Tallahassee, Florida 32399-0001.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rules were noticed for the first Rule Development Workshop in the Florida Administrative Weekly on December 22, 2000 (Vol. 26, No. 51, pp. 5845-5849). A rule development workshop was held on January 9, 2001, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, regarding these proposed rule changes. No one appeared at the workshop to provide comments; no written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
New Tire Fee	12A-12.001
Battery Fee	12A-12.0011
Reporting and Remitting Fees	12A-12.004

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12A-12.001, 12A-12.0011, and 12A-12.004, F.A.C., is to: (1) provide that the terms "resale certificate," "sales tax resale certificate," or "certificate," mean "an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale"; (2) provide that form DR-15SW is incorporated by reference in Rule 12A-16.008, F.A.C.; and (3) make necessary technical changes.

SUMMARY: The proposed amendments to Rules 12A-12.001, F.A.C. (New Tire Fee), and 12A-12.0011, F.A.C. (Battery Fee), provide that the terms "resale certificate," "sales tax resale certificate," or "certificate," mean "an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale."

The proposed amendments to Rule 12A-12.004, F.A.C. (Reporting and Remitting Fees): (1) provide that a Solid Waste and Surcharge Return (form DR-15SW) and payment accompanying the return are due to the Department, as provided in Rule 12A-1.056, F.A.C.; (2) provide that form DR-15SW is incorporated by reference in Rule 12A-16.008, F.A.C.; and (3) make a technical change to an address where a form may be obtained and to correctly reference subsection (8) of Rule 12A-1.056, F.A.C., effective April 2, 2000.

Specific Authority 212.08(5)(g)6.,(h)6.,(n)4.,(o)4.,(15)(e), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~166.231,~~ 212.08(5)(g),(h),(n),(o),(15), 212.096, 212.15(2), 212.17(6), 212.18(2); ~~290.0055, 290.0065~~ FS. History—New 1-3-96, Amended \_\_\_\_\_.



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

LAW IMPLEMENTED: 403.717, 403.718, 403.7185 FS.

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

TIME AND DATE: 10:00 a.m., March 13, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

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:

12A-12.001 New Tire Fee.

(1) through (4) No change.

(5) For purposes of this rule:

(a) through (d) No change.

(e) The term "sales tax resale certificate" or "certificate" means an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale.

(e) through (g) renumbered (f) through (h) No change.

(6) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b) FS. Law Implemented 403.717, 403.718 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 3-20-96, \_\_\_\_\_.

12A-12.0011 Battery Fee.

(1) through (5) No change.

(6) For purposes of this rule:

(a) through (b) No change.

(c) The term "resale certificate" or "sales tax resale certificate" means an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale.

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

(7) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.7185(3)(b) FS. Law Implemented 403.717(1)(b),(h), 403.7185 FS., ss. 1-2, ch. 99-281, L.O.F. History—New 10-16-89, Amended 12-16-91, 3-20-96, 4-2-00, \_\_\_\_\_.

12A-12.004 Reporting and Remitting Fees.

(1) No change.

(2)(a) A Solid Waste and Surcharge Return, ~~form Form~~ DR-15SW, reporting new tires and lead-acid batteries sold at retail shall be filed with the Department. The payment and the return must either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month fees shown by the return to be due shall be paid therewith on or before the twentieth day of the month following the date of month in which the retail sale, as provided in Rule 12A-1.056(1), F.A.C. occurred.

(b) The Solid Waste and Surcharge Return, form Form DR-15SW, ~~dated October 1994~~, is hereby incorporated by reference in Rule 12A-16.008, F.A.C. this rule. Copies of this form are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

~~(b) A Solid Waste and Surcharge Return, Form DR-15SW, reporting new tires and lead-acid batteries sold at retail shall be filed with the Department for each month during which the person owing a new tire fee or a battery fee was registered. The new tire and battery fees shown by the return to be due shall be paid therewith on or before the twentieth day of the month following the calendar month in which the retail sales of a new tire or a lead-acid battery occurred.~~

~~(b)(e)~~ No change.

~~(3) Requirements of Rule 12A-1.056(1), F.A.C., for timely filing and payment are applicable to such fees.~~

(4) through (5) renumbered (3) through (4) No change.

~~(5)(6)~~ As stated in Rule 12A-1.056(8)(9), F.A.C., with reference to taxes, the department is not authorized to extend the time to make any return or to pay the fees; and the consequences described in that subsection are applicable to the fees.

(7) through (8) renumbered (6) through (7) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS. Law Implemented 403.718, 403.7185 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 4-12-94, 3-21-95, 3-20-96, 4-2-00, \_\_\_\_\_.

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

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 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 9, 2000 (Vol. 26, No. 45, pp. 5258-5259). The workshop was held on November 28, 2000. No one provided comment at the workshop and no written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
Surtax Sales Brackets	12A-15.002
Imposition and Payment of Tax	12A-15.003
The Sale of Food, Drink, and Tangible Personal Property at Concession Stands	12A-15.010
Coin-Operated Amusement and Vending Machines, and Other Devices	12A-15.011
Alcoholic and Malt Beverages	12A-15.012
Public Use Forms	12A-15.015

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12A-15, F.A.C., Discretionary Sales Surtax, is to: (1) provide the effective sales tax brackets for transactions taxable at the rates of 2.5%, 6%, and 7% for counties that impose discretionary sales surtaxes at the rates of 1/2%, 3/4%, 1%, and 1 1/2% that are required by s. 212.12(11), F.S., as amended by s. 1, Chapter 2000-276, L.O.F.; (2) provide current guidelines and incorporate statutory changes regarding the sale of newspapers, magazines, and other periodicals; (3) simplify the guidelines provided for sales made by concessionaires; (4) simplify the guidelines for reporting discretionary sales surtax due on charges for amusement machines; (5) simplify guidelines to taxpayers who sell alcoholic and malt beverages as package goods, mixed drinks, or a combination thereof; (6) provide the applicable surtax reporting divisors for sales of items through vending machines or other devices for counties imposing no surtax and counties imposing surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%; and (7) remove forms that do not meet the definition of a "rule," as defined by s. 120.52(15), F.S., and are not required to be incorporated by reference.

SUMMARY: The proposed substantial rewording of Rule 12A-15.002, F.A.C.: (1) changes the title to "Surtax Sales Brackets" to reflect the substantial rewording of the rule text; (2) provides the effective sales tax brackets for transactions taxable at the rates of 2.5%, 6%, and 7% for counties that impose discretionary sales surtaxes at the rates of 1/2%, 3/4%,

1%, and 1 1/2% that are required by s. 212.12(11), F.S., as amended by s. 1, Chapter 2000-276, L.O.F.; (3) provides for easier reading of the sales tax brackets; and (4) removes the requirement to certify forms containing the sales tax brackets.

The proposed amendments to Rule 12A-15.003, F.A.C., Imposition and Payment of Tax: (1) provide current guidelines and incorporate statutory changes regarding the sale of newspapers, magazines, and other periodicals; and (2) remove the itemization of services that are subject to sales tax and to discretionary sales surtax.

The proposed amendments to Rule 12A-15.010, F.A.C.: (1) change the title to "The Sale of Food, Drink, and Tangible Personal Property at Concession Stands"; (2) simplify the guidelines provided for sales made by concessionaires; (3) clarify the method used to calculate tax and surtax due on sales made at concession stands; and (4) provide the applicable divisor rates for counties imposing no surtax and counties imposing discretionary sales surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%.

The proposed amendments to Rule 12A-15.011, F.A.C., Coin-Operated Amusement and Vending Machines, and Other Devices: (1) simplify the guidelines for reporting discretionary sales surtax due on charges for amusement machines; (2) provide the applicable surtax reporting divisors for sales of items through vending machines or other devices for counties imposing no surtax and counties imposing surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%; and (3) provide that the statutory tax reporting divisors for sales of food, beverages, and tangible personal property made through vending machines or other dispensing devices located in counties imposing a discretionary sales surtax are provided in s. 212.0515(2), F.S.

The proposed amendments to Rule 12A-15.012, F.A.C., Alcoholic and Malt Beverages: (1) simplify guidelines to taxpayers who sell alcoholic and malt beverages as package goods, mixed drinks, or a combination thereof; and (2) provide current tax reporting rates and divisors for counties imposing no discretionary surtax and counties imposing surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%.

The proposed amendments to Rule 12A-15.015, F.A.C.: (1) change the title to "Public Use Forms"; (2) remove forms that do not meet the definition of a "rule," as defined by s. 120.52(15), F.S., and are not required to be incorporated by reference; (3) provide a technical change to the Department's Internet address.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rules amendments only implement 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: 212.05(1)(i), 212.0515, 212.07(2), 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(16),(24), 212.05(1), 212.0506, 212.0515, 212.054, 212.055, 212.06(1),(4),(7),(8),(10), 212.07(2),(4),(8), 212.08(4), 212.12(9),(10),(11), 212.15(1),(4), 212.18(3) FS.

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

TIME AND DATE: 10:00 a.m., March 13, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone (850)922-9407

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 RULES IS:

(Substantial Rewording of Rule 12A-15.002 follows. See Florida Administrative Code for present text.)

12A-15.002 ~~Rate of Surtax~~ Sales Brackets.

(1) SALES GREATER THAN \$5,000. On taxable transactions in which the sales price for any item of tangible personal property exceeds \$5,000, the first \$5,000 of sales price is subject to the appropriate bracket charges as provided in this rule section. The amount of sales price in excess of \$5,000 for any item of tangible personal property is taxed at 6%.

(2) 1/2% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 13¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
<u>.10 – .15</u>	<u>.01</u>	<u>1.08 – 1.23</u>	<u>.08</u>
<u>.16 – .30</u>	<u>.02</u>	<u>1.24 – 1.38</u>	<u>.09</u>
<u>.31 – .46</u>	<u>.03</u>	<u>1.39 – 1.53</u>	<u>.10</u>
<u>.47 – .61</u>	<u>.04</u>	<u>1.54 – 1.69</u>	<u>.11</u>
<u>.62 – .76</u>	<u>.05</u>	<u>1.70 – 1.84</u>	<u>.12</u>
<u>.77 – .92</u>	<u>.06</u>	<u>1.85 – 2.09</u>	<u>.13</u>
<u>.93 – 1.07</u>	<u>.07</u>		

(b) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 15¢ is to be charged on each \$2 dollar of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
<u>.10 – .13</u>	<u>.01</u>	<u>1.07 – 1.20</u>	<u>.09</u>
<u>.14 – .26</u>	<u>.02</u>	<u>1.21 – 1.33</u>	<u>.10</u>
<u>.27 – .40</u>	<u>.03</u>	<u>1.34 – 1.46</u>	<u>.11</u>
<u>.41 – .53</u>	<u>.04</u>	<u>1.47 – 1.60</u>	<u>.12</u>
<u>.54 – .66</u>	<u>.05</u>	<u>1.61 – 1.73</u>	<u>.13</u>
<u>.67 – .80</u>	<u>.06</u>	<u>1.74 – 1.86</u>	<u>.14</u>
<u>.81 – .93</u>	<u>.07</u>	<u>1.87 – 2.09</u>	<u>.15</u>
<u>.94 – 1.06</u>	<u>.08</u>		

(c) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 3% percent is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax
<u>.10 – .35</u>	<u>.01</u>
<u>.36 – .65</u>	<u>.02</u>
<u>.66 – 1.00</u>	<u>.03</u>

(3) 3/4% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.03, 7¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
<u>.10 – .14</u>	<u>.01</u>	<u>.60 – .74</u>	<u>.05</u>
<u>.15 – .29</u>	<u>.02</u>	<u>.75 – .88</u>	<u>.06</u>
<u>.30 – .44</u>	<u>.03</u>	<u>.89 – 1.03</u>	<u>.07</u>
<u>.45 – .59</u>	<u>.04</u>		

(b) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.03, 8¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
<u>.10 – .12</u>	<u>.01</u>	<u>.52 – .64</u>	<u>.05</u>
<u>.13 – .25</u>	<u>.02</u>	<u>.65 – .77</u>	<u>.06</u>
<u>.26 – .38</u>	<u>.03</u>	<u>.78 – .90</u>	<u>.07</u>
<u>.39 – .51</u>	<u>.04</u>	<u>.91 – 1.03</u>	<u>.08</u>

(c) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been

taxable at the rate of 2½%. For taxable sales in the amounts of more than \$4.09, 13¢ is to be charged on each \$4 of price, plus the tax amount due on any fractional part of \$4.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .30	.01	2.16 – 2.46	.08
.31 – .61	.02	2.47 – 2.76	.09
.62 – .92	.03	2.77 – 3.07	.10
.93 – 1.23	.04	3.08 – 3.38	.11
1.24 – 1.53	.05	3.39 – 3.69	.12
1.54 – 1.84	.06	3.70 – 4.09	.13
1.85 – 2.15	.07		

**(4) 1% DISCRETIONARY SALES SURTAX.**

(a) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 7¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .14	.01	.58 – .71	.05
.15 – .28	.02	.72 – .85	.06
.29 – .42	.03	.86 – 1.09	.07
.43 – .57	.04		

(b) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 8¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .12	.01	.51 – .62	.05
.13 – .25	.02	.63 – .75	.06
.26 – .37	.03	.76 – .87	.07
.38 – .50	.04	.88 – 1.09	.08

(c) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2½%. For taxable sales in the amounts of more than \$2.09, 7¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .28	.01	1.15 – 1.42	.05
.29 – .57	.02	1.43 – 1.71	.06
.58 – .85	.03	1.72 – 2.09	.07
.86 – 1.14	.04		

**(5) 1 1/2% DISCRETIONARY SALES SURTAX.**

(a) When the rate of the surtax is 1½%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been

taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 15¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .13	.01	1.07 – 1.20	.09
.14 – .26	.02	1.21 – 1.33	.10
.27 – .40	.03	1.34 – 1.46	.11
.41 – .53	.04	1.47 – 1.60	.12
.54 – .66	.05	1.61 – 1.73	.13
.67 – .80	.06	1.74 – 1.86	.14
.81 – .93	.07	1.87 – 2.09	.15
.94 – 1.06	.08		

(b) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 17¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10 – .11	.01	1.10 – 1.17	.10
.12 – .23	.02	1.18 – 1.29	.11
.24 – .35	.03	1.30 – 1.41	.12
.36 – .47	.04	1.42 – 1.52	.13
.48 – .58	.05	1.53 – 1.64	.14
.59 – .70	.06	1.65 – 1.76	.15
.71 – .82	.07	1.77 – 1.88	.16
.83 – .94	.08	1.89 – 2.09	.17
.95 – 1.09	.09		

(c) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 4¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax
.10 – .25	.01
.26 – .50	.02
.51 – .75	.03
.76 – 1.09	.04

(6) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties imposing a discretionary sales surtax. Copies are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 1-800-352-3671 (in Florida only)

or 850-488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at <http://sun6.dms.state.fl.us/dor/taxes>. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9),(10),(11) FS. History--New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96,\_\_\_\_\_.

