

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER TITLE: Entomology – Pest Control Regulations

RULE CHAPTER NO.: 5E-14

RULE TITLES: Definitions

RULE NOS.: 5E-14.102

Fumigation Requirements – General Fumigation

5E-14.108

Fumigation Requirements – Prefumigation

Inspections, Evacuation, Warning Notices

(Signs), Special Safety Precautions

and Responsibilities

5E-14.112

Fumigation Requirements – Final

Post-Fumigation Clearance Inspection

5E-14.113

PURPOSE AND EFFECT: The purpose and effect of the rule

development is to amend Rule 5E-14 to address changes to

Statute and fumigation product label directions, to improve

consumer protection provisions by increasing fumigation

safety procedures.

SUBJECT AREA TO BE ADDRESSED: The subject area to

be addressed is modification of structural fumigation

requirements.

SPECIFIC AUTHORITY: 482.051 FS.

LAW IMPLEMENTED: 482.021(7),(25), 482.051(1),

482.111(3),(4), 482.152, 482.241 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., February 5, 2002

PLACE: Training Room, 3125 Conner Blvd., Tallahassee,

Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE

PROPOSED RULE DEVELOPMENT IS: Steven Rutz,

Director, Department of Agriculture and Consumer Services,

Room 130, 3125 Conner Blvd., Tallahassee, FL 32399-1650

THE PRELIMINARY TEXT OF THE PROPOSED RULE

DEVELOPMENT IS:

5E-14.102 Definitions.

(1) through (9) No change.

(10) “Direct Supervision” requires the personal presence

of either the certified operator in charge of the category of

fumigation or his special identification cardholder at the

fumigation job site.

(11) “Trained Crew Person” is defined as either a certified operator possessing the category of fumigation and/or a special identification cardholder.

(12) “Breathing Zone” is defined as the area of space in each room of a fumigated structure located from between four feet above the floor to 6 feet above the floor.

(13) “Secondary Locking Device” is defined as a security guard(s), or any device or barricade that is demonstratively effective in preventing an exterior door or entrance from being opened or entered by normal means.

Specific Authority 482.051 FS. Law Implemented 482.051(1) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, Formerly 10D-55.102, Amended 8-11-93,_____.

5E-14.108 Fumigation Requirements – General Fumigation.

(1) through (2) No change.

(3) It shall be the duty of the certified operator in charge of fumigation to carry out the following:

(a) Train each special fumigation identification cardholder in proper fumigation procedures, such as, but not limited to, fumigant handling, aeration and clearance procedures and to know the location, purpose, use and maintenance of personal protective equipment and fumigation detection and safety devices and when and how to use this equipment.

(b) Train each employee assigned to fumigation work in basic fumigation procedures, SCBA use and familiarization with fumigant safety equipment and to report immediately to the certified operator in charge or his special identification cardholder any irregularities or emergencies.

Specific Authority 482.051 FS. Law Implemented 482.021(7)(6), (25)(20), 482.051(1), 482.152 FS. History–New 1-1-77, Amended 6-22-83, Formerly 10D-55.108, Amended 7-5-95,_____.

5E-14.112 Fumigation Requirements – Prefumigation Inspections, Evacuation, Warning Notices (Signs), Special Safety Precautions and Responsibilities.

(1) Final pre-application of fumigant and evacuation inspection: immediately before the fumigant(s) is to be applied, the certified operator in charge or his designated special fumigation identification card holder must make a final, personal inspection of the structure and shall ascertain that:

(a) All preparations for fumigation as directed by the label have been completed.

(b) through (c) No change.

(2) Prior to the application of fumigant(s), suitable clearly legible warning signs of stiff, weather-proof material must be securely and conspicuously posted as follows:

(a) through (d) No change.

(e) On multi-unit structures, warning signs must be posted on all exterior entrance(s) to the structure which, depending on construction, would include all exterior entrances to each individual unit or apartment.

(5) All information displayed on warning signs must be accurate and legible. The name and day and night telephone number of the certified operator in charge of fumigation, or a certified operator possessing the fumigation category, or the special identification cardholder who was directly involved in the shooting process at the fumigation site must be displayed on the warning sign. Additional numbers and other contact information can be placed on the sign. All emergency phone numbers must be a phone number, mobile/cell phone number or beeper number in the possession of a person familiar with the job and trained to respond to fumigation emergencies and equipped with label required respiratory protection and gas detection equipment. Answering machines, beepers or voice mail systems that do not provide a mechanism for providing immediate notification to an individual as described above are prohibited.

(6)(5) Such warning signs posted on the outside of tents or sealing covers shall not be removed prior to commencement of ventilation: and such warning signs posted ON the structure (itself), enclosed space or commodities being fumigated shall not be removed until the end of the fumigation period, when ventilation has been completed and the premises declared safe for reoccupancy as required by subsections 5E-14.113(1) and (2), F.A.C. Ventilation shall be conducted with due regard for the public safety.

(7)(6) Special safety precautions, responsibilities

(a) No change.

(b) All exterior doors and entrances normally used to enter and exit any area of the structure being fumigated shall be locked, barred or otherwise secured against entry and will have a secondary locking device(s) applied until the end of the exposure period, then opened for ventilation and relocked, barred or otherwise secured against reentry, including the reinstallation of the secondary locking device(s), until declared to be safe for reoccupancy by the person exercising direct and personal supervision of the fumigation operation as required by subsections 5E-14.113(1) and (2), F.A.C.

(c) A door or entrance, that once locked from the interior, cannot be unlocked and opened from the exterior would not require a secondary locking device or barricade. Companies utilizing replacement locksets for meeting secondary lock requirements must mark the lockset in such a way (such as with, paint, engraving or by signage) as to make it readily identifiable as being a licensee owned secondary locking device.

(d) No other secondary locking devices are necessary on multi-unit structures, with internal stairwells, if they can be secured, barred or barricaded at all ground level entrances or openings. Structures with exterior stairwells or fire escapes must be secured or otherwise barricaded or barred to prevent entry from both ground and first floor levels and any entrance to the structure achieved from the stairwell.

(e) If security guards are used in lieu of secondary locking requirements, the licensee must contract for a sufficient number of guards as to leave no entrance to the structure unguarded at anytime during the fumigation period (as defined in subsection 5E-14.102(3), F.A.C.).

Specific Authority 482.051 FS. Law Implemented 482.051(1), 482.111(3),(4), 482.152, 482.241 FS. History—New 1-1-77, Amended 6-27-79, Formerly 10D-55.112, Amended _____.

5E-14.113 Fumigation Requirements – Final Post-fumigation Clearance Inspection.

(1) The certified operator in charge or his designated special fumigation identification card holder shall personally determine by using label-recommended gas-detecting or monitoring devices, maintained and calibrated as required by either the device manufacturer or the fumigant label directions, ~~or materials~~ that the entire structure or enclosed space fumigated, and also including beds and bedding therein, has been monitored and safely ventilated as required by fumigant label directions sufficiently to permit safe human entry and occupancy or reoccupancy. No person, including the property owner or agent, may enter, occupy or reoccupy the fumigated structure for any reason prior to completion of the aeration procedure and declaration of clearance, or when an unknown gas concentration is present or in violation of product label directions without the label required respiratory protection equipment. This prohibition against unauthorized reentry includes the fumigation crew entering the structure to remove shooting equipment. All warning agent containers shall be removed from the structure. In no instance shall ventilation or aeration time be less than that recommended by manufacturer of fumigant on the registered label.

(2) Declaring structure or enclosed space fumigated safe for entry and occupancy or reoccupancy: The certified operator in charge or his designated special fumigation identification card holder shall not permit or allow any unauthorized person to enter or occupy or reoccupy the structure or enclosed space fumigated until the aeration procedures as required by the fumigant product label are completed, and he has personally checked the breathing zone of each room within the fumigated structure for fumigant levels with suitable gas-detecting equipment or monitoring device and found the structure to be safe for human entry and occupancy, and he shall personally certify by his own signature as a result of his final personal inspection and monitoring examination of the entire structure or space fumigated that the same and adjacent structures are safe for human entry, occupancy or reoccupancy. Such notice of clearance shall be in writing and shall be conspicuously posted on the same date and as soon as possible after the completion of the clearance inspection to on all entrances of the to such structure or enclosed space. The signature of the certified operator in charge or his designated special fumigation identification card holder and the exact date and hour of release for reentry and reoccupancy shall be set forth in

all notices. In no case shall the notice of clearance be post-dated. Clearance notices may not be posted prior to performing the clearance inspection with the label required gas-detection or monitoring equipment.

Specific Authority 482.051 FS. Law Implemented 482.051(1), 482.152, 482.241 FS. History--New 1-1-77, Formerly 10D-55.113, Amended _____.

DEPARTMENT OF EDUCATION

RULE TITLE: Educational Facilities
 RULE NO.: 6-2.001

PURPOSE AND EFFECT: The purpose of this rule development is to review existing provisions for public educational facilities and revise as necessary.

SUBJECT AREA TO BE ADDRESSED: Requirements for educational facilities in Florida.

SPECIFIC AUTHORITY: Sections AXIIS9(1), ASIIS9(d), State Constitution; 215.61(5), 229.053(1), 230.23(9), 230.64, 235.01(2), 235.014(6), 235.06, 235.19, 235.211, 235.26, 235.31, 235.32, 239, 240.327(1) FS.

LAW IMPLEMENTED: Sections AVIIS12, AXIIS9(a), AXIIS9(d), State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 215.61, 230.23(9), 230.64, 235.011, 235.014, 235.04(1), 235.05, 235.054, 235.055, 235.056, 235.057, 235.06, 235.15, 235.18, 235.19, 235.193, 235.195, 235.211, 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.41, 235.42, 235.435, 236.13, 236.25, 236.35, 236.36, 236.37, 236.49, 237.01, 237.031, 237.40, 239.229, 240.209(3)(a), 240.295, 240.299, 240.319(3)(e),(f), 240.327, 240.331, 255.0515, 255.20, 267.061, 287.055, 287.0935, 287.133, 440.02, 440.03, 440.10, 440.103, 440.38, 442.004, 442.006, 442.007, 442.0105, 442.109, 442.022, 442.101, 442.109, 442.115, 471.003, 481.229, 489.113(2), 489.125, 553.63, 553.64, 553.71, 553.79, 553.80, 633.025 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, 1214 Turlington Building, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Spessard Boatright, Bureau Chief/Director, Office of Educational Facilities and SMART Schools Clearinghouse, 325 W. Gaines Street, Room 1054, Turlington Building, Tallahassee, Florida 32399-0400, (850)488-6741

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Cooperative Projects and Activities
 RULE NO.: 6A-1.099

PURPOSE AND EFFECT: This rule authorizes district school boards to establish educational consortia which are designed to provide joint programs and services to cooperating school districts. The proposed rule development is to review current standards and incorporate new standards in generally accepted accounting principles relative to the fund type used to account for consortia activities.

SUBJECT AREA TO BE ADDRESSED: In accordance with Governmental Accounting Standards Board Statement 34, all financial transactions of a consortium are required to be recorded in a proprietary fund. An internal service fund should be used when the reporting government is the predominant participant in the activity. If the reporting government is not the predominant participant, the activity should be reported in an enterprise fund.

SPECIFIC AUTHORITY: 229.053(1), 230.23(4)(j),(12) FS.
 LAW IMPLEMENTED: 229.053(2)(h),(i),(j), 230.23(4)(j),(12) 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 AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jeanine Blomberg, Director, Division of Support Services, Department of Education, 325 West Gaines Street, Room 814, Tallahassee, Florida 32399-0400, (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
Aircraft, Boats, Mobile Homes, and Motor Vehicles	12A-1.007
Occasional or Isolate Sales or Transactions Involving Tangible Personal Property or Services	12A-1.037
Photographers and Photo Finishers; Sales by Public Officials of Public Records	12A-1.041
Tax Due at Time of Sale; Tax Returns and Regulations	12A-1.056

Registration	12A-1.060
Rentals, Leases, and Licenses to Use	
Transient Accommodations	12A-1.061
Auctioneers, Agents, Brokers and Factors	12A-1.066
Rentals, Leases, or License to Use	
Tangible Personal Property	12A-1.071
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: The purpose of the amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions) is to provide current guidelines regarding: (1) the taxability of fees charged by interior decorators or designers in conjunction with sales of tangible personal property; (2) the taxability of fees charged by interior decorators or designers solely for services performed that are not in conjunction with sales of tangible personal property; (3) interior decorators or designers who contract to furnish and install tangible personal property which becomes a part of realty; (4) the taxability of fees charged by architects or engineers and their sales of a scale working or other model; and (5) the exclusion from tax provided for stenographers who videotape proceedings.

The purpose of the proposed amendments to Rule 12A-1.007, F.A.C. (Aircraft, Boats, Mobile Homes, and Motor Vehicles), is to remove obsolete provisions regarding the lease or rental of a motor vehicle that are currently provided in s. 212.06(1)(c), F.S.

The purpose of the proposed amendments to Rule 12A-1.037, F.A.C. (Occasional or Isolate Sales or Transactions Involving Tangible Personal Property or Services), is to: (1) provide that the isolated sales exemption does not apply to sales made by or through an auctioneer who is required to be registered under the provisions of Rule 12A-1.066, F.A.C.; (2) clarify that sales of unclaimed tangible personal property by an agency of the state pursuant to s. 717.122, F.S., are not subject to tax; and (3) clarify that no title certificate may be issued on any boat, mobile home, motor vehicle, or any other vehicle unless the applicable sales and use tax has been paid.

