

paragraphs (6) and (7) below. This provision shall apply only to residential facilities seeking initial licensure or licensure in a different licensing category after the effective date of this rule.

(4) For facilities seeking initial licensure or licensure in a different licensing category after the effective date of this rule, no more than two (2) licensed residential facilities shall be sited within 1,000 feet of an existing licensed residential facility(ies). Accordingly, no more than a total of three (3) licensed residential facilities shall be sited within a 1,000 foot radius. Distance shall be measured along a radius from the center of the actual site where the new proposed residential facility is to be located in all directions. The facility seeking initial licensure or a change in an existing license shall be included in the computation of numbers of facilities within the 1,000 foot radius.

(5) All facilities seeking initial licensure or licensure in a different licensing category after the effective date of this rule must also fully comply with the requirements of Section 419.001, Fla. Stat. (2001), to the extent applicable.

(6) Exceptions to paragraphs (2) and (3) may be granted for the following reasons:

(a) The parcel is completely divided by a body of water, or a limited access highway which is impossible for an individual to cross on foot, by bicycle, by motor vehicle or other means of transport conveyance and which would separate the facilities.

(b) The exception would improve opportunities for community integration for individuals with developmental disabilities in rural areas. A rural area is defined as an area where the number of dwelling units for the parcel allowed by the comprehensive plan, as required by Section 163.3167, Fla. Stat., is one (1) dwelling unit per acre or fewer.

(c) Where the level of concentration of licensed residential facilities and the overall character of the neighborhood can be shown to be such that an exception, permitting licensure of a new residential facility in the area, would still be consistent with maximum integration of individuals with developmental disabilities into the community, including in their places of residence.

(7) The Director of the Developmental Disabilities Program shall make the final decision as to whether an exception should be granted. The burden of proving the appropriateness of an exception shall be with the applicant.

Specific Authority 393.067, 393.501 FS. Law Implemented 393.063, 393.066, 393.067, 393.13, 393.501 FS. History—New

Section II Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

| | |
|--|------------|
| RULE TITLES: | RULE NOS.: |
| Merchandise Trust Funds – Status of Accounts | 3F-7.007 |
| Trust Agreements and Trustees | 3F-7.015 |

PURPOSE AND EFFECT: The Board proposes to amend Rule 3F-7.007, F.A.C., to remove obsolete language and Rule 3F-7.015, F.A.C., is being amended to add a new subsection (5) regarding the transfer of assets to another trust fund.

SUMMARY: Rule 3F-7.007, F.A.C., explains what the merchandise trust fund is for, where the monies deposited come from, what happens to the funds while in the trust, and how the funds are disbursed when disbursements are due. Rule 3F-7.015, F.A.C., explains the requirements of trust agreements and their approval and now sets forth how and when it is permissible to transfer assets to another trust account.

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: 497.103 FS.

LAW IMPLEMENTED: 497.237, 497.337 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING DATE WILL BE SCHEDULED AND ANNOUNCED IN THE FAW. (IF NOT REQUESTED IN WRITING, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, FL 32399-0350

THE FULL TEXT OF THE PROPOSED RULES IS:

3F-7.007 Merchandise Trust Funds – Status of Accounts.
For purposes of merchandise trust funds, under the provisions of the Funeral and Cemetery Act prior to implementation of 93-399, Laws of Florida, a merchandise trust fund ~~created in~~ ~~uniformity with the requirements of the Florida Cemetery Act~~ is in the nature of a master account (“the Fund”) used for

investment purposes and is made up of commingled individual accounts deposited into the Fund in connection with the individual contracts between the cemetery company and its customers. Each of these accounts ~~is~~ ~~are~~ to be established and retained in the Fund together with any income it might earn until certain events shall occur and it is determined to whom the principal of the account plus any earnings should be distributed. ~~The Under the Florida Cemetery Act, the~~ principal of the account plus any earnings may be paid to the cemetery company upon the delivery of the merchandise or performance of the services or to the purchaser or his legal representative in the event that the cemetery company does not deliver the merchandise or perform the services when needed.

The principal and any accrued earnings or losses in such separate account is to be held in suspense until the final determination is made to which party the account will be paid. At the time of withdrawal of the amount in the account, either the seller, cemetery company, or the purchaser or his representative is entitled to not only the principal amount deposited in the account, but also any accrued earnings on the account from the time of the deposit until the time of withdrawal.

Specific Authority 20.05(5), 497.103 FS. Law Implemented 497.337 FS. History—New 11-15-83, Formerly 3D-30.31, 3D-30.031, Amended.

3F-7.015 Trust Agreements and Trustees.

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

(5) Transfer of assets to another trust agreement is permissible provided the trust agreement was approved by the Board, if applicable, and the terms of both trust agreements are consistent and meet the requirements of Rule 3F-7.020, F.A.C.
~~(6)(5)~~ No change.

Specific Authority 497.103 FS. Law Implemented 497.237 FS. History—New 4-25-94, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral and Cemetery Services

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 30, 2002

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: General Requirements RULE NO.: 6F-1.001

PURPOSE AND EFFECT: The purpose of the proposed repeal of the rules is to combine all rules pertaining to the Commission into the 6E chapter. The effect is that the

administration of the Commission and licensure of institutions will be simplified and the information will be coordinated in one place.

SUMMARY: Repeal of this rule is part of a plan to consolidate all rules related to the Commission in one chapter, 6E. Currently the rule listed above contains provisions regarding election of officers of the State Board of Nonpublic Career Education, other actions required to be taken at the last meeting in each fiscal year, reporting the status of the Student Protection Fund at each meeting, and implementing the Institutional Assessment Trust Fund. Each provision is covered either in the new law, Ch. 1005, F.S., or in the new 6E rules.

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: 1005.22(1)(e) FS.

LAW IMPLEMENTED: 1005.22(1)(e) 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: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)488-8695

THE FULL TEXT OF THE PROPOSED RULE IS:

6F-1.001 General Requirements.

Specific Authority 246.205(1), 246.207(1)(e), 246.213 FS. Law Implemented 120.53(1)(b), 246.207(1)(e), 246.213(1), 246.215(1), 246.217(3), 246.226, 246.2265, 246.228 FS. History—New 12-19-74, Formerly 6F-7.01, Amended 7-26-78, 5-10-84, Formerly 6F-1.01, Amended 5-27-87, 7-17-90, 10-3-91, 3-29-93, 12-4-95, 1-22-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLES: Certificate of License for Schools 6F-2.001
Change in Ownership 6F-2.0015
Change in Control 6F-2.0016
Student Protection Fund 6F-2.0017

| | |
|--|-----------|
| Minimum Standards for Licensure of Schools | 6F-2.002 |
| Fair Consumer Practices | 6F-2.0024 |
| Fee Schedule | 6F-2.0026 |
| School Descriptive Inventory | 6F-2.003 |
| Advertising | 6F-2.004 |

PURPOSE AND EFFECT: The purpose of the proposed repeal of the rules is to combine all rules pertaining to the Commission into the 6E chapter. The effect is that the administration of the Commission and licensure of institutions will be simplified and the information will be coordinated in one place.

SUMMARY: Repeal of the rules is part of a plan to consolidate all rules related to the Commission in one chapter, 6E. Currently the rules listed above contain provisions regarding: required contents of an application for licensure; grounds for revocation or suspension of licensure; types of licensure and the requirements for each; changes in programs or operations of licensed schools; changes of ownership or control of a licensed school; establishment and administration of the Student Protection Fund; standards for licensure of nonpublic career schools, including financial stability, qualified administrators and faculty, curriculum guidelines, basic skills testing and training, and placement services; fair consumer practices, including retention of student academic records, refunds, recruiting and admissions practices, disclosure of fees, enrollment agreements, and orderly closure of a licensed school; workload fees to generate adequate revenue for the budgeted expenses of the board, which was not supported by General Revenue; documentation required in an application for license or annual review of licensure; and requirements that advertising be honest, accurate, and not misleading. Each provision is covered either in the new law, Ch. 1005, F.S., or in the new 6E rules.

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: 1005.22(1)(e) FS.

LAW IMPLEMENTED: 1005.22(1)(e) 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: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)488-8695

THE FULL TEXT OF THE PROPOSED RULES IS:

6F-2.001 Certificate of License for Schools.

Specific Authority 246.205(1), 246.207(1)(e), 246.213, 246.219 FS. Law Implemented 120.60, 246.207(1)(e), 246.213, 246.215, 246.217, 246.219 FS. History—New 12-19-74, Formerly 6F-6.01, Amended 7-26-78, 5-10-84, Formerly 6F-2.01, Amended 5-27-87, 7-17-90, 10-3-91, 3-29-93, 11-27-95, 1-22-01, Repealed.

6F-2.0015 Change in Ownership.

Specific Authority 246.205(1), 246.207(1)(e), 246.213(1) FS. Law Implemented 246.207(1)(e), 246.213, 246.215 FS. History—New 7-17-90, Amended 3-29-93, 1-22-01, Repealed.

6F-2.0016 Change in Control.

Specific Authority 246.207(1)(e), 246.213 FS. Law Implemented 246.213, 246.215 FS. History—New 7-17-90, Amended 3-29-93, 8-17-98, 1-22-01, Repealed.

6F-2.0017 Student Protection Fund.

Specific Authority 246.207(1)(e), 246.213 FS. Law Implemented 246.207(1)(e),(2)(g), 246.213(1) FS. History—New 10-3-91, Amended 12-4-95, 9-9-98, 1-22-01, Repealed.

6F-2.002 Minimum Standards for Licensure of Schools.

