

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: RULE NO.:

Description of Merchandise on Preneed Contracts 3F-8.006

PURPOSE AND EFFECT: The Board proposes to amend this rule to clarify when merchandise is available for delivery.

SUBJECT AREA TO BE ADDRESSED: Description of Merchandise on Preneed Contracts.

SPECIFIC AUTHORITY: 487.103(1) FS.

LAW IMPLEMENTED: 497.333(6)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diana M. Evans, Executive Director, Board of Funerals and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-8.006 Description of Merchandise on Preneed Contracts.

(1) through (5) No change.

(6) For the purposes of this rule, merchandise shall be considered available for delivery if the merchandise can be attained in the market place within twenty-four hours.

Specific Authority 497.103(1) FS. Law Implemented 497.333(6)(c) FS. History--New 4-10-97, Amended

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: RULE NO.:

Citations 3F-11.003

PURPOSE AND EFFECT: This rule is being amended to clarify the Department's authority to impose fines for each occurrence of the same violations, pursuant to section 497.121, F.S.

SUBJECT AREA TO BE ADDRESSED: Citations.

SPECIFIC AUTHORITY: 497.103, 497.121 FS.

LAW IMPLEMENTED: 497.121, 497.421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diana M. Evans, Executive Director, Board of Funerals and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-11.003 Citations.

(1) Pursuant to Section 497.121, F.S., the Board sets forth in this rule those violations for which there is not substantial threat to the public health, safety, and welfare. The Department shall have the authority to issue citations for the violations set forth herein. The licensee Prior to the issuance of the citations, the Department must confirm that the violation has been corrected or is in the process of being corrected, upon acceptance of the citation. For each violation, there is a range of fines to be imposed depending upon whether the violation is the first or, second, or third violation of the particular provision within the previous six (6) three (3) year period. Multiple occurrences of a specific violation within an examination report will be cited as one violation.

(2) The following violations with accompanying fines and conditions may be disposed of by citation:

(a) For each of the following violations, a range of fines is to be imposed depending upon whether the citation is the first or, second, or third violation of the particular provision by the certificateholder, licensee or registrant. For each of the violations listed under this part, the fine to be imposed for the first violation shall be \$200.00 \$50.00, and the fine to be imposed for the second violation shall be \$400.00 \$100.00, and the fine to be imposed for the third violation shall be \$400.00.

1. Failing to display license, as provided in Section 497.301, F.S.

2. Unintentionally failing to remit 1% to <5% of the amounts required to be deposited to any trust fund for an examination period, as provided in Section 497.233(1)(d), F.S.

1.3. Failing to provide to any person, upon request, a copy of the cemetery bylaws, as provided in Section 497.233(1)(s)(+), F.S.

2.4. Failing to register a branch name for a common business enterprise, in violation of Section 497.407(4), F.S.

3.5. Failing to have all financial records available at all reasonable times for examination by the Department, as provided in Section 497.309, F.S.

4. Failing to furnish, for retention, a printed or typewritten list of current retail prices for burial rights, burial merchandise, or burial services, as provided in Section 497.233(1)(q), F.S.

~~5.6.~~ Establishing a condition for entry on or access to cemetery property, as provided in Section 497.317(3), F.S.

~~6.7.~~ Failing to mark the place on a grave where a monument is to be installed and requiring any person who installs a monument to obtain insurance or post a bond as described in Section 497.317, F.S.

~~7.~~ Failing to notify preneed purchasers that the merchandise purchased will be accepted in the cemetery of the purchaser's choice as required by Section 497.441, F.S.

~~8.~~ Consistently failing to make timely deposits to any trust fund, in violation of Section 497.245(2), F.S.

~~9.~~ Failing to state the type, size and design of merchandise and the description of the service to be delivered or performed as required by Section 497.333(6)(c), F.S. and Rule 3F-8.006, F.A.C.

~~10.~~ Failing to maintain procedures for handling complaints as provided by Section 497.445(6), F.S.

~~11.~~ Failing to comply with the filing and remittance of fee requirements as required by Section 497.407(12), F.S.

~~12.~~ Failing to comply with the filing and remittance of fee requirements as required by Section 497.413(2), F.S.

~~13.~~ Failing to provide a Good Faith Estimate of all fees and costs the consumer will incur to use any burial right, merchandise, or services purchased as provided in Section 497.333(4), F.S.

(b) For each of the following violations, a range of fines is to be imposed depending upon whether the citation is the first ~~or~~ second, ~~or third~~ violation of the particular provision by the certificateholder, licensee or registrant. For each of the violations listed under this part, the fine to be imposed for the first violation shall be ~~\$500.00~~ ~~\$100.00~~, and the fine to be imposed for the second violation shall be ~~\$1,000.00~~ ~~\$200.00~~, and the fine to be imposed for the third violation shall be ~~\$800.00~~.

~~1.~~ Discouraging the purchase of any burial merchandise or burial service which is advertised or offered for sale, with the purpose of encouraging the purchase of any additional or more expensive burial merchandise or service, as provided in Section 497.233(1)(~~p~~)(~~+~~), F.S.

~~2.~~ Failing to furnish, for retention, a printed or typewritten list of retail prices for burial rights, burial merchandise, or burial services, as provided in Section 497.233(1)(p), F.S.

~~2.3.~~ Assessing fees and costs which have not been disclosed to the customer as provided in Section 497.233(1)(~~t~~)(~~+~~), F.S.

~~3.~~ Attempting to sell grave space tied to the purchase of a monument from or through the seller or any other designated person or corporation, as provided in Section 497.325(1)(a), F.S.

~~4.~~ Requiring the payment of a setting or service charge, by whatever name known, from third party installers for the placement of a monument, as provided in Section 497.325(1)(c)1., F.S.

~~5.~~ Refusing to provide care or maintenance for any portion of a gravesite on which a monument has been placed, as provided in Section 497.325(1)(c)2., F.S.

~~6.~~ Attempting to waive liability with respect to damage to a monument after installation, where the monument or installation service is not purchased from the person, cemetery company or other entity authorized to sell or to provide grave space, as provided in Section 497.325(1)(c)3., F.S.

~~7.~~ Conditioning any program offering free burial rights by any requirement to purchase additional burial rights or burial merchandise, as provided in Section 497.325(2), F.S.

~~8.~~ Failing to disclose all fees and costs the customer may incur to use the burial rights or burial merchandise purchased as provided in Section 497.515(3), F.S.

~~9.~~ Failing to disclose information to the public, as provided in Section 497.333(1), (2), (4), (5), (7), or (8), F.S.

~~8.10.~~ Unintentionally failing to remit 1% to <5% 5% to <10% of the amounts required to be deposited to any trust fund for an examination period, as provided in Section 497.233(1)(d), F.S.

~~11.~~ Failure to make disclosures on insurance funded preneed contracts as required by Rule 3F-8.005.

~~9.12.~~ Failing to maintain cemetery grounds in reasonable condition as required by Rule 3F-6.002.

~~13.~~ Failure to comply with the filing and remittance of fee requirements as required by Section 497.407(12), F.S.

~~14.~~ Failure to comply with the filing and remittance of fee requirements as required by Section 497.413(2), F.S.

~~10.15.~~ Failing to deliver monuments in a timely manner as required by Section 497.361(5), F.S.

~~16.~~ Failure to notify preneed purchasers that the merchandise purchased will be accepted in the cemetery of the purchaser's choice as required by Section 497.441, F.S.

~~11.17.~~ Assessing other charges in violation of Section 497.313, F.S.

~~12.~~ Selling a preneed contract or permitting a person to sell a preneed contract without being registered as a preneed sales agent or being exempted as provided by Section 497.439, F.S.

~~18.~~ Failing to have preneed contracts and related forms filed with and approved by the Board, as required by Section 497.409, F.S.

~~19.~~ Failure to state the type, size and design of merchandise and the description of the service to be delivered or performed as required by Section 497.425(9), F.S.

(c) For each of the following violations, a range of fines is to be imposed depending upon whether the citation is the first ~~or~~ second, ~~or third~~ violation of the particular provision by the certificateholder, licensee or registrant. For each of the violations listed under this part, the fine to be imposed for the first violation shall be ~~\$800.00~~ ~~\$200.00~~, and the fine to be

imposed for the second violation shall be ~~\$1,600.00~~ \$400.00, and the fine to be imposed for the third violation shall be \$1600.00.

1. Failing to furnish, for retention, to each purchaser of burial rights, burial merchandise, or burial services a written agreement, the form of which has been approved by the Board, as provided in Section 497.233(1)(r)(q), F.S.

2. Unintentionally failing to remit ~~5% to <10%~~ 10% to <15% of the amounts required to be deposited to a trust fund for an examination period, as provided in Section 497.233(1)(d), F.S.

3. ~~Failing to meet the time requirements for deposits to the care and maintenance trust fund, as provided in Section 497.245(2), F.S.~~

4. ~~Attempting to sell grave space tied to the purchase of a monument from or through the seller or any other designated person or corporation, as provided in Section 497.325(1)(a), F.S.~~

5. ~~Failing to disclose information to the public, as provided in Section 497.333(3) or (6), F.S.~~

~~3.6-~~ Requiring lot owners or current customers to make unnecessary visits to the cemetery company office for the purpose of solicitation, as provided in Section 497.515(1), F.S.

~~4.7-~~ Failing to maintain accurate burial records as required by Section 497.309, F.S.

~~5.8-~~ Failing to honor cancellations and to issue refunds, as provided by Sections 497.419, F.S., and 497.515(5), F.S.

9. ~~Misrepresenting any burial merchandise or burial service when offered for sale to the public, as provided in Section 497.515(6), F.S.~~

~~6.10-~~ Knowingly disclosing to the department or an employee thereof any false report made pursuant to this chapter as stated in Section 497.519, F.S.

11. ~~Selling a preneed contract or permitting a person to sell a preneed contract without being registered as a preneed sales agent or being exempted as provided by Section 497.439, F.S.~~

12. ~~Engaging in any misrepresentation, false advertising, presentation of false information, unfair claim settlement practices, failing to maintain procedures for handling complaints, or discriminatory refusal to issue a contract, as provided in Section 497.445, F.S.~~

~~7.13-~~ Failing to honor the preneed contract cancellation request by the heirs of a contract purchaser as provided in Section 497.421, F.S.

~~8.14-~~ Failing to meet the construction timeframes, as provided in Section 497.257(1)-(8), F.S.

9. Failing to have preneed contracts and related forms filed with and approved by the Board, as required by Section 497.409, F.S.

~~15. Requesting disbursement of funds from the preneed or merchandise trust funds when the contract has not been fulfilled as described in Section 497.421, F.S.~~

Specific Authority 497.103, 497.121 FS. Law Implemented 497.121 FS. History--New 1-24-95, Amended 5-19-97, _____.

DEPARTMENT OF INSURANCE

| RULE TITLES: | RULE NOS.: |
|--|------------|
| Disclosure; Mortgagee Policyholders | 4-186.001 |
| Approved Forms | 4-186.002 |
| Title Insurance Rates | 4-186.003 |
| Usury of Claims of Usury Excluded from Title Insurance Coverages | 4-186.006 |
| Escrow Requirements | 4-186.008 |
| Independent Searcher/Abstractor Coverage | 4-186.012 |
| Insurer Reporting For Non-Licensed Agents | 4-186.014 |

PURPOSE AND EFFECT: The purpose of this amendment is to comply with Section 627.7825, Florida Statutes, which codified much of the rule. Also parts of the rule needs to be repealed pursuant to Section 120.536(2)(b), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Amendments to comply with Section 627.7825, Florida statutes and some repeals pursuant to Section 120.536(2)(b), Florida Statutes.

SPECIFIC AUTHORITY: 624.308(1), 626.9611, 627.782, 627.7825 FS.

LAW IMPLEMENTED: 624.307(1), 624.608, 626,9541(1)(h)3.a., 626.8473, 627.777, 627.778(1)(a), 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845, 628.151 FS.

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

TIME AND DATE: 9:00 a.m., May 9, 2001
PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Wally Senter, Financial Examiner/Analyst Supervisor, Insurer Services, Department of Insurance, phone (850)413-2554

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 Wally Senter, (850)413-2554.

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE: Comprehensve Shellfish Control Code

RULE CHAPTER NO.: 5L-1

RULE TITLE: Shellfish Harvesting Area Standards

RULE NO.: 5L-1.003

PURPOSE AND EFFECT: This amendment proposes to reclassify the Choctawhatchee Bay shellfish harvesting area, Okaloosa and Walton Counties. A sanitary survey has been conducted that evaluates current information on pollution sources and bacteriological water quality, and recommends reclassification of the Choctawhatchee Bay shellfish harvesting area.

SUBJECT AREA TO BE ADDRESSED: The proposed reclassification and management of the Choctawhatchee Bay shellfish harvesting area for shellfish harvesting is in accordance with 5L-1.003 to protect the health of shellfish consumers and to provide access to renewable and natural shellfish resources.

SPECIFIC AUTHORITY: 597.020 FS.

LAW IMPLEMENTED: 597.020 FS.

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

TIME AND DATE: 5:30 p.m. – 7:30 p.m., Monday, May 7, 2001

PLACE: South Walton Tourist Development Center, 25777 U.S. Highway 331, South, Santa Rosa Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John McDowell, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301, Phone (850)488-5471

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: District Financial Records

RULE NO.: 6A-1.001

PURPOSE AND EFFECT: The purpose of this rule development is to update Financial and Program Cost Accounting for Florida Schools which is incorporated by reference in the rule. Changes in law, accounting principles, and district practices require the periodic revision of this publication which include the chart of accounts. The effect will be a rule with an incorporated publication that is consistent with law, accounting principles, and district practices.

SUBJECT AREA TO BE ADDRESSED: Financial and program cost accounting for school districts will be the subject area to be addressed.

SPECIFIC AUTHORITY: 229.053(1), 237.01 FS.

LAW IMPLEMENTED: 237.01, 237.34 FS.

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

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jeanine Blomberg, Director, Division of Support Services, Department of Education, 325 West Gaines Street, Room 814, Tallahassee, Florida 32399, (850)488-6023

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

DEPARTMENT OF REVENUE

Sales and Use Tax

| | |
|--|------------|
| RULE TITLES: | RULE NOS.: |
| Specific Exemptions | 12A-1.001 |
| Sales; Installation Charges | 12A-1.016 |
| Telephone, Telegraph and Other Telecommunication Services | 12A-1.046 |
| Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property | 12A-1.051 |
| Registration | 12A-1.060 |
| Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats | 12A-1.064 |
| Self-Accrual Authorization | 12A-1.0911 |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12A-1.001, 12A-1.016, 12A-1.051, 12A-1.060, 12A-1.064, 12A-1.0911, F.A.C., and the proposed repeal of Rule 12A-1.046, F.A.C., is to implement the provisions of Chapter 2000-260, L.O.F., effective October 1, 2001, which removes the imposition of sales tax on charges for telecommunication services and for television system program services.

The proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions), remove provisions regarding the exemption provided for services rendered by radio and television stations that are redundant of the exemption provided in s. 212.08(6), F.S., and remove provisions regarding the imposition of sales tax on charges for wired music service that will no longer be imposed effective October 1, 2001.

The proposed amendments to Rule 12A-1.016, F.A.C. (Sales; Installation Charges), provide that the charge for installation of equipment used to provide communication services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises, is subject to sales tax.

The proposed amendments to Rule 12A-1.051, F.A.C. (Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property), provide that the installation of equipment used to provide communication services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises, is not considered to be a real property contract.

The proposed amendments to Rule 12A-1.060, F.A.C. (Registration), provide that effective October 1, 2001, businesses that provide telecommunication services will no longer be required to register with the Department as a sales tax dealer.

The proposed amendments to Rule 12A-1.064, F.A.C. (Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats), provide that effective October 1, 2001, the purchase of telecommunication services no longer qualify for the apportionment of sales tax provided to air carriers.

The proposed amendments to Rule 12A-1.0911, F.A.C. (Self-Accrual Authorization), provide that effective October 1, 2001, provisions for the self-accrual of sales tax on telecommunication services will no longer be applicable.

SUBJECT AREA TO BE ADDRESSED: This workshop will provide an opportunity for the Department to receive public comments regarding the proposed amendments to Rules 12A-1.001, 12A-1.016, 12A-1.051, 12A-1.060, 12A-1.064, and 12A-1.0911, F.A.C., and the proposed repeal of Rule 12A-1.046, F.A.C. The subject of these rule changes the Department's proposed implementation of Chapter 2000-388, L.O.F., regarding the removal of the sales tax imposed on telecommunication services and television system program services.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 212.183, 213.06(1) FS.

LAW IMPLEMENTED: 92.525, 212.02(4),(7),(10),(12),(14), (15),(16),(19),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.054(2),(3), 212.0598, 212.06(1),(2),(9), (11),(14), 212.07(1),(8), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c), (d),(f),(g),(h),(i),(j),(k),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x), (bb),(cc),(dd),(8),(9), 212.085, 212.12(2),(5),(6),(8),(12),(13), 212.13(1), 212.14(5), 212.15(1), (4), 212.16, 212.17, 212.18, 212.183, 212.21(2),(3), 213.12(2), 213.37, 403.715 FS.

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

TIME AND DATE: 10:00 a.m., May 8, 2001

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

Copies of the agenda for the rule development workshop may be obtained from 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, and Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.001 Specific Exemptions.

(1) through (11) No change.

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

~~(a) All charges for services rendered by radio and television stations, including line charges, talent fees, or license fees, are exempt. All charges to radio and television stations for license fees and charges for raw and processed films, video tapes, and transcriptions for use in producing radio or television broadcasts, are exempt.~~

~~(b) Radio and television equipment, including expendable items, parts, accessories, and supplies are taxable~~

~~(c) Effective July 1, 1990, the charge for wired music service is taxable. See Rule 12A-1.046, F.A.C.~~

(13) through (21) renumbered (12) through (20) No change.

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525, 212.02(10),(12),(16),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2),(9), 212.08(4),(5)(a),(e),(7)(a),(b),(c),(d),(f),(g),(h),(i),(k), (l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd),(8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS. History-Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, 4-2-00, 6-28-00, 10-1-01.

12A-1.016 Sales;- Installation Charges.

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

(b) Contractors and manufacturers who furnish and install the following items are considered to be retail dealers and are required to charge sales tax on the full price, including installation and any other charges:

1. through 12. No change.

~~13. Telegraphic equipment (See Rule 12A-1.046.);~~

~~14. Telephonic equipment (See Rule 12A-1.046.);~~

~~15. Television satellite dishes;~~

~~13,16.~~ Window air conditioning units; and

14.17. Equipment used to provide communication services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises Wired television (See Rule 12A-1.046). PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15)(a), (16), 212.05 FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.16, Amended 12-13-88, 10-1-01.

12A-1.046 Telephone, Telegraph and Other Telecommunication Services.

~~(1)(a) Charges for all telecommunication services, as defined in s. 203.012, F.S., and for those services described in s. 203.012(2)(a), F.S., are taxable unless expressly exempt.~~

~~(b) The term telecommunication service as used in s. 203.012, F.S., includes, but is not limited to, services described or defined therein as local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service, private communication service, cellular mobile telephone, specialized mobile radio, and paging services.~~

~~(c) The word "charges" in this rule does not include any excise or similar taxes levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication service or on cable television service, which are collected by the seller from the purchaser. The gross receipts tax (under Chapter 203, F.S.) and any fees imposed by a political subdivision are part of the charges subject to sales tax.~~

~~(2) The following telecommunication charges are exempt from tax:~~

~~(a) Charges for local service provided through a pay telephone.~~

~~(b) Charges to residential households or owners of residential models in the state for local telephone service, long distance telephone calls, or telegraphic messages when the charges are made by utility companies which pay the gross receipts tax imposed under s. 203.01, F.S.~~

~~(3) Telecommunication services which originate or terminate in this state and are billed to a customer, telephone number, or device located within this state are subject to sales tax. The tax on interstate private communication service is apportioned as explained in subsection (9) of this rule. (4) The renting, leasing, letting, or granting a license for the use of any public or private street or right of way occupied or used by a utility for utility purposes is exempt from tax.~~

~~(5) Charges for cable or wired television service and its installation are taxable.~~

~~(6)(a) The sale or rental of machines, equipment, parts and accessories therefor used directly in furnishing communication services are taxable.~~

~~(b)1. Charges to customers or subscribers of telecommunication service, including charges to residential households, for the sale or rental of equipment used in providing such services are taxable.~~

~~2. Charges for the installation of equipment used in providing telecommunication services are taxable.~~

~~(7) A person who purchases, leases, installs, or rents, for his own use, a telecommunication system or telephone system which is a substitute for any telephone company switched service or a substitute for a dedicated facility used by the telephone company to provide a communication path, by acquisition and use of such equipment, exercises a taxable privilege and shall be required to remit a tax based upon the actual cost of operating such a system, as defined in s. 212.05(1)(h), F.S., notwithstanding the provision of s. 212.081(2)(b), F.S.~~

~~(8)(a) Effective July 1, 1986, the tax on telecommunications services imposed pursuant to s. 212.05(1)(e), F.S., shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services, as defined in s. 203.012(4) and (7)(b), F.S., provided that more than 50% of such telecommunication services used by such person are for communications originating outside Florida and terminating in Florida.~~

~~(b) This exemption shall only be granted to holders of a direct pay permit issued by this department pursuant to s. 212.05(1)(e), F.S., and the department will not authorize refunds for taxes paid prior to the purchaser receiving a direct pay permit.~~

~~(c) To obtain a direct pay permit, the purchaser must make written application to the Florida Department of Revenue, Central Registration, P. O. Box 2096, Tallahassee, Florida 32316-2096, and the Department may issue the direct pay permit which will authorize the purchaser to purchase such telecommunications services tax exempt and remit the tax directly to the Department on a monthly basis.~~

~~(d) For the year 1986, the term calendar year means the last 6 months of 1986.~~

~~(9) The tax imposed under s. 212.05(1)(e), F.S., is computed on interstate private communication services as follows:~~

~~(a) The total charge for each channel termination point within this state;~~

~~(b) The total charge for channel mileage between each channel termination point within this state; and~~

~~(c) The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the sum~~

of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

~~(10) The telecommunication services under s. 212.05(1)(e), F.S., may be purchased for resale in the same manner as provided in Rule 12A-1.038, F.A.C.~~

(11)(a) Every person deriving receipts from the sale of telecommunication services is subject to tax on any such sale, unless the sale is specifically exempt.