The purpose of the proposed amendments to Rule 12A-1.041, F.A.C., is to: (1) change the title to “Photographers and Photo Finishers; Sales by Public Officials of Public Records,” to reflect the proposed changes to the rule; (2) remove provisions regarding blueprints furnished by architects that will be provided in Rule 12A-1.001, F.A.C., as amended; (3) remove the exemption provided in s. 212.08(7)(e), F.S., for the rental of motion picture film when an admission is charged for viewing such film, which does not require administrative guidelines for its implementation; and (4) remove provisions for the taxability of magazines or other containers for advertisers that are included in Rule 12A-1.072, F.A.C., Advertising Services.

The purpose of the proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), is to remove provisions regarding the requirements for tax to be remitted by electronic fund transfer that are provided in Rule Chapter 12-24, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), is to remove the guidelines on how to obtain forms from the Department that are currently provided in Rule 12A-1.097, F.A.C., Public Use Forms.

The purpose of the proposed amendments to Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations) is to: (1) provide that separately itemized charges for communications services are not rental charges or room rates for purposes of this rule; (2) remove obsolete provisions for separately itemized charges for telecommunication services and television system program services that are currently taxed as communications services under Chapter 202, F.S.

The purpose of the proposed amendments to Rule 12A-1.066, F.A.C. (Auctioneers, Agents, Brokers and Factors), is to: (1) revise the definition of the term “auctioneer” for purposes of the rule to include only persons subject to the licensing requirements of Chapter 468, F.S.; and (2) provide that auctioneers who receive no compensation for conducting an auction for a religious, charitable, educational, or civic organization as a fund raising event are not required to collect sales tax on sales made at that auction.

The purpose of the proposed amendments to Rule 12A-1.071, F.A.C. (Rentals, Leases, or License to Use Tangible Personal Property), is to: (1) remove guidelines for decorating contractors that will be provided in Rule 12A-1.001, F.A.C., as amended; and (2) clarify that the rentals of the United States flag or the official State of Florida flag and kits containing such flags are exempt from tax as the sales of such flags and flag kits, as provided in Rule 12A-1.001, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt the changes to forms currently used by the Department, and newly created forms, to administer the sales and use tax.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed guidelines in Rule 12A-1.001, F.A.C., regarding the sale of property and fees charged by architects, engineers, interior decorators or designers, and stenographers; (2) the clarifying guidelines proposed in Rules 12A-1.037 and 12A-1.066, F.A.C., regarding isolated sales made by or through an auctioneer and sales of unclaimed tangible personal property by an agency of the state pursuant to s. 717.122, F.S.; (3) the clarification in proposed Rule 12A-1.071, F.A.C., regarding the exemption provided for the rental of the United States flag, the official State of Florida flag, and flag kits containing these flags; (4) the removal of obsolete or unnecessary provisions from Rules 12A-1.007,

12A-1.041, 12A-1.056, and 12A-1.060, F.A.C.; and (5) the proposed adoption of changes to forms used by the Department to administer the sales and use tax.

SPECIFIC AUTHORITY: 212.05(1), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 92.525(1)(b), 119.07(1), 119.085, 125.0104(3)(g), 125.0108(2)(a), 212.02(1),(2),(4),(10),(12), (14)-(16),(19)-(21), 212.03, 212.0305,(3)(c),(h), 212.031, 212.04, 212.05, 212.0506(4),(10), 212.054(4), 212.055, 212.06(1)-(5),(7),(8),(10),(12), 212.0601, 212.0606, 212.07(1), (2),(7), 212.08(5)(g),(h),(i),(n),(o),(6),(7)(e),(f),(h),(i),(m),(o), (q),(t),(v),(x),(y), (aa),(cc),(ee),(10),(11),(15), 212.096, 212.11(1),(2),(3), 212.12(1)-(7),(9),(12), 212.13(2), 212.14(2), 212.15(1), 212.16(1),(2), 212.17(6), 212.18(2),(3), 212.21(2), 213.06(1), 213.235, 213.255(1)-(3), 213.35, 213.37, 213.29, 213.755, 213.756, 215.01, 215.26(2), 376.11, 402.61, 403.718, 403.7185 FS.

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

TIME AND DATE: 10:00 a.m., February 5, 2002

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, (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 IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.001 Specific Exemptions.

(1) No change.

(2) SERVICE TRANSACTIONS.

(a)1. Fees charged by interior decorators or designers in conjunction with sales of tangible personal property are a part of the total charge for the tangible personal property and are subject to tax, even when separately itemized and charged to their clients on a cost plus basis. An interior decorator's fee is taxable as part of the selling price under Section 212.02(16),

F.S., or as a part of the cost price under Section 212.02(4), F.S., and cannot be exempted as a professional or personal service charge when the transaction involves the sale of tangible personal property. This is true when the fee is paid in the form of a trade discount, as is the case when a supplier grants the decorator a trade discount and the decorator in turn bills the client for the full list price. The decorator fee is also taxable when it appears as an amount added to the decorator's cost when billed to the client for tangible personal property on a cost plus basis.

2. When the sale of tangible personal property by an interior decorator or designer to a client requires the client to purchase consultation or design services, the consultation or design fees are a part of the total charge for the tangible personal property and are subject to tax, even when the fees are separately itemized and charged to the client.

3. When an interior decorator or designer bills a client for the full list price of tangible personal property sold and then receives the equivalent of a fee through the decorator's or designer's supplier in the form of a trade discount, the decorator or designer is required to collect tax on the total amount billed to the client.

~~4.2. Fees charged by an interior decorator or designer solely for consultation or designing services when no sale of tangible personal property occurs in conjunction with those services is not subject to tax. Examples of fees charged solely for services rendered include designing a decorative scheme, advising clients, or recommending colors, paints, wallpaper, fabrics, brands, or sources of supply. If the decorator's fee is solely for designing the interior and exterior decorative scheme or for advising his clients and recommending colors, paints, wallpaper, fabrics, brands, sources of supply, etc., and there is no sale of tangible personal property involved, then such fee would be exempt as a professional or personal service transaction.~~

~~5.3. A fee charged by an interior decorator or designer is solely for services and is not in conjunction with the sale of tangible personal property by the decorator or designer to the same client if all of the following conditions are met: In some instances, the decorator may receive a fixed sum, which is not in any way contingent upon the sale of tangible personal property to the same client. In such cases the decorator's fee cannot be considered as a part of the selling price of the property sold because there is no connection between the transactions:~~

~~a. The fee is allocated in the contract to consultation or designing services;~~

~~b. The contract provides for separate pricing of any tangible personal property that may be purchased by the client from the decorator or designer;~~

~~c. The consultation or designing services fee is separately stated from the sales price of any tangible personal property on statements and invoices;~~

d. The client is obligated to pay the consultation and designing services fee regardless of whether the client purchases any tangible personal property from the decorator or designer under the contract;

e. The client is not obligated to purchase tangible personal property from the decorator or designer;

f. The amount of the consultation and designing services fee is not contingent upon whether the client purchases any tangible personal property from the decorator or designer or upon the sales price of any tangible personal property the client purchases from the decorator or designer.

6.4. Interior decorators or designers who contract to furnish and install tangible personal property which becomes a part of realty are the ultimate consumers of materials and supplies they use to perform such real property contracts unless the contract is one described in Rule 12A-1.051(3)(d), F.A.C. In the case of all contracts other than those described in that paragraph, the interior decorator or designer should not charge tax to its customers. It should pay tax to its suppliers on all purchases of tangible personal property that will be incorporated into a real property improvement and should not extend an Annual Resale Certificate to make tax-exempt purchases. It should also pay use tax on all materials it fabricates for its own use in performing such contracts. If the interior decorator or designer uses a subcontractor to install the tangible personal property, the subcontractor is responsible for paying tax on materials and supplies purchased and used by the subcontractor as provided in Rule 12A-1.051, F.A.C. If the subcontractor uses materials and supplies furnished by the interior decorator or designer, the decorator or designer is responsible for paying tax due on the materials and supplies furnished to the subcontractor. See Rule 12A-1.051, F.A.C., for guidance on the taxation of real property contractors and subcontractors. If the decorator's client reimburses the decorator for the payroll cost of personnel on the decorator's payroll assigned to a specific project, the duties performed by such employees will determine whether or not this item is taxable. For example, if these employees were engaged in painting murals on walls, etc., the charge made for their services is exempt, whereas, if these employees fabricate tangible personal property such as making bedspreads or draperies then the charge for their labor is taxable.

(b)1. Fees charged by architects or engineers to design, conceive, or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, blueprints, or specifications furnished by the architect or engineer as part of the architect's or engineer's services are not subject to tax. The architect or engineer is the consumer of all tangible personal property used or consumed in performing these services and is required to pay tax on all materials and supplies used or consumed in performing the services.

2. When an architect or engineer furnishes the his client or customer with a scale, working, or other model, the architect or engineer is selling tangible personal property total amount he charges his customer therefor is taxable. The architect or engineer is required to collect and remit sales tax on the total sales price, including any separately stated fees. This constitutes the sale of tangible personal property and is not exempt as an inconsequential element of a personal service transaction.

(c) The taking of dictation or the video recording by a public stenographer and stenographic transcriptions thereof are exempt as professional services. Charges for attendance and the stenographic or videotape recordings of proceedings at a trial, hearing, conference, or similar function by a court reporter are exempt as professional services. Charges made by court reporters for transcripts or videotapes of proceedings are likewise exempt as professional services when furnished to parties to the proceedings. Charges for transcripts or videotapes to third persons who are not parties to the proceedings for which the reporter was engaged are taxable.

(3) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10),(12),(16),(20),(21), 212.05, 212.08(6),(7)(f),(h),(q),(v),(x),(cc) 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, 6-19-01, 10-2-01(1),(2), 10-2-01(2)-(7), 10-2-01(3)-(7),_____.

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

(1) through (13) No change.

(14) Lease or Rental.

(a) through (c) No change.

(d) If the rental of a motor vehicle, leased in another state and driven into Florida, is paid in Florida, the entire amount of such rental is taxable. If a credit card is used in lieu of cash payment, the Florida dealer honoring the credit card is liable for the collection of the tax on the rental and the remitting of it directly to the State. If the rental of a motor vehicle leased in Florida and driven to a destination in another state is paid in such other state, such rental is exempt from Florida tax. However, if a motor vehicle is leased in Florida and the rental is paid in Florida, the rental is taxable even though the motor vehicle is removed from Florida immediately after the lessee takes possession thereof.

(e) through (g) renumbered (d) through (f) No change.

(15) through (29) No change.

Specific Authority 212.05(1), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(4),(10),(14),(15),(16),(19),(20), 212.03, 212.05(1), 212.06(1),(2),(4),(5),(7),(8),(10),(12), 212.0601, 212.07(2),(7), 212.08(5)(i), (7)(t),(aa),(ee),(10),(11), 212.12(2),(12), 213.255(1),(2),(3), 215.26(2) FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01,_____.

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

(1) through (2) No change.

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

1. through 4. No change.

5. Sales made by or through an auctioneer, agent, broker, factor, or any other person ~~registered or~~ required to be registered and to collect tax on such sales, as provided in ~~as a dealer to engage in, conduct, or hold itself out as engaged in business, regardless of whether the sale of such items by the owner would have qualified the sale as an isolated sale.~~ See Rule 12A-1.066, F.A.C.

6. No change.

(b) through (4) No change.

(5) The sale of tangible personal property, or the sale of services, under any one of the following circumstances, is taxable and is not an occasional sale if:

(a) through (d) No change.

(e) Such sale is made by or through an auctioneer, agent, broker, factor, or any other person ~~registered or~~ required to be registered as a dealer to collect and remit tax on such sales, as provided in ~~engage in, conduct, or hold itself out as engaged in business, regardless of whether the sale of such items by the owner would have qualified the sale as an occasional sale.~~ See Rule 12A-1.066, F.A.C.

(f) No change.

(g) Such sale involves admissions; ~~communication services;~~ or taxable rentals, leases, or licenses of transient rental accommodations, real property, parking lots, garages, docking, tie down spaces, or storage spaces for motor vehicles, boats, or aircraft.

(6) through (8) No change.

(9) The sale by the Federal Government, including sales made by U.S. Marshals, of surplus government property or confiscated property is not subject to tax. However, no title certificate may be issued on any boat, mobile home, or motor vehicle or, if no title is required by law, no license or registration may be issued for any aircraft, boat, mobile home, motor vehicle, or other vehicle unless the purchaser files ~~there is filed~~ with the application for title certificate, license, or registration certificate a receipt issued by the Department of Revenue, its designated agent, or a county tax collector, evidencing payment of the tax where the same is payable.

(10)(a) The sale of tangible personal property, except unclaimed property pursuant to s. 717.122, F.S., including, but not limited to, surplus or abandoned property by an agency of the state, or any county, municipality, or political subdivision of this state is taxable, provided the sale does not otherwise qualify as an occasional sale.

(b) In the case of aircraft, boats, mobile homes, motor vehicles, or other vehicles, such governmental unit shall collect and remit the tax and shall furnish the purchaser with a receipt

thereof evidencing payment of the tax where the same is payable. The receipt evidencing payment of tax shall be attached to application for title; or, if no title is required by law, to the licensee or registration certificate as proof that the tax has been paid.