Specific Authority 246.207(1)(e), 246.213, 246.222 FS. Law Implemented 246.207(1)(e), 246.213(2)(a),(b),(d), 246.215(1), 246.222 FS. History—New 12-19-74, Formerly 6F-5.01, Amended 7-26-78, 11-14-78, 5-10-84, Formerly 6F-2.02, Amended 5-27-87, 7-16-89, 7-17-90, 5-14-91, 10-3-91, 3-29-93, 12-4-95, 1-22-01, Repealed.

6F-2.0024 Fair Consumer Practices.

Specific Authority 246.207(1)(e), 246.213 FS. Law Implemented 246.207(1)(e), 246.213(2)(a), 246.2235 FS. History—New 11-27-95, Amended 1-22-01, Repealed.

6F-2.0026 Fee Schedule.

Specific Authority 246.205(1), 246.207(1)(e), 246.213 FS. Law Implemented 120.53(1)(b), 246.207(1)(e),(2)(g), 246.213(1), 246.215(1), 246.217(3), 246.226, 246.2265, 246.228 FS. History—New 11-27-95, Amended 1-22-01, Repealed.

6F-2.003 School Descriptive Inventory.

Specific Authority 246.207(1)(e), 246.213 FS. Law Implemented 246.207(1)(e), 246.213(2)(a), 246.217(1), 246.2235(6) FS. History—New 12-19-74, Formerly 6F-4.01, Amended 7-26-78, 5-10-84, Formerly 6F-2.03, Amended 5-27-87, 7-5-89, 7-17-90, 10-3-91, 11-27-95, 1-22-01, Repealed.

6F-2.004 Advertising.

Specific Authority 246.207(1)(d), 246.213 FS. Law Implemented 246.213(2), 246.215(3), 246.228(1)(h) FS. History—New 12-19-74, Formerly 6F-5.01(1)(g), Amended 7-26-78, 5-10-84, Formerly 6F-2.04, Amended 5-27-87, 11-27-95, 1-22-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLES:

Agents; License Required
Agents; Qualifications, Training, Limitation
of Authority, Responsibilities of Schools,
Agents, and Applicants

RULE NOS.:

6F-3.001
6F-3.002

PURPOSE AND EFFECT: The purpose of the proposed repeal of the rules is to combine all rules pertaining to the Commission into the 6E chapter. The effect is that the administration of the Commission and licensure of institutions will be simplified and the information will be coordinated in one place.

SUMMARY: Repeal of this rule is part of a plan to consolidate all rules related to the Commission in one chapter, 6E. Currently the rules listed above contain provisions regarding the requirements and procedures for licensure of recruiting agents employed by nonpublic career schools to solicit students for enrollment. Each provision is covered either in the new law, Ch. 1005, F.S., or in the new 6E rules.

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: 1005.22(1)(e) FS.

LAW IMPLEMENTED: 1005.22(1)(e) 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: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, telephone (850)488-8695

THE FULL TEXT OF THE PROPOSED RULES IS:

6F-3.001 Agents; License Required.

Specific Authority 246.207(1)(e), 246.213 FS. Law Implemented 246.207(1)(e), 246.213(3), 246.215(2), 246.219 FS. History--New 12-19-74, Formerly 6F-5.01(2), Amended 10-7-75, 7-26-78, 5-10-84, Formerly 6F-3.01, Amended 5-27-87, 7-5-89, 7-17-90, 10-3-91, 1-22-01, Repealed.

6F-3.002 Agents; Qualifications, Training, Limitation of Authority, Responsibilities of Schools, Agents, and Applicants.

Specific Authority 246.207(1)(e), 246.213(1) FS. Law Implemented 246.201(3), 246.207(1), 246.213(3), 246.215(2), 246.226, 246.2265, 246.228 FS. History--New 7-17-90, Amended 1-22-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE:

License Application Package

RULE NO.:

6F-4.001

PURPOSE AND EFFECT: The purpose of the proposed repeal of the rule is to combine all rules pertaining to the Commission into the 6E chapter. The effect is that the administration of the Commission and licensure of institutions will be simplified and the information will be coordinated in one place.

SUMMARY: Repeal of this rule is part of a plan to consolidate all rules related to the Commission in one chapter, 6E. Currently the rule listed above adopts application forms by reference. New forms will be incorporated in the new 6E rules.

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: 1005.22(1)(e) FS.

LAW IMPLEMENTED: 1005.22(1)(e) 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: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)488-8695

THE FULL TEXT OF THE PROPOSED RULE IS:

6F-4.001 License Application Package.

Specific Authority 246.207(1)(e), 246.213 FS. Law Implemented 120.53(1)(b), 246.207(1)(e), 246.213, 246.215, 246.217, 246.219 FS. History--New 12-19-74, Amended 7-26-78, 5-10-84, Formerly 6F-4.01, Amended 5-27-87, 7-16-89, 7-17-90, 10-3-91, 3-29-93, 11-27-95, 1-22-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DEPARTMENT OF REVENUE

| RULE CHAPTER TITLE: | RULE CHAPTER NO.: |
|---|-------------------|
| Informal Protest and Appeal Procedure | 12-6 |
| RULE TITLES: | RULE NOS.: |
| Application of Rules | 12-6.001 |
| Public Use Forms | 12-6.0015 |
| Conference Procedures for Notices of Intent to Make Audit Changes | 12-6.002 |
| Conference Procedures for Delinquency Notices or Billings | 12-6.0023 |
| Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit | 12-6.003 |
| Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings | 12-6.0033 |
| Final Assessments | 12-6.004 |
| Criteria for Qualified Representatives | 12-6.005 |
| Standards of Conduct for Qualified Representatives | 12-6.006 |
| Public Use Forms | 12-6.007 |
| Conference Procedures for Notices of Intent to Make Refund Claim Changes | 12-6.030 |
| Protest of Notices of Proposed Refund Denial | 12-6.032 |

PURPOSE AND EFFECT: The proposed revisions to Rule Chapter 12-6, F.A.C. (Informal Protest And Appeal Procedure), update and render more taxpayer-friendly the procedures a taxpayer may use to protest specific tax actions by the Department.

SUMMARY: PART I [Consisting of Rules 12-6.001 and 12-6.0015, F.A.C.] A) Rule 12-6.001, F.A.C. (Application of Rules) – explains that these rules apply to all revenues collected by the Department of Revenue (DOR) as provided in s. 213.05, F.S.; states that all notices issued pursuant to this rule chapter will be sent to the taxpayer, unless the taxpayer designates another recipient by filing form DR-835 (Power of Attorney); explains how the time periods stipulated in these rules are handled if the period ends on a weekend or holiday; specifies that this rule chapter does not apply to formal proceedings discussed in ss. 120.569 and 120.57, F.S.; and, acknowledges that DOR will consider documents timely filed if submitted to an express or delivery service within the time period specified in these rules.

B) Rule 12-6.0015, F.A.C. (Public Use Forms) – describes the forms that DOR will use to implement the provisions of this rule chapter, and explains how to obtain a copy of these forms.

PART II [Consisting of Rules 12-6.002 through 12-6.006, F.A.C.] A) Rule 12-6.002, F.A.C. (Conference Procedures for Notices of Intent to Make Audit Changes) – clarifies that this rule deals with the procedures a taxpayer may use to request a conference after DOR issues a Notice of Intent to Make Audit Changes (NOI) or a revised NOI; grants the taxpayer 30 days after DOR’s issuance of the notice to request a conference; explains where the taxpayer should submit the request, and the

time frame in which it must be submitted; discusses what happens if a taxpayer files the request late, and how a taxpayer can ask for an extension of time in which to file it; states that the conference must be held at the earliest convenience of both parties, which cannot be later than 90 days after the original issuance of the NOI, unless both parties agree to an extension of the 90 day limitation; clarifies that DOR and the taxpayer can jointly agree to not hold a conference, which allows the taxpayer to move to the next step in the protest process; enumerates the circumstances that trigger DOR’s issuance of a Notice of Proposed Assessment (NOPA) based on the previous issuance of the NOI.

B) Rule 12-6.0023, F.A.C. (Conference Procedures for Delinquency Notices or Billings) – explains that this rule deals with the procedures a taxpayer may use to request a conference after DOR has issued a delinquency notice or billing; grants the taxpayer 20 days after DOR issues a delinquency notice or billing to request a conference with DOR; states where the taxpayer should submit the request for a conference, and the time frame in which the taxpayer must submit it; discusses what happens if a taxpayer files a request that is late, and specifies how a taxpayer can ask for an extension of time in which to request a conference; states that the conference must be held at the earliest convenience of both parties, which cannot be later than 40 days after the original issuance of the delinquency notice or billing, unless both parties agree to an extension of the 40 day limitation; enumerates the circumstances that will trigger DOR’s issuance of an assessment based on the previous issuance of a delinquency notice or billing;

C) Rule 12-6.003, F.A.C. (Protest of Notices of Proposed Assessment (NOPA) Issued by the Department Which Result From an Audit) – explains that a taxpayer can seek review of a NOPA by following this rule; states that a taxpayer must submit a written protest to DOR within 60 days of receiving the NOPA (150 days if the NOPA is addressed to a person outside the United States); states that the NOPA becomes a “final order” if the taxpayer fails to submit the request within the stipulated time, unless granted an extension of time; specifies how to request an extension or additional extensions; outlines what happens if the taxpayer fails to submit a written protest or request an extension; specifies how to file a protest, what information must be included, and how DOR handles requests that do not have the required information; explains the procedures DOR uses to review a timely, complete protest; states that DOR will issue a Notice of Decision (NOD) to the taxpayer in response to a written protest, and explains how the taxpayer can ask that the NOD be reviewed; explains that DOR will issue a Notice of Reconsideration (NOR) after considering a timely, complete request for a review; discusses the circumstances under which an NOD or NOR becomes a “final assessment” under Chapter 72, F.S.