12A-15.003 Imposition and Payment of Tax.

(1) All transactions occurring in a county imposing the surtax which are subject to the state tax imposed on sales, use, rentals, admissions, services, and other transactions by Chapter 212, F.S., are subject to the surtax. ~~Effective January 1, 1994, services which are subject to the state tax imposed by Chapter 212, F.S., are subject to the surtax. These services include detective, burglar protection, and other protection services, nonresidential cleaning and nonresidential pest control services.~~

(2) through (4) No change.

(5)(a) The sale of subscriptions to a newspaper, magazine, or newsletter that is delivered to the purchaser by a carrier or means other than by mail, such as home delivery, a subscription or copy of a newspaper, magazine, or other publication is subject to a county's surtax if the publication is delivered to a purchaser is located in a county imposing a surtax, regardless of the physical location of the carrier or publication company. The sale of subscriptions to a newspaper, magazine, or newsletter that is delivered to a customer by mail is not subject to the surtax.

1. Example: A carrier or retailer that is registered to collect tax on the sale of newspapers is located in a county that does not impose the surtax and a newspaper it sells is delivered by a carrier into another county imposing the 1% surtax. Tax is due at the rate of 7% (6% state sales tax and 1% surtax).

2. Example: A carrier or retailer that is registered to collect tax on the sale of newspapers is located in a county that imposes a 1/2% surtax and a newspaper it sells is delivered by a carrier into another county imposing the 1% surtax. Tax is due at the rate of 7% (6% state sales tax and 1% surtax).

3. Example: A retailer that is registered to collect tax on the sale of magazines is located in a county that imposes a 1% surtax and a magazine it sells is delivered by means other than by mail into a county not imposing the surtax. Tax is due at the rate of 6% (6% state sales tax; no surtax is due).

(b) ~~A dealer who purchases a newspaper, magazine, or other publication, and did not pay sales tax, either because the vendor was located outside this state or for any other reason, but uses the publication in a county imposing the surtax, the purchasing dealer is required to accrue and remit not only the state use tax but also the county's surtax as a use tax. A Likewise, a dealer who owes use tax on newspapers, magazines, or other publications it produces for its own use or~~

purchases without paying the applicable sales tax due, is required to accrue and remit not only the state use tax and but also the surtax of the county in which it uses the publications.

(6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.0506, 212.054, 212.055, 212.06(1),(4),(7),(8),(10), 212.07(8)(9), 212.18(3) FS. History--New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96,\_\_\_\_\_.

12A-15.010 The Sale of Food, Drink, and Tangible Personal Property at by Concession Stands.

(1)(a) Concessionaires ~~Concession stands in a county levying the surtax at the rate of 1 1/2% selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business where it is impracticable due to the nature of the business practices within that industry to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, may calculate tax due for counties imposing a surtax as follows: shall remit tax at the rate of 7.95% of their taxable sales. To compute the correct amount of tax due, the dealer should divide the dealer's total receipts by 1.0795 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 7.95% rate recognizes the variations resulting from multiple sales transactions.~~

1. Divide the total gross receipts by the divisors provided in paragraph (b) to compute taxable sales;

2. Subtract taxable sales from the total gross receipts to compute the amount of tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

<u>Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.0659</u>
<u>1/2%</u>	<u>1.0697</u>
<u>3/4%</u>	<u>1.0724</u>
<u>1%</u>	<u>1.0751</u>
<u>1 1/2%</u>	<u>1.0795</u>

~~(2) Concession stands in a county levying the surtax at the rate of 1% selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business where it is impracticable due to the nature of the business practices within that industry to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, shall remit tax at the rate of 7.51% of their taxable sales. To compute the correct amount of tax due, the dealer should divide the dealer's total receipts by 1.0751 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 7.51% rate recognizes the variations resulting from multiple sales transactions.~~

(3) Concession stands in a county levying the surtax at the rate of 1/2% selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business, where it is impracticable due to the nature of the business practices within that industry to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, shall remit tax at the rate of 6.97% of their taxable sales. To compute the correct amount of tax due, the dealer should divide the dealer's total receipts by 1.0697 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 6.97% rate recognizes the variations resulting from multiple sales transactions.

~~(2)(4) Concessionaires Dealers operating concession stands selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business that separately state Florida sales tax on their charge tickets, sales slips, invoices, or other tangible evidence of sales recording the sales price of the items sold and the tax thereon, must maintain accurate records of the tax so collected and remit to the State the actual amount of the tax collected and due on their sales to the state.~~

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.15(1),(4) FS. History—New 12-11-89, Amended 3-20-96,\_\_\_\_\_.

12A-15.011 Coin-Operated Amusement and Vending Machines, and Other Devices.

(1) Amusement machines sales; levy of tax; effective tax rates.

(a) Charges Effective July 1, 1991, charges for the use of amusement machines, as defined in s. 212.02(24), F.S., are subject to the surtax at the rate imposed by the county where the machine is located taxable. To calculate the tax due in an applicable reporting period for amusement machines located in counties imposing a surtax:

1. Divide the total gross receipts from charges for the use of amusement machines by the divisors provided in paragraph (b) to compute taxable sales;
2. Subtract taxable sales from the total gross receipts to compute the amount of tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

<u>Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.040</u>
<u>1/2%</u>	<u>1.045</u>
<u>3/4%</u>	<u>1.0475</u>
<u>1%</u>	<u>1.050</u>
<u>1 1/2%</u>	<u>1.055</u>

~~(c)(b) The sale of tokens, slugs, coupons, and other items over-the-counter by individuals for the use of entertainment or amusement devices is taxable. Surtax is to be collected by the seller from the customer on the sales price at the rate of tax imposed by the county where the business is located. The surtax rate of 1 percent or 1/2 percent shall be collected by the seller from the customer on the total selling price if the business is located in a county levying a surtax.~~

~~(c) Operators of amusement machines into which money is inserted will be considered to be remitting sales tax at the rate prescribed by law if their remittances on the charges for the use of the machines do not fall below the effective tax rate established by this rule. This rate recognizes the variations resulting from multiple charges. It is presumed that the charge for use of the machine was adjusted to include tax.~~

~~1. The tax rate for amusement machines located in a county imposing a 1 1/2 percent surtax is 5.5 percent. To compute the correct amount of tax due, the operators of amusement machines should divide their total receipts from these machines by 1.055 to compute their gross sales and subtract their gross sales from the total receipts to arrive at the amount of sales tax due.~~

~~2. The tax rate for amusement machines located in a county imposing a 1 percent surtax is 5 percent. To compute the correct amount of tax due, the operators of amusement machines should divide their total receipts from these machines by 1.050 to compute their gross sales and subtract their gross sales from the total receipts to arrive at the amount of sales tax due.~~

~~3. The tax rate for amusement machines located in a county imposing a 1/2 percent surtax is 4.5 percent. To compute the correct amount of tax due, the operators of amusement machines should divide their total receipts from these machines by 1.045 to compute their gross sales and subtract their gross sales from the total receipts to arrive at the amount of sales tax due.~~

~~4. Money inserted into a machine which dispenses tokens, slugs, coupons, or any other item for use of entertainment or amusement devices will also be taxable at 1.055 percent of the gross sales in a 1 1/2 percent surtax county, at 1.050 percent of the gross sales in a 1 percent surtax county, and at 1.045 percent of gross sales in a 1/2 percent surtax county. Again, the total receipts from the machines providing the tokens, slugs, coupons, etc., should be divided by 1.055 if the machines are located in county levying a 1 1/2 percent surtax; 1.050 if the machines are located in a county levying a 1 percent surtax; or 1.045 if the machines are located in a county levying the 1/2 percent surtax; by operators, to compute their gross sales, and they should subtract the gross sales amount from total receipts to arrive at the amount of sales tax due.~~

(2) Vending machine sales; levy of tax; effective tax rates. Section 212.0515, F.S., provides the amount of tax to be paid on food, beverages, or other items of tangible personal property that are sold through vending machines.

(a) All sales made through vending machines of food, beverages, or other devices dispensing taxable items having a sales price of ten cents or more are taxable, unless specifically exempt. See Rule 12A-1.044(7), F.A.C., for exemptions.

(b)1. Effective January 1, 1992, sales of beverages, including, but not limited to, soft drinks, coffee, tea, natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products; or natural fruit or vegetable juices through a vending machine are taxable at the rate of 8.31 percent in a county levying a 1 1/2 percent surtax, 7.76 percent in a county levying a 1 percent surtax, and 7.20 percent in a county levying the 1/2 percent surtax. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0831 in a 1 1/2 percent surtax county, 1.0776 in a 1 percent surtax county, or 1.0720 in a 1/2 percent surtax county to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due. The milk products, natural fruit or vegetable juices were taxable at the rate of 7.76 percent in a county levying a 1 percent surtax and 7.20 percent in a county levying the 1/2 percent surtax until July 1, 1993.

2. Effective July 1, 1993, sales of natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices, or natural vegetable juices through a vending machine are taxable at the rate of 8.06 percent in a county levying the 1 1/2 percent surtax, 7.53 percent in a county levying the 1 percent surtax and 6.99 percent in a county levying the 1/2 percent surtax. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0806 in a 1 1/2 percent surtax county, 1.0753 in a 1 percent surtax county, and 1.0699 in a 1/2 percent surtax county, to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

3. Effective January 1, 1992, sales of food items through a vending machine are taxable at the rate of 8.06 percent in a county levying the 1 1/2 percent surtax, 7.53 percent in a county levying the 1 percent surtax, and 6.99 percent in a county levying the 1/2 percent surtax. For the purpose of this rule, gum and breath mints are considered food items. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0806 in a 1 1/2 percent surtax county, 1.0753 in a 1 percent surtax county, or 1.0699 in a 1/2 percent surtax county to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

4. All other sales through a vending machine are taxable at the rate of 7.95 percent in a county levying the 1 1/2 percent surtax, 7.51 percent in a county levying the 1 percent surtax,

and 6.97 percent in a county levying the 1/2 percent surtax. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0795 in a 1 1/2 percent surtax, 1.0751 in a 1 percent surtax county, or 1.0697 in a 1/2 percent surtax county to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

5. When there is a combination of beverages, food, or other items that are sold through the same vending machine, the vending machine operator may, if the operator can identify and account for each type of item vended, remit the tax at the appropriate rate for each type of item vended. Example: A vending machine contains various types of food and novelty items at different prices. If the operator can account for and identify the total number of food items vended times the sales price for these food items, the operator may remit the tax at the rate of 8.06 percent in a county imposing the 1 1/2 percent surtax, 7.53 percent in a county imposing the 1 percent surtax, and 6.99 percent in a county imposing the 1/2 percent surtax on the food items and 7.95 percent in a county imposing the 1 1/2 percent surtax, 7.51 percent in a county imposing the 1 percent surtax and 6.97 percent in a county imposing the 1/2 percent surtax on the novelty items. When an operator cannot identify and account for each type of item sold through the vending machine, the highest tax rate for a product vended shall be used for all products sold through that machine.

(c) Operators of vending machines or devices equipped with tax collecting devices are required to maintain accurate records and remit the actual tax collected.

(d)1. When a dealer can demonstrate to the satisfaction of the Department through its books and records that a lower rate than that which is provided in the preceding paragraphs of this subsection is applicable, except for food and beverage vending machines on and after January 1, 1992, or sales through an amusement machine on or after January 1, 1995, the total of the state tax and the surtax that is payable on sales through a vending machine or rack for selling newspapers, magazines, other publications, shall be at that rate. Effective January 1, 1992, operators of food and beverage vending machines must report the tax at the rate prescribed in s. 212.0515(2), F.S. Effective January 1, 1995, operators of amusement machines must report the tax at the rate prescribed in paragraph (1)(c) above.

2. In order to substantiate a lower effective tax rate, a vending machine operator is required to maintain books and records which contain the total number of items sold in each machine in which similar kinds of items are vended and the sales price for each item vended. Example: Company X wants to establish a lower effective tax rate for novelty items vended. The company must use the sale of all novelty items from each vending machine and the sales price of each item vended. The company should not include its food or drink sales in trying to establish a lower effective tax rate for its novelty items.

3. If an operator establishes a lower effective tax rate on a per vending basis, the operator must also establish an effective tax rate for any machine which produces a rate higher than that prescribed in this rule.

4. Operators using an effective tax rate other than the applicable rate prescribed within this rule must recompute the rate on a monthly basis.

~~(3) Owners or operators of coin-operated amusement and vending machines or devices dispensing taxable tangible personal property must obtain a separate sales and use tax Certificate of Registration (Form DR-11), incorporated in Rule 12A-1.097, F.A.C., for each county in which the coin-operated amusement and vending machines or devices dispensing taxable tangible personal property are located. Refer to Rule 12A-1.044(5), F.A.C., for further information on registration requirements.~~

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

Specific Authority 212.05(1)(i)(f), 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(24), 212.05(1)(i)(f), 212.0515, 212.054, 212.055, 212.07(2), 212.18(3) FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 9-14-93, 11-16-93, 12-13-94, 3-20-96, \_\_\_\_\_.

12A-15.012 Alcoholic and Malt Beverages.

(1)(a) Alcoholic beverages, including beer, ale, and wine, are subject to surtax at the rate imposed by the county where the business is located taxable. The dealer shall add the sales tax, plus the applicable surtax, to the sales price (~~including any other state and federal taxes~~) of each sale. The dealer is not permitted to advertise or hold out to the public in any manner that the dealer will absorb any part of the sales tax or surtax due or that the dealer will relieve the purchaser from the payment of sales tax or surtax.

(b) In some instances, it may be impractical for dealers who sell package goods, mixed drinks, or a combination of package goods and mixed drinks a dealer to separately itemize record the sales price of the beverage and the tax thereon. In such cases, a dealer is required to shall remit tax in accordance with one of the methods outlined below, and the dealer's records must substantiate the method chosen.