(11) Sales of unclaimed tangible personal property by an agency of the state pursuant to s. 717.122, F.S., are not subject to tax. However, no title certificate may be issued on any boat, mobile home, or motor vehicle or, if no title is required by law, no license or registration may be issued for any aircraft, boat, mobile home, motor vehicle, or other vehicle unless the purchaser files with the application for title certificate, license, or registration certificate a receipt issued by the Department of Revenue, its designated agent, or a county tax collector, evidencing payment of the tax where the same is payable.

~~(12)(11)~~ Sales made by officers of a court pursuant to court orders are considered occasional sales, with the exception of:

(a) Sales made by trustees in bankruptcy or sales made by third parties at the direction of or by appointment of such trustees, sales made by receivers, and sales made by assignees under the provisions of Chapter 727, F.S., which are taxable. Trustees and such third parties, receivers, and assignees are required to register as dealers and collect the applicable tax on all taxable sales of tangible personal property made during the trusteeship, receivership, or assignment for the benefit of creditors, including sales from inventory and all tangible personal property of any business or estate, excluding sales of tangible personal property to the debtor in any bankruptcy proceedings, receiverships, or assignments;

(b) Sales made by or through an auctioneer, agent, broker, factor, or any other person ~~registered or~~ required to be registered as a dealer to collect and remit tax on such sales, as provided in ~~engage in, conduct, or hold itself out as engaged in business.~~ See Rule 12A-1.066, F.A.C.;

(c) Aircraft, boats, mobile homes, or motor vehicles of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government; and

~~(d) In the case of any aircraft, boat, mobile home, or motor vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government sold by an officer of the court, no title certificate may be issued, or, if no title is required by law, no license or registration for title certificate, license, or registration certificate a receipt issued by the Department of Revenue, its designated agent, or a county tax collector, evidencing payment of tax where the same is payable.~~

~~2. In the case of any aircraft, boat, mobile home, or motor vehicle of a class or type required to be registered, licensed, titled or documented in this state or by the United States Government sold by an officer of the court by or through an auctioneer or other dealer, the auctioneer or other dealer shall~~

collect and remit the tax and shall furnish the purchaser with a receipt evidencing payment of the tax where same is payable. The receipt evidencing payment of the tax shall be attached to the application for title, or, if no title is required by law, to the license or registration certificate as proof that the tax has been paid.

(12) through (17) renumbered (13) through (18) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1),(2),(10)(g),(12),(14),(16),(19), 212.04, 212.05(1)(c),(d),(f),(h),(j), 212.06(1)(a),(2),(3),(8),(10), 212.07(1), 212.11(2),(3), 212.12(9), 212.18(2), 212.21(2), 213.06(1), 213.35 FS. History—Revised 10-7-68, 6-16-72, Amended 10-18-78, 5-8-79, 12-23-80, 12-3-81, 7-10-82, Formerly 12A-1.37, Amended 1-2-89, 8-15-94, 6-19-01,_____.

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

(1) Photographers and photo finishers, ~~photofinishers and photostat producers~~ are engaged in the sale of tangible personal property when developing or printing pictures for sale, or selling completed photographs or photostats or other tangible personal property. Such persons are required to collect and remit tax on the total amount charged to the customer for the sale of such tangible personal property. ~~When such persons develop or print pictures and sell films, frames, cameras, completed photographs, photostats, blueprints, etc., they are making sales of completed articles of tangible personal property and must collect the tax on the total selling price without deduction for the cost of the property sold, labor, service, or any other expense whatsoever.~~

(2) The charge for retouching, tinting, or coloring ~~When persons covered by this rule retouch, tint or color photographs belonging to others, the total charge is subject to tax taxable.~~

(3) No change.

~~(4) The rental of motion picture film is exempt when there is an admission charge for viewing such film. All charges for services rendered by radio and television stations, including line charges and talent 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. All other film rentals are taxable.~~

~~(4)(5) Sitting fees charged~~ charges by photographers are taxable as part of the sales price ~~a service~~ when the transaction is in conjunction ~~they are in connection~~ with a sale of tangible personal property. The charge for sitting fees that are not in conjunction with the sale of tangible personal property are not subject to tax. ~~In such cases, they are not exempt as professional services.~~

(6) Blueprints furnished by an architect as a part of his services at no separate charge are not taxable to the client. The architect must pay sales tax on the purchase of the blueprints, if purchased by him, or on the tangible personal property purchased for use in the making thereof. If there is a separate

charge to his client for the blueprints, it is a sale of tangible personal property and the architect shall purchase the blueprints or materials used in the making thereof with a resale certificate and collect the tax thereon from the client.

~~(5)(7) No change.~~

~~(8) The entire selling price of photographic film, including any charge for magazines or other containers, etc., whether separately stated or not, is taxable.~~

Cross Reference-Rule 12A-1.072, F.A.C.

Specific Authority 212.17 (6), 212.18 (2), 213.06 (1) FS. Law Implemented 119.07(1), 119.085, 212.02(2),(14),(15),(16), 212.08(5),(6),(7)(e),(v) FS. History—Revised 10-7-68, Amended 12-8-68, 1-17-71, Revised 6-16-72, Amended 12-11-74, 5-27-75, Formerly 12A-1.41, Amended 7-30-91, 8-10-92, 6-19-01,_____.

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

(1)(a) No change.

~~(b) When the tax is required to be remitted by electronic funds transfer and the tax due date falls on a Saturday, a Sunday, a legal holiday as defined in s. 655.89, F.S., or on a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic funds transfer is required on or before the first banking day thereafter. For the purposes of this rule, "banking day" has the meaning prescribed in s. 655.89, F.S.~~

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

(2) through (11) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c),(h), 212.031(3), 212.04(3),(4),(5), 212.0506(4),(10), 212.054(4), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1),(2),(3),(4),(5), 212.14(2), 212.15(1), 213.235, 213.29, 213.755, 215.01, 376.11, 403.718, 403.7185 FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01,_____.

12A-1.060 Registration.

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

~~(d) Applications to Collect and or Report Tax in Florida (form DR-1) and Applications for Collective Registration for Rental of Living or Sleeping Accommodations (form DR-1C) are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's 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.~~

(e) through (h) renumbered (d) through (g) No change.

(2) through (3) No change.

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) FS. 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, 6-19-01, 10-2-01(1), 10-2-01(1), _____.

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations.

(1) through (2) No change.

(3) RENTAL CHARGES OR ROOM RATES.

(a) through (g) No change.

(h) The following is a non-inclusive list of charges separately itemized on a guest's or tenant's bill, invoice, or other tangible evidence of sale that are NOT rental charges or room rates for transient accommodations:

1. Charges for communications telecommunication services, including facsimile services. See Rule Chapter 12A-19 12A-1.046, F.A.C.

2. ~~Charges for television system program services, including charges for movies and video tapes. See Rule 12A-1.046, F.A.C.~~

3. through 16. renumbered 2. through 15. No change.

(4) through (19) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 212.02(2),(10)(a)-(g),(16), 212.03(1),(2),(3),(4),(5),(7), 212.031, 212.04(4), 212.08(6),(7)(i),(m),(o), 212.11(1),(2), 212.12(7),(9),(12), 212.13(2), 212.18(2),(3), 213.37, 213.756 FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly 12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 7-1-99, 3-4-01(4), 3-4-01(2),(5),(14), 10-2-01, _____.

12A-1.066 Auctioneers, Agents, Brokers and Factors.

(1)(a) Every agent, auctioneer, broker, or other person who is engaged in any business activity of making sales of tangible personal property with the object of private or public gain, benefit, or advantage, either direct or indirect, who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, is required to register as a dealer under Chapter 212, F.S., and collect and remit any applicable tax on the total retail sales price of any taxable item of tangible personal property without any deduction for any expense, such as storage, commission, or repairs, etc. It is immaterial that:

1. The auctioneer, broker, factor, or other person may not have possession of the tangible personal property;

2. The title to the tangible personal property cannot be transferred to the purchaser without further action on the part of the principal; or

3. The purchaser has disclosed the identity of the principal.

(b) An agent, auctioneer, broker, or other person selling tangible personal property shall collect and remit the tax when title or possession of the property is transferred within this state notwithstanding the fact that the tangible personal property belongs to an out-of-state principal.

(c) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

1. No change.

2. "Auctioneer" is a person subject to the licensing requirements of Chapter 468, F.S., who either owns an item of tangible personal property, or to whom an item of tangible personal property has been consigned or delivered, and who offers ~~for sale~~ the item of tangible personal property for sale by competitive bid.

3. through 5. No change.

(2)(a) Auctioneers who conduct auctions exempt under s. 468.383, F.S., are not required to collect and remit tax on sales made at such auctions.

(b) An auctioneer who receives no compensation for conducting an auction for a religious, charitable, educational, or civic organization as a fund raising event is not required to collect tax on sales of tangible personal property made by the organization at the auction. For guidelines on the taxability of occasional sales made by such organizations, see Rule 12A-1.037, F.A.C.

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

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), 212.05(1), 212.06(1)(a),(2)(b),(c),(g),(h),(3),(5)(b) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.66, Amended 1-2-89, _____.

12A-1.071 Rentals, Leases, or License to Use Tangible Personal Property.

(1) through (34) No change.

(35)(a) The rental or lease of a United States flag or the official flag of Florida is exempt. The rental or lease as a unit of a kit that includes the United States flag or the official flag of Florida and related accessories, such as a mounting bracket, a standard, a halyard, and instructions for the display of the flag is also exempt. The lease or rental of any accessory, when not leased or rented as a part of a kit containing the United States flag or the official flag of Florida, is taxable. See Rule 12A-1.001, F.A.C., for the exemption provided for sales of flags and flag kits. A decorating contractor who uses materials and supplies such as bunting, streamers, colored paper, wreaths, pennants, lights, rope, etc., in fulfilling a contract which requires the furnishing of arrangements and decorations to, and their subsequent removal from, hotels, offices, public buildings, etc., is the consumer of such materials and supplies and shall pay tax on their acquisition. The purchase of a United States flag or official state flag of Florida for said use is exempt. The contractor's charge under such contract is a service charge and is exempt.

(b) The charge a contractor makes to his customer for the rental of a flag kit containing a flag of the United States or the official state flag of Florida which may include flag poles, standards, etc., is exempt. The rental of any related accessories, when not rented as part of a kit containing a flag is taxable.

(36) through (48) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1),(4),(10)(g),(12),(14)(a),(15)(a),(16),(19), 212.04, 212.05(1)(c),(d), (f),(h),(j), 212.06(1)(a),(2)(e),(8), 212.08(7)(e),(f),(v),(y), 212.11(2),(3), 212.12(9), 212.18(2), 402.61 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 12-31-81, 7-20-82, Formerly 12A-1.71, Amended 1-2-89, 10-5-92, 11-16-93, 8-15-94, 10-17-94, 3-20-96.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g),(h),(n),(o),(15), 212.096, 212.17(6), 212.18(2),(3) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES: RULE NOS.:

Consumer’s Certificates of Exemption; 12A-1.038
 Exemption Certificates 12A-1.094
 Public Works Contracts

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer’s Certificates of Exemption; Exemption Certificates), is to correct the reference information, for formats of exemption certificates for people mover systems and parts, to Rule 12A-1.094, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-1.094, F.A.C. (Public Works Contracts) is to: (1) incorporate legislative changes to ss. 212.06(14), 212.08(6), and 212.08(7)(bbb), F.S.; (2) remove obsolete and unnecessary guidelines for public works contracts; and (3) provide simple guidelines for taxpayers and tax administrators regarding the taxability of public works contracts for the repair, alteration, improvement, or construction of real property.

The proposed amendments will: (1) revise the definition of the terms “contractor,” “governmental entity,” “public works,” and “real property,” as used in Rule 12A-1.094, F.A.C.; (2) provide that contractors who purchase supplies and materials for sale and for use by the contractor may buy such items tax exempt and remit tax when the items are withdrawn from inventory for use in a public works contract; (3) provide guidelines for when property purchased or manufactured for resale to a governmental entity is exempt from tax; (4) provide that contractors who manufacture asphalt for incorporation into public works projects are liable for tax, as provided in Rule 12A-1.051(12), F.A.C., and s. 212.06(1)(c), F.S.; and (5) provide guidelines regarding the exemption for the purchase of people mover systems, or components of such systems, installed by contractors in public works projects.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed guidelines regarding the taxability of public works contracts for the repair, alteration, improvement, or construction of real property.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 95.091(3), 120.57(1),(2), 120.60(3), 120.80(14), 212.02(4), (14)-(16), (19)-(21), 212.05(1)(j), 212.06(1),(2),(14), 212.07(1), 212.08(6),(7), 212.085, 212.18(2),(3), 212.21(2) FS.

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

TIME AND DATE: 10:00 a.m., February 5, 2002

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

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
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(2) DR-1	Application to Collect and/or Report Tax in Florida (r. 08/01 <u>08/00</u>)	— 6/01
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(3) through (4) No change.