D) Rule 12-6.0033, F.A.C. (Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings) – explains that a taxpayer can seek review of an assessment issued by DOR concerning a return, other required filing, or billing, by following this rule; clarifies that a taxpayer cannot use the procedures in this rule if a review has already been sought under Rules 12-6.002 or 12-6.003, F.A.C., or, if the taxpayer has failed to comply with those rules; specifies that a taxpayer utilizing these procedures is still subject to audit by DOR; states that the taxpayer must submit a written protest to DOR within 20 days of receiving the assessment (150 days if the assessment is addressed to a person outside the U.S.); explains that the assessment becomes a “final order” if the taxpayer fails to submit the request within the stipulated time, unless granted an extension of time; specifies how to request an extension or additional extensions; outlines what happens if the taxpayer fails to submit a written protest or request an extension; specifies how to file a protest, what information must be included, and how DOR will handle requests that do not contain the required information; explains the procedures DOR will follow after it receives a timely, complete protest, including which offices review the protest, and how the agency will request additional information; states that DOR will issue a Notice of Reconsideration (NOR) to the taxpayer in response to a written protest, and that the NOR becomes a final assessment when issued; explains that DOR can pursue an enforcement action at any time during these rule procedures, if collection of the assessment is in jeopardy.

E) Rule 12-6.004, F.A.C. (Final Assessments) – this rule is repealed, since the procedures originally contained in it have been relocated to the appropriate rule sections.

F) Rule 12-6.005, F.A.C. (Criteria for Qualified Representatives) – clarifies that the term “counsel” includes a law student certified under Chapter 11 of the Rules Regulating the Florida Bar; revises provisions concerning the power of attorney form that a qualified representative must submit to DOR.

G) Rule 12-6.006, F.A.C. (Standards of Conduct for Qualified Representatives) – clarifies that the provisions governing qualified representatives apply to individuals who appear in proceedings before the Executive Director or the Executive Director’s designee.

H) Rule 12-6.007, F.A.C. (Public Use Forms) – repeals this rule, since the forms that need to be incorporated by reference have been moved to new Rule 12-6.0015, F.A.C.

PART III: REFUND PROTEST PROCEDURES A) Rule 12-6.030, F.A.C. (Conference Procedures for Notices of Intent to Make Refund Claim Changes) – explains that DOR will issue a Notice of Intent to Make Refund Claim Changes if a refund is partially or completely denied; grants the taxpayer 30 days after the notice is issued to agree to the denial, or to request a conference to discuss it; states that DOR can issue a revised notice, and discusses the taxpayer’s rights to request a

conference concerning the revision; explains where the taxpayer’s request must be submitted and what happens if it is submitted late; specifies procedures a taxpayer can use to request an extension of time in which to request a conference; states that the conference must be held at the earliest convenience of both parties (but no later than 40 days after issuing the notice), unless DOR agrees to another time; explains that a failure to timely request a conference does not prevent a taxpayer from protesting DOR’s denial of a refund; provides that if both parties mutually agree that an issue cannot be resolved at this stage, the taxpayer can waive the 30-day time period established by this rule; and, specifies the circumstances under which DOR will issue a notice.

B) Rule 12-6.032, F.A.C. (Protests of Notices of Proposed Refund Denial) – explains that taxpayers can use the provisions in this rule to seek review of a Notice of Proposed Refund Denial; provides that a taxpayer must submit a written protest to DOR within 60 days (150 days for persons with an address outside the U.S.) of the date the notice was issued; states that protests received after this date will be considered late filed, unless an extension has been granted; outlines how a taxpayer may request an extension, the length of an extension, and how to request additional extensions; specifies that failure to meet any of the time frames associated with the submission of a written protest or a request for an extension results in dismissal of the protest and forfeiture of the rights offered by this rule; discusses where to send the written protest and what information it should contain; explains how DOR will handle protests that do not contain all the required information, the time frame in which taxpayers must submit missing information, and how to request an extension of time to submit missing information; discusses the procedures associated with the review of a protest; states that the taxpayer will be given an opportunity to attend a conference and submit additional information; specifies that a notice denying the refund will be issued to the taxpayer at the conclusion of DOR’s review; provides a procedure taxpayers can use to petition DOR to reconsider the denial of the refund, including the time frame in which the petition must be submitted, the information it must include, and how to request an extension of time to file the petition; requires DOR to issue a notice that discusses the reconsideration of the denial at the conclusion of a review of a taxpayer’s petition for reconsideration.

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

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

SPECIFIC AUTHORITY: 72.011(2), 213.06(1), 213.21(1) FS.
LAW IMPLEMENTED: 72.011, 120.54(5), 120.569, 120.57, 213.053, 213.21, 213.34, 215.26 FS.

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

TIME AND DATE: 10:00 a.m., December 3, 2002
 PLACE: Room 116, Larson Building, 200 E. Gaines St., Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, Post Office Box 6668, Tallahassee, Florida 32314-6668, (850)922-4830, e-mail: greenl@dor.state.fl.us (The full text of the proposed rule is available on the Department's website at www.myflorida.com/dor/rules).

THE FULL TEXT OF THE PROPOSED RULES IS:

INFORMAL PROTEST AND APPEAL PROCEDURE;
INFORMAL DISPOSITION OF TAX CONTROVERSIES;
PROCEDURES FOR COMPROMISE OF TAX PENALTIES
PART I: ADMINISTRATIVE ISSUES

12-6.001 Application of ~~Rules~~ Rule.

(1) The rules set forth in this chapter are applicable to all revenues ~~taxes~~ assessed and collected by the Department pursuant to section 213.05, F.S.

(2)(a) The Department of Revenue encourages taxpayers to attempt to resolve any notice, billing, assessment, or refund denial through discussions with the Department, whether in person, in writing, or by telephone, prior to initiating the informal protest procedures contained in this Rule Chapter. This will allow the Department and the taxpayer to address possible miscommunication, misunderstanding, or Department or taxpayer error.

(b) Notices issued by the Department pursuant to this Rule Chapter will be issued to the taxpayer, unless the taxpayer submits a completed Power of Attorney and Declaration of Representative (DR-835) which instructs the Department as to how the taxpayer wants these notices to be issued (see paragraph 12-6.005(1)(d), F.A.C.).

(c)1. If this Rule Chapter provides for a specific number of consecutive calendar days within which a taxpayer or the Department must act, the expiration of such period will not occur on a Saturday, Sunday, or legal holiday. For purposes of this Rule Chapter, the term "legal holiday" shall mean a holiday that is observed by state agencies as a legal holiday as this term is defined in section 110.117, F.S. Instead, such

specific number of consecutive calendar days will expire on the next successive day that is not a Saturday, Sunday, or legal holiday.

2. For the purposes of this rule chapter, "postmark date" shall include the date on which a taxpayer delivers a document discussed in these rules to an express service or delivery service for delivery to the Department.

(d) This Chapter does not apply to the formal proceedings governed by sections 120.569 and 120.57, Florida Statutes.

Specific Authority ~~120.53(1), 120.54, 213.06(1), 213.21(1) F.S., Ch. 81-178, Laws of Florida; Law Implemented 213.21, 120.53(1), 120.54 F.S., Ch. 81-178, Laws of Florida; History-New 10-8-81, Formerly 12-6.01, Amended~~

12-6.0015 Public Use Forms.

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

| Form Number | Title | Effective Date |
|-------------|--|----------------|
| (1) DR-835 | Power of Attorney and Declaration of Representative (r. 01/00) | |

Specific Authority 213.06(1), 213.21(1) F.S. Law Implemented 72.011, 120.54(5), 120.569, 120.57, 213.21 F.S. History-New _____.

PART II: PROTEST OF ASSESSMENTS

12-6.002 Conference Field Procedures for Notices of Intent to Make Audit Changes.

(1)(a) Except in cases of jeopardy assessments, or estimated assessments, refund denials, or where review of the taxpayer's books and records results in no liability due to the taxpayer or no refundable amount due to the taxpayer, the Department will, upon completion of an audit, issue a Notice of Intent to Make Audit Changes. Each Notice of Intent to Make Audit Changes, and supplementary form(s), prescribed by the Department, are incorporated by reference in Rule 12-6.007, F.A.C. The taxpayer shall have 30 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes receipt of this notice to mail or fax a

written request for a field conference to the office address or fax number on the Notice with the Auditor, Audit Group Supervisor, or Senior Audit Supervisor, as the case may be.

(b) If the Department issues a Revised Notice of Intent to Make Audit Changes, the taxpayer shall have 30 consecutive calendar days after the date of issuance on each Revised Notice of Intent to Make Audit Changes to mail or fax a written request for a conference to the office address or fax number on the revised notice.

(c) A request for a field conference should be made directly to the local office designated on issuing the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 30 consecutive calendar days from the date of issuance on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes.

(d) Requests postmarked or faxed more than 30 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference by mailing or faxing a written request to the office address or fax number designated on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes, prior to the expiration of the period within which a conference must be requested. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office address or fax number designated on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail or fax a written request for a conference within the 30 consecutive calendar day extension period, or to mail or fax a written request for an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to such conference.

(3)(2) If a field conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 90 consecutive calendar days after the date of issuance on of the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes, unless specifically agreed to authorized in writing by the Department. After the field conference, if no agreement is reached, a proposed assessment will be issued by the Compliance Support Process.

