

minimum of 20 hours weekly between the hours of 8:00 a.m. and 5:00 p.m. EST., Monday through Friday, and at least one day of the week provide for four consecutive hours.

2. Other applicants and permitted establishments must designate a minimum of 10 hours weekly between the hours of 8:00 a.m. and 5:00 p.m. EST., Monday through Friday, and at least one day of the week provide for two consecutive hours.

Specific Authority 499.01, 499.012, 499.0122, 499.013, 499.014, 499.028, 499.04, 499.041, 499.05, 499.62, 499.63, 499.64, 499.66, 499.67, 499.701 FS. Law Implemented 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.028, 499.04, 499.041, 499.05, 499.06, 499.062, 499.063, 499.064, 499.066, 499.067 FS. History—New 12-12-82, Amended 7-8-84, 1-30-85, Formerly 10D-45.54, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.054, Amended 1-26-99, 4-17-01.

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Purpose and Intent	67-50.001
Definitions	67-50.005
Fees	67-50.010
Notice of Funding Availability (NOFA)	67-50.020
General Program Eligible Activities	67-50.030
General Program Restrictions	67-50.040
HAP Program Restrictions	67-50.050
HOME Program Restrictions	67-50.060
Application Submission Procedures	67-50.070
Incomplete Applications and Rejection Criteria	67-50.080
Application Evaluation and Award Guidelines	67-50.090
Credit Underwriting Procedures, Analytical Review, and Loan Origination	67-50.100
Disbursement of Funds, Draw Requests, and Loan Servicing	67-50.110
Compliance and Monitoring	67-50.120

PURPOSE AND EFFECT: The purpose of this rule chapter is to establish the procedures by which the Corporation shall:

- (1) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing under the Florida Homeownership Assistance Program (HAP)/Construction Loan Program and provide purchase assistance to Eligible Homebuyers under the HAP Permanent Loan Program, authorized by Sections 420.507 and 420.5088, Florida Statutes (F.S.); and
- (2) Administer the Application process, determine loan amounts, and service loans to Developers for the construction, reconstruction and rehabilitation of affordable housing and provide purchase assistance to Eligible Homebuyers under the HOME Investment Partnerships (HOME) Homeownership Loan Program, authorized by Section 420.5089, F.S., and HUD regulations, 24 CFR § 92, which is adopted and incorporated herein by reference.

The adoption of this rule chapter will increase the efficiency and effectiveness of Program service and will provide greater clarification of the Program.

SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshop will be held to receive comments and suggestions from interested persons relative to program requirements as specified in Rule Chapter 67-50 Florida Administrative Code.

SPECIFIC AUTHORITY: 420.507, 420.5088, 420.5089 FS.

LAW IMPLEMENTED: 420.507(23), 420.5088, 420.5089(2) FS.

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

TIME AND DATE: 2:00 p.m., Tuesday, May 14, 2002

PLACE: Florida Housing Finance Corporation, Seltzer Conference Room, 227 North Bronough Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Bridget E. Warring, HAP Construction Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system, which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES:	RULE NO.:
Processing of Applications	3E-301.002

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 3E-301.002, F.A.C., is to allow for the electronic filing for Federal Covered Advisers and Investment Advisers through the Investment Advisor Registration Depository (IARD) of the NASD.

SUMMARY: The proposed amendments update forms and specify the means for filing by Federal Covered Advisers and investment advisers.

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

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

SPECIFIC AUTHORITY: 517.03, 517.12, 517.1201 FS.

LAW IMPLEMENTED: 120.53, 120.60, 517.051, 517.081, 517.082, 517.12, 517.1201, 517.1205, 517.161 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela P. Epting, Financial Examiner/Analyst Supervisor, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

3E-301.002 Processing of Applications.

(1) No change.

(2) Filing of Application and Fee. Applications in the format required by the Department, accompanied by the prescribed fee for the requested license action, shall be filed with the Department at the address indicated in subsection (1) above; however, all dealers who are members of the National Association of Securities Dealers, Inc. ("NASD") shall file such items in accordance with the provisions of Chapter 3E-600, F.A.C., as prescribed therein. However, all Federal Covered Advisers shall file such items in accordance with the provisions of Rule 3E-600.0092, F.A.C. Investment advisers may file the required forms and fees with the Investment Adviser Registration Depository (IARD) in accordance with the provisions of Rule 3E-600.0093, F.A.C. Issuers may file the required forms and fees with the Securities Registration Depository (SRD) in accordance with the provisions of Rule 3E-400.004 or 3E-800.001, F.A.C., upon implementation of the system in this state.

(3) through (6) No change.

(7)(a) The forms referred to in this section below herein which are incorporated and readopted by this Rule for the purposes of Rules Chapters 3E-100 through 3E-900, F.A.C. are as follows:

1. DOSIP-S-1-91, Application for Registration of Securities (Revised 10/97);
2. DOSIP-S-7-91, Exhibit 1 (General Issue) (Revised 10/97);
3. DOSIP-S-5-91, Uniform Consent to Service of Process (Revised 1/91);
4. DOSIP-S-6-91, Corporate Resolution (Revised 1/91);
5. DOSIP-S-10-91, Report of Sales of Securities and Use of Proceeds Therefrom (Revised 1/91);
6. Form BD, Uniform Application for Broker-Dealer Registration (Revised 7/99);
7. Form ADV, Uniform Application for Investment Adviser Registration (Revised 1/1/01) (~~Revised 1/99~~);
8. Form U-4, Uniform Application for Securities Industry Registration or Transfer (Revised 3/02) (~~Revised 8/99~~);
9. Form BDW, Uniform Request for Broker-Dealer Withdrawal (Revised 8/99);

10. Form ADV-W, Notice of Withdrawal from Registration as Investment Advisor (Revised 1/99);

11. Form U-5, Uniform Termination Notice for Securities Industry Registration (Revised 3/02 ~~8/99~~);

12. DOSIP Form DA-1-91, Branch Office Registration Form (Revised 4/99);

13. DOSIP Form DA-5-91, Issuer/Dealer Compliance Form (Revised 1/91); and

14. Form FL921250Z, Florida Fingerprint Card (Revised 1/91).

(b) No change.

Specific Authority 517.03(1), 517.12, 517.1201 FS. Law Implemented 120.60(1), 517.051, 517.081, 517.082, 517.12, 517.161(5) FS. History—Revised and Transferred from 3E-300.01, 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 2-1-87, 12-8-87, 7-29-90, 7-31-91, 6-16-92, 1-10-93, 3-13-94, 10-1-96, 10-23-97, 6-22-98, 6-10-99, 5-7-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela P. Epting, Financial Examiner/Analyst Supervisor

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 7, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 22, 2002

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser	3E-600.001
Application for Registration as Associated Person	3E-600.002
Investment Adviser Notification	3E-600.0021
Multiple Registration	3E-600.003
Registration of Issuer/Dealers, Principals and Branch Offices	3E-600.004
Changes in Name and Successor Registration Requirements	3E-600.007
Investment Adviser Registration Depository for Federal Covered Advisers	3E-600.0092
Investment Adviser Registration Depository for Investment Advisers	3E-600.0093
Dealer, Investment Adviser, Branch Office and Associated Persons Forms	3E-600.019

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 3E-600.001, F.A.C., is to allow for the electronic filing for Federal Covered Advisers and Investment Advisers through the Investment Adviser Registration Depository (IARD) of the NASD. The purpose of the proposed amendment to Rule 3E-600.002, F.A.C., is to allow for the electronic filing of applications for associated persons of investment advisers through the Central Registration

Depository (CRD) of the NASD. Rule 3E-600.0021, F.A.C., is to be deleted because the NASD, in conjunction with the SEC and NASAA, has developed the IARD, an electronic licensing system for investment advisers. The IARD supports electronic filing of forms and centralized fee and form processing. Additionally, the NASD has developed technology for the processing of associated persons of investment advisers through the CRD. Along with an electronic filing process, examinations have been developed which test the knowledge of individuals seeking to become investment adviser representatives. The purpose of the proposed revisions to Rule 3E-600.003, F.A.C., is to require registration for dealers registered in Florida who receive separate compensation for investment advisory services. The purpose of the proposed revisions to Rule 3E-600.007 is to specify the time period for notifying the Division of changes in name and successor registrations. Additionally, the approved form reference information is being deleted because it is duplicative of subsection 3E-301.002(7), F.A.C.,. The purpose of the proposed creation of Rule 3E-600.0092, F.A.C., is to document the process for the electronic filing of information by Federal Covered Advisers and their associated persons. Beginning January 1, 2001, the SEC mandated that its investment adviser registrants use the IARD to make all filings with the Commission. As these firms have been required at the federal level to make electronic filings, the state is likewise proposing that filings be made electronically. The purpose of the proposed creation of Rule 3E-600.0093, F.A.C., is to document the process for the electronic filing of information by investment advisers and their associated persons. In January 2001, the IARD system was created by the NASD. This system provides the means for electronic filing of applications. Additionally, on March 18, 2002, the NASD provided the means for electronic processing of applications for associated persons of investment advisers. If investment advisers firms elect to file their applications and those of their associated persons electronically, the Division is proposing a rule to document such process. The approved form reference information of Rule 3E-600.019, F.A.C., is being deleted because it is duplicative of subsection 3E-301.002(7), F.A.C.

SUMMARY: The proposed amendments update forms and specify the means for filing for registration by Federal Covered Advisers, investment advisers, dealers, principals, associated persons, branch offices, and successors, and procedures for changes in name.

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

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

SPECIFIC AUTHORITY: 517.03, 517.12, 517.1201 FS.

LAW IMPLEMENTED: 120.53, 120.60, 517.051, 517.081, 517.082, 517.12, 517.1201, 517.1205, 517.161 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pamela P. Epting, Financial Examiner/Analyst Supervisor, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3E-600.001 Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser.

(1)(a) Applications for initial and renewal registration of dealers, issuer/dealers, and investment advisers shall be filed on the forms prescribed by the Department in Rule 3E-301.002(7), F.A.C. and shall include all information required by such forms, any other information the Department may require, and payment of the statutory fees required by Sections 517.12(10) and 517.131, F.S. Except as otherwise provided in Rule 3E-600.0091, or Rule 3E-600.0093, F.A.C., ~~the~~ ~~The~~ Department shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Banking and Finance. For dealers that are members of the National Association of Securities Dealers (NASD), such application shall be filed with the Department through the Central Registration Depository (CRD) of the NASD in accordance with Rule 3E-600.0091, F.A.C. For investment advisers, such application may be filed with the Department through the Investment Advisor Registration Depository (IARD) of the NASD in accordance with Rule 3E-600.0093, F.A.C.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. For registration as a dealer or issuer/dealer, a Uniform Application for Broker-Dealer Registration, Form BD (Revised 7/99). For dealers that are members of the NASD, such application shall be filed with the Department through the CRD in accordance with Rule 3E-600.0091, F.A.C. For registration as an investment adviser, a Uniform Application for Investment Adviser Registration, Form ADV (Revised 1/1/01) shall be filed with the Department (~~Revised 1/99~~). Such application may be filed with the Department through the Investment Advisor Registration Depository (IARD) of the NASD in accordance with Rule 3E-600.0093, F.A.C.

2. No change.

3. A Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 3/02 ~~8/99~~), to register at least one principal as set forth in Rule 3E-600.002, F.A.C. Evidence of current membership as a dealer with the NASD shall satisfy this requirement;

4. No change.

5. Proof of effective registration for dealers with the Securities and Exchange Commission (SEC). Where required by Section 517.12(16), F.S., applicants for registration as a dealer shall also provide the Department with proof of insurance coverage by the Securities Investor Protection Corporation. Evidence of current membership as a dealer with the NASD shall satisfy this requirement;

6. through 9. No change.

(2) If the information contained in any application for registration as a dealer or investment adviser or in any amendment thereto, becomes inaccurate for any reason, the dealer or investment adviser shall ~~promptly~~ file an amendment on the Form BD or the Form ADV, respectively, correcting such information within 30 days. For applicants and registrants that are members of the NASD, each such amendment, including those required by Rule 3E-600.007, F.A.C., shall be filed with the Department through the CRD system. For investment adviser applicants and registrants who file via the IARD, each such amendment, including those required by Rule 3E-600.007, F.A.C., may be filed with the Department through the IARD system in accordance with Rule 3E-600.0093, F.A.C. All other applicants and registrants shall file such amendments, including those required by Rule 3E-600.007, F.A.C., directly with the Department.

(3) through (4) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), 517.1205 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00, 9-19-00, _____.

3E-600.002 Application for Registration as Associated Person.

(1)(a) Applications for initial, reaffiliation, and renewal registrations of a principal or associated person agent shall be filed on Form U-4 (Revised 3/02), Uniform Application for Securities Industry Registration or Transfer (Revised 8/99), which hereby is incorporated by reference, and shall include all information required by such form, any other information the Department may require, and payment of the statutory fees required by Section 517.12(10), F.S. Except as otherwise provided in Rule 3E-600.0091, 3E-600.0092, or 3E-600.0093, F.A.C., the Department shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Banking and Finance. For dealers that are members of the National Association of Securities Dealers ("NASD"), such application shall be filed with the Department through the Central Registration Depository ("CRD") of the NASD in

accordance with Rule 3E-600.0091, F.A.C. For federal covered advisers, such application shall be filed with the Department through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 3E-600.0092, F.A.C. For investment adviser applicants and registrants who file via the IARD, such application may be filed with the Department through the CRD of the NASD in accordance with Rule 3E-600.0093, F.A.C.

(b) A complete initial application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 3/02 ~~8/99~~). As used on the Form U-4 (Revised 3/02), the term "Office of Employment Address" shall mean the location where the person seeking registration will regularly conduct business on behalf of the dealer or investment adviser. For dealers that are members of the NASD, such application shall be filed with the Department through the CRD of the NASD.

2. Statutory fee in the amount of \$40, for each registration sought, as required by Section 517.12(10), F.S.

3. through 5. No change.

(c) If the information contained in any Uniform Application Form U-4 (Revised 3/02) becomes inaccurate for any reason before or after the associated person becomes registered, the associated person through the dealer or investment adviser, as applicable, shall be responsible for correcting the inaccurate information in thirty (30) days. If the information being updated relates to the applicant's or registrant's disciplinary history, in addition to updating the Uniform Application Form U-4 (Revised 3/02), the associated person through the dealer or investment adviser shall also provide the Department with notice and copies of each civil, criminal or administrative action initiated against the associated person as provided in Rule 3E-600.010, F.A.C. For associated persons who have filed by using the CRD of the NASD, such amendments shall be made through the CRD of the NASD.

(2) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), (10), 517.1205 FS. History—New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, _____.

3E-600.0021 Investment Adviser Notification.

Specific Authority 517.03 FS. Law Implemented 517.12(4) FS. History—New 9-20-82, Formerly 3E-600.021, Amended 5-5-94, Repealed _____.

3E-600.003 Multiple Registration.

(1) A dealer registered in Florida who receives separate compensation for investment advisory services may render investment advice upon registration with the Department as an investment adviser pursuant to Rule 3E-600.001, F.A.C., or satisfaction of the notification requirements pursuant to Rule 3E-600.0092, F.A.C.

~~(2)(4)~~ An applicant for registration as an associated person may apply to be registered as an associated person of more than one dealer, issuer/dealer or investment adviser, or any combination thereof, by the filing of separate applications by each registered dealer, issuer/dealer or investment adviser, and payment of separate application fees as required.

~~(3)(2)~~ A person registered with the Department as an associated person of an investment adviser ~~firm or a dually registered dealer/investment adviser~~ shall not be required to register as an associated person of any other investment adviser ~~firm~~ on whose behalf such person solicits, refers, offers or negotiates advisory services, provided each of the following conditions are met:

(a) all compensation received by the associated person is paid by the investment adviser ~~firm or dually registered dealer/investment adviser~~ with which the associated person is registered;

(b) all customer funds and securities are maintained by the ~~dealer, investment adviser, dually registered dealer/investment adviser~~ or a clearing dealer;

(c) the investment adviser ~~firm or the dually registered dealer/investment adviser~~ shall ensure that all associated persons comply with the provisions of Chapter 517, F.S., and the administrative rules promulgated thereunder; and

(d) each investment adviser ~~firm~~ must be registered with the Department and the advisory services must be approved by the investment adviser ~~firm or dually registered dealer/investment adviser~~ the associated person is registered with prior to any services being recommended.

(3) Associated persons exempted from the examination requirements as provided by paragraph 3E-600.004(1)(b), F.A.C., may not be registered with more than one (1) issuer/dealer at the same time.

Specific Authority 517.03 FS. Law Implemented 517.12(1),(4), 120.53 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.03, Amended 8-1-91, 5-5-94, _____.

3E-600.004 Registration of Issuer/Dealers, Principals and Branch Offices.

(1) through (2) No change.

(3)(a) No change.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Branch Office Registration Form under Rule 3E-301.002 ~~3E-600.019~~.

2. Statutory fee in the amount required by Section 517.12(10), F.S.

3. Manager and resident agent as appropriate in this Rule must be registered as set forth in Rule 3E-600.002.

4. Evidence of registration with the Florida Secretary of State as a foreign corporation.

(c) through (d) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(5), (6), (10) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.04, Amended 10-14-90, 6-16-92, 1-11-93, 11-7-93, 11-14-93, 12-29-96, 10-20-97, 6-10-99, 8-19-99, 5-27-01, _____.

3E-600.007 Changes in Name and Successor Registration Requirements.

(1) No change.