(5) DR-7	Consolidated Sales and Use Tax Return (r. 01/02 <u>12/99</u>)	— 6/01
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(6)(a) DR-15	Sales and Use Tax Return (r. 01/02 <u>01/01</u>)	— 6/01
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<u>(b) DR-15AW</u>	<u>2002 Sales and Use Tax Worksheet Instructions (r. 01/02)</u>	—
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(c)(b) DR-15CS	Sales and Use Tax Return (r. 01/02 <u>07/00</u>)	— 6/01
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(d)(e) DR-15CSN	DR-15CS Sales and Use Tax Return – Line-by-line Instructions (r. 01/02 <u>07/00</u>)	— 6/01
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(e)(d) DR-15EZ	Sales and Use Tax Return (r. 01/01)	— 6/01
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(f)(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns (r. 01/01)	— 6/01
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(f) through (g) renumbered (g) through (h) No change.

(i)(h) DR-15MO	Mail Order/Use Tax Return (r. 06/01 <u>09/00</u>)	— 6/01
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(j)(i) DR-15N	Instructions for 2001 <u>2002</u> DR-15 Sales and Use Tax Returns (r. 01/02 <u>01/01</u>)	— 6/01
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(k)(j) DR-15SA	Sales and Use Tax Return [Semi-Annual] (r. 12/01 <u>01/01</u>)	— 6/01
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<u>(l) DR-15SAN</u>	<u>Instructions for Sales and Use Tax Return [Semi-Annual] (r. 12/01)</u>	—
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(k) through (l) renumbered (m) through (n) No change.

(7) through (18)(b) No change.

(c) DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (n. 01/01)	10/01
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(d) through (20) No change.

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, (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 IS: Linda Bridges, Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-7157

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.038 Consumer's Certificates of Exemption; Exemption Certificates.

(1) through (4) No change.

(5) SALES EXEMPT BASED ON THE USE OF THE PROPERTY OR SERVICES.

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

2. As provided in subparagraph (a)2. of this subsection, there are other suggested formats for exemption certificates based on the use of the property or services that are provided in other sections of Rule Chapter 12A-1, F.A.C., and in Taxpayer Information Publications (TIPs) issued by the Department. The following is a list of these suggested formats of exemption and the applicable rule section or TIP number that suggests the exemption certificate format. This list is not intended to be an exhaustive list:

a. through k. No change.

l. People Mover Systems and Parts. See Rule 12A-1.094, F.A.C. TIP 00A01-18, dated July 11, 2000.

m. through n. No change.

(6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 120.57(1),(2), 120.60(3), 120.80(14), 212.02(14)(c), 212.05(1)(j), 212.06(1)(c), 212.07(1), 212.08(6),(7), 212.085, 212.18(2),(3), 212.21(2) FS. History—Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01,

12A-1.094 Public Works Contracts.

(1) This rule shall govern the taxability of transactions in which contractors manufacture or purchase supplies and materials for use in public works contracts, as that term is referred to in Section 212.08(6), F.S. This rule shall not apply to non-public works contracts for the repair, alteration,

improvement, or construction of real property, as those contracts are governed under the provisions of Rule 12A-1.051, F.A.C. ~~This rule shall also not apply to contractors who entered into road construction contracts during the period from January 1, 1988, through February 11, 1988, and who chose to remit the tax based on 50 percent of the contract price. See Emergency Rule 12AER88-16 for provisions governing such contracts.~~ In applying this rule, the following definitions are used.

(a)1. "Contractor" is one that supplies and installs tangible personal property that is incorporated into or becomes a part who is engaged in the repair, alteration, improvement or construction of public property or a public facility pursuant to a public works contract with a governmental entity exercising its authority in regard to the public property or facility real property. ~~Contractors include, but are not limited to, persons engaged in building, electrical, plumbing, heating, painting, decorating, ventilating, paperhanging, sheet metal, roofing, bridge, road, waterworks, landscape, pier or billboard work.~~ This definition includes subcontractors.

2. "Contractor" does not include one that furnishes tangible personal property that is freestanding and can be relocated with no tools, equipment, or need for adaptation for use elsewhere. For example, a vendor that sells a desk, sofas, chairs, tables, lamps, and art prints for the reception area in a new public building is not a public works contractor even if the sales agreement requires the vendor to place the furniture according to a floor plan, plug in the lamps, and hang the art prints.

3. "Contractor" does not include one that provides tangible personal property that will be incorporated into or become part of a public facility if such property will be installed by another party. If a manufacturer produces the structural steel or the prestressed concrete for a public works project and delivers those steel or concrete products but has not contracted to also install those products, that manufacturer is not a contractor for purposes of this rule. The party that has contracted to install those products into the public facility is a contractor for purposes of this rule, regardless of whether or not that party has also contracted to furnish the items to be installed.

(b) "Governmental entity" includes any agency or branch of the United States government, a state, or any county, or municipality, or political subdivision of a state. The term includes authorities created by statute to operate public facilities using public funds, such as public port authorities or public-use airport authorities.

(c)(b) "Public works" are defined as ~~construction~~ projects for public use or enjoyment, financed and owned by the government, in which private persons undertake the obligation to do a specific piece of work that involves installing tangible personal property in such a manner that it becomes a part of a public facility. The term "public works" is not restricted to the repair, alteration, improvement, or construction of real

property and fixed works, although such projects are included within the term where the sale of tangible personal property is made to or by contractors involved in public works contracts. The following are examples of such Such contracts; shall include, but not be limited to, building, electrical, plumbing, heating, painting, decorating, ventilating, paperhanging, sheet metal, roofing, bridge, road, waterworks, landscape, pier, or billboard contracts.

~~(d)(e)~~ “Real property” within the meaning of this rule includes all fixtures and improvements to real property. The status of a project as an improvement or affixture to real property will be determined by reference to the definitions contained in Rule 12A-1.051(2), F.A.C. is determined by the objective and presumed intent of the parties, based on the nature and use of the project and the degree of affixation to realty. Mobile homes and other mobile buildings are deemed fixtures if they (1) bear RP license tags, or (2) have the mobile features (such as wheels and/or axles) removed, and are placed on blocks or footings and permanently secured with anchors, tie-down straps or similar devices.

(2) The purchase or manufacture of supplies or materials by the contractor for incorporation into a public works project, whether the purchase or manufacture occurs inside or outside Florida, is taxable to the contractor, since the contractor he is the ultimate consumer of all goods and services used to fulfill a public works contract. Contractors that purchase or manufacture such supplies and materials in Florida are liable for sales tax or use tax on such purchases and manufacturing costs. A contractor that purchases property that may be sold as tangible personal property or may be incorporated into a public works project may purchase such tangible personal property without tax by issuing a copy of the contractor’s Annual Resale Certificate and accrue and remit tax upon withdrawing items from inventory for use in a public works contract. Contractors that purchase or manufacture such materials outside the State of Florida are liable for use tax, subject to credit for any sales or use tax lawfully imposed and paid in the state of purchase or manufacture. The applicable tax rate shall be determined on the basis of the invoice date, not the date of the contract, as follows:

~~(a) If invoiced before February 1, 1988, and delivered within a reasonable period of time the tax rate shall be 5 percent.~~

~~(b) If invoiced on or after February 1, 1988, the tax rate shall be 6 percent.~~

~~(3)(a)~~ The purchase or manufacture of tangible personal property for resale to a governmental entity body is exempt from tax provided this exemption shall not include sales of tangible personal property made to or the manufacture of tangible personal property by public works contractors employed either directly or as agents of the United States Government, a state, or any county, municipality, or political subdivision of a state when such tangible personal property

goes into or becomes a part of public works financed or owned by such governmental entities pursuant to a contract between the governmental entity and the contractor furnishing that tangible personal property bodies or political subdivisions.

~~(b) With regard to contracts with government entities, the exemption in subsection (3)(a) is appropriate only where the levy would otherwise fall on the government itself, or on an agency or instrumentality so closely connected with that government that the two cannot realistically be viewed as separate entities, at least insofar as the activity being taxed is concerned. A finding of exempt status, however, requires something more than the implication of traditional agency notions, so that to resist a state’s taxing power, a private taxpayer must actually stand in the government’s shoes as a principal, rather than as a contractor employed either directly or as the government’s agent. A contractor will not be deemed to actually stand in the government’s shoes if the contractor has a substantial independent role in making purchases. Accordingly, the fact that title passes directly to the government and payment is made with government funds, in and of itself, cannot characterize the transaction as an exempt purchase if the purchasing entity, in its role as a purchaser, is sufficiently distinct from the government.~~

(4) The exemption in s. 212.08(6), F.S., subsection (3)(a) is a general exemption for sales made directly to the government. ~~The exception in subsection (2)(a) is a specific exception for sales to contractors.~~ A determination of whether a particular transaction is properly characterized as an exempt sale to a governmental government entity or a taxable sale to or use by a contractor shall be based on the substance of the transaction, rather than the form in which the transaction is cast. The Executive Director or the Executive Director’s designee in the responsible program will determine whether the substance of a particular transaction is ~~governed by subsection (2)(a) or is a taxable sale to or use by a contractor or an exempt direct sale to~~ a governmental entity body as provided by subsection (3) of this rule based on all of the facts and circumstances surrounding the transaction as a whole. ~~Special The Executive Director or the Executive Director’s designee in the responsible division will give special consideration will be given to factors that which govern the status of the tangible personal property prior to its affixation to real property. The governmental entity must issue its purchase order directly to the vendor supplying the materials the contractor will use and supply the vendor with a copy of the entity’s Florida Consumer’s Certificate of Exemption. The vendor’s invoice must be issued to the governmental entity, rather than to the contractor, and the governmental entity must make payment directly to the vendor using public funds. The entity must take title to and assume the risk of damage or loss of the property at the time of purchase or delivery by the vendor. Such factors include provisions which govern bidding, indemnification, inspection, acceptance, delivery, payment, storage, and assumption of the risk of damage or loss for the~~

~~tangible personal property prior to its affixation to real property. Assumption of the risk of damage or loss is a paramount consideration. A governmental entity will party may be deemed to have assumed the risk of loss if the governmental entity party either: bears the economic burden of posting a bond or obtaining insurance covering damage or loss; or directly enjoys the economic benefit of the proceeds of such bond or insurance. Other factors that may be considered by the Executive Director or the Executive Director's designee in the responsible division include whether: the contractor is authorized to make purchases in its own name; the contractor is jointly or severally liable to the vendor for payment; purchases are not subject to prior approval by the government; vendors are not informed that the government is the only party with an independent interest in the purchase; and whether the contractors are formally denominated as purchasing agents for the government. Sales made pursuant to so-called "cost-plus", "fixed-fee", "lump sum", and "guaranteed price" contracts are taxable sales to the contractor unless it can be demonstrated to the satisfaction of the Executive Director or the Executive Director's designee in the responsible division that such sales are, in substance, tax exempt direct sales to the government.~~

(5) ~~Contractors that who~~ manufacture materials for incorporation into public works shall be liable for tax in the manner provided in Rule 12A-1.051(10), F.A.C.

(6) ~~Contractors that who~~ supply raw materials such as rock, shell, fill dirt, and similar materials for incorporation into public works shall be liable for tax in the manner provided in Rule 12A-1.051(13), F.A.C.

~~(7) Contractors that manufacture and incorporate asphalt into public works projects are liable for tax on their costs, as provided in Rule 12A-1.051(12), F.A.C., subject to a partial exemption, as provided in s. 212.06(1)(c), F.S. Contractors who purchase tangible personal property outside the State of Florida, or inside the State but fail to pay sales tax, and use such property in a public works project shall be presumed to have the beneficial use of such property because the property is being used in furtherance of the contractor's essentially independent commercial enterprise. Accordingly, such contractors shall be liable for the use tax.~~

(8) Contractors that install people mover systems in public works projects are exempt from sales and use tax on their purchases of such systems or components of such systems and on any other costs incurred in the manufacture of such systems that would be taxable under the provisions of Rule 12A-1.051(10), F.A.C.

(a) A "people mover system" includes wheeled passenger vehicles and related control and power distribution systems that form a transportation system owned by a public entity and used by the general public. The vehicles may be operator-controlled, driverless, self-propelled, or externally powered. They may run on roads, rails, guidebeams, or other permanent structures that are an integral part of the system.

"Related control and power distribution systems" includes electrical or electronic control or signaling equipment that distributes power or signals from the control center or centers or from the power source throughout the system. Embedded wiring, conduits, or cabling and the roads, rails, guidebeams, or other permanent structures on which the vehicles run are not included within the term "people mover system." A contractor that installs such embedded wiring, conduits, or cabling or that builds such a road, rail, guidebeam, or permanent structure is taxable on the purchase or use of tangible personal property incorporated into the project.

(b) A people mover system contractor should claim the exemption by providing a vendor with a certificate of entitlement to the exemption. The vendor must maintain copies of certificates until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S. Possession by a vendor of such a certificate from the purchaser relieves the vendor from the responsibility of collecting tax on the sale, and the Department shall look solely to the purchaser for recovery of tax if it determines that the purchaser was not entitled to the exemption. A suggested form of certificate follows:

SUGGESTED PURCHASER'S EXEMPTION
CERTIFICATE PEOPLE MOVER SYSTEMS AND PARTS

(Purchaser's Name) certifies that the tangible personal property purchased on or after _____ (date) will be used as part of a people mover system that will become a part of a publicly owned facility pursuant to a contract with the United States, a state, a county, a municipality, a political subdivision of a state, or the public operator of a public-use airport as defined in s. 332.004, Florida Statutes. Such contract requires Purchaser to purchase the tangible personal property for use in manufacturing, installing, manufacturing and installing, repairing, or maintaining, all or part of a people mover system operated by the governmental entity as a public facility.