(4)(3) If a request for a field conference is not timely made, the right to seek a field conference is waived and a proposed assessment will be issued by the Department. Failure to request a field conference will not preclude instituting the protest procedures provided for in Rule 12-6.003, F.A.C.

(5)(4) If it is jointly determined by the Department's representative and the taxpayer that an issue(s) cannot be resolved at the local level, to expedite ultimate resolution of the issue(s), the 30 consecutive calendar days provided under subsection (1) of this rule the Field Protest Procedures may be waived by the taxpayer. The Department prescribes Form DR 829, Consent to Waive 30 Day Field Conference Period Allowed by Protest Procedures, Rule 12-6, F.A.C. (incorporated by reference in Rule 12-6.007, F.A.C.), to be utilized for this purpose. A waiver will result in the immediate issuance of a proposed assessment by the Compliance Support Process.

(6) A Notice of Proposed Assessment will be issued by the Department if:

(a) An agreement is not reached after the conference held pursuant to this section; or,

(b) The taxpayer has not timely filed a written request for a conference; or,

(c) The taxpayer has not timely filed a written request for an extension of time for requesting a conference; or,

(d) The taxpayer has waived his or her right to a conference pursuant to this section.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 213.21 FS. History--New 10-8-81, Amended 12-31-81, Formerly 12-6.02, Amended 8-10-92, _____.

12-6.0023 Field Conference Procedures for Delinquency Notices or Billings (Collection and Enforcement).

(1)(a) After issuance of receiving a delinquency notice or billing by the Department, from the Taxpayer Services Process, the taxpayer may request a conference with the collection supervisor, or section or area administrator if an no assessment has not been issued. Each delinquency notice or billing form, prescribed by the Department, is incorporated by reference in Rule 12-6.007, F.A.C. A request for a conference shall be made by mailing, telephoning, or faxing the request directly to the address, telephone number, or fax number of the office designated on the delinquency notice or billing Taxpayer Services Process, 1379 Blountstown Highway, Tallahassee, Florida 32304 or to the local office issuing the notice within 20 consecutive calendar days of the date of issuance on the delinquency notice or billing (notices are filed under provisions of Chapters 206, 207, and 212, F.S.). In order for the taxpayer's request to be considered timely, the request must be postmarked, telephoned, or faxed within 20 consecutive calendar days from the date of issuance on the delinquency notice or billing.

(b) Requests postmarked, telephoned, or faxed more than 20 consecutive calendar days after the date of issuance on the delinquency notice or billing will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference pursuant to subsection (1) if the request for an extension is received by the office designated on the delinquency notice or billing prior to the expiration of the period within which a conference must be requested. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office address or fax number designated on the delinquency notice or billing for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail, telephone, or fax a request for a conference within the 30 consecutive calendar day extension period, or failure to contact the Department, or failure to request an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to such conference.

(3)(2) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 40 consecutive calendar days after the date of issuance on of the delinquency notice or billing, unless specifically agreed to in writing by the Department.

(4)(3) If an agreement is not reached as a result of after the held conference, or if no request is made for a conference, or if a request is not timely made for a conference, and if an assessment will be issued, and the taxpayer may file a protest under the procedures provided for in Rule 12-6.0033, F.A.C.

Specific Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.21 FS. History--New 7-1-88, Amended 8-10-92, _____.

(Substantial rewording of Rule 12-6.003 follows. See Florida Administrative Code for present text.)

12-6.003 Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit.

(1)(a) A taxpayer may secure review of a Notice of Proposed Assessment (Assessment) by implementing the provisions of this section.

(b) To secure review of an Assessment, a taxpayer must file a written protest postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) from the date of issuance on the Assessment.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States)

after the date of issuance on the Assessment will be deemed late filed, and the Assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) after the date of issuance on the Assessment, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the Assessment. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) from the date of issuance on the Assessment. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the Assessment for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed assessment will become a final assessment for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the Assessment, and shall include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and audit number.

2. The tax type, the periods, and the dollar amount of tax, interest, or penalty protested.

3. A list of the unagreed items.

4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items.

5. A statement explaining the law or other authority on which the taxpayer's position is based.

6. A copy of the Assessment.

7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the Compliance Support Process that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to the Compliance Support Process at the address or fax number listed on the written notification from the Process for an additional 15 consecutive calendar days within which to submit this required information. Within

a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the Compliance Support Process at the address or fax number listed on the written notification from the Process for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the Assessment shall become a final Assessment for purposes of Chapter 72, F.S., on the later of:

a. The date a 15 consecutive calendar day period expires pursuant to this rule; or

b. The expiration of 60 consecutive calendar days after the date of issuance on the Assessment.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the Compliance Support Process will review the protest and initiate an attempt to resolve the issues. The Compliance Support Process may require the office originating the Assessment to provide a written explanation, report, or narrative setting forth the basis for the Assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law.

2. If a resolution is not achieved, the protest will be forwarded to Technical Assistance and Dispute Resolution. Technical Assistance and Dispute Resolution will review the protest and may require the office originating the Assessment to provide a written explanation, report, or narrative setting forth the basis for the Assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a Notice of Decision (NOD) shall be issued. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOD, unless the taxpayer timely files a petition for reconsideration of the NOD.

(4)(a)1. A taxpayer shall have 30 consecutive calendar days from the date of issuance on the NOD to file a petition for reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number stated on the NOD, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Technical Assistance and Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a Notice of Reconsideration (NOR) that dismisses the petition for reconsideration and sustains the NOD. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(c) If a petition for reconsideration is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a NOR shall be issued. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(5) Procedures outlined in this section shall be for investigative purposes as specified in s. 120.57(5), F.S.

Specific Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.21 FS. History--New 12-31-81, Formerly 12-6.03, Amended 7-1-88,_____.

(Substantial rewording of Rule 12-6.0033 follows. See Florida Administrative Code for present text.)

12-6.0033 Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings.

(1)(a) A taxpayer may secure review of an assessment issued by the Department regarding tax returns, other required filings, and billings by implementing the provisions of this section. When a taxpayer has pursued review under the provisions of either Rule 12-6.002 or 12-6.003, F.A.C., or both, or has failed to comply with the time limitations or has exhausted the review rights in those rules, the taxpayer shall

not have the right to pursue review under this section. The assessment procedure under this rule and review of such assessments regarding tax returns, other required filings, and departmental billings shall not preclude an audit of taxpayer books and records, and shall not preclude audit assessments or other assessments for tax deficiency.

(b) To secure review of an assessment regarding tax returns, other required filings, and billings a taxpayer must file a written protest postmarked or faxed within 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) from the date of issuance on the assessment.

(c) Protests postmarked or faxed more than 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) after the date of issuance on the assessment will be deemed late filed, and the assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) after the date of issuance on the assessment, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the assessment. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) from the date of issuance on the assessment. Each extension of time will be for 15 consecutive calendar days. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the assessment for an additional 15 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 20 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed assessment will become a final assessment for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the assessment, and shall include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and account number or audit number (where appropriate);

2. The tax type, the periods, and dollar amount of tax, interest, or penalty protested;

3. A list of the unagreed items;

4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items;

5. A statement explaining the law or other authority on which the taxpayer's position is based;

6. A copy of the assessment;

7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the office issuing the assessment that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to the office issuing the assessment for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office issuing the assessment for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the assessment shall become a final assessment for purposes of Chapter 72, F.S., on the later of:

a. The date a 15 consecutive calendar day period expires pursuant to this rule; or

b. The expiration of 20 consecutive calendar days after the date of issuance on the assessment.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the office that issued the assessment will review the protest and initiate an attempt to resolve the issues. The office that issued the assessment may require the office originating the assessment to provide a written explanation, report, or narrative setting forth the basis for the assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law.

2. If a resolution is not achieved, the protest will be forwarded to Technical Assistance and Dispute Resolution. Technical Assistance and Dispute Resolution will review the protest and may require the office originating the assessment to provide a written explanation, report, or narrative setting forth the basis for the assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this

sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a Notice of Reconsideration (NOR) shall be issued. The assessment will become a final assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(4) If at any time jeopardy conditions exist, the Department may initiate enforcement action under the Department's jeopardy procedures to enforce an assessment.

(5) Procedures outlined in this section shall be for investigative purposes as specified in section 120.57(5), F.S.

Specific Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.21, 213.732 FS. History--New 7-1-88, Amended 8-10-92, _____.

12-6.004 Final Assessments.

Specific Authority 72.011, ~~120.53(1), 120.54~~, 213.06(1), 213.21 FS. Law Implemented 72.011, ~~120.53(1), 120.54~~, 213.21 FS. History--New 12-31-81, Formerly 12-6.04 Repealed.

12-6.005 Criteria for Qualified Representatives.

(1)(a) Any person who appears before the Department in any proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives. For the purposes of this rule, "counsel" shall mean a member of the Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating Article XVIII of the Integration Rule of The Florida Bar.

(b) through (c) No change.

(d)1. Any individual person qualified as a representative under this rule shall file a Power of Attorney and Declaration of Representative power of attorney in a form acceptable to the Department, signed under penalty of perjury by the qualified representative and sworn to by the party being represented.

2. The suggested form of a power of attorney is the Power of Attorney and Declaration of Representative (form DR-835), adopted and incorporated by reference in Rule 12-6.0015 that used by the Internal Revenue Service.