(2) Where there is a change in legal entity of a proprietary, partnership, or corporate registrant, the successor entity shall file with the Department an amendment to Form BD, Uniform Application for Broker-Dealer Registration (Revised 7/99) or Form ADV, Uniform Application for Investment Adviser Registration (Revised 1/1/01) (Revised 1/99) within thirty (30) calendar days of the date of such change. For registrants who are a member of the NASD, such amendment shall be filed with the Department through the CRD System pursuant to Rule 3E-600.001(2), F.A.C. Any amendments to organizational documents, accompanying letters of explanation, or current financial statements of the successor shall be promptly submitted directly to the Department when specifically requested by the Department.

(3) Merger Situations: Where there is a merger of dealer or investment adviser registrants involving (a) the assumption by the successor of substantially all assets and liabilities of the merged entities, and (b) the continuation of the activities of the merged entities successor entity, the merging entities successor shall file notification with the Department denoting such changes as are applicable within thirty (30) calendar days prior to the date of such change. The successor entity shall file an amendment to Form BD (Revised 7/99) or Form ADV (Revised 1/1/01) denoting such changes as are applicable within thirty (30) calendar days of date of such change. For registrants who are a member of the NASD, each such amendment shall be filed with the Department through the CRD System pursuant to Rule 3E-600.001(2), F.A.C. A copy of the plan of merger/merger agreement, amended organizational documents, accompanying letters of explanation, or current financial statements of the successor (merged) entity shall be promptly provided to the Department when specifically requested by the Department.

(4) Change of Control:

(a) Where a person or a group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a dealer or investment advisor registrant, and where the acquiror is currently registered with the Department, or where the acquiror has not within the preceding 10 years committed any reportable act as defined in Rule 3E-200.001, the resulting entity shall ~~prior to such acquisition~~ file with the Department an amendment to Form BD (Revised 7/99) or Form ADV (Revised 1/1/01) denoting such changes as are applicable thirty (30) calendar days prior to the date of such acquisition. Any amended organizational documents, accompanying letters of

explanation, or financial statements of the resulting entity shall be promptly filed directly with the Department when specifically requested by the Department.

(b) through (c) No change.

(5) For the purposes of subsections ~~(1), (2) and, (3), and paragraph (4)(a)~~ of this Rule, in the event that a person(s) succeeds to and continues the business of a Florida registered dealer or investment adviser, the registration of the predecessor shall be deemed to remain effective as the registration of the successor for a period of thirty (30) calendar days after such succession, provided that an amendment to Form BD (Revised 7/99) or Form ADV (Revised 1/1/01) Application for Registration, together with the accompanying documents as prescribed heretofore, is filed by the successor within thirty (30) calendar days after such succession.

(6) No change.

~~(7) The changes described in this rule shall be filed with the Department on the following forms:~~

~~(a) Uniform Application for Broker-Dealer Registration (Form BD) (Revised 7/99).~~

~~(b) Uniform Request for Broker-Dealer Withdrawal (Form BDW) (Revised 8/99).~~

~~(c) Uniform Application for Investment Adviser Registration (Form ADV) (Revised 1/99).~~

~~(d) Notice of Withdrawal from Registration as Investment Adviser (Form ADV-W) (Revised 1/99).~~

~~(e) Uniform Application for Securities Industry Registration or Transfer (Form U-4) (Revised 8/99).~~

~~(f) Uniform Termination Notice for Securities Industry Registration (Form U-5) (Revised 8/99).~~

Specific Authority 517.03(1), 517.12(13) FS. Law Implemented 517.12(13), FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.07(4), Amended 10-15-86, 12-8-87, 8-1-91, 6-16-92, 1-11-93, 8-9-98, 5-10-00, _____.

3E-600.0092 Investment Adviser Registration Depository for Federal Covered Advisers.

Wherever the Rules of this Department require the filing of applications, fees, and other documents with the Department, in lieu thereof, all federal covered advisers shall file such items as specified below:

(1) All federal covered advisers making, renewing, or terminating a notice filing in this state shall file the appropriate Form ADV (Revised 1/1/01) or ADVW (Revised 1/99) and the assessment fee required by Sections 517.1201(1) or (2), F.S., with the Investment Adviser Registration Depository (“IARD”) of the NASD. When requested by the Department, Form ADV (Revised 1/1/01), Part 2, and all responses to any other request for additional information, shall be filed directly with the Department.

(2) Any notice filing made by a federal covered adviser with the Department through the IARD shall be deemed received by the Department upon receipt of the Form ADV

(Revised 1/1/01) and the filing fee. The filing fee shall be deemed received by the Department on the “payment date” reflected on the CRD “disbursement detail” report.

(3) All amendments to the Form ADV (Revised 1/1/01), shall be filed with the Department through the IARD system.

(4) All federal covered advisers who notice file in this state and who request initial registration, renewal, reaffiliation or termination of an associated person of such federal covered adviser shall file the appropriate Form U-4 (Revised 3/02) or U-5 (Revised 3/02) and the assessment fee required by Sections 517.12(10) or (11), F.S. with the CRD of the NASD. However, any response to any request for additional information shall be filed directly with the Department.

(5) Any application for registration as an associated person of a federal covered adviser which is filed with the Department by way of the CRD shall be deemed received by the Department on the date designated in the “Status Date” field on the line notated “FL” with a “Registration Status” of “pending” as indicated on the CRD “Registrations with Current Employers” screen.

(6) All federal covered advisers currently registered with the Department shall transition the Florida registration of their associated persons onto the CRD before June 30, 2002. All associated persons who transition onto the CRD shall file a complete Form U-4 (Revised 3/02) through the CRD within 30 days of the transition date, unless the associated person has a current and complete Form U-4 (Revised 3/02) on the CRD with the federal covered adviser filing such transition.

Specific Authority 517.03, 517.12(6), 517.12(15), 517.1201 FS. Law Implemented 517.1201(1), (2), (15) FS. History—New _____.

3E-600.0093 Investment Adviser Registration Depository for Investment Advisers.

Wherever the Rules of this Department require the filing of applications, fees, and other documents with the Department, in lieu thereof, investment advisers may file such items as specified below:

(1) All investment advisers requesting initial registration, renewal or termination of registration in this state may file the appropriate Form ADV (Revised 1/1/01) or ADVW (Revised 01/99) and the assessment fee required by Sections 517.12(10) or (11), F.S., with the Investment Adviser Registration Depository (“IARD”) of the NASDR. Form ADV (Revised 1/1/01), Part 2, and all responses to other requests for additional information, shall be filed directly with the Department.

(2) Any application for registration as an investment adviser filed with the Department through the IARD shall be deemed received by the Department upon receipt of the Form ADV (Revised 1/1/01) and the filing fee. The filing fee shall be deemed received by the Department on the “payment date” reflected on the CRD “disbursement detail” report.

(3) All investment advisers registered in this state by the IARD requesting initial registration, renewal, reaffiliation or termination of an associated person of such investment adviser may file the appropriate Form U-4 (Revised 3/02) or U-5 (Revised 3/02) and the assessment fee required by Sections 517.12(10) or (11), F.S., with the CRD of the NASD. However, all responses to any requests for additional information shall be filed directly with the Department.

(4) All investment advisers currently registered with the Department who register their associated persons by the CRD shall transition the Florida registrations of their associated persons onto the CRD. All associated persons who transition onto the CRD shall file a complete Form U-4 (Revised 3/02) through the CRD within 30 days of the transition date, unless the associated person has a current and complete Form U-4 (Revised 3/02) on the CRD with the investment adviser filing such transition.

(5) Any application for registration as an associated person of an investment adviser filed with the Department by the CRD shall be deemed received by the Department on the date designated in the "Status Date" field on the line notated "FL" with a "Registration Status" of "pending" as indicated on the CRD "Registrations with Current Employers" screen.

Specific Authority 517.03, 517.12(6), 517.12(15) FS. Law Implemented 517.12(10), (11), (15) FS. History--New _____.

3E-600.019 Dealer, Investment Adviser, Branch Office and Associated Persons Forms.

Specific Authority 517.03(1) FS. Law Implemented 517.12 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.19, Amended 8-1-91, 6-16-92, 1-11-93, 6-22-98, 6-10-99, 5-10-00, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela P. Epting, Financial Examiner/Analyst Supervisor
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donald B. Saxon, Director, Division of Securities and Finance
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 7, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 22, 2002

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: The Florida Fire Prevention Code
RULE CHAPTER NO.: 4A-60
RULE TITLE: Manufactured and Prototype Buildings
RULE NO.: 4A-60.006
PURPOSE AND EFFECT: The changes have the purpose and effect of exempting factory built school buildings from subsection (4), and providing for a notice on its Modular Data Plate requiring an on-site inspection by the local fire official.

SUMMARY: Exempts factory built school buildings from subsection (4) of Section 4A-60.006, Florida Administrative Code; requires plans review to be made by certified firesafety inspector; requires on-site inspection by local fire official; makes technical change to delete paragraph (c) of subsection (2), no longer in existence.

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

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

SPECIFIC AUTHORITY: 633.01, 633.0215, 633.025 FS.

LAW IMPLEMENTED: 633.01, 633.0215, 633.025 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., May 30, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)922-3171

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Millicent King at (850)922-3171.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-60.006 Manufactured and Prototype Buildings.

(1) through (3) No change.

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

(e) This subsection does not apply to factory built school buildings. Each master plan for the factory built school buildings to be built according to such plan shall be reviewed by a firesafety inspector certified pursuant to Section 633.081, Florida Statutes, who shall note or cause to be noted on the face of the plans the following:

1. Whether buildings manufactured in conformance with those plans require inspection in the factory and the items subject to inspection; and,

2. Identification of any item that is not indicated on the plans to be installed at the factory, but which is required to be installed pursuant to the Florida Fire Prevention Code, if any. Installation of such item shall be subject to inspection by the local fire official after installation.

(f) No factory built school building shall be occupied, used, or have an insignia of the Department of Community Affairs attached until such building has been inspected after installation by the local fire official and found to be in compliance with the Florida Fire Prevention Code. The local fire official shall notify the local building official when the factory built school has been inspected after installation and has been found to be in compliance with the Florida Fire Prevention Code.

(5) After the manufacturer has fully complied with at least one option in or more of the options in paragraphs (a), (b), or (c), of subsection (2), the Department shall advise the Department of Community Affairs of such compliance which shall constitute notice that the manufacturer is in compliance with the firesafety inspection requirements of the Florida Fire Prevention Code, or the applicable uniform code, and that firesafety inspections are being completed by certified firesafety inspectors.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History—New 11-15-01, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Division Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 27, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 4, 2002

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 Isolated 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 proposed 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; (2) the taxability of fees charged by architects or engineers and their sales of a scale working or other model; and (3) 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. Current provisions are stated 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 guidelines regarding sales made by or through an auctioneer who is required to be registered under the provisions of Rule 12A-1.066, F.A.C.; and (2) provide guidelines regarding sales of unclaimed tangible personal property by an agency of the state pursuant to s. 717.122, F.S.

The purpose of the proposed amendments to Rule 12A-1.041, F.A.C., is to: (1) remove unnecessary provisions from this rule; and (2) change the title to “Photographers and Photo Finishers; Sales by Public Officials of Public Records,” to reflect the proposed changes to the rule.

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 remittance of tax by electronic funds 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 redundant guidelines on how to obtain forms from the Department that are provided in Rule 12A-1.097, F.A.C.

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) replace obsolete provisions with current provisions for separately itemized charges for communications services that are currently taxed under Chapter 202, F.S.; and (2) clarify that mobile home lots regulated under Chapter 723, F.S., are exempt from tax.

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 obsolete guidelines for decorating contractors that will be provided in Rule 12A-1.001, F.A.C., as amended; and (2) clarify that the taxability of certain flags and flag kits.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to incorporate by reference changes to forms, and newly created forms, that are used by the Department in the administration of the sales and use tax.

SUMMARY: The proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions) 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 that 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 proposed amendments to Rule 12A-1.007, F.A.C. (Aircraft, Boats, Mobile Homes, and Motor Vehicles), remove obsolete provisions regarding the lease or rental of a motor vehicle. Current provisions are stated in s. 212.06(1)(c), F.S.

The proposed amendments to Rule 12A-1.037, F.A.C. (Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services): (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 proposed amendments to Rule 12A-1.041, F.A.C.: (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 proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), remove provisions regarding the requirements for tax to be remitted by electronic funds transfer that are provided in Rule Chapter 12-24, F.A.C.

The proposed amendments to Rule 12A-1.060, F.A.C. (Registration), 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 proposed amendments to Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations): (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.; and (3) clarify that mobile home lots regulated under Chapter 723, F.S., are exempt from tax.

The proposed amendments to Rule 12A-1.066, F.A.C. (Auctioneers, Agents, Brokers and Factors): (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 proposed amendments to Rule 12A-1.071, F.A.C. (Rentals, Leases, or License to Use Tangible Personal Property): (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 proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, the changes to forms currently used by the Department, and newly created forms, to administer the sales and use tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rule amendments to these rule sections in Rule Chapter 12A-1, F.A.C., only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 212.05(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), (15), (16), (19), (20), (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), (2), (3), (4), (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), (2), (3), (4), (5), (6), (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), (2), (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 HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 11:00 a.m., May 20, 2002

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

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES 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 tangible personal property involved is designed and created specifically for that customer as part of the services;

g. 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)1-~~ 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 State 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 (8) No change.

(9) MOBILE HOMES, RECREATIONAL VEHICLES, AND PARKS.

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

4. Mobile home lots regulated under Chapter 723, F.S., are required to be leased for periods of at least one year and are exempt from tax. Owners and owners' representatives of mobile home lots regulated under Chapter 723, F.S., are not required to file ~~form Form~~ DR-72-2 with the Department to declare the mobile home lot exempt or required to make an annual redetermination of the taxable status of the lot.

5. No change.

(10) 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, _____.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(2) DR-1	Application to Collect and/or Report Tax in Florida (r. 08/01 <u>08/00</u>)	<u>06/01</u>
(3) through (4) No change.		
(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. 01/02 <u>1-12/99</u>)	<u>06/01</u>
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. 01/02 <u>01/02</u>)	_____
(6)(a) DR-15	Sales and Use Tax Return (R. 01/02 <u>1-01/01</u>)	<u>06/01</u>
(b) DR-15CS	Sales and Use Tax Return (R. 01/02 <u>1-07/00</u>)	<u>06/01</u>
(c) DR-15CSN	DR-15CS Sales and Use Tax Returns <u>Return</u> Line-by-line Instructions for 2002 (R. 01/02 <u>1-07/00</u>)	<u>06/01</u>
(d) DR-15EZ	Sales and Use Tax Return (R. 01/02 <u>1-01/01</u>)	<u>06/01</u>
(e) DR-15EZN	Instructions for 2002 DR-15EZ Sales and Use Tax Returns (R. 01/02 <u>1-01/01</u>)	<u>06/01</u>
(f) through (g) No change.		

(h) DR-15MO	Out-of-State Purchase Mail Order/Use Tax Return (r. 06/01 <u>09/00</u>)	<u>06/01</u>
(i) DR-15N	Instructions for 2002 <u>2001</u> DR-15 Sales and Use Tax Returns (r. 01/02 <u>01/01</u>)	<u>06/01</u>
(j) DR-15SA	Sales and Use Tax Return [Semi-Annual] (R. 12/01 <u>1-01/01</u>)	<u>06/01</u>
(k) DR-15SAN	Annual and Semiannual Sales and Use Tax Return Instructions (R. 01/02 <u>01/02</u>)	_____
(k) through (l) renumbered (l) through (m) No change.		
(7) through (9) No change.		
(10) DR-38	Tax Collector's Report 6% Sales Tax and/or Surtax (R. 01/99 <u>1-02/91</u>)	<u>08/92</u>
(11) through (18)(b) No change.		
(c) DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (n. 01/01 <u>01/01</u>)	10/01
(d) through (20) No change.		

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(f), (g), (h), (n), (o), (15), 212.096, 212.17(6), 212.18(2), (3), 288.1258 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: 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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles B. Strausser, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments were noticed for a rule development workshop in the Florida Administrative Weekly on January 18, 2002 (Vol. 28, No. 3, pp. 133-140). A rule development workshop was held on February 5, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, commencing at 10 a.m. and concluding at 10:15 a.m. In response to a public inquiry, the Department has added a new provision to the guidelines provided in subparagraph (a)5. of Rule 12A-1.001, F.A.C., for sales by interior decorators or designers.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:
 Public Use Forms
 Enterprise Zone and Florida Neighborhood Revitalization Programs

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

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt the changes to forms currently used, and new forms created, by the Department to administer the Florida Enterprise Zone and Neighborhood Revitalization Programs.

The purpose of the proposed amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), is to: (1) implement s. 3, Chapter 2001-201, L.O.F., which revises the enterprise zone jobs credit against sales tax for employees hired after October 1, 2001; (2) implement s. 2, Chapter 2001-201, L.O.F., which extends the community contribution tax credit provisions of the enterprise zone program to the state sales tax and revises provisions for building materials and business property used in an enterprise zone; and (3) change the requirement to file an Application for Refund-Sales and Use Tax (form DR-26S) for those programs previously requiring form DR-26.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, changes to forms currently used, and new forms created, by the Department to administer the Florida Enterprise Zone and Neighborhood Revitalization Programs.

The proposed amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs): (1) provide guidelines on how to claim the enterprise zone jobs credit against sales tax for employees hired after October 1, 2001; (2) provide that the required forms to obtain a sales tax credit for building materials and business property used in an enterprise zone may be filed within 90 days after the rehabilitated property is first subject to assessment; (3) provide guidelines on how to claim the community contribution tax credit against the state sales tax; and (4) change the requirement to file an Application for Refund-Sales and Use Tax (form DR-26S) for those programs previously requiring form DR-26.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rule amendments to these rule sections in Rule Chapter 12A-1, F.A.C., only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

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

LAW IMPLEMENTED: 212.08(5)(g), (h), (n), (o), (q), (15), 212.096, 212.15(2), 212.17(6), 212.18(2), (3), 288.1258 FS.