(Purchaser's Name) further certifies: a) that all of the tangible personal property purchased pursuant to this certificate is or will be part of a wheeled passenger vehicle or of related control or power distribution systems that are part of a transportation system for use by the general public; and b) none of the tangible personal property purchased pursuant to this certificate will be used as embedded wiring, conduits, or cabling to transmit signals among the vehicles, control equipment, power distribution equipment, and signaling equipment that make up the people mover system.

The undersigned understands that if such tangible personal property does not qualify for this exemption, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state a certificate or statement in writing in which he or she claims exemption from the sales tax, such

person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Purchaser's Name (Print or Type)

Signature and Title Date Florida Sales Tax Number

Federal Employer Identification Telephone Number
Number or Social Security Number

Retain in vendor's records. Do not send to the Department of Revenue.

(c) Contractors that maintain an inventory of parts that may be incorporated into people mover system components that are sold as tangible personal property, may be used in performing real property contracts, and may be incorporated into exempt people mover systems pursuant to a public works contract may purchase such inventory parts issuing a copy of the contractor's Annual Resale Certificate in lieu of providing a certification of specific eligibility under the people mover system exemption. If appropriate, tax should be remitted upon subsequent taxable sale or use of such parts.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (10), (14), (15), (16), (19), (20), (21), 212.06(1), (2), (14), 212.07(1), 212.08(6), (7)(bbb), 212.085, 212.14(5), 212.18 (2) FS. History—New 6-3-80, Amended 11-15-82, Formerly 12A-1.94, Amended 1-2-89, 8-10-92,

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Scope of Rules	12A-17.001
Definitions	12A-17.002
Registration	12A-17.003
Denial, Suspension, or Revocation of Registration	12A-17.004
Forms Used by Public	12A-17.005

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-17.001, F.A.C. (Scope of Rules) is to remove the unnecessary provisions regarding the denial, suspension, or revocation of registration that will be provided in Rule 12A-17.004, F.A.C., as amended.

The purpose of the proposed repeal of Rule 12A-17.002, F.A.C. (Definitions), is to remove the unnecessary recitation of the provision of Chapter 538, F.S.

The purpose of the proposed amendments to Rule 12A-17.003, F.A.C., is to: (1) change the title to "Registration"; and (2) remove the unnecessary recitation of the provisions of Chapter 538, F.S.

The purpose of the substantial rewording of Rule 12A-17.004, F.A.C., is to: (1) change the title to "Denial, Suspension, or Revocation of Registration"; (2) remove the unnecessary recitation of the provisions of Chapter 538, F.S.; and (3) provide guidelines for the denial, suspension, or revocation of a Secondhand Dealer or Secondary Metals Recycler Certificate of Registration consistent with the provisions of Chapter 120, F.S., and Rule Chapters 28-104 and 28-106, F.A.C.

The purpose of the proposed amendments to Rule 12A-17.005, F.A.C., is to: (1) change the title to "Public Use Forms"; (2) incorporate by reference the current registration and renewal registration forms used by the Department for secondhand dealers and secondary metals recyclers; and (3) remove a form that does not meet the definition of a "rule," as provided in s. 120.52(15), F.S., and is not required to be adopted by reference.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed removal of unnecessary provisions in Rule Chapter 12A-17, F.A.C.; (2) the proposed procedures to deny an application for, or for the revocation, restriction, or suspension of, a Certificate of Registration as a secondhand dealer or secondary metals recycler; and (3) the incorporation by reference of forms currently used by the Department in the registration of secondhand dealers and secondary metals recyclers.

SPECIFIC AUTHORITY: 120.53(1)(b), 212.17(6), 212.18(2), 213.06(1), 538.03, 538.11 FS.

LAW IMPLEMENTED: 212.02(15), 212.17(4),(6), 538.03, 538.09, 538.11, 538.15, 538.18, 538.22, 538.25, 538.26 FS.

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

TIME AND DATE: 10:00 a.m., February 5, 2002

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, (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 IS: Ron Gay, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4723

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-17.001 Scope of Rules.

(1) through (2) No change.

~~(3) All Department action regarding the denial of applications for issuance of, and the revocation, restriction, or suspension of, certificates of registration under this rule, shall be governed by ss. 120.569, 120.57, and 120.60, F.S.~~

~~(4) The applicable provisions of the Uniform Rules of Procedure, Chapters 28-101 through 28-110, F.A.C., shall be the rules of procedure in all department action regarding the denial of applications for issuance, and the revocation, restriction or suspension of a certificate of registration, for secondhand dealers and secondary metals recyclers, except as specifically provided for otherwise herein and in Rule 12-3, F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 538.03, 538.09, 538.11, 538.15, 538.18, 538.22, 538.25, 538.26 FS. History—New 3-15-90, Amended 11-14-91, _____.

12A-17.002 Definitions.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 538.03, 538.11 FS. Law Implemented 212.02(15), 538.18 FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-18-93, Repealed.

12A-17.003 Registration; ~~Procedures, Requirements.~~

(1)(a) Any person, corporation, or other business entity shall file an Application for Secondhand Dealer or Secondary Metals Recycler Registration (~~form Form DR-1S, incorporated by reference in Rule 12A-17.005, F.A.C.) and be issued a secondhand dealer or secondary metals recycler certificate of registration before engaging in business as a secondhand dealer or secondary metals recycler. One Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S), is required shall be filed for each dealer. If a dealer is engaged in business as a secondhand dealer and a secondary metals recycler, a separate Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S) must be filed for each type of business. If a secondhand dealer or secondary metals recycler is the owner of more than one business location, the application must list each location owned by the same legal entity. The Department will issue a duplicate Certificate of Registration for each location.~~

~~(b) An applicant must be a natural person 18 years of age or older, or a corporation organized or qualified to do business in the state.~~

1. If the applicant is a partnership, all of the partners must make separate application for registration.

2. If the applicant is a joint venture, association, or other non-corporate entity, all members of the joint venture, association, or other non-corporate entity must make separate application for registration.

3. If the applicant is a corporation, the registration must include the name and address of the corporation's registered agent for service of process in the state.

~~(c)1.a. The Department, upon approval of the application, will issue a duplicate Certificate of Registration (Form DR-11S, incorporated by reference in Rule 12A-17.005, F.A.C.), for each location.~~

~~b. The Department may issue a Temporary Certificate of Registration to each location pending completion of the background check by state and federal law enforcement agencies. The Department shall revoke a temporary registration if the completed background check reveals a prohibited criminal background.~~

~~(b)2. The Certificate of Registration shall not be assignable, and shall be valid only for the person, firm, co-partnership, or corporation to which issued. The certificate shall be displayed conspicuously at all times in the business for which it is issued.~~

~~(c)3. Engaging in business as a secondhand dealer or secondary metals recycler without first obtaining a Certificate of Registration (Form DR-11S) or after such Certificate of Registration has been revoked or suspended by the Department is prohibited.~~

(2) The effective date of the Certificate of Registration (~~Form DR-11S~~) shall be the postmark date of the Application for Secondhand Dealer or Secondary Metals Recycler Registration (~~Form DR-1S~~), if mailed, or the date received by the Department, if delivered by means other than mail.

~~(3)(a) Each Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S) shall be accompanied by a registration fee that is equal to the federal and state costs for processing required fingerprints, as billed by the Florida Department of Law Enforcement to the Department of Revenue, which are subject to change from time to time. The applicant shall also pay a fee of \$6 for each location owned by the same legal entity at the time of registration.~~

~~(b) Any person who desires to obtain information on the cost of the registration fee may contact the Department of Revenue, Central Registration, at (850)488-4772 and, for the hearing or speech impaired, TDD at 1-800-367-8331. A written request may be mailed to the following address:~~

Department of Revenue
 Central Registration
 P.O. Box 2096
 Tallahassee, Florida 32316-2096

(4)(a) Except as provided in paragraph (b) each applicant shall submit with each Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S):

1. A complete set of the applicant's fingerprints, certified by an authorized law enforcement officer; and
2. A photocopy of a recent fullface photographic personal identification card of the applicant.

(b) If the applicant is a corporation, the applicant shall submit with each Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S):

1. A certified copy of statement from the Florida Secretary of State, Bureau of Corporate Records, Tallahassee, Florida, that the corporation is organized in the state; or

2. If the corporation is organized in a state other than Florida, a certified copy of statement from the Florida Secretary of State, Bureau of Corporate Records, Tallahassee, Florida, that the corporation is qualified to do business in this state.

(3)(5) Each person who holds a Certificate of Registration (Form DR-11S) shall annually file an Application for Renewal of Secondhand Dealer or Secondary Metals Recycler Registration (form Form DR-1SR, incorporated by reference in Rule 12A-17.005, F.A.C.) and pay an annual renewal fee of \$6 per location. Each renewal fee is payable on October 1 of each year.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 212.17(4), 538.09, 538.11, 538.25, 538.26 FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-18-93, 10-17-94, 3-20-96, _____.

(Substantial Rewording of Rule 12A-17.004 follows. See Florida Administrative Code for present text.)

12A-17.004 Denial, Fines, Suspension, or Revocation of Registration.

(1) The Department may deny an applicant for registration as a secondhand dealer or revoke, restrict, or suspend a Certificate of Registration, as provided in s. 538.09(5), F.S. The Department may deny an applicant for registration as a secondary metals recycler or revoke, restrict, or suspend a Certificate of Registration, as provided in s. 538.25(4) and (5), F.S.

(2) Pursuant to the requirements of s. 120.60, F.S., the Department will notify an applicant for registration as a secondhand dealer who fails to meet the requirements of s. 538.09, F.S., or an applicant for registration as a secondary metals recycler who fails to meet the requirements of s. 538.25, F.S., when it intends to deny the application for registration by issuing a Notice of Intent to Deny. The Notice of Intent to Deny notifies the applicant of the Department's intended action and the facts and legal authority that support the intended action.

(3) Pursuant to the requirements of s. 120.60, F.S., the Department will commence the revocation, restriction, or suspension of a secondhand dealer's or secondary metals recycler's Certificate of Registration by issuing the dealer or recycler and its respective business associates an Administrative Complaint. The Administrative Complaint notifies the dealer or recycler and the respective associates of the Department's intended action and the facts and legal authority that support the intended action.

(4)(a) In order to challenge the denial of an application for registration, or the revocation, restriction, or suspension of a Certificate of Registration as a secondhand dealer or secondary metals recycler, the applicant receiving a Notice of Intent to Deny or a dealer or recycler receiving an Administrative Complaint must request an administrative hearing under the provisions of ss. 120.569 and 120.57, F.S., pursuant to Rule Chapter 28-106, F.A.C.

(b) The Request for Hearing must contain the information provided in Rule Chapter 28-104, F.A.C., and must be delivered to:

Office of the General Counsel
Department of Revenue
501 South Calhoun Street
Post Office Box 6668
Tallahassee, Florida 32314-6668.

Specific Authority 120.53(1)(b), 212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 538.09, 538.25 FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 3-20-96, _____.

12A-17.005 Forms Used by Public.

The In addition to the forms prescribed in Chapter 12A-1, F.A.C., the following public-use forms and instructions are employed by the Department in its dealings with the public in administering Ch. 538, F.S., and are incorporated by reference in this rule. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or 2) faxing the Forms Distribution Center at (850)922-2208 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 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 800-352-3671 (in Florida only) or (850)488-6800 850-488-6800; or 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (http://www.myflorida.com sun6.dms.state.fl.us/dor/). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 1-800-367-8331.

Form Number	Title	Effective Date
(1) DR-1S	Application for Secondhand Dealer or Secondary Metals Recycler Registration (R. 09/00 07/94)	___ 10/94
(2) DR-11S	Certificate of Registration Issued Pursuant to Chapter 538, Florida Statutes (R. 10/91)	10/91

(2)(3) DR-1SR Renewal Application for
Renewal of Secondhand
 Dealer or Secondary Metals
Recycler Registration
 (R. 08/00 03/93) _____ 03/93

Specific Authority 212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law
 Implemented 212.17(6), 212.18(2), 213.06(1), 538.09, 538.11, 538.25 FS.
 History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-17-94, _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: **RULE CHAPTER NO.:**
 Railroad/Utilities Installation 14-46
 or Adjustment

RULE TITLE: **RULE NO.:**
 Utilities Installation or Adjustment 14-46.001

PURPOSE AND EFFECT: The proposed amendment to Rule 14-46.001 is to incorporate by reference a revised *Utility Accommodation Manual* and revised Utility Permit form. The proposed revisions are the result of internal and industry requests during the biennial review. Requests for changes and clarifications of processes were received from the Department’s Construction, Design, and Maintenance Offices. Other changes have been made to keep up with technology, or to reduce the cost of infrastructure management as a result of utility use of the rights of way. This revision reflects improved good business practices.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment to Rule 14-46.001 is to incorporate by reference a revised *Utility Accommodation Manual* and revised Utility Permit form. The proposed revisions are the result of internal and industry requests during the biennial review. Copies of the draft revised *Utility Accommodation Manual* and revised Utility Permit form are available from the FDOT and will be furnished at the workshop.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 316.006, 334.044, 335.02, 337.401, 337.402, 337.403, 337.405, 339.05 FS.