(e) Other individuals persons chosen by a taxpayer to represent the taxpayer may be qualified to appear before the Department, the Executive Director, or the Executive Director's designees appointees if the presiding officer of the proceeding is satisfied as to the qualifications of the individual person seeking to qualify as a representative. In determining qualification to represent, the presiding officer shall satisfy himself or herself by reference to the provisions in the of

Uniform Rules of Procedure, Rule 28-106.106, F.A.C. (Who May Appear; Criteria for Other Qualified Representatives) as it is in effect on the date of the adoption of this rule.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 213.053, 213.21 FS. History--New 5-27-82, Formerly 12-6.05, Amended.

12-6.006 Standards of Conduct for Qualified Representatives.

In all proceedings before the Department, the Executive Director, or the Executive Director's designees under this chapter plan, all individuals persons qualified as a taxpayer's representative shall comply with the provisions Standards of conduct set forth in Uniform Rules of Procedure, Rule 28-106.107, F.A.C., as it is in effect on the date of the adoption of this rule.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 213.21 FS. History--New 5-27-82, Formerly 12-6.06, Amended.

12-6.007 Public Use Forms.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, 120.54(5), 120.569, 120.57, 213.21 FS. History--New 8-10-92, Repealed.

PART III REFUND PROTEST PROCEDURES

12-6.030 Conference Procedures for Notices of Intent to Make Refund Claim Changes.

(1)(a) The Department, upon determining that a refund should be wholly or partially denied, except in the case of a mathematical error, will issue a notice to the address provided by the taxpayer with his or her application for refund. The notice shall include a clear explanation of the reason for denial. No such notice will be issued by the Department if the only change made by the Department results from a mathematical error made by the taxpayer. Examples of mathematical errors include those resulting from the taxpayer's improper computation of collection allowances or discounts. The taxpayer shall have 30 consecutive calendar days after the date of issuance on the notice to sign the notice agreeing to the proposed changes or to mail or fax a written request for a conference to the address or fax number designated on the notice.

(b) If the Department issues a revised notice, the taxpayer shall have 30 consecutive calendar days after the date of issuance on the revised notice to mail or fax a written request for a conference to the office address or fax number on the revised notice.

(c) A request for a conference should be made directly to the address or fax number designated on the notice or the revised notice. In order for the taxpayer's request for a conference to be considered timely, the request must be postmarked or faxed within 30 consecutive calendar days from the date of issuance on the notice or on the revised notice.

(d) Requests postmarked or faxed more than 30 consecutive calendar days after the date of issuance on the notice or the revised notice will be deemed late filed and shall

result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference by mailing or faxing a written request to the address or fax number designated on the notice or the revised notice, prior to the expiration of the period within which a conference must be requested. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the notice or the revised notice for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail or fax a written request for a conference within the 30 consecutive calendar day extension period, or to mail or fax a written request for an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to a conference.

(3) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 40 consecutive calendar days after the date of issuance on the notice or revised notice, unless specifically agreed to in writing by the Department.

(4) Failure to request a conference will not preclude instituting the protest procedures provided in Rule 12-6.032, F.A.C.

(5) If it is jointly determined by the Department's representative and the taxpayer that an issue(s) cannot be resolved, to expedite ultimate resolution of the issue(s), the 30 consecutive calendar days provided under subsection (1) of this rule may be waived by the taxpayer.

(6) A Notice of Proposed Refund Denial (form DR-832R) will be issued by the Department if:

(a) An agreement is not reached after the conference held pursuant to Rule 12-6.032, F.A.C.; or

(b) The taxpayer has not timely filed a written request for a conference; or

(c) The taxpayer has not timely filed a written request for an extension of time for requesting a conference; or

(d) The taxpayer has waived his or her right to a conference pursuant to this section.

(7) When an amount to be refunded is determined, the Department shall voucher a request for warrant for the amount approved and submit it to the Comptroller.

Specific Authority 213.06(1) FS, Law Implemented 213.34, 215.26 FS, History--New

12-6.032 Protest of Notices of Proposed Refund Denial.

(1)(a) A taxpayer may secure review of a Notice of Proposed Refund Denial (Form DR-832R), by implementing the provisions of this section.

(b) To secure review of a Notice of Proposed Refund Denial (NPRD), a taxpayer must file a written protest, postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the NPRD is addressed to a person outside the United States) from the date of issuance on the NPRD.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days if the Notice is addressed to a person outside the United States) after the date of issuance on the NPRD will be deemed late filed, and the proposed refund denial becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days if the NPRD is addressed to a person outside in the United States) after the date of issuance on the NPRD, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the NPRD. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the NPRD is addressed to a person outside the United States) from the date of issuance on the NPRD. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the NPRD for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed refund denial will become a final denial for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2) The procedures for obtaining review of a proposed refund denial are as follows:

(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the NPRD and shall include:

1. The taxpayer's name, address, telephone number, account number, federal taxpayer identifying number, and audit number or refund control number;

2. The type of tax and the dollar amount of the proposed refund denial that is being protested;

3. The refund period covered by the denial;

4. A copy of the Notice of Proposed Refund Denial;

5. A concise statement of facts including a statement of all disputed issues of material fact and a description of any additional information not previously available that supports the taxpayer's position. If there are no disputed issues of material fact, the petition must so indicate;

6. A statement supporting the taxpayer's position as to any contested issue;

7. A statement explaining the law or other authority upon which the taxpayer is relying;

8. A statement explaining the relief the taxpayer seeks from the Department;

9. Whether the taxpayer desires oral presentation and argument; and

10. Other information the taxpayer contends is material to the refund.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the Department that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period the taxpayer may submit a request in writing to the address or fax number designated on the NPRD for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period the taxpayer may submit a request in writing to the Department for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the proposed refund denial shall become a final refund denial for purposes of Chapter 72, F.S., on the later of:

a. The date a 15 consecutive calendar day period expires pursuant to this rule; or

b. The expiration of 60 consecutive calendar days after the date of issuance on the NPRD.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the Refunds and Distribution Process will review the protest and initiate an attempt to resolve the issues. The Refunds and Distribution Process may require the field office that reviewed the Notice of Proposed Refund Denial to provide a written explanation, report, or narrative setting forth the basis for the denial. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law.

2. If a resolution is not achieved, the protest will be forwarded to Technical Assistance and Dispute Resolution. Technical Assistance and Dispute Resolution will review the protest and may require the office originating the Notice of Proposed Refund Denial to provide a written explanation,

report, or narrative setting forth the basis for the refund denial. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, the protest will be denied. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., as of the date of issuance on the denial, unless the taxpayer timely files a petition for reconsideration of the denial.

(4)(a)1. A taxpayer shall have 30-consecutive calendar days from the date of issuance on the denial to file a petition for reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number designated on the denial, no later than 30 consecutive calendar days after the date of issuance on the denial, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Technical Assistance and Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar extension within which to submit this required information.

2. Upon failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period, the petition for reconsideration will be dismissed and the denial of the protest will be sustained. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., upon expiration of the original 15 consecutive calendar day period or the last extension period.

(c) If a petition for reconsideration is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, the petition shall be denied. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., as of the date the petition is denied.

(5) Procedures outlined in this section shall be for investigative purposes as specified in s. 120.57(5), F.S.

Specific Authority 213.06(1) FS. Law Implemented 72.011, 213.34, 215.26 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, Post Office Box 6668, Tallahassee, Florida 32314-6668, (850)922-4830, e-mail: greenl@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sylvan Strickland, Senior Attorney, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, P. O. Box 6668, Tallahassee, Florida 32314-6668, (850)922-4711

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 9, 2002, Vol. 28, No. 32, pp. 3424-3434. A workshop was held on August 28, 2002. Testimony was received during the workshop, and written comments were submitted. The Department made changes to the proposed rules based on these comments.

DEPARTMENT OF REVENUE

| | |
|---------------------|-------------------|
| RULE CHAPTER TITLE: | RULE CHAPTER NO.: |
| Refunds | 12-26 |
| RULE TITLES: | RULE NOS.: |
| Refund Denials | 12-26.005 |
| Protest Procedures | 12-26.006 |
| Final Agency Action | 12-26.007 |

PURPOSE AND EFFECT: These rules are being proposed for repeal because their provisions are being moved to Rule Chapter 12-6, F.A.C. (Informal Protest and Appeal Procedure). The effect of moving these rules to Chapter 12-6 is to combine all protest procedures into one rule chapter.

SUMMARY: These rules that are proposed for repeal contain procedures for the Department’s denial of a taxpayer’s claim for refund, the procedures a taxpayer can use to protest such denial, and how a determination of final agency action is issued.

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

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

SPECIFIC AUTHORITY: 213.06(1) FS.
LAW IMPLEMENTED: 72.011, 213.34, 215.26 FS., ss. 2.,3.,4.,5.,6.,7., and 40., Ch. 91-112, L.O.F.

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

TIME AND DATE: 10:00 a.m., December 3, 2002 (immediately following the hearing on the proposed changes to rules in Chapter 12-6, F.A.C.)

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, Post Office Box 6668, Tallahassee, Florida 32314-6668, (850)922-4830, e-mail: greenl@dor.state.fl.us (These rules are also available on the Department’s website: www.myflorida.com/dor/rules)

THE FULL TEXT OF THE PROPOSED RULES IS:

12-26.005 Refund Denials.

Specific Authority 213.06(1) FS. Law Implemented 213.34, 215.26 FS., ss. 2,3,4,5,6,7, and 40, Ch. 91-112, L.O.F. History–New 11-14-91, Amended 4-18-93, Repealed.

12-26.006 Protest Procedures.