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

TIME AND DATE: 11:00 a.m., May 20, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
-------------	-------	----------------

(2) through (6)(e) No change.

(f) DR-15JZ	Florida Enterprise Zone Jobs Credit Certificate of Eligibility Sales Tax Effective July 1, 1996 (r. 04/01)	06/01
------------------------	---	------------------

(g) through (j) renumbered (f) through (i) No change.

(j) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, 2002 (N. 01/02)	_____
------------------------	---	-------

(k) DR-15ZCN	Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit under the New Law (N. 01/02)	_____
-------------------------	---	-------

(l)(k) EZ-E	Florida Enterprise Zone Program-Business Equipment Sales Tax Refund Application For Eligibility (R. 07/01 r. 06/00)	06/01
------------------------	---	-------

(m)(4) EZ-M Florida Enterprise Zone
Program-Building Materials
Sales Tax Refund Application
for Eligibility (R. 07/01 ~~06/00~~) 06/01

(7) through (20) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g), (h), (n), (o), (q), (15), 212.096, 212.17(6), 212.18(2), (3), 288.1258 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.

12A-1.107 Enterprise Zone and Florida Neighborhood Revitalization Programs.

(1) ENTERPRISE ZONE JOBS CREDIT.

(a) How to Claim the Credit. For employees hired after October 1, 2001, an ~~An~~ application that includes the information required by s. 212.096(3)(a)-(f), F.S., effective July 1, 2001, must be filed with the Enterprise Zone Development Agency for the enterprise zone where the business is located to claim the enterprise zone jobs credit. The Department of Revenue prescribes form DR-15ZC, Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, 2002 ~~DR-15JZ, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Sales Tax Effective July 1, 1996~~ (incorporated by reference in Rule 12A-1.097, F.A.C.), for this purpose.

(b) Forms Required. Taxpayers claiming the enterprise zone jobs credit against sales and use tax for employees hired after October 1, 2001, must use form DR-15ZC ~~DR-15JZ~~ to apply for, calculate, and claim the credit with the Department of Revenue. Form DR-15ZC ~~DR-15JZ~~ must be certified by the Enterprise Zone Development Agency, attached to a sales and use tax return, and delivered directly to the Department, or postmarked ~~post-marked~~, within six ~~four~~ months after the new employee is hired.

(2) BUILDING MATERIALS USED IN THE REHABILITATION OF REAL PROPERTY LOCATED IN AN ENTERPRISE ZONE.

(a) How to Claim the Refund. An application that includes the information required by s. 212.08(5)(g)1., F.S., must be filed with the Enterprise Zone Development Agency for the enterprise zone where the building materials are used, to claim a refund of tax paid on building materials used in the rehabilitation of real property located in an enterprise zone. Form EZ-M, Florida Enterprise Zone Program-Building Materials Sales Tax Refund Application for Eligibility (incorporated by reference in Rule 12A-1.097, F.A.C.), is prescribed by the Department for this purpose. For the applicant to be eligible to receive a refund, the Enterprise Zone Coordinator for the enterprise zone where the building materials are used must certify, using form EZ-M, that the applicant meets the criteria provided in s. 212.08(5)(g), F.S. The Enterprise Zone Coordinator will certify form EZ-M, including the required attachments, and return the form and attachments to the applicant. The applicant is responsible for

attaching the certified form EZ-M and the required attachments to form DR-26S and forwarding the package to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) and form EZ-M with the Department of Revenue. Form DR-26S must be attached to form EZ-M and its attachments, and the package must be delivered directly to the Department, or postmarked, within 6 months after the rehabilitation of the property is deemed substantially completed by the local building inspector or within 90 days after the rehabilitated property is first subject to assessment. The completed form DR-26S, the certified form EZ-M, and the required attachment, should be mailed to:

Florida Department of Revenue
Refund Subprocess
P. O. Box 6490
Tallahassee, Florida 32314-6490.

(3) BUSINESS EQUIPMENT USED IN AN ENTERPRISE ZONE.

(a) How to Claim the Refund. An application that includes the information required by s. 212.08(5)(h)2., F.S., must be filed with the Enterprise Zone Development Agency for the enterprise zone where the business is located to obtain a refund of tax paid on business property used in an enterprise zone. Form EZ-E, Florida Enterprise Zone Program-Business Equipment Sales Tax Refund Application for Eligibility (incorporated by reference in Rule 12A-1.097, F.A.C.), is prescribed by the Department for this purpose. For an applicant to be eligible to receive a refund, the Enterprise Zone Coordinator for the enterprise zone where the business property is used must certify, using form EZ-E, that the applicant meets the criteria set forth in s. 212.08(5)(h), F.S. The Enterprise Zone Coordinator will certify form EZ-E, including the required attachments, and return the form and attachments to the applicant. The applicant is responsible for attaching the certified form EZ-E, and the required attachments, to form DR-26S and forwarding the package to the Department of Revenue.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund-Sales and Use Tax (form DR-26S) and form EZ-E with the Department of Revenue. The applicant is responsible for submitting an Application for Refund-Sales and Use Tax (form DR-26S), the completed and certified form EZ-E, and the required attachments to the Department of Revenue. Form DR-26S must be attached to form EZ-E and attachments and delivered directly to the Department, or postmarked, within 6 months after the tax is due on the business property that was ~~is~~ purchased. The completed form DR-26S, the certified form EZ-E, and the required supporting documentation should be mailed to:

Florida Department of Revenue
 Refund Subprocess
 P. O. Box 6490
 Tallahassee, Florida 32314-6490.

(4) COMMUNITY CONTRIBUTION TAX CREDIT FOR DONATIONS.

(a) Who May Claim the Credit. Any taxpayer that has received prior approval from the Office of Tourism, Trade, and Economic Development for a community contribution to any revitalization project undertaken by an eligible sponsor will be allowed a credit of 50 percent of the value of the contribution. The total annual credit under this subsection, applied against the tax due under Chapter 212, F.S., for a taxable year, is limited to \$200,000. Taxpayers who elect to claim the credit against sales and use tax are ineligible to claim the credit against corporate income tax or insurance premium tax.

(b) Valuation of the Credit.

1. The valuation of the contribution determined by the Office of Tourism, Trade, and Economic Development will be used in the computation of the credit.

2. A contribution of more than \$400,000 may be made in a tax year. However, the credit received for any contribution may not exceed the \$200,000 annual credit limitation.

(c) When to Claim the Credit. The credit must be claimed as a refund of sales and use tax reported on returns and remitted to the Department within the 12 months preceding the date of the application for refund. If a taxpayer is unable to fully utilize the amount of credit granted in a year due to insufficient tax payments during the 12-month period preceding the granting of the credit, the unused amount may be carried forward for a period not to exceed 3 years and may be included in an application for refund filed during those years.

(d) Forms Required. Taxpayers claiming the credit must file an Application for Refund-Sales and Use Tax (form DR-26S) with a copy of the letter issued to the taxpayer by the Office of Tourism, Trade, and Economic Development authorizing the taxpayer to claim the credit. The applicant is responsible for submitting an Application for Refund-Sales and Use Tax (form DR-26S) and a copy of the authorization letter from the Office of Tourism, Trade, and Economic Development to the Department of Revenue. Only one application may be submitted in a 12-month period. The completed form DR-26S and a copy of the authorization letter should be mailed to:

Department of Revenue
 Refund Subprocess
 P. O. Box 6490
 Tallahassee, Florida 32314-6490.

(5)(4) No change.

(6)(5) BUILDING MATERIALS AND LABOR FOR CONSTRUCTION OF SINGLE-FAMILY HOMES IN AN ENTERPRISE ZONE, EMPOWERMENT ZONE, OR FRONT PORCH FLORIDA COMMUNITY.

(a) No change.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund-Sales and Use Tax (form DR-26S) with the Department of Revenue. Form DR-26RP, signed by the Enterprise Zone Coordinator or the Chair of the Front Porch Community, and all the documentation listed on form DR-26RP, must be attached and forwarded to the Department. Form DR-26S, form DR-26RP, and the required documentation must be delivered directly to the Department, or postmarked, within 6 months after the date the single-family home is deemed to be substantially completed by the local building inspector. Form DR-26S, form DR-26RP, and the required documentation should be mailed to:

Florida Department of Revenue
 Refund Subprocess
 P. O. Box 6490
 Tallahassee, Florida 32314-6490.

(7)(6) BUILDING MATERIALS USED IN REDEVELOPMENT PROJECTS.

(a) No change.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund-Sales and Use Tax (form DR-26S) with the Department of Revenue. Form DR-26RP, signed by the contact person, and all the documentation listed on form DR-26RP, must be submitted to the Department. Form DR-26S, form DR-26RP, and required documentation must be delivered directly to the Department, or postmarked, within 6 months after the date the housing project or mixed-use project is deemed to be substantially completed by the local building inspector. Form DR-26S, form DR-26RP, and the required documentation should be mailed to:

Florida Department of Revenue
 Refund Subprocess
 P. O. Box 6490
 Tallahassee, Florida 32314-6490.

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

Specific Authority 212.08(5)(g)6., (h)6., (n)4., (o)4., (15)(e), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g), (h), (n), (o), (q), (15), 212.096, 212.15(2), 212.17(6), 212.18(2) FS. History—New 1-3-96, Amended 6-19-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments were noticed for a rule development workshop in the Florida Administrative Weekly on November 30, 2001 (Vol. 27, No. 48, pp. 5590-5593). A rule development workshop was held on December 18, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comments regarding these proposed rule changes. No written comments have been received by the Department.

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
Public Use Forms	12A-17.005

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12A-17, F.A.C., Registration as Secondhand Dealer or Secondary Metals Recycler, is to: (1) remove the recitation of provisions of Chapter 538, F.S., and other unnecessary provisions of the rule chapter; (2) 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.; (3) change the title of Rule 12A-17.003, F.A.C., to "Registration," the title of Rule 12A-17.004, F.A.C., to "Denial, Suspension, or Revocation of Registration," and the title of Rule 12A-17.005, F.A.C., to "Public Use Forms," to reflect the proposed changes to those rule sections; and (4) incorporate by reference the current registration and renewal registration forms used by the Department for the registration of secondhand dealers and secondary metals recyclers.

SUMMARY: The proposed amendments to Rule 12A-17.001, F.A.C. (Scope of Rules), 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 proposed repeal of Rule 12A-17.002, F.A.C. (Definitions) removes the unnecessary recitation of the provisions of Chapter 538, F.S.

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

The proposed substantial rewording of Rule 12A-17.004, F.A.C.: (1) changes the title to "Denial, Suspension, or Revocation of Registration"; (2) removes the unnecessary recitation of the provisions of Chapter 538, F.S.; and (3) provides 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 proposed amendments to Rule 12A-17.005, F.A.C.: (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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rule amendments and proposed rule repeals in Rule Chapter 12A-17, F.A.C., only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 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), 212.18(2), 213.06(1), 538.022, 538.03, 538.09, 538.11, 538.15, 538.18, 538.22, 538.25, 538.26 FS.

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

TIME AND DATE: 11:00 a.m., May 20, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES 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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES 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 538.022, 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.

(2)(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 Public Use 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. <u>09/00 07/94</u>)	<u>10/94</u>
(2) DR-11S	Certificate of Registration Issued Pursuant to Chapter 538, Florida Statutes (R. <u>10/91</u>)	<u>10/91</u>
(2) (3) DR-1SR	Renewal Application for Renewal of Secondhand Dealer or Secondary Metals Recycler Registration (R. <u>08/00 03/93</u>)	<u>03/93</u>

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.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ronald Gay, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles B. Strausser, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-4723

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments were noticed for a Rule Development Workshop in the Florida Administrative Weekly on January 18, 2002 (Vol. 28, No. 3, pp. 144-147). A rule development workshop was held on February 5, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, commencing at 10:00 a.m. and concluding at 10:15 a.m. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLES:	RULE NOS.:
Premium Tax; Rate and Computation	12B-8.001
Tax Statement; Overpayments	12B-8.003

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), is to implement s. 32, Chapter 2000-201, L.O.F., which amends the provisions of s. 624.5105, F.S., regarding the community contribution tax credit against the insurance premium tax.

The purpose of the proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), is to adopt changes to forms, and adopt newly created forms, used by the Department in the administration of the insurance premium tax.

SUMMARY: The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), remove the requirement to provide with the applicable return a schedule of the computation of carryover of the community contribution tax credit.

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), incorporate by reference changes to forms, and newly created forms, used by the Department in the administration of the insurance premium tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rule amendments to these rule sections in Rule Chapter 12B-8,

F.A.C., only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 213.06(1), 220.183(6), 624.5105(6) FS.

LAW IMPLEMENTED: 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 213.37, 220.183(3), 624.4621, 624.475, 624.509, 624.5091, 624.5092, 624.510, 624.5105, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS.

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

TIME AND DATE: 11:00 a.m., May 20, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2) No change.

(3) Credits Against the Tax.

(a) through (c) No change.

(d) Community Contribution Tax Credit.

1. through 2. No change.

3. Carryovers of Community Contribution Tax Credit.

a. If a credit granted in a tax year exceeds the tax liability for that year, the unused credit may be carried forward for a period not to exceed 5 years.

b. The community contribution tax credit carryover, which is created in a given year because of an annual contribution, may not exceed the annual \$200,000 credit limitation. However, the total carryover for all years may be greater than \$200,000.

~~e. If applicable, a schedule of the computation of any carryover of the credit, as prescribed by s. 220.183(3)(e), F.S., shall be included with the return.~~

- 4. through 5. No change.
- (4) through (9) No change.

Specific Authority 213.06(1), 220.183(6), 624.5105(6) F.S. Law Implemented 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 220.183(3), 624.4621, 624.475, 624.509, 624.5092, 624.510, 624.5105, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History--New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01,_____.

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule. The Department prescribes Form DR-907, Florida Department of Revenue Insurance Premium Installment Payment, dated January 2001, and Form DR-908, Florida Department of Revenue Insurance Premium Taxes and Fees Tax Return, dated January 2001, and accompanying instructions as the forms to be used for the purpose of this chapter and hereby incorporates these forms by reference.

- (2) through (4) No change.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
(5)(a) DR-907	<u>Florida Department of Revenue Insurance Premium Installment Payment (R. 01/02)</u>	_____
(b) DR-907N	<u>Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. 01/02)</u>	_____
(6)(a) DR-908	<u>Insurance Premium Taxes and Fees Return Calendar Year-2001 – Due March 1, 2002 (R. 01/02)</u>	_____
(b) DR-908N	<u>Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. 01/02)</u>	_____
(7) DR-350900	<u>2001 Insurance Premium Tax Information for Schedules XII and XIII. DR-908 (R. 01/02)</u>	_____

Specific Authority 213.06(1) F.S. Law Implemented 213.05, 213.37, 624.5092, 624.511, 624.518 FS. History--New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 30, 2001 (Vol. 27, No. 48, pp. 5593-5594). A rule development workshop was held on December 18, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comments regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Corporate Income Tax

RULE TITLES:	RULE NOS.:
Enterprise Zone Program	12C-1.0188
Forms	12C-1.051

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.0188, F.A.C. (Enterprise Zone Program), is to implement ss. 6 and 7, Chapter 2000-201, L.O.F., which revises the computation of the enterprise zone jobs credit against the corporate income tax for employees hired after October 1, 2001.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to: (1) remove the incorporation of obsolete or unnecessary forms; and (2) incorporate changes to forms, and new forms, used by the Department in the administration of the corporate income tax.

SUMMARY: The proposed amendments to Rule 12C-1.0188, F.A.C. (Enterprise Zone Program): (1) provide that form F-1156, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax Effective January 1, 2002, is used by the Department to administer the enterprise zone jobs credit against the corporate income tax for employees hired after October 1, 2001; and (2) provides guidelines on how to claim the enterprise zone jobs credit against the corporate income tax.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) adopt new forms and changes to forms used by the Department in the administration of the corporate income tax; (2) remove the incorporation of obsolete forms F-1120FA, F-1150, F-1155, and F-1157Z that are no longer used by the Department; (3) remove the unnecessary incorporation of form F-1120A (Flats), a form identical to form F-1120A; and (4) remove the adoption of form DR-835, Power of Attorney, which will be incorporated by reference in Rule Chapter 12-6, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rule amendments to these rule sections in Rule Chapter 12C-1, F.A.C., only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 213.06(1), 220.182(8), 220.183(6)(d), 220.51 FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 213.05, 213.35, 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 290.0055, 290.0065, 290.009(1) FS.

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

TIME AND DATE: 11:00 a.m., May 20, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.0188 Enterprise Zone Program.

(1) Corporate Income Tax-Enterprise Zone Jobs Credit.

(a) No change.

(b)1. Forms Required. Taxpayers claiming the Enterprise Zone Jobs Credit for employees hired on or before October 1, 2001, must use Form F-1157Z, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (incorporated by reference in Rule 12C-1.051, F.A.C.), to

compute the allowable Enterprise Zone Jobs Credit amount. Form F-1157Z requires the signature of an officer, under oath, duly authorized to sign. The F-1157Z must be certified by the Enterprise Zone Development Agency, attached to a corporate income tax return, and submitted to the Department of Revenue.

2. Forms Required. Taxpayers claiming the Enterprise Zone Jobs Credit for employees hired after October 1, 2001, must use Form F-1156Z, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax-Effective January 1, 2002 (incorporated by reference in Rule 12C-1.051, F.A.C.), to compute the allowable Enterprise Zone Jobs Credit amount. Form F-1156Z requires the signature of an officer, under oath, duly authorized to sign. The F-1156Z must be certified by the Enterprise Zone Development Agency, attached to a corporate income tax return, and submitted to the Department of Revenue.