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

TIME AND DATE: 1:00 p.m. February 6, 2002

PLACE: Hilton – Ocala, 3600 S. W. 36 Avenue, Ocala, FL

NOTE: The workshop is intended to be a joint industry and Department of Transportation Executive Workshop review.

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:

14-46.001 Utilities Installation or Adjustment.

(1) Purpose. This ~~rule policy~~ is established to regulate the location and manner for installation and adjustment of utility facilities on any FDOT ~~right of way~~ right-of-way, in the interest of safety and the protection, utilization, and future development of ~~such rights of way~~ these rights-of-way, with due consideration given to public service afforded by adequate and economical utility installations, and to provide procedures for the issuance of permits.

(2) Authorization by the FDOT Required. No person shall enter upon any ~~right of way~~ right-of-way under the jurisdiction of ~~the~~ FDOT to construct, alter, operate, maintain, or relocate any utility installation without first being issued a permit to do so, except as otherwise noted in the FDOT’s *Utility Accommodation Manual*.

(3) Permits.

(a) The FDOT will issue permits for the construction, alteration, operation, relocation, and maintenance of utilities upon the ~~right of way~~ right-of-way in conformity with the FDOT’s *Utility Accommodation Manual*, January ~~2002~~ 1999 edition, FDOT Document No. 710-020-001-~~ed~~, which is hereby incorporated by reference and made part of this rule, and which supersedes all previous editions. Copies of this document are available from the FDOT Maps and Publication Sales, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450.

(b) The Utility Permit, FDOT Form 710-010-85, Rev. ~~01/02~~ 04/99, is incorporated herein by reference. Copies of FDOT Form 710-010-85, Rev. ~~01/02~~ 04/99, are available from the State Utility Engineer at 605 Suwannee Street, Mail Station 32, Tallahassee, Florida 32399-0450, or the District Maintenance Engineer’s Office in each of the Department’s districts.

(4) Reimbursement Conditions (Other than Interstate).

(a) The FDOT will not reimburse any utility for adjustment, relocation, or removal of existing utilities where the utility is located on public ~~right of way~~ right-of-way or other areas dedicated for public use.

(b) The FDOT will reimburse a utility for the relocation, adjustment, or removal of its facilities as a result of a FDOT construction project, where the utility’s facilities are located on property in which the utility holds a compensable property interest.

(5) Reimbursement Conditions (Interstate). If relocation of utility facilities is required by construction of a project on the Federal-Aid Interstate System and the cost of such project is financed by the federal government under the Federal-Aid Highway Act, ~~the~~ FDOT will reimburse the expense of utility relocation which qualifies for reimbursement under Section 337.403(1)(a), Florida Statutes, and is subject to the provisions

of 23 C.F.R., Part 645. Copies of these federal regulations are available from the FDOT Maps and Publication Sales, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450.

(6) Calculation of State Cost Participation. When the utility is eligible for any reimbursement from the FDOT, state participation will be based on the cost of making the required change in the utility after deducting any resulting increase in the value of the new utility and any salvage value derived from the old utility, and otherwise as fixed by FDOT Procedure, Utility Relocation Costs, No. 710-010-030-b, effective May 19, 1989, which is hereby incorporated by reference and made a part of these rules. Copies of this document are available from the FDOT Maps and Publication Sales, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450.

(7) Cost Development and Reimbursement. Reimbursement by the FDOT for any eligible utility work will be based upon an executed utility agreement between the FDOT and the utility, authorizing the work of adjusting or relocating utility facilities. Reimbursement for utility work involving Federal-Aid Participation will be subject to the provisions of 23 C.F.R., Part 645.

(8) Utilities Liaison. FDOT will coordinate its advance planning of highway projects with the affected utilities to facilitate the relocation of the utility.

Specific Authority 334.044(2) FS. Law Implemented 316.006, 334.044, 335.02, 337.401, 337.402, 337.403, 337.405, 339.05 FS. History—New 5-13-70, Amended 8-10-78, 7-22-82, Formerly 14-46.01, Amended 7-5-90, 6-8-93, 8-30-99,_____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
FDOT Prepaid Escrow Accounts	14-114
RULE TITLES:	RULE NOS.:
Purpose	14-114.001
Prepaid Escrow Accounts	14-114.0011
Definitions	14-114.002
Initial Application	14-114.003
Processing of the Application	14-114.004
Monthly Billing	14-114.005
Termination	14-114.006
Forms	14-114.007

PURPOSE AND EFFECT: A revised Account Bond form, DOT Form Number 350-060-08, and Prepaid Escrow Account Application, DOT Form Number 350-060-10, are incorporated by reference. In addition, the rule chapter is restructured to repeal the individual rules and to adopt a new rule which includes the text of the previous individual rules. Further, the rule is revised as to definitions, grammar, and organization. The net result will be a single rule to replace the previous seven rules.

SUBJECT AREA TO BE ADDRESSED: A revised Account Bond form is incorporated by reference. In addition, the rule chapter is restructured to repeal the individual rules and to adopt a new rule which includes the text of the previous individual rules.

SPECIFIC AUTHORITY: 334.044(2), 334.187(4) FS.

LAW IMPLEMENTED: 334.187 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:

CHAPTER 14-114

~~RULES FOR THE USE OF~~ FDOT PREPAID ESCROW ACCOUNTS

14-114.001 Purpose.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187 FS. History—New 10-11-94, Repealed_____.

14-114.0011 Prepaid Escrow Accounts.

(1) This rule establishes the procedures for the use of prepaid escrow accounts for purchases of materials and documents from the Department. Materials and documents which may be purchased are: contract bidding documents, plans, maps, standard specifications for road and bridge construction, bid tabulations, photostatic or certified copies of documents, manuals, aerial photography and photolab reproductions, permits for overweight/overdimensional fees, and other similar items.

(2) Definitions.

(a) "Account" means a prepaid escrow account.

(b) "Account Holder" means anyone who has an active approved application for a commercial, Florida Government, other government, state agency, or individual account.

(c) "Commercial Account" means any prepaid escrow account used in the furtherance of trade or commerce by a business.

(d) "Department" means the Florida Department of Transportation.

(e) "Florida Governmental Account" means a prepaid escrow account of any local governmental entity, as defined in Section 334.03(14), Florida Statutes, and any public body as defined in Section 1.01(8), Florida Statutes.

(g) “Individual Account” means an account other than a Commercial, Florida Governmental, Other Governmental, or State Agency prepaid escrow account.

(h) “Other Governmental Account” means an account used by a unit or subdivision of the federal government or state government, other than those otherwise defined herein.

(i) “Prepaid Escrow Account” means the accounts specifically defined herein which are established for the purpose of allowing customers of the Department to make purchases without payment at the time of transaction.

(j) “Security Deposit” means a combination of cash and account bond required to guarantee payment.

(k) “State Agency Account” means a prepaid escrow account issued to those agencies included in Section 20.03(2), Florida Statutes, the Office of the Governor, the Cabinet, and all Cabinet agencies.

(3) Initial Application. Application for a Prepaid Escrow Account with the Department will be made by submitting a Prepaid Escrow Account Application, Department of Transportation Form 350-060-10, R. 01/02, and the appropriate deposit as set forth in 14-114.004(4)(b) to the Florida Department of Transportation, Office of Comptroller, Cashier, 3717 Apalachee Parkway East, Tallahassee, Florida 32311-3400.

(4) Processing of the Application.

(a) Approval. The Florida Department of Transportation Office of Comptroller will review all applications for accuracy and completeness before processing. Upon completion of the review and approval, each approved application will be assigned a numeric account number by the Office of Comptroller for entry into the Department accounts receivable records, and for monthly billing purposes. An executed copy of the application will be returned to the applicant, who is then an account holder.

(b) Security Deposit. An account will not be approved until the required security deposit has been received and approved by the Department. With the exception of State Agency Accounts, the required security deposit for each account is \$300.00, or three times the estimated monthly usage, whichever is greater. Deposits for Commercial Accounts, Other Governmental Accounts, and Individual Accounts may be made in cash for the full amount of the required security deposit, or with \$300.00 cash and the remainder by account bond. Deposits for Florida Governmental Accounts may be made with a purchase order to the Department up to an amount of \$10,000.00, and the remainder by cash or account bond; or a cash deposit for the full amount of the required security deposit; or with a \$300.00 cash deposit and the remainder by account bond. All account bonds must be on the Account Bond, Department of Transportation Form 350-060-08, R. 01/02. State Agency Accounts will not require security deposits unless the agency fails to pay the account in compliance with Section 215.422,

Florida Statutes. If a State Agency Account holder fails to pay as required, the Department will require the same security deposit for the State Agency Account as for an Other Governmental Account.

(c) Increase in Deposit. If, after establishment of an account, actual monthly usage exceeds estimated monthly usage, the deposit must be increased to equal the sum of the three highest months’ usage in the last 12 month period. If the account has been established for less than three full months, the usage will be based on the period the account has been in use. The Department will notify the account holder in writing of the increase in the security deposit required. Failure to increase the security deposit to the proper level within 30 days of receipt of the notification will cause immediate loss of account usage privileges until the required security deposit is received by the Department. If the required security deposit is not increased within an additional 15 days, the account will be terminated.

(d) Suspension of Account. If usage in any one month exceeds the amount of the security deposit, all account privileges will immediately be suspended until the security deposit is increased in conformance with 14-114.0011(4)(c). Additionally, if at any time the total unpaid balance on the account exceeds the amount of the security deposit, all account privileges will immediately be suspended until the security deposit is increased in conformance with 14-114.0011(4)(c).

(5) Monthly Billing. A monthly billing is prepared and mailed to the account holder. If an account is not paid in full within 30 days of the date of the billing, the account becomes past due. If not paid within 15 days of becoming past due, a suspension notice will be issued and the account holder will be refused account privileges. If the account is not paid within 15 days of the date of the suspension notice, the account will be terminated.

(6) Termination. The Department or the account holder may terminate the account for any reason. When an account is terminated, outstanding purchases will be deducted from the balance of the account holder’s deposit. If there are not sufficient funds in the account to cover outstanding purchases, the account holder will be notified of the funds due. The account holder must pay all sums due within 30 days of the termination notification. If payment is not received, the Department will pursue collection of any amounts owed. Any funds remaining in the account holder’s account in excess of the outstanding purchases will be refunded to the account holder upon verification that all amounts due have been paid. When an account has been terminated for non-payment the account holder will not be eligible to apply for a Prepaid Escrow Account for a period of one year after the date of termination. Upon the second termination of an account for non-payment, the applicant will no longer be eligible for a Prepaid Escrow Account with the Department.

(7) Forms. The following forms, which are incorporated by reference and made a part of these rules, are to be used by the applicants for Prepaid Escrow Accounts:

Form Number	Date	Title
<u>350-060-10</u>	<u>01/02</u>	<u>Prepaid Escrow Account Application</u>
<u>350-060-08</u>	<u>01/02</u>	<u>Account Bond</u>

These forms may be obtained from the Department of Transportation, Office of the Comptroller, Accounts Receivable Section, 3717 Apalachee Parkway East, Tallahassee, Florida 32311-3400.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187 FS. History-New.

14-114.002 Definitions.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187 FS. History-New 10-11-94, Repealed.

14-114.003 Initial Application.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 316.550, 334.187 FS. History-New 10-11-94, Repealed.

14-114.004 Processing of the Application.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187, 339.2815 FS. History-New 10-11-94, Repealed.

14-114.005 Monthly Billing.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187, 339.2815 FS. History-New 10-11-94, Repealed.

14-114.006 Termination.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187 FS. History-New 10-11-94, Repealed.

14-114.007 Forms.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 283.30, 316.550, 334.187 FS. History-New 10-11-94, Repealed.

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE CHAPTER TITLE: Florida College Savings Program RULE CHAPTER NO.: 19B-15

PURPOSE AND EFFECT: To establish rules to implement and administer the Florida College Savings Program pursuant to Section 240.553, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The Florida College Savings Program.

SPECIFIC AUTHORITY: 240.553(6)(a) FS.

LAW IMPLEMENTED: 240.553 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: 2:00 p.m., February 1, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, (850)488-8514 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Nepotism RULE NO.: 33-208.302

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement the provisions of s. 945.0311, F.S., which allows the Department of Corrections to prohibit employment of relatives in positions in which one employee would be in the line of authority over the other or in a supervisory position over the other.

SUBJECT AREA TO BE ADDRESSED: Employment of relatives.

SPECIFIC AUTHORITY: 112.3135, 944.09, 945.0311 FS.

LAW IMPLEMENTED: 112.3135, 944.09, 945.0311 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: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-208.302 Nepotism.

(1) For the purposes of this rule, the following definitions shall apply:

(a) Employee – where used herein, refers to an individual employed by the Florida Department of Corrections.

(b) Hiring Authority – where used herein, refers to the secretary or his designee.

(c) Line of Authority – where used herein, refers to any position having supervisory authority within the direct chain of command or supervisory path that organizationally links any position in the department.

(d) Relative – where used herein, refers to the following familial relationship between employees:

1. Aunt: The sister of one’s father or mother; however, the wife of one’s uncle is not one’s aunt;

2. Brother: A male born from the same father and mother;

3. Brother-In-Law: The brother of one’s wife or husband, also the husband of one’s sister;

4. Daughter: An immediate female descendant, includes an adopted female child;

5. Daughter-In-Law: The wife of one's son;

6. Father: The male parent, includes the adopting father;

7. Father-In-Law: The father of one's wife or husband;

8. First Cousin: The child of one's aunt or uncle;

9. Half-Brother: A male who has the same mother, but different father; or the same father, but different mother;

10. Half-Sister: A female who has the same mother, but different father; or the same father, but different mother;

11. Husband: A married man (correlative of wife);

12. Grandfather: The male parent of one's mother or father;

13. Grandmother: The female parent of one's mother or father;

14. Mother: The female parent, includes adopting mother;

15. Mother-In-Law: The mother of the one's wife or husband;

16. Nephew: The son of one's brother or sister;

17. Niece: The daughter of one's brother or sister;

18. Sister: A female born from the same father and mother;

19. Sister-In-Law: The sister of one's wife or husband, also the wife of one's brother;

20. Son: An immediate male descendant, includes an adopted male child;

21. Son-In-Law: The husband of one's daughter;

22. Stepbrother: One's stepparent's son by a former marriage/relationship;

23. Stepdaughter: The daughter of one's wife or husband by a former marriage or relationship;

24. Stepfather: The man who has married one's mother after the death of or divorce from one's father;

25. Stepmother: The woman who has married one's father after the death of or divorce from one's mother;

26. Stepsister: One's stepparent's daughter by a former marriage or relationship;

27. Stepson: The son of one's wife or husband by a former marriage or relationship;

28. Uncle: The brother of one's father or mother; however, the husband of an employee's aunt is not one's uncle;

29. Wife: A married woman (correlative of husband).

(e) Supervisory-Subordinate Relationship – where used herein, refers to a hierarchical arrangement within the department between employees where:

1. One employee has the authority by law, rule, regulation or delegation to appoint, employ, promote or advance, discharge, assign, reward, rate or discipline another employee or to effectively recommend such actions; or

2. One employee is in a position of line of authority over other employee.

(f) Unit – where used herein, refers to a work section within the department that has overall responsibility for:

1. A specific function in an institution (e.g., security);

2. Programmatic responsibility for a specific function within the central office (a bureau or equivalent); or

3. A work release center, probation and parole circuit office or field office, or probation and restitution center. A road prison, forestry camp or drug treatment center is a separate, stand alone unit.

(2) The employment of relatives in positions in which one employee would be in the line of authority over the other or under the direct supervision of the other is prohibited. The hiring authority shall be responsible for strictly prohibiting work assignments that will violate this rule among employees who are relatives.

(3) If employees in supervisory-subordinate relationships marry or otherwise become relatives, the hiring authority shall act to sever the conflicting work relationship. The hiring authority shall direct that for one or more related employees the following occur:

(a) Reassignment;

(b) Demotion;

(c) Termination; or

(d) Retirement.

(4) In the interest of security, effective management and to the extent possible, when relatives are assigned to the same unit (but not in a supervisory-subordinate relationship), the hiring authority shall assign the relatives to different shifts or areas unless an exception is granted pursuant to subsection (5) below.

(5) When circumstances exist where the employment of relatives in a capacity prohibited by this rule is beneficial to the department, the hiring authority shall make requests for such exceptions to the secretary.

Specific Authority 112.3135, 944.09, 945.0311 FS. Law Implemented 112.3135, 944.09, 945.0311 FS. History–New

DEPARTMENT OF CORRECTIONS

RULE TITLE:

Visiting – Forms

RULE NO.:

33-601.737

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise forms used in conjunction with approval for inmate visiting.

SUBJECT AREA TO BE ADDRESSED: Inmate visiting.

SPECIFIC AUTHORITY: 944.09, 944.115, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.115, 944.23, 944.8031 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: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.737 Visiting – Forms.

The following forms are hereby incorporated by reference. A copy of any of these forms is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

- (a) through (b) No change.
- (c) DC6-111A, Request for Visiting Privileges, effective November 18, 2001.
- (d) through (e) No change.
- (f) DC6-111D, CVA Visitor Screening Matrix, effective November 18, 2001.

Specific Authority 944.09, 944.115, 944.23 FS. Law Implemented 944.09, 944.115, 944.23, 944.8031 FS. History–New 11-18-01, Amended.

AGENCY FOR HEALTH CARE ADMINISTRATION

Cost Management and Control

RULE TITLES:	RULE NOS.:
Reporting Instructions	59B-13.001
Definitions	59B-13.002
Uniform Data Specifications	59B-13.003
Uniform Publication Format	59B-13.006

PURPOSE AND EFFECT: The proposed rule amendments require that health maintenance organizations report data to the agency that are indicators of access and quality of care for Florida members who are enrolled in the State Children’s Health Insurance Program as defined in the rule. The proposed rule amendments explicitly state that all Medicaid, SCHIP or Medicaid indicators are to be reported annually. The proposed rule amendments require that health maintenance organizations report chlamydia screening data to the agency. The proposed rule amendments eliminate the reporting of percentage of pharmacy benefits. The proposed rule amendments modify the format for publication of health maintenance indicator data to include a notation that the health plan is new or small and to delete the required publication of upper and lower confidence intervals. The proposed rule amendments specify that the reporting format include a space or tab between each data elements and eliminate leading zeros for specified data elements.

SUBJECT AREA TO BE ADDRESSED: Health maintenance organizations are required to release to the agency data that are indicators of access and quality of care. The agency is developing rule amendments modifying data reporting procedures for these indicators as required by s. 641.51(9), Florida Statutes.

SPECIFIC AUTHORITY: 408.15(8) FS.

LAW IMPLEMENTED: 641.51(9), 408.061, 408.063(2), 408.08(5), 408.15(11) FS.

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

TIME AND DATE: 10:00 a.m., February 12, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Elizabeth Dye, Bureau Chief, State Center for Health Statistics, Building 3, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59B-13.001 Reporting Instructions.

- (1) No change.
- (2) Beginning with calendar year 1999 data, each health maintenance organization shall submit indicator data for each calendar year period no later than October 1 of the following year. The amendments appearing herein are effective beginning with calendar year 2002 data.
- (3) through (7) No change.

Specific Authority 408.15(8) FS. Law Implemented 641.51(9), ~~641.51(8)~~, 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History–New 6-27-00, Amended.

59B-13.002 Definitions.

- (1) through (3) No change.
- (4) “SCHIP” means State Children’s Health Insurance Program. As used in Rules 59B-13.001 through 59B-13.006, SCHIP excludes Medicaid patients.

Specific Authority 408.15(8) FS. Law Implemented 641.51(9), ~~641.51(8)~~, 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History–New 6-27-00, Amended.

59B-13.003 Uniform Data Specifications.

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

- (a) Indicator 001 – Breast cancer screening. Required for Medicaid, commercial, and Medicare patients.
- (b) Indicator 002 – Cervical cancer screening. Required for Medicaid and commercial patients.
- (c) Indicator 003 – Prenatal care in the first trimester. Required for Medicaid, SCHIP, and commercial patients.
- (d) Indicator 004 – Controlling high blood pressure. Required for Medicaid, commercial, and Medicare patients.

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) Indicator 018 – Well-child visits in the first 15 months of life, one visit. Required for Medicaid, SCHIP, and commercial patients.

(s) Indicator 019 – Well-child visits in the first 15 months of life, two visits. Required for Medicaid, SCHIP, and commercial patients.

(t) Indicator 020 – Well-child visits in the first 15 months of life, three visits. Required for Medicaid, SCHIP, and commercial patients.

(u) Indicator 021 – Well-child visits in the first 15 months of life, four visits. Required for Medicaid, SCHIP, and commercial patients.

(v) Indicator 022 – Well-child visits in the first 15 months of life, five visits. Required for Medicaid, SCHIP, and commercial patients.

(w) Indicator 023 – Well-child visits in the first 15 months of life, six or more visits. Required for Medicaid, SCHIP, and commercial patients.

(x) Indicator 024 – Well-child visits in the third, fourth, fifth and sixth year of life. Required for Medicaid, SCHIP, and commercial patients.

(y) Indicator 025 – Adolescent well-care visits. Required for Medicaid, SCHIP, and commercial patients.

(z) Indicator 026 – Chlamydia screening in women. Required for Medicaid, SCHIP, and commercial patients.

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

(a) through (c) No change.

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

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

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

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

4. SCHIP – Use code 4 to indicate that the product line is SCHIP as defined in Rule 59B-13.002.

(e) through (m) No change.

~~(n) Percentage with pharmacy benefits – Number of members in the denominator for which the health maintenance organization manages or provides pharmacy benefits. Leave blank (zero fill) if the indicator is not indicators 010 through 013.~~

(3) Each health maintenance organization shall report indicator data in the following format with a space or tab between each data element listed below, starting a new line with each sequence of data elements (a) through (m) formats:

(a) through (e) No change.

(f) Eligible member population – Number of digits required. ~~Eight digits, right justified. Zero fill leading digits.~~

(g) Sample size – Number of digits required. ~~Eight digits, right justified. Zero fill leading digits.~~

(h) Denominator – Number of digits required. ~~Eight digits, right justified. Zero fill leading digits.~~

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

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

(k) through (m) No change.

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

~~Specific Authority 408.15(8) FS. Law Implemented 641.51(9), ~~641.51(8)~~, 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New 6-27-00, Amended _____.~~

59B-13.006 Uniform Publication Format.

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

- (a) Health maintenance organization name;
- (b) Calendar year of data;
- (c) Type of product line;
- (d) Rate;

~~(e) Notation that the health plan is new or small (not measurable) if applicable. Upper and lower confidence interval.~~

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

~~Specific Authority 408.15(8) FS. Law Implemented 641.51(9), ~~641.51(8)~~, 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New 6-27-00, Amended _____.~~

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLES:	RULE NOS.:
Definitions	61B-15.0001
Definitions for Filings and Documents	61B-15.0011
Forms	61B-15.0012
Developer, Association, Defined	61B-15.007

PURPOSE AND EFFECT: The purpose of the rule amendments is to remove or update outdated cross-references; clarify and streamline existing language; and add language to facilitate electronic transactions and successor developer filings.

SUBJECT AREA TO BE ADDRESSED: The proposed rules would reorganize and update the forms and definitions section, add definitions related to electronic filings, and facilitate future department changes pertaining to treatment of forms.

SPECIFIC AUTHORITY: 718.501, 718.501(1)(f), 718.502(1)(c) FS.

LAW IMPLEMENTED: 718.103, 718.103(2),(11),(14),(17), 718.106(2), 718.502, 718.503, 718.504 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., February 28, 2002
 PLACE: Conference Room B03, Fuller Warren Building, 202 Blount Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLES:	RULE NOS.:
Developer, Filing	61B-17.001
Procedure for Filing	61B-17.002
Phase Condominium Filing	61B-17.003
Examination of Documents	61B-17.005
Filing and Examination of Amendments to Documents	61B-17.006
Alternative Assurances	61B-17.009
Delivery of Documents Via Alternative Media	61B-17.011

PURPOSE AND EFFECT: The purpose of the rules is to remove or update outdated cross-references; clarify and streamline existing language; and add language to facilitate electronic transactions and successor developer filings.

SUBJECT AREA TO BE ADDRESSED: The proposed rules would conform to proposed changes to Chapter 61B-15 relating to forms and definitions; remove redundant or outdated references; add language to permit the use of a certificate of identical documents to avoid the need for a successor developer to re-file documents already filed with the division; add language to clarify the treatment of successor developer filings; clarify requirements relating to phase condominium filings; remove the requirement for a form acceptance letter prior to the developer beginning sales; limit the number of extensions a developer may request during the review process; change all the review periods to calendar days instead of business days; update definitions relating to amendments; and add language to specify a partial list of nonmaterial amendments; update language relating to alternative assurances; add a rule relating to treatment of “alternative media” (electronic and other forms of filing and dissemination to purchasers); provide disclosure needed to

inform purchasers of systems requirements related to their ability to review the alternative media; and make other changes related to the referenced subject areas.

SPECIFIC AUTHORITY: 718.501, 718.501(1)(f), 718.502(1)(c) FS.

LAW IMPLEMENTED: 718.103(14), 718.104, 718.104(4)(f),(i), 718.202, 718.202(1), 718.301, 718.403, 718.403(1)-(7), 718.501, 718.501(1)(d)2., 718.502, 718.503, 718.503(2), 718.504, 718.504(20) FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., February 28, 2002

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Receipt for Condominium Documents

RULE NO.: 61B-18.004

PURPOSE AND EFFECT: The purpose of the rules is to remove or update outdated cross-references; clarify and streamline existing language; and add language to facilitate electronic transactions and successor developer filings.

SUBJECT AREA TO BE ADDRESSED: The proposed rules would remove redundant language related to the form receipt for condominium documents.

SPECIFIC AUTHORITY: 718.501(1)(f) FS.

LAW IMPLEMENTED: 718.502, 718.503, 718,504 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., February 28, 2002

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLES:	RULE NOS.:
Definitions	61B-22.001
Budgets	61B-22.003
Reserves	61B-22.005

PURPOSE AND EFFECT: The purpose of the rules is to remove or update outdated cross-references; clarify and streamline existing language; and add language to facilitate electronic transactions and successor developer filings.

SUBJECT AREA TO BE ADDRESSED: The proposed rules would clarify language related to phase condominium budgets; add language to facilitate cash flow pooling of reserves; clarify the contents of financial reports; and make other changes related to the referenced subject areas.

SPECIFIC AUTHORITY: 718.501(1)(f), 718.112(2)(e),(f) FS.

LAW IMPLEMENTED: 718.111(16), 718.111(12), 718.112(2)(f), 718.113, 718.301, 718.501, 718.618 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., February 28, 2002

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sharon

A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLES: OPERATION OF THE ASSOCIATION
Operation of the Association

RULE NOS.: 61B-23.002

REGULAR ELECTIONS; VACANCIES CAUSED BY EXPIRATION OF TERM, RESIGNATIONS, DEATH

61B-23.0021

PURPOSE AND EFFECT: The purpose of the rule amendments is clarify existing language regarding association records.

SUBJECT AREA TO BE ADDRESSED: The proposed rules would clarify the meaning of "other records"; clarify the timeframe and method for delivery of a second notice of election; and make other changes related to the referenced subject areas.

SPECIFIC AUTHORITY: 718.501(1)(f), 718.112(2)(d)3. FS.
LAW IMPLEMENTED: 718.111(12), 718.112, 718.117, 718.301, 718.501(2)(a), 718.504 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., February 28, 2002
PLACE: Conference Room B03, Fuller Warren Building, 202 Blount Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: NOTICES OF INTENDED CONVERSION
Notices of Intended Conversion

RULE NO.: 61B-24.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify existing language relating to notices of intended conversion.

SUBJECT AREA TO BE ADDRESSED: The proposed rules would clarify the contents of a notice of intended conversion that is filed with the Division; and make other changes related to the referenced subject area.

SPECIFIC AUTHORITY: 718.501(1)(f), 718.608(5), 718.621 FS.

LAW IMPLEMENTED: 718.608, 718.608(5) FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., February 28, 2002
PLACE: Conference Room B03, Fuller Warren Building, 202 Blount Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: CONFIDENTIALITY OF INVESTIGATIONS
Confidentiality of Investigations

RULE NO.: 61G15-19.008

PURPOSE AND EFFECT: The Board proposes to promulgate a new rule to address the confidentiality and disclosure of investigation records.

SUBJECT AREA TO BE ADDRESSED: Confidentiality of investigation records.

SPECIFIC AUTHORITY: 455.225, 471.038(6) FS.

LAW IMPLEMENTED: 455.225, 471.038(6) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLES: RULE NOS.:
Experience 61G15-20.002
Foreign Degrees 61G15-20.007

PURPOSE AND EFFECT: The Board proposes to review the language in these rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Experience and Foreign degrees.

SPECIFIC AUTHORITY: 471.013(1)(a), 471.008 FS.

LAW IMPLEMENTED: 471.005(6), 471.013, 471.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: RULE NO.:
Design of Structures Utilizing Prefabricated Wood Components 61G15-31.003

PURPOSE AND EFFECT: The Board proposes to review the language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Design of structures utilizing prefabricated wood components.

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.033(1)(g) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: RULE NO.:
Conduct at Examination Site 64B5-2.0126

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to an examinee’s conduct at the examination site.

SUBJECT AREA TO BE ADDRESSED: Conduct at the examination site.

SPECIFIC AUTHORITY: 456.004(5), 466.004(4) FS.

LAW IMPLEMENTED: 456.017(1)(d) 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-2.0126 Conduct at Examination Site.

(1) through (2) No change.

(3) Conduct which subverts or attempts to subvert the examination process includes:

(a) No change.

(b) Conduct which violates the standard of test administration, such as disrupting the examination site, inappropriately communicating with any other examinee during the administration of the examination; copying answers from another examinee or permitting one’s answers to be copied by another examinee during the administration of the examination; having in one’s possession during the administration of the licensing examination any appliances, tools, models, teeth, books, notes, written or printed materials or data of any kind, other than the examination materials distributed or specifically listed as approved materials for the examination room in the examinee’s official Candidate Information Booklet which was mailed or presented to the examinee in advance of the examination date by the Department. In cases where the examinee is found to be in

possession of items other than those distributed at the exam site or specifically listed as approved materials for the examination room in the Candidate Information Booklet, the minimum sanction shall be to declare the scores on said examination invalid.

- (c) No change.
- (4) No change.

Specific Authority 456.004(5), 466.004(4) FS. Law Implemented 456.017(1)(d) FS. History—New 2-7-96, Amended 5-21-96, Formerly 59Q-2.0126, Amended.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Courses Required for Initial Licensure, Renewal, or Reactivation

RULE NO.: 64B5-12.019

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to courses required for licensure, renewal or reactivation.

SUBJECT AREA TO BE ADDRESSED: Courses required for initial licensure, renewal, or reactivation.

SPECIFIC AUTHORITY: 456.031, 456.033 FS.

LAW IMPLEMENTED: 456.031, 456.033 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-12.019 Courses Required for Initial Licensure, Renewal, or Reactivation.

(1) No license shall be granted and no license shall be renewed or reactivated unless the applicant or licensee submits confirmation to the Board that he or she has successfully completed, within 24 months prior to seeking initial licensure, renewal or reactivation, a Board-approved course on Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), and other infectious diseases pertinent to the practice of dentistry and dental hygiene, ~~and~~ a Board-approved course on domestic violence, and a Board approved course on prevention of medical errors.

- (2) through (9) No change.

(10) To receive Board approval, courses on prevention of medical errors shall include a study of root cause analysis, error reduction and prevention, and patient safety. Every such

course for the purpose of obtaining initial licensure shall have a minimum of two (2) hours dedicated to the subject areas set forth.

Specific Authority 456.031, 456.033 FS. Law Implemented 456.031, 456.033 FS. History—New 1-18-89, Amended 10-28-91, 2-1-93, Formerly 21G-12.019, Amended 6-14-94, Formerly 61F5-12.019, Amended 11-15-95, 2-10-97, Formerly 59Q-12.019, Amended 10-29-00, 8-2-01, 9-27-01, _____.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Courses Required of Licensees for Renewal and Reactivation

RULE NO.: 64B5-12.020

PURPOSE AND EFFECT: The purpose of the amendments is to update the rule text with regard to required courses.

SUBJECT AREA TO BE ADDRESSED: Courses required of licensees for renewal and reactivation.

SPECIFIC AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 456.013(6),(8), 466.0135, 466.014 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-12.020 Courses Required of Licensees for Renewal and Reactivation.

Licensed dentists and dental hygienists are required to complete the following continuing education during each license renewal biennium.

- (1) No change.
- (2) Instruction in laws, rules and ethics governing the practice of dentistry and dental hygiene and prevention of medical errors consisting of at least 2 hours of instruction in relevant topics including: Chapters 456 and 466, F.S., Rule Chapter 64B5, F.A.C., professional responsibility and competence; legal standards; confidentiality; professional relationships; recordkeeping; common malpractice complaints; commonly reported violations reported to the Department; a study of root cause analysis, error reduction and prevention, and patient safety, and relevant case studies. The requirements of this paragraph may be met by completion of a correspondence course.

Specific Authority 466.004 FS. Law Implemented 456.013(6),(8), 466.0135, 466.014 FS. History—New 4-11-94, Amended 7-18-94, Formerly 61F5-12.020, 59Q-12.020, Amended 1-23-01, 6-7-01, 9-27-01, _____.

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: RULE NO.:

Initial Fee for Licensure and 64B19-12.0041
 Wall Certificate

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment intended to delete the provision for issuance of duplicate licenses. This subject is already treated in Rule 64B19-12.010.

SUBJECT AREA TO BE ADDRESSED: Duplicate licenses.

SPECIFIC AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 456.013(2), 490.005(1)(a), 490.006(1) 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: Kaye Howerton, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B19-12.0041 Initial Fee for Licensure and Wall Certificate.

(1) through (3) No change.

~~(4) Licensees may obtain duplicate licenses for replacement of a lost or destroyed license by submitting a written request to the Board along with a \$25.00 fee.~~

Specific Authority 490.004(4) FS. Law Implemented 456.013(2), 490.005(1)(a), 490.006(1) FS. History–New 7-7-86, Amended 6-1-89, 1-16-92, Formerly 21U-12.0041, 61F13-12.0041, Amended 1-7-96, Formerly 59AA-12.0041, Amended 1-25-00, 8-8-01,_____.

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLES: RULE NOS.:

Standards for Records 64B19-19.0025
 Releasing Psychological Records 64B19-19.005

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address informed consent forms with regard to provisional licensees and to address the release of psychological records.

SUBJECT AREA TO BE ADDRESSED: Informed consent and psychological records.

SPECIFIC AUTHORITY: 456.057 490.004(4), 490.0148 FS.

LAW IMPLEMENTED: 456.057, 490.002, 490.009(2)(n), (s),(u), 490.0148, 490.0051 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: Kaye Howerton, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B19-19.0025 Standards for Records.

To serve and protect users of psychological services, psychologists’ records must meet minimum requirements for chronicling and documenting the services performed by the psychologist, documenting informed consent and recording financial transactions.

(1) through (2) No change.

(3) A provisionally licensed psychologist must include on the informed consent form the fact that the provisional licensee is working under the supervision of a licensed psychologist as required by Section 490.0051, F.S. The informed consent form must identify the supervising psychologist.

(3) through (4) renumbered (4) through (5) No change.

Specific Authority 490.004(4), 490.0148 FS. Law Implemented 490.002, 490.009(2)(s),(u), 490.0148, 490.0051 FS. History–New 11-23-97, Amended 10-22-98,_____.

64B19-19.005 Releasing Psychological Records.

(1) through (2) No change.

(3) The psychologist’s notes pertaining to psychological services rendered may be considered raw data as provided by Rule 64B19-18.004(3), F.A.C., at the discretion of the psychologist and therefore can be released only (1) to a licensed psychologist or school psychologist licensed pursuant to Chapter 490 or Florida certified, or (2) after complying with the procedures set forth in Rule 64B19-19.005(6), F.A.C., and obtaining an order from a court or other tribunal of competent jurisdiction, or (3) when the release of the material is otherwise required by law.

Specific Authority 456.057, 490.004(4) FS. Law Implemented 490.0147, 490.009(2)(n), 456.057 FS. History–New 8-12-90, Amended 7-14-93, Formerly 21U-22.005, Amended 6-14-94, Formerly 61F13-22.005, Amended 11-19-96, Formerly 59AA-19.005, Amended 9-18-97,_____.

DEPARTMENT OF HEALTH

Division of Disease Control

RULE TITLE: RULE NO.:

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

PURPOSE AND EFFECT: The Bureau proposes an amendment to extend the expiration date for temporary medical exemptions.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is extending the expiration date for temporary medical exemptions.

SPECIFIC AUTHORITY: 381.003 (1)(e)2. FS.

LAW IMPLEMENTED: 232.032 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 PLACE: 1:00 p.m. (EST), February 1, 2002

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 Supervisor, Department of Health, Bureau of Immunization, Room 210N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719, (850)245-4342; Mailing address – 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)(a) through (2)(a) No change.

(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 subsection 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 Effective August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Effective July 2001, as incorporated by reference in subsection 64D-3.011(5), F.A.C.

1. Medical Exemptions – A child in attendance with a medical exemption must present or have on file the DH Form 680, Florida Certification of Immunization Temporary Medical Exemption (Part B), incorporated by reference in subsection 64D-3.011(5), F.A.C., properly dated and signed or authorized by a physician licensed under provisions of Chapter 458, 459, or 460 or DH Form 680, Florida Certification of Immunization

Permanent Medical Exemption (Part C), incorporated by reference in subsection 64D-3.011(5), F.A.C., properly dated and signed by a physician licensed under provisions of Chapter 458 or 459, F.S. The original paper temporary or permanent medical exemption shall be transferred for follow-up in addition to the electronic transfer of these records. DH Form 680, Florida Certification of Immunization Temporary Medical Exemption (Part B) is a temporary medical exemption which must indicate an expiration date. A child attending under such an exemption is not fully immunized. The expiration date indicated is to be fifteen (15) days after each child’s next scheduled appointment to receive additional vaccine appropriate to the child’s age. The department may approve issuance of temporary medical exemptions with extended expiration dates by those entities authorized above when it is determined that a vaccine shortage exists. In such predetermined cases, the expiration date for the DH Form 680, Florida Certificate of Immunization Temporary Medical Exemption (Part B) shall reflect the estimated date for manufacturer production of sufficient quantities of vaccine necessary to resume deferred immunizations. DH Form 680, Florida Certification of Immunization Permanent Medical Exemption (Part C) is a permanent medical exemption which indicates the child is not fully immunized and cannot receive any more of a particular vaccine due to medical reasons. Medical reasons must be stated for each vaccine that is contraindicated as described above.

(b)2. through (10) No change.

Specific Authority 232.032(1), 381.0011(13), 381.003(1), (2), 381.005(2) FS. Law Implemented 232.032(1), 381.0011(4), 381.003(1), 381.005(1)(i) 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, 1-22-01, 7-23-01, _____.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Library and Information Services

RULE TITLE: Library Grant Programs
 RULE NO.: 1B-2.011

PURPOSE AND EFFECT: The proposed amendment will provide for a waiver of financial match requirements on Division grant programs.

SUMMARY: The Division of Library and Information Services will waive the financial matching requirements on grants for rural communities that have been designated in accordance with Section 288.0656 and 288.06561, Florida Statutes. Eligible communities applying for Library Services and Technology Act grants or Florida Library Literacy grants must request waiver of matching requirements at the time of grant application.