Specific Authority 213.06(1) FS. Law Implemented 72.011, 213.34, 215.26, FS., ss. 2,3,4,5,6,7, and 40, Ch. 91-112, L.O.F. History–New 11-14-91, Amended 4-18-93, Repealed.

12-26.007 Final Agency Action.

Specific Authority 213.06(1) FS. Law Implemented 72.011, 213.34, 215.26, FS., ss. 2,3,4,5,6,7, and 40., Ch. 91-112, L.O.F. History–New 11-14-91, Amended 4-18-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, Post Office Box 6668, Tallahassee, Florida 32314-6668, (850)922-4830, e-mail: greenl@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sylvan Strickland, Senior Attorney, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, P. O. Box 6668, Tallahassee, Florida 32314-6668, (850)922-4711

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2002

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Private Use of Official Maps
RULE CHAPTER NO.: 14-18

RULE TITLE: Permission Required, Conditions
RULE NO.: 14-18.002

PURPOSE AND EFFECT: This is a proposed repeal of obsolete Rule 14-18.002, F.A.C. The repeal of this rule is part of the ongoing effort by the Office of the General Counsel to review and repeal any unnecessary or obsolete rules.

SUMMARY: Rule 14-18.002, F.A.C., is being repealed.

SPECIFIC AUTHORITY: 20.05 FS.

LAW IMPLEMENTED: 20.05, 273.03 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been developed.

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 SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-18.002 Permission Required, Conditions.

Specific Authority 20.05 FS. Law Implemented 20.05, 273.03 FS. History--Amended 5-9-70, Formerly 14-3.02, Amended 7-9-75, Formerly 14-18.02, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Shopmyer, Surveying and Mapping Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Christine W. Speer, Assistant Secretary for Finance and Administration, for Thomas F. Barry, Jr., P.E., Secretary

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Advertising on Official State
Transportation Maps
RULE CHAPTER NO.: 14-117

RULE TITLES: Purpose
General
RULE NOS.: 14-117.001
14-117.002

Acceptable Advertising Criteria 14-117.003

Payment for Advertising 14-117.004

Map Distribution 14-117.005

No Endorsement Statement 14-117.006

PURPOSE AND EFFECT: This is a proposed repeal of obsolete Rule Chapter 14-117, F.A.C. Special provisions regarding advertising on official state transportation maps are contractual matters. The repeal of these seven rules is part of the ongoing effort by the Office of the General Counsel to review and repeal any unnecessary or obsolete rules.

SUMMARY: The six rules in Rule Chapter 14-117, F.A.C., are repealed. Special provisions regarding advertising on official state transportation maps are contractual matters. The rules are obsolete.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 20.23, 283.58(1) FS., Section 1, Items 1568 and 1570, 1992-93 General Appropriations Act.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been developed.

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 SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-117.001 Purpose.

Specific Authority 334.044(2) FS. Law Implemented 20.23, 283.58(1) FS. History--New 6-29-93, Repealed.

14-117.002 General.

Specific Authority 334.044(2) FS. Law Implemented 20.23 FS., Section 1, Items 1568 and 1570, 1992-93 General Appropriations Act. History--New 6-29-93, Repealed.

14-117.003 Acceptable Advertising Criteria.

Specific Authority 334.044(2) FS. Law Implemented 20.23, 283.58(1) FS. History--New 6-29-93, Repealed.

14-117.004 Payment for Advertising.

Specific Authority 334.044(2) FS. Law Implemented 20.23, 283.58(1) FS. History--New 6-29-93, Repealed.

14-117.005 Map Distribution.

Specific Authority 334.044(2) FS. Law Implemented 20.23, 283.58(1) FS. History--New 6-29-93, Repealed.

14-117.006 No Endorsement Statement.

Specific Authority 334.044(2) FS. Law Implemented 20.23, 283.58(2) FS. History--New 6-29-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Shopmyer, Surveying and Mapping Office
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Christine W. Speer, Assistant Secretary for Finance and Administration, for Thomas F. Barry, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2002

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Orientation
RULE NO.: 33-601.100
PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to create a new rule for inmate orientation procedures, removing orientation language from Rule 33-602.101, F.A.C., Care of Inmates, in order to provide clarity in organization of rule provisions.
SUMMARY: The proposed rule creates a new rule for inmate orientation procedures, removing orientation language from Rule 33-602.101, F.A.C., Care of Inmates, in order to provide clarity in organization of rule provisions.
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 FS.
LAW IMPLEMENTED: 944.09 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:

33-601.100 Inmate Orientation.

Upon initial arrival in the Department of Corrections, as well as upon transfer within the department, each inmate shall be provided with orientation at which time the rules and procedures of the Department of Corrections, as well as information particular to the local institution shall be explained to the inmate. The warden shall review and approve the contents of the orientation to ensure that the security of the institution is not compromised. The reception centers shall provide a more in-depth orientation of overall department rules, while the receiving institutions which serve as the inmates' permanent locations shall emphasize the local operating procedures in their orientation. As inmates are received into the department, reception centers shall provide

each inmate with a printed copy of Rules 33-601.301-601.314, F.A.C., Inmate Discipline. Translations or translation assistance shall be provided as needed. Copies of the rules and procedures shall be available to inmates upon request to read or review (not for retention). In cases where the inmate is unable to read or comprehend English, translation shall be made available. Copies of the rules and procedures shall also be available for inmate inspection in the institutional library.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

LAND AND WATER ADJUDICATORY COMMISSION

Town Center at Palm Coast Community Development

RULE CHAPTER TITLE: Town Center at Palm Coast
Community Development District
RULE CHAPTER NO.: 42JJ-1
RULE TITLES: Establishment Boundary Supervisors
RULE NOS. 42JJ-1.001 42JJ-1.002 42JJ-1.003

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (CDD), the Town Center at Palm Coast Community Development District ("District"), pursuant to Chapter 190, F.S. The petition to establish the District, filed by Florida Landmark Communities, Inc., and Mardem, LLC, requests that the Commission establish by rule the Town Center at Palm Coast CDD in Flagler County. The land to be served by the District consists of approximately 1,600 acres generally bounded on the north by a major drainage canal; bounded on the south by State Road 100; bounded on the west by Belle Terre Parkway; and bounded on the east by Interstate 95. The Petitioner has written consent to establish the District from the owner of 100% of the real property located within the proposed District. The proposed District is designed to provide community infrastructure, services, and facilities along with certain ongoing operations and maintenance. The development plan for the proposed lands within the District includes the construction of approximately 2,500 single family and multi-family residential dwelling units, 1,400,000 square feet of office space, 2,000,000 square feet of retail space, 1,400,000 square feet of non-retail commercial space, and 625,000 square feet of institutional space, a movie theater, 480 lodging units and 240 nursing home beds.

SPECIFIC AUTHORITY: 120.53(1), 190.005 FS.
 LAW IMPLEMENTED: 190.004, 190.005, 190.006(1) 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 10 to the petition to establish the proposed District. The establishment of the proposed District will result in modest costs to State governmental entities to implement and enforce the proposed formation. Certain costs to the Florida Department of Community Affairs will be offset by an annual fee required by Section 189.412, F.S. The costs of rule adoption to Flagler County (the "County") and its citizens are minimal and any costs are offset by the required filing fee. Adoption of the proposed rule will have no negative impact on State and local revenues. Roads and roadway drainage facilities will all be funded by the proposed District, and operated and owned by the City of Palm Coast. The proposed District will fund, own, and maintain the recreational lakes and common areas. The District will also fund the construction of the water and sewer distribution system. The water and sewer system serving the District will be owned and operated by Florida Water Services Corporation. The proposed District may issue special assessment or other revenue bonds to fund the development of capital facilities. The bonds would be repaid through non-ad valorem assessments levied on all properties in the proposed District. Prospective future landowners in the proposed District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. In addition, the proposed District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services. New residents voluntarily chose to locate within the proposed District and accept the assessments as a tradeoff for the numerous benefits and facilities that the proposed District will provide. There will be no impact on small businesses from the establishment of the proposed District. If anything, the impact may be positive in that the District must competitively bid all of its contracts. Establishment of the proposed District will not have any impact on small counties as Flagler County is not a small county as defined. The analysis provided is based on a straightforward application of economic theory with input 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: 10:00 a.m. – 12:00 Noon, Tuesday, December 3, 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: Michael D. Chiumento, III, Chiumento & Associates, 4 Old Kings Road North, Suite B, Palm Coast, Florida 32137, (386)445-8900 or Barbara Leighty, Senior Governmental Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULE IS:

(NOTE: The following rule chapter and sections were advertised in the Rule Development Notice as 42II-1; 42II-1.001; 42II-1.002; and 42II-1.003. The numbers are being changed as follows:)

TOWN CENTER AT PALM COAST COMMUNITY DEVELOPMENT DISTRICT

42JJ-1.001 Establishment.

The Town Center at Palm Coast Community Development District is hereby established.

Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.005 FS. History—New

42JJ-1.002 Boundary.

The boundaries of the District are as follows:

DESCRIPTION: PARCEL "A"

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 29 AND 32, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, THENCE NORTH 88°24'49" EAST A DISTANCE OF 2642.88 FEET TO THE SOUTH QUARTER CORNER OF SECTION 32 BEING THE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE NORTH 00°40'50" WEST ALONG THE WEST LINE OF THE NORTHEAST QUARTER (1/4) A DISTANCE OF 221.03 FEET, THENCE DEPARTING SAID WEST LINE SOUTH 89°15'49" WEST A DISTANCE OF 510.00 FEET TO A POINT ON THE EASTERLY BOUNDARY OF THE PLAT PINE GROVE SECTION-28, MAP BOOK 9, PAGES 51 THROUGH 66, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE NORTH 00°40'55" WEST ALONG THE EASTERLY BOUNDARY OF AND DEPARTING SAID PLAT SECTION-28 A DISTANCE OF 4569.91 FEET, THENCE NORTH 21°00'44" EAST A DISTANCE OF 1028.92 FEET TO A POINT ON THE WESTERLY LINE OF

THE LIMITED ACCESS RIGHT-OF-WAY OF INTERSTATE 95, THENCE SOUTH 18°20'58" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 1809.43 FEET, THENCE NORTH 89°52'23" EAST A DISTANCE OF 290.97 FEET, THENCE SOUTH 33°20'58" EAST A DISTANCE OF 502.28 FEET, THENCE SOUTH 18°20'58" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95 A DISTANCE OF 3752.21 FEET TO A POINT ON THE SOUTH LINE OF SECTION 32, THENCE DEPARTING INTERSTATE-95 SOUTH 88°46'16" WEST ALONG THE SOUTH LINE OF SECTION 32 A DISTANCE OF 2120.40 FEET TO THE POINT OF BEGINNING;

PARCEL "A" CONTAINING 202.3081 ACRES OF LAND MORE OR LESS.

DESCRIPTION PARCEL "B"

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 4, 5, 6, 7, 8 AND 9, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

A POINT OF REFERENCE BEING THE NORTHWEST CORNER OF SAID GOVERNMENT SECTION 5, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING COMMON AS THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 31 EAST, THENCE SOUTH 01°31'08" EAST ALONG THE WEST LINE OF SECTION 5 A DISTANCE OF 163.78 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE DEPARTING SAID WEST LINE NORTH 89°15'49" EAST A DISTANCE OF 1595.15 FEET, THENCE SOUTH 00°39'41" EAST A DISTANCE OF 1318.27 FEET, THENCE NORTH 89°20'19" EAST A DISTANCE OF 1320.00 FEET, THENCE NORTH 00°39'41" WEST A DISTANCE OF 1320.00 FEET, THENCE NORTH 89°15'49" EAST A DISTANCE OF 1915.75 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF INTERSTATE-95, THENCE SOUTH 18°20'58" EAST ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 4927.55 FEET TO THE NORTHEAST CORNER OF MEMORIAL HOSPITAL FLAGLER INC. LANDS, RECORDED IN OFFICIAL RECORDS BOOK 657, PAGE 1835, THENCE DEPARTING INTERSTATE-95 SOUTH 71°39'02" WEST ALONG THE NORTHERLY BOUNDARY LINE OF SAID HOSPITAL LANDS A DISTANCE OF 281.01 FEET, THENCE SOUTH 36°24'53" WEST A DISTANCE OF 947.44 FEET, THENCE DEPARTING SAID BOUNDARY OF HOSPITAL NORTH 53°36'18" WEST A DISTANCE OF 61.27 FEET, THENCE NORTH 08°33'46" EAST A DISTANCE OF 99.48 FEET, THENCE NORTH 63°16'51" WEST A DISTANCE OF 51.99 FEET, THENCE NORTH 35°29'45" WEST A DISTANCE OF 69.86 FEET, THENCE NORTH 56°55'46" EAST A DISTANCE OF 72.16 FEET, THENCE NORTH 10°50'19" WEST A DISTANCE OF 128.52 FEET, THENCE SOUTH 68°47'25" WEST A DISTANCE OF 43.05 FEET TO A POINT ON THE WEST LINE OF SECTION 9, THENCE

DEPARTING SAID WEST LINE CONTINUE SOUTH 68°47'25" WEST A DISTANCE OF 688.97 FEET, THENCE SOUTH 39°53'49" EAST A DISTANCE OF 291.02 FEET, THENCE SOUTH 76°28'18" EAST A DISTANCE OF 64.12 FEET, THENCE NORTH 67°07'05" EAST A DISTANCE OF 72.01 FEET, THENCE SOUTH 39°14'51" EAST A DISTANCE OF 153.66 FEET, THENCE SOUTH 62°37'27" EAST A DISTANCE OF 59.26 FEET, THENCE NORTH 46°11'10" EAST A DISTANCE OF 36.29 FEET, THENCE NORTH 51°11'25" WEST A DISTANCE OF 74.59 FEET, THENCE NORTH 31°41'14" EAST A DISTANCE OF 38.19 FEET, THENCE NORTH 69°00'23" EAST A DISTANCE OF 148.98 FEET, THENCE SOUTH 78°58'19" EAST A DISTANCE OF 101.53 FEET TO A POINT ON THE NORTHWEST BOUNDARY LINE OF SAID HOSPITAL LANDS RECORDED IN OFFICIAL RECORDS BOOK 657, PAGE 1835, THENCE SOUTH 36°24'53" WEST A DISTANCE OF 336.01 FEET, THENCE SOUTH A DISTANCE OF 320.20 FEET, THENCE SOUTH 74°31'57" WEST A DISTANCE OF 196.13 FEET, THENCE DEPARTING SAID NORTHWEST BOUNDARY LINE OF HOSPITAL SOUTH 02°47'32" EAST A DISTANCE OF 109.00 FEET, THENCE SOUTH 49°04'23" EAST A DISTANCE OF 109.00 FEET, THENCE SOUTH 00°50'55" EAST A DISTANCE OF 190.00 FEET, THENCE SOUTH 89°09'05" WEST A DISTANCE OF 924.56 FEET, THENCE SOUTH 21°34'23" EAST A DISTANCE OF 370.29 FEET, THENCE SOUTH 89°07'49" WEST A DISTANCE OF 181.73 FEET, THENCE SOUTH 21°34'21" EAST A DISTANCE OF 695.14 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 100 (200'R/W), THENCE SOUTH 89°09'05" WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 928.54 FEET, THENCE DEPARTING STATE ROAD 100 NORTH 02°23'06" WEST A DISTANCE OF 1356.48 FEET, THENCE SOUTH 88°41'00" WEST A DISTANCE OF 663.41 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST (NE) QUARTER (1/4) OF SECTION 8, THENCE SOUTH 88°49'35" WEST A DISTANCE OF 668.63 FEET, THENCE SOUTH 02°08'49" EAST A DISTANCE OF 692.67 FEET, THENCE SOUTH 88°59'33" WEST A DISTANCE OF 1344.70 FEET, THENCE SOUTH 01°32'05" EAST A DISTANCE OF 650.61 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 100, THENCE SOUTH 89°09'05" WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 297.82 FEET, THENCE DEPARTING STATE ROAD 100 NORTH 01°13'40" WEST ALONG THE EASTERLY BOUNDARY LINE OF PLAT OF MIDWAY PARK, MAP BOOK 5, PAGE 25, A DISTANCE OF 1337.58 FEET, THENCE SOUTH 88°49'35" WEST ALONG THE NORTH LINE OF MIDWAY PARK A DISTANCE OF 378.00 FEET TO A POINT ON THE WEST LINE OF GOVERNMENT SECTION 8, THENCE NORTH 01°13'33" WEST ALONG SAID WEST LINE OF SECTION

8 A DISTANCE OF 786.73 FEET, THENCE DEPARTING SAID WEST LINE OF SECTION 8 SOUTH 88° 17'00" WEST A DISTANCE OF 125.00 FEET, THENCE NORTH 01°13'33" WEST A DISTANCE OF 140.00 FEET, THENCE SOUTH 88°17'00" WEST ALONG THE NORTH LINE OF FLAGLER COUNTY SCHOOL BOARD LANDS A DISTANCE OF 1571.20 FEET, THENCE SOUTH 01°55'36" WEST ALONG THE WEST LINE OF SAID SCHOOL BOARD LANDS A DISTANCE OF 2205.60 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 100, THENCE NORTH 88°04'24" WEST A DISTANCE OF 2535.95 FEET TO THE SOUTHEAST CORNER OF LIL' CHAMP FOOD STORE LAND RECORDED IN OFFICIAL RECORDS BOOK 594, PAGES 648 AND 649, THENCE DEPARTING STATE ROAD 100 NORTH 01°55'36" EAST ALONG THE EAST BOUNDARY LINE OF SAID LIL' CHAMP LAND A DISTANCE OF 250.00 FEET, THENCE NORTH 78°46'38" WEST ALONG THE NORTH LINE OF SAID LIL' CHAMP LANDS A DISTANCE OF 250.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BELLE TERRE PARKWAY, THENCE DEPARTING LIL' CHAMP LANDS NORTH 11°13'22" EAST ALONG SAID RIGHT-OF-WAY OF BELLE TERRE PARKWAY A DISTANCE OF 1828.63 FEET TO A POINT OF CURVATURE, CONCAVE WESTERLY, THENCE NORTHERLY A DISTANCE OF 824.97 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 29°32'31", A RADIUS OF 1600.00 FEET, A CHORD BEARING OF NORTH 03°32'53" WEST AND A CHORD DISTANCE OF 815.86 FEET TO A POINT OF TANGENCY, THENCE NORTH 18°19'09" WEST A DISTANCE OF 1118.45 FEET TO A POINT OF CURVATURE, CONCAVE EASTERLY, THENCE NORTHERLY A DISTANCE OF 1037.37 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 42°27'17", A RADIUS OF 1400.00 FEET, A CHORD BEARING OF NORTH 02°54'30" EAST AND A CHORD DISTANCE OF 1013.80 FEET TO A POINT OF TANGENCY, THENCE NORTH 24°08'08" EAST A DISTANCE OF 559.85 FEET, THENCE DEPARTING BELLE TERRE PARKWAY NORTH 89°15'49" EAST A DISTANCE OF 2810.00 FEET, THENCE NORTH 00°44'11" WEST A DISTANCE OF 2015.00 FEET, THENCE NORTH 89°15'49" EAST A DISTANCE OF 1400.26 FEET TO THE POINT OF BEGINNING. PARCEL "B" CONTAINING 1354.9228 ACRES MORE OR LESS. PARCEL "A" TOGETHER WITH PARCEL "B" CONTAINING 1557.2309 ACRES OF LAND MORE OR LESS.

BEARINGS LOCALLY REFERENCED TO THE WEST LINE OF THE NORTHWEST QUARTER (1/4) OF GOVERNMENT SECTION 5, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING SOUTH 01°31'08" EAST.

Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New

42JJ-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Dave Lusby, Carol Benedict, Dave Root, John Seibel, and John "Jack" Kelley.

Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.006(1) 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: October 23, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 11, 2002

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Food Stamp Employment and Training

RULE NO.: 65A-1.605

PURPOSE AND EFFECT: The proposed rule amendment provides for policy changes to the Food Stamp Employment and Training (FSET) program as a result of changes in federal regulations in 7 CFR subpart 273.7, published June 19, 2002, in the Federal Register. The Workforce Innovation Act Of 2000, Chapter 2000-165, L.O.F., provides authority for the Agency for Workforce Innovation (AWI) to provide FSET program services through an Interagency Agreement with the Department of Children and Family Services (DCFS).

SUMMARY: The rule amendment reflects the shift of responsibility for the provision of FSET program employment and training services from the Department of Labor and Employment Security to the Regional Workforce Boards (RWB). It also provides for DCFS to determine Food Stamp program eligibility; impose penalties for mandatory participants who fail to comply with FSET program requirements without good cause; to determine good cause; to lift sanctions upon notification of compliance or determination of exemption; and, form revisions incorporated by reference to reflect statutory and regulatory changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.31 FS.

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

TIME AND DATE: 9:00 a.m., November 25, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Mitchell, Program Administrator, Economic Self-Sufficiency Services, Program Policy Support, 1317 Winewood Blvd., Bldg. 3, Room 421, Tallahassee, FL 32399-0700, (850)488-3090

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 65A-1.605 follows. See Florida Administrative Code for present text.)

65A-1.605 Food Stamp Employment and Training.

(1) The Food Stamp Employment and Training (FSET) program is administered in accordance with the requirements of 7 CFR subpart 273.7, Public Law (P.L.) 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and P.L. 107-171, Food Stamp Reauthorization Act of 2002.

(2) Each member of the assistance group (AG), who does not meet an exemption in accordance with 7 CFR subpart 273.7(b)(1), must work register for the FSET program as a condition of eligibility for the receipt of food stamps. If a head of household refuses to comply with Food Stamp program requirements without good cause at initial application or reapplication, the application will be denied for that reason. Applicants will be notified at application of the Food Stamp program work registration and employment and training requirements and possible penalties for noncompliance without good cause using form CF-ES 2097, Participation and Information Notice, July 02, incorporated by reference. Non-exempt head of households and AG members will be referred to the Regional Workforce Board (RWB) Service Center using form CF-ES 2095, Work Registration Referral, July 02, incorporated by reference, to complete FSET program work registration. The Economic Self-Sufficiency (ESS) specialist must use form CF-ES 3083, Statement for Food Stamp Work Registrant, Sep. 00, incorporated by reference, to work register a non-exempt head of household or AG member(s) who resides in an area designated as remote by the department.

(3) A head of household or AG member(s) who refuses or fails to comply with FSET program requirements without good cause is ineligible to receive food stamps. The ESS specialist will determine whether the individual meets an exemption in accordance with 7 CFR subpart 273.7(i), or if good cause for non-compliance exists in accordance with 7 CFR subpart 273.7(i). If not exempt, and good cause is not established, action will be taken to deny approval or to impose a food stamp penalty in accordance with 7 CFR subpart 273.7(f). When the head of household is noncompliant with FSET program requirements, the minimum FSET program penalty period will apply to the entire AG. If at the end of the minimum penalty period the head of household is still noncompliant, or does not meet a FSET program exemption, the head of household will remain ineligible, but other members of the AG may reapply. If the noncompliant AG member is not the head of household, the penalty will only apply to that AG member until the individual serves the minimum penalty period or complies, whichever is later, or becomes exempt. The following Food Stamp program penalties for non-compliance with FSET program requirements are applied.

(a) For the first non-compliance, food stamp benefits shall be terminated for a minimum of one month, or until compliance with FSET program requirements, whichever is later, or the noncompliant AG member meets an exemption.

(b) For the second non-compliance, food stamp benefits shall be terminated for a minimum of 3 consecutive months, or until compliance with FSET program requirements, whichever is later, or the noncompliant AG member meets an exemption.

(c) For the third non-compliance, food stamp benefits shall be terminated for a minimum of 6 consecutive months, or until compliance with FSET program requirements, whichever is later, or the noncompliant AG member meets an exemption.

(d) Disqualification shall follow the AG member who was noncompliant. Assistance Group ineligibility results when a disqualified individual joins a new AG as its head of household. The minimum penalty period of AG ineligibility referred to in (a), (b), or (c) above shall apply, as appropriate. If a disqualified individual joins the new AG as a member, only the disqualified AG member shall be ineligible for the remainder of the penalty period or the individual complies, whichever is later, or becomes exempt from FSET program requirements.

(e) Food Stamp program AG members who are subject to and determined to meet the work requirements or alternative requirement plan requirements under the Temporary Cash Assistance (TCA) program will also meet FSET program requirements in accordance with 7 CFR subpart 273.11(k). If the AG member is penalized for failure to meet TCA program requirements, the ESS specialist must determine if the AG member meets a FSET program exemption. If the noncompliant AG member does not meet an exemption, FSET program penalties specified in this rule will be applied.

(4) Penalties for refusal to comply with the requirements of the FSET program shall not apply to non-English speaking persons if the department failed to provide bilingual notices or forms in accordance with bilingual requirements of 7 CFR subpart 272.4.

(5) Able-Bodied Adults without Dependents (ABAWDs). Assistance Group members who meet the definition of an ABAWD in 7 CFR subpart 273.24 and are not exempt are referred to the RWB Service Center for Food Stamp program participation.

(a) Remote Areas. Assistance Group members subject to ABAWD provisions and living in areas designated as remote by the department must sign form CF-ES 3083.

(b) Non-Remote Areas. The AG member will be referred to the RWB Service Center to work register for the Food Stamp program employment and training activities using form CF-ES 2095. Proof of work registration must be provided prior to the authorization of food stamp benefits. If proof is not provided, the application will be denied for this reason.

(c) Required Hours of Service. The required number of hours of service is determined by dividing the AG's food stamp allotment by the federal minimum wage. If more than one ABAWD is in an AG, divide the number of hours by the number of ABAWDs in the AG to determine the number of hours each ABAWD must comply with FSET program requirements. The maximum required hours of service cannot exceed 120 hours per month per food stamp AG. No individual's required hours of service will exceed 30 hours per week. Mandatory ABAWDs in AGs with individuals exempt from ABAWD provisions are required to participate the full amount of hours based on the AG's full food stamp allotment.

(d) Federal Waiver. The department is granted a federal waiver of the ABAWD three-month time limit to receive food stamps each year for counties with high unemployment. Able Bodied Adults Without Dependents who reside in the waiver areas must comply with work registration requirements and other FSET program requirements.

(6) Copies of CF-ES 3083, CF-ES 2097, and CF-ES 2095 may be obtained from the Department of Children and Family Services, Economic Self-Sufficiency Services, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

Specific Authority 414.45 FS. Law Implemented 414.31 FS. History--New 10-1-87, Amended 4-13-92, Formerly 10C-32.001, Amended 3-3-99, Formerly 65A-32.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lonna Cichon, Government Operations Consultant II
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Program Policy Support
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

| | |
|-------------------|---|
| RULE CHAPTER NO.: | RULE CHAPTER TITLE: |
| 9J-35 | Local Government Comprehensive Planning Certification Program |
| RULE NOS.: | RULE TITLES: |
| 9J-35.003 | Application Period |
| 9J-35.005 | Application Review |
| 9J-35.006 | Identification of Eligible Applicants |
| 9J-35.007 | Certification Agreement |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 39, September 27, 2002, issue of the Florida Administrative Weekly.

9J-35.003 Application Period.

Local governments may submit applications for certification only during the period beginning January 5 (or the first business day following January 5) and ending February 4 (or the first business day following February 4) each year. Applications received prior to 8:00 a.m. (EST) January 5 or after 5:00 p.m. (EST) February 4 will not be considered for certification in the subsequent state fiscal year and will be returned to the applicant local government(s), unless the applicant application has been previously determined to be eligible for certification pursuant to subsection 9J-35.006(2), F.A.C.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History--New _____.

9J-35.005 Application Review.

(1) through (2) No change.

(3) Within ninety (90) days of receipt, the Division shall submit prepare a written assessment of each application to each applicant. The assessment will state whether the application demonstrates that the applicant meets the eligibility criteria of section 163.3246(2), F.S., and whether the area sought to be certified meets the criteria of section 163.3246(5), F.S. The assessment will describe the basis for finding that the applicant does or does not meet the eligibility criteria, and the basis for finding that the area does or does not qualify for certification. Each applicant shall be provided a copy of the assessment.

(4) No change.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History--New _____.