~~3.2-~~ A copy of the certified F-1157 and F-1156Z specified in Rule 12C-1.0188(1)(a), F.A.C., above, must be forwarded to the Florida Department of Revenue, General Tax Administration, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100, by the Enterprise Zone Development Agency.

(2) through (5) No change.

Specific Authority 213.06(1), 220.182(8), 220.183(6)(d), 220.51 FS. Law Implemented 213.05, 213.35, 220.03(1), 220.131, 220.181, 220.182, 220.183, 220.44, 290.0055, 290.0065, 290.009(1) FS. History--New 1-3-96, Amended _____.

12C-1.051 Forms.

~~(1)(a) The Department of Revenue adopts, and hereby incorporates by reference in this rule, the following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.~~

(b) 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; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date			
(2)(4) No change.			(15) F-1155	Computation of Long Term Contract Adjustment (r. 01/99)	03/00
(2) DR-835	Power of Attorney (r. 01/97)	03/00	(16) F-1156	Gasohol Development Tax Incentive Credit (r. 01/95)	03/96
(3) F-851	Corporate Income/Franchise and Emergency Excise Tax Affiliations Schedule (r. 01/01 01/99)	03/00	(11)(a) F-1156Z	Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax Effective January 1, 2002 (N. 01/02)	
(4)(a) F-1065	Florida Partnership Information Return with Instructions, (r. 01/01 01/99)	03/00	(b) F-1156ZN	Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax Effective January 1, 2002 (N. 01/02)	
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (r. 01/01)				
(5) F-1120A	Florida Corporate Short Form Income Tax Return (r. 01/02 01/01)	06/01			
(6) F-1120A(Flats)	Florida Corporate Short Form Income Tax Return (N. 01/99)	03/00	(12)(17) No change.		
(6)(a)(7) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (r. 01/02 01/01)	06/01	(13)(a)(18) F-1158	Enterprise Zone Property Tax Credit (r. 01/00 07/98)	03/00
(b)(8) F-1120N	F-1120 Instructions-Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, 2001 2000 (r. 01/02 01/01)	06/01	(b) F-1158N	Instructions for Form F-1158 Enterprise Zone Property Tax Credit (R. 01/00)	
(7)(9) F-1120ES	Declaration/Installment of Florida Estimate Income Franchise and/or Emergency Excise Tax for Taxable Year beginning on or after January 1, 2002 2000 (Installment 1, 2, 3, 4) (r. 01/02 01/01)	06/01	(14)(a)(19) F-1158Z	Enterprise Zone Property Tax Credit-Effective July 1, 1995 (r. 01/00 07/98)	03/00
			(b) F-1158ZN	Instructions for Form F-1158Z (Effective July 1, 1995)	
(10) F-1120FA	Forms Requisition (r. 01/99)	03/00	(15)(a)(20) F-1159	Application for Child Care Tax Credits (r. 10/01 N. 12/98)	03/00
(8)(11) F-1120P	Payment Coupon (r. 01/02 01/01)	06/01	(b) F-1159N	Instructions for Filing F-1159 (R. 10/01)	
(9)(a)(12) F-1120X	Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. 01/02 r. 01/01)	06/01	(16) F-1160	Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (N. 01/02)	
(b) F-1120XN	General Instructions for Filing F-1120X (R. 01/02)		(17)(21) F-2220	Underpayment of Estimated Tax on Florida Corporate Income/Franchise and Emergency Excise Tax (R.01/02 r. 01/99)	03/00
(10)(13) Form F-1122	Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income and Emergency Excise Tax Return (r. 01/01 01/99)	03/00	(18)(22) F-7004	Florida Tentative Income /Franchise and/or Emergency Excise Tax Return and/or Application for Extension of Time to File Return (r. 01/02 01/01)	06/01
(14) F-1150	Computation of Installment Sales Income Adjustment (r. 01/99)	03/00			

Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.55(1)(a)4., 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments were noticed for a rule development workshop in the Florida Administrative Weekly on November 30, 2001 (Vol. 27, No. 48, pp. 5600-5601). A rule development workshop was held on December 18, 2001, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comments regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Substance Abuse Testing

RULE NO.: 33-108.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures and requirements for inmate substance abuse testing.

SUMMARY: The proposed rule clarifies circumstances under which inmates will be allowed additional time in which to provide a urine sample for drug testing, and clarifies definitions of terms associated with inmate substance abuse testing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09, 944.472, 944.473 FS.

LAW IMPLEMENTED: 944.09, 944.472, 944.473 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-108.101 Inmate Substance Abuse Testing.

The Office of the Inspector General shall be responsible for the development and implementation of the department's substance abuse testing program.

(1) Definitions.

(a) through (f) No change.

~~(g) Bashful Bladder (Avoidant Paruresis) is a documented medical condition that prevents a person from urinating in the presence of another person or in a public facility.~~

(2) The Department of Corrections conducts the following types of inmate substance abuse testing:

(a) For-Cause or Reasonable Suspicion Testing.

1. No change.

2. For-cause drug testing (also referred to as reasonable suspicion drug testing) means drug testing based on a belief that an inmate is using or has used drugs or alcohol based on specific facts and reasonable inferences drawn from those facts in light of experience. Such facts and inferences shall be based upon:

a. through b. No change.

c. Evidence or intelligence reports indicating determined to be of a reliable basis that an inmate has used, possessed, sold, solicited or transferred drugs or alcohol.

3. through 6. No change.

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

(b) Specimen Collection Procedures.

1. through 7. No change.

8. An inmate who has not provided an adulterated urine specimen and who indicates a claimed inability to provide an adequate urine specimen shall be detained in the presence of the tester or other designated person for a period not to exceed 1 hour to provide an adequate specimen. During that time, the inmate shall be allowed to consume one cup (8 oz.) of water or other beverage every 1/2 hour, not to exceed a total of 2 cups during this time period and an Acknowledgement of Beverage

Form, DC1-823, shall be completed. Form DC1-823, Acknowledgement of Beverage Form, is incorporated by reference in Section (3)(g) of this rule. If after the 1 hour period an inmate still fails to submit a valid adequate urine specimen, the inmate shall be considered to have refused to provide a urine specimen and a disciplinary report shall be prepared in accordance with rules 33-601.301-601.314. If an inmate claims an inability to urinate due to a medical ~~“bashful bladder”~~ condition, procedures set forth in (3)(c) shall apply. ~~Forms DC1-823, Acknowledgement of Beverage Form, is incorporated by reference in Section (3)(g) of this rule.~~

9. through 12. No change.

(c) ~~“Bashful bladder” procedure.~~ Upon notification from an inmate that he is unable to urinate due to a medical condition ~~“bashful bladder”~~, the officer shall verify with medical staff that the inmate possesses a specific medical condition or is taking medication which inhibits the inmate from urinating within the designated time frame. Upon receiving such verification, the inmate shall be given the opportunity to provide a urine specimen under the following conditions:

1. through 6. No change.

(d) through (g) No change.

Specific Authority 944.09, 944.472, 944.473 FS. Law Implemented 944.09, 944.472, 944.473 FS. History–New 2-8-00, Amended 2-5-01, Formerly 33-602.2045, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fred Schuknecht

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 22, 2002

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Agreements RULE NO.: 40C-3.035

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to incorporate by reference the water well permitting delegation agreement between St. Johns River Water Management District and the Florida Department of Health, Putnam County Health Department.

SUMMARY: The proposed rule amendment would incorporate by reference the District’s water well permitting delegation agreement with the Florida Department of Health, Putnam County Health Department allowing for regulation of water well construction standards for wells less than six inches in diameter, unless these wells are in a Chapter 62-524, F.A.C., delineated area.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.083, 373.309 FS.

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

TIME AND DATE: Following the regularly scheduled Governing Board Meeting which begins at 9:00 a.m., on June 12, 2002

PLACE: St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459 or email address nmesser@sjrwm.com

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents:

(1) through (11) No change.

(12) An agreement between Florida Department of Health, Putnam County Health Department and St. Johns River Water Management District regarding water well permitting dated (effective date).

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.046, 373.083, 373.309 FS. History–New 10-14-84, Amended 12-5-85, Formerly 40C-3.035, 40C-3.0035, Amended 1-8-96, 4-21-96, 7-21-96, 12-22-96, 3-10-97, 1-3-00, 9-6-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jennifer Springfield, Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4347

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

If any person decides to appeal any decision with respect to any matter considered at the above listed public hearing, such person may need to ensure that a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is to be based.

Anyone requiring special accommodation to participate in this meeting is requested to advise the District at least 5 work days before the meeting by contacting Ann Freeman at (386)329-4101, or (386)329-4450(TDD).

LAND AND WATER ADJUDICATORY COMMISSION

Double Branch Community Development District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Double Branch Community 42FF-1
 Development District

RULE TITLES: RULE NOS.:

Establishment 42FF-1.001

Boundary 42FF-1.002

Supervisors 42FF-1.003

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (CDD), the Double Branch Community Development District (“District”), pursuant to Chapter 190, F.S. The petition to establish the District, filed by Oakleaf Plantation, L.L.C. (Petitioner), requests that the Florida Land and Water Adjudicatory Commission establish by rule the Double Branch CDD. A Notice of Receipt of Petition for the Double Branch CDD was published in the March 1, 2002, edition of the *Florida Administrative Weekly*. The land area proposed to be served by the District will consist of approximately 1,203 acres. All proposed lands in the District are within the boundaries of unincorporated Clay County. There are no out-parcels located within the external boundaries of the parcel of land to be included within the District. The future general distribution, location and extent of the public and private land uses under the Planned Unit Development designation (Clay County Comprehensive Plan) currently include commercial, single-family residential, multi-family residential, recreation, school, and library. The proposed land uses within the District are subject to the approved Villages of Argyle Forest Development of Regional Impact Development Order. The District, if established, intends to participate in the construction of certain road and entranceway improvements and to provide certain stormwater, utility and recreation improvements for the lands within the District.

SPECIFIC AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Petitioner has prepared a Statement of Estimated Regulatory Costs (SERC). The complete text of the SERC is contained as Exhibit 11 to the petition to establish the District. The Double Branch Community Development District is seeking authority to

participate in the construction of certain road and entranceway improvements as contemplated in the Villages of Argyle Forest Development of Regional Impact (DRI) Development Order. The District is also expected to provide certain stormwater, utility and recreation improvements for the lands within the District. The District intends to finance these infrastructure improvements through special or non-ad valorem assessment revenue bonds. Repayment of those bonds will be through special non-ad valorem assessments levied against all benefitted properties within the District. The current and future property owner will be responsible for payment of these assessments on the basis of the amount of benefitted property owned. In exchange for payment of these special assessments, there are substantial potential benefits to be derived by the future property owners. The cost of implementing this rule to unincorporated Clay County, its residents and to all applicable state agencies for processing the documents is nominal. Clay County was paid a \$15,000.00 processing fee to offset the cost of review of the petition to establish the District. Administrative costs will be incurred by the Florida Land and Water Adjudicatory Commission, the Division of Administrative Hearings, the Bureau of Local Government Finance/Office of the Comptroller, and the Florida Department of Community Affairs. Other than administrative costs, no costs will be incurred by the State of Florida or the general citizenry from the establishment or operations of the District. The impact of District establishment and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the rule, is as economically viable as establishing the District. Creation of the District should not have a negative impact on small counties because Clay County is not a “small county” defined by Section 120.52, F.S. Analysis provided by the SERC is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Developer’s Engineer and other professionals associated with the Developer.

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

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

TIME AND DATE: 1:00 p.m., Monday, May 20, 2002

PLACE: Room 1703G, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-1884, at least 2 business days in advance to make appropriate arrangements.

COPIES OF THE PROPOSED RULE AND ESTIMATED REGULATORY COSTS STATEMENT MAY BE OBTAINED BY CONTACTING: Cheryl G. Stuart, Hopping Green & Sams, P.A., Post Office Box 6526, Tallahassee, Florida 32314, telephone (850)222-7500 or Barbara Leighty, Senior Governmental Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULE IS:

DOUBLE BRANCH COMMUNITY DEVELOPMENT DISTRICT

42FF-1.001 Establishment.

The Double Branch Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New

42FF-1.002 Boundary.

The boundaries of the District are as follows:

A parcel of land lying in the being part of Sections 4, 5, 6, 8 and 9, Township 4 South, Range 25 East, Clay County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of said Section 4, also being the Northeast corner of said Section 5; thence, on the West line of said Section 4, South 00 degrees 10 minutes 14 seconds East, 5.00 feet to the point of beginning; thence, parallel with and 5.0 feet South from the North line of said Section 4, also being the line dividing Clay County and Duval County, and the North line of said Township 4 South, North 89 degrees 50 minutes 04 seconds East, 2039.14 feet to the West line of Deerfield Pointe, as recorded in Plat Book 22, Pages 62 through 65, of the public records of said Clay County; thence, on said West line, South 00 degrees 20 minutes 13 seconds West, 1354.17 feet to the South line of said Deerfield Pointe; thence, on said South line, North 89 degrees 51 minutes 50 seconds East, 675.62 feet to the West line of Spencer's Crossing Unit 1, as recorded in Plat Book 18, Pages 18 through 22, of said public records; thence, on said West line, the West line of Spencer's Crossing Unit 5, as recorded in Plat Book 27, Pages 19 through 22, the West line of Sweetbriar, as recorded in Plat Book 32, Pages 61 through 64, the West line of lands recorded in Official Records Book 1603, Page 1212, and the West line of a 20 foot right-of-way recorded in Official Records Book 1603, Page 1220, all being recorded in the public records of said county, said line also being the East line of the Southeast quarter of the Northwest quarter and the Southwest quarter of said Section 4, South 00 degrees 31 minutes 32 seconds West, 4050.46 feet to the South line of said Section 4; thence, on said South line, North 89 degrees 51

minutes 57 seconds West, 662.62 feet to the West line of lands described in Official Records Book 1603, page 1212, of said public records, also being the East line of the West half of the Northeast quarter of the Northwest quarter of said Section 9; thence, on last said line, South 00 degrees 11 minutes 52 seconds East, 1388.96 feet to the South line of said Northeast quarter of the Northwest quarter of said Section 9; thence, on said South line, South 89 degrees 09 minutes 05 seconds West, 662.36 feet to the East line of the Southwest quarter of the Northwest quarter of said Section 9; thence, on said East line, South 00 degrees 21 minutes 15 seconds East, 699.95 feet to the South line of the North half of the Southwest quarter of the Northwest quarter of said Section 9; thence, on said South line, South 88 degrees 36 minutes 38 seconds West, 1327.66 feet to the West line of said Section 9, also being the East line of said Section 8; thence, on the South line of the North half of the Southeast quarter of the Northeast quarter of said Section 8, North 88 degrees 34 minutes 52 seconds West, 1335.51 feet to the East line of the Southwest quarter of the Northeast quarter of said Section 8; thence, on said East line, South 00 degrees 10 minutes 48 seconds East, 700.93 feet to the South line of said Southwest quarter of the Northeast quarter of Section 8; thence, on said South line, North 88 degrees 09 minutes 42 seconds West, 1156 feet, more or less, to the centerline of the North prong of Double Branch; thence, in a Northwesterly direction, by and along said centerline and following the meanderings thereof, 12,053 feet, more or less, to a point bearing South 89 degrees 49 minutes 27 seconds West from the point of beginning; thence, parallel with and 5.0 feet South from the North line of said Section 5, North 89 degrees 49 minutes 27 seconds East, 5043 feet, more or less, to the point of beginning, said parcel containing 1203 acres, more or less.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New

42FF-1.003 Supervisors.

The following five persons are designed as the initial members of the Board of Supervisors: Donald P. Hinson, James T. O'Riley, Donald E. Brown, Charles W. Arnold, III, and Gary F. Hannon.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 1801, The Capitol, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 12, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality

RULE CHAPTER TITLE: Minimum Standards for Home Medical Equipment Providers

RULE CHAPTER NO.: 59A-25

RULE TITLES:	RULE NOS.:
Definitions	59A-25.001
Licensure Requirements	59A-25.002
Scope of Services	59A-25.003
Minimum Qualifications for Personnel	59A-25.004
Compliance	59A-25.005

PURPOSE AND EFFECT: The purpose of this rule is to update the rule, including rule reduction, language clarification, and minor changes to conform to changes in the Florida Statute.

SUMMARY: The proposed rule amendment includes language that is added or changed to clarify that central service centers and distribution centers will be licensed; however, distribution centers that receive orders from the central service center will not be required to pay the \$400 inspection fee since inspections will be done through the central service centers. Language is added that patient and employee records, not stored at the licensed distribution center, shall be made available to AHCA within 48 hours of the time of the survey. Reductions have been made in language to conform to changes in the Florida Statutes regarding the deletion of abuse background screening. Language has been revised to clarify actions to be taken based on survey findings. Classes for deficiencies have been added for the purpose of determining the severity of deficiencies and the amounts of fines. The definition of a change of ownership has been deleted because the definition is already in the Florida Statutes. Language regarding fining providers that submit renewal applications late has been changed to conform to the 90-day time frame established in the Florida Statutes. The proposed rule reduces the amount of the surety bond to \$25,000 from \$50,000. Corporations with multiple licensed locations will no longer need to resubmit proof of financial ability to operate when applying for a license for an additional location.

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

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

SPECIFIC AUTHORITY: 400.925, 400.93, 400.931, 400.932, 400.933, 400.934, 400.935, 400.94, 400.95, 400.953, 400.965 FS.

LAW IMPLEMENTED: Part X of Chapter 400, 400.92-.965 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 noon, May 21, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jan Mills, Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, Mail Stop #34, Bldg. 1, Room 219, Tallahassee, FL 32308, (850)414-6010. Ms. Mills' Email address is millsjk@fdhc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-25.001 Definitions.

(1) No change.