(b) Hotels, motels, and other persons or establishments not primarily engaged in the business of selling telecommunication services may use the following method to compute the amount of tax due:

1. Local Telephone Service.

a. Any person or establishment shall collect sales tax on all local telephone service charges separately billed to their customer.

b. If the establishment pays less sales tax to the telecommunication service provider than it collects from customers, the establishment must remit the sales tax collected, less the amount paid to the telecommunication service provider, directly to the state. If the amount of taxes paid to the telecommunication service provider is greater than the amount collected from the customers, no additional sales tax will be due to the state for the local service.

e. If the telecommunication service provider accepts a resale certificate in lieu of sales tax from the establishment for the local service charge, the establishment shall remit to the state the greater amount of the sales tax that would have been due to the telecommunication service provider or the amount of sales tax collected from the customers.

2. Long Distance Telephone Service.

a. Any person or establishment shall collect sales tax on each long distance toll call of any kind, billed to any customer. Sales tax shall also be collected on the minimum charge for the right to use long distance service.

b. If the long distance service provider accepts resale certificates in lieu of sales tax, then the establishment must remit all the taxes collected from its customers plus the taxes for all toll calls made by the establishment for its own use. The establishment will remit the sales and use tax to the state for every toll call.

e. If the long distance service provider charges sales tax to the establishment for only the calls made by the establishment and not resold to its customers, the establishment will remit only the taxes collected from customers.

d. If sales tax is paid to the long distance service provider for all calls, the establishment may take a credit for the sales tax paid to the long distance service provider for only those calls that are resold to customers. The establishment will remit

the sales tax on the difference between the amount paid to the long distance service provider for the calls that were resold and the amount charged to the customers.

e. If sales tax is paid to the long distance service provider for all calls and the establishment is unable to distinguish which calls are resold, the establishment must remit the total amount of sales tax collected from the customers. If the establishment cannot show which calls are resold, it may not take a credit for the sales tax paid to the long distance service provider regardless of the resale of some calls.

f. If the long distance service provider accepts resale certificates for all long distance calls and the establishment is unable to distinguish which calls are resold, then the establishment must remit the sales tax on the total amount billed by the long distance service provider, plus the total amount collected from the customers.

~~(12) The local government infrastructure surtax, as provided in ss. 212.054 and 212.055, F.S., applies only to local telephone charges made to an establishment or by the establishment located in a surtax county. However, the surtax does not apply to long distance toll charges.~~

(13) Charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio and television broadcasts, are exempt.

Cross Reference - Rule 12A-1.088, F.A.C.

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (15), 212.031(1), 212.05(1)(e), (f), (h), 212.054(2), (3), 212.08(7)(j), 212.12(12), 212.15(1), (4), 212.21(2) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, 12-11-74, Amended 4-1-79, 7-20-82, Formerly 12A-1.46, Amended 1-8-90, 4-2-00, ~~Repealed 10-1-01.~~

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

(1) through (17) No change.

(18) Specific activities not classified as real property contracts. The sale, installation, maintenance, or repair of the following items is not considered to be a real property contract.

(a) through (n) No change.

(o) Equipment used to provide communication services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises Telecommunications system components;

(p) Television satellite dishes;

(q) through (r) renumbered (p) through (q) No change.

(19) No change.

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (7), (16), (19), (21), 212.06(1), (14), 212.07(1), (8), 212.08(6), 212.14(5), 212.183 FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 2-3-80, 3-27-80, 6-3-80, 8-26-81, 11-15-82, 6-11-85, Formerly 12A-1.51, Amended 1-2-89, 8-10-92, 7-27-99, 3-30-00, ~~10-1-01.~~

12A-1.060 Registration.

(1)(a)1. Except as provided in paragraphs (f), (g), or (h), every person must file an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department of Revenue for a dealer's certificate of registration before engaging in any one of the following businesses:

- a. sale of admissions or making of any charge for admission to any place of amusement, sport, or recreation or where there is any exhibition or entertainment;
- b. sale, lease, let, rental, or granting a license to use tangible personal property;
- c. lease, let, rental, or granting licenses for transient accommodations, as defined in Rule 12A-1.061, F.A.C.;
- d. lease, let, rental, or granting a license in real property;
- e. lease or rental of parking or storage space for motor vehicles in parking lots or garages;
- f. lease or rental of docking or storage space in boat docks or marinas;
- g. lease or rental of tie-down or storage space for aircraft;

or

~~h. sale of telecommunication services; or~~

~~h.i. sale of taxable services.~~

2. through 5. No change.

(b) through (h) No change.

(2) through (5) No change.

PROPOSED EFFECTIVE DATE: October 1, 2001.

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, 10-1-01.

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

(1) through (2) No change.

(3) Aircraft.

(a)1. Any air carrier utilizing mileage apportionment for corporate income tax purposes in this state pursuant to Chapter 220, F.S., may elect, upon the conditions prescribed in subparagraph (a)3., to be subject to the tax imposed by this part on tangible personal property, services, and in certain instances, the lease or rental of, or license in, real property according to the provisions of this subsection.

2. through 6. No change.

7. The following purchases of tangible personal property and services qualify for the apportionment provided in this paragraph.

a. through h. No change.

~~i. Telecommunication services.~~

j. through k. renumbered i. through j. No change.

8. through (13) No change.

PROPOSED EFFECTIVE DATE: October 1, 2001.

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, 10-1-01.

12A-1.0911 Self-Accrual Authorization.

(1) A dealer registered under Chapter 212, F.S., may, under particular circumstances, request in writing to the Department and obtain written consent from the Department to assume the obligation of self-accruing and remitting directly to the state, the use tax due on leases and purchases. Self-accrual authority may be used under the following circumstances:

(a) Where required under ~~s. 212.05(1)(e)3., F.S., for telecommunication services,~~ s. 212.0598, F.S., for apportionment by eligible air carriers, and s. 212.08(8) and (9), F.S., for vessels, railroads, and motor vehicles engaged in interstate and foreign commerce;

(b) through (g) No change.

(2) through (3) No change.

(4) The self-accrual authority does not cover and must not be used:

(a) through (d) No change.

~~(e) For purchases of telecommunication services except where required under s. 212.05(1)(e)4., F.S., for telecommunication services or s. 212.0598, F.S., for apportionment by eligible air carriers.~~

(5) No change.

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2),(3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3., 4., 212.0598, 212.06(11), 212.08(8), (9), 212.12(13), 212.18(3), 212.183 FS. History-New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99, 10-1-01.

DEPARTMENT OF REVENUE

Sales and Use Tax

| | |
|-------------------------------|-------------------|
| RULE TITLES: | RULE NOS.: |
| Imposition and Payment of Tax | 12A-15.003 |
| Specific Exemptions | 12A-15.004 |
| Records | 12A-15.007 |
| Transition Rule | 12A-15.014 |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-15.003, F.A.C. (Imposition and Payment of Tax); Rule 12A-15.004, F.A.C. (Specific Exemptions); Rule 12A-15.007, F.A.C. (Records); and Rule 12A-15.014, F.A.C. (Transition Rule), is to: (1) implement the provisions of Chapter 2000-260, L.O.F., effective October 1, 2001, which removes the imposition of discretionary sales surtax on charges for telecommunication services and for television system program services; and (2) provide that, effective October 1, 2001, the imposition of discretionary sales

surtax applies to sales of electricity or natural or manufactured gas and does not apply to charges for telecommunication services or wired or cable television.

SUBJECT AREA TO BE ADDRESSED: This workshop will provide an opportunity for the Department to receive public comments regarding the proposed amendments to Rules 12A-15.003, 12A-15.004, 12A-15.007, 12A-15.014, F.A.C. The subject of these rule changes is the Department's proposed implementation of Chapter 2000-388, L.O.F., regarding the removal of the discretionary sales surtax imposed on telecommunication services and television system program services.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.02(15),(19), 212.05(1), 212.0506, 212.054, 212.055, 212.06(1),(4),(7),(8),(10), 212.07(8), 212.13(2), 212.18(3) FS.

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

TIME AND DATE: 10:00 a.m., May 8, 2001

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

Copies of the agenda for the rule development workshop may be obtained from 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, and Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-15.003 Imposition and Payment of Tax.

(1) No change.

(2) For purposes of the surtax, a transaction, except for a transaction involving any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state, shall be deemed to have occurred in a county imposing the surtax when:

(a) through (e) No change.

(f)1. The consumer of electricity or natural or manufactured gas utility, ~~or wired or cable television services~~ is located in a county imposing the surtax, ~~or the telecommunication services are provided to a location within a county imposing the surtax.~~

2. Each dealer that provides electricity or natural or manufactured gas utility services, ~~wired or cable television, or telecommunication services~~ in a county that imposes the surtax, shall register for sales tax purposes in the county in which the consumer of the electricity or natural or manufactured gas utility, ~~wired television, or telecommunication services~~ is located.

(g) through (l) No change.

(3) through (5) No change.

(6) Any person who has purchased at retail, used, consumed, distributed or stored for use or consumption in this state tangible personal property, admissions, a taxable service, electricity, or natural or manufactured gas utility services, ~~telecommunication services, television system program services~~, or leased tangible personal property or who has leased real property, and cannot prove that the state sales and use tax or county surtax levied by chapter 212, F.S., has been paid to the vendor or lessor shall be directly liable to the state for any tax, interest, or penalty due on any such taxable transaction.

(a) through (b) No change.

PROPOSED EFFECTIVE DATE: October 1, 2001.

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), 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, 10-1-01.

12A-15.004 Specific Exemptions.

(1) through (2) No change.

~~(3) The surtax does not apply to long distance telephone service. However, sales of telecommunication services which are subject to the surtax are fully taxable since the \$5,000 limitation only applies to items of tangible personal property.~~

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15), (19), 212.05(1), 212.054(2) FS. History--New 12-11-89, Amended 5-12-92, 3-17-93, 11-16-93, 10-1-01.

12A-15.007 Records.

Persons making sales and use of tangible personal property; charging admissions; furnishing electricity or natural or manufactured gas utility, communication, or cable or wired television services; leasing or renting any real property; or leasing or renting any transient rental accommodations subject to the surtax shall maintain adequate and sufficient books and records to indicate what sales and uses are subject to the surtax. The failure to maintain such records shall make the total sales amount subject to the surtax.

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.13(2) FS. History--New 12-11-89, Amended 10-1-01.

12A-15.014 Transition Rule.

(1) through (3) No change.

(4) Electric Utilities; Natural or Manufactured Gas; Fuel Oil.

(a)1. Electric utilities and sellers of gas and fuel oil normally bill their customers after the period of service. The 7% tax rate plus the surtax rate will apply to billing cycles, which includes services billed for cycles ending on or after the effective date of any such surtax.

a. Example: If the effective date of the surtax is January 1, 1995, and the monthly service cycle is December 1, 1994, through December 31, 1994, and the service cycle billing is mailed to customer on January 5, 1995, the surtax does not apply.

b. Example: If the effective date of the surtax is January 1, 1995, and the monthly service cycle is December 10, 1994, through January 10, 1995, and the service cycle billing is mailed to customer on January 15, 1995, the surtax applies.

~~(b) Telephone Companies normally bill their customers for past long distance services and future regular subscriber services. Where a bill is dated prior to the effective date of any such surtax, the 6% rate applies. For bills dated on or after the effective date of the surtax, the 6% rate plus the surtax rate applies. NOTE: The surtax does not apply to long distance telephone service.~~

~~(b)(e)1.a. Where in all other cases under paragraphs (a) and (b), above, where service periods or cycles are not noted on the bill to the customer, the invoice or billing date would determine the applicable tax rate.~~

2. In most cases, billing cycle means the period of service. In the case of electric, gas, and fuel oil, billing cycles are from the most current meter reading to the previous meter reading.

~~(5) Wired or Cable Television Services. Wired or cable television companies normally bill their customers in advance for services that are to be rendered. Where a bill is dated prior to the effective date of any such surtax, the 6% tax rate would apply even though the services are to be rendered on or after the effective date of the surtax. For bills or remittance notices dated on or after the effective date of the surtax, the 6% tax rate plus the surtax rate applies.~~

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

PROPOSED EFFECTIVE DATE: October 1, 2001.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.054, 212.055, 212.06(10) FS. History—New 12-11-89, Amended 11-16-93, 3-20-96, 10-1-01.

DEPARTMENT OF REVENUE

Miscellaneous Tax

| RULE TITLES: | RULE NOS.: |
|--------------------------------------|------------|
| Imposition of the Gross Receipts Tax | 12B-6.001 |
| Administration | 12B-6.002 |
| Registration | 12B-6.0021 |
| Rate of Tax | 12B-6.003 |

| | |
|---|-----------|
| Sales for Resale; Resale Certificates | 12B-6.004 |
| Payment of Tax; Reports; Public Use Forms | 12B-6.005 |
| Collection and Distribution | 12B-6.006 |
| Assessment and Collection | 12B-6.007 |
| Interest | 12B-6.008 |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12B-6, F.A.C., is to remove from the Administrative Code obsolete language and language that restates the statutory provisions, as mandated by s. 120.74, F.S., and to change the title of the rule chapter to “Gross Receipts Tax.”

The proposed repeal of Rules 12B-6.002 (Administration), 12B-6.003 (Rate of Tax), and 12B-6.007 (Assessment and Collection), F.A.C., will eliminate unnecessary rules that restate statutory provisions regarding the administration of the gross receipts tax, the statutory gross receipts tax rate, and the imposition of penalties due for failure to timely pay the gross receipts tax. The proposed repeal of Rule 12B-6.006 (Collection and Distribution), F.A.C., will eliminate an unnecessary recitation of the constitutional provision requiring that all gross receipts tax collections be deposited into the Public Education Capital Outlay and Debt Service Trust Fund.

The proposed amendments to Rule 12B-6.001, F.A.C., change the title to “Imposition of The Gross Receipts Tax,” and provide current guidelines for when gross receipts from the sale of telecommunication services and the sale of electricity are excluded from the tax imposed on gross receipts from utility services. The proposed amendments eliminate the obsolete guidelines and the unnecessary recitation of the statute regarding when receipts from utility services are excluded from the tax imposed on gross receipts.

The proposed amendments to Rule 12B-6.0021, F.A.C., Registration, will provide the public with notice regarding the forms used by the Department to register taxpayers for purposes of the gross receipts tax.

The proposed amendments to Rule 12B-6.004, F.A.C., change the title to “Sales for Resale; Resale Certificates,” provide guidelines for when utility services may be purchased tax exempt for the purposes of resale, and provided a suggested format of a Resale Certificate to be issued by the purchaser to the utility provider when purchasing utility services for resale.

The proposed amendments to Rule 12B-6.005, F.A.C., change the title to “Payment of Tax; Reports; Public Use Forms”; provide guidelines regarding the payment of the gross receipts tax and the filing of reports with the Department; and incorporate by reference the public use forms used by the Department in the administration of the gross receipts tax that are required to be certified under the provisions of s. 120.54, F.S.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the proposed removal of unnecessary and obsolete provisions regarding the gross receipts tax from Rule Chapter 12B-6, F.A.C., Gross Receipts Tax.

SPECIFIC AUTHORITY: 203.01, 203.02, 213.06(1) FS.

LAW IMPLEMENTED: 203.01, 203.011, 203.012, 203.013, 203.03, 203.06, 203.07, 203.60, 203.61, 203.62, 203.63, 213.05, 213.235 FS., Art. XII, Section 9, Subsection (2), Constitution of Florida (1968).

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

TIME AND DATE: 10:00 a.m., May 8, 2001

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

GROSS RECEIPTS TAX, ~~GENERALLY~~

12B-6.001 Imposition of the Gross Receipts Tax.

~~(1)(a) Gross Receipts, Generally.~~ A tax is imposed on every person receiving payment for any utility service at the rate of 2.5 percent on the total amount of gross receipts derived from business done within this state or between points within this state. Gross receipts means total payments received either in money, goods, services or other valuable consideration by every person ~~(including, but not limited to, municipal corporations, public service corporations and private electric utilities)~~ for "utility services." For purposes of this rule chapter, the term "utility service" means the service of providing electricity for light, heat, or power or for providing natural or manufactured gas for light, heat, or power; or for telecommunication services as defined or described in Chapter

~~203, F.S., as amended, including, but not limited to, local telephone service, toll telephone service, telegram and telegraph service, teletypewriter or computer exchange service, private communication service, cellular mobile radio, pagers, beepers, any mobile or portable one-way or two-way communication, two-way television, and any person who operates his own telecommunication system for his own use.~~

~~(2)(b)~~ Gross receipts for purposes of this rule shall not include:

(a) Charges to the utility customer for the connection, disconnection, suspension of service, or the restoration of utility services.

(b)1. Receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity or for resale as provided in Rule 12B-6.004, F.A.C. The purchaser will be liable for tax due on natural gas that is not resold or used as fuel in the generation of electricity.;

~~(c)2. Receipts from the~~ The sale of electricity to a public or private utility, including a municipal corporation or rural electric cooperative association, for resale within the state as provided in Rule 12B-6.004, F.A.C., or as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power or the sale of telecommunication services for resale of telecommunication services wholly or partially within this state; provided the person deriving gross receipts from such sale demonstrates that a resale in fact occurred and complies with the provisions of s. 203.01(3)(e), F.S. The purchaser will be liable for tax due on electricity that is not resold within this State.

(d)1. Receipts from the sale of electricity to a public or private utility, including a municipal corporation or rural electric cooperative association, as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power. The utility is required to maintain a copy of the agreement or contract in its books and records until the tax imposed under Chapter 203, F.S., may no longer be determined and assessed under s. 95.091, F.S., but the utility is not required to obtain a resale certificate. The internal use, including interdepartmental transfers, of the purchased power is not subject to tax.

2. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which no receipts or repayments are received by the seller are not subject to the tax.

~~(e) Gross receipts for telecommunication services do not include:~~

~~1. Charges for customer premises equipment, including equipment leased or rented by the customer from any source;~~

~~2. Charges made to the public for commercial or cable television, unless it is used for two way communication. When two way communication services are separately billed, only the charges made for the two way communication service will be subject to the gross receipts tax;~~

~~3.a. Charges made by hotels and motels which are required under the provisions of s. 212.03, F.S., to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service when such charges occur incidental to the right of occupancy;~~

~~b. Charges to customers by hotels and motels for the use or access to telecommunication service are not considered incidental to the right of occupancy when such charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the sale of the service.~~

~~4. Connection and disconnection charges, move or change charges, suspension of service charges, and service order, number change, and restoration charges;~~

~~5. Any tax collected from customers which has been separately stated as Florida gross receipts tax on the total amount of any bill, invoice, or other tangible evidence of the provision of taxable telecommunication services; or~~

~~6. Charges for the sale or lease of equipment by providers of cellular mobile telephone or telecommunication service, specialized mobile radio service, and pager and paging services provided that the amount for sale or lease of the equipment is separately stated, itemized or described on the bill, invoice, or other tangible evidence of the sale or lease of the equipment.~~

~~7. Charges for the maintenance or repair of customer premises equipment, whether owned or leased by the customer, provided that the amount of such charges are separately stated, itemized or described on the bill, invoice, or other tangible evidence of the maintenance or repair service.~~

~~(2) Liability for Tax. The tax is levied upon the person selling or providing the taxable item or service as enumerated in subsection (1) and may not be passed on to the consumer as a direct consumer's tax provided, however, in the case of telecommunications service the tax may be wholly or partially separately stated at the option of the vendor. When separately stated, every person, including but not limited to all governmental units, charitable, and religious organizations, is liable for payment of the tax to the vendor. The gross receipts tax is a tax on the privilege of doing business and is an item of cost to the seller or vendor. The vendor remains fully and completely liable for the tax even though the tax is separately stated.~~

(3) Any fees imposed by a political subdivision of the State on the provider of electricity or natural or manufactured gas, such as a franchise fee, is included in the charge upon which tax is computed when the fee is passed on to the customer and separately stated on a customer's bill, invoice, statement, or other evidence of sale.