(2) DEALERS WHO DO NOT SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, does not put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

<u>County Surtax Rate</u>	<u>Effective Tax Rate</u>
<u>No Surtax</u>	<u>.0635</u>
<u>1/2%</u>	<u>.0677</u>
<u>3/4%</u>	<u>.07035</u>
<u>1%</u>	<u>.0730</u>
<u>1 1/2%</u>	<u>.0776</u>

~~1. When the business location is in a county levying the surtax at 1 1/2% and the public has not been put on notice through the posting of price lists or signs prominently throughout the establishment that tax is included in the total charge, package stores which sell no mixed drinks shall remit tax at the rate of 7.76% of their total receipts, and dealers who sell mixed drinks or combination of mixed drinks and package goods shall remit the tax at the rate of 7.95% of their total receipts.~~

~~2.a. Example: A package store located in a county imposing surtax at the rate of 1 1/2% that does not sell which sells no mixed drinks and whose total gross receipts are \$2,000 would multiply \$2,000 by .0776 7.76% to compute tax due of \$155.20. This is the amount of sales tax, plus surtax, due.~~

~~b. Example: A dealer who sells drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would multiply \$2,000 by 7.95% to compute tax due of \$159.00.~~

(b)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide the total gross receipts by the following divisors to compute taxable sales:

<u>County Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.0635</u>
<u>1/2%</u>	<u>1.0677</u>
<u>3/4%</u>	<u>1.07035</u>
<u>1%</u>	<u>1.0730</u>
<u>1 1/2%</u>	<u>1.0776</u>

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

~~2. When the business location is in a county levying the surtax at 1 1/2% and the public has been put on notice by means of price lists or signs posted prominently throughout the establishment that the total charge includes tax, the dealer shall report the tax collected by deducting the tax from the total receipts using the methods shown below:~~

~~2.a. Example: A package store located in a county imposing a surtax at 1 1/2% that does not sell which sells no mixed drinks and whose total gross receipts are \$2,000 would divide \$2,000 by 1.0776 to compute taxable sales of \$1,855.98; and tax collected of \$144.02. The store would subtract \$1,855.98 from \$2,000 to compute \$144.02 tax due. This is the amount of sales tax, plus surtax, due.~~

(3) DEALERS WHO SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and does NOT put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following



rates. The dealer should multiply the total gross receipts derived from the sale of mixed drinks and package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

<u>County Surtax Rate</u>	<u>Effective Tax Rate</u>
<u>No Surtax</u>	<u>.0659</u>
<u>1/2%</u>	<u>.0697</u>
<u>3/4%</u>	<u>.0724</u>
<u>1%</u>	<u>.0751</u>
<u>1 1/2%</u>	<u>.0795</u>

b. Example: A dealer who sells drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would divide \$2,000 by 1.0795 to compute taxable sales of \$1,852.71, and tax collected of \$147.29.

3. When the business location is in a county levying the surtax at 1% and the public has not been put on notice through the posting of price lists or signs prominently throughout the establishment that tax is included in the total charge, package stores which sell no mixed drinks shall remit tax at the rate of 7.30% of their total receipts, and dealers who sell mixed drinks or combination of mixed drinks and package goods shall remit the tax at the rate of 7.51% of their total receipts.

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would multiply \$2,000 by 7.30% to compute tax due of \$146.

2.b. Example: A dealer located in a county imposing a 1% surtax who sells mixed drinks or both a combination of mixed drinks and package goods and whose total gross receipts are \$2,000 would multiply \$2,000 by .0751 7.51% to compute tax due of \$150.20. This is the amount of sales tax, plus surtax, due.

(b)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide total gross receipts by the following divisors to compute taxable sales:

<u>County Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.0659</u>
<u>1/2%</u>	<u>1.0697</u>
<u>3/4%</u>	<u>1.0724</u>
<u>1%</u>	<u>1.0751</u>
<u>1 1/2%</u>	<u>1.0795</u>

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

4. When the business location is in a county levying the surtax at 1% and the public has been put on notice by means of price lists or signs posted prominently throughout the

establishment that the total charge includes tax, the dealer shall report the tax collected by deducting the tax from the total receipts using the methods shown below:

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would divide \$2,000 by 1.0730 to compute taxable sales of \$1,863.93, and tax collected of \$136.07.

2.b. Example: A dealer located in a county imposing a 1% surtax who sells mixed drinks or both a combination of mixed drinks and package goods and whose total gross receipts are \$2,000 would divide \$2,000 by 1.0751 to compute taxable sales of \$1,860.29, and tax collected of \$139.71. The dealer would subtract \$1,860.29 from \$2,000 to compute \$139.71 tax due. This is the amount of sales tax, plus surtax, due.

5. When the business location is in a county levying the surtax at 1/2% and the public has not been put on notice through the posting of price lists or signs prominently throughout the establishment that tax is included in the total charge, package stores which sell no mixed drinks shall remit tax at the rate of 6.77% of their total receipts, and dealers who sell mixed drinks or a combination of mixed drinks and package goods shall remit the tax at the rate of 6.97% of their total receipts.

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would multiply \$2,000 by 6.77% to compute tax due of \$135.40.

b. Example: A dealer who sells mixed drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would multiply \$2,000 by 6.97% to compute tax due of \$139.40.

6. When the business location is in a county levying the surtax at 1/2% and the public has been put on notice by means of price lists or signs posted prominently throughout the establishment that the total charge includes tax, the dealer shall report the tax collected by deducting the tax from the total receipts using the methods shown below:

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would divide \$2,000 by 1.0677 to compute taxable sales of \$1,873.19, and tax collected of \$126.81.

b. Example: A dealer who sells mixed drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would divide \$2,000 by 1.0697 to compute taxable sales of \$1,869.68, and tax collected of \$130.32.

(2) Notwithstanding other provisions of this section, dealers engaged in the business of making retail sales of alcoholic and malt beverages, who separately record the sales price of items sold and the tax thereon, must maintain accurate records of the tax collected, and the exact amount of tax must be remitted to the state.

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.054, 212.055, 212.07(2),(4), 212.08(4), 212.15(1),(4) FS. History--New 12-11-89, Amended 3-20-96,\_\_\_\_\_.

12A-15.015 Public Use Forms ~~Used by Public~~.

In addition to the forms prescribed in Chapter 12A-1, F.A.C. the following public use ~~public-use~~ forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surtax. These forms are hereby incorporated by reference in this rule. Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

FORM NUMBER	TITLE	EFFECTIVE DATE
(1) DR-2B	Sales Tax Brackets on all <del>6 1/2%</del> Taxable Transactions <del>(r-07/95)</del>	02/96
(2) DR-2C	Sales Tax Brackets Effective on all 7% Taxable Transactions <del>(r-02/95)</del>	02/96
(3) DR-2D	Sales Tax Brackets Effective on all 7.5% Taxable Transactions <del>(r-01/96)</del>	02/96
(4) DR-2E	Sales Tax Brackets Effective on all 8% Taxable Transactions <del>(r-02/95)</del>	02/96
(5) DR-2F	Sales Tax Brackets Effective on all 3.5% Taxable Transactions <del>(r-02/96)</del>	02/96
(6) DR-2G	Sales Tax Brackets Effective on all 4% Taxable Transactions <del>(N-02/96)</del>	02/96
(7) DR-2H	Sales Tax Brackets Effective on all 4.5% Taxable Transactions <del>(N-02/96)</del>	02/96
(8) DR-2I	Sales Tax Brackets Effective on all 5% Taxable Transactions <del>(N-02/96)</del>	02/96
(9) DR-2J	Sales Tax Brackets Effective on all 5.5% Taxable Transactions <del>(N-02/96)</del>	02/96
(10) DR-2K	Sales Tax Brackets Effective on all 8.5% Taxable Transactions <del>(N-02/96)</del>	02/96
(11) through (12)	renumbered (1) through (2) No change.	

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055 FS. History--New 12-11-89, Amended 8-10-92, 9-14-93, 3-20-96,\_\_\_\_\_.

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

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 1, 2001

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 9, 2000 (Vol. 26, No. 45, pp. 5259-5267). The workshop was held on November 28, 2000. No one provided comments at the workshop and no one submitted written comments. The Department announced at the workshop that the charts provided in the proposed rule amendments to paragraphs (2)(b), (3)(c), (4)(c), and (5)(a) of Rule 12A-15.002, F.A.C., Surtax Sales Brackets, were incorrectly published in the Florida Administrative Weekly. The Notice of Proposed Rulemaking will contain the necessary corrections.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
Exemptions	12A-16.003
Registration	12A-16.004
Exemption Permits, Certificates, and Affidavits	12A-16.005
Public Use Forms	12A-16.008

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12A-16.004, 12A-16.005, and 12A-16.008, F.A.C., and the proposed repeal of Rule 12A-16.003, F.A.C., is to: (1) provide that entities holding a valid Consumer's Certificate of Exemption (form DR-14) issued by the Department may lease or rent a vehicle for hire exempt from the rental car surcharge; (2) remove the repetition of provisions for exemptions; (3) remove the repetition of information on how to obtain forms and update that information; and (4) incorporate the May 1999 revisions to form DR-15SW.

SUMMARY: The proposed repeal of Rule 12A-16.003, F.A.C., Exemptions, removes provisions for exemptions from the rental car surcharge that are provided in Rule 12A-16.005, F.A.C., as amended.

The proposed amendments to Rule 12A-16.004, F.A.C., Registration: (1) correct the title of form DR-1, Application to Collect and/or Report Tax in Florida; and (2) remove the repetition of where to obtain forms that is currently provided in Rule 12A-16.008, F.A.C.

The proposed amendments to Rule 12A-16.005, F.A.C.: (1) change the title to "Exemption Permits, Certificates, and Affidavits"; and (2) provide that entities holding a valid Consumer's Certificate of Exemption (form DR-14) issued by the Department may lease or rent a vehicle for hire exempt from the rental car surcharge.

The proposed amendments to Rule 12A-16.008, F.A.C.: (1) change the title to "Public Use Forms"; (2) incorporate the revisions to form DR-15SW and the instructions to the form; and (3) make a technical change to an address where a form may be obtained.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.05(1), 212.06(1), 212.0606, 212.08(6),(7), 212.18(3), 212.183 FS.

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

TIME AND DATE: 10:00 a.m., March 13, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

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:

12A-16.003 Exemptions.

~~If the lease or rental of a for hire passenger motor vehicle is directly to an organization which is exempt from sales and use tax, such as a church or governmental entity, the lease or rental is likewise exempt from the surcharge. The exemption certificate required for sales and use tax shall satisfy the requirements of the surcharge.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.08(6),(7) FS. History--New 11-14-89, Repealed.

12A-16.004 Registration.

(1)(a) Before any person may engage in or conduct business in this state of leasing or renting any for hire passenger motor vehicle, that person must first file an Application to Collect and/or Report for Sales and Use Tax in Florida Registration (form Form DR-1). Registration as a sales tax dealer is sufficient registration for purposes of the surcharge. See Rule 12A-16.008, F.A.C., for information on how to obtain forms.

~~(b) Applications for Sales and Use Tax Registration (Form DR-1), incorporated by reference in Rule 12A-1.097, F.A.C., are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address show inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.~~

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.18(3) FS. History--New 11-14-89, Amended 8-10-92, 3-21-95, \_\_\_\_\_.

12A-16.005 Exemption Permits, Certificates, and Affidavits.

(1) The lease or rental of a for hire passenger motor vehicle directly to an entity that holds a valid Consumer's Certificate of Exemption (form DR-14) issued by the Department is exempt. Direct pay permits, exemption Permits, certificates, and exemption affidavits required to be issued to lease or rent a vehicle exempt from for sales and use tax shall satisfy the requirements of the exemption from the surcharge. However, if a permit, certificate, or affidavit is issued by the lessee or renter at the time of the lease or rental in lieu of surcharge, and the lessee makes a taxable use of the motor vehicle, the lessee or renter is required to remit the surcharge directly to the Department.

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~212.0606~~, 212.05(1), 212.06(1), 212.0606, 212.18(3), 212.183 FS. History--New 11-14-89, Amended.

12A-16.008 Public Use Forms ~~Used by Public~~.

In addition to the forms prescribed in Chapter 12A-1, F.A.C., the following public use ~~public use~~ forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surcharge. Copies of these forms are available, without cost, by: 1) writing the Florida

Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule 12C-1.051, F.A.C., Forms, is to incorporate by reference amendments to forms used by the Department in the administration of corporate income tax.

**SUMMARY:** The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), incorporate amendments to corporate income tax forms F-1120A, F-1120, F-1120N, F-1120ES, F-1120P, F-1120X, F-1157Z, and F-7004 that will be used for taxable years beginning on or after January 1, 2001.

**SPECIFIC AUTHORITY:** 213.06(1), 220.51 FS.

**LAW IMPLEMENTED:** 120.55(1)(a)4., 220.19, 220.21, 220.22, 220.221(3), 220.34, 220.51, 221.04 FS.

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

**TIME AND DATE:** 10:00 a.m., March 13, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4733.

**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).

FORM NUMBER	TITLE	EFFECTIVE DATE
(1) DR-15SW	Solid Waste and Surcharge Return (r. <del>05/99</del> <del>10/94</del> )	<u>03/95</u>
(2) DR-15SWN	<u>Instructions for Completing the DR-15SW Solid Waste and Surcharge Return</u> (r. 09/00)	_____

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~120.53(1)(b)~~; 212.0606, ~~212.17(4)~~, ~~212.18(2)~~ FS. History--New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, \_\_\_\_\_.

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

**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 1, 2001

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** The proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 9, 2000 (Vol. 26, No. 45, pp. 5267-5268). The workshop was held on November 28, 2000. No one provided comment at the workshop and no written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Corporate Income Tax**

**RULE TITLE:** Forms  
**RULE NO.:** 12C-1.051

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

12C-1.051 Forms.

The Department of Revenue adopts, and hereby incorporates by reference in this rule, the following forms and instructions:

FORM NUMBER	TITLE	EFFECTIVE DATE
(1) through (4)	No change.	
(5) F-1120A (Flats)	Florida Corporate Short Form Income Tax Return (r. <u>01/01</u> <del>N-01/99</del> )	<u>03/00</u>
(6)	No change.	
(7) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (r. <u>01/01</u> <del>01/99</del> )	<u>03/00</u>

- (8) F-1120N F-1120 Instructions - for filing Form F-1120 Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, 2000 (r. 01/01 01/99) \_\_\_\_\_ 03/00
- (9) F-1120ES Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax For Taxable Years Beginning on or After January 1, 2001 (Installment 1, 2, 3, 4) (r. 01/01 01/99) \_\_\_\_\_ 03/00
- (10) No change.
- (11) F-1120P Payment Coupon (r. 01/01 01/99) \_\_\_\_\_ 03/00
- (12) F-1120X Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (r. 01/01 01/99) \_\_\_\_\_ 03/00
- (13) through (16) No change.
- (17) F-1157Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (r. 01/01 07/98) \_\_\_\_\_ 03/00
- (18) through (21) No change.
- (22) F-7004 Florida Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return (r. 01/01 01/99) \_\_\_\_\_ 03/00

Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.55(1)(a)4., 220.19, 220.21, 220.22, 220.221(3), 220.34, 220.51, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4733

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 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 9, 2000 (Vol. 26, No. 45, p. 5269). The workshop was held on November 28, 2000. No one provided comment at the workshop and no written comments were received by the Department.

**STATE BOARD OF ADMINISTRATION**

RULE TITLES: RULE NOS.:  
 Reimbursement Contract 19-8.010  
 Insurer Reporting Requirements 19-8.029

PURPOSE AND EFFECT: These rules are promulgated to implement Section 215.555, Florida Statutes, regarding the Florida Hurricane Catastrophe Fund, for the 2001-2002 contract year.