(2) “Central Service Center” means the licensed premises that is in charge of taking consumer orders, dispatching the orders to their distribution centers that provide home medical equipment services, and maintaining patient and personnel records. The central service center is responsible for the operation of its designated distribution centers. “Controlling interest” means 51% or more of the interest in a company.

(3) Class I deficiency is any act, omission, or practice that results in a patient's death, disablement, or permanent injury, or places a patient at imminent risk of death, disablement, or permanent injury. Upon finding a class I deficiency, the agency may impose an administrative fine in the amount of \$5,000 for each occurrence and each day that the deficiency exists. In addition, the agency may immediately revoke the license, deny the renewal of a license or impose a moratorium on accepting new patients until the factors causing the deficiency have been corrected. “Distribution centers” means those buildings that are not located at the address of the home office site and are utilized to provide home medical equipment services.

(4) Class II deficiency is any act, omission, or practice that has a direct adverse effect on the health, safety, or security of a patient. Upon finding a class II deficiency, the agency may impose an administrative fine in the amount of \$1,000 for each occurrence and each day that the deficiency exists. In addition, the agency may revoke the license, deny the renewal of a license or impose a moratorium on accepting new patients, until the deficiency has been corrected. “HME” means home medical equipment.

(5) Class III deficiency is any act, omission, or practice that has an indirect, adverse effect on the health, safety, or security of a patient. Upon finding an uncorrected or repeated class III deficiency, the agency may impose an administrative fine not to exceed \$500 for each occurrence and each day that the uncorrected or repeated deficiency exists. “Home office” means those buildings where the primary business site is located.

(6) Class IV deficiency is any act, omission, or practice related to required reports, forms, or documents which does not have the potential of negatively affecting patients. These violations are of a type that the agency determines do not threaten the health, safety, or security of patients. Upon finding an uncorrected or repeated class IV deficiency, the agency may impose an administrative fine not to exceed \$200 for each occurrence and each day that the uncorrected or repeated deficiency exists. "Life-supporting or life-sustaining device", as defined in 21 Code of Federal Regulations part 860.3, means a device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life.

(7) Distribution centers means those licensed premises that are not located at the address of the central service center but receive orders from the central service center and are utilized to provide home medical equipment services.

(8) HME means home medical equipment.

(9) Life-supporting or life-sustaining device, as defined in 21 Code of Federal Regulations part 860.3, means a device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life.

Specific Authority 400.93, 400.931, 400.935 FS. Law Implemented Part X of Chapter 400, 400.92-.957 FS. History—New 6-4-00, Amended _____.

59A-25.002 Licensure Requirements.

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

(f) Any buildings, that are not located at the licensed central service center ~~home office~~ address, called shops, warehouses, distribution centers, or called by any other name, are required to have a license if that site location provides selection (via telephone, showroom or sales representative), delivery, set up, consumer instruction ~~or~~ and maintenance of equipment.

(g) Central service centers must provide the names and locations of all of their designated distribution centers on the licensure application.

(h) Distribution centers must submit a separate licensure application and must specify the name of their central service center on the application.

(i) Each licensed distribution center is required to meet all standards for licensure but may be determined to meet the standards through the activities of its designated central service center as referenced in paragraph 59A-25.005(1)(b), F.A.C.

(2) No change.

(3) Licensure fees:

(a) Fees for initial licensure application and renewal will be a \$300 licensing fee and a \$400 inspection fee for a two-year license per location. Businesses with a central service center having distribution sites are required to submit an

application and a \$300 licensing fee for each location, but shall submit only one \$400 inspection fee with the application of the central service center.

(b)1. through 4. No change.

(c) The fee for an application package with rules, law, forms and an instruction package is based on AHCA's actual cost of postage plus the copying fee per page as authorized in Chapter 119.07, F.S. The costs are rounded up to the next whole dollar. The documents and forms in the application package can be printed with no fee from the AHCA web site: www.fdhc.state.fl.us. \$7.50 as referenced in Section 400.931(15), F.S. Renewal application packages are automatically sent out free of charge.

(4) Initial licensure application: An application for initial licensure shall be made on forms prescribed by AHCA. The application package contains the following forms that are incorporated by reference as part of this rule:

(a) Home Medical Equipment Provider Application for Licensure, form number AHCA 3110-1005; April, 2002 March, 2000;

(b) through (d) No change.

(e) ~~Florida Abuse Hotline Information System Background Check form number, AHCA 3110-0003, Revised July, 1998; and,~~

(e)(f) No change.

(f) Surety Bond, form number AHCA 3110-1008; May, 2001;

These forms may be obtained through the AHCA Home Care Unit, 2727 Mahan Drive, Building 1, Tallahassee, Florida, 32308. In addition to the application, the following information must be submitted:

(g) ~~Initial applicants must demonstrate Demonstration of financial ability to operate as referenced in Section 400.931(3), F.S., by submitting one of the following:~~

1. New providers must submit proof of a current \$25,000 \$50,000 surety bond for each location to be licensed. Submission of a copy of a current Medicaid bond will satisfy as proof of financial ability to operate. Corporations that own multiple licensed HME locations will not be required to resubmit proof of financial ability to operate when applying for a license for an additional provider location.

2. ~~Existing providers, with locations established prior to 12/31/99, may submit proof of a current \$50,000 surety bond (an additional surety bond is not necessary if the provider already has one) or three current checking account statements or the applicant's most current annual report or the latest income tax return for the applicant.~~

(h) Background screening:

1. The general manager as defined in Section 400.925(7), F.S., and the financial officer shall submit level 2 screening directly to AHCA as referenced in Section 400.931(5)(a), F.S.

Level 2 screening consists of the Florida Department of Law Enforcement/FBI fingerprint screening ~~and the Florida Abuse Hotline Information System Background Check.~~

2. The general manager shall coordinate the submission of level 1 screening for all personnel who enter a consumer's home, including contractors, hired on or after 7/1/99. Level 1 screening is submitted directly to the Florida Department of Law Enforcement, ~~and the Department of Children and Families.~~ Level 1 screening consists of ~~the submission of Florida Abuse Hotline Information System Background Check to the local Department of Children and Families District Screening coordinator and~~ the submission of the criminal history check to the Florida Department of Law Enforcement. The cost of processing screening must be paid by the provider or by the employee that is screened. New employees may work on probationary status, once they have submitted their screening documents as permitted in Chapter 435, F.S. The general manager shall submit a signed affidavit with each initial and renewal application affirming that direct and contract personnel who enter the home in the capacity of their employment, have been screened for good moral character.

(i) Each licensed HME provider location must obtain and maintain professional and commercial liability insurance of not less than \$250,000 per claim as referenced in Section 400.931(6), F.S. In case of contracted services, the contractor shall maintain liability insurance of not less than \$250,000 per claim. A corporation can provide a blanket policy, which indicates that each of its licensed locations is insured under one policy, verifying not less than \$250,000 per claim for each location.

(j) No change.

(5) Renewal application:

(a) An application for renewal of licensure, with its forms and attachments, is required. AHCA form number 3110-1005, April, 2002 ~~March, 2000~~, incorporated by reference must be submitted. AHCA will send out applications 120 to 150 days prior to the expiration of the license. It is the responsibility of the HME provider to submit an application, within the specified time frames, whether or not they receive separate notification from AHCA of the impending expiration of the license.

(b) If AHCA has reason to believe a provider is financially unstable, the applicant must demonstrate financial ability to operate by submitting proof of a current \$25,000 ~~\$50,000~~ surety bond as referenced in Section 400.931(3), F.S., before the license is renewed. Failure to pay any outstanding fines, unless the fine is being appealed, is an indicator of financial instability and AHCA will ask the provider to demonstrate financial ability to operate by submission of proof of a bond unless the provider pays the fine.

(6) Change of ownership: An application for a change of ownership, AHCA form number 3110-1005, April, 2002 ~~March, 2000~~, incorporated by reference, must be submitted per

the requirements in Section 400.931(9), F.S. ~~Any change of 51% or more of the controlling interest in an HME business, will require a change of ownership application and fee as stated in (3)(b) above.~~ The application and additional information necessary to submit a change of ownership application is the same as required for the initial licensure application with the addition of the submission of closing documents. However, if the owners remain the same but the percentage of their ownership changes, then a letter regarding the percentage change should be sent to AHCA instead of an application.

(7) No change.

Specific Authority 400.925, 400.931, 400.935 FS. Law Implemented Part X of Chapter 400, 400.92-.957 FS. History—New 6-4-00, Amended _____.

59A-25.003 Scope of Services.

(1) Minimum standards: ~~In addition to the minimum standards listed in Section 400.934, F.S.,~~ Each every home medical equipment provider must: ~~meet the following minimum standards:~~

(a) ~~The business must~~ Have a visible sign with the name of the business, business hours, and a phone number where the business can be contacted during business hours.

(b) ~~Each licensed location must~~ Maintain personnel records ~~for personnel that work at that location. The records that~~ must include the following: employment history for the past 5 years, proof of background screening including a signed copy of the good moral character form and a license of any professional that may work from that location. A distribution center will not be required to maintain personnel records but its central service center shall be responsible for maintaining personnel records.

(c) ~~The HME program shall~~ Provide management and consumer instruction regarding the use of home medical equipment requiring services, as referenced in Section 400.925(11), F.S., and any professional services as necessary. Delivery services include transportation of equipment and supplies to and from consumer homes, equipment setup, and record keeping. Providers must be able to serve their consumers in a timely manner.

(d) ~~If the HME is no longer able to serve the patient who needs continuing services, they must~~ Ensure their patients receive continuing service from another provider if the HME is no longer able to serve the patient that still needs continuing services. to avoid interruption in their service.

(e) ~~Be~~ The HME provider is ultimately responsible for the management of all equipment and services even if a contractor is involved.

(f) Honor all express warranties regarding assistive technology devices. The duration of the express warranty must be at least one year after first delivery of the assistive technology device to the consumer as required in Section 427.803, F.S. The provider must warranty assistive technology devices as defined in Section 427.802(2), F.S. The "Assistive

~~Technology Device Warranty Act rights period” means the period ending 1 year after first delivery of the assistive technology device to the consumer or the manufacturer’s express written warranty, whichever is longer, as referenced in Sections 427.803 and 427.804, F.S.~~

~~(g) The provider must Honor all warranties as required in Section 400.934(9), F.S., and warranty used equipment at least 30 days.~~

~~(h) The provider must Provide the consumer with user instructions as required in Section 400.934 (13), F.S.~~

~~(i) The provider must Be able to demonstrate the safety and infection control measures that follow:~~

~~1. Procedures that identify safety precautions to be followed in the handling and use of each type of equipment and its related supplies;~~

~~2. Equipment is routinely inspected for safety and stability prior to delivery;~~

~~3. The electrical adequacy and safety of a home is assessed prior to placing any electrical or electronic equipment, and instructions are provided to consumers regarding applicable precautions and safety measures;~~

~~4. Compliance with bedding and mattress reuse regulations;~~

~~5. Specific cleaning or sanitizing requirements between usages for each type of equipment according to the manufacturers’ guidelines;~~

~~6. Storage of unclean equipment separate from clean equipment;~~

~~7. Transportation of unclean equipment separate from clean equipment; and,~~

~~8. Storage of equipment to prevent dust accumulation, water damage, and vermin contact; and~~

~~9. Equipment is safely maintained and installed based upon the manufacturers’ instructions.~~

~~(2) through (5) No change.~~

~~Specific Authority 400.934, 400.935 FS. Law Implemented Part X of Chapter 400, 400.92-.957 FS. History–New 6-4-00, Amended _____.~~

~~59A-25.004 Minimum Qualifications for Personnel.~~

~~The provider shall be in compliance with and make available to AHCA surveyors the information referenced in this Section; however, this Section will not be enforced until three months after the effective date of this rule.~~

~~(1) through (4) No change.~~

~~Specific Authority 400.934, 400.935 FS. Law Implemented Part X of Chapter 400, 400.92-.957 FS. History–New 6-4-00, Amended _____.~~

~~59A-25.005 Compliance.~~

~~(1) The survey or inspection:~~

~~(a) All providers must be in compliance with Part X of Chapter 400, F.S., and these rules. A provider shall be surveyed on an unannounced basis every two years, unless a survey is necessary due to a complaint. A renewal survey is to~~

be completed within eighteen to thirty months from the date of the last licensure survey. The renewal survey shall be completed no earlier than eight months before expiration of the provider’s license and no later than the license expiration date and the average gap between surveys shall not exceed twenty-four months. Area offices may do follow-up surveys to check on correction of deficiencies at any time on an unannounced basis.

(b) If a provider is operating with a central service center that has one or more distribution centers; the central service center shall be the premises where the survey will be initiated. A surveyor will inspect at least one of the distribution centers associated with the central service center. The distribution center will be held accountable for equipment and services provided but will not be responsible for maintaining patient or personnel records. Any home offices located out of state will be required to provide AHCA with any necessary records requested to perform an inspection or to investigate a complaint.

(c) All providers must have available, at the time of survey, at least one category of equipment that is provided directly, filling orders from its own inventory as referenced in Section 400.934(2), F.S. Failure to have, at the time of survey, at least one category of equipment that is provided directly will result in the provider's application being denied or the provider's license being revoked. Once the AHCA surveyor has finished conducting an inspection, an exit conference is conducted with the general manager or designee to discuss the results of the inspection and any deficiencies that may have been found.

(d) Once the AHCA surveyor has finished conducting an inspection, an exit conference is conducted with the general manager or designee to discuss the results of the inspection and any deficiencies that may have been found. If the provider disagrees with the survey findings of the AHCA surveyor, the provider may speak with the surveyor regarding the proposed deficiencies during the exit conference. Once the provider has received the notification of deficiencies report from the area office, if the surveyor’s recommended deficiency citation remains, then the provider may contact the area office supervisor to appeal the citation. The supervisor may remove the deficiency citation based on documentation supplied by the provider. Documentation submitted from the provider may include, but is not limited to, a statement from a technical expert in the field of HME and services. If the provider wishes to appeal the decision of the area office supervisor, the appeal, with all supporting information, is forwarded to the chief of field operations. If the chief of field operations does not support the deficiency citation, a directive to the area office supervisor will be initiated to remove the citation.

(e) The survey findings will be written and if any notification of deficiencies prepared if needed were cited during the survey, a statement of deficiencies will be sent to

~~the provider. The provider can expect to receive the written survey results and any notification of deficiencies from the area office within ten working days from the survey.~~

~~(f) Except for situations as described in (c), (g) and (h), if any deficiencies were cited during the survey, the provider will be given ten working days to submit a plan of correction to the area office. A follow up visit or a desk review will then be made by the area office to determine if the plan of correction is acceptable and has been implemented. The plan of correction is subject to approval by the agency. After the follow up visit the area office will make a recommendation to AHCA headquarters in Tallahassee.~~

(g) If a provider is cited regarding serious patient harm or a threat of clear and present danger to the public's health and safety, AHCA has the authority to request an injunction to halt operations through an emergency order or moratorium. Also, AHCA has the authority to deny, revoke or suspend a license when survey findings present a threat or clear and present danger to the public's health and safety as permitted in Section 400.932, F.S.

~~(h) If the provider fails to meet the minimum standards in Section 400.934, F.S., or this rule, the area office may recommend denial, revocation or suspension of the provider's license or impose an administrative fine as authorized in Section 400.932, F.S.~~

~~(i) An acceptable plan of correction must:~~

- ~~1. Include specific information on how the deficiency was or will be corrected;~~
- ~~2. Include reasonable time frames based on the dates discussed during the exit conference;~~
- ~~3. Address the problem and be aimed at correction in a systematic sense, as opposed to correcting an example or an isolated problem;~~
- ~~4. Not be argumentative and generalized;~~
- ~~5. Not include unsubstantiated arguments; and~~
- ~~6. Identify the position that will be monitoring the corrective action to preclude its reoccurrence.~~

~~(j) All licensed providers must make records available on the premises during the course of the survey.~~

~~(2) Complaint investigations:~~

~~(a) AHCA will conduct investigations of complaints regarding violations of licensure requirements. Complaint investigations will be unannounced. An entrance conference will be conducted to inform the general manager of the nature of the complaint. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the investigation. Distribution centers will be allowed forty-eight hours to obtain patient or personnel records from their central service center and to submit the records to the area office when related to a complaint investigation.~~

~~(b) If necessary, a statement of deficiencies will be sent to the provider after the investigation. If the complaint was confirmed or any incidental deficiencies were cited as a result of the complaint investigation, the provider must submit a plan of correction to the area office. AHCA may impose a fine against the provider or revoke or suspend a license as permitted in Section 400.932, F.S., that did cause or could have caused harm to a patient.~~

~~(3)(2) Adverse action: Denial, Suspension, Revocation, and Administrative Fines. Fine amounts are not to exceed \$5000 per violation, per day as stated in Section 400.932(1), F.S.~~

(a) AHCA shall deny, suspend or revoke an application for license, or impose a fine for the reasons in Section 400.932, F.S., and for the following reasons:

1. If the provider fails to submit an application for a change of ownership within time frames specified in Section 400.931(8) and (9), F.S., a \$500 fine shall be levied. If the application is received after the required filing date, but exhibits a hand-canceled postmark from the U.S. Post Office, or delivery documentation by a carrier service, dated on or before the required filing date, no fine will be levied;

2. If the provider fails to submit an application for renewal of a license within ~~ninety sixty~~ days before from the date of expiration date of the existing license, as specified in Section 400.931(8), F.S., a \$50 fine per day, not to exceed \$500, a \$500 fine will be levied;

3. If the provider fails to notify AHCA of a change of address, within the timeframes in ~~paragraph~~ Section 59A-25.002(7), of this rule, a minimum of a \$500 fine shall be levied; ~~if a surveyor cannot locate the provider for inspection;~~

~~4. If existing providers (providers in existence on the effective date of this licensure act of 7/1/99) fail to submit an application by 12/31/99, a minimum of a \$500 fine shall be levied;~~

~~4.5. If the applicant fails to screen all employees including contracted employees, or is unable to show screening clearance for any contracted employees who enter a consumer's home, as required in Section 400.93, F.S., or employs persons who are disqualified from employment based on a criminal record check a \$1,000 fine shall be levied; abuse registry screening or a criminal record check (fine);~~

5. ~~If the provider is cited for a class I deficiency that is any act, omission or practice that results in a patient's death, disability, or permanent injury, or places a patient at imminent risk of death, disability, or permanent injury, the agency may impose an administrative fine in the amount of \$5,000 for each occurrence and each day that the deficiency exists. In addition, the agency may immediately revoke the license, deny the renewal of a license or impose a moratorium on accepting new patients until the factors causing the deficiency have been corrected;~~

6. If the provider is cited for a class II deficiency that is any act, omission or practice that has a direct adverse effect on the health, safety or security of a patient, the agency may impose an administrative fine in the amount of \$1,000 for each occurrence and each day that the deficiency exists. In addition the agency may revoke the license, deny the renewal of a license or impose a moratorium of new patients until the deficiency has been corrected; If the provider fails to carry out its responsibility regarding the provision of equipment and services by its staff or contractors in such a way that patients are subjected to inadequate care (fine or revocation);

7. If the provider is cited for a class III deficiency that is any act, omission or practice that has an indirect, adverse effect on health, safety, or security of a patient, the agency may impose an administrative fine not to exceed \$500 for each occurrence and each day that the uncorrected or repeated deficiency exists; If the provider is cited for a deficiency that could have caused harm to a patient or did cause harm to a patient (fine, revocation, denial);

8. If the provider is cited for a class IV deficiency that is uncorrected or repeated acts or omissions or practices related to required reports, forms or documents which do not have the potential of negatively affecting patients, the agency may impose an administrative fine not to exceed \$200 for each occurrence and each day that the uncorrected or repeated deficiency exists; If the provider is cited for repeated deficiencies or for uncorrected violations of state law and rule; (fine, revocation, denial); and;

9. If the provider is not available for inspection during the office hours indicated on their licensure application, AHCA shall deny an initial or change of ownership application or impose a \$500 fine upon a licensed provider applying to renew a license. If AHCA goes to inspect an HME during office hours, as indicated on their licensure application, and cannot gain entry and is not permitted to see any records (fine, deny, revoke).