Specific Authority 203.01(3)(c), 213.06(1) FS. Law Implemented 203.01, 203.012 FS. History--New 11-13-78, Amended 6-5-85, Formerly 12B-6.01, Amended 10-4-89, 1-8-90,_____.

12B-6.002 Administration.

~~The administration of Chapter 203, Florida Statutes, is vested in the Florida Department of Revenue, herein referred to as the Department, which shall prescribe suitable rules and regulations for the enforcement of the provisions thereof.~~

~~The Department may enter the premises of any taxpayer during normal working hours and examine or cause to be examined by any agent or representative designated by it for that purpose, any records, books, papers, and accounts bearing upon the amount of taxes payable, and to secure other information directly or indirectly relevant to the enforcement of Chapter 203, Florida Statutes.~~

Specific Authority 203.02, 213.06(1) FS. Law Implemented 213.05 FS. History--New 11-13-78, Formerly 12B-6.02, Repealed_____.

12B-6.0021 Registration.

~~(4) Prior to engaging in the business of providing or selling utility the things or services as defined included in Chapter 203, F.S., as amended, every person is required to register shall become registered with the Department of Revenue this department by completing form Form DR-1GR, Registration Application for Gross Receipts Tax for Utility Services (incorporated by reference in Rule 12B-6.005, F.A.C.), or form DR-1, Application to Collect and/or Report Tax in Florida (incorporated by reference in Rule 12A-1.097, F.A.C.). Those businesses providing or selling those things or services prior to the effective date of this rule shall register with this department on or before May 31, 1985 by completing Form DR 1GR.~~

~~(2) Form DR 1GR, Application for Certificate of Registration Gross Receipts Tax, effective April 1, 1985, is hereby adopted by reference. This form is available without cost, upon written request directed to the Department of Revenue, Supply Room, Room 44, Carlton Building, Tallahassee, Florida 32301-8002.~~

Specific Authority 203.01, 213.06(1) FS. Law Implemented 203.01 FS. History--New 6-5-85, Formerly 12B-6.021, Amended_____.

12B-6.003 Rate of Tax Gross Receipts.

~~The rate of tax shall be 1.5%.~~

Specific Authority 213.06(1) FS. Law Implemented 203.01 FS. History--New 11-13-78, Formerly 12B-6.03, Amended 10-4-89, Repealed_____.

12B-6.004 Sales for Resale; Resale Certificates Exemptions.

~~(1) Liquefied Petroleum Gas. Tax is not required on a product which was liquid when sold, but was transformed into gas and used for fuel for cooking when released from container. (Lee v. Wood, 126 Fla. 104; 170 So. 433 (1936).)~~

~~(2) Exempt Sales:~~

~~(1)(a) Every person who receives payment for utility services purchased for the purposes of resale is required to obtain a valid resale certificate, as provided in subsection (2) of this rule, from the purchaser. Any person who fails to obtain a valid resale certificate from the purchaser will be liable for the tax. Resale certificates are required to be maintained by the utility provider in its books and records until tax imposed under Chapter 203, F.S., may no longer be determined and assessed under s. 95.091, F.S. All receipts derived from the sale of any of the things or services specified in Chapter 203, F.S. shall be taxable unless specifically exempt. The exempt status of the gross receipt must be established by the vendor and the tax shall be paid by such vendor unless a valid resale certificate has been received from the vendee. However, a vendee's failure to register or to provide a valid resale certificate shall not negate the vendee's liability for the tax, in which event either the vendor or vendee shall be liable for the tax.~~

~~(b) Any taxable thing or service specified in Chapter 203, F.S., that is purchased for resale where a valid resale certificate has been supplied to the vendor and not resold within this state shall be deemed taxable to the vendee based on the purchased price of the thing or service not resold except:~~

~~1. Natural gas sold to a public or private utility either for resale or for use as fuel in the generation of electricity shall be exempt. The vendee shall be liable for the tax on any portion not resold or used as a fuel in the generation of electricity.~~

~~2. Electricity sold as part of an electrical interchange agreement or contract either to a municipal corporation, public service corporation or private electric utility or between municipal corporations, public service corporations or private electric utilities shall be exempt and a resale certificate shall not be required, provided the vendor retains a copy of the agreement or contract on file. The vendee shall be liable for the tax on any portion of the electricity purchased which is not resold. All loss of electricity resulting from the generation, transmission, or distribution thereof, including line losses, generation losses, and any other losses for which no receipts or repayments are received by a vendee shall be exempt from the gross receipts tax.~~

~~3. Telecommunication services which are taxable to the vendee as prescribed in paragraph (c) hereof.~~

~~(c) Effective January 1, 1985, access charges between telecommunication carriers shall be deemed to be for resale when the vendee acquires from the vendor access or right of access to the vendor's network and the vendee resells the same~~

~~as an ingredient in its final sale to the ultimate consumer. The vendee shall furnish the vendor a resale certificate thereby exempting the vendor from the tax on the amount received as access charges. Intrastate toll activity is taxable to the vendee on the total toll revenues and the vendee shall furnish a resale certificate to the vendor providing access services. Interstate tolls shall be taxable as provided in Section 203.013, F.S.~~

~~(d) The department shall accept a valid resale certificate when submitted during the protest period but shall not accept same when submitted in any proceedings instituted under the provisions of Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.~~

~~(2)(e) The Department will department shall accept as valid any certificate that is dated and executed and signed by an officer or authorized representative of the purchaser vendee that contains: the name and address of the vendee, the gross receipts tax registration number and its effective date, and the vendee's statement that its purchases are for resale, and that the vendee shall pay any taxes due on the things or services not resold as provided:~~

~~(a) The name and address of the purchaser;~~

~~(b) The purchaser's gross receipts tax registration number and its effective date;~~

~~(c) A statement that the utility service is purchased for the purposes of resale, as provided in Chapter 203, F.S.;~~

~~(d) A statement that the purchaser acknowledges his or her liability for any tax due on utility services that are not resold; and~~

~~(e) The date issued.~~

~~(3) The Department will accept a valid resale certificate, as provided in subsection (2), when submitted during the protest period but will not accept such certificate when submitted in any proceedings instituted under the provisions of Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.~~

~~(4)(f) Suggested Resale and Exemption Certificate Format Form:~~

~~This is to certify that the utility services, as defined in Chapter 203, F.S., things or services purchased after _____ (date) from _____ (name of seller or provider) is or was purchased for resale pursuant to the exemption under Chapter 203, F.S. I understand that if the utility service is used for any purpose other than _____ It is further certified that the undersigned vendee shall pay the tax on the things or services that are not resold pursuant to the exemption under Chapter 203, F.S., tax is due directly to the Department based upon the purchase price of the utility things or services, unless otherwise provided.~~

~~Name of Purchaser _____~~

~~Address of Purchaser _____~~

~~Purchaser's Certificate of Registration Number _____~~

~~Effective Date of Certificate of Registration _____~~

Under penalties of perjury, I hereby declare that I have read the foregoing examined this certificate and the facts stated herein are true and correct to the best of my knowledge and belief it is true, correct and complete.

By _____ (authorized signature)

Date _____

~~(3) Credit for Utility on Excise Taxes. Other utility, excise, or similar taxes levied by the federal government, any political subdivision of the State of Florida, or municipality, upon the sale of utility services, when such tax is collected by the seller from the purchaser, shall be excluded from the seller's gross receipts when computing the tax thereon.~~

(5)(4) When a taxpayer elects to pay the tax on total billings for a taxable period, rather than actual cash receipts, any adjustments to customers' bills and net uncollectibles may be adjusted on a subsequent return required to filed under the provisions of Rule 12B-6.005, F.A.C.

Specific Authority 203.01, 213.06(1) FS. Law Implemented 203.01, 203.011, 203.012, 203.013 FS. History—New 11-13-78, Amended 6-5-85, Formerly 12B-6.04, Amended _____.

12B-6.005 Payment of Tax; Reports; Public Use Forms.

(1) Payment of Tax. All taxes imposed by Chapter 203, Florida Statutes, shall be paid at the same time the reports are filed.

(1)(2) Reports.

(a) Generally. All taxes imposed under Chapter 203, F.S., shall for each month be due the Department of Revenue on the last day of the month following date of sale or transaction and shall be delinquent thereafter. Except as provided in Rule Chapter 12-24, F.A.C., and paragraph (c) below, all taxes imposed under Chapter 203, F.S., are due to the Department of Revenue in any given month must either reach the office of the Department of Revenue or be postmarked on or before the last day of the month following date of sale or transaction to avoid penalty and interest for late filing. The payment and return must either reach the office of the Department of Revenue or be postmarked on or before the last day of the month for sales or transactions occurring in the preceding calendar month for a dealer to avoid penalty and interest for late filing. When if the last day of the month falls on Saturday, Sunday, or a federal or state legal holiday, payments accompanied by returns will shall be accepted as considered timely filed if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. A tax return is required to shall be filed on or before the last day of each month whether or not any taxes are due. The report is required to shall be signed under oath by an officer or a representative duly authorized to act by the taxpayer. The fact

~~that an officer has signed a return shall be prima facie evidence that the individual was authorized to sign such document on behalf of the taxpayer.~~

(b) For this purpose, 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 1986 Internal Revenue Code, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, 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. Telecommunications. Taxes and returns shall be filed in the same manner as in paragraph (a) above, except any person who has his own telephone or telecommunication system for his own use shall report and pay the tax annually with the Department on or before January 31 for the tax year which ended December 31 of the preceding year. The provisions of Rule 12-24, F.A.C., apply to such taxpayers.

(c) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to s. 203.01(1)(g), F.S., the tax is due on or before the last day of the month following the authorized reporting period and becomes delinquent on the first day of the next succeeding month.

(d) A taxpayer may elect to pay the gross receipts tax on total billings for each month, rather than actual cash receipts for utility services received in that month. Any adjustments to customers' bills and net uncollectibles may be adjusted on a subsequent monthly return.

(2)(3) The following public-use forms and instructions are employed by the Department department in its dealings with the public related to the administration of Chapter 203, F.S. 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/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331. Copies may be obtained by application to the Department of Revenue, Carlton Building, Tallahassee, Florida 32399-0100.

| Form Number | Title | Effective Date |
|-------------------|--|----------------|
| DR-133 | Gross Receipts Tax; Quarterly Report | |
| (a) DR-1GR | Registration Application For Gross Receipts Tax for Utility Services (r. 09/96) Registration | _____ |
| (b) DR-133 | Gross Receipts Tax Return (r. 10/00) | _____ |
| (c) DR-133N | Instructions for Filing Gross Receipts Tax Return (r. 10/00) | _____ |

Specific Authority 213.06(1) FS., ~~Section 22, Chapter 89-356, Laws of Florida.~~ Law Implemented 203.01 FS., ~~Section 25, Chapter 89-356, Laws of Florida.~~ History—New 11-13-78, Amended 7-1-80, 8-26-81, Formerly 12B-6.05, Amended, 10-4-89, 12-19-89, _____.

12B-6.006 Collection and Distribution.

~~All taxes collected pursuant to s. 203.01, F.S., shall be deposited into the Public Education Capital Outlay and Debt Service Trust Fund.~~

Specific Authority 213.06(1) FS. Law Implemented 203.01 FS, Art. XII, Section 9, Subsection (2), Constitution of Florida (1968). History—New 11-13-78, Formerly 12B-6.06, Amended 10-4-89, Repealed.

12B-6.007 Assessment and Collection.

~~The Department shall proceed to collect any delinquent taxes under Chapter 203, Florida Statutes, together with all penalties and interest due, the same as other delinquent taxes are collected.~~

Specific Authority 213.06(1) FS. Law Implemented 203.01 FS. History—New 11-13-78, Formerly 12B-6.07, Repealed.

12B-6.008 Penalties; Interest.

~~(1)(a) Penalties. When any person fails to make a return or report as required and pay the tax due timely, a delinquent penalty shall be added to the unpaid tax in the amount of 5 percent of any unpaid tax if the failure to pay is for less than 31 days. There shall be added an additional 5 percent delinquent penalty for each additional 30 days, or fraction thereof, until the tax is paid, but the total penalty for each month shall not exceed 25 percent. However, the penalty shall not be less than \$5 for each return even though no tax is due.~~

~~(b) Any person who is required to file and pay any tax and who falsely or fraudulently reports or unlawfully attempts to evade any tax imposed under Chapter 203, F.S., shall be liable for a penalty equal to 50 percent of any tax due in addition to any other penalties provided and is guilty of a misdemeanor of the second degree punishable as provided under s. 775.082 or s. 775.083, F.S.~~

(2) No change.

~~(3) The Executive Director or the Executive Director's designee may compromise or settle the penalties or interest pursuant to s. 213.21, F.S.~~

Specific Authority 213.06(1) FS. Law Implemented ~~203.01, 203.03, 203.06, 203.07~~ 213.235 FS. History—New 11-13-78, Amended 6-5-85, Formerly 12B-6.08, Amended 10-4-89, 4-2-00, _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Highway Beautification and Landscape Management

RULE CHAPTER NO.: 14-40

RULE TITLE: Highway Landscape Projects

RULE NO.: 14-40.003

PURPOSE AND EFFECT: Part I General Provisions (Rule 14-40.003) is being amended. Part II Florida Highway Beautification Council and Part III Vegetation Management at Outdoor Advertising Signs (Rule 14-40.030) are being amended by separate notices.

SUBJECT AREA TO BE ADDRESSED: This is an amendment to Part I General Provisions (Rule 14-40.003). Parts II and III are being amended by separate notices.

SPECIFIC AUTHORITY: 334.044(2), 337.2505 FS.

LAW IMPLEMENTED: 334.044(25), 335.167, 337.2505, 337.405, 339.2405, 479.106 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-40.003 Highway Landscape Projects.

(1) Department Authorization Required. No landscaping ~~vegetation~~ may be altered, removed, or installed on the Department's right of way by any person without written authorization by the Department pursuant to this Rule Chapter. The term "landscape" or "landscaping" as used in this Rule Chapter is defined to include any vegetation, irrigation systems, and any site amenities, such as mulches, street furniture, and decorative paving, fences, and lighting. All requirements for restoring the Department's right of way and highway landscape projects, where such restoration is made necessary by the construction or maintenance of utilities, are specified in the *Utility Accommodation Manual*, incorporated by reference under Rule 14-46.001. ~~Requests This Part of the Rule Chapter does not apply to requests to remove, cut, or trim, or remove~~ vegetation that screens outdoor advertising signs (billboards) for which outdoor advertising sign permits have been issued pursuant to Chapter 479, Florida Statutes. ~~Permits for cutting, trimming, or removal of vegetation for such purposes must be made in accordance with obtained under~~ Part III of this Rule Chapter.

(2) Approval Criteria.

(a) Approval is based on review of a complete set of landscape plans. The District Landscape Manager can be consulted during preparation of landscape plans. The following plan preparation guidelines must be used:

1. Project data must be included on sheet 1 of the plans, and must include a location map with beginning and end of project mile posts, index of plans included in the set, state road number, local government and contact information, and name and address of the person and firm who prepared the plans.

2. Plans must be drawn to scale, exhibiting an accurate and legible representation of existing conditions (above and below ground), and all proposed work. Plans must be dimensioned. If there is a baseline survey or centerline of construction, station points must be used. If there is no baseline survey or centerline, dimensioning must be from a fixed point. All dimensions must be noted in English system measurements (inches, feet, yards, miles, etc.). Plans must be drawn at no less than 100 scale (1 inch = 100 feet) on 24 inch by 36 inch or smaller sheets (folded, not rolled). Computer generated plans must use 11 inch by 17 inch sheets. Plans must contain a graphic scale and north arrow with standard orientation on each plan sheet, and reference the state road number, section number, milepost, and local street names. Plans must also include curbs, edge of pavement, edge of travel lanes, guardrails, right of way fence and/or right of way lines, sidewalks, intersections, median breaks, driveways, bike lanes, transit facilities, surveying monuments, signs, viewing area of permitted billboards, lighting, traffic signals, other traffic control devices, drainage features, limits of clear sight, set backs and clear zone limits, existing off site features and conditions which affect or are affected by the project, easements, above and below ground utilities, and all existing vegetation. When the 11 inch by 17 inch format is used, details and text must be large enough to be legible on all plan sheets.

3. Only blackline, blue-line, or xerographic reproductions will be accepted for the review process.

4. All proposed landscaping must be identified on the plans. For all plants, give the following information in tabular form:

| |
|---|
| <u>Common Name</u> |
| <u>Botanical Name, including variety or cultivar</u> |
| <u>Quantity</u> |
| <u>Size when installed (height, caliper, spread, container size, clear trunk, multi-trunk, or any other descriptive aspect of the desired plants)</u> |
| <u>Maximum maintained or typical mature height, spread, and trunk diameter of normal mature plant specimens measured 6 inches above the ground.</u> |
| <u>Specifications (written and/or graphic)</u> |

5. A comprehensive maintenance plan for all proposed landscaping must accompany the plans. This may be on a separate set of plans or documents. Special maintenance requirements for the plant establishment period must be noted. The intent of design elements must be included in a description of the project, accompanied by a written or graphic guide as to the maintenance which will be provided to the plants and other areas within the project limits. When the landscape project is to be maintained by the Department, a maintenance cost estimate based on scheduled maintenance activities must be an attachment to the plans. Maintenance details and specifications must include the following:

| |
|---|
| <u>Mowing schedule and height of grass, along with physical depiction of the limits of the mowing that will be performed as part of the landscape project.</u> |
| <u>Fertilizing schedules, formulas, rates, and methods of application.</u> |
| <u>Weeding/edging schedule and method: chemical, mechanical, or manual.</u> |
| <u>Herbicide schedules, formulas, rates, methods of application, special instructions, and precautions.</u> |
| <u>Pruning schedule and methods. In order to have safe, healthy, and aesthetic plants, and to maintain limits of clear sight, special attention must be given to changes in the schedule due to the maturity and size as trees and shrubs grow.</u> |
| <u>Mulch materials, thickness, and replacement frequency.</u> |
| <u>Irrigation schedule, supply source, and method of application.</u> |
| <u>Special care required for any hardscape materials, lighting, signage, benches, or other site amenities.</u> |
| <u>Litter pick-up and removal schedule (prior to mowing cycle or as needed).</u> |
| <u>A work zone traffic control plan (if necessary) for installation and maintenance of the project.</u> |
| <u>An estimate of manpower and equipment required to achieve an acceptable level of maintenance.</u> |

6. As-built plans, or a summary of changes, are required for all landscape projects.

7. Plans must be prepared by a landscape architect. Signing and sealing of plans submitted to the Department for review must be in accordance with Part II of Chapter 481, Florida Statutes, Landscape Architecture.

(b) No planting or installation of vegetation or other landscape material for landscape projects, or issuance of permits for such planting or installation, including construction and beautification projects, is allowed on Department right of way which screens or which, when mature, will screen an

outdoor advertising sign permitted under Chapter 479, Florida Statutes. This prohibition applies to all landscape, construction, and beautification projects on Department right of way regardless of the source of funds for the project, except a landscape project approved by the Department prior to the date of the original, state sign permit for the sign. For purposes of this Rule, a landscape, construction, or beautification project is approved when it is specifically identified in the Department's five year work program, or is a permitted landscape project, or is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

1. For purposes of this Rule, the term "screen" means the planting or installation of any vegetation or other landscape material within the viewing area which will reach a height greater than the height of the bottom of the lowest sign facing, as viewed from a height of 3.5 feet above the roadway surface at the edge of the travel lane closest to the outdoor advertising sign.

2. For purposes of this Rule, the term "viewing area" means the area encompassing the right of way measured along the outside edge of the outermost travel lane beginning at the point perpendicular to the part of the sign closest to the roadway and extending along the roadway ahead of the sign for a distance sufficient to allow for eight (8) seconds of uninterrupted sign viewing time by a motorist traveling at the posted speed limit on the roadway to which the sign is permitted. These distances, rounded up to the nearest 25 feet, are:

| <u>Posted speed limit (mph)</u> | <u>Viewing Area (in feet)</u> |
|---------------------------------|-------------------------------|
| <u>70</u> | <u>825</u> |
| <u>65</u> | <u>775</u> |
| <u>60</u> | <u>725</u> |
| <u>55</u> | <u>650</u> |
| <u>50</u> | <u>600</u> |
| <u>45</u> | <u>550</u> |
| <u>40</u> | <u>475</u> |
| <u>35</u> | <u>425</u> |
| <u>30</u> | <u>375</u> |
| <u>25</u> | <u>300</u> |

3. The viewing area shall be determined based upon the posted speed limit at the time the vegetation for the landscape, construction, or beautification project is installed. A subsequent change in the posted speed limit shall not require removal of previously planted vegetation.