SUMMARY: Proposed amended Rule 19-8.010, F.A.C. adopts the 2001 reimbursement contract. Proposed amended Rule 19-8.029, F.A.C., adopts forms for insurer reporting to the Florida Hurricane Catastrophe Fund for the 2001-2002 contract year.

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

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

SPECIFIC AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2),(3),(4),(5),(6),(7) FS.

REGARDLESS OF WHETHER OR NOT REQUESTED, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon, Wednesday, March 14, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack E. Nicholson, Chief Operating Officer of the Florida Hurricane Catastrophe Fund, State Board of Administration, P. O. Box 13300, Tallahassee, FL 32317-3300, telephone (850)413-1340

Any person requiring special accommodations to participate in this proceeding is asked to advise Patti Elsbernd at least five (5) calendar days before such proceeding. Patti Elsbernd may be reached by telephone at (850)413-1346 or by mail at P. O. Box 13300, Tallahassee, FL 32317-3300

THE FULL TEXT OF THE PROPOSED RULES IS:

19-8.010 Reimbursement Contract.

(1) through (6) No change.

(7) The reimbursement contract for the 2001-2002 contract year required by Section 215.555(4), Florida Statutes, which is called Form FHCF-2001K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #() and The State Board of Administration of the State of Florida (“SBA”) which Administers the Florida Hurricane Catastrophe Fund (“FHCF”), is hereby adopted and incorporated by reference into this Rule.

(8)(7) Copies of the reimbursement contract may be obtained from the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, FL 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308, (850)488-4406.

Specific Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00,\_\_\_\_\_.

19-8.029 Insurer Reporting Requirements ~~for the 1999-2000 Contract Year.~~

(1) Data Reporting of Insurer Exposure.

(a) No later than September 1 of each contract year, insurers and Joint Underwriting Associations shall report insured values reflecting wind exposure under Covered Policies by zip code and other relevant factors required to reflect each insurer's relative exposure to hurricane loss, valued as of June 30 of the current contract year. Such other relevant factors shall be determined by the Independent Consultant consistent with principles of actuarial science and in conjunction with the development of the Premium Formula.

(b) Confidentiality of exposure reports. Pursuant to the provisions of Section 215.557, Florida Statutes, Reports of insured values, the reports of insured values under covered policies by zip code submitted to the State Board of Administration pursuant to Section 215.555, Florida Statutes, as created by s. 1., ch. 93-409, Laws of Florida, or similar legislation, are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and section 24(a), Art. I of

the State Constitution. This exemption is subject to the Open Government Sunset Review Act in accordance with Section 119.04, Florida Statutes.

(c) Reporting Regarding Entities Not Required to Hold a Certificate of Authority. Existing Voluntary Pools, Voluntary Syndicates and Voluntary Joint Underwriting Associations are not participants in the FHCF since such entities are not considered to issue Covered Policies as defined in Section 215.555(2)(c), Florida Statutes, and such entities are not required to hold a certificate of authority. All existing voluntary pools, voluntary syndicates and voluntary joint underwriting associations which are not required to hold a certificate of authority shall execute a written statement on Form FHCF-M01, “Florida Hurricane Catastrophe Fund Statement regarding Voluntary Pools, Voluntary Syndicates and Voluntary Joint Underwriting Associations pertaining to Florida Statute 215.555,” rev. 5/99, which is hereby adopted and incorporated by reference, on behalf of itself and its members acknowledging that it and they have no rights to any recovery from the FHCF. Insurer losses associated with business written in Voluntary Pools, Voluntary Syndicates and Voluntary Joint Underwriting Associations shall not be reimbursed by the FHCF since exposures on Covered Policies are not required to be reported and premiums are not required to be paid on these exposures. Any newly created Voluntary Pool, Voluntary Syndicate or Voluntary Joint Underwriting Association shall be treated as specified under this subsection only if its formation is determined by the Board to be for business purposes benefiting Florida policyholders, not for purposes of creating an unfair marketing advantage over other insurers required to participate in the Fund, and not for the purpose of avoiding participation in the Fund provided such treatment is approved by the Department of Insurance as evidenced by a letter from the Department received by the Board prior to September 1 of any contract year.

(d) Reporting Regarding Insurers Withdrawing from the State or Discontinuing the Writing of All Kinds of Insurance Prior to June 30 + of Each Year. Insurers which discontinue writing insurance in Florida and have no remaining covered policy exposure as of June 30 of each Contract Year may petition for exemption from the Fund pursuant to Rule 19-8.012, F.A.C. Insurers which withdraw from the Florida insurance market prior to June 30 + and have no remaining covered policy exposure as of that date shall not participate in the Fund. The affected insurer shall provide written evidence obtained from the Department of Insurance that it has surrendered its certificate of authority and currently has no outstanding Covered Policies in force. Nothing in this rule shall be construed to conflict with the requirements of Section 624.430(1), Florida Statutes.

(2)(a) For the 1999-2000 contract year, the reporting shall be in accordance with the following: Form FHCF-D1A, “Florida Hurricane Catastrophe Fund 1999 Data Call,” rev.

5/99; Form FHCF-MOD, "CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1," rev. 12/22/94; and the FHCF computer validation software provided on diskette and called "FHCF Preliminary Validation Software Version 5.0," with its instructions. The two forms and the software with its instructions identified in the immediately preceding sentence are hereby adopted and incorporated by reference.

(b) For the 2000/2001 contract year, the reporting shall be in accordance with the following: Form FHCF-D1A, "Florida Hurricane Catastrophe Fund 2000 Data Call," rev. 5/00; Form FHCF-MOD, "CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1," rev. 12/22/94; and the FHCF computer validation software provided on diskette and called "FHCF Preliminary Validation Software Version 6.0," with its instructions. The two forms and the software with its instructions identified in the immediately preceding sentence are hereby adopted and incorporated by reference. For new companies, the company shall report its actual exposure as of December 31 of the contract year on or before March 1 of the contract year, to the Administrator on Form FHCF-D1B, "Florida Hurricane Catastrophe Fund 2000 Data Call for Newly Licensed Companies," rev. 5/00; Form FHCF-MOD, "CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1," rev. 12/22/94; and the FHCF computer validation software provided on diskette and called "FHCF Preliminary Validation Software Version 6.0," with its instructions. The two forms and the software with its instructions identified in the immediately preceding sentence are hereby adopted and incorporated by reference.

(c) For the 2001/2002 contract year, the reporting shall be in accordance with the following: Form FHCF-D1A, "Florida Hurricane Catastrophe Fund 2001 Data Call," rev. 5/01; Form FHCF-MOD, "CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1," rev. 12/22/94; and the FHCF computer validation software provided on diskette and called "FHCF Preliminary Validation Software Version 7.0," with its instructions. The two forms and the software with its instructions identified in the immediately preceding sentence are hereby adopted and incorporated by reference. For new companies, the company shall report its actual exposure as of December 31 of the contract year on or before March 1 of the contract year, to the Administrator on Form FHCF-D1B, "Florida Hurricane Catastrophe Fund 2001 Data Call for Newly Licensed Companies," rev. 5/01; Form FHCF-MOD, "CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1," rev. 12/22/94; and the FHCF computer validation software provided on diskette and called "FHCF Preliminary Validation Software Version 7.0," with its instructions. The two forms and the software with its instructions identified in the immediately preceding sentence are hereby adopted and incorporated by reference.

(3) through (4) No change.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2),(3),(4),(5),(6),(7),(15) FS. History—New 5-17-99, Amended 6-19-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, Chief Operating Officer, Florida Hurricane Catastrophe Fund, State Board of Administration

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2000

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Manifests for Processed Products	20-71
RULE TITLES:	RULE NOS.:
Manifest Requirements	20-71.001
Required Manifest Statement	20-71.002
Failure to Furnish Manifests	20-71.003
Purpose	20-71.004
Manifest Requirements and Statements for Inter-company Transports	20-71.005
Manifest Requirements and Statements for Transports of Processed Citrus Products	20-71.006

PURPOSE AND EFFECT: Would repeal rule sections 20-71.001, 20-71.002, and 20-71.003 and bring rule up-to-date with the way business is currently being conducted by re-writing rule to eliminate inspection for inter-company transport of processed citrus products.

SUMMARY: Eliminating inspection for inter-company transport of processed citrus products.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

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

SPECIFIC AUTHORITY: 601.10(1),(7), 601.11, 601.49 FS.

LAW IMPLEMENTED: 601.10(7), 601.11, 601.49, 601.52 FS.

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

TIME AND DATE: 9:00 a.m., March 21, 2001

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-71.001 Manifest Requirements.

Every shipper of processed citrus products shall deliver to the inspector a copy of the loading manifest for each shipment, which shall include:

- (1) Name of Shipper;
- (2) Date of shipment;
- (3) An itemized list of products for each grade, showing number, size and kind of immediate containers, together with respective code numbers.

Specific Authority 601.10(1),(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.49, 601.52 FS. History-Formerly 105-1.24(1), Revised 1-1-75, Formerly 20-71.01, Repealed.

20-71.002 Required Manifest Statement.

Each manifest shall include a statement, by the shipper, that all processed citrus products regulated by Chapter 601, Florida Statutes, included in such shipment, have been inspected and certified, that official certificates of inspection are on file and available upon request, and that payment of all excise taxes and inspection fees has been made or guaranteed as provided in applicable rules of the Department of Citrus.

Specific Authority 601.10(1),(7), 601.11, 601.49 FS. Law Implemented 601.10(7), 601.11, 601.49, 601.52 FS. History-Formerly 105-1.24(2), Revised 1-1-75, Formerly 20-71.02, Repealed.

20-71.003 Failure to Furnish Manifests.

Loading manifests shall accompany original inspection certificates. The inspector shall not furnish certificates of inspection until such manifests have been delivered to him.

Specific Authority 601.10(1),(7), 601.11, 601.49 FS. Law Implemented 601.10(7), 601.11, 601.49, 601.52 FS. History-Formerly 105-1.24(3), Revised 1-1-75, Formerly 20-71.03, Repealed.

20-71.004 Purpose.

The purpose of this rule is to outline information that is to be included on all manifests regarding processed citrus products transports within the state of Florida.

Specific Authority 601.10(1),(7), 601.11, 601.49 FS. Law Implemented 601.10(7), 601.11, 601.49, 601.52 FS. History-New.

20-71.005 Manifest Requirements and Statements for Inter-company Transports.

Any time a shipper is transporting processed citrus products inter-company within the state of Florida, the shipper shall deliver to the inspector a copy of the loading manifest for each shipment. An inter-company transport occurs when processed citrus product is transported between facilities that are one hundred percent (100%) owned by the shipper. These manifests shall indicate:

- (1) Name of Shipper;
- (2) Date of shipment;
- (3) A certified statement that the processed citrus products are being transported inter-company.

(4) Each manifest shall include a statement, by the shipper, that all processed citrus products regulated by Chapter 601, Florida Statutes, included in such shipment, have been inspected and that payment of all excise taxes and inspection fees has been made or guaranteed as provided in applicable rules of the Department of Citrus.

Specific Authority 601.10(1),(7), 601.11, 601.49 FS. Law Implemented 601.10(7), 601.11, 601.49, 601.52 FS. History-New.

20-71.006 Manifest Requirements and Statements for Transports of Processed Citrus Products.

With the exception of inter-company transports, every shipper of processed citrus products shall deliver to the inspector a copy of the loading manifest for each shipment, which shall indicate:

- (1) Name of shipper;
- (2) Date of shipment;
- (3) An itemized list of products for each grade, showing number, size and kind of immediate containers, together with respective code numbers.

(4) Each manifest shall include a statement, by the shipper, that all processed citrus products regulated by Chapter 601, Florida Statutes, included in such shipment, have been inspected and certified, that official certificates of inspection are on file and available upon request, and that payment of all excise taxes and inspection fees has been made or guaranteed as provided in applicable rules of the Department of Citrus.

(5) Loading manifests shall accompany original inspection certificates. The inspector shall not furnish certificates of inspection until such manifests have been delivered to him.

Specific Authority 601.10(1),(7), 601.11, 601.49 FS. Law Implemented 601.10(7), 601.11, 601.49, 601.52 FS. History-New.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Mia L. McKown, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

Mia L. McKown, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

December 19, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

January 5, 2001

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Certificate of Grade Inspection –

RULE CHAPTER NO.: 20-72

Processed Products

20-72

RULE TITLE: Alternate Proof of Inspection

RULE NO.: 20-72.009

PURPOSE AND EFFECT: Would eliminate inspection of inter-company transport of processed citrus products.

SUMMARY: Elimination of inspection for inter-company transport of processed citrus products.



SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

SPECIFIC AUTHORITY: 601.49 FS.

LAW IMPLEMENTED: 601.49 FS.

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

TIME AND DATE: 9:00 a.m., March 21, 2001

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-72.009 Alternate Proof of Inspection.

Subject to limitations prescribed by the Department of Agriculture or its authorized agents, the fact of inspection for each shipment of processed citrus products may be shown by appropriate means on the manifest or bill of lading in lieu of the certification of grade inspection required to accompany each shipment. This rule section does not apply when processed citrus products are transferred between facilities that are one hundred percent (100%) owned by the shipper.

Specific Authority 601.49 FS. Law Implemented 601.49 FS. History—Formerly 105-1.22(5), Revised 1-1-75, Formerly 20-72.09, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Mia L. McKown, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mia L. McKown, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 5, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division of Medicaid**

RULE TITLE: Dental Services

RULE NO.: 59G-4.060

PURPOSE AND EFFECT: The 2000 Florida Legislature passed CS/SB 2034, Section 71, which amended §409.912, Florida Statutes, to require the Agency for Health Care Administration to develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Reimbursement Handbook, Dental 111, February 2001, which contains the policy that Medicaid practitioners who prescribe drugs must use a counterfeit-proof prescription pad for Medicaid

prescriptions. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Provider Reimbursement Handbook, Dental 111, updated February 2001.

SUMMARY: This rule amendment incorporates by reference the revised Florida Medicaid Provider Reimbursement Handbooks, Dental 111, February 2001, which requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.912 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 12, 2001

PLACE: Building 3, Room number will be available at the desk

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Marsh, Medicaid Program Integrity, 2002 Old St. Augustine Road, Building B, Suite 10B, Tallahassee, Florida 32301, (850)922-4374

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.060 Dental Services.