10. A fine of \$2,500 shall be levied against providers determined to be operating without a license.

11. If the central service center's license is revoked, the revocation includes the licenses of all designated distribution centers.

12. If the provider fails to submit a plan of correction to the area office within 10 days of the receipt of the deficiency statement, AHCA shall deny an initial, a change of ownership or a renewal application or revoke the license of a licensed provider.

13. Failure of a provider to provide records to AHCA during an inspection shall result in a \$500 fine.

14. Failure of a distribution center to provide records to AHCA within forty-eight hours shall result in a \$500 fine.

(b) No change.

(3) Complaint investigations:

~~(a) AHCA will conduct investigations of complaints regarding violations of licensure requirements. Complaint investigations will be unannounced. An entrance conference will be conducted to inform the general manager of the nature of the complaint. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the investigation.~~

~~(b) If necessary, a Statement of Deficiencies will be sent to the provider within 10 working days after the investigation. If the complaint was confirmed or any incidental deficiencies were cited as a result of the complaint investigation, the provider must submit a Plan of Correction to the area office. AHCA may impose a fine against the provider or revoke or suspend a license as permitted in Section 400.932, F.S., for any deficiency or confirmed complaint that did cause or could have caused harm to a patient.~~

(4) No change.

Specific Authority 400.93, 400.931, 400.932, 400.934, 400.935, FS. Law Implemented Part X of Chapter 400, 400.92-400.957 FS. History--New 6-4-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jan Mills, Health Services and Facilities Consultant, Agency for Health Care Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD, FAAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: General Information and Forms
RULE NO.: 61-6.0015

PURPOSE AND EFFECT: The Department proposes to add this rule to incorporate the applications, forms and accompanying instructions, if any, which are to be used in its dealings with the public. This rule meets the requirements set forth in section 120.55(1)(a)4., F.S.

SUMMARY: This rule lists the applications, forms and accompanying instructions, if any, utilized by the Department.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 455.203(5), 455.213(1) FS.

LAW IMPLEMENTED: 455.203(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Erica D. Glover, Assistant General Counsel, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61-6.0015 General Information and Forms.

Individuals seeking to become licensed by the Department may submit a completed application together with any applicable forms. An application can be obtained by writing the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399 or by visiting MyFlorida.com. The following is a list of applications, forms and accompanying instructions, if any, utilized by the Department:

- | | |
|---|---|
| <ul style="list-style-type: none"> (1) <u>DBPR 0010-2</u> <u>Master Individual Application</u> (2) <u>DBPR 0020-1</u> <u>Master Organization Application</u> (3) <u>DBPR 0030-1</u> <u>Attest Statement</u> (4) <u>DBPR 0040-1</u> <u>Officers and Directors</u> (5) <u>DBPR 0050-1</u> <u>Explanatory Information for Background Questions</u> (6) <u>BPR 0060-1</u> <u>General Explanatory Description</u> (7) <u>DBPR 0080-1</u> <u>Request for Address or Name Change</u> (8) <u>DBPR 0090-1</u> <u>Duplicate License Request</u> (9) <u>DBPR 0100-1</u> <u>Request for Release of Information and Authorization to release information</u> (10) <u>DBPR ALU 4051-1</u> <u>Initial Asbestos Examination Application</u> (11) <u>DBPR ALU 4052-1</u> <u>Initial Licensure & Change of Status Application</u> (12) <u>DBPR ALU 4053-1</u> <u>Secondary Qualifier Application</u> (13) <u>DBPR ALU 4054-1</u> <u>Request for Training Provider & Continuing Education Course Approval Application</u> (14) <u>DBPR ALU 4055-1</u> <u>Retake Exam Application</u> (15) <u>DBPR BCAI 4251-1</u> <u>Certification, Examination and Endorsement Application</u> (16) <u>DBPR BCAI 4252-1</u> <u>Affidavit of Work Experience</u> (17) <u>DBPR BCAI 4253-1</u> <u>Continuing Education Course & Provider Approval Application</u> (18) <u>DBPR BCAI 4254-1</u> <u>Training Program and Training Program Provider Approval Application</u> (19) <u>DBPR BCAI 4255-1</u> <u>Attendance Roster</u> | <ul style="list-style-type: none"> (20) <u>DBPR BCAI 4256-1</u> <u>Course and Program Approval</u> (21) <u>DBPR BCAI 4257-1</u> <u>Re-Examination Application for Inspectors, Plans Examiners and Building Code Administrators</u> (22) <u>DBPR BCAI 4258-1</u> <u>Application for Limited Licensure</u> (23) <u>Instructions and Information for Examination Application</u> (24) <u>DBPR CILB 4351-1</u> <u>Examination Application</u> (25) <u>Information Regarding Completion of Initial Licensure/Change of Status Application</u> (26) <u>DBPR CILB 4352-1</u> <u>Initial Licensure/Change of Status Application</u> (27) <u>DBPR CILB 4353-1</u> <u>Qualify Additional Business Organization</u> (28) <u>Information for Continuing Education Provider and Course Approval Application</u> (29) <u>DBPR CILB 4354-1</u> <u>Continuing Education Provider and Course Approval Application</u> (30) <u>DBPR CILB 4355-1</u> <u>Construction-Related Complaint Application</u> (31) <u>DBPR CILB 4356-1</u> <u>Bond Application</u> (32) <u>DBPR CPA 5001-1</u> <u>Credit Transfer CPA Examination</u> (33) <u>DBPR CPA 5002-1</u> <u>Application for Licensure by Endorsement/Transferring Examination Grades</u> (34) <u>DBPR CPA 5003-1</u> <u>CPA Re-Examination Application</u> (35) <u>DBPR CPA 5007-1</u> <u>CPA Examination Application</u> (36) <u>DBPR CPA 5008-1</u> <u>CPA Firm Application</u> (37) <u>DBPR CPA 5009-1</u> <u>Sole Proprietor Firm Application</u> (38) <u>BPR CPA 5010-1</u> <u>Non-Resident Temporary Practice Permit</u> (39) <u>DBPR CPA 5011-1</u> <u>Request for Change of Status</u> (40) <u>DBPR CPA 5012-1</u> <u>Authorization For Interstate Exchange of Examination and Licensure Information</u> (41) <u>DBPR CPA 5013-1</u> <u>Request for Course Evaluation</u> (42) <u>DBPR ECLB 4451-1</u> <u>Examination Application</u> (43) <u>DBPR ECLB 4452-1</u> <u>Application for Registered Electrical, Alarm System or Specialty Contractor</u> (44) <u>DBPR ECLB 4453-1</u> <u>Initial Application Certified Electrical, Alarm System, or Specialty Contractors</u> (45) <u>DBPR ECLB 4454-1</u> <u>Work Experience Form</u> (46) <u>DBPR ECLB 4455-1</u> <u>Request for Training Provider and Continuing Education Course Approval</u> |
|---|---|

- (47) Information for Completing Change of Status Application
- (48) DBPR ECLB 4456-1 Change of Status Application
- (49) DBPR ECLB 4457-1 Retake Exam Application
- (50) DBPR HP 4601-1 General Information
- (51) DBPR PMW 3010-1 Permit Application
- (52) DBPR PMW 3030-1 Personal History Record
- (53) DBPR PMW 3040-1 Permit Transfer Application from One Existing Permitholder to Another Existing Permitholder
- (54) DBPR PMW 3050-1 Veterinary Report of Medication
- (55) DBPR PMW 3060-1 Permitholder Application for Annual License and Operating Dates
- (56) DBPR PMW 3070-1 Proposed Recipients of Charity/Scholarship Performance Proceeds
- (57) DBPR PMW 3080-1 Permitholder Calendar
- (58) DBPR PMW 3090-1 Request for Stay
- (59) DBPR PMW 3100-1 Request for Appeal of Stewards'/Judges' Ruling
- (60) DBPR PMW 3110-1 Animal Owner's Temporary License Application
- (61) Instructions for Individual Occupational Licensure Application
- (62) DBPR PMW 3120-1 Individual Occupational License Application
- (63) DBPR PMW 3130-1 Business Occupational License Application
- (64) DBPR PMW 3140-1 Attest Statement
- (65) DBPR PMW 3150-1 Request for Approval of a Card Game
- (66) DBPR PMW 3160-1 Permit Application for Annual License to Operate a Cardroom
- (67) DBPR PMW 3220-1 Notice of Change of Cardroom Business Occupational Licensees Providing Products and Services to a Cardroom
- (68) DBPR PMW 3230-1 Pari-Mutuel Occupational Licensee Transfer to Cardroom Application Requirements
- (69) DBPR RE 2001-1 Application for Additional Locations
- (70) DBPR RE 2100-1 Real Estate Background Questions
- (71) DBPR RE 2010-1 Non-Resident Temporary Appraisal Practice Permit
- (72) DBPR RE 2020-1 Real Estate Instructor Permit Qualifications
- (73) DBPR RE 2030-1

- (74) DBPR RE 2040-1 Appraiser Instructor Permit Qualifications
- (75) DBPR RE 2050-1 Request for Change of Status
- (76) DBPR RE 2060-1 Request for Appraiser Change of Status
- (77) DBPR RE 2070-1 Request for School/Instructor Change of Status
- (78) DBPR RE 2080-1 Request for Instructor Evaluation
- (79) DBPR RE 2090-1 Request for Course Evaluation

Specific Authority 455.203(5), 455.213(1) FS. Law Implemented 455.213 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
David K. Minacci
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David K. Minacci
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 22, 2002

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE TITLE: Trainee Stages, Minimum Training Requirements, and Training Program

RULE NO.:

64B6-8.003

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

SUMMARY: The Board clarifies when the training program shall come to an end and that a trainee may repeat the training program one time. Even after the person may no longer function on as a trainee, a qualified person may still sit for the examination for license on three occasions.

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

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

SPECIFIC AUTHORITY: 484.0445(1), 484.044 FS.

LAW IMPLEMENTED: 484.0445, 484.045 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-8.003 Trainee Stages, ~~and~~ Minimum Training Requirements, ~~and~~ Training Program.

(1) A training program shall be a minimum of not exceed six months in length. The trainee shall be in a training program for a minimum of twenty (20) hours each week. A trainee shall be under the direct supervision of the sponsor at all times when performing the functions of a hearing aid specialist. During the ~~six month~~ training program, a trainee shall complete the National Hearing Aid Society Home Study Course and shall submit proof of passing the home study course final examination prior to taking the ~~Florida~~ licensure examination. If the trainee passes the home study course final examination but fails the ~~Florida~~ licensure examination, he or she will not have to repeat the home study course prior to the next available ~~Florida~~ licensure examination. The training program shall be divided into three (3) stages:

(a) through (c) No change.

(2) It shall be the responsibility of the sponsor to provide instruction and guidance, in order to adequately prepare trainees for ~~the written and practical examinations and for~~ practice as a hearing aid specialist. Training received by a trainee during the training program must consist of training in the following subject areas:

(a) through (s) No change.

(3) The sponsor shall file a complete report with the Board at the end of each trainee's training program; this report shall be filed no later than 30 fifteen (15) days after the termination of the program. The report shall set forth the number of hours of training in each subject which has been provided. The report must also set forth the educational and training objectives and hours set by the sponsor for the trainees.

(4) No change.

(5) Upon completion of the training program, the trainee shall take the first available licensure examination. A trainee may continue to function as a trainee until she or he has received the results of the licensure examination, provided that, failure of the sponsor to file the complete report required herein will preclude the trainee from engaging in any acts which constitute hearing aid dispensing until such time as the complete report is filed. Also, until the complete report is filed, the trainee is not eligible to complete the first available licensure examination.

(6) If the trainee fails the licensure examination she or he may repeat the training program one time by meeting the criteria in Rule 64B6-8.002, F.A.C., and taking the next available examination.

(7) Failure to sit for or receive a passing score on the next scheduled licensure examination for which he or she qualifies will result in termination of trainee status and the ability to further perform services as a trainee within seven days of the mailing of the examination results, but does not preclude application for reexamination as provided in Rule 64B6-2.005, F.A.C.

(8) Every applicant who is qualified to take the examination shall be allowed to take the examination three times. If an applicant fails to sit for or pass the examination three times, the applicant shall no longer be eligible to take the examination.

Specific Authority 484.0445(1), 484.044 FS. Law Implemented 484.0445, 484.045 FS. History--New 2-12-84, Formerly 21JJ-8.03, Amended 8-12-87, 10-1-90, 1-28-91, 4-23-91, 8-19-91, Amended 3-18-93, Formerly 21JJ-8.003, Amended 4-21-94, Formerly 61G9-8.003, Amended _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF HEALTH

Board of Medicine

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

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth definitions for the levels of supervision.

SUMMARY: The proposed rule amendments define "direct supervision" and "indirect supervision" and remove all other definitions with regard to supervision.

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

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

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry G. McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-2.001 Definitions.

(1) ~~Levels of Supervision: The phrase “direct supervision and control” as used in Section 458.303(2), F.S., shall require the following: The physical presence of the supervising physician on the premises so that the supervising physician is immediately available when needed.~~

(a) “Direct supervision” shall require the physical presence of the supervising licensee on the premises so that the supervising licensee is reasonably available as needed. When this term is used in probationary terms of a Final Order, it requires that the licensee practice medicine only if the approved supervisor is on the premises.

(b) “Indirect supervision” shall require only that the supervising licensee practice at a location which is within close physical proximity of the practice location of the supervised licensee and that the supervising licensee must be readily available for consultation as needed. “Close physical proximity” shall be within 20 miles unless otherwise authorized by the Board.

(2) through (5) No change.

~~(6) The phrase “direct responsibility,” as defined by the Board of Medicine, and as used in Section 458.3485, Florida Statutes, shall mean that the responsible physician need not be physically present on the premises but must be within close physical proximity and easily accessible.~~

(7) through (12) renumbered (6) through (11) No change.

Specific Authority 458.309, 458.315(1), 458.317(1)(c), 458.319(1), 766.314(4) FS. Law Implemented 458.303, 458.311, 458.313, 458.315(1), 458.317(1)(c), 458.331(1)(u), 458.3485, 766.314(4) FS. History—New 11-10-82, Amended 12-4-85, Formerly 21M-29.01, Amended 12-4-86, 11-15-88, 3-13-89, 1-1-92, 9-24-92, 2-21-93, Formerly 21M-29.001, Amended 4-14-94, Formerly 61F6-29.001, 59R-2.001, Amended 4-7-99, 10-2-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 6, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Disciplinary Guidelines
RULE NO.: 64B8-44.003

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth violations relating to fraud and to address violations with regard to performing health care services on the wrong patient, wrong procedures on a patient, or unauthorized procedures on a patient.

SUMMARY: The proposed rule amendments set forth violations relating to fraud and performing health care services on the wrong patient, the wrong procedures, or unauthorized procedures on a patient.

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

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

SPECIFIC AUTHORITY: 456.079, 458.309, 468.507 FS.

LAW IMPLEMENTED: 456.079, 468.517, 468.518(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.003 Disciplinary Guidelines.

(1) through (3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION

RECOMMENDED RANGE OF PENALTY

(a) through (b) No change.

(c) Attempting to procure a license by bribery, fraud, or misrepresentation or through error of the department or the council.

(468.518(1)(c), 456.072(1)(h))

(c)1. Attempting to obtain an initial license by bribery or fraud.

(c)2. Attempting to renew a license by bribery or fraud.

(c)3. Obtaining or renewing a license by fraud.

(c)4. Obtaining or renewing a license through error of the department or the council.

(c)5. Obtaining or renewing a license through negligent misrepresentation.

(d) through (e) No change.

(f) Filing a false report or failing to file a report as required.

(468.518(1)(f))

(f)1. Negligently filing a false report or failing to file a report as required.

(f)2. Fraudulently filing a false report or failing to file a report as required.

(g) False, deceptive, or misleading advertising.

(468.518(1)(g))

(g)1. Negligent false, deceptive or misleading advertising.

~~(c)1. Denial of application and \$10,000 fine. From denial or revocation of licensure with ability to reapply upon payment of a fine up to \$1,000.00 to denial of license without ability to reapply.~~

~~(c)2. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine. For a second offense, denial or permanent revocation of licensure with \$1,000.00 fine.~~

~~(c)3. For the first offense, from revocation of the license with ability to reapply upon payment o a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.~~

~~(c)4. Revocation.~~

~~(c)5. For the first offense, from a \$300 fine and 3 hours of continuing education on ethics to suspension and a reprimand and a \$1,000 administrative fine. After the first offense, from suspension and a reprimand and a \$3,000 fine to revocation or denial of application.~~

~~(f)1. For the first offense, from a letter of concern or denial of application to one (1) year probation and an administrative fine from \$300 to \$1,500. After the first offense, from one (1) year probation to revocation, and an administrative fine from \$1,500 to \$3,000. From a minimum of one year probation with conditions to revocation or denial of the license, and an administrative fine from \$100.00 to \$1,000.00.~~

~~(f)2. For the first offense, from one (1) year probation to revocation or denial of application, and a \$10,000 fine. After the first offense, from suspension to revocation and a \$10,000 fine. After the first offense, a minimum of three years probation with conditions to revocation or denial of the license, and an administrative fine from \$250.00 to \$1,000.00.~~

~~(g)1. For the first offense, from a letter of concern to one (1) year suspension or denial of application, and an administrative fine from \$300 to \$1,500. After the first offense, from reprimand to up to one (1) year suspension or denial of application, and an administrative fine from \$1,500 to \$3,000. From one year probation with conditions to one year suspension followed by at least one year probation with conditions or denial of licensure, and an administrative fine from \$250.00 to \$1,000.00.~~

(g)2. Fraudulent false, deceptive or misleading advertising.

(g)2. For the first offense, from reprimand to up to one (1) year suspension or denial of application, and an administrative fine of \$10,000. After the first offense, from suspension up to revocation and a fine of \$10,000. For a second offense, two years probation with conditions to two years suspension followed by at least one year probation with conditions or denial of licensure, and an administrative fine from \$350.00 to \$1,000.00.

(h) Committing fraud in the practice.
(468.518(1)(h))

(g)3. After the second offense, two to five years suspension followed by two years of probation with conditions to revocation or denial of licensure, and an administrative fine from \$500.00 to \$1,000.00.

(h)1. From one year probation with conditions to revocation or denial of licensure, and an administrative fine of \$10,000 from \$250.00 to \$1,000.00.

(h)2. After the first offense, from one year suspension followed by probation with conditions to revocation or denial of licensure, and an administrative fine of \$10,000 from \$400.00 to \$1,000.00.

(i) through (q) No change.

(r) Performing or attempting to perform health care services on the wrong patient, a wrong procedure, an unauthorized procedure, or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.
(456.072(1)(aa))

(r) From reprimand to revocation or denial of licensure, and an administrative fine from \$250 to \$10,000.

(5) No change.

(6) Letters of Guidance. The provisions of this rule cannot and shall not be construed to limit the authority of the probable cause panel of the Board to direct the Department to send a letter of guidance pursuant to Section 456.073(4), F.S., in any case for which it finds such action appropriate. A letter of guidance may be issued to a licensee in lieu of a finding of probable cause, pursuant to Section 456.073(4), F.S.; however, the Department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense.

(7) No change.

Specific Authority 456.079, 458.309, 468.507 FS. Law Implemented 456.079, 468.517, 468.518(2) FS. History—New 12-4-90, Formerly 21M-50.003, Amended 6-22-94, Formerly 61F6-50.003, 59R-44.003, Amended 3-16-98, 8-19-99, 9-28-00, 9-26-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2001

**DEPARTMENT OF HEALTH
Board of Medicine**

Electrolysis Council

RULE TITLE:

Disciplinary Guidelines

RULE NO.:

64B8-55.001

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth violations relating to fraud and to address violations with regard to performing health care services on the wrong patient, wrong procedures on a patient, or unauthorized procedures on a patient.

SUMMARY: The proposed rule amendments set forth violations relating to fraud and performing health care services on the wrong patient, the wrong procedures, or unauthorized procedures on a patient.

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

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

SPECIFIC AUTHORITY: 456.072, 456.079, 478.52(4) FS.
 LAW IMPLEMENTED: 456.072, 456.073, 456.079, 478.52(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

VIOLATION

(a) Attempting to obtain a license by bribery, fraud, ~~or misrepresentation, or through error of the department or the council.~~

(478.52(1)(a), 456.072(1)(h), F.S.)

(a)1. Attempting to obtain an initial licensure by bribery or fraud.

(a)2. Attempting to renew a license by bribery or fraud.

(a)3. Obtaining or renewing a license by fraud.

(a)4. Obtaining or renewing a license through error of the department or the council.

(a)5. Obtaining or renewing a license through negligent misrepresentation.

(b) through (c) No change.

(d) Filing a false report or failing to file a report as required.
 (478.52(1)(d), F.S.)

(d)1. Negligently filing a false report or failing to file a report as required.

(d)2. Fraudulently filing a false report or failing to file a report as required.

(e) False, deceptive or misleading advertising.

(478.52(1)(e), F.S.)

(e)1. Negligent false, deceptive, or misleading advertising.

64B8-55.001 Disciplinary Guidelines.

(1) through (2) No change.

(3) Violations and Range of Penalties. In imposing discipline upon applicants and licensees in proceedings pursuant to Section 120.57(1) and 120.57(2), Florida Statutes, the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty as provided in Section 456.072(2) within the range corresponding to the violations set forth below. The identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

~~(a) Denial or revocation with \$1,000 fine.~~

(a)1. Denial of application and \$10,000 fine.

(a)2. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.

(a)3. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.

(a)4. Revocation.

(a)5. For the first offense, from a \$250 fine and 3 hours of continuing education on ethics to suspension and a reprimand and a \$1,000 administrative fine.

(d)1. For the first offense, from a letter of concern or denial of application to one (1) year probation and an administrative fine from \$500 to \$5,000. After the first offense, from one (1) year probation to revocation, and an administrative fine from \$1,000 to \$5,000. From one year probation to revocation or denial, and an administrative fine from \$250 to \$5,000.

(d)2. For the first offense, from one (1) year probation to revocation or denial of application, and a \$10,000 fine. After the first offense, from suspension to revocation and a \$10,000 fine. After the first offense, from two years probation to revocation or denial, and an administrative fine from \$1,000 to \$5,000.

(e)1. For the first offense, from a letter of concern to one (1) year suspension or denial or application, and an administrative fine from \$500 to \$2,500. From reprimand to one year suspension or denial, and an administrative fine from \$500 to \$5,000.

(e)2. Fraudulent false, deceptive, or misleading advertising.

(e)2. For the first offense, from reprimand to up to one (1) year suspension or denial of application, and an administrative fine of \$10,000. After the first offense, from suspension up to revocation and a fine of \$10,000. After the first offense, from one year probation to three year suspension or denial, and an administrative fine from \$1,000 to \$5,000.

(f) through (p) No change.

(q) Practicing under a name other than that of licensee.

(478.52(1)(q), F.S.)

(q)1. Negligently practicing under a name other than that of the licensee.

(q)1. For the first offense, from one (1) year suspension to revocation or denial of application, and an administrative fine from \$250 to \$5,000. After the first offense, revocation and an administrative fine from \$1,000 to \$5,000. From two years suspension to revocation or denial, and an administrative fine from \$250 to \$5,000.

(q)2. Fraudulently practicing under a name other than that of the licensee.

(q)2. For the first offense, revocation or denial of application, and an administrative fine of \$10,000. For a second offense, revocation, and an administrative fine from \$1,000 to \$5,000.

~~(r) through (ll) No change.~~

(mm) Violating any provision of chapters 478 or 456, Florida Statutes, or any rule of the Board or Department.

(mm) Reprimand to revocation and a fine of \$250 to \$1000, depending on the severity of the offense.

(478.52(1)(v))

(nn) Performing or attempting to perform electrolysis on the wrong patient, a wrong-site procedure, a wrong procedure, an unauthorized procedure, or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

(nn) Reprimand to revocation or denial, and a fine of from \$250 to \$5,000. After the first offense, from one year suspension followed by probation to revocation or denial, and a fine of from \$1,000 to \$5,000.

(456.072(1)(aa))

(4) through (5) No change.

(6) Letters of Guidance. The provisions of this rule cannot and shall not be construed to limit the authority of the probable cause panel of the Board to direct the Department to send a letter of guidance pursuant to Section 456.073(3), Florida Statutes, in any case for which it finds such action appropriate. However, the Department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense.

(7) No change.

Specific Authority 456.072, 456.079, 478.52(4) FS. Law Implemented 456.072, ~~456.073~~, 456.079, 478.52(4) FS. History—New 11-16-93, Formerly 61F6-80.001, Amended 1-2-95, Formerly 59R-55.001, Amended 2-9-98, 10-12-98, 3-1-00, 9-28-00, 5-30-01, 8-8-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2001

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Notification and Evidence of Licensure
RULE NO.: 64B13-4.008

PURPOSE AND EFFECT: The Board finds that this rule is unnecessary. Staff routinely sends out timely notices to applicants who pass an examination, and the law determines when a successful applicant may lawfully begin practice.

SUMMARY: The rule is being repealed.

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

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

SPECIFIC AUTHORITY: 456.017(1), 463.006(2) FS.

LAW IMPLEMENTED: 455.564, 456.017(1), 463.006(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.008 Notification and Evidence of Licensure.

Specific Authority 456.017(1), 463.006(2) FS. Law Implemented 455.564, 456.017(1), 463.006(2) FS. History--New 6-18-92, Formerly 21Q-4.008, 61F8-4.008, Amended 11-21-94, Formerly 59V-4.008, Amended 3-21-00, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Optometry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2002

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Examination Review Fee RULE NO.: 64B13-6.002

PURPOSE AND EFFECT: The rule is not authorized. The Department has the authority to determine the costs of examination review.

SUMMARY: The rule is being repealed.

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

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

SPECIFIC AUTHORITY: 463.005(1) FS.

LAW IMPLEMENTED: 456.017(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-6.002 Examination Review Fee.

Specific Authority 463.005(1) FS. Law Implemented 456.017(2) FS. History--New 11-2-90, Formerly 21Q-6.002, 61F8-6.002, 59V-6.002, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Optometry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2002

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Certified Optometrist Examination RULE NO.: 64B13-10.0015

PURPOSE AND EFFECT: The Board is no longer administering the certification examination and therefore the rule is being repealed.

SUMMARY: The rule is being repealed.

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

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

SPECIFIC AUTHORITY: 456.017(1), (2), 463.005(1) FS.

LAW IMPLEMENTED: 456.017(1), (2), 463.0055 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-10.0015 Certified Optometrist Examination.

Specific Authority 456.017(1),(2), 463.005(1) FS. Law Implemented 456.017(1),(2), 463.0055 FS. History--New 3-16-89, Amended 5-29-90, 7-10-91, Formerly 21Q-10.0015, 61F8-10.0015, Amended 10-4-94, Formerly 59V-10.0015, Amended 3-21-00, 7-12-00, 2-7-01, 10-30-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Optometry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2002

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Licensure by Examination; Additional RULE NO.: 64B19-11.004

Educational Requirements for Initial

Licensure

PURPOSE AND EFFECT: The proposed rule amendment is intended to specify that prior to licensure, all applicants must document instruction on the prevention of medical errors.

SUMMARY: The proposed rule amendment implements instruction on the prevention of medical errors as a condition of initial licensure.

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

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

SPECIFIC AUTHORITY: 490.004(4), 456.031, 456.013(7) FS.

LAW IMPLEMENTED: 456.031, 456.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.004 Licensure by Examination: Additional Educational Requirements for Initial Licensure Course on Domestic Violence.

(1) Before licensure, each applicant shall comply with the requirements of Section 456.031, F.S., and shall demonstrate compliance by completing and submitting PY FORM 3.domviol (rev. 12/01), "Domestic Violence Affirmation Form," effective 3-24-02, which is incorporated herein by reference and which may be obtained from the Board office. Courses on domestic violence approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.031, Florida Statutes, are approved by this Board.

(2) Before licensure, each applicant shall comply with the requirements of Section 456.013(7), F.S., regarding instruction on prevention of medical errors.

Specific Authority 490.004(4), 456.031, 456.013(7) FS. Law Implemented 456.031, 456.013(7) FS. History--New 8-12-90, Amended 11-18-92, 7-14-93, Formerly 21U-11.0063, Amended 6-14-94, Formerly 61F13-11.0063, Amended 1-7-96, Formerly 59AA-11.004, Amended 8-3-97, 3-24-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 15, 2002

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Income and Resource Criteria
 RULE NO.: 65A-1.716

PURPOSE AND EFFECT: This proposed rule amendment updates federal poverty income guidelines used in determining Medicaid eligibility.

SUMMARY: This rule amendment will bring federal poverty standards in the rule to 2002 levels.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for this rule.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., May 20, 2002

PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, FL 32399-0700. Telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.716 Income and Resource Criteria.

(1) The monthly federal poverty level figures based on the size of the filing unit are as follows:

Filing Unit Size	90% of Poverty Guideline	100% of Poverty Guideline	120% of Poverty Guideline	133% of Poverty Guideline
1	665 645	739 716	886 859	982 953
2	896 871	995 968	1194 1161	1324 1287
3		1252 1220		1665 1622
4		1509 1471		2007 1957
5		1765 1723		2348 2291
6		2022 1975		2689 2626
7		2279 2226		3031 2961
8		2535 2478		3372 3296
9		2792 2730		3713 3630
10		3049 2981		4055 3965
11		3305 3233		4396 4300
12		3562 3485		4738 4634
Add each add. person		257 252		342 335

Filing Unit Size	135% of Poverty Guideline	175% of Poverty Guideline	185% of Poverty Guideline	200% of Poverty Guideline
1	\$997 967	\$1293 1253	\$1366 1325	\$1477 1432
2	1344 1307	1742 1694	1841 1790	1990 1935
3			2316 2256	2504 2439
4			2791 2722	3017 2942
5			3266 3187	3530 3445
6			3741 3653	4044 3949
7			4215 4118	4557 4452
8			4690 4584	5070 4955
9			5165 5049	5584 5459
10			5640 5515	6097 5962
11			6115 5981	6610 6465
12			6590 6446	7124 6969
Add each add. person			\$475 466	\$514 504

(2) through (5) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New 10-8-97, Amended 12-9-99, 2-15-01, 11-26-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rodney McInnis, Operations Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy Bureau – Policy Support Unit

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 8, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Quota Hunt Permits and Special-Opportunity Permits – Application; Selection; Issuance

RULE NO.: 68A-5.005

PURPOSE AND EFFECT: The purpose of the proposed changes is to modify the permit selection procedures for special-opportunity hunts to establish a selection preference for unsuccessful applicants and to apportion permits among residents and non-residents.

SUMMARY: The proposed changes would establish a preference for special-opportunity hunt applicants who were unsuccessful the previous year. Each application submitted by preference-eligible applicants will count as two applications for the purpose of the drawing thereby doubling that individual’s chances for being selected for the same WMA and same type of hunt.

The proposed changes would limit the proportion of special-opportunity hunt permits available for non-residents. Under this proposal, no more than 10% of the total permits

available for each specific hunt would be available for issuance to non-residents, except where 10% is less than one permit, in which case 1 permit may be available for non-residents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$275 for administrative preparation and \$183 for legal advertising. No other significant economic impacts are expected.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., each day, May 29, 30 and 31, 2002

PLACE: World Golf Village Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-5.005 Quota Hunt Permits and Special-Opportunity Permits – Application; Selection; Issuance.

(1) through (2) No change.

(a) through (l) No change.

(m) Notwithstanding other provisions of this rule, unsuccessful applicants for special-opportunity hunts shall be eligible to receive preference in the drawing the subsequent year. Preference shall only apply to applications submitted for the same type of hunt and for the same area for which the applicant was unsuccessful in receiving a permit the previous year. The preference factor shall be that each such application submitted will count as two applications for the purpose of the drawing. The preference factor shall remain in effect for each successive year provided an application is submitted annually or until such time that a permit is issued.

(n) No more than ten percent of the special-opportunity permits for each specific hunt shall be issued to non-residents provided that at least one permit may be available to a non-resident in the event that the ten percent calculation results in a number less than one.

(3) through (4) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.57(4)(f) FS. History—New 7-1-85, Formerly 39-5.05, Amended 6-1-86, 5-10-87, 4-13-88, 7-1-89, 4-11-90, 4-14-92, 6-1-97, 4-12-98, Formerly 39-5.005, Amended 6-23-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Permits for Hunting or Other Recreational Use on Type I Wildlife Management Areas
RULE NO.: 68A-9.004

PURPOSE AND EFFECT: The purpose of the proposed changes is to establish a recreational user permit fee and quota for Twelve Mile Swamp Wildlife Management Area depending upon the outcome of negotiations with the landowner.

SUMMARY: The proposed changes would establish a recreational user permit fee and quota for Twelve Mile Swamp Wildlife Management Area. The specific permit fee and quota will be determined through negotiations with the landowner.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$185 for administrative preparation and \$115 for legal advertising. No other significant economic impacts are expected.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., each day, May 29, 30 and 31, 2002

PLACE: World Golf Village Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida 32092

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-9.004 Permits for Hunting or Other Recreational Use on Type I Wildlife Management Areas.

- (1) No change.
(a) No change.

(b) The cost of recreational user permits as required for hunting on the following privately owned wildlife management areas as provided by s. 372.57(4)(b)2., F.S., shall be:

- 1. Nassau WMA - \$197
2. San Pedro Bay WMA - \$225
3. Moore's Pasture WMA - \$125
4. Bluewater Creek - \$180
5. Flint Rock - \$206

6. Twelve Mile Swamp - an adjustment to the user pay fee established by the Commission may be made pursuant to negotiations with the landowner.

(c) The total number of permits available for each of the following privately owned wildlife management areas established pursuant to s. 372.57(4)(b)2., F.S., shall be:

- 1. Nassau WMA - 600
2. San Pedro Bay WMA - 300
3. Moore's Pasture WMA - 500
4. Bluewater Creek - 400
5. Flint Rock - 450

6. Twelve Mile Swamp - an adjustment to the number of permits established by the Commission may be made pursuant to negotiations with the landowner.

(d) through (f) No change.

(2) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 372.121, 372.57, 375.313 FS. History-New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.04, Amended 6-2-86, 11-1-89, 7-16-98, 5-13-99, Formerly 39-9.004, Amended 7-1-00, 5-29-01, 7-22-01.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Specific Regulations for Type I Wildlife Management Areas - Northeast Region
RULE NO.: 68A-15.065

PURPOSE AND EFFECT: The purpose of the proposed changes is to establish specific regulations for Twelve Mile Swamp Wildlife Management Area depending upon the outcome of negotiations with the landowner.

SUMMARY: The proposed changes would establish specific regulations for Twelve Mile Swamp Wildlife Management Area. Specific regulations will be determined through negotiations with the landowner.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$275 for administrative preparation and \$375 for legal advertising. No other significant economic impacts are expected.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., each day, May 29, 30 and 31, 2002.

PLACE: World Golf Village Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida 32092

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.065 Specific Regulations for Type I Wildlife Management Areas – Northeast Region.

(1) through (30) No change.

(31) Twelve Mile Swamp Wildlife Management Area.

Proposed area regulations may be modified pursuant to negotiations with the landowner.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 375.313 FS. History–New 6-21-82, Amended 6-29-82, 7-1-83, 7-5-84, 10-1-84, 7-1-85, 5-7-86, 5-10-87, 5-1-88, 7-1-89, 12-19-89, 7-1-90, 7-1-91, 7-2-91, 7-2-92, 7-1-93, 7-1-94, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 7-1-99, Formerly 39-15.065, Amended 12-20-99, 7-1-00, 12-26-00, 7-1-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE TITLES:	RULE NOS.:
Minimum Size Limits	68B-24.003
Bag Limit	68B-24.004
Gear: Traps, Buoys, Identification Requirements, Prohibited Devices	68B-24.006

PURPOSE AND EFFECT: The purpose of these rule amendments is to increase the number of undersize spiny lobster that may be possessed aboard a commercial trapping vessel for use as attractants, clarify the vessel possession limit applicable to special recreational harvesters, and specify slat spacing in wood traps allowed to be armored with wire on vertical surfaces. The effect of these changes will be to allow commercial spiny lobster trappers more flexibility in moving and baiting trap lines, assure that special recreational harvesters cannot possess more spiny lobster aboard a vessel than was originally intended, and clarify that armored wood traps must be capable of harvesting spiny lobster prior to wire being attached on the vertical surfaces.

SUMMARY: Subsection (3) of Rule 68B-24.003, F.A.C., is amended to allow commercial spiny lobster trappers to possess 50 undersize lobsters to use as attractants plus one undersize lobster for each trap aboard the vessel. Subsection (3) of Rule 68B-24.004, F.A.C., is amended to clarify that the vessel possession limit applicable to special recreational harvesters of spiny lobster is 50 regardless of the number of special or regular harvesters aboard the vessel. Paragraph (2)(a) of Rule 68B-24.006, F.A.C., is amended to specify minimum and maximum spacing of wood slats in traps using wire for armoring, beginning in August, 2003.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES: None prepared.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD DURING THE COMMISSION’S REGULAR MEETING, AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 29-31, 2002

PLACE: World Golf Village Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-24.003 Minimum Size Limits.

(1) through (2) No change.

(3) The holder of a valid crawfish license or trap number, lobster trap certificates, and a valid saltwater products license issued by the Fish and Wildlife Conservation Commission may

harvest and possess, while on the water, undersized spiny lobster not exceeding 50 per boat and ~~or~~ 1 per trap aboard each boat, ~~whichever is greater~~, if used exclusively for luring, decoying, or otherwise attracting noncaptive spiny lobster into traps. Such undersized spiny lobster shall be kept alive, while in possession, in a shaded continuously circulating live well with pump capacity to totally replace the water at least every 8 minutes and large enough to provide at least 3/4 gallon of seawater per lobster. All undersized lobster so maintained shall be released to the water alive and unharmed immediately upon leaving the trap lines and prior to 1 hour after official sunset.

(4) through (5) No change.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 3-1-92, 6-1-94, Formerly 46-24.003, Amended.

68B-24.004 Bag Limit.

(1) through (2) No change.

(3) Special Recreational Crawfish (Spiny Lobster) Bag Limit – No person who possesses a valid special recreational crawfish license issued by the Fish and Wildlife Conservation Commission pursuant to Section 370.063, Florida Statutes, shall harvest in any one day during the regular season specified in Rule 68B-24.005(1), more than 50 spiny lobster; provided, however, when one ~~two~~ or more persons possessing a valid special recreational crawfish license such harvesters are aboard a single vessel in or on state waters, together with any number of regular recreational harvesters, no more than 50 spiny lobster shall be possessed aboard such vessel, ~~irrespective of the number of regular recreational harvesters also aboard.~~

(4) No change.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 7-1-92, 6-1-94, 10-4-95, Formerly 46-24.004, Amended.

68B-24.006 Gear: Traps, Buoys, Identification Requirements, Prohibited Devices.

(1) No change.

(2) No person shall, in state waters, fish with, set, place, or cause to be fished with, set, or placed, any trap except a wood trap or plastic trap meeting the following specifications:

(a) Wood slat traps shall be no larger in dimension than 3 feet, by 2 feet, by 2 feet, or the volume equivalent. Such traps may be reinforced with wire mesh no heavier than 9 gauge, which shall only be affixed to the wood slats constituting the vertical surfaces of such traps. Beginning August 1, 2003, wire-reinforced wooden slat traps shall be constructed with wood slats that are a minimum of 1 1/4 inches wide, with a maximum spacing between slats of 2 1/4 inches.

(b) Plastic traps shall be no larger in dimension than 3 feet, by two feet, by 2 feet, or the volume equivalent, and shall have a degradable panel no smaller than 6 inches in length and 4 inches in width located on the top horizontal section of the

trap. The panel shall only be considered degradable if it is constructed of cypress or untreated pine slats no thicker than 3/4 inch.

(c) The throats or entrances to all traps used to harvest spiny lobster shall be located on the top horizontal section of the trap, and shall be measured using the inside dimensions of the throat. If the throat is longer in one dimension, the throat size in the longer dimension shall not be smaller than 6 inches and in the shorter dimension shall not be smaller than 3 1/2 inches. If the throat is round or square, the throat size shall not be smaller than 5 1/2 inches in diameter or per side, respectively.

(3) through (9) No change.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 3-1-92, 7-1-92, 6-1-94, 10-4-95, 9-30-96, 6-1-99, 7-1-01, Formerly 46-24.006, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Fish and Wildlife Conservation Commission
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE TITLE: Big Bend Region Closed Areas; Seasonal Closures

RULE NO.:

68B-31.017

PURPOSE AND EFFECT: The purpose of this rule amendment is to adjust the Big Bend Region closure line in Dixie County to allow shrimping on 5,900 acres of bottom previously closed. The adjustment gives relief to the county's live bait shrimp harvesters, while continuing to protect the area's shallowest nursery waters. The effect will be to make waters closer to shore available for shrimpers and reduce their transportation costs.

SUMMARY: Subsection (1) of Rule 68B-31.017, F.A.C., is amended to adjust the shrimping closure in Dixie County slightly to the north, to allow additional area for shrimping.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD DURING THE COMMISSION'S REGULAR MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 29-31, 2002

PLACE: World Golf Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-31.017 Big Bend Region Closed Areas; Seasonal Closures.

(1) Beginning January 1, 1994, no person shall harvest shrimp in the areas of Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, and Pasco Counties landward of the line described as:

Beginning at Bailey's Bluff in Pasco County (Point A); thence northerly to Point B; thence northeasterly to Point C; thence northerly to Point D; thence northeasterly to Point E; thence northerly to Point F; thence northwesterly to Point G; thence northerly to Point H; thence northwesterly to Point I; thence northerly to Point J; thence northwesterly to Point K; thence southwesterly to Point L; thence northwesterly to Point M; thence northerly to Point N; thence northwesterly to Point O; thence northerly to Point P; thence northwesterly to Point Q; thence northerly to Point R; thence northwesterly to Point S; thence southwesterly to flashing channel marker #1 in St. Marks Channel; thence northerly to the St. Marks Lighthouse. Points B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, and S are expressed as follows by longitude and latitude ~~and Loran notations (Loran notations are unofficial and are included only for the convenience of fishers.):~~

Point	Loran Chain		North Latitude	West Longitude
	W	X		
B	44930	62920	28° 16.68'	82° 47.21'
C	44930	62910	28° 18.28'	82° 45.68'
D	45000	62910	28° 26.93'	82° 45.95'
E		45000	28° 28.43'	82° 44.49'
F	44375	62900	28° 43.53'	82° 45.22'
G	44375	62910	28° 44.38'	82° 46.71'
H	44410	62910	28° 57.91'	82° 47.53'
I	44410	62930	28° 59.41'	82° 50.41'
J	44420	62930	29° 03.28'	82° 50.66'
K	44420	45420	29° 06.91'	82° 57.81'
L	44405	45420	29° 03.38'	83° 01.42'
M	44405	63060	29° 07.30'	83° 08.78'
N	44440	63110	29° 22.98'	83° 15.89'
O	44440	63190	29° 29'58" 29° 28.22'	83° 26.72' 83° 26.58'
P	44470	63190	29° 38.25'	83° 26.66'
Q	44475	63250	29° 43.36'	83° 34.39'
R	44495	63295	29° 52.40'	83° 40.11'
S	44495	46450	30° 00.04'	84° 07.63'

(2) No person shall harvest shrimp in the Big Bend Region as a food shrimp producer during the period beginning July 1 and continuing through August 31 of each year.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 11-29-93, Formerly 46-31.017, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Fish and Wildlife Conservation Commission
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE TITLE: Horseshoe Crabs Harvest Restrictions: RULE NO.:

License Requirements, Gear Specifications, Daily Bag and Possession Limits 68B-46.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to implement a permitting system for the collection of horseshoe crabs for biomedical purposes. Secondly, horseshoe crabs are declared to be saltwater products for purposes of reporting landings of the animals. The effect of this rulemaking will be to provide the information necessary to fully assess the biological health of horseshoe crab populations and the impact of biomedical collection and release.

SUMMARY: Subsection (1) of Rule 68B-46.002, F.A.C., is amended to state that horseshoe crabs are considered saltwater products under s. 370.07(6), F.S. Subsection (3) of the rule is amended to add a new sub-subparagraph (3)(b)3., which establishes a new Horseshoe Crab Biomedical Collecting Permit. The permit will allow such collectors to temporarily possess horseshoe crabs for the purpose of collecting the blood of the animal. The rule amendment also requires an annual report to allow the FWCC to assess the effect of this use of the resource. The reports are to be made on a form incorporated by reference.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES: None prepared.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD DURING THE COMMISSION’S REGULAR MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 29-31, 2002

PLACE: World Golf Village Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-46.002 Horseshoe Crabs Harvest Restrictions: License Requirements, Gear Specifications, Daily Bag and Possession Limits.

(1) No person shall harvest, possess, or sell any horseshoe crab unless that person possesses a valid saltwater products license. Horseshoe crabs shall be considered saltwater products for purposes of Section 370.07(6), Florida Statutes.

(2) The harvest or attempted harvest of any horseshoe crab by or with the use of any means or gear other than by hand or gig is prohibited.

(3)(a) Except as provided in paragraph (b), no person shall harvest in any day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 25 horseshoe crabs. No such person shall possess more than 25 horseshoe crabs while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

(b)1. The following bag and possession limits apply to a person with a valid saltwater products license with a marine life endorsement:

a. No such person shall harvest in any one day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 100 horseshoe crabs.

b. No such person shall possess more than 100 horseshoe crabs while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

2. The following bag and possession limits apply to a person with a valid saltwater products license and a valid permit to harvest eels commercially in the freshwaters of the state:

a. No such person shall harvest in any one day, within or without the waters of the state, land, or possess while in or on the saltwaters of the state more than 100 horseshoe crabs.

b. No such person shall possess more than 100 horseshoe crabs while in, on, or above the saltwaters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

3. The following provisions apply to each person collecting horseshoe crabs for biomedical purposes:

a. No person shall collect horseshoe crabs for biomedical purposes without possessing a valid Horseshoe Crab Biomedical Collecting Permit. This is not a harvesting permit, but rather, allows the holder to temporarily possess horseshoe crabs for the purpose of collecting the blood of the animal.

b. Horseshoe crabs collected for biomedical purposes shall be handled so as to minimize injury, maintained alive, and released alive in the area where collected.

c. Persons possessing a valid Horseshoe Crab Biomedical Collecting Permit are exempted from bag and possession limits specified in paragraph (a) of this subsection, if the horseshoe crabs collected are maintained and released alive.

d. The Horseshoe Crab Biomedical Collection Permit shall be renewed each year if the holder files the report required in subparagraph e.

e. Each person holding a Horseshoe Crab Biomedical Collection Permit shall file with the Division of Marine Fisheries by May 1 each year a report detailing the use of horseshoe crabs. Such reports will be filed on forms provided by the Division (Form DMF-HSC001 (7-02)) and will include, a monthly account of the number of crabs collected, areas where horseshoe crabs were collected, statement of percent mortality up to the point of release, and a certification that collected horseshoe crabs are solely used by the biomedical facility for biomedical purposes and not for other purposes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-30-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Resources

RULE TITLE: Commission Policy Regarding the Assessment of Administrative Penalties
RULE NO.: 68E-18.010

PURPOSE AND EFFECT: The purpose of this new rule is to establish the policy of the Fish and Wildlife Conservation Commission regarding the assessment of administrative penalties against those who fish spiny lobster traps without trap tags required by law and rule. The effect of this rule will be to place violators on notice how the Commission will mete out penalties within the maximums establish by law for this serious offense.

SUMMARY: Proposed new Rule 68E-18.010, F.A.C., establishes the Commission’s policy for assessing administrative penalties for first, second, and third and subsequent violations involving use of spiny lobster traps without current year trap tags attached thereto.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD DURING THE COMMISSION’S REGULAR MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 – 5:00 p.m., each day, May 29-31, 2002

PLACE: World Golf Village Renaissance Resort, 500 South Legacy Trail, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68E-18.010 Commission Policy Regarding the Assessment of Administrative Penalties.
It shall be the policy of the Commission to assess administrative penalties pursuant to s. 370.142(2)(c)4, Florida Statutes, for a violation involving use of spiny lobster traps without current year trap tags as required by s. 370.142(2)(b), F.S.

(1) For a first violation of the referenced regulation, a penalty of up to \$1000 shall be assessed and the crawfish trap number (also known as the crawfish endorsement) issued pursuant to s. 370.142(2), F.S., may be suspended for the remainder of the current license year. The Commission shall assess these penalties as follows:

(a) \$25 per untagged trap for the possession or use of up to and including 20 untagged lobster traps;

(b) \$1000 and suspension of the crawfish endorsement for the remainder of the current license year for possession or use of 21 or more untagged lobster traps.

(2) For a second violation of the referenced regulation occurring within 24 months of any previous such violation, an administrative penalty of up to \$2000 shall be assessed and the crawfish endorsement may be suspended for the remainder of the current license year. The Commission shall assess these penalties as follows:

(a) \$50 per untagged trap for the possession or use of nine (9) or fewer such traps plus suspension of the crawfish endorsement for the remainder of the current license year;

(b) \$75 per untagged trap for possession or use of 10 up to and including 20 such traps plus suspension of the crawfish endorsement for the remainder of the current license year;

(c) \$2000 and suspension of the crawfish endorsement for the remainder of the current license year for possession or use of 21 or more untagged spiny lobster traps.

(3) For a third or subsequent violation within 36 months of any previous two such violations, an administrative penalty of up to \$5000 shall be assessed and the crawfish endorsement may be suspended for up to 24 months or permanently revoked or the Commission may proceed against the saltwater products license pursuant to s. 370.021(2)(e), F.S. The Commission shall assess these penalties as follows:

(a) \$100 per untagged spiny lobster trap and suspension of the crawfish endorsement for 12 months for possession or use of one (1) to nine (9) untagged traps;

(b) \$250 per untagged spiny lobster trap and suspension of the crawfish endorsement for 24 months for possession or use of 10 to 19 untagged traps ;

(c) \$5000 and revocation of the crawfish endorsement and saltwater products license for possession or use of 20 or more untagged spiny lobster traps.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Fish and Wildlife Conservation Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.:	RULE TITLE:
1S-2.032	Uniform Primary and General Election Ballot

NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-2.032, published in the Florida Administrative Weekly, Pages 5844-5845, Vol. 27, No. 50, on December 14, 2001, has been changed to reflect