(c)(a) A governmental entity may request obtain approval to remove, alter, or install landscaping landscape materials on the Department's right of way through submission of a highway landscape plan construction and maintenance memorandum of agreement. After review by the Department, and the making of any necessary revisions by the governmental

entity, the Department will prepare a written agreement requiring the local government to properly construct and maintain the landscape project. The landscape plan will become Exhibit A to the agreement. If separate, the maintenance plan as described Subsection (2)(a)7. will become Exhibit B of the agreement. Existing landscape projects may have other types of agreements for landscape construction, landscape maintenance, and other maintenance. When the agreement is executed, and a Notice to Proceed is issued by the Department, the local government may proceed with the project.

(d)(b) Private entities and Non-governmental entities organizations may seek obtain approval to alter, remove, or install landscaping vegetation on the Department's right of way through submission of a landscape plan, and a resolution from the appropriate local government that commits the local that government to execution of executing an agreement to properly construct and maintain the landscape project as described in Section (c) above highway landscape construction and maintenance memorandum of agreement.

(e)(e) An abutting private property owner is not required to comply with may disregard Subsection (2)(d)(b) of this Rule and may apply for a permit to alter or install landscape materials on the Department's non-limited access right of way directly abutting the owner's property through submission approval of a Permit for Landscaping on State Road Right of Way, Form # 850-060-03, Rev. 05/00 03/98, which is incorporated herein by reference and Form 850-060-03 is available at any Department District Maintenance Office. Applicants who are abutting private property owners must submit for approval a landscape plan, maintenance plan, and maintenance of traffic plan. Approval will only be granted when it is determined that all plans meet the requirements of this section. A permit for the cutting, trimming, or removal of any vegetation will only be approved in association with mitigation required by this subsection. No permit will be issued to an abutting private property owner to provide visibility of such property through the cutting, trimming, or removal of trees, shrubs, or herbaceous plants. A permittee shall mitigate in accordance with the following requirements for the impact to vegetation from cutting, trimming, removal, or accidental damage of vegetation on the Department's right of way.

1. Mitigation is required where cutting or trimming of, or damage to vegetation permanently detracts from the appearance or health of trees (including palm trees), shrubs, or herbaceous plants, or where cutting and trimming of trees or shrubs is not done in accordance with the standards set forth in the American National Standards Institute (ANSI A300) publication, incorporated herein. This requirement does not apply to the cutting or trimming of, or damage to invasive exotic plants (plants listed by the Florida Department of Environmental Protection Rule Chapter 62C-52, Florida

Prohibited Aquatic Plants, and plants listed by the Florida Department of Agriculture and Consumer Services, Rule Chapter 5B-57, Introduction or Release of Plant Pests, Noxious Weeds, Arthropods, and Biological Control Agents, or other plant species determined by the Department to be a nuisance to natural habitats or agriculture, or to have an adverse affect on the maintenance or safety of the Department's right of way).

2. Where mitigation is necessary, the applicant will provide a mitigation plan, a maintenance plan (including irrigation and establishment for a period of one year from the date of planting), and a schedule for completion for any vegetation planted. These plans are subject to the requirements of this Rule Chapter, the Florida Highway Landscape Guide, and the Highway Landscape, Beautification, and Plan Review Procedure (650-050-001-e). Mitigation must be completed within six months after vegetation is cut, trimmed, or removed.

3. Mitigation of trees is not required when trimming maintains the tree's natural habit of growth, and is performed in accordance with professionally accepted arboricultural standards. The American National Standards Institute (ANSI) Tree Shrub and Other Woody Plant Maintenance Standard Practices, 1995, Publication #A300, and Tree Pruning Guidelines authored and published by the International Society of Arboriculture, 1995, are hereby incorporated by reference. Copies of these publications are available from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874-9902, Phone 217-355-9411, FAX 217-355-9516. Invasive exotic plants may be removed without mitigation. Where the District Landscape Manager has determined that vegetation is diseased or structurally damaged beyond a point where restoration is practicable, the vegetation may be removed without mitigation.

4. On-site mitigation (mitigation provided on or adjacent to the impacted site) for removal or damage of trees shall be at 2:1 ratio measured in inches diameter of the trunk at breast height (DBH). DBH is to be measured 4 1/2 feet high. Multi trunk trees are measured using the cumulative diameter of the three main trunks at breast height. To mitigate for trees with a DBH greater than 2", two or more trees (of one inch caliper or greater) with a combined equivalent diameter to the removed or damaged trees, may be used. Mitigation for removal of shrubs and herbaceous plants shall be at a 1:1 ratio calculating the total plant height per impacted species. Required mitigation is calculated by estimating the number of shrubs of a species impacted, and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted, and replanting an equivalent area with the same or other approved species. Mitigation shall be completed pursuant to the requirements of the approved plan.

5. Remote mitigation (mitigation provided away from the impacted site but along the same state highway and within the same county) for removal of trees shall be at a 3:1 ratio

measured in inches DBH. Mitigation for trees with a DBH greater than 2" may be provided as described in paragraph (c)4. Remote mitigation for removal of shrubs and herbaceous plants shall be at a 2:1 ratio. Required mitigation is calculated by estimating the number of shrubs of a species impacted, and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted for replanting an equivalent area with the same or other approved species. A location for remote mitigation must be approved by the District Maintenance Engineer or designee. No vegetation will be cut, trimmed, or removed until after remote mitigation has occurred.

6. The permittee is required, at his/her expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee and determined by the District Maintenance Engineer or designee to be more likely to survive. The permittee is also required, at his/her expense, to remove and replace any replacement materials that have not survived in a healthy condition for the first full year after planting.

7. The permittee may choose, in lieu of mitigation, to contribute funds to a District mitigation program for the beautification, aesthetic, and environmental improvement of the Department's right of way. The remote mitigation ratios shall apply and include wholesale cost of materials, installation, and one year establishment and maintenance. The permittee must contact the District Maintenance Engineer or designee to contribute to such a program(s) as part, or in lieu of other mitigation requirements. No vegetation will be cut, trimmed, or removed until after contribution.

(d) Approval to alter or install landscaping materials on the Department's right of way will only be granted when it is determined that the proposed landscape improvement meets the requirements of Part I of this Rule Chapter, the Florida Highway Landscape Guide, and Rule 14-40.030(1)(e)3., 5., 6., and 8. The highway landscape construction and maintenance memorandum of agreement or permit will include conditions for maintenance of the landscaping pursuant to Rule 14-40.003(5)(e).

(3) Application Process. A request for Permit for Landscaping on State Road Right of Way or a highway landscape construction and maintenance memorandum of agreement shall be accompanied by landscape plan(s), landscape maintenance plan(s), and maintenance of traffic plan(s), prepared in accordance with the Florida Highway Landscape Guide, (650-050-001-e) and the landscape plan preparation provisions of the Highway Landscape, Beautification, and Plan Review Procedure (650-050-001-e);

which are incorporated herein by reference. Applicants should meet and work with the District Maintenance Engineer or designee during preparation of application and landscape plan.

~~(3)~~(4) Government Approvals.

(a) All proposed landscape projects shall be consistent with the policies and objectives of the ~~adopted~~ approved local government comprehensive plan, (LGCP) including the future land use element and any ~~approved~~ community design element.

(b) If the proposed landscape improvement is to be located on an Interstate Highway facility, then Federal Highway Administration (FHWA) review is also required. A permit issued pursuant to this Part does not relieve the permittee of local or other jurisdictional requirements.

~~(4)~~(5) Installation and Maintenance.

(a) Prior to issuance of a Notice to Proceed for installation or the commitment of funds by the Department, landscape plans must be approved in writing and all necessary permits (including environmental) and agreements must be executed. The use of cypress mulch in landscape projects is strictly prohibited.

(b) No vegetation that will interfere with the visibility of an outdoor advertising sign face shall be planted within a permitted vegetation management zone. Where there is no permitted vegetation management zone, no vegetation that will interfere with the visibility of the outdoor advertising sign face shall be planted within the first 500' of the view zone, measured from point A (See Figure 2 and Figure 3 contained in 14 40.030). Where there is a written agreement between affected parties, vegetation that partially interferes with the visibility of a sign face may be planted within the vegetation management zone.

(a)(e) All landscape installation or maintenance activities performed by others on the Department's right of way must be performed in conformity with Department safety criteria as detailed in the *Manual on Uniform Traffic Control Devices* (incorporated by reference under Rule 14-15.010, F.A.C.), *Standard Specifications for Road and Bridge Construction*, (incorporated by reference under Rule 14-85.004, F.A.C.), and the *Roadway and Traffic Design Standards* (incorporated by reference under Rule 14-85.004, F.A.C.).

(d) The responsibility for maintaining landscape projects which are constructed on the Department's right of way by parties, individuals, agencies, or organizations other than the Department shall be borne by the permittee or the appropriate local governmental entity. The responsibility for maintenance, whether by the abutting property owner or by a local government, shall include all landscaped, turfed, hard-scaped, or otherwise modified areas installed on the Department's right of way within the limits of the project. All maintenance shall be in accordance with Department standards.

(b)(e) If an landscape maintenance memorandum of agreement or maintenance memorandum of agreement already exists between the Department and a local government for the

maintenance of the existing median and grassed areas for the section of roadway for which a landscape project is proposed, and if the Department determines that such agreement obligates the local government to maintain ~~the proposed this~~ project in accordance with the approved maintenance plan Florida Highway Landscape Guide, the agreement will be applied to the maintenance of used for maintaining the landscape project. If the Department has previously agreed to provide funds for such maintenance, no increased compensation will be provided by the Department for maintenance of the landscape project.

~~(5)~~(6) Donation of Landscape Projects Materials. The Department will accept donations of plants, materials, installation, and maintenance for landscape projects on the State Highway System that meet the requirements of this Rule Chapter. ~~(a) The donated materials and services must conform to the requirements of this Rule Chapter and all other applicable Department criteria pertaining to landscape design, installation, and maintenance. (b) Signs acknowledging donated landscape projects materials by an individual or entity may be erected on the right of way, in or near the landscaping when the donation includes installation and maintenance pursuant to an executed agreement highway landscape construction and maintenance memorandum of agreement. The donated landscape projects materials or services must substantially improve the appearance or manageability of the median or roadside. The sign will shall remain in place for a term maximum of five years, unless otherwise or a term specified in the agreement. The agreement must stipulate that the sign and the landscape project may be removed by the Department for failure to meet the requirements of this Rule Chapter or the agreement. An executed highway landscape construction and maintenance memorandum of agreement must be on file with the Department for the area in question before placement of the sign by the Department. The appropriate sign must not contain logos or trademarks. Signs will be placed at each end of the landscape project, shall be as follows:~~

~~(a) Interstate Highways: The sign acknowledging donation of landscape projects on the Interstate Highway System will be provided by the Department. This sign will be similar to structure and face shall conform to the design used for the Adopt-a-Highway Program sign used by the Department, except that the word "landscaping" will shall be substituted for the words "litter control:" and the colors will be green lettering on white background. The signs shall be installed and maintained by the Department. Signs will not contain logos or trademarks. Signs will be placed at each end of the landscape project.~~

~~(b) Arterial 2: Other State Highways: The approved sign design for arterial highways is depicted in Figure 1. The sign panel will be 18 inches tall and 24 inches wide with white background and green lettering, using lettering shown in~~

Figure 1 and fabricated with non-reflective materials. The signs shall be constructed by the permittee in conformance with the color and lettering prescribed for Recreational and Cultural Interest Signs by the *Manual on Uniform Traffic Control Devices*, incorporated by reference into Rule 14-15.010, except that reflective materials shall not be used and the sign may be constructed of wood or composite materials. The sign must be mounted on 4 inch by 4 inch 4" X 4" pressure treated posts, or alternate acceptable break away posts that meet(s) or exceed(s) the requirements of the *Roadway and Traffic Design Standards* (incorporated by reference under rule 14-85.004, F.A.C.) mounting system. The top of signs will be a maximum of no more than two feet above grade. An approved sign design is depicted in Figure 1. Installation of signs is Signing will also be contingent upon an signed highway landscape construction and maintenance memorandum of agreement with the appropriate local governmental entity. The approved sign panel(s) must be provided and replaced by the sponsor or local government. Signs will be placed according to the approved landscape plan.

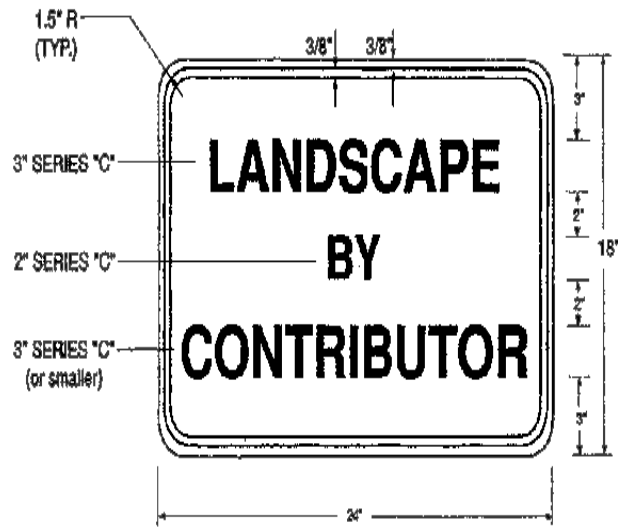


Figure 1 Arterial and Limited Access Landscape Roadway Sign

Specific Authority 334.044(2), 337.2505(4) FS. Law Implemented 334.044(25), 335.167, 337.2505, 337.405, 339.2405, 479.106 FS. History—New 9-22-92, Amended 1-19-99, _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Highway Beautification and Landscape Management
 RULE CHAPTER NO.: 14-40

RULE TITLE: Application and Permit Issuance
 RULE NO.: 14-40.030

PURPOSE AND EFFECT: Part III Vegetation Management at Outdoor Advertising Signs (Rule 14-40.030) is being amended. Part I General Provisions (Rule 14-40.003) and Part II Florida Highway Beautification Council are being amended by separate notices.

SUBJECT AREA TO BE ADDRESSED: This is an amendment to Part III Vegetation Management at Outdoor Advertising Signs (Rule 14-40.030). Part I and Part II are being amended by separate notices.

SPECIFIC AUTHORITY: 334.044(2), 337.2505 FS.

LAW IMPLEMENTED: 334.044(25), 335.167, 337.2505, 337.405, 339.2405, 479.106 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-40.030 Application and Permit Issuance.

(1) Permit Required.

(a) No person or entity may remove, cut, or trim, or ~~remove~~ trees, shrubs, or herbaceous plants on the Department's right of way to make visible or to ensure future visibility of off-premise outdoor advertising signs (~~billboards~~) without obtaining a Permit for Vegetation Management at Outdoor Advertising Sign, Form 650-050-08, Rev. 07/97, which is incorporated herein by reference, pursuant to this Rule Chapter. For purposes of this ~~R~~rule, the application of chemical control constitutes removing, cutting, or trimming, or ~~removal~~, depending on the impact on the tree, shrub, or herbaceous plant. A Permit for Vegetation Management at Outdoor Advertising Sign may be requested by submitting a completed Application for Vegetation Management at Outdoor Advertising Sign, Form 650-050-06, Rev. 03/00 ~~04/98~~, which is incorporated herein by reference, to the Department District Maintenance Engineer or designee with responsibility for the segment of state road to which the subject sign is permitted. Alternatively, ~~The~~ Application for Vegetation Management at Outdoor Advertising Sign may ~~also~~ be submitted to the State

~~District~~ Outdoor Advertising Administrator, with an application for a new sign permit. Form 650-050-06 is available at any Department ~~District Outdoor Advertising Office~~, District Maintenance Office, ~~or from any Department District Landscape Manager~~. This Rule does not apply to requests to trim or remove vegetation that screens on-premise signs.

(b) An Applications for Vegetation Management at Outdoor Advertising Sign must be submitted by the outdoor advertising sign permit holder or the sign owner. A separate application is required for each sign facing. The vegetation management plan and appraisal, described in subsection (c), shall both be prepared by a properly qualified individual. Qualified individuals shall be one of the following:

1. An International Society of Arboriculture (ISA) Certified Arborist ® with Advanced Training in Roadside Vegetation, or an individual with equivalent credentials from a nationally recognized arboricultural organization, or

2. A landscape architect registered pursuant to Chapter 481, Part II, Florida Statutes.

(c) The application shall contain:

1. The name, address, telephone number, facsimile number, and E-Mail address, if available, of the applicant; the Department's ~~current outdoor advertising sign tag permit number~~; the sign ~~owner's sign company's billboard~~ face number; and the notarized signature of the applicant's authorized representative.

2. The applicant's vegetation management plan (plan). The plan shall be for a period of not less than two years and not greater than five years. The plan shall include a plan for removing vegetation within the vegetation management zone, cutting (removing or altering more than one quarter of any plant's height, spread, or density of branches), or trimming (the shaping or pruning of less than one quarter of any plant's height, spread, or density of branches),~~or removing vegetation within the vegetation management zone.~~ The vegetation management plan shall be a graphic and written document that describes the removal, cutting, trimming, ~~removal~~, planting, fertilizing, mulching, irrigation, and desired condition and appearance of existing and proposed vegetation, including a plan for disposal of debris, and a schedule and description of the intended vegetation management method(s) of all work to be performed within the vegetation management zone. All vegetation management proposed in the plan shall be in accordance with this Rule and ~~the Florida Highway Landscape Guide, as incorporated by reference into Rule 14-40.003(3).~~

3. Color photographs of the sign and entire view zone taken within six weeks prior to the application being made to the Department. The photographs and accompanying drawings must depict a clear representative overview of the vegetation to be removed, cut, trimmed,~~or removed.~~

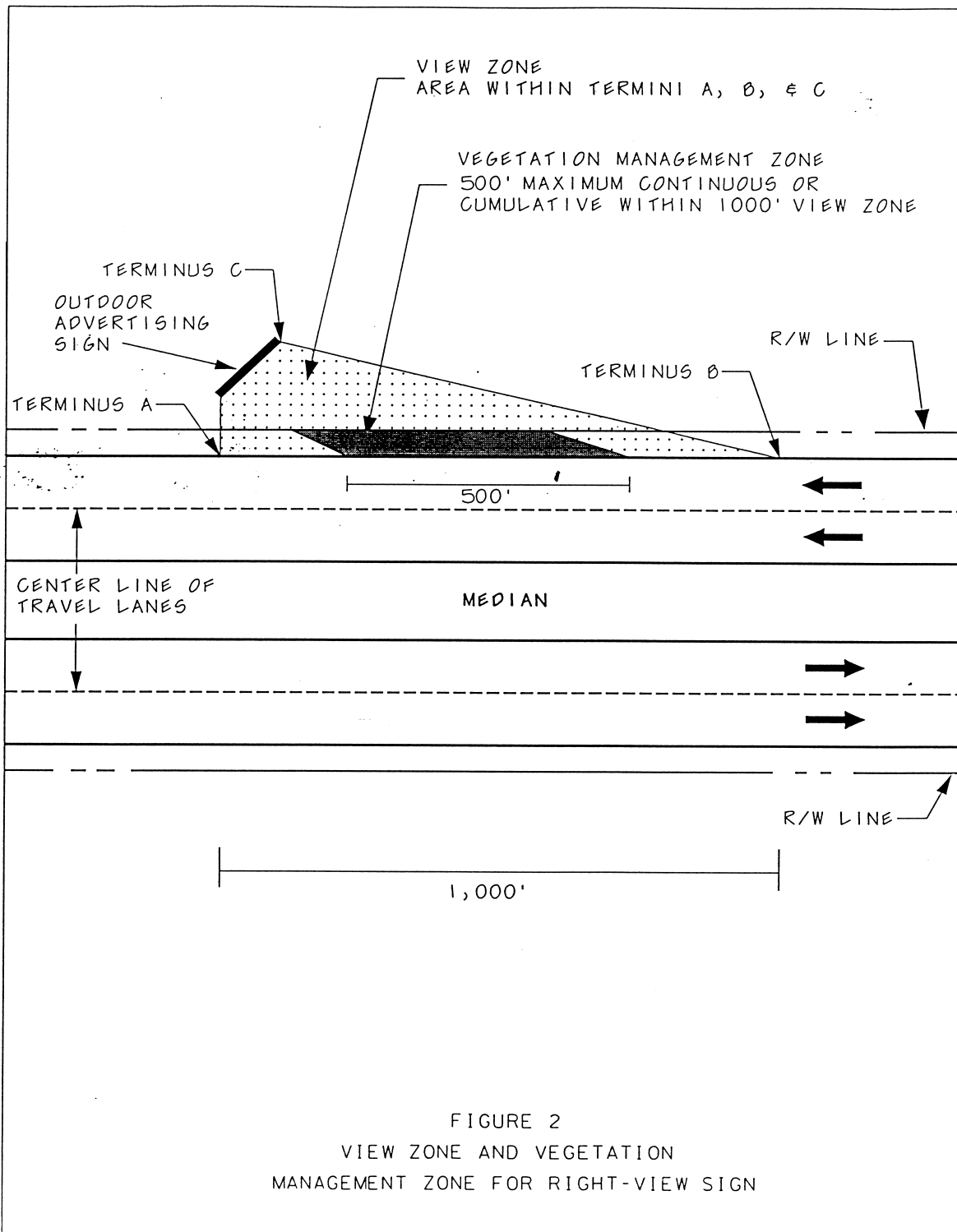
4. A photocopy of the qualifying credentials of the person preparing the vegetation management plan, and appraisal for mitigation, if applicable. If herbicides will be used, the application must include a photocopy of the applicator's license in three categories (core curriculum, right of way, and aquatic) by the Florida Department of Agriculture and Consumer Services. A proposed schedule and description of the method(s), and the qualifications of the personnel to be utilized. Personnel must be reasonably qualified and all personnel using herbicides on the Department's right of way must be licensed in three categories (core curriculum, right of way, and aquatic) by the Florida Department of Agriculture and Consumer Services (FDACS). Chemical control of vegetation is limited to the use of United States Environmental Protection Agency approved selective herbicides. Foliar application of herbicides is limited to the control of invasive exotic plants.