(1) No change.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Coverage and Limitations Handbooks, January 2000, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, February 2001 ~~October 1999~~, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. All three handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.912 FS. History—New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary Marsh

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division of Medicaid**

RULE TITLE: Prescribed Drug Services  
RULE NO.: 59G-4.250

PURPOSE AND EFFECT: The 2000 Florida Legislature passed CS/SB 2034, Section 71, which amended §409.912, Florida Statutes, to require the Agency for Health Care Administration to develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Prescribed Drug Services, Coverage, Limitations and Reimbursement Handbook, February 2001, which contains the policy that Medicaid practitioners who prescribe drugs must use a counterfeit-proof prescription pad for Medicaid. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Prescribed Drug Coverage, Limitations, and Reimbursement Handbook, February 2001.

SUMMARY: This rule amendment incorporates by reference the revised Florida Medicaid Prescribed Drug Coverage, Limitations, and Reimbursement Handbook, February 2001, which requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912 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 12, 2001

PLACE: Building 3, Room number will be available at the desk

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Marsh, Medicaid Program Integrity, 2002 Old St. Augustine Road, Building B, Suite 10B, Tallahassee, Florida 32301, (850)922-4374

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.250 Prescribed Drug Services.

(1) No change.

(2) All participating prescribed drug services providers enrolled in the Medicaid program must comply with the Florida Medicaid Prescribed Drug Services Coverage, Limitations and Reimbursement Handbook, February 2001 ~~November 2000~~, which is incorporated by reference, and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 FS. History—New 1-1-77, Amended 6-30-77, 10-1-77, 2-1-78, 4-1-78, 9-28-78, 6-1-79, 2-28-80, 11-11-81, 7-3-84, Formerly 10C-7.42, Amended 3-11-86, 12-5-88, 6-4-90, 10-29-90, 5-20-92, 4-11-93, Formerly 10C-7.042, Amended 12-28-95, 8-3-97, 2-11-98, 9-13-99, 7-14-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary Marsh

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division of Medicaid**

RULE TITLE: Provider Requirements  
RULE NO.: 59G-5.020

PURPOSE AND EFFECT: The 2000 Florida Legislature passed CS/SB 2034, Section 71, which amended §409.912, Florida Statutes, to require the Agency for Health Care Administration to develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, February 2001, which contains the policy that Medicaid practitioners who prescribe drugs must use a counterfeit-proof prescription pad for Medicaid. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, February 2001.

SUMMARY: This rule amendment incorporates by reference the revised Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, February 2001, which requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912 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 12, 2001

PLACE: Building 3, Room number will be available at the desk

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Marsh, Medicaid Program Integrity, 2002 Old St. Augustine Road, Building B, Suite 10B, Tallahassee, Florida 32301, (850)922-4374

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-5.020 Provider Requirements.

All advanced registered nurse practitioners; ambulatory surgery centers; audiologists; birthing centers; child health check-up providers; chiropractors; community mental health services providers; county health departments; county health department certified match providers; dentists (when submitting claims on the HFCA-1500 claim form); durable medical equipment and medical supply providers; early intervention service providers; federally qualified health centers; freestanding dialysis centers; hearing aid specialists; home health agencies; independent laboratories; licensed midwives; Medicaid certified school match providers; medical foster care providers; opticians; optometrists; physicians; physician assistants; podiatrists; portable x-ray providers; prescribed pediatric extended care centers; registered nurse first assistants; rural health clinics; therapists; and visual services providers enrolled in the Medicaid program and their billing agents must comply with the provisions of the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, updated February 2001 July 1999, which is incorporated by reference and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary Marsh

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Auctioneers**

RULE TITLE:

Advertising

RULE NO.:

61G2-5.004

PURPOSE AND EFFECT: The Board proposes to strike certain text from this rule as it lacks specific authority.

SUMMARY: The Board has determined that this rule should be amended to delete rule text that lacks specific authority.

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: 468.384(2) FS.

LAW IMPLEMENTED: 468.388(6), 468.389(1)(d),(j) 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: Julie Baker, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-5.004 Advertising.

(1) through (2) No change.

~~(3) The provisions of this rule apply to media exposure of any nature, regardless of whether it is in the form of paid advertising.~~

~~(4) The auction business shall be responsible for the content of all advertising disseminated in preparation for the auction.~~

~~(5) Failure to comply with this rule is a violation of Sections 468.389(1)(d) and (j) and Sections 455.227(1)(a) and (b), Florida Statutes.~~

Specific Authority 468.384(2) FS. Law Implemented 468.388(6), 468.389(1)(d),(j) FS. History—New 10-19-87, Formerly 21BB-5.004, Amended 10-12-93,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-48R

RULE CHAPTER TITLE: PERMITS RULE CHAPTER NO.: 62-4

RULE TITLES: RULE NOS.:
Transfer of Permits 62-4.120
Scope of Part III 62-4.510

PURPOSE AND EFFECT: The Department is proposing amendments to Florida Administrative Code Chapter 62-4 to introduce a new Application for Transfer of Air Permit Form (DEP Form 62-210.900(7)) and cross-reference Florida Administrative Code Chapters 62-210 and 62-213 for air general permit procedures.

SUMMARY: The proposed amendments would affect air general permits and air facilities undergoing change of ownership.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.061 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.814 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: 2:30 p.m., Friday, March 23, 2001

PLACE: Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, 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, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ms. Wendy Alexander, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400, (850)921-9559

THE FULL TEXT OF THE PROPOSED RULE IS:

62-4.120 Transfer of Permits.

(1) Within 30 days after the sale or legal transfer of a permitted facility, an "Application for Transfer of Permit" (DEP Form 62-1.201(1)) must be submitted to the Department. This form must be completed with the notarized signatures of both the permittee and the proposed new permittee. For air permits, an "Application for Transfer of Air Permit" (DEP Form 62-210.900(7)) shall be submitted.

(2) through (5) No change.

Specific Authority 403.021, 403.031, 403.061, 403.088 FS. Law Implemented 403.021, 403.031, 403.061, 403.087, 403.088 FS. History-New 3-4-70, Revised 5-17-72, 8-31-88, 3-19-90, Formerly 17-4.12, 17-4.120, Amended

62-4.510 Scope of Part III.

This part defines general permits and establishes the procedures for persons who may wish to use a general permit, except that the procedures for any person who may wish to use a general permit for a major source of air pollutant emissions pollution (Title V source), and all conditions of such a general permit, are established at Chapters 62-210 and 62-213, F.A.C. The provisions of this Part shall not apply to activities regulated under Part IV of Chapter 373, F.S., except those activities in the geographical territory of the Northwest Florida Water Management District and to those activities grandfathered under Sections 373.414(11),(12)(a), (13),(14),(15) and (16), F.S.

Specific Authority 373.026, 373.043, 373.044, 373.109, 373.113, 373.418, 403.021, 403.031, 403.061, 403.087, 403.814(1) FS. Law Implemented 373.026, 373.044, 373.109, 373.409, 373.413, 373.4135, 373.414(9),(11),(12)(a),(13),(14),(15),(16), 373.4145, 373.418, 403.021, 403.031, 403.061, 403.087, 403.088, 403.814, 403.702-403.73, 403.851-403.864 FS. History-New 7-8-82, Formerly 17-4.51, Amended 8-31-88, 7-4-95, 10-16-95.

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 2, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-37R

RULE CHAPTER TITLE: STATIONARY SOURCES - GENERAL REQUIREMENTS RULE CHAPTER NO.: 62-210

RULE TITLES: RULE NOS.:
Definitions 62-210.200
Permits Required 62-210.300
Administrative Permit Corrections 62-210.360
Forms and Instructions 62-210.900

PURPOSE AND EFFECT: The Department is proposing to remove existing Acid Rain program definitions from Florida Administrative Code Rule 62-210.200 which are otherwise adopted by reference in 40 CFR 72, amend Florida Administrative Code Rule 62-210.360(1) to make a change of ownership an administrative permit correction, incorporate language to address transfer of air permits, introduce a new Transfer of Air Permit Form, and amend Rule 62-210.300(4), F.A.C., to incorporate general procedures and conditions for all non-Title V air general permits. Based on recent amendments

to the Federal Acid Rain Program requirements, the Department is also proposing to amend an existing definition in Florida Administrative Code Rule 62-210.200, clarify language related to Acid Rain Part administrative permit corrections in Rule 62-210.360, F.A.C., and update existing forms in Florida Administrative Code Rule 62-210.900(1)(a).

SUMMARY: The proposed amendments would affect Acid Rain Program related definitions, administrative permit corrections, and forms based on amendments to 40 CFR 72, add transfer of air permit language, and add a transfer of air permit form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.061 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.0872, 403.814 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: 2:30 p.m., Friday, March 23, 2001

PLACE: Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, 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, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ms. Wendy Alexander, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400, (850)921-9559

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 62-210.200 Definitions.

The following words and phrases when used in this chapter and in Chapters 62-212, 62-213, 62-214, 62-296, and 62-297, F.A.C., shall, unless content clearly indicates otherwise, have the following meanings:

(1) through (5) No change.

~~(6) "Acid Rain Emissions Reduction Requirement" — Any EPA established requirement to reduce the emissions of sulfur dioxide or nitrogen oxides from an Acid Rain unit to an EPA-specified level or by an EPA-specified percentage pursuant to the Federal Acid Rain Program.~~

~~(6)(7) "Acid Rain Part" — That separate portion of the Title V source permit specifying the Federal Acid Rain Program requirements for an Acid Rain source, each Acid Rain unit at~~

~~an Acid Rain source, and for the owners, operators and the designated representative of the Acid Rain source or the Acid Rain unit.~~

(8) through (12) renumbered (7) through (11) No change.

~~(13) "Actual SO<sub>2</sub> Emissions Rate" — For purposes of the Acid Rain Program, the annual average sulfur dioxide emissions rate for the unit (expressed in pounds per million British thermal units (lb/mmBtu)), for the specified calendar year, provided that if the unit is listed in the National Allowance Data Base (NADB), effective March 23, 1993, and defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C., the 1985 sulfur dioxide actual emissions rate for the unit shall be the rate specified by data field, SO<sub>2</sub>RTE.~~

(14) through (25) renumbered (12) through (23) No change.

~~(26) "Allowance" — For purposes of the Acid Rain Program, the meaning as defined at 40 CFR 72.2, adopted and incorporated by reference, in Rule 62-204.800, F.A.C.~~

~~(27) "Allowances Held or Hold Allowances" — For purposes of the Acid Rain Program, the meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(28) through (47) renumbered (24) through (43) No change.

~~(48) "Boiler" — An enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or any other medium.~~

(49) through (67) renumbered (44) through (62) No change.

~~(68) "Coal" — All solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials Designation ASTM D388-92 "Standard Classification of Coals by Rank," adopted and incorporated by reference in Chapter 62-297, F.A.C., and obtainable from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.~~

~~(69) "Coal-derived Fuel" — Pulverized coal, coal refuse, liquified or gasified coal, washed coal, chemically cleaned coal, coal-oil mixtures, and coke or any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.~~

~~(70) "Coal-fired" — The combustion as a primary fuel, alone or in combination with any other fuel, of any fuel consisting of coal or any coal-derived fuel, except a coal-derived gaseous fuel with a sulfur content no greater than that of natural gas, provided that if the unit is listed in the NADB, effective March 23, 1993, and defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C., the primary fuel is the fuel listed under the data field, PRIMFUEL, therein.~~

(71) through (74) renumbered (63) through (66) No change.

(75) "~~Cogeneration Unit~~"—A unit having equipment used to produce, through the sequential use of energy, electric energy and forms of useful thermal energy for industrial, commercial, heating or cooling purposes.

(76) through (78) renumbered (67) through (69) No change.

(79) "~~Commence Commercial Operation~~"—For purposes of the Acid Rain Program, to begin to generate electricity for sale, including the sale of electricity generated during testing.

(80) through (82) renumbered (70) through (72) No change.

(83) "~~Compliance Subaccount~~"—The meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(84) "~~Compliance Use Date~~"—The meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(85) through (117) renumbered (73) through (105) No change.

(118) "~~Excess Acid Rain Emissions~~"

(a) ~~Any tonnage of sulfur dioxide emitted by an Acid Rain unit during a calendar year that exceeds the Acid Rain emissions limitation for sulfur dioxide for the unit; and,~~

(b) ~~Any tonnage of nitrogen oxides emitted by an Acid Rain unit during a calendar year that exceeds the annual tonnage equivalent of the Acid Rain emissions limitation for nitrogen oxides applicable to the Acid Rain unit taking into account the unit's heat input for the year.~~

(119) through (120) renumbered (106) through (107) No change.

(121) "~~Existing Unit~~"—For purposes of the Acid Rain Program, means a fossil fuel fired combustion device, except simple combustion turbines, that commenced commercial operation before November 15, 1990, and that on or after November 15, 1990, served a generator with a nameplate capacity of greater than 25 megawatts electrical (MWe), including any such unit which is modified, reconstructed or repowered after November 15, 1990.

(122) through (126) renumbered (108) through (112) No change.

(127) "~~Federal Acid Rain Program~~"—The national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established pursuant to 42 U.S.C. Sections 7651-7651o and 40 CFR Parts 72, 73, 75, 76, 77, and 78, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(128) through (134) renumbered (113) through (119) No change.

(135) "~~Fossil Fuel fired~~"—The combustion of fossil fuel or any derivative of fossil fuel, alone or in combination with any other fuel, independent of the percentage of fossil fuel consumed in any calendar year.

(136) through (143) renumbered (120) through (127) No change.

(144) "~~Gas-fired~~"—The combustion of natural gas, or a coal-derived gaseous fuel with a sulfur content no greater than that of natural gas, to provide at least 90 percent of the average annual heat input during the previous three calendar years and at least 85 percent of the annual heat input in each of those calendar years, and with fuel other than coal or coal-derived fuel providing the remaining heat input.

(145) "~~Generator~~"—A device that produces electricity and was or would have been required to be reported as a generating unit pursuant to the United States Department of Energy Form 860 (1990 edition), hereby incorporated by reference.

(146) through (148) renumbered (128) through (130) No change.

(149) "~~Heat Input~~"—The product, expressed in million British thermal units per time (mmBtu/time), of the gross calorific value of the fuel, expressed in British thermal units per pound (Btu/lb), and the fuel feed rate into the combustion device, expressed in mass of fuel/unit of time, and not including the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(150) through (190) renumbered (131) through (171) No change.

(191) "~~National Allowance Data Base (NADB)~~"—The meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(192) through (193) renumbered (172) through (173) No change.

(194) "~~Natural Gas~~"—A naturally occurring fluid mixture of hydrocarbons containing little or no sulfur, produced in geological formations beneath the Earth's surface, and maintaining a gaseous state at standard atmospheric temperature and pressure conditions.

(195) through (199) renumbered (174) through (178) No change.

(200) "~~New Unit~~"—For purposes of the Acid Rain Program, a fossil fuel fired combustion device that commences commercial operation on or after November 15, 1990, including any such unit that serves a generator with a nameplate capacity, as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C., of 25 megawatts electrical (MWe) or less or that is a simple combustion turbine.

(201) through (204) renumbered (179) through (182) No change.

(205) "~~Offset Plan~~"—For purposes of the Acid Rain Program. The meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(206) "~~Oil fired~~"—The combustion of fuel oil to provide more than 10 percent of the average annual heat input during the previous three calendar years or to provide more than 15 percent of the annual heat input in any one of those calendar

years and with any solid, liquid, or gaseous fuel, other than coal or any other coal-derived fuel, except a coal-derived gaseous fuel with a sulfur content no greater than that of natural gas, to provide the remaining heat input.

(207) through (223) renumbered (183) through (199) No change.

~~(224) "Phase II" — The Acid Rain Program period beginning January 1, 2000, and continuing into the future.~~

(225) through (229) renumbered (200) through (204) No change.

~~(230) "Power Distribution System" — The portion of an electricity grid owned or operated by a utility that is dedicated to delivering electric energy to customers.~~

~~(231) "Primary Fuel or Primary Fuel Supply" — The main fuel type, expressed in million British thermal units (mmBtu), consumed by an Acid Rain unit for the applicable calendar year.~~

(232) through (259) renumbered (205) through (232) No change.

~~(260) "Simple Combustion Turbine" — For purposes of the Acid Rain Program, a fossil fuel-fired combustion device that is a rotary engine driven by a gas under pressure which is created by combustion of fuel. The term includes combined cycle units without auxiliary firing but excludes combined cycle units with auxiliary firing, unless the unit did not use the auxiliary firing from 1985 through 1987 and does not use auxiliary firing at any time after November 15, 1990.~~

(261) through (266) renumbered (233) through (238) No change.

~~(267) "Solid Waste Incinerator" — A solid waste incineration unit as defined at 42 U.S.C. Section 7429(g)(1).~~

(268) through (293) renumbered (239) through (264) No change.

~~(294) "Ton or Tonnage" — For purposes of the Acid Rain Program, the meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(295) through (300) renumbered (265) through (270) No change.

~~(301) "Unit Account" — For purposes of the Acid Rain Program, the meaning as defined at 40 CFR 72.2, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

~~(302) "Utility" — Any person that sells electricity.~~

~~(271)(303) No change.~~

~~(304) "Utility Unit" — For purposes of the Acid Rain Program, a fossil fuel-fired combustion device owned or operated by a utility, which either serves a generator that produces electricity for sale, or served, during 1985, a generator that produced electricity for sale. A unit that was in operation during 1985, but did not serve a generator that produced electricity for sale during 1985, and did not commence commercial operation on or after November 15, 1990, is not a utility unit. A unit that cogenerates steam and~~

~~electricity is not a utility unit unless the unit was constructed for the purpose of supplying or commences construction after November 15, 1990, and supplies, more than one-third of its potential electrical output capacity and more than 25 megawatts electrical (MWe) output to any power distribution system for sale.~~

(305) through (316) renumbered (272) through (283) No change.

Specific Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.087 FS. History—Formerly 17-2.100; Amended 2-9-93, 11-28-93, Formerly 17-210.200, Amended 11-23-94, 4-18-95, 1-2-96, 3-13-96, 3-21-96, 8-15-96, 10-7-96, 10-15-96, 5-20-97, 11-13-97, 2-5-98, 2-11-99, \_\_\_\_\_.

62-210.300 Permits Required.

(1) through (3) No change.

(4) Air General Permits.

(a) Non-Title V Air General Permits. The following facilities are eligible to operate under the terms of an air general permit issued pursuant to the procedures and general conditions of Rules 62-210.300(4)(c) through (d) 62-4.530 and 62-4.540, F.A.C., provided all existing air permits authorizing operation of the facility are surrendered:

1. through 9. No change.

(b) Title V Air General Permits. Certain facilities are eligible to operate under the terms of an air general permit issued pursuant to the procedures and general conditions of Rule 62-213.300, F.A.C., Title V Air General Permits. These facilities are specified in Rule 62-213.300, F.A.C. Unless otherwise specified in Rule 62-213.300, F.A.C., the responsible official of any facility that is eligible and has submitted notification to use an air general permit pursuant to Rule 62-213.300, F.A.C., and who operates the facility in compliance with the terms and conditions of the air general permit shall not be required to obtain an air construction permit pursuant to Rule 62-210.300(1), F.A.C. In addition, such responsible official shall not be required to obtain a regular air operation permit pursuant to Rule 62-210.300(2), F.A.C., or a regular Title V air operation permit pursuant to Rule 62-213, F.A.C.

(c) General Procedures. The owner or operator of any proposed new or modified facility that would be eligible for an air general permit pursuant to Rules 62-210.300(4)(a)1. through 7., F.A.C., or Rules 62-213.300(1)(a) through (d), F.A.C., shall not be required to obtain an air construction permit pursuant to Rule 62-210.300(1), F.A.C. The owner or operator of any facility eligible for an air general permit and who has submitted notification according to Rule 62-210.300(4)(a) or 62-213.300, F.A.C., shall not be required to obtain an air operation permit pursuant to Rule 62-210.300(2), F.A.C.

1. Eligibility Determination. The owner or operator of the facility or emissions unit shall determine its eligibility for an air general permit pursuant to the applicability criteria of Rule 62-210.300(4)(a), F.A.C.

a. Unless otherwise specified in Rule 62-210.300(4)(a), F.A.C., the owner or operator of any facility or emissions unit that is eligible and has submitted notification to use an air general permit pursuant to Rule 62-210.300(4)(a), F.A.C., and who operates the facility or emissions unit in compliance with the terms and conditions of the air general permit shall not be required to obtain an air construction permit pursuant to Rule 62-210.300(1), F.A.C. In addition, such owner or operator shall not be required to obtain a regular air operation permit pursuant to Rule 62-210.300(2), F.A.C.

b. If a facility or emissions unit permitted by an air general permit under this rule at any time becomes ineligible for the use of the air general permit, or if any facility or emissions unit utilizing an air general permit is determined to have been initially ineligible for use of the air general permit, it shall be subject to enforcement action for constructing or operating without an air permit under Rule 62-210.300(1) or (2), F.A.C.

c. For each facility or emissions unit intending to operate under the provisions of an air general permit, the owner or operator must complete and submit the correct notification form for the specific general permit to be utilized, as set forth in Rule 62-210.300(4)(a), F.A.C., to give notice to the Department of intent to use one of the air general permits listed in this rule.

2. Processing Fee. The notification must be accompanied by the appropriate general permit processing fee pursuant to Rule 62-4.050, F.A.C.

3. Administrative Corrections. Within 30 days of any changes requiring corrections to information contained in the notification form, the owner or operator shall notify the Department in writing. Such changes shall include:

a. Any change in the name of the authorized representative or facility address or phone number; or

b. Any other similar minor administrative change at the facility or emissions unit.

4. Equipment Changes. In case of the installation of new process equipment, alteration of existing process equipment without replacement, or the replacement of existing process equipment with equipment substantially different than that noted on the most recent notification form, the owner or operator shall submit a new and complete general permit notification form with the appropriate fee pursuant to Rule 62-4.050, F.A.C., to the Department.

5. Violation of Permit. The air general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity is a violation of the permit. The owner or operator is placed on notice that violation of the permit constitutes grounds for revocation and suspension pursuant to Rules 62-4.100 and 62-4.530(4), F.A.C., and initiation of enforcement action pursuant to s. 403.141 through 403.161, F.S. No revocation shall become effective except after notice is served by personal service, certified mail, or newspaper notice

pursuant to Section 120.60(5), F.S., upon the person or persons named therein and a hearing held, if requested within the time specified in the notice. The notice shall specify the provision of the law or rule alleged to be violated, or the permit condition or Department order alleged to be violated, and the facts alleged to constitute a violation thereof.

6. Nullification of Eligibility. Eligibility for use of an air general permit under Rule 62-210.300(4), F.A.C. is nullified by submission of false or inaccurate information in the notification form for use of the air general permit or in the required reports.

7. Use of Permit. Any facility or emissions unit eligible to operate under the terms of an air general permit may use the permit 30 days after giving notice to the Department without any agency action.

(d) General Conditions. All terms, conditions, requirements, limitations, and restrictions set forth in this rule are "general permit conditions" and are binding upon the owner or operator of any facility or emissions unit utilizing an air general permit pursuant to this rule. If, for any reason, the owner or operator of any facility operating under an air general permit pursuant to Rule 62-210.300(4)(a), F.A.C., does not comply with or will be unable to comply with any condition or limitation of the permit, the permittee shall immediately provide the Department with the following information:

1. A permittee's use of a general permit is limited to five years. No later than 30 days prior to the fifth anniversary of the filing of intent to use the general permit, the owner or operator shall submit a new notice of intent which shall contain all current information regarding the facility or emissions unit. Eligibility to use the general permit is not transferable and does not follow a change in ownership of the facility or emissions unit. Prior to any sale, other change of ownership, or permanent shutdown of the facility, the owner or operator is encouraged to notify the Department of the pending action. The owner shall remain liable for corrective actions that may be required as a result of any violations occurring in the time after the sale or legal transfer of the facility or emissions unit, but before a new owner is entitled to use an air general permit. A description of and cause of noncompliance; and

2. The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result.



3. The general permit does not convey any vested rights or any exclusive privileges, nor does it authorize any injury to public or private property nor any invasion of personal rights. It does not authorize any infringement of federal, state, or local laws or regulations.

4. The general permit does not relieve the owner or operator of the facility or emissions unit from liability and penalties when the construction or operation of the permitted activity causes harm or injury to human health or welfare; causes harm or injury to animal, plant or aquatic life; or causes harm or injury to property. It does not allow the owner or operator to cause pollution in contravention of Florida law.

5. The general permit conveys no title to land or water, nor does it constitute state recognition or acknowledgment of title.

6. The owner or operator shall make every reasonable effort to conduct the specific activity authorized by the general permit in a manner that will minimize any adverse effects on adjacent property or on public use of the adjacent property, where applicable, and on the environment, including fish, wildlife, natural resources, water quality, or air quality.

7. The owner or operator shall allow a duly authorized representative of the Department access to the permitted facility, emissions unit, or activity at reasonable times to inspect and test, upon presentation of credentials or other documents as may be required by law, to determine compliance with the general permit and Department rules.

8. The owner or operator shall maintain any permitted facility, emissions unit, or activity in good condition. Throughout the term of the air general permit, the owner or operator shall ensure that the facility or emissions unit maintains its eligibility to use the air general permit and complies with all terms and conditions of the air general permit.

9. The air general permit shall be effective until suspended, revoked, surrendered, expired, or nullified pursuant to this rule. The general permit may be modified, suspended or revoked in accordance with Chapter 120, Florida Statutes, if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or state air quality standards, or the permittee has submitted false, incomplete or inaccurate data or information.

10. The air general permit does not authorize any demolition or renovation of the facility or emissions unit or its parts or components which involves asbestos removal. The air general permit does not constitute a waiver of any of the requirements of Chapter 62-257, F.A.C., and 40 CFR Part 61, Subpart M, National Emission Standard for Asbestos, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

11. The general permit does not authorize any open burning.

12. No person shall circumvent any air pollution control device or allow the emission of air pollutants without the proper operation of all applicable air pollution control devices.

13. If, for any reason, the owner or operator of any facility or emissions unit operating under an air general permit pursuant to Rule 62-210.300(4)(a), F.A.C., does not comply with or will be unable to comply with any condition or limitation of the permit, the permittee shall immediately provide the Department with the following information:

a. A description of and cause of noncompliance; and

b. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result.

14. The general permit does not eliminate the necessity for obtaining any other federal, state or local permits that may be required, or allow the permittee to violate any more stringent standards established by federal or local law.

15. Each facility located within the borders of any of the following counties shall also comply with the requirements of that county:

a. Broward County.

b. Dade County.

c. Duval County.

d. Hillsborough County.

e. Orange County.

f. Palm Beach County.

g. Pinellas County.

h. Sarasota County.

(5) through (6) No change.

(7) Transfer of Air Permits.

(a) An air permit is transferable only after submission of an Application for Transfer of Air Permit (DEP Form 62-210.900(7)) and Department approval in accordance with Rule 62-4.120, F.A.C. For Title V permit transfers only, a complete application for transfer of air permit shall include the requirements of 40 CFR 70.7(d)(1)(iv), adopted and incorporated by reference at Rule 62-204.800, F.A.C. Within 30 days after approval of the transfer of permit, the Department shall update the permit by an administrative permit correction pursuant to Rule 62-210.360, F.A.C.

(b) For an air general permit, the provisions of Rules 62-210.300(7)(a) and 62-4.120, F.A.C., do not apply. Thirty (30) days before using an air general permit, the new owner must submit an air general permit notification to the Department in accordance with Rule 62-210.300(4), F.A.C., or Rule 62-213.300(2)(b), F.A.C.

Specific Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.087, 403.814 FS. History—Formerly 17-2.210, Amended 11-28-93, Formerly 17-210.300, Amended 11-23-94, 4-2-95, 4-18-95, 10-16-95, 1-2-96, 3-13-96, 3-21-96, 5-13-96, 8-15-96, 10-7-96, 5-20-97, 11-13-97, 2-5-98, 2-11-99, \_\_\_\_\_.

62-210.360 Administrative Permit Corrections.

(1) A facility owner shall notify the Department by letter of minor corrections to information contained in a permit. Such notifications shall include:

- (a) Typographical errors noted in the permit;
- (b) Name, address or phone number change from that in the permit;
- (c) A change requiring more frequent monitoring or reporting by the permittee;
- (d) A change in ownership or operational control of a facility, subject to the following provisions:

- 1. The Department determines that no other change in the permit is necessary;
- 2. The permittee and proposed new permittee have submitted an Application for Transfer of Air Permit, and the Department has approved the transfer pursuant to Rule 62-210.300(7), F.A.C.; and
- 3. The new permittee has notified the Department of the effective date of sale or legal transfer.

(e) Changes listed at 40 CFR 72.83(a)(1),(2),(6),(9) and (10), hereby adopted and incorporated by reference at Rule 62-204.800, F.A.C., and changes made pursuant to Rules 62-214.340(1) and (2), F.A.C., to Title V sources subject to emissions limitations or reductions pursuant to 42 USC ss. 7651-7651o;

(f) Changes listed at 40 CFR 72.83(a)(11) and (12), hereby adopted and incorporated by reference at Rule 62-204.800, F.A.C., to Title V sources subject to emissions limitations or reductions pursuant to 42 USC ss. 7651-7651o, provided the notification is accompanied by a copy of any EPA determination concerning the similarity of the change to those listed at Rule 62-210.360(1)(e), F.A.C.; and

(g) Any other similar minor administrative change at the source.

(2) through (5) No change.

Specific Authority 403.061 FS. Law Implemented ~~403.021~~, 403.031, 403.061, 403.087, 403.0872 FS. History—New 11-28-93, Formerly 17-210.360, Amended 11-23-94, 2-11-99, \_\_\_\_\_.