5. An itemized appraisal of the mitigation value of vegetation to be removed, cut, or trimmed.

~~6.5-~~ A non-refundable application fee of \$25.00. The non-refundable application fee shall be a total of not exceed \$200.00 for more than eight applications submitted simultaneously, providing that they are within the same Department District. If payment is by check, the fee submitted with an Application for Vegetation Management at Outdoor Advertising Sign must be paid separately from fees for other types of permits. The approved application, including any conditions stated therein, and the approved vegetation management plan, shall become part of the permit. The permit, issued by the Department, shall allow vegetation management within the vegetation management zone for the duration of the approved vegetation management plan. After approval, the permittee must give the Local Maintenance Engineer a minimum of two working days notification prior to ~~any~~ and all permitted vegetation management activity on the Department's right of way, unless otherwise stipulated as a special provision of the permit.

(d) A Permit for Vegetation Management at Outdoor Advertising Sign authorizes the permittee to remove, cut, or trim, or remove trees, shrubs, or herbaceous plants only as provided in the permit, and only within an approved vegetation management zone, which will be determined as follows:

1. The approved vegetation management zone shall be based on a continuous or cumulative 500 foot linear distance along the edge of the travel lane within the 1,000 foot linear view zone (as described below), all within the Department's right of way (see Figures 2 and 3).



2. A sign facing shall have only one view zone, and only within the Department's right of way of the ~~roadway~~ highway to which the sign is permitted.

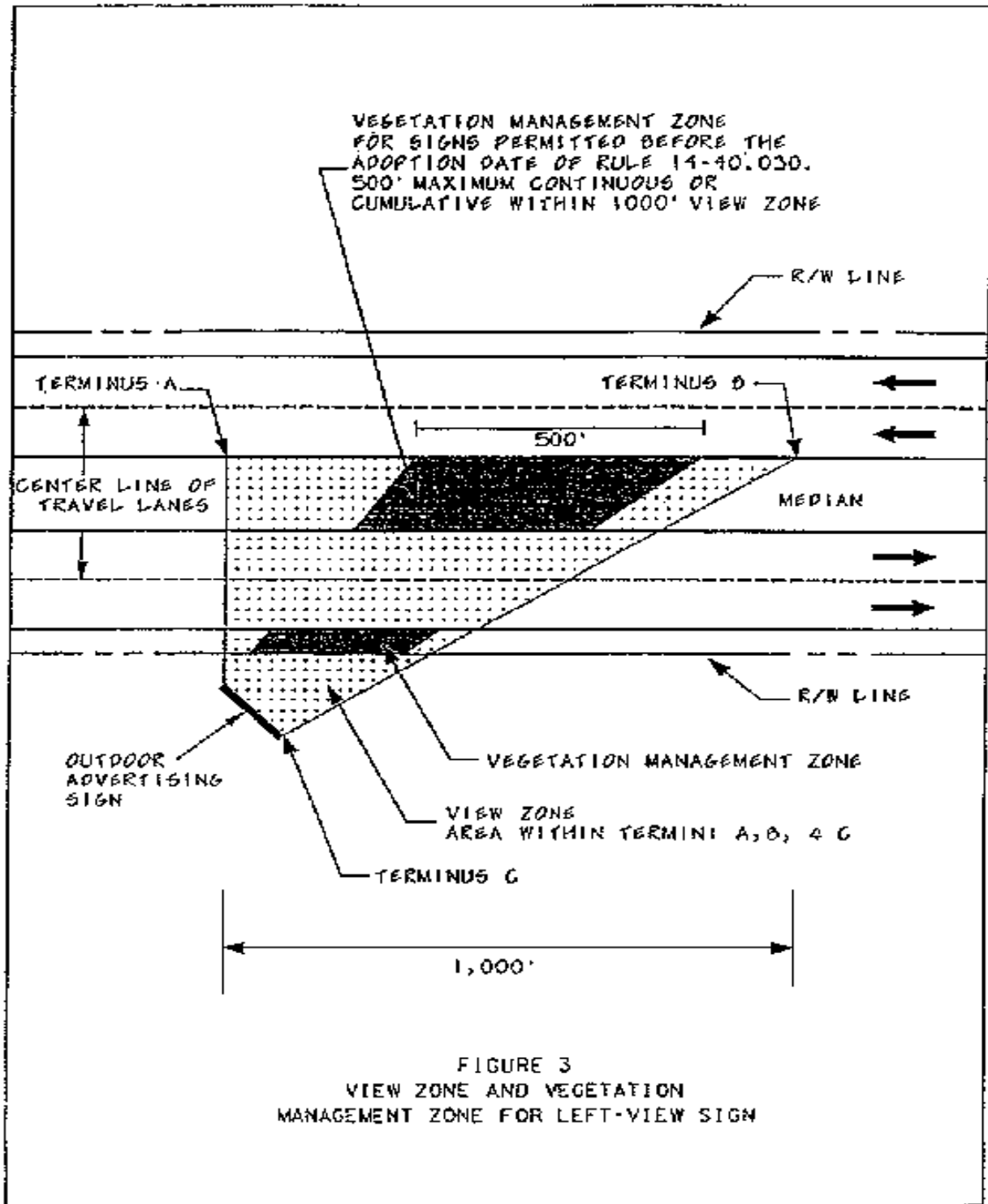
a. The view zone for a right-view sign (see Figure 2) is a nearly triangular area measured along the right edge of the nearest travel lane on the same side of the highway to which the sign is permitted, which has:

(I) As terminus A, the point on the edge of the travel lane immediately opposite the edge of the outdoor advertising sign face closest to the highway;

(II) As terminus B, the point measured along the edge of pavement 1,000 feet in the direction from which the sign is viewed; and

(III) As a terminus C, the point on the edge of the sign face which is furthest from the road.

b. The view zone for a left-view sign (see Figure 3) shall be measured as above, except that terminus A and terminus B shall be measured along the left edge of the nearest travel lane on the other side of the highway centerline.



c. The median area will be included in an approved vegetation management zone only for left-read signs legally erected before January 19, 1999, and only as necessary to maintain the view of that sign across the median as it existed before January 19, 1999. Vegetation within the pre-existing view zone that could not be managed prior to the adoption of this Rule may be managed to restore visibility in accordance with this Rule.

(e) No Permit for Vegetation Management at Outdoor Advertising Sign will be issued:

1. For applications that are incomplete;
2. For vegetation control to enhance the view of an outdoor advertising sign which does not have a currently valid state permit.
3. For mowing (nonselective mechanical or chemical control of vegetation) of grass or other vegetation. Mechanical mowing, to a minimum height of 6 inches, will be permitted when no other means of vegetation management is practicable to control vegetation that is less than 18" height and screens or is likely to screen a sign face.
4. To make a sign visible for more than 500 feet' within a view zone.
5. To ~~remove, cut, or trim, or remove~~ vegetation that has established historic, cultural, economic, environmental, or aesthetic significance. Such vegetation would may:
 - a. Form an important part of the setting or landscaping for an historic structure;
 - b. Possess historic significance through a direct association with an event or person important in history;
 - c. Contribute strongly to the historic character as well as visual appeal of an historic structure or district;
 - d. Screen historic structures or residential property from traffic congestion;
 - e. Serve as memorials;
 - f. Be directly descended from historically significant trees or plants;
 - g. Be listed on the National Register of Historic Places, the State Register of Historic Sites, or local historical registries;
 - h. Be the only vegetation in the immediate vicinity, such that and removal would leave the area barren of any substantial trees;
 - i. Have reached an age, ~~or~~ size, or and shape that it is known to be a local landmark; or
 - j. Be in the immediate vicinity of a roadway that has been lined with substantial trees for a lengthy period of time where and removal of such vegetation would significantly diminish the "tree lined" character of the roadway;
6. To ~~remove, cut, or trim, or remove~~ trees, shrubs, or herbaceous plants that are protected by state law.
7. To ~~remove, cut, or trim, or remove~~ trees, shrubs, or herbaceous plants in violation of provisions of Section 479.106(5), Florida Statutes.

8. To ~~remove, cut, or trim, or remove~~ trees, shrubs, or herbaceous plants, when the Department has District Maintenance Engineer or designee and the District Landscape Manager have determined that the proposed vegetation management will significantly disrupt natural systems, roadside aesthetics, or have other negative impacts on the operation of the highway.

9. To create a new view zone by removing, cutting, or trimming, or removing existing vegetation for any sign originally permitted after July 1, 1996, unless the applicant removes at least two approximate comparable size nonconforming signs under valid permits issued pursuant to Section 479.07, Florida Statutes, and surrender the permits to the Department, except when all of the following conditions have been met:

- a. ~~For any sign permitted after July 1, 1996, the original sign permit application must state that it would be necessary to remove, cut, or trim existing vegetation on the Department's right of way, and a Permit for Vegetation Management at Outdoor Advertising Sign has been issued for the view zone.~~
- b. ~~When the owner of a sign built after July 1, 1996, requests to remove, cut, or trim trees or other vegetation on the Department's right of way that screened the sign face when the sign was first permitted, the sign owner must remove at least two nonconforming signs under valid permits pursuant to Section 479.07, Florida Statutes, that the Department has determined are of the same approximate size as the new sign, and surrender the permits to the Department.~~

10. To remove, cut, or trim trees that have a circumference, measured at 4 1/2 feet above grade, equal to or greater than 70% of the circumference of the Florida Champion of the same species as listed in the Big Trees, The Florida Register, Florida Native Plant Society, 1997, which is incorporated herein by reference.

11. To remove, cut, or trim vegetation that is part of a beautification project, when the project was approved prior to the permitting of any sign originally permitted after July 1, 1996. For the purpose of this Rule, beautification projects include landscape projects, mitigation projects, and restoration projects. For the purpose of this Rule, a beautification project is approved when it is specifically identified in the Department's five year work program, or is a permitted landscape project, or is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

(f) Applications will be reviewed and approved or denied within 30 days of receipt of a complete application, though failure to respond within 30 days shall not cause an automatic approval. The Department may request additional information needed to deem the application complete in accordance with Section 120.60, Florida Statutes. Applicants will be notified by mail of the approval or denial of the application. When an

application is denied, no application fee will be charged for a revised application submitted within 90 days after the date shown on the notice of denial.

(g) A Permit for Vegetation Management at Outdoor Advertising Sign is valid for the term of the vegetation management plan (two to five years, as represented on the Application of Vegetation Management at Outdoor Advertising Sign and the permit.) The ~~Department District Maintenance Engineer or designee~~ will determine the expiration date of any Permit for Vegetation Management at Outdoor Advertising Sign, based on the safety of all users of the Department's right of way, and the need to avoid conflict with other permitted activities on the Department's right of way, or changes in roadside conditions.

(h) ~~When a~~ A Permit for Vegetation Management at Outdoor Advertising Sign ~~expires, a new permit~~ may be ~~requested renewed~~ by submitting a new Application for Vegetation Management at Outdoor Advertising Sign ~~in accordance with this Rule.~~

(i) A permit placard (FDOT Form 650-050-08) must be displayed within the vegetation management zone in clear view from the main traveled way when vegetation management is in progress.

(2) Vegetation Management on the Right of Way.

(a) All work performed pursuant to a Permit for Vegetation Management at Outdoor Advertising Sign shall follow the approved vegetation management plan.

(b) Chemical control of vegetation is limited to the use of United States Environmental Protection Agency approved selective herbicides. Foliar application of herbicides is limited to the control of invasive exotic plants.

(c) Within 10 working days after completion of the removal, cutting, or trimming of vegetation, a qualified individual must inspect the vegetation management zone and adjoining right of way, and submit written notification to the District Maintenance Engineer or designee that the work is complete. The correspondence must indicate the extent and nature of any unauthorized removal, cutting, or trimming.

~~(3)(2)~~ Mitigation. An applicant shall mitigate in accordance with this Rule Chapter for the impact to vegetation from ~~removal, cutting, trimming, removal,~~ or accidental damage of vegetation on the Department's right of way.

(a) Mitigation is required:

1. ~~Where Mitigation is required where~~ cutting or trimming of, or damage to vegetation permanently detracts from the appearance or health of trees (including palm trees), shrubs, or herbaceous plants, or where cutting and trimming of trees or shrubs is not done in accordance with the standards set forth in the following documents: American National Standards Institute Tree Shrub and Other Woody Plant Maintenance-Standard Practices, 1995, and Fertilization, 1999, Publication #A300, and Tree-Pruning Guidelines authored and published by the International Society of Arboriculture, 1995,

which are hereby (ANSI A300) publication, incorporated by reference herein. Copies of these publications are available for purchase from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874-9902, phone 217-355-9411, FAX 217-355-9516, or on the Internet at www.flaisa.org. This requirement does not apply to the cutting or trimming of, or damage to invasive exotic plants (plants listed by the Florida Department of Environmental Protection Rule Chapter, 62C-52, Aquatic Plant Importation, Transportation, Non-Nursery Cultivation, Possession, and Collection, and plants listed by the Florida Department of Agriculture and Consumer Services, Rule Chapter 5B-57, Introduction or Release of Plant Pests, Noxious Weeds, Arthropods, and Biological Control Agents, or other plant species determined by the Department to be a nuisance to natural habitats or agriculture, or to have an adverse effect on the maintenance or safety of the Department's right of way).

2. Where trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or removed.

3. Where trees or shrubs of a species that are not likely to grow to interfere with the visibility of displays are damaged or removed.

4. Where trees or shrubs of a species that are likely to grow to interfere with the visibility of displays are trimmed improperly, permanently damaged, or removed.

5. Where herbaceous plants are permanently damaged.

(b) Where mitigation is necessary, the applicant will provide with the Application for Vegetation Management an appraisal prepared by a qualified individual as defined in Section (1)(b) using the appropriate appraisal method found in Determining the Mitigation Value of Roadside Vegetation, Florida Chapter of the International Society of Arboriculture, 2000, which is incorporated herein by reference a mitigation plan, a maintenance plan (including irrigation and establishment for a period of one year from the date of planting), and a schedule for completion for any vegetation planted. Copies of this document can be obtained by contacting the International Society of Arboriculture as listed in (3)(a)1., above. Pending approval by the Department, the appraised value of the vegetation to be cut and removed will be the required mitigation. Approval is based on completeness and accuracy of mitigation calculations. These plans are subject to the requirements of this Rule Chapter, the Florida Highway Landscape Guide, and the Highway Landscape, Beautification, and Plan Review Procedure (650-050-001-e). Mitigation must be completed within six months after vegetation is cut, trimmed, or removed.

1. The mitigation may be paid as a fee (Option 1) equal to the amount of the mitigation appraisal prepared in accordance with subsection (b) of this Rule. Mitigation fees must be paid to the Department prior to issuance of a Permit for Vegetation Management at Outdoor Advertising Sign.

2. The permittee may design and build a mitigation project equal to the appraised value, at an approved location within the right of way (Option 2). Applicants must contact the District Landscape Manager when preparing to develop a mitigation plan. For mitigation projects, the applicant must submit a mitigation plan which, in addition to the requirements of this Rule, meets the requirements for landscape plans in Rule 14-40.003(2) and (4), to the Department for approval. Mitigation projects must be designed to avoid additional maintenance costs by the Department. The mitigation plan shall include a landscape plan, maintenance plan (including watering for establishment for a period of one year from the date of planting), and an estimated budget of all expenses to install, establish, and maintain the replacement vegetation. The value of the completed mitigation project must be equal to or greater than the appraised value of the cut and removed vegetation. When a mitigation project does not meet the required mitigation value, the balance is due to the Department as a mitigation fee. When the mitigation plan is approved, the applicant may proceed to construct the mitigation project. Failure to complete the mitigation project within six months after the vegetation is cut or removed will result in a penalty for unauthorized removal, cutting, or trimming as described in subsection (4) of this Rule. The permittee is required, at the permittee's expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee, and determined by the Department, to be more likely to survive. If the mitigation project is not restored to meet the permit requirements, the permittee is subject to enforcement of required mitigation and the penalty for unauthorized removal, cutting, or trimming.

(c) ~~Mitigation of large trees (trees with a mature height likely to be greater than thirty feet) is not required when trimming maintains a plant's the tree's natural habit of growth, and is performed in accordance with professionally accepted arboricultural standards, cited in the documents previously referenced in Section (3)(a)1. of this Rule. The American National Standards Institute (ANSI) Tree Shrub and Other Woody Plant Maintenance Standard Practices, 1995, Publication #A300, and Tree Pruning Guidelines authored and published by the International Society of Arboriculture, 1995, are hereby incorporated by reference. Copies of these publications are available from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874 9902, Phone 217 355 9411, FAX (217)355 9516. Young trees (immature trees that are no taller than the surrounding shrubs and herbaceous plants) of species that upon their maturity are likely to interfere with the visibility of displays may be removed without mitigation. Mitigation is not required where small trees and herbaceous plants, that upon their maturity will not be large enough to interfere with the visibility of displays in specific on-site situations within the~~

~~vegetation management zone, are managed to maintain their natural appearance and habit of growth. Invasive exotic plants may be removed without mitigation. Where the Department District Landscape Manager has determined that vegetation is diseased, or structurally damaged through no fault of the applicant, beyond a point where restoration is practicable, the vegetation may be removed without mitigation.~~

~~(d) On-site mitigation (mitigation provided on or adjacent to the impacted site) for removal or damage of trees shall be at 2:1 ratio measured in inches diameter of the trunk at breast height (DBH). DBH is to be measured 4 1/2 feet high. Multi-trunk trees are measured using the cumulative diameter of the three main trunks at breast height. To mitigate for trees with a DBH greater than 2", two or more trees (of one-inch caliper or greater) with a combined equivalent diameter to the removed or damaged trees, may be used. Mitigation for removal of shrubs and herbaceous plants shall be at a 1:1 ratio calculating the total plant height per impacted species. Required mitigation is calculated by estimating the number of shrubs of a species impacted within a vegetation management zone, and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted within the vegetation management zone, and replanting an equivalent area with the same or other approved species. Mitigation shall be completed pursuant to the requirements of the management plan.~~

~~(e) Remote mitigation (mitigation provided away from the impacted site but along the same state highway and within the same county) for removal or damage of trees shall be at a 3:1 ratio measured in inches DBH. Mitigation for trees with a DBH greater than 2" may be provided as described in paragraph (2)(d). Remote mitigation for removal of shrubs and herbaceous plants shall be at a 2:1 ratio. Required mitigation is calculated by estimating the number of shrubs of a species impacted within a vegetation management zone and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted within the vegetation management zone for replanting an equivalent area with the same or other approved species. A location for remote mitigation must be approved by the District Maintenance Engineer or designee. No vegetation at the sign site will be cut, trimmed, or removed until after remote mitigation has occurred.~~

~~(f) The permittee is required, at his/her expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee and determined by the District Maintenance Engineer or designee to be more likely to survive. The~~

permittee is also required, at his/her expense, to remove and replace any replacement materials that have not survived in a healthy condition for the first full year after planting.

~~(g) The permittee may choose, in lieu of mitigation, to contribute funds to a District mitigation program for the beautification, aesthetic, and environmental improvement of the Department's right of way. The remote mitigation ratios shall apply and include wholesale cost of materials, installation, and one year establishment and maintenance. The permittee must contact the District Maintenance Engineer or designee to contribute to such a program(s) as part, or in lieu of other mitigation requirements. No vegetation will be cut, trimmed, or removed until after contribution.~~

~~(d)(h) Special Conditions Affecting Mitigation. The following additional provisions apply only to vegetation management pursuant to a permit issued under this Rule:~~

1. Mitigation is not required for vegetation that the Department normally cuts or removes pursuant to its regular maintenance of the Department's right of way.

2. Mitigation is not required for vegetation when that the Department's roadway plans explicitly show that the vegetation will be removed expects to remove as part of the planned clearing and grubbing for a construction project designed and included in the Department's five-year work program.

3. Mitigation is not required for vegetation that was installed within the approved view zone after July 1, 1996, so long as the sign was permitted prior to the installation of the vegetation. ~~On site mitigation ratios are applicable for mitigation work at surrendered permit locations when those locations are within or adjacent to a wooded area, such that mitigation would fill in or extend such wooded area.~~

~~4. If the Department approves a landscape/mitigation plan which contains both the maximum feasible on site mitigation within the view zone (maximum vegetative habitat), and which screens the sign supports and the back of the sign to the maximum extent feasible, the Department will accept monetary donations for the remaining mitigation in the form of donations for off site mitigation, which covers the cost of materials, installation, and one year establishment, at the on-site ratio. For purposes of this provision, when the back of the sign is visible from the main traveled way, on-site mitigation is to include plantings of suitable vegetation on the right of way reasonably designed to screen the back of the sign.~~

5. The on-site mitigation ratio at nonconforming sign sites for the removal of trees with a +DBH of 4" or more, as of the date of January 19, 1999, would be reduced to 1.5:1 when removal of the trees was previously precluded by Chapter 14-13 and the following conditions exist:

a. The trees were planted in front of the sign after it was erected; or

b. By the time the sign was screened by the trees, they were 4" DBH or greater and trimming of the trees for visibility has significantly detracted or will significantly detract from the natural habit of growth of the trees.

~~(4)(3) Unauthorized Removal, Cutting, or Trimming, or Removal of Vegetation. Any person engaged in unauthorized removal, cutting, or trimming, or removal of vegetation in violation of Section 479.106, Florida Statutes, or who benefits from such action, is subject to a penalty of \$1,000 per incident per sign facing and shall provide on-site or remote mitigation as required by subsection (3) at double the rate set forth in paragraphs (2)(d)&(e). For purposes of this subsection, the application of any chemical compound that kills or injures a tree, shrub, or herbaceous plant constitutes removal, cutting, or trimming, or removal, depending on the impact on the plant.~~

Specific Authority 334.044(2), 337.2505(1) FS. Law Implemented 334.044(25), 335.167, 337.405, 479.106 FS. History--New 1-19-99, Amended

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Unemployment Appeals Commission

RULE TITLES: RULE NOS.:

Form of Appeal 38E-2.002

Filing an Appeal 38E-2.003

PURPOSE AND EFFECT: As a result of a government reorganization, the unemployment compensation claim functions of the Department of Labor and Employment Security have been reassigned to the Agency for Workforce Innovation (A.W.I.). Former claims offices (one-stop career centers) are not under the direct control of A.W.I. As a result, A.W.I. has centralized claim processing and adjudication because the one-stop career centers do not perform these functions or accept appeals. Additionally, since the centralized A.W.I. adjudication offices will not be readily accessible to the public, they will not be available to accept hand delivered documents. In light of this restructuring, the proposed rule amendment recognizes the fact that one-stop career centers will no longer accept appeals and clarifies the appropriate locations and manner to file appeals of appeals referee decisions to the Unemployment Appeals Commission. The proposed rule amendment also expands the authorized locations to file appeals by facsimile transmission to the Commission, clarifies filing, corrects agency and office names to their current designations, updates the optional appeal form available to parties and deletes unnecessary language.

SUBJECT AREA TO BE ADDRESSED: Designation of the appropriate places and manner to file an appeal of a referee's decision to the Unemployment Appeals Commission.

SPECIFIC AUTHORITY: 120.54(1), 443.012(3),(11), 443.151(4)(d) FS.

LAW IMPLEMENTED: 120.52(12), 443.151(4)(b),(c),(d) FS.

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

TIME AND DATE: 10:00 a.m., May 8, 2001

PLACE: Law Library Conference Room, Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John W. Kunberger, Clerk-Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

38E-2.002 Form of Appeal.

(1) An appeal of an appeals referee's decision may shall be filed ~~either in person or by mail~~ at any of the following locations:

- (a) The Unemployment Appeals Commission;
- (b) The central or ~~offices of the Department of Labor and Employment Security located at Tallahassee, Florida;~~

~~(c) Any of the district appeals referee offices maintained by the Office of Appeals appeals referees;~~

~~(c)(d) Any of the unemployment claim adjudication local unemployment claims offices operated by the Agency for Workforce Innovation Florida Department of Labor and Employment Security; and~~

~~(d)(e) Any unemployment compensation claims office located outside the State of Florida.~~

(2) No change.

(3) The following shall constitute acceptable methods of appeal:

(a) Any legible written notice filed in accordance with these rules which expresses disagreement with or otherwise indicates a desire to appeal;

(b) Any person entitled to file an appeal may obtain a printed appeal form (AWI -A100, Notice of Appeal, Rev. 4/01, incorporated herein by reference, (LES Form UAC 1) at any of the locations listed in Rule Sections 38E-5.004(1), (2), and (3), and at any location providing unemployment claim information. Use of the form is not mandatory; however, if a letter or other instrument is used, it should include the following information:

1. The name and social security account number of each claimant, if any, involved;

2. The name ~~and unemployment tax account number, if known,~~ of each employer, if any, involved;

3. The date, subject matter, and docket number of the decision; and

4. A brief statement of the reasons for disagreement with the decision determination.

(c) Failure to include all of the information listed in paragraph (b) will not constitute cause for rejection of the appeal, but may result in a delay in processing the appeal.

(4) No change.

Specific Authority 120.54(1), 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(4)(c),(d) FS. History--New 5-22-80, Formerly 38E-2.02, Amended 8-20-86,_____.

38E-2.003 Filing an Appeal.

(1) No change.

(2) The appeal ~~shall may~~ be filed by mail ~~or hand delivery~~ to any appeal location designated in Rule 38E-2.002(1); by facsimile transmission of the appeal document to any appeal location designated in Rule Sections 38E-2.002(1)(a),(b), and (c); or by hand delivery of the appeal document to any appeal location designated in Rule Sections 38E-2.002(1)(a), (b), and (d).

(3) Appeals filed by mail shall be considered to have been filed when postmarked by the United States Postal Service. Appeals filed by hand delivery or facsimile shall be considered to have been filed when date stamped received at the authorized location by the Commission.

(4) Upon receipt of an appeal delivered in person or by facsimile transmission, the Clerk of the Commission, Agency for Workforce Innovation, or Office of Appeals Division employee shall record the date of receipt on the appeal document.

Specific Authority 120.54(1), 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 120.52(12), 443.151(4)(b)-(d) FS. History--New 5-22-80, Formerly 38E-2.03, Amended 8-20-86, 1-5-93,_____.

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Unemployment Appeals Commission

RULE TITLE: Orders of the Commission

RULE NO.: 38E-3.007

PURPOSE AND EFFECT: As a result of a government reorganization, the unemployment compensation claim functions of the Department of Labor and Employment Security have been reassigned to the Agency for Workforce Innovation (A.W.I.). Former claims offices (one-stop career centers) are not under the direct control of A.W.I. As a result, A.W.I. has centralized claim processing and adjudication because the one-stop career centers do not perform these functions or process decision results. In light of this restructuring, the proposed rule amendment recognizes that one-stop career centers are not responsible for inputting Commission orders on the A.W.I. computer system; therefore, it is not necessary to send them copies of the orders. The proposed rule amendment also corrects agency and office names to their current designations.

SUBJECT AREA TO BE ADDRESSED: Furnishing copies of Unemployment Appeals Commission orders.

SPECIFIC AUTHORITY: 120.54(1), 443.012(3),(11), 443.151(4)(d) FS.

LAW IMPLEMENTED: 120.569(1), 443.151(4)(c),(d) FS.

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

TIME AND DATE: 10:00 a.m., May 8, 2001

PLACE: Law Library Conference Room, Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John W. Kunberger, Clerk-Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

38E-3.007 Orders of the Commission.

(1) The Commission shall consider the record before it and enter a written order.

(2) A copy of the order shall be mailed to the last known address of each of the parties or their representatives. A copy of the order shall also be furnished to the workforce program support section of the Agency for Workforce Innovation and to the local claims office. The copies mailed to the parties shall include a transmittal form advising them of their right to review of the order by the district courts of appeal.

(3) No change.

Specific Authority 120.54(1), 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 120.569(1), 443.151(4)(c),(d) FS. History--New 5-22-80, Formerly 38E-3.07, Amended 8-20-86.

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Unemployment Appeals Commission

| | |
|-------------------------|------------|
| RULE TITLES: | RULE NOS.: |
| Form of Appeal | 38E-5.003 |
| Place for Filing Appeal | 38E-5.004 |
| Time for Filing Appeal | 38E-5.005 |

PURPOSE AND EFFECT: As a result of a government reorganization, the unemployment compensation claim functions of the Department of Labor and Employment Security have been reassigned to the Agency for Workforce Innovation (A.W.I.). Former claims offices (one-stop career centers) are not under the direct control of A.W.I. As a result, A.W.I. has centralized claim processing and adjudication because the one-stop career centers do not perform these functions or accept appeals. Additionally, since the centralized

A.W.I. adjudication offices will not be readily accessible to the public, they will not be available to accept hand delivered documents. In light of this restructuring, the proposed rule amendment recognizes the fact that one-stop career centers will no longer accept appeals and clarifies the appropriate locations and manner to file appeals of unemployment examiner determinations to appeals referees. The proposed rule amendment also clarifies that appeals can be filed directly with the Office of Appeals; clarifies filing; requires that the receipt date of appeals filed by hand delivery or facsimile transmission be recorded on the document; corrects agency and office names to their current designations; updates the optional appeal form available to the parties; and deletes unnecessary language.

SUBJECT AREA TO BE ADDRESSED: Designation of the appropriate places and manner to file an appeal of an examiner's determination to an appeals referee.

SPECIFIC AUTHORITY: 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS.

LAW IMPLEMENTED: 443.151(3)(a),(4)(b),(d) FS.

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

TIME AND DATE: 10:00 a.m., May 8, 2001

PLACE: Law Library Conference Room, Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John W. Kunberger, Clerk-Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

38E-5.003 Form of Appeal.

(1) No change.

(2) Any person entitled to file an appeal may obtain a printed appeal form (AWI-A100, Notice of Appeal), Rev. 4/01, incorporated herein by reference. (~~LES Form UCA-1~~) at any of the locations listed in Rule Sections 38E-5.004(1), (2), and (3), and at any location providing unemployment claim information. Use of the form is not mandatory; however, whatever instrument is used, it shall include the following information:

(a) The name and social security account number of each claimant, if any, involved;

(b) The name ~~and unemployment tax account number, if known,~~ of each employer, if any, involved;

(c) The date and subject matter of the determination; and

(d) A brief statement of the reasons for disagreement with the determination.

(3) No change.

Specific Authority 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(4)(b),(d) FS. History--New 5-22-80, Formerly 38E-5.03, Amended 8-20-86,_____.

38E-5.004 Place for Filing Appeal.

Appeals ~~may shall~~ be filed ~~by mail or in person~~ at one of the following locations:

(1) Any of the unemployment claim adjudication offices operated by the Agency for Workforce Innovation Florida Department of Labor and Employment Security ~~except field tax offices;~~

(2) The central or district appeals referee offices maintained by the Office of Appeals;

(3)~~(2)~~ The Unemployment Appeals Commission; and

(4)~~(3)~~ Any unemployment compensation office located outside the State of Florida.

Specific Authority 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(4)(b)1.,(d) FS. History--New 5-22-80, Formerly 38E-5.04, Amended 8-20-86,_____.

38E-5.005 Time for Filing Appeal.

(1) No change.

(2) The appeal ~~shall may~~ be filed by ~~mailing or by hand delivery~~ of the appeal document instrument to any of the locations ~~designated set forth~~ in Rule Section 38E-5.004; by facsimile transmission of the appeal document to any location designated in Rule Sections 38E-5.004(1), (2), and (3); or by hand delivery of the appeal document to any location designated in Rule Sections 38E-5.004(2), (3), and (4).

(3)~~(2)~~ Appeals filed by mail shall be considered to have been filed when postmarked by the United States Postal Service. Appeals filed by hand delivery or facsimile shall be considered to have been filed when date stamped received at the authorized location any of the locations set forth in Section 38E-5.004.

(4) Upon receipt of an appeal delivered in person or by facsimile transmission, the Commission, Agency for Workforce Innovation, or Office of Appeals employee shall record the date of receipt on the appeal document.

Specific Authority 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(3)(a),(4)(b)1.,(d) FS. History--New 5-22-80, Formerly 38E-5.05, Amended 8-20-86, 3-1-98,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE TITLE: Forms and Instructions
PURPOSE AND EFFECT: Forms which the District uses in its dealings with the public must be formally adopted by rule pursuant to Section 120.55(1)(a)4., Florida Statutes. The District currently uses an Application for a Water Well Contractor's License and a Well Grouting/Abandonment

RULE NO.: 40D-1.659

Form. Each of these forms has been updated since last incorporated into the District's rules. The District also uses an Application for Renewal of a Water Well Contractor's License, which has not previously been incorporated into the District's rules. The purpose and effect of this rulemaking is to incorporate all of these forms into the District's rules in compliance with the requirements of the above-referenced statutory provision.

SUBJECT AREA TO BE ADDRESSED: The incorporation of new and modified forms relating to water well construction and water well contractor licensing into the District's rules.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen E. West, Deputy General Counsel, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this Chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) APPLICATION FOR WATER WELL CONTRACTOR'S LICENSE FORM NO. ~~WWCL (7/99) 42.00-044 (5/00)~~

(2) APPLICATION FOR RENEWAL OF A WATER WELL CONTRACTOR'S LICENSE FORM NO. 41.10-109 (____)

(2) through (3) renumbered (3) through (4) No change.

(5)~~(4)~~ WELL GROUTING/ABANDONMENT FORM FORM NO. 41.10-410 ~~(8/96) (____)~~

(5) through (18) renumbered (6) through (19) No change.

SURFACE WATER

Application for Permit – Used for Docks or Piers and Bulkheads

(1) through (13) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.116, ~~373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421~~ FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-95, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 10-26-00, _____.

DEPARTMENT OF THE LOTTERY

| | |
|--------------------------------------|-------------------|
| RULE TITLES: | RULE NOS.: |
| How to Play FLORIDA LOTTO | 53-28.001 |
| FLORIDA LOTTO Drawings | 53-28.002 |
| FLORIDA LOTTO Prize Divisions | 53-28.003 |
| Determination of Prize Winners | 53-28.035 |
| FLORIDA LOTTO Odds of Winning | 53-28.004 |
| FLORIDA LOTTO Rules and Prohibitions | 53-28.005 |
| FLORIDA LOTTO Jackpot Pool | 53-28.006 |
| FLORIDA LOTTO Payment Options | 53-28.007 |

PURPOSE AND EFFECT: The purpose of this rule amendment is to update and clarify Chapter 53-28, FLORIDA LOTTO.

SUBJECT AREA TO BE ADDRESSED: FLORIDA LOTTO.

SPECIFIC AUTHORITY: 24.105(10)(a),(b),(c),(d),(e),(f), 24.105(2)(b) 24.115(1) FS.

LAW IMPLEMENTED: 24.105(10)(a),(b),(c),(d),(e),(f), 24.115(1), 24.117(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diane D. Schmidt, Office of the General Counsel, Florida Lottery, 250 Marriott Drive, Tallahassee, FL 32301, (850)487-7724

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

53-28.001 How to Play FLORIDA LOTTO.

(1) Players select six ~~(6)~~ numbers from a field of one ~~(1)~~ to fifty-three forty-nine (49).

(2) Players can select their numbers by using a play slip; or may receive their numbers by using the “quick pick” Quick Pick feature.

(3) There are five panels on a play slip. A player electing to use a play slip must select six ~~(6)~~ numbers from each panel played; or allow the “quick pick” feature to select one or more of the six numbers. Each panel played must contain six ~~(6)~~ number selections. Each panel played will cost one dollar ~~(\$1.00)~~ per draw.

(4) Players must use only blue or black ball-point pen or pencil for making selections.

(5) No change.

(6) Retailers can manually enter numbers selected by a player ~~manually~~.

Specific Authority 24.105(10) FS. Law Implemented 24.115 FS. History—New 11-22-93, Amended _____.

53-28.002 FLORIDA LOTTO Drawings.

(1) FLORIDA LOTTO drawings shall be conducted twice per week, on Wednesday and Saturday at least once per week.

(2) The drawing machine used for each drawing shall be determined by random selection. An employee of the Lottery's Security Division (“Draw Manager”) shall select two ~~(2)~~ cards from a ~~container holding a~~ number of cards equivalent to the number of available drawing machines. Each card shall contain one ~~(1)~~ number which shall correspond to the number assigned to one ~~(1)~~ numbered drawing machine. The two ~~(2)~~ cards shall be drawn individually and handed individually to an accountant employed by an independent certified public accounting firm. The machine corresponding to the number contained on the first card drawn shall be designated the primary drawing machine, and the machine corresponding to the number contained on the second card drawn shall be designated the backup drawing machine. The backup drawing machine shall be used only when necessitated by acceptance testing or equipment failure.

(3) The ball set to be used in a drawing shall be determined by random selection. The Draw Manager Security employee shall select two ~~(2)~~ cards from a ~~container holding a~~ number of cards equivalent to the number of available ball sets. Each card shall contain one ~~(1)~~ number that which shall correspond to the number assigned to one ~~(1)~~ numbered ball set. The two ~~(2)~~ cards shall be drawn individually and handed individually to an accountant employed by an independent certified public accounting firm. The ball set corresponding to the number contained on the first card drawn shall be designated the primary ball set, and the ball set corresponding to the number contained on the second card drawn shall be designated the backup ball set. The backup ball set shall be used only when there is question as to the reliability of the primary ball set necessitated by equipment failure. Each set contains fifty-three forty-nine (49) balls numbered one ~~(1)~~ through fifty-three forty-nine (49).

(4) The primary ball set shall be two (2) selected sets of balls are weighed and the weight recorded. A primary ball set that which does not fall within the manufacturer's weight tolerances ~~for that set of balls~~ shall be rejected and the backup ball set shall be weighed using the procedures herein a replacement set selected using the procedures in (3) above.

(5) The primary ball set of balls shall be is placed in the primary selected drawing machine and six ~~(6)~~ test drawings shall be ~~are~~ conducted; using the following testing criteria. If the same numbered ball is drawn four times in the six test drawings, four additional test drawings shall be conducted. If the same numbered ball is drawn two times in the four additional test drawings, the primary ball set shall be rejected.

The backup ball set shall be weighed, and if it falls within the manufacturer's weight tolerance, placed in the primary drawing machine and tested using the testing criteria. If both the primary and backup ball set fail the test drawings, the backup drawing machine shall be used with the backup ball set and additional tests shall be conducted. If the backup ball set fails the additional tests, another ball set will be selected and procedures shall be followed as set forth in subsections (3),(4), and (5) until a ball set passes all required tests and procedures. If the balls fail the test twice, the backup set of balls is then placed in the drawing machine and six (6) test drawings are conducted on the backup set of balls. Failure shall mean that the same numbered ball is drawn four times in the six test drawings and two times in four additional test drawings. If both the primary and backup sets of balls fail the test drawings, a backup machine will be used with the backup ball sets and six (6) additional tests will be conducted. If the backup ball set fails the six (6) additional tests, another set of balls will be selected and procedures will be followed as set forth in paragraphs three (3) through five (5) until a ball set passes all required tests and procedures.

(6) Once a ball set of balls has satisfactorily passed the required testing, the selected drawing machine shall be is loaded by the Draw Manager, who randomly inserts the balls into the loading tubes.

(7) The fifty-three forty nine (49) balls in the loading tubes of the FLORIDA LOTTO machine shall be are dropped into the mixing chamber and mixed by the action of an air blower.

(8) Six (6) of the fifty-three forty nine (49) balls shall be are drawn by vacuum action into the six (6) display tubes. The numbers shown on the six (6) balls, after certification by the Draw Manager and the accountant employed by the certified public accounting firm, are the official winning numbers for the drawing.

(9) Each drawing shall be is witnessed by an accountant employed by an independent certified public accounting firm who certifies that all drawing procedures have been followed attests to the fairness of the drawing and the equipment used in the drawing.

(10) Equipment used in each drawing shall be is tested and inspected before and after each drawing and then secured. Ball sets used in each drawing shall be are weighed and recorded before and after each drawing and then secured.

(11) No change.

(12) The official winning numbers shall consist of those numbers selected in the official drawing conducted by the Lottery and certified by the designated Lottery Draw Manager and certified public accounting firm charged with witnessing the drawing. The official winning numbers shall be announced only after the numbers have been certified by the Draw Manager and certified public accounting firm to be the correct

winning numbers. The Lottery shall not be responsible for incorrect circulation, publication or broadcast of the official winning numbers.

Specific Authority 24.105(10)(d) FS. Law Implemented 24.105(10)(d) FS. History--New 11-22-93, Amended _____.

53-28.003 FLORIDA LOTTO Prize Divisions.

(1) FLORIDA LOTTO is a pari-mutuel game. For each draw, fifty percent (50%) of the gross revenue from the sale of lottery tickets in the corresponding FLORIDA LOTTO sales week shall be allocated as the winning pool for the payment of the Jackpot, second prize, third prize and fourth prize. A player wins FLORIDA LOTTO by matching a single panel ("A", "B", "C", "D", or "E") of numbers in any order with three (3), four (4), five (5), or six (6) of the official winning FLORIDA LOTTO numbers selected from a field of one (1) through forty nine (49) for the draw date(s) for which the ticket was purchased.

(2) The Jackpot shall consist of 63.5 ~~sixty-seven~~ percent (67%) of the winning pool for the drawing plus any Jackpot grand prize money carried forward from the previous draws. The Jackpot shall be divided equally among the number of players matching all six (6) official winning numbers. If there is not a Jackpot winner in a drawing, the Jackpot pool shall be carried over and added to the Jackpot pool of the next FLORIDA LOTTO drawing.

(3) Second Prize shall consist of 12.3 ~~five~~ percent (5%) of the winning pool for the drawing. The second prize shall be divided equally among the number of players matching five (5) of the six (6) official winning numbers. If there is not a winner in the second prize category for a drawing, the second prize pool shall be carried over and added to the Jackpot second prize pool of the next FLORIDA LOTTO drawing.

(4) Third Prize shall consist of 10 ~~twelve~~ percent (12%) of the winning pool for the drawing. The third prize shall be divided equally among the number of players matching four (4) of the six (6) official winning numbers. If there is not a winner in the third prize category for a drawing, the third prize pool shall be carried over and added to the jackpot prize pool of the next FLORIDA LOTTO drawing.

(5) Fourth Prize shall consist of 14.2 ~~sixteen~~ percent (16%) of the winning pool for the drawing. The fourth prize shall be divided equally among the number of players matching three (3) of six (6) official winning numbers. If there is not a winner in the fourth prize category for a drawing, the fourth prize pool shall be carried over and added to the Jackpot prize pool of the next FLORIDA LOTTO drawing.

(6) Except for the Jackpot prize which will pay the exact amount, the second, third and fourth prizes will be rounded down to the nearest fifty cents (\$.50); provided, however, that the fourth prize shall be no less than \$3.50. All rounding differences in the second, third and fourth prizes will be used to fund future prizes in Lottery games or for special Lottery prize promotions.

Specific Authority 24.105(10)(c), 24.115(1) FS. Law Implemented 24.105(10)(c), 24.115(1) FS. History—New 11-22-93, Amended 7-31-95, 11-30-99, _____.

53-28.035 Determination of Prize Winners.

In order for a ticket to be a winning ticket, numbers appearing in a single horizontal row on the ticket (A, B, C, D, or E) must match the official winning FLORIDA LOTTO numbers for the draw date for which the ticket was purchased. The prizes are set forth as follows:

- (1) Jackpot Prize: Six of six official winning numbers.
- (2) Second Prize: Five of six official winning numbers.
- (3) Third Prize: Four of six official winning numbers.
- (4) Fourth Prize: Three of six official winning numbers.

Specific Authority 24.105(10) FS. Law Implemented 24.105(10) FS. History—New _____.

(Substantial rewording of Rule 53-28.004 follows. See Florida Administrative Code for present text.)

53-28.004 FLORIDA LOTTO Odds of Winning.

The odds of winning the prizes described in Section 53-28.035, Florida Administrative Code are as follows:

- (1) Jackpot Prize – 1: 22,957,480.
- (2) Second Prize – 1: 81,409.50.
- (3) Third Prize – 1: 1,415.82.
- (4) Fourth Prize – 1: 70.79.

(5) The overall odds of winning a prize in a FLORIDA LOTTO drawing are 1: 67.36.

Specific Authority 24.105(10)(c) FS. Law Implemented 24.105(10)(c) FS. History—New 11-22-93, Amended _____.

53-28.005 FLORIDA LOTTO Rules and Prohibitions.

(1) By purchasing a FLORIDA LOTTO ticket ~~a~~ the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) FLORIDA LOTTO prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. The play slip is not a valid receipt.

(3) Tickets shall not be purchased by or sold to minors under the age of eighteen ~~(18)~~.

(4) Subject to a retailer's hours of operation and on-line system availability, FLORIDA LOTTO tickets are available for purchase between the hours of 6:00 a.m. and 10:40 p.m., Eastern Time (ET) on Wednesday and Saturday, and between the hours of 6:00 a.m. and midnight, ET on Sunday, Monday, Tuesday, Thursday, and Friday. A FLORIDA LOTTO ticket can be cancelled by the retailer which sold the ticket within twenty (20) minutes after printing, except that no FLORIDA LOTTO ticket may be cancelled within ten (10) minutes of the scheduled FLORIDA LOTTO drawing relative to that ticket or

~~after FLORIDA LOTTO sales are concluded each evening at midnight. No FLORIDA LOTTO ticket may be cancelled except through the optical mark reader.~~

~~(5) The scheduled time for the Wednesday and Saturday FLORIDA LOTTO drawings is approximately 11:00 p.m., ET. Ticket sales for a specific FLORIDA LOTTO drawing will close approximately twenty minutes prior to that drawing. A FLORIDA LOTTO ticket shall not be purchased any later than approximately ten (10) minutes prior to the FLORIDA LOTTO drawing.~~

~~(6) Retailer cancellations of FLORIDA LOTTO tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no FLORIDA LOTTO ticket shall be cancelled after game close for the related drawing. The two-hour cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related FLORIDA LOTTO close of game.~~

~~It is the responsibility of the player to determine the accuracy of selected panels of numbers on ticket(s). In the event that ticket(s) given to the player by the retailer contain selections which are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of the player by the "quick pick" method of number selection.~~

~~(7) It is the responsibility of the player to determine the accuracy of selected panels of numbers and draw date(s) on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of the player by the "quick pick" method of number selection.~~

Specific Authority 24.105(2)(a)2., 24.105(10) FS. Law Implemented 24.105(2)(b)2., 24.105(10), 24.117(2) FS. History—New 11-22-93, Amended _____.

53-28.006 FLORIDA LOTTO Jackpot Pool.

Each week the Lottery will announce the estimated deferred payment annuity value of the Jackpot that can be won by a single player, based upon the estimated cash value of the Jackpot pool determined by projected and historical sales figures, interest rates, and funds from rollovers, if any. If the cash available in the Jackpot pool is insufficient to yield at least one million dollars over the designated deferred payment annuity period for each winning ticket, the Lottery shall will pay the Jackpot winner or winners in a single cash payment of

~~their share of the amount in the Jackpot pool available immediately for investment, less applicable withholding taxes cash.~~ In the event the cash available in the Jackpot pool is insufficient to yield the announced estimated Jackpot value over the designated deferred payment period, the Lottery may add prize money rendered unclaimable by Section 24.115, Florida Statutes F.S., to the Jackpot pool to render it sufficient to yield the announced estimated Jackpot. Use of unclaimable prize money to increase the Jackpot pool for FLORIDA LOTTO shall only occur when the Lottery has determined in writing prior to the drawing that circumstances warrant the use of such funds to positively impact sales. Nothing in this rule shall be construed to prohibit a guaranteed Jackpot.

Specific Authority 24.115(1) FS. Law Implemented 24.105(10)(e) FS. History—New 11-22-93, Amended 6-21-99, _____.

53-28.007 FLORIDA LOTTO Payment Options.

(1) ~~Effective for draw dates on and after October 24, 1998,~~ Players can choose one (1) of two (2) payment options for receiving their portion of the FLORIDA LOTTO Jackpot prize. Payment options are "Cash Option" and "Annual Payment."

(2) ~~Jackpot winners have sixty (60) days after the winning draw date to choose between the two payment options. Once the jackpot winner signs the Winner Claim Form and exercises the winner's chosen option, the election of that option shall be final. Winner Claim Form DOL-173-2, Revised 02/01 07/93, and Spanish Winner Claim Form DOL 173-S, Revised 02/01 Addendum B, Effective 10/21/98, are incorporated herein by reference and may be obtained from the Florida Lottery, Winner Validation, Capitol Complex, Tallahassee, Florida 32399-4027. In order to select the Cash Option, the winner must claim his or her prize within sixty (60) days after the winning draw date; otherwise, the Annual Payment option will be applied.~~

(3) A Jackpot winner who chooses the Cash Option for payment will receive one lump sum cash payment of his or her portion of the amount in the Jackpot pool that is available immediately for investment, less applicable withholding taxes. ~~Cash Option prizes will be paid in one lump sum cash payment. The jackpot winner who chooses the Cash Option for payment will receive his or her portion of the amount in the jackpot pool that is available immediately for investment.~~

(4) A Jackpot winner who chooses the Annual Payment option shall be paid his or her portion of the Jackpot prize in thirty annual payments. The Annual Payment option shall occur automatically if The jackpot winner whose ticket, including an advance play ticket, was purchased prior to November 15, 1998, shall be paid in twenty (20) annual payments if:

(a) The Jackpot winner does not elect the Cash Option within sixty days after the winning draw date as provided in subsection (2); and The Jackpot winner elects the Annual Payment Option;

(b) The cash available in the Jackpot pool is sufficient to yield at least a total of one million dollars in thirty annual installments for each winning ticket. The Jackpot winner does not make an election within sixty (60) days after the winning draw date as provided in subsection (2); and

~~(c) the cash available in the Jackpot pool is sufficient to yield at least a total of one million dollars in twenty (20) annual installments for each winning ticket.~~

~~(5) The jackpot winner whose ticket, including an advance play ticket, was purchased on November 15, 1998, or thereafter shall be paid in thirty (30) annual payments if:~~

~~(a) the Jackpot winner elects the Annual Payment Option;~~

~~(b) the Jackpot winner does not make an election within sixty (60) days after the winning draw date as provided in subsection (2); and~~

~~(c) the cash available in the Jackpot pool is sufficient to yield at least a total of one million dollars in thirty (30) annual installments for each winning ticket.~~

~~(5)(6) Federal income taxes shall will be applied and withheld from the prize amount at the time payment is made, pursuant to applicable provisions of the Internal Revenue Code and the Code of Federal Regulations.~~

~~(6)(7) Any interest or earnings accrued on a FLORIDA LOTTO Florida Lotto Jackpot prize prior to the prize payment, under either the Cash Option or the Annual Payment Option, shall accrue to the State of Florida and not to the winner.~~

Specific Authority 24.105(10)(e), 24.115(1) FS. Law Implemented 24.105(10)(e) FS. History—New 6-21-99, Amended _____.

DEPARTMENT OF THE LOTTERY

RULE TITLE: FANTASY 5 Rules and Prohibitions

RULE NO.: 53-29.005

PURPOSE AND EFFECT: The purpose of the rule is to reflect an increase in the ticket cancellation period and to clarify other provisions in this section.

SUBJECT AREA TO BE ADDRESSED: FANTASY 5 Rules and Prohibitions.

SPECIFIC AUTHORITY: 24.105(2), 24.105(10) FS.

LAW IMPLEMENTED: 24.105(2), 24.105(10), 24.117(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diane D. Schmidt, Office of the General Counsel, Florida Lottery, 250 Marriott Drive, Tallahassee, FL 32301, (850)487-7724

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

53-29.005 FANTASY 5 Rules and Prohibitions.

(1) ~~By When purchasing a FANTASY 5 ticket, ticket to play the FANTASY 5 game, a~~ the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) FANTASY 5 prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. ~~The play slip is not a valid receipt.~~

(3) Tickets shall not be purchased by or sold to persons under the age of eighteen ~~(18)~~.

(4) Subject to a retailer's hours of operation and on-line system availability, FANTASY 5 lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET). A FANTASY 5 ticket can be cancelled by the retailer which sold the ticket within twenty (20) minutes after printing, except that no FANTASY 5 ticket shall be cancelled within ten (10) minutes of the scheduled FANTASY 5 drawing relative to that ticket or after FANTASY 5 sales are concluded each evening at midnight. No FANTASY 5 ticket may be cancelled except through the optical mark reader.

(5) The scheduled time for the daily FANTASY 5 drawing is approximately 11:15 p.m., ET. Ticket sales for a specific FANTASY 5 drawing will close approximately thirty-five minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next FANTASY 5 draw date. A FANTASY 5 ticket shall not be purchased for a specific drawing any later than ten (10) minutes prior to the drawing.

(6) Retailer cancellations of FANTASY 5 tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no FANTASY 5 ticket can be cancelled after game close for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related FANTASY 5 close of game. It is the responsibility of the player to determine the accuracy of selected panels of numbers on ticket(s). In the event that ticket(s) given to the player by the retailer contain selections which are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of the player by the "quick pick" method of number selection.

(7) It is the responsibility of the player to determine the accuracy of selected panels of numbers and draw date(s) on ticket. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of the player by the "quick pick" method of number selection.

Specific Authority ~~24.105(2)(a)2, 24.105(10) FS. Law Implemented 24.105(2)(b)2, 24.117(2), 24.105(10) FS. History--New 11-22-93, Amended~~

DEPARTMENT OF THE LOTTERY

RULE TITLE: CASH 3 Rules and Prohibitions

RULE NO.: 53-30.004

PURPOSE AND EFFECT: The purpose of the rule is to reflect an increase in the ticket cancellation period and to clarify other provisions in this section.

SUBJECT AREA TO BE ADDRESSED: CASH 3 Rules and Prohibitions.

SPECIFIC AUTHORITY: 24.105(2), 24.105(10) FS.

LAW IMPLEMENTED: 24.105(2), 24.105(10), 24.117(2) FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diane D. Schmidt, Office of the General Counsel, Florida Lottery, 250 Marriott Drive, Tallahassee, FL 32301, (850)487-7724

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

53-30.004 CASH 3 Rules and Prohibitions.

(1) ~~By When~~ purchasing a CASH 3 ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) CASH 3 prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. The CASH 3 ticket is the only valid receipt.

(3) Tickets shall not be purchased by or sold to persons ~~minors~~ under the age of eighteen ~~(18)~~.

(4) Subject to a retailer's hours of operation and on-line system availability, CASH 3 lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight,

~~Eastern Time (ET). A CASH 3 ticket shall not be purchased any later than approximately ten (10) minutes prior to the scheduled nightly drawing.~~

~~(5) The scheduled time for the daily CASH 3 drawing is approximately 7:57 p.m., ET. Ticket sales for a specific CASH 3 drawing will close approximately ten minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next CASH 3 draw date unless the player specifies another CASH 3 draw date within the selection parameters. It is the responsibility of the player to determine the accuracy of the tickets. In the event that the ticket(s) given to the player by the retailer are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of the player by the "quick pick" method of number selection.~~

~~(6) Retailer cancellations of CASH 3 tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no CASH 3 ticket can be cancelled after game close for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related CASH 3 close of game. A CASH 3 ticket can be cancelled within twenty (20) minutes after printing at the same retail location, except that no CASH 3 ticket can be cancelled within ten (10) minutes of the scheduled drawing relative to that ticket or after on-line sales are concluded each evening at midnight.~~

~~(7) It is the responsibility of the player to determine the accuracy of the selected panels of numbers, draw dates(s) and play types on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of a player by the "quick pick" method of number selection.~~

~~Specific Authority 24.105(2)(b)2., 24.105(10) FS. Law Implemented 24.105(2)(b)2., 24.117(2), 24.105(10) FS. History--New 11-22-93, Amended _____.~~

DEPARTMENT OF THE LOTTERY

RULE TITLE: PLAY 4 Rules and Prohibitions
PURPOSE AND EFFECT: The purpose of the rule is to reflect an increase in the ticket cancellation period and to clarify other provisions in this section.
SUBJECT AREA TO BE ADDRESSED: PLAY 4 Rules and Prohibitions.

RULE NO.: 53-31.004

SPECIFIC AUTHORITY: 24.105(2), 24.105(10) FS.

LAW IMPLEMENTED: 24.105(2), 24.105(10), 24.117(2) FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diane D. Schmidt, Office of the General Counsel, Florida Lottery, 250 Marriott Drive, Tallahassee, FL 32301, (850)487-7724

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

53-31.004 PLAY 4 Rules and Prohibitions.

(1) ~~By When~~ purchasing a PLAY 4 ticket a the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) PLAY 4 prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. The PLAY 4 ticket is the only valid receipt.

(3) Tickets shall may not be purchased by or sold to persons under the age of eighteen (18).

~~(4) Subject to a retailer's hours of operation and on-line system availability, PLAY 4 lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET). A PLAY 4 ticket shall not be purchased any later than approximately ten (10) minutes prior to the scheduled nightly drawing.~~

~~(5) The scheduled time for the daily PLAY 4 drawing is approximately 7:57 p.m., ET. Ticket sales for a specific PLAY 4 drawing will close approximately ten minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next PLAY 4 draw date unless the player specifies another PLAY 4 draw date within the selection parameters. It is the responsibility of the player to determine the accuracy of the tickets. In the event that the ticket(s) given to the player by the retailer are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of a player by the "quick pick" method of number selection.~~

(6) Retailer cancellations of PLAY 4 tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no PLAY 4 ticket shall be cancelled after close of game for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's

~~hours of business operation, the hours of on-line system availability, or the time of the related PLAY 4 close of game. A PLAY 4 ticket may be cancelled within twenty (20) minutes after printing, except that no PLAY 4 ticket may be cancelled within ten (10) minutes of the scheduled drawing relative to that ticket or after on-line sales are concluded each evening at midnight.~~

~~(7) It is the responsibility of the player to determine the accuracy of the selected panels of numbers, draw date(s) and play types on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of a player by the "quick pick" method of number selection. Ticket sales for a PLAY 4 drawing will be closed approximately ten (10) minutes prior to the time of the scheduled drawing.~~

~~Specific Authority 24.105(2)(b)2., 24.105(10) FS. Law Implemented 24.105(2)(b)2., 24.117(2), 24.105(10) FS. History--New 11-22-93, Amended~~

DEPARTMENT OF THE LOTTERY

RULE TITLE: MEGA MONEY Rules and Prohibitions

RULE NO.: 53-32.006

PURPOSE AND EFFECT: The purpose of the rule is to reflect an increase in the ticket cancellation period and to clarify other provisions in this section.

SUBJECT AREA TO BE ADDRESSED: MEGA MONEY Rules and Prohibitions.

SPECIFIC AUTHORITY: 24.105(2), 24.105(10) FS.

LAW IMPLEMENTED: 24.105(2), 24.105(10), 24.117(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diane D. Schmidt, Office of the General Counsel, Florida Lottery, 250 Marriott Drive, Tallahassee, FL 32301, (850)487-7724

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

53-32.006 MEGA MONEY Rules and Prohibitions.

(1) ~~By~~ When purchasing a MEGA MONEY ticket to play the MEGA MONEY game, a the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) MEGA MONEY prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. The play slip is not a valid receipt.

(3) Tickets shall not be purchased by or sold to persons under the age of eighteen.

~~(4) Subject to a retailer's hours of operation and on-line system availability, MEGA MONEY lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET). MEGA MONEY tickets can be cancelled only through the retailer terminal which sold the ticket and within twenty minutes after printing, except that no MEGA MONEY ticket can be cancelled after game close for that drawing. No MEGA MONEY ticket may be cancelled except through the optical mark reader.~~

~~(5) The scheduled time for the Tuesday and Friday MEGA MONEY drawings is approximately 11:00 p.m., ET. Ticket sales for a specific MEGA MONEY drawing will close approximately twenty minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next MEGA MONEY draw date. A MEGA MONEY ticket cannot be purchased after game close for that drawing.~~

~~(6) Retailer cancellations of MEGA MONEY tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no MEGA MONEY ticket can be cancelled after game close for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related MEGA MONEY close of game. It is the responsibility of the player to determine the accuracy of selected panels of numbers on ticket(s). In the event that ticket(s) sold to the player by the retailer contain selections which are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of the player by the "quick pick" method of number selection.~~

~~(7) It is the responsibility of the player to determine the accuracy of selected panels of numbers and date(s) on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of the player by the "quick pick" method of number selection.~~

Specific Authority 24.105(2)(~~+~~), 24.105(10)(~~+~~) FS. Law Implemented 24.105(2)(~~+~~), 24.105(10)(~~+~~), 24.117(2) FS. History--New 2-20-00, Amended

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Assistive Care Services
RULE NO.: 59G-4.025

PURPOSE AND EFFECT: The purpose of this rule is to establish the assistive care service as directed by the Legislature. The effect will be to incorporate by reference the rule in the Florida Medicaid Assistive Care and Assisted Living for the Elderly Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Medicaid Services.
SPECIFIC AUTHORITY: 409.906 FS.

LAW IMPLEMENTED: 409.906, 409.912 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 p.m., Friday, May 4, 2001

PLACE: Fort Knox Office Complex, 2727 Mahan Drive, Building 3, Conference Room E, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Keith Young, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)487-2618

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.025 Assistive Care Services.

(1) This rule applies to all assistive care services providers enrolled in the Medicaid under Section 409.906, F.S. who provide assistive care services.

(2) All assistive care service providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Assistive Care and Assisted Living for the Elderly Waiver Coverage and Limitations Handbook which is incorporated by reference in 59G-8.200, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated by reference in 59G-5.020.

Specific Authority 409.906 FS. Law Implemented 409.906, 409.912 FS. History--New

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Home and Community-Based Services Waivers
RULE NO.: 59G-8.200

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Assistive Care and Assisted Living for the Elderly Waiver

Coverage and Limitations Handbook, July 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Assistive Care and Assisted Living for the Elderly Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Home and Community-Based Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.912 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 p.m., Friday, May 4, 2001

PLACE: Fort Knox Office Complex, 2727 Mahan Drive, Building 3, Conference Room E, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Keith Young, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)487-2618

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-8.200 Home and Community-Based Services Waivers.

(1) through (14) No change.

(15) Assisted Living for the Elderly Waiver. All Assistive Care and Assisted Living for the Elderly Waiver providers must comply with provisions of the Florida Medicaid Assistive Care Service and Assisted Living for the Elderly Waiver Coverage and Limitations Handbook, July 2001 ~~November 1996~~ which is incorporated by reference and available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906(~~12~~), 409.912(~~7~~), 409.908 FS. History--New 4-20-82, Formerly 10C-7.527, Amended 3-22-87, Formerly 10C-7.0527, Amended 1-16-96, 7-23-97, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Barbers'

RULE TITLE: Special Assessment Fee
RULE NO.: 61G3-20.022

PURPOSE AND EFFECT: The Board proposes to promulgate this new rule to be included in Chapter 61G3-20.

SUBJECT AREA TO BE ADDRESSED: Special Assessment Fee.

SPECIFIC AUTHORITY: 455.271(7), 476.064(4) FS.

LAW IMPLEMENTED: 455.271(7) FS.

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

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

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

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| RULE TITLES: | RULE NOS.: |
| Facials (Including Skin Care and Hair Removal) | 61G5-22.006 |
| Special Certification | 61G5-22.015 |
| Minimum Curriculum for Nail Specialty Training | 61G5-22.016 |
| Manicuring/Pedicuring/Nail Extension | 61G5-22.0125 |

PURPOSE AND EFFECT: The Board proposes to update the above rules.

SUBJECT AREA TO BE ADDRESSED: Facials (including Skin Care and Hair Removal; Special Certification; Minimum Curriculum for Nail Specialty Training; Manicuring/Pedicuring/Nail Extension).

SPECIFIC AUTHORITY: 477.016 FS.

LAW IMPLEMENTED: 477.019(2)(c)2., 477.0201, 477.023(2) FS.

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

TIME AND DATE: 9:00 a.m., May 20, 2001

PLACE: Adam's Mark Hotel, 1500 Sand Lake Road, Orlando, Florida 32809

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

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

DEPARTMENT OF HEALTH

Board of Medicine

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| RULE TITLE: | RULE NO.: |
| Definitions | 64B8-2.001 |

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address the definition of "community service."

SUBJECT AREA TO BE ADDRESSED: The definition of "community service."

SPECIFIC AUTHORITY: 458.309, 458.315(1), 458.317(1)(c), 458.319(1), 766.314(4) FS.

LAW IMPLEMENTED: 458.303, 458.311, 458.313, 458.315(1), 458.317(1)(c), 458.331(1)(u), 458.3485, 766.314(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-2.001 Definitions.

(1) through (11) No change.

(12) "Community service" shall be defined as the delivery of medical services directly to patients, without fee or cost to the patient, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting.

Specific Authority 458.309, 458.315(1), 458.317(1)(c), 458.319(1), 766.314(4) FS. Law Implemented 458.303, 458.311, 458.313, 458.315(1), 458.317(1)(c), 458.331(1)(u), 458.3485, 766.314(4) FS. History--New 11-10-82, Amended 12-4-85, Formerly 21M-29.01, Amended 12-4-86, 11-15-88, 3-13-89, 1-1-92, 9-24-92, 2-21-93, Formerly 21M-29.001, Amended 4-14-94, Formerly 61F6-29.001, 59R-2.001, Amended 4-7-99.

DEPARTMENT OF HEALTH

Board of Medicine

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|-----------------------------------|------------|
| RULE TITLES: | RULE NOS.: |
| Approved Residency or Fellowship; | |
| Definitions | 64B8-4.004 |
| Applications | 64B8-4.009 |
| Diplomas | 64B8-4.010 |

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment for Rule 64B8-4.004 intended to conform the rule with the current body that accredits graduate medical education programs. The amendment to Rule 64B8-4.009 is intended to delete the notarization requirement and add an alternative documentation of medical education when the transcript has been lost or destroyed and require verification of education directly from the medical school as a confirmation of matriculation. The amendment to Rule 64B8-4.010 is intended to delete the notarization requirement and clarify the requirement for translation of diplomas.

SUBJECT AREA TO BE ADDRESSED: Rule 64B8-4.004 addresses residency programs and fellowships; Rules 64B8-4.009 and 4.010 delete notarization requirements and clarify requirements for verification of licensure and translation of diplomas.

SPECIFIC AUTHORITY: 120.53, 458.309, 458.311, 458.313 FS.

LAW IMPLEMENTED: 120.53, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-4.004 Approved Residency or Fellowship; Definitions.

(1) An approved residency of at least one year constitutes a course of study and training in a single program for a period of not less than twelve calendar months by a person holding a degree as a medical doctor. The hospital and the program in which the medical doctor is participating must be accredited ~~approved~~ for the training and teaching of physicians by the Accreditation Council for ~~on~~ Graduate Medical Education (ACGME) and the medical doctor must be assigned to one of the allocated positions or slots approved by the ACGME. Fellowship training or residency training in a non-slotted position shall be considered approved residency training only in the instance when the fellowship or residency training has been recognized and accepted for that applicant toward completion of requirements for specialty board certification by a specialty board listed by the American Board of Medical Specialties.

(2) An approved residency or approved fellowship of at least two years in one specialty area constitutes two progressive years in a course of study and training as long as each year is accepted by the American Board of Medical Specialties in that specialty for a period of not less than twenty-four months by a person holding a degree as a medical doctor. The hospital and the program in which the medical doctor is participating must be accredited ~~approved~~ for the training and teaching of physicians by the Accreditation Council for ~~on~~ Graduate Medical Education (ACGME) and the medical doctor must be assigned to one of the allocated positions or slots approved by the ACGME. Fellowship training or residence training in a non-slotted position shall be considered approved residency training only in the instance

when the fellowship or residency training has been recognized and accepted for that applicant toward completion of requirements for specialty board certification by a specialty board listed by the American Board of Medical Specialties.

Specific Authority 458.309, 458.311(1)(f) FS. Law Implemented 458.311(1) FS. History--New 3-31-80, Amended 11-10-82, Formerly 21M-22.04, Amended 9-7-88, 11-30-92, Formerly 21M-22.004, 61F6-22.004, Amended 11-15-94, Formerly 59R-4.004, Amended 6-15-98, 10-1-98, _____.

64B8-4.009 Applications.

(1) through (3) No change.

(4) The applicant must submit ~~original-notarized~~ copies of transcripts for all medical education and a certified translation for each transcript which is not in English. In the event that such transcript has been lost or destroyed, then, in lieu thereof, the applicant for licensure shall submit a statement under the signature and seal of the dean of the medical school or medical college from which he graduated, which statement shall demonstrate that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred and the date thereof. Additionally, in the latter instance, the applicant shall submit a written and signed statement fully and clearly stating the circumstances under which his transcript was lost or destroyed.

(5) An official verification of the applicant's medical education from the medical school which comes directly from the medical school to the Board office.

~~(6)(5)~~ The applicant must submit a copy ~~an original or a notarized copy~~ of all certificates of training or a letter directly from the training program which specifies the beginning and ending dates of training and the specialty area of training.

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

Specific Authority 120.53, 458.309, 458.311 FS. Law Implemented 120.53, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS. History--New 3-31-80, Amended 11-10-82, Formerly 21M-22.04, Amended 9-7-88, 11-30-92, Formerly 21M-22.004, 61F6-22.004, Amended 11-15-94, Formerly 59R-4.004, Amended 6-15-98, 10-1-98, _____.

64B8-4.010 Diplomas.

Each applicant for licensure must submit a copy of the his ~~original~~ medical school or medical college diploma in support of his application. If the diploma is from a school outside of the United States and is in a language other than English, a certified translation must accompany the diploma. In lieu of the original diploma, as a convenience to the applicant, the Board will accept from each applicant for licensure a photocopy of the applicant's original medical school or medical college diploma which is certified by a notary to be a true and correct copy of the original. In the event that such diploma has been lost or destroyed, then, in lieu thereof, the applicant for licensure shall submit a statement under the signature and seal of the dean of the medical school or medical college from which he graduated, which statement shall demonstrate that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred and the date thereof.

Additionally, in the latter instance, the applicant shall submit a written and signed statement fully and clearly stating the circumstances under which his diploma was lost or destroyed.

Specific Authority 458.309, 458.313 FS. Law Implemented 458.311, 458.313 FS. History--New 3-31-80, Amended 12-4-85, Formerly 21M-22.10, Amended 2-16-86, Formerly 21M-22.010, 61F6-22.010, 59R-4.010, Amended

DEPARTMENT OF HEALTH

Board of Medicine

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|---|-------------------|
| RULE TITLES: | RULE NOS.: |
| Disciplinary Guidelines | 64B8-8.001 |
| Time for Payment of Civil Penalties or Administrative Fines; Time Frames for Completion of Requirements | 64B8-8.002 |
| Reinstatement of Licensure | 64B8-8.003 |

PURPOSE AND EFFECT: The Board proposes the development of a rule amendments intended to address wrong-site surgery; time frames for completion of requirements of the Board's Orders; and clarification of the requirements for reinstatement of licensure.

SUBJECT AREA TO BE ADDRESSED: The Board proposes an amendment to Rule 64B8-8.001 to address penalties for wrong site surgery. The amendment to Rule 64B8-8.002 addresses the time frames for completion of requirements of Board Orders; and the amendment to Rule 64B8-8.003 addresses the requirements for reinstatement of licensure.

SPECIFIC AUTHORITY: 458.331, 458.309, 456.072(2), 456.079 FS.

LAW IMPLEMENTED: 458.331, 456.072, 456.079 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and 120.57(2), Florida Statutes, the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The

verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

| | | |
|------------------|----------------------|-----------------------|
| VIOLATION | FIRST OFFENSE | SECOND OFFENSE |
|------------------|----------------------|-----------------------|

(a) through (s) No change.

| | | |
|---|--|---|
| (t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. | (t) From two (2) years probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00. | (t) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00. |
|---|--|---|

(458.331(1)(t), F.S.)

1. through 3. No change.

| | | |
|--|--|--|
| <u>4. Performing surgery or a medical procedure on the wrong patient; at the wrong site or location on the patient; or performing the wrong surgery or procedure on a patient.</u> | <u>4. From a \$10,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, a minimum of 50 hours of community service, and a one hour lecture on wrong-site surgery presented to a medical community in the State of Florida to revocation.</u> | <u>4. From a \$10,000 fine, a reprimand and probation or denial to revocation.</u> |
|--|--|--|

(u) through (oo) No change.

(3) through (7) No change.

Specific Authority 458.331(5), 458.309, 456.079 FS. Law Implemented 458.331(5), 456.072, 456.079 FS. History--New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01, _____.

64B8-8.002 Time for Payment of Civil Penalties or Administrative Fines; Time Frames for Completion of Requirements.

(1) In cases where the Board of ~~Medicine~~ Medical Examiners imposes a civil penalty or an administrative fine for violation of Chapter 456 or 458, Florida Statutes, or the rules promulgated pursuant thereunder, the penalty shall be paid within thirty (30) days of its imposition by Order of the Board unless a different time frame is set forth in the Order.

(2) Unless otherwise specified in the Board's Order, the time frames for completion of the requirements are as follows:

(a) FMA sponsored medical records course is to be completed within one year from the date the Order is filed;

(b) USF sponsored prescribing course is to be completed within one year from the date the Order is filed;

(c) Continuing medical education is to be completed within one year from the date the Order is filed;

(d) Community service is to be completed within one year from the date the Order is filed.

(e) Reports to the Board's Probationer's Committee shall be made quarterly.

Specific Authority 456.072(2), 458.309 FS. Law Implemented 456.072(2) FS. History--New 10-23-80, Formerly 21M-20.02, Amended 9-7-92, Formerly 21M-20.002, 61F6-20.002, 59R-8.002, Amended.

64B8-8.003 Reinstatement of License.

(1) No change.

(2) When disciplinary action is taken against a licensee which results in the licensee's being unable to use the license for a period of time for reasons including, but not limited to, suspension, inactivation, or other restriction, but not including revocation subsequent to June 5, 1983, the licensee may petition for reinstatement of the license as follows:

(a) When the suspension, inactivation, or restriction is for a definite period of time and is not based upon the physician's ability to safely engage in the practice of medicine pursuant to Section 458.331(3), F.S., the license shall be ~~automatically~~ reinstated upon expiration of the period of suspension if full compliance with the final order has been shown and the licensee has submitted documentation of completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction;

(b) When the suspension, inactivation, or other restriction is for a definite period of time, is based upon the physician's ability to safely engage in the practice of medicine, or both, the licensee shall demonstrate to the Board at the expiration of the period of suspension, or immediately prior thereto, compliance with the terms and conditions of the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, and, where applicable, the ability to safely engage in the practice of medicine in order to obtain reinstatement. The

Board shall consider reinstatement at either the Board meeting immediately preceding expiration or at any Board meeting subsequent thereto. If the licensee is able to demonstrate compliance with the terms of the final order and, where applicable, the ability to safely engage in the practice of medicine, the Board shall reinstate the license.

(c) When the suspension, inactivation, or other restriction is for a definite period of time or for an indefinite period of time, the licensee may petition the Board to consider reinstatement of a license acted against for an indefinite period of time or early reinstatement of a license acted against for a definite period of time. When such a petition is filed, it must include all documentation of the petitioner's compliance with the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, petitioner's ability to safely engage in practice, petitioner's plan for the return to practice, and any other information which the petitioner would want the Board to consider if it grants the petition for consideration. If the plan for return to practice includes a period of supervised practice, the documentation should include the name of the proposed supervising physician and a written statement from the proposed supervising physician of his or her willingness to serve in that capacity. No oral testimony or personal appearance will be permitted at the time the Board hears a petition to consider reinstatement or early reinstatement. Upon the granting by the Board of the petition to consider such reinstatement or early reinstatement, the licensee shall, at a subsequent meeting, have an opportunity to demonstrate his or her ability to safely engage in the practice of medicine and compliance with the terms of the final order. The Board shall reinstate the license upon a proper demonstration of competency and of compliance with the final order by the licensee.

(3) No change.

Specific Authority 458.309, 458.331 FS. Law Implemented 458.331 FS. History--New 1-3-85, Formerly 21M-20.03, Amended 7-4-88, Formerly 21M-20.003, Amended 11-4-93, Formerly 61F6-20.003, 59R-8.003, Amended.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Citations
 RULE NO.: 64B8-44.005

PURPOSE AND EFFECT: The Board proposes to update the existing rule.

SUBJECT AREA TO BE ADDRESSED: Citations.

SPECIFIC AUTHORITY: 468.507, 456.077 FS.

LAW IMPLEMENTED: 456.077, 468.517, 468.518 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Manner of Application
PURPOSE AND EFFECT: The Board proposes to update the existing rule.
SUBJECT AREA TO BE ADDRESSED: Manner of Application.
SPECIFIC AUTHORITY: 478.43(1), (4) FS.
LAW IMPLEMENTED: 478.45 FS.

RULE NO.: 64B8-51.001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

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

DEPARTMENT OF HEALTH

Division of Disease Control

RULE TITLE: Control of Communicable Diseases, Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12; Forms and Guidelines
PURPOSE AND EFFECT: The Bureau proposes an amendment to update forms and guidelines that are incorporated by reference.
SUBJECT AREA TO BE ADDRESSED: The subject to be addressed is updated forms and guidelines.
SPECIFIC AUTHORITY: 381.003(1)(e),(2) FS.
LAW IMPLEMENTED: 232.032 FS.

RULE NO.: 64D-3.011

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

TIME AND DATE: 1:00 p.m., (EST), May 4, 2001
PLACE: Room 340N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Susan Lincicome, Senior Management Analyst II, Department of Health, Bureau of Immunization, Room 210N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719, whose telephone number is (850)245-4342. Mailing address is 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64D-3.011 Control of Communicable Diseases, Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12; Forms and Guidelines.

- (1) No change.
- (2) Documentation Requirements

(a) Certification of Immunization – Only fully immunized children shall be issued a Florida Certification of Immunization, which must be provided on DH Form 680 Florida Certification of Immunization, Certificate of Immunization for K-12 Excluding 7th Grade Requirements (Part A-1), and/or Certificate of Immunization Supplement for 7th Grade Requirement (Part A-2), incorporated by reference in Section 64D-3.011(5), F.A.C. DH Form 680, Florida Certification of Immunization, shall be completed per instructions for the appropriate school year provided in Immunization Guidelines Florida Schools and Child Care Facilities ~~School Year 1998-99, or Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000, or Immunization Guidelines Florida Schools and Child Care Facilities~~ Effective August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July 2001, as incorporated by reference in Section 64D-3.011(5), F.A.C. A child may attend school only after an authorized school official has examined the certificate for validity. A valid Florida Certification of Immunization shall be properly dated and signed or authorized by a physician. Data elements transferred through the Florida Automated System for Transferring Education Records (FASTER) will include all antigen doses by dates of immunization. The original paper DH Form 680, the Florida Certification of Immunization, shall remain in the student’s cumulative health record.

(b) Exemptions – A child may attend school without a valid DH Form 680, Florida Certification of Immunization, Certificate of Immunization for K-12 Excluding 7th Grade Requirements (Part A-1) and/or Certificate of Immunization

Supplement for 7th Grade Requirement (Part A-2) only if he presents a completed DH Form 680, Florida Certification of Immunization Temporary Medical Exemption (Part B), Permanent Medical Exemption (Part C), or completed Form DH 681, Religious Exemption From Immunization, incorporated by reference in Section 64D-3.011(5), F.A.C., or if he is a transfer student. Exemption forms noted shall be completed per instructions for the appropriate school year provided in Immunization Guidelines Florida Schools and Child Care Facilities ~~School Year 1998-99, or Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000, or Immunization Guidelines Florida Schools and Child Care Facilities~~ Effective August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Effective July 2001, as incorporated by reference in Section 64D-3.011(5), F.A.C.

(5) Forms and Guidelines – Forms used to document compliance with section 232.032, F.S., and guidelines for completion of the forms, are hereby incorporated by reference;

| FORM # | EFFECTIVE DATE | TITLE | FORMS AND GUIDELINES AVAILABILITY |
|---------|----------------|---|---|
| DH 680A | (Aug 98) | Florida Certification of Immunization physicians' offices | DOH county health departments (DOH CHDs); |
| DH 680 | (Aug 2000) | Florida Certification of Immunization | DOH CHDs, physicians' offices |
| DH 680 | (July 2001) | Florida Certificate of Immunization | DOH CHDs, physicians' offices |
| DH 681 | (May 99) | Religious Exemption From Immunization | DOH CHDs |
| DH 684 | (Nov 96) | Immunization Annual Report of Compliance for Kindergarten and Seventh Grade | DOH CHDs |
| DH 685 | (Nov 96) | Kindergarten and Seventh Grade Annual Report of Compliance County Summary | DOH CHDs |
| | (Aug-98) | Immunization Guidelines Florida Schools and Child Care Facilities School Year, 1998-99 | DOH CHDs |
| | (Aug-99) | Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000 | DOH CHDs |
| | (Aug 2000) | Immunization Guidelines Florida Schools and Child Care Facilities Effective August 2000 | DOH CHDs |
| | (Jul 2001) | <u>Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July 2001</u> | <u>DOH CHDs</u> |

Specific Authority 232.032(1), 381.0011(13), ~~381.003(1)~~, 381.003(2), 381.005(2) FS. Law Implemented 232.032(1), 381.0011(4), 381.003(1), 381.005(1)(i), 458, 459, 460 FS. History—New 12-29-77, Amended 6-7-82, 11-6-85, Formerly 10D-3.88, Amended 2-26-92, 9-20-94, 9-21-95, 4-7-96, Formerly 10D-3.088, Amended 7-14-99, _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES: RULE NOS.:
 Special Provisions 65A-1.702
 Family-Related Medicaid General
 Eligibility Criteria 65A-1.705

PURPOSE AND EFFECT: These rule amendments will implement a policy change in Medicaid child-only cases, will add two Medicare premium coverage groups and will clarify citizenship and residence requirements for the Medicaid program.

SUBJECT AREA TO BE ADDRESSED: The department is adopting a policy that excludes Medicaid child-only cases from requirements that a parent cooperate in establishing paternity, assigning rights to medical support and payments, and providing information about liable third parties. Additionally, QI1 and QI2 coverage groups for full Part B Medicare premium coverage and partial Medicare premium coverage are defined and unnecessary statements regarding citizenship and residence requirements are removed. The QI1 and QI2 coverages are not new; they are being defined in rule for the first time.

SPECIFIC AUTHORITY: 409.919 FS.
 LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.
 IF REQUESTED AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 3:00 p.m., May 1, 2001
 PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLE: RULE NO.:
 Compensatory Benefit Plan Exemption 3E-500.017
 PURPOSE AND EFFECT: Pursuant to Section 517.061(19), Florida Statutes, the Department finds that the securities registration provisions of Section 517.07, F.S., are not necessary for certain employer-sponsored compensatory benefit plans or contracts because of the limited nature of the