62-210.900 Forms and Instructions.

The forms used by the Department in the stationary source control program are adopted and incorporated by reference in this section. The forms are listed by rule number, which is also the form number, with the subject, title and effective date. Forms 62-210.900(1),(3),(4) and (5), F.A.C., including instructions, are available from the Department as hard-copy documents or executable files on computer diskettes. Copies of forms (hard-copy or diskette) may be obtained by writing to the Department of Environmental Protection, Division of Air

Resources Management, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Notwithstanding the requirement of Rule 62-4.050(2), F.A.C., to file application forms in quadruplicate, if an air permit application is submitted using the Department's electronic application form, only one copy of the diskette and signature pages is required to be submitted.

(1) Application for Air Permit – Title V Source, Form and Instructions (Effective 2-11-99).

(a) Acid Rain Part (Phase II), Form and Instructions (Effective ~~7-1-95~~).

1. Repowering Extension Plan, Form and Instructions (Effective 7-1-95).

2. New Unit Exemption, Form and Instructions (Effective ~~7-1-95~~).

3. Retired Unit Exemption, Form and Instructions (Effective ~~7-1-95~~).

4. Phase II Nox Compliance Plan, Form and Instructions (Effective 1-6-98).

5. Phase II Nox Averaging Plan, Form (Effective 1-6-98).

(2) through (6) No change.

(7) Application for Transfer of Air Permit – Title V and Non-Title V Source (Effective \_\_\_\_\_).

Specific Authority 403.061 FS. Law Implemented 403.061, 403.087 FS. History—New 2-9-93, Amended 11-28-93, Formerly 17-210.900, Amended 11-23-94, 7-6-95, 3-21-96, 1-6-98, 2-11-99, \_\_\_\_\_.

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 2, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-61R

RULE CHAPTER TITLE: OPERATION PERMITS FOR MAJOR SOURCES

of Air Pollution

RULE TITLES: ANNUAL EMISSIONS FEE

Title V Air General Permits

Changes Without Permit Revision

Trading of Emissions Within a Source

Permit Applications

Permit Issuance, Renewal, and Revision

Permit Content

PURPOSE AND EFFECT: The Department is proposing rule amendments to Florida Administrative Code Chapter 62-213 to clarify when separate processing of the Acid Rain Part of a

Title V permit may be requested, clarify that an Acid Rain Part issued separately from a Title V permit is not a separate permit, allow the permit duration of an initial Title V permit for Acid Rain sources to be less than 5 years in accordance with recent amendments to Federal Acid Rain Program regulations, change the phrase "material balance" to "inventory balance" throughout Chapter 62-213, F.A.C. (in accordance with recent amendments to Rule 62-213.205, F.A.C.), clarify that an asbestos manufacturing and fabrication facility must have obtained an air construction permit prior to using a Title V air general permit, clarify who is liable for corrective actions when a facility with a Title V general permit is transferred, clarify that a Title V permit shall only be issued for a new term through the renewal process, and clarify that when a permit condition is changed, both the revised and superseded conditions shall remain in the permit for the duration of the term with an effective date for the revised condition.

SUMMARY: The proposed amendments would affect Acid Rain and Title V air permitting procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.061, 403.087, 403.0872 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.0872, 403.814 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: 2:30 p.m., Friday, March 23, 2001

PLACE: Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, 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, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ms. Wendy Alexander, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400, (850)921-9559

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 62-213.205 Annual Emissions Fee.

Each Title V source permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice from the Department, an annual emissions fee in an amount determined as set forth in Rule 62-213.205(1), F.A.C.

(1) Emissions Fee Calculation and Payment. Each Title V source must calculate the annual fee, based upon the source's previous year's emissions, by multiplying the applicable annual emissions fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent certification, construction permit or operation permit, times the annual hours of operation allowed by specific condition; provided, however, that:

(a) through (j) No change.

(k) For an Acid Rain Part processed separately from a Title V permit, the Title V permit together with the Acid Rain Part shall be the most recent operation permit for Title V fee purposes. An Acid Rain Part processed separately from a Title V permit is not a separate permit and shall not be used as the most recent operation permit for Title V fee purposes.

(2) through (4) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872, ~~403.0877~~ FS. History—New 12-21-92, Amended 11-25-93, Formerly 17-213.200, Amended 11-23-94, 1-1-96, 3-13-96, 6-25-96, 2-11-99, 1-3-01,

#### 62-213.300 Title V Air General Permits.

(1) Applicability. The following facilities are eligible to operate under the terms of a Title V air general permit issued pursuant to the procedures and conditions of this rule.

(a) through (d) No change.

(e) Asbestos manufacturing and fabrication facilities, provided the facility previously obtained an air construction permit pursuant to Rule 62-210.300(1), F.A.C., the responsible official submits a completed Asbestos Manufacturing and Fabrication Air General Permit Notification Form (DEP Form No. 62-213.900(6)) to the Department at least 30 days prior to beginning operation under this general permit and, throughout the term of the general permit, all of the following conditions are met:

1. through 3. No change.

(2) No change.

(3) General Conditions. All terms, conditions, requirements, limitations, and restrictions set forth in this rule are "general permit conditions" and are binding upon the owner or operator and upon the responsible official of any facility utilizing a Title V air general permit pursuant to this rule.

(a) The duration of the general permit is five years. No later than 30 days prior to the fifth anniversary of the filing of intent to use the general permit, the responsible official shall submit a new notice of intent which shall contain all current information regarding the facility. Eligibility to use ~~t~~The general permit is not transferable and does not follow a change in ownership of the facility. Prior to any sale, other change of ownership, or permanent shutdown of the facility, the responsible official is encouraged to ~~shall~~ notify the Department of the pending action ~~in accordance with Rule~~

~~62-210.300(7)(f), F.A.C. The owner shall remain liable for corrective actions that may be required as a result of any violations occurring in the time after the sale or legal transfer of the facility, but before a new owner is entitled to use an air general permit.~~

- (b) through (r) No change.
- (4) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.814 FS. History--New 3-13-96, Amended 6-25-96, 10-7-96, 7-7-97, 11-13-97, 2-24-99, 1-3-01, \_\_\_\_\_.

62-213.410 Changes Without Permit Revision.

Title V sources having a valid permit issued pursuant to this chapter may make the following changes without permit revision, provided that sources shall maintain source logs or records to verify periods of operation in each alternative method of operation:

- (1) through (2) No change.
- (3) A permitted source may implement operating changes, as defined in Rule 62-210.200, F.A.C., after the source submits any forms required by any applicable requirement and provides the Department and EPA with at least 7 days written notice prior to implementation. The source and the Department shall attach each notice to the relevant permit;

- (a) through (b) No change.
- (4) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History--New 11-28-93, Formerly 17-213.410, Amended 11-23-94, \_\_\_\_\_.

62-213.415 Trading of Emissions Within a Source.

(1) No change.

(2) No permit revision shall be required provided the permitted source complies with the notice and recordkeeping provisions of this section and provided the permitted source had submitted with its last Title V permit application:

- (a) through (b) No change.
- (c) A plan for quantifying emissions trading increases and decreases of each regulated air pollutant for each unit and for demonstrating continuous compliance in each mode of operation. The following procedures apply to pollutants which are subject to the federally enforceable emissions cap described in Rule 62-213.415(1), F.A.C.:

- 1. through 3. No change.
- 4. The Department shall accept inventory material balance, as described in Rule 62-213.205(1)(e), F.A.C., as a means of quantification of volatile organic compounds if no credit is taken for any incineration that takes place.

- (d) No change.
- (3) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History--New 11-28-93, Amended 4-17-94, Formerly 17-213.415, Amended 11-23-94, 3-13-96, \_\_\_\_\_.

62-213.420 Permit Applications.

(1) Duty to Apply. For each Title V source, the owner or operator shall submit a timely and complete permit application in compliance with the requirements of this section and Rules 62-4.050(1) through (3), ~~(2)~~ and 62-210.900, F.A.C.

- (a) Timely Application.
  - 1. No change.

2. ~~Except as provided at Rule 62-213.420(1)(a)4., F.A.C.,~~ A ~~a~~ facility that commences operation as a Title V source after October 25, 1995, or that otherwise becomes subject to the permitting requirements of Chapter 62-213, F.A.C., after October 25, 1995, must file an application for an operation permit under this chapter ninety days before expiration of the source's construction permit, but no later than 180 days after commencing operation, unless a different application due date is provided at Rule 62-204.800, F.A.C. ~~Except as provided at Rule 62-213.420(1)(a)4., F.A.C.,~~ A a source that has applied for an Electrical Power Plant Siting Certification prior to October 26, 1995, but has not been issued the certification as of that date, or a source that has been issued an Electrical Power Plant Siting Certification prior to October 26, 1995, but has not commenced operation by that date, shall file an application for an operation permit under this chapter 180 days after commencing operation. Sources subject to the FEPPSA that apply for Electrical Power Plant Siting Certification subsequent to October 25, 1995, may, at their option, apply for a permit under the provisions of this chapter at the same time the Florida Power Plant Siting Certification application is submitted.

- 3. through 4. No change.
- (b) Complete Application. No change.
- (2) through (4) No change.

(5) Acid Rain Part. For those facilities subject to the Federal Acid Rain Program, any applicant that wishes separate processing of ~~the Title V permit and the Acid Rain Part of a Title V permit shall request this by at the time of initial or renewal application.~~ In such case, the Department shall process ~~issue~~ separate permits parts for the Acid Rain Part Provisions and for the remaining Title V requirements, provided that the expiration dates (~~renewal dates~~) of both permit parts coincide for the duration of operation of the facility. The Department shall adjust the expiration date of the permit parts to assure that the dates coincide, provided the provisions of Rule 62-213.440(1)(a), F.A.C., are met. There shall be only one Acid Rain Part for each facility. Each such permit part shall be processed as considered a Title V permit for purposes and requirements of this Chapter. ~~The permit shield of Rule 62-213.460, F.A.C. shall apply to only those process and requirements included for each separate permit.~~

Specific Authority 403.061, 403.087 FS. Law Implemented 403.061, 403.0872 FS. History--New 11-28-93, Amended 4-17-94, Formerly 17-213.420, Amended 11-23-94, 4-2-95, 10-11-95, 3-13-96, 3-20-96, 6-25-96, 10-7-96, 11-13-97, 2-11-99, 7-15-99, 1-3-01, \_\_\_\_\_.

62-213.430 Permit Issuance, Renewal, and Revision.

(1) through (2) No change.

(3) Permit Renewal and Expiration. Permits being renewed are subject to the same requirements that apply to permit issuance at the time of application for renewal. Permit renewal applications shall contain that information identified in Rules 62-210.900(1) and 62-213.420(3), F.A.C. Unless a Title V source submits a timely application for permit renewal in accordance with the requirements of Rule 62-4.090(1), F.A.C., the existing permit shall expire and the source's right to operate shall terminate. No Title V permit will be issued for a new term except through the renewal process.

(4) through (5) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History--New 11-28-93, Formerly 17-213.430, Amended 11-23-94, 3-20-96, 11-13-97, 2-11-99, 1-3-01, \_\_\_\_\_.

62-213.440 Permit Content.

(1) Standard Permit Requirements. Each permit issued under this chapter shall incorporate all applicable requirements for the Title V source and for each method of operation proposed by the applicant and approved by the Department. Each such permit shall include all emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements, with citation to the Department's rule authority for each term or condition, and identification of any difference in form from the applicable requirement upon which the term or condition is based. However, when there are multiple, redundant, or conflicting applicable requirements, these provisions can be reduced to a single streamlined term or condition that is as stringent as the multiple applicable requirements. In addition, the Department shall label permit terms or conditions "not federally enforceable" consistent with 40 CFR 70.6(b)(2), adopted and incorporated by reference at Rule 62-204.800, F.A.C. Emissions units or pollutant-emitting activities within a Title V source determined to be insignificant pursuant to Rule 62-213.430(6), F.A.C., shall be identified. Whenever any condition or requirement of a Title V permit is changed during the term of the permit, both the revised and superseded conditions shall be contained in the permit for the duration of the term, with an effective date for the revised condition.

(a) Permit Duration. Permits for sources subject to the Federal Acid Rain Program shall be issued for terms of five years, provided that the initial Acid Rain Part may be issued for a term less than five years where necessary to coordinate the term of such part with the term of a Title V permit to be issued to the source. Operation permits for Title V sources may not be extended as provided in Rule 62-4.080(3), F.A.C., if such extension will result in a permit term greater than five years.

(b) through (d) No change.

(2) through (4) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History--New 11-28-93, Amended 4-17-94, Formerly 17-213.440, Amended 11-23-94, 4-18-95, 3-13-96, 3-20-96, 11-13-97, 4-7-98, 2-11-99, 7-15-99, 1-3-01, \_\_\_\_\_.

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 2, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 00-62R

RULE CHAPTER TITLE: Requirements for Sources Subject to

The Federal Acid Rain Program

RULE CHAPTER NO.:

62-214

RULE TITLES:

Applications

RULE NOS.:

62-214.320

Exemptions

62-214.340

Department Action on Applications

62-214.360

Revisions and Administrative Corrections

62-214.370

PURPOSE AND EFFECT: The Department is proposing to amend Florida Administrative Code Chapter 62-214 to address an Acid Rain Part issued separately or with a Title V permit.

SUMMARY: The proposed amendments would affect permitting of sources subject to the Federal Acid Rain Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.061, 403.087, 403.0872 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.0872 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: 2:30 p.m., Friday, March 23, 2001

PLACE: Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, 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.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ms. Wendy Alexander, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400, (850)921-9559

THE FULL TEXT OF THE PROPOSED RULES IS:

62-214.320 Applications.

The designated representative of any Title V source containing an Acid Rain unit shall submit to the Department a complete Acid Rain Part application no later than the applicable deadline of this section. The Acid Rain Part application shall be submitted pursuant to this chapter and to Rule 62-213.420, F.A.C. The designated representative of an Acid Rain Source has the option of filing the Acid Rain Part application as a separate document from the Title V Air Operation Permit application and requesting separate processing. The Department shall process the Acid Rain Part application pursuant to Chapter 62-213. The owners and operators of such source and any Acid Rain unit at the source shall not operate the source or unit without either an Acid Rain Part or a Title V permit which includes an Acid Rain Part, except that a source having a valid air construction or operation permit or a site certification pursuant to the Florida Electrical Power Plant Siting Act and for which the designated representative has submitted a timely and complete initial Acid Rain Part application shall be deemed in compliance with the Federal Acid Rain Program requirements provided that the designated representative submits all timely supplemental information as provided at Rule 62-213.420, F.A.C., and provided the source operates in compliance with the terms and conditions of the Acid Rain Part application during the Department's processing of the application.

(1) through (2) No change.

Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.031, 403.061, 403.0872 FS. History—New 1-3-95, Amended 7-6-95, 12-10-97, 1-3-01,\_\_\_\_\_.

62-214.340 Exemptions.

(1) through (2) No change.

(3) Industrial-utility Units Exemption.

The Department shall grant an exemption from the Federal Acid Rain Program and Chapter 62-214, F.A.C., except for the requirements of this section and those provisions of 40 CFR 72.2 through 72.6 and 72.10 through 72.14, to any non-cogeneration, utility unit that meets all the criteria of 40 CFR 72.14(a)(1) through (4); which has not previously lost an industrial-utility unit exemption; which has submitted a complete exemption request to the Department and the EPA.

(a) For purposes of this section, a complete request shall meet all of the criteria of 40 CFR 72.14(b), and shall be certified as required by Rule 62-213.450, F.A.C., ~~using form DEP 62-210.900(1)(a)-6~~. Such exemption request shall be

processed as part of an application for initial or renewal Title V source permit or Acid Rain Part, or as a revision to such permit, pursuant to the procedures of this chapter and Chapter 62-213, F.A.C.

(b) through (d) No change.

Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.031, 403.061, 403.0872 FS. History—New 1-3-95, Amended 7-6-95, 12-10-97, 1-3-01,\_\_\_\_\_.

62-214.360 Department Action on Applications.

Any application submitted pursuant to this Chapter, including any proposal for any repowering extension plan, industrial-utility unit exemption, or NO<sub>x</sub> alternative emission limitation, shall be processed by the Department under the provisions of Rules 62-213.420 and 62-213.430, F.A.C., with the following additional limitations:

(1) The Department shall not approve any Acid Rain compliance plan described at Rule 62-214.330(2) or ~~(3)(4)~~, F.A.C., until the Department receives, in addition to the information required by Rules 62-210.900(1), 62-214.320 and 62-214.330, F.A.C., certification from the designated representative that the proposed Acid Rain compliance plan technology has received any necessary EPA approvals, pursuant to 40 CFR 72.44(f), adopted and incorporated by reference at Rule 62-204.800, F.A.C.;

(2) The Department shall take no final action on any permit application for revision submitted by a designated representative to alter or terminate any Acid Rain compliance plan described at Rule 62-214.330(2) or ~~(3)(4)~~, F.A.C., until the Department receives notice from EPA that the proposed revision has received necessary EPA approvals;

(3) The Department shall consider notice from EPA that an Acid Rain compliance plan described at Rule 62-214.330(2) or ~~(3)(4)~~, F.A.C., has failed or for other reason no longer has necessary EPA approval to be cause for permit revision pursuant to Rule 62-4.080, F.A.C.;

(4) through (6) No change.

Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.031, 403.061, 403.0872 FS. History—New 1-3-95, Amended 7-6-95, 12-10-97, 1-3-01,\_\_\_\_\_.

62-214.370 Revisions and Administrative Corrections.

Except as specifically provided in this section, all revisions of and administrative corrections to a final Acid Rain Part shall be processed in accordance with the provisions of Chapters 62-210 and 62-213, F.A.C., respectively.

(1) An Acid Rain Part revision may be submitted for approval at any time. No revision shall affect the expiration date of the Acid Rain Part or final Title V source permit to be revised. No ~~permit~~ revision shall excuse any violation of an Acid Rain Program requirement that occurred prior to the effective date of the revision. An Acid Rain unit shall comply with its existing Acid Rain Part while a ~~permit~~ revision is pending.

(2) through (7) No change.

Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.031, 403.061, 403.0872 FS. History—New 1-3-95, Amended 7-6-95, 12-10-97, 1-3-01, \_\_\_\_\_.

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 2, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Standard of Care for Office Surgery

RULE NO.: 64B8-9.009

PURPOSE AND EFFECT: The proposed rule amendments are intended to address recommendations of the Board’s Surgical Care Committee and the Outpatient Surgery Commission with regard to surgery performed in physicians offices.

SUMMARY: The proposed rule amendments set forth additional criteria for physicians offices at which surgical procedures are performed.

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: 458.309(1), 458.331(1)(v) FS.

LAW IMPLEMENTED: 458.331(1)(g),(t),(v),(w), 458.351 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: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.009 Standard of Care for Office Surgery.

(1) No change.

(2) General Requirements for Office Surgery.

(a) through (b) No change.

(c) The requirement set forth in subsection (2)(b) above for written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

~~(d)(e)~~ No change.

(e) For a period of one year from the effective date of this rule, all office surgical logs for Level II and Level III procedures shall be submitted to the Department of Health at the end of each calendar month for data collection purposes. The logs must include a confidential patient identifier. The logs shall be submitted to the Department of Health no later than the 10th day following each calendar month.

~~(f)(g)~~ No change.

(g) Liposuction may be performed in combination with another separate surgical procedure during a single Level II or Level III operation, only in the following circumstances:

1. When combined with abdominoplasty, liposuction may not exceed 1000 cc of aspirant;

2. When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1000 cc of aspirant;

3. Major liposuction in excess of 1000 cc aspirant may not be performed in a remote location from any other procedure.

~~(h)(i)~~ No change.

(i) The Board of Medicine adopts the “Standards of the American Society of Anesthesiologists for Basic Anesthetic Monitoring,” approved by House Delegates on October 21, 1986 and last amended on October 21, 1998, as the standards for anesthetic monitoring by any qualified anesthesia provider.

1. These standards apply to all anesthesia care although, in emergency circumstances, appropriate life support measures take precedence. These standards may be exceeded at any time based on the judgment of the responsible anesthesiologist. They are intended to encourage quality patient care, but observing them cannot guarantee any specific patient outcome. They are subject to revision from time to time, as warranted by the evolution of technology and practice. They apply to all general anesthetics, regional anesthetics and monitored anesthesia care. This set of standards address only the issue of basic anesthesia monitoring, which is one component of anesthesia care.

2. In certain rare or unusual circumstances some of these methods of monitoring may be clinically impractical, and appropriate use of the described monitoring methods may fail to detect untoward clinical developments. Brief interruptions of continual monitoring may be unavoidable. For purpose of this rule, “continual” is defined as “repeated regularly and frequently in steady rapid succession” whereas “continuous” means “prolonged without any interruption at any time.”

3. Under extenuating circumstances, the responsible anesthesiologist may waive the requirements marked with an asterisk (\*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient’s medical record. These standards are not intended for the application to the care of the obstetrical patient in labor or in the conduct of pain management.

a. Standard I

I. Qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care.

II. OBJECTIVE. Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel shall be continuously present to monitor the patient and provide anesthesia care. In the event there is a direct known hazard, e.g., radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthetic, the best judgment of the anesthesiologist will be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthetic during the temporary absence.

b. Standard II

I. During all anesthetics, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.

II. OXYGENATION

(A) OBJECTIVE – To ensure adequate oxygen concentration in the inspired gas and the blood during all anesthetics.

(B) METHODS:

(I) Inspired gas: During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient breathing system shall be measured by and oxygen analyzer with a low oxygen concentration limit alarm in use.\*

(II) Blood oxygenation: During all anesthetics, a quantitative method of assessing oxygenation such as a pulse oximetry shall be employed.\* Adequate illumination and exposure of the patient are necessary to assess color.\*

III. VENTILATION

(A) OBJECTIVE – To ensure adequate ventilation of the patient during all anesthetics.

(B) METHODS:

(I) Every patient receiving general anesthesia shall have the adequacy of ventilation continually evaluated. Qualitative clinical signs such as chest excursion, observation of the reservoir breathing bag and auscultation of breath sounds are useful. Continual monitoring for the presence of expired carbon dioxide shall be performed unless invalidated by the nature of the patient, procedure or equipment. Quantitative monitoring of the volume of expired gas is strongly encouraged.\*

(II) When an endotracheal tube or laryngeal mask is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide analysis, in use from the time of endotracheal tube/laryngeal mask placement, until extubation/removal or initiating transfer to a

postoperative care location, shall be performed using a quantitative method such as capnography, capnometry or mass spectroscopy.\*

(III) When ventilation is controlled by a mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

(IV) During regional anesthesia and monitored anesthesia care, the adequacy of ventilation shall be evaluated, at least, by continual observation of qualitative clinical signs.

(V) CIRCULATION

(A) OBJECTIVE – To ensure the adequacy of the patient's circulatory function during all anesthetics.

(B) METHODS:

(I) Every patient receiving anesthesia shall have the electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.\*

(II) Every patient receiving anesthesia shall have arterial blood pressure and heart rate determined and evaluated at least every five minutes.\*

(III) Every patient receiving general anesthesia shall have, in addition to the above, circulatory function continually evaluated by at least one of the following: palpation of a pulse, auscultation of heart sounds, monitoring of a tracing of intra-arterial pressure, ultrasound peripheral pulse monitoring, or pulse plethysmography or oximetry.

VI. BODY TEMPERATURE

(A) OBJECTIVE – To aid in the maintenance of appropriate body temperature during all anesthetics.

(B) METHODS: Every patient receiving anesthesia shall have temperature monitored when clinically significant changes in body temperature are intended, anticipated or suspected.

(j)(f) No change.

(k)(g) No change.

(I) The surgeon shall establish a risk management program that includes the following components:

1. The identification, investigation, and analysis of the frequency and causes of adverse incidents to patients.

2. The identification of trends or patterns of incidents.

3. The development of appropriate measures to correct, reduce, minimize, or eliminate the risk of adverse incidents to patients, and

4. The documentation of these functions and periodic review no less than quarterly of such information by the surgeon.

(m)(h) No change.

(n)(i) No change.

(3) through (5) No change.

(6) Level III Office Surgery.



- (a) Scope.
- 1. No change.

2. Only patients classified under the American Society of Anesthesiologist's (ASA) risk classification criteria as Class I or; II; or III are appropriate candidates for Level III office surgery.

a. All Level III surgeries on patients classified as ASA III and higher are to be performed only in a hospital or ambulatory surgery center. For ASA Class III patients, the surgeon must document in the patient's record the justification and precautions that make the office an appropriate forum for the particular procedure to be performed.

b. For all ASA II patients above the age of 40, the surgeon must obtain, at a minimum, an EKG and a complete workup performed prior to the performance of Level III surgery in a physician office setting. If the patient is deemed to be a complicated medical patient, the patient must be referred to an appropriate consultant for an independent medical clearance. This requirement may be waived after evaluation by the patient's anesthesiologist.

- (b) No change.

Specific Authority 458.309(1), 458.331(1)(v) FS., ~~ss. 92 and 197, Chapter 99-297, Laws of Florida.~~ Law Implemented 458.331(1)(g),(t),(v),(w), 458.351 FS., ~~ss. 92 and 197, Chapter 99-397, Laws of Florida.~~ History--New 2-1-94, Amended 5-17-94, Formerly 61F6-27.009, Amended 9-8-94, 11-15-94, Formerly 59R-9.009, Amended 2-17-00, 12-7-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Surgical Care Committee, Board of Medicine  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2000, December 1-3, 2000 & February 3, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2000

**DEPARTMENT OF HEALTH**  
**Board of Pharmacy**

RULE TITLE: Pharmacists Newly Licensed  
 RULE NO.: 64B16-26.100  
 PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule text with regard to the initial fee.

SUMMARY: The purpose of the rule amendment is to increase the initial fee for newly licensed pharmacists from \$105.00 to \$190.00.

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: 456.013, 465.005 FS.  
 LAW IMPLEMENTED: 456.013, 465.008 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: John Taylor, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.100 Pharmacists Newly Licensed.

- (1) No change.

(2) Newly licensed pharmacists shall submit an initial fee of \$190.00 ~~\$105.00~~.

Specific Authority ~~456.013 455.564(2),~~ 465.005 FS. Law Implemented ~~456.013 455.564(2),~~ 465.008 FS. History--New 3-19-79, Formerly 21S-6.04, Amended 1-7-87, 12-29-88, 10-16-90, Formerly 21S-6.004, Amended 1-10-93, Formerly 21S-26.100, 61F10-26.100, 59X-26.100, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2000  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2001

**DEPARTMENT OF HEALTH**  
**Board of Respiratory Care**

RULE TITLE: Procedure for Approval of Attendance  
 RULE NO.: 64B32-6.004  
 PURPOSE AND EFFECT: The Board proposes to update the continuing education course requirements for pulmonary technologists.

SUMMARY: The Board proposes to revise the continuing education requirements for pulmonary function technologist.

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

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

SPECIFIC AUTHORITY: 468.353(1), 468.361(2) FS.  
 LAW IMPLEMENTED: 468.361(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-6.004 Procedure for Approval of Attendance at Continuing Education Courses.

- (1) No change.
(2) Excluding any recertification, review refresher, or preparatory courses, all licensees shall be awarded contract hours for:
(a) through (d) No change.
(e) Successful passage, one time per biennium, of the following recredentiaing examinations given by the National Board for Respiratory Care (NBRC):

- 1. through 4. No change.
5. Pulmonary Function: Certified pulmonary function technologist and registered pulmonary function technologist recredentiaing examinations- maximum of 2 hours.

- (f) No change.
(3) through (4) No change.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History--New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, Formerly 59R-75.004, 64B8-75.004, Amended 6-8-00, \_\_\_\_\_.

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: October 13, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2000

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER NO.: 9J-14
RULE CHAPTER TITLE: Amendments to the Monroe County Land Development Regulations

RULE NO.: 9J-14.027
RULE TITLE: Approval of Monroe County Ordinances 038-1994; 040-1994; 043-1994; and 045-1994 through 048-1994, and Rejection of Ordinances 039-1994; 044-1994; 049-1994; and 050-1994

NOTICE OF WITHDRAWAL

NOTICE IS HEREBY GIVEN that the above rule, as noticed on March 31, 1995, in Vol. 21, No. 13, Florida Administrative Weekly, has been withdrawn because Ordinance 050-1994 has been determined to be moot by virtue of the City of Marathon incorporating and the remainder of the referenced ordinances were dealt with in subsequent rules.

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-9.001
RULE TITLE: Investment Policy Statement

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 44, printed on November 3, 2000, Florida Administrative Weekly, has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: 61G10-11.003
RULE TITLE: Examination Review Procedure

NOTICE OF WITHDRAWAL

The Board of Landscape Architecture hereby withdraws the above-proposed rule, which originally was noticed in Vol. 26, No. 24, of the Florida Administrative Weekly on June 16, 2000.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 97-17R

RULE CHAPTER NO.: 62-302
RULE CHAPTER TITLE: Surface Water Quality Standards

RULE NO.: 62-302.700
RULE TITLE: Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 34, August 27, 1999, issue of the Florida Administrative Weekly. The changes are in response to written and oral comments from the Joint Administrative Procedures Committee, and written and oral comments from the public received at several public hearings held in Bunnell and Tallahassee, Florida. The proposed rule has changed so that when it is adopted it will read: