

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Aircraft, Boats, Mobile Homes, and Motor Vehicles	12A-1.007
Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business	12A-1.011
Federal Excise Taxes, Gross Receipts Tax, and Other Fees	12A-1.022
Electric Power and Energy	12A-1.053
Fuels	12A-1.059

PURPOSE AND EFFECT: The purpose of the amendments to Rule 12A-1.007, F.A.C. (Aircraft, Boats, Mobile Homes, and Motor Vehicles), is to remove provisions regarding charges for federal excise taxes and to provide that guidelines for the imposition of sales tax on charges for federal excise taxes, gross receipts tax, and other fees are provided in Rule 12A-1.022, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-1.011, F.A.C. (Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business), is to remove obsolete provisions regarding federal excise taxes imposed on meals.

The purpose of the proposed amendments to Rule 12A-1.022, F.A.C., is to: (1) change the title to “Federal Excise Taxes, Gross Receipts Tax, and Other Fees” to reflect the proposed changes to the rule; (2) provide guidelines on whether charges for the federal manufacturers tax or charges for the federal retail excise taxes imposed on the retail sale of certain items are included in the sales price of tangible personal property subject to sales tax; (3) provide that wholly or partially separately itemized charges for gross receipts tax are included in the amount of charges for electricity or natural or manufactured gas subject to sales tax; (4) provide that the separately stated charges for the new tire fee, lead-acid battery fee, motor vehicle warranty fee, and the rental car surcharge are included in the sales prices subject to sales tax; (5) provide that charges for the municipal public service taxes imposed under subsection 166.231 or 166.232, F.S., by a municipality or charter county are not subject to sales tax; and (6) provide that each and every fee imposed by a municipality or other political subdivision of the state is subject to sales tax, even when separately stated on a customer’s bill, invoice, statement, or other evidence of sale.

The purpose of the proposed amendments to Rule 12A-1.053, F.A.C. (Electric Power and Energy), is to remove provisions regarding federal excise taxes and provide that guidelines for the imposition of sales tax on charges for federal excise taxes, gross receipts tax, and other fees are provided in Rule 12A-1.022, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-1.059, F.A.C. (Fuels), is to provide that guidelines for the imposition of sales tax on charges for federal excise taxes, gross receipts tax, and other fees are provided in Rule 12A-1.022, F.A.C., as amended.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed guidelines regarding the imposition of sales tax on charges for federal excises taxes, gross receipts tax, and other fees imposed by the State of Florida or its political subdivisions.

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

LAW IMPLEMENTED: 212.02(2),(4),(10), (14),(15),(16), (19),(20), 212.03, 212.05, 212.06(1)-(5), (7),(8), (10),(12), 212.0601, 212.0606, 212.07(2),(7), 212.08(1),(4), (5)(i), (7),(10),(11), 212.12(2),(12), 212.18(2), 213.255(1),(2),(3), 215.26(2), 403.718, 403.7185, 681.117 FS.

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

TIME AND DATE: 9:30 a.m., July 31, 2002

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

Copies of the agenda for the rule development workshop may be obtained from Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department 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 RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

(1)(a) The sale, including occasional or isolated sales, the use, consumption, or storage for use in this state of any aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is taxable on the full sales price without any deduction for ~~federal taxes~~, freight, handling, delivery, commission, repossessions, advertising, future free service, or any other expense or cost whatsoever. Separately stated fees or charges as a requisite to the titling, licensing, registration, transfer of ownership, or recording of lien, or operation of any automobile in this state, mandated by the state, its subdivisions, or any state or licensed tag agency or office, shall not be included in the sales price, and as a result are not subject to tax.

(b) through (11) No change.

~~(12)(a) Federal retail excise taxes imposed on the retail sale of any aircraft, boat, mobile home, or motor vehicle are not subject to Florida sales and use tax, when separately stated on the sales invoice.~~

~~(b) Federal manufacturers' excise taxes imposed upon the manufacturer are part of the sales price of any aircraft, boat, mobile home, or motor vehicle upon which the tax is computed, whether or not separately stated.~~

(13) through (29) renumbered (12) through (28) No change.

Cross Reference: Rule 12A-1.022, F.A.C., for guidelines on federal excise taxes, gross receipts tax, and other fees; Rules 12A-1.037, 12A-1.064, and 12A-1.066, F.A.C.

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

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

(1) through (13) No change.

~~(14) Any federal excise tax on meals, if separately stated, is excluded for sales tax purposes and tax is figured on the price of the meal alone.~~

(15) through (28) renumbered (14) through (27) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02, 212.07(2), 212.08(1), (4)(a)1., (7), 212.18(2) FS. History—Revised 10-7-68, 6-16-72, 9-28-78, 10-29-81, Formerly 12A-1.11, Amended 12-8-87, 1-2-89, 8-10-92, 6-19-01,_____.

12A-1.022 Federal Excise Taxes, Gross Receipts Tax, and Other Fees.

~~(1) FEDERAL EXCISE TAXES. Federal excise taxes imposed upon the retailer shall be excluded from the price of tangible personal property in computing the sales and use tax thereon and only the net sales price shall be taxable.~~

~~(a)(2) The federal manufacturers excise tax imposed on the manufacturer of certain items is to be included in the sales price upon which sales and use tax is computed when the federal manufacturers tax is separately stated on a customer's bill, invoice, statement, or other evidence of sale even though the federal tax is listed as a separate item on the invoice. Examples of the federal manufacturers excise tax are the gas guzzler tax and the taxes on sporting goods, firearms, tires, gasoline, gasohol, kerosene, fuel, and coal.~~

~~(b) The federal retail excise taxes levied upon the retail sale of certain items are NOT included in the sales price upon which sales and use tax is computed when the federal tax is separately stated on a customer's bill, invoice, statement, or other evidence of sale. Examples of the federal retail excise tax are the luxury automobile tax and the heavy truck and trailer tax.~~

(2) TAXES AND FEES IMPOSED BY THE STATE OF FLORIDA.

(a) The gross receipts tax imposed under the provisions of Chapter 203, F.S., on the provider of electricity or natural or manufactured gas is included in the charge upon which sales and use tax is computed when the gross receipts tax is passed on to the customer and wholly or partially separately itemized on a customer's bill, invoice, statement, or other tangible evidence of sale.

(b) The following fees levied by the State of Florida are included in the sales price upon which sales and use tax is computed when the fee is separately stated on the customer's bill, invoice, statement, or other evidence of sale:

1. New tire fee levied under Section 403.718, F.S.;

2. Lead-acid battery fee levied under Section 403.7185, F.S.;

3. Rental car surcharge levied under Section 212.0606, F.S.; and

4. Motor vehicle warranty fee levied under Section 681.117, F.S.

(3) TAXES AND FEES IMPOSED BY POLITICAL SUBDIVISIONS OF THE STATE. Any excise or similar taxes levied by the federal government, any political subdivision of the State of Florida, or municipality, upon the purchase or sale of telephone or telegraph services or electrical power, when such tax is collected by the seller from the purchaser, shall be excluded from the price of such service when computing the sales or use tax thereon, and only the net sales shall be taxable.

(a) Any municipal public service tax imposed under subsection 166.231 or 166.232, F.S., by a municipality or a charter county on the purchase of electric power or energy, natural gas, liquefied petroleum gas, fuel oil, or kerosene is NOT included in the sales price upon which sales and use tax is computed when the municipal public service tax is separately stated on a customer's bill, invoice, statement, or other evidence of sale.

(b) Each and every fee imposed by a municipality or other political subdivision of the State of Florida on the provider of utility services, such as a franchise fee, is included in the sales price upon which sales and use tax is computed when the fee is passed on to the customer and separately stated on the customer's bill, invoice, statement, or other tangible evidence of sale.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.05(3), 212.0606, 403.718, 403.7185, 681.117 FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.22, Amended _____.

12A-1.053 Electric Power and Energy.

(1) No change.

~~(2) Any excise or similar taxes levied by the federal government, any political subdivision of the State of Florida or municipality upon the purchase of electric power or energy when such tax is collected by the seller from the purchaser shall be excluded from the price of such service when computing the sales or use tax thereon and only the net sales shall be taxable.~~

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

Cross Reference: Rule 12A-1.022, F.A.C., for guidelines on federal excise taxes, gross receipts tax, and other fees.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (19), 212.05(1)(e), 212.06(1)(a), (b), 212.08(4), (7)(j), 212.18(2) FS. History-Revised 10-7-68, 6-16-72, Amended 12-11-74, 10-18-78, 6-3-80, 12-23-80, 7-20-82, Formerly 12A-1.53, Amended 10-2-01, _____.

12A-1.059 Fuels.

(1) through (2) No change.

Cross Reference: Rule 12A-1.022, F.A.C., for guidelines on federal excise taxes, gross receipts tax, and other fees; Rule 12A-1.087 and Rule subsection 12B-5.130(2), F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05, 212.06(3), 212.08(4),(7)(b),(j) FS. History-Revised 10-7-68, 6-16-72, Amended 7-19-72, 12-11-74, 10-18-78, 7-3-79, 6-3-80, 12-23-80, 8-26-81, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.59, Amended 12-13-88, 5-19-93, 9-14-93, 3-20-96, 10-2-01, _____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Registration	12A-19.010
Religious and Educational Institutions Exemption from the Communications Services Tax	12A-19.043

Notification of Local Communication Services Tax Rate Changes and Permit Fee Elections

12A-19.050

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.010, F.A.C. (Registration), is to provide the methods by which a person may register with the Department for communications services tax purposes.

The purpose of the proposed amendments to Rule 12A-19.043, F.A.C., is to: (1) change the title to "Religious and Educational Institutions Exemption from the Communications Services Tax"; (2) change the terms "religious organization" and "educational organization" to "religious institution" and "educational institution" as those terms are defined in Section 202.125(4), F.S., as amended by section 1, Chapter 2002-48, L.O.F.; and (3) provide that sales by certain religious institutions are exempt from communications services tax under Section 202.125(4), F.S., as amended by section 1, Chapter 2002-48, L.O.F.

The purpose of the proposed amendments to Rule 12A-19.050, F.A.C. (Notification of Local Communication Services Tax Rate Changes and Permit Fee Elections), is to incorporate the provisions of section 6, Chapter 2002-48, L.O.F. This law amends Section 337.401(3)(j)3.b., F.S., and moves the required date of notification by a county or municipality to all communications services tax dealers in the jurisdiction that it has exercised its authority to collect permit fees to September 1.

The effect of these proposed amendments to these rule sections will: (1) provide current guidelines for registration with the Department for communications services tax; (2) provide guidelines regarding "religious institutions" and "educational institutions" consistent with the provisions of Section 202.125(4), F.S., as amended by section 1, Chapter 2002-48, L.O.F.; and (3) incorporate the changes to Section 337.401(3)(j)3.b., as amended by section 6, Chapter 2002-48, L.O.F.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed changes to Rule Chapter 12A-19, F.A.C., Communications Services Tax, necessary to implement the provisions of subsections 1 and 6, Chapter 2002-48, L.O.F.; and (2) the methods by which a person may register with the Department for communications services tax purposes.

SPECIFIC AUTHORITY: 202.21, 202.26(3)(c),(e),(h), 202.28(1)(b)2. FS.

LAW IMPLEMENTED: 92.525(2), 202.11(3),(7),(9), (13),(14),(16), 202.12(1)(b), 202.125(4), 202.13(2), 202.15, 202.16(4), 202.17(1),(3)(a),(4),(6), 202.20(2)(a), 202.21, 202.22(6)(a), 202.26(2), 202.27(6), 202.34(3), 337.401(3)(c),(j) FS.

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

TIME AND DATE: 9:30 a.m., July 31, 2002

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

Copies of the agenda for the rule development workshop may be obtained from Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by using the Florida Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-19.010 Registration.

(1)(a) Scope of rule. This rule provides guidelines regarding ~~governs~~ the procedures and requirements for the registration of persons providing communications services, users of substitute communications systems, and persons requesting a communications services tax direct pay permit.

(2)(a)(b) With the exception of the activities described in paragraph (3)(c)(e), a person that engages in the business of providing communications services must register with the Department to obtain a Communications Services Tax Certificate of Registration (form DR-700014).

(b) Registration with the Department for communications services tax purposes is available by using one of the following methods:

1. Registering through the Department's Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor>) using the Department's "e-Services"; or

~~2.(c)1. Filing To obtain a Communications Services Tax Certificate of Registration, a person must file an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.,) with the Department, as indicated on the form.~~

(3)(a)2. No change.

a. through f. renumbered 1. through 6. No change.

(b)(4) Persons who must register for the communications services tax include persons who provide the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a

point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or protocol used for such transmission or conveyance, for a consideration, except as provided in paragraph (c)(e).

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

~~(4)(2) Persons who purchase, install, rent, or lease a substitute communications system must obtain a Communications Services Tax Certificate of Registration (form DR-700014), as provided in subsection (2). To obtain a certificate, an Application to Collect and/or Report Tax in Florida (form DR-1) must be filed with the Department at the address indicated on the form.~~

(a) through (c) No change.

~~(5)(3) In order to self-accrue the communications services tax, persons must obtain a Communications Service Tax Certificate of Registration (form DR-700014), as provided in subsection (2). To obtain a Communications Services Tax Certificate of Registration, an Application to Collect and/or Report Tax in Florida (form DR-1) must be filed with the Department.~~ See Rule 12A-19.030, F.A.C., Communications Services Tax Direct Pay Permits.

~~(6)(4) No change.~~

Specific Authority 202.26(3)(e), (h) FS. Law Implemented 202.11(3),(7),(9), (13),(14),(16), 202.12(1)(b), 202.15, 202.17(1),(3)(a),(4), 202.22(6)(a), 202.27(6) FS. History--New 1-31-02, Amended _____.

12A-19.043 Religious and Educational Institutions Organizations Exemption from the Communications Services Tax.

(1)(a) No change.

(b) This rule provides guidelines regarding sales by religious institutions and ~~governs~~ the documentation and recordkeeping requirements regarding the exemption for sales to religious or educational institutions organizations from the communications services taxes.

(2) SALES TO OR BY RELIGIOUS INSTITUTIONS ORGANIZATIONS.

(a) The sale of communications services by a religious institution is exempt from the Florida communications services tax and the local communications services tax when the religious institution:

1. Is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code; and

2. Has an established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on.

~~(b)(a) The sale of communications services to a religious institution organization, as defined by s. 202.125(4), F.S. this rule, is exempt from the Florida communications services tax and the local communications services tax when the religious institution is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and is an organization which is:-~~

(b) ~~As used in this rule, the term "religious organization" only refers to organizations that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.~~

(c) ~~For purposes of this rule, "religious organizations" include:~~

1. ~~An organization owning and operating an Churches, synagogues, and established physical place places for worship at which nonprofit religious services and activities are regularly conducted and carried on;~~

2. ~~A nonprofit corporation Nonprofit corporations the sole purpose of which is to provide free transportation services to religious institution church members, their families, and other religious institution church attendees;~~

3. ~~A nonprofit Nonprofit state, nonprofit district, or other nonprofit governing or administrative office offices the function of which is to assist or regulate the customary activities of religious institutions;~~

4. ~~A Any nonprofit corporation that owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public;~~

5. ~~A Any nonprofit corporation the primary activity of which is making and distributing audio recordings of religious scriptures and teachings to blind or visually impaired persons at no charge; or and~~

6. ~~A Any nonprofit corporation the sole or primary function of which is to provide, upon invitation, nonprofit religious services, evangelistic services, religious education, administrative assistance, or missionary assistance for a religious institution church, synagogue, or established physical place of worship at which nonprofit religious services and activities are regularly conducted.~~

~~(c)(4)~~ DOCUMENTATION REQUIREMENTS.

1. To be entitled to exemption as a religious institution organization at the time of purchase, the purchaser must issue to the selling dealer a certificate signed by an authorized representative stating that the purchases are for a religious institution organization, as defined by Section 202.125(4), F.S. ~~this rule~~, that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Dealers are not required to obtain copies of Internal Revenue Service determination letters granting religious organizations exemption under Section 501(c)(3) of the Internal Revenue Code.

2. The following is a suggested format to be provided by a religious institution organization to the selling dealer.

EXEMPTION CERTIFICATE FOR PURCHASES OF COMMUNICATIONS SERVICES BY RELIGIOUS INSTITUTION ORGANIZATION

DATE: _____
TO: _____ (Selling Dealer's Business Name)
_____ (Selling Dealer's Address)

I, the undersigned, am a representative of the exempt religious institution organization identified below. The purchases of communications services made on or after _____ from the business identified above are for use by the exempt religious institution organization identified below.

The charges for the purchases of communications services from the dealer identified above will be billed to and paid directly by the exempt religious institution organization identified below. These purchases are exempt from the Florida communications services tax and the local communications services tax because the entity is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and is a "religious institution organization" as that term is defined by Section 202.125(4), F.S. ~~the rules of the Department of Revenue.~~

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

AUTHORIZED SIGNATURE ON BEHALF OF THE EXEMPT INSTITUTION ORGANIZATION

PRINTED NAME OF AUTHORIZED SIGNATORY AND TITLE

NAME OF THE EXEMPT INSTITUTION ORGANIZATION

ADDRESS OF EXEMPT INSTITUTION ORGANIZATION
(3) EDUCATIONAL INSTITUTIONS ORGANIZATIONS.

(a) The sale of communications services to an educational institution organization, as defined by Section 202.125(4), F.S. ~~this rule~~, is exempt from the Florida communications services tax and the local communications services tax.

(b) ~~The As used in this rule, the~~ term "educational institution organization" only refers to organizations that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

(c) "Educational institutions" ~~For purposes of this rule, "educational organizations"~~ include:

1. State-tax supported, parochial, religious institution church, and nonprofit private schools, colleges, or universities that conduct regular classes and courses of study required for accreditation by or membership in the Southern Association of

Colleges and Schools, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc.;

2. through 6. No change.

(d) A state-tax supported school, college, or university that is exempt as a governmental organization described in Rule 12A-19.042, F.A.C., and as an educational institution organization as described in this rule may claim either exemption.

(e) DOCUMENTATION REQUIREMENTS. To be entitled to exemption as an educational institution organization at the time of purchase, the purchaser must issue to the selling dealer a certificate signed by an authorized representative stating that the purchases are for an educational institution organization, as defined by Section 202.125(4), F.S. this rule, that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Dealers are not required to obtain copies of Internal Revenue Service determination letters granting educational institutions organizations exemption under Section 501(c)(3) of the Internal Revenue Code.

(f) The following is a suggested format to be provided by an educational institution organization to the selling dealer.

EXEMPTION CERTIFICATE FOR PURCHASES OF COMMUNICATIONS SERVICES BY EDUCATIONAL INSTITUTIONS ORGANIZATIONS
DATE: _____
TO: _____ (Selling Dealer’s Business Name)
_____ (Selling Dealer’s Address)

I, the undersigned, am a representative of the exempt educational institution organization identified below. The purchases of communications services made on or after _____ from the business identified above are for use by the exempt educational institution organization identified below.

The charges for the purchases of communications services from the dealer identified above will be billed to and paid directly by the exempt educational institution organization identified below. These purchases are exempt from the Florida communications services tax and the local communications services tax because the entity is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and is an “educational institution organization,” as defined by Section 202.125(4), F.S. the rules of the Department of Revenue.

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

AUTHORIZED SIGNATURE ON BEHALF OF THE EXEMPT INSTITUTION ORGANIZATION

PRINTED NAME OF AUTHORIZED SIGNATORY AND TITLE

NAME OF THE EXEMPT INSTITUTION ORGANIZATION

ADDRESS OF EXEMPT INSTITUTION ORGANIZATION
(4) No change.

Specific Authority 202.26(3)(c) FS. Law Implemented 92.525(2), 202.125(4), 202.13(2), 202.16(4), 202.26(2), 202.34(3), 213.37 FS. History—New 1-31-02, Amended _____.

12A-19.050 Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections.

(1) through (2) No change.

(3) Permit Fee Elections.

(a) No change.

(b) If any local taxing jurisdiction that initially elected to not collect permit fees subsequently elects to collect permit fees, in addition to the effective date and notification procedures set forth in subsection (1), the following special rules apply:

1. through 2. No change.

3. Any county or municipality that changes its election and exercises its authority to collect permit fees must provide written notification to all dealers of communications services in the jurisdiction by the September July 1 immediately preceding the January 1 effective date of the change of election.

(c) No change.

(4) No change.

Specific Authority 202.21, 202.28(1)(b)2. FS. Law Implemented 202.20(2)(a), 202.21, 337.401(3)(c), (j) FS. History—New 1-31-02, Amended _____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLES:	RULE NOS.:
Imposition of the Gross Receipts Tax Administration	12B-6.001
Registration	12B-6.002
Rate of Tax	12B-6.0021
Exemptions	12B-6.003
Payment of Tax; Reports; Public Use Forms	12B-6.004
Public Service Tax Reporting Form	12B-6.005
Collection and Distribution	12B-6.0051
Assessment and Collection	12B-6.006
Interest	12B-6.007
	12B-6.008

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-6.001, F.A.C., is to: (1) change the title to "Imposition of the Gross Receipts Tax"; (2) define the term "utility services" for purposes of the rule chapter; (3) provide that gross receipts tax is imposed at the rate of 2.5 percent of gross receipts from utility services; (4) provide that charges for liquefied petroleum gas are not subject to gross receipts tax; (5) provide guidelines regarding how gross receipts tax is levied upon the provider of utility services; (6) provide that providers of utility services include public or private utilities, municipal corporations, or agencies thereof, and rural electric cooperative associations; (7) provide that receipts from the sale within this state of natural gas or electricity to a public or private utility for the purposes of resale are not subject to tax; (8) provide guidelines for public and private utilities on how to document sales for the purposes of resale; (9) provide that receipts from the sale of electricity as part of an electrical interchange agreement or contract between public or private utilities are not subject to tax; (10) provide that receipts for the connection, disconnection, suspension, or restoration of utility services are not subject to tax; (11) provide that receipts from fees for returned checks, late payments, and interest due on late payments are not receipts for purposes of the gross receipts tax; (12) provide that receipts from separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment are not subject to gross receipts tax; (13) provide that line losses of electricity at no charge to the customer are not subject to gross receipts tax; (14) provide guidelines on how gross receipts tax is applied to charges for utility services separately itemized to customers as an amount for services based on a standard rate amount with a separate rate adjustment; (15) provide that each and every fee imposed by a municipality, charter county, or other political subdivision of the State of Florida that is passed on to the customer as a separately itemized charge is included in the gross receipts subject to tax; (16) provide that any municipal public service tax and any sales tax separately itemized to the customer is not included in the gross receipts subject to tax; and (17) provide recordkeeping requirements for providers of utility services.

The purpose of the proposed repeal of Rule 12B-6.002, F.A.C. (Administration), is to eliminate an unnecessary rule that restates statutory provisions regarding the administration of the gross receipts tax.

The purpose of the proposed amendments to Rule 12B-6.0021, F.A.C. (Registration), is to provide guidelines on how to register with the Department for purposes of the gross receipts tax.

The purpose of the proposed repeal of Rule 12B-6.003, F.A.C. (Rate of Tax), is to remove obsolete provisions regarding the gross receipts tax rate.

The purpose of the proposed repeal of Rule 12B-6.004, F.A.C., is to remove guidelines for exemptions from the gross receipts tax that are provided in Rule 12B-6.001, F.A.C. (Imposition of the Gross Receipts Tax), as amended.

The purpose of the proposed amendments to Rule 12B-6.005, F.A.C., is to: (1) change the title to "Payment of Tax; Reports; Public Use Forms"; (2) provide guidelines regarding the payment of the gross receipts tax and the filing of reports with the Department; (3) provide that taxpayers may elect to pay gross receipts tax on total billings for utility services for each month and how those taxpayers may take a credit or obtain a refund of tax paid on uncollectible amounts; and (4) incorporate by reference the public use forms used by the Department in the administration of the gross receipts tax and remove obsolete forms.

The purpose of the proposed amendments to Rule 12B-6.0051, F.A.C. (Public Service Tax Reporting Forms), is to adopt the changes to form DR-700001, Municipal Public Service Tax Data Base.

The purpose of the proposed repeal of Rule 12B-6.006, F.A.C. (Collection and Distribution), is to eliminate the unnecessary recitation of the constitutional provision requiring that all gross receipts tax collections be deposited into the Public Education Capital Outlay and Debt Service Trust Fund.

The purpose of the proposed repeal of Rule 12B-6.007, F.A.C. (Assessment and Collection), is to eliminate an unnecessary rule regarding the administration of the gross receipts tax.

The purpose of the proposed amendments to Rule 12B-6.008, F.A.C., is to: (1) change the title to "Interest"; and (2) remove provisions regarding the imposition of penalties that are clearly provided in s. 203.03, F.S.

These proposed changes to Rule Chapter 12B-6, F.A.C., will: (1) change the title of the rule chapter to "Gross Receipts Tax"; (2) remove obsolete language and language that restates statutory provisions, as mandated by s. 120.74, F.S.; and (3) provide current guidelines regarding the Department's administration of the gross receipts tax imposed by Chapter 203, F.S.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the proposed guidelines regarding the gross receipts tax imposed by Chapter 203, F.S., on utility services provided in Rule Chapter 12B-6, F.A.C., Gross Receipts Tax, as amended.

SPECIFIC AUTHORITY: 166.233, 203.01, 203.02, 213.06(1) FS.

LAW IMPLEMENTED: 166.233, 203.01, 203.012, 203.013, 213.05, 213.235, 213.255, 213.37, 215.26 FS., Art. XII, Section 9, Subsection (2), Constitution of Florida (1968).

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

TIME AND DATE: 9:30 a.m., July 31, 2002

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

Copies of the agenda for the rule development workshop may be obtained from: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department 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 RULE DEVELOPMENT IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-6.001 Imposition of the Gross Receipts Tax.

(1)(a) ~~Gross Receipts, Generally.~~ A tax is imposed on every person receiving payment for any utility service at the rate of 2.5 percent on the total amount of gross receipts derived from business done within this state or between points within this state. Gross receipts means total payments received either in money, goods, services, or other valuable consideration by every person (including, but not limited to, municipal corporations, public service corporations and private electric utilities) for "utility services." For purposes of this rule chapter, the term "utility service" means electricity for light, heat, or power and, for natural or manufactured gas for light, heat, or power, or for telecommunication services as defined or described in Chapter 203, F.S., as amended, including, but not limited to, local telephone service, toll telephone service, telegram and telegraph service, teletypewriter or computer exchange service, private communication service, cellular mobile radio, pagers, beepers, any mobile or portable one-way or two-way communication, two-way television, and any person who operates his own telecommunication system for his own use.

(a) Liquefied petroleum gas is sold in liquid form and transformed into gas when released from the container to be used for fuel. The term "utility services" does not include liquefied petroleum gas.

(b) The gross receipts tax is levied upon the provider of utility services. The tax may be wholly or partially separately itemized at the option of the utility provider on a customer's bill, invoice, statement, or other evidence of sale. When wholly or partially separately itemized, every person, including

governmental units, charitable, and religious organizations, is liable for the payment of the tax to the service provider. The gross receipts tax is a tax imposed on the privilege of doing business and is an item of cost to the service provider. The service provider remains fully and completely liable for the payment of the tax, even when the tax is wholly or partially separately itemized on the customer's bill, invoice, statement, or other evidence of sale.

(2)(b) Gross receipts, for purposes of this rule, does NOT shall not include:

(a)4- Receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations, or agencies thereof, and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity.;

(b)2- Receipts from the sale within this state of natural gas or electricity to a public or private utility, including a municipal corporation, an agency thereof, or rural electric cooperative association, for resale within the state, or as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power or the sale of telecommunication services for resale of telecommunication services wholly or partially within this state; provided the person deriving gross receipts from such sale demonstrates that a resale in fact occurred and complies with the provisions of s. 203.01(3)(c), F.S.

1. A public or private electric or gas utility, including municipal corporations, or agencies thereof, and rural electric cooperative associations, that is required to report its sales for resale in an annual report filed with the Federal Energy Regulatory Commission, or the Rural Utilities Service of the U.S. Department of Agriculture (i.e., FERC Form No. 1, Electric Utility Annual Report, RUS Form 12, or equivalent) may demonstrate that a sale for resale occurred by maintaining copies of its reports in its books and records. If the annual report (FERC Form No. 1, RUS Form 12, or equivalent) has not been completed for a year under review, a taxpayer may demonstrate that the receipts are required to be reported as sales for resale on the required annual report. Receipts from sales for the purposes of resale, as reported in the applicable annual report or required to be reported when the annual report is completed, are not included in the utility's gross receipts for purposes of the tax.

2. A public or private electric or gas utility, including municipal corporations, or agencies thereof, and rural electric cooperative associations, may also document sales for resale by obtaining resale certificates obtained from customers who purchase utility services for the purposes of resale. The utility is only required to obtain one certificate for sales made for the purposes of resale from each customer making purchases for the purposes of resale. The certificate must contain the purchaser's name and address, the purchaser's gross receipts tax registration number and its effective date, a statement that

the purchases are for the purpose of resale, the signature of the purchaser or an authorized representative of the purchaser, and the date of issuance. The following is a suggested format of a resale certificate:

RESALE CERTIFICATE FOR GROSS RECEIPTS
TAX ON UTILITY SERVICES

This is to certify that the electricity for light, heat, or power or the natural or manufactured gas for light, heat, or power purchased after _____ (date) from _____ (seller's name) is purchased for the purpose of resale pursuant to Chapter 203, F.S.

I understand that if I fraudulently issue this certificate to evade the payment of gross receipts tax I will be liable for payment of the tax directly to the Department and subject to the penalties imposed under s. 203.03(2), F.S.

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

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Signature _____

Certificate of Registration Number _____

Effective Date of Registration _____

By _____
(authorized signature)

Date _____

(c) Receipts from the sale of electricity to a public or private utility, including a municipal corporation, or an agency thereof, or rural electric cooperative association, as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power.

1. The electric utility is required to maintain a copy of the agreement or contract in its books and records and is not required to meet the provisions of this rule regarding sales for resale.

2. The internal use, including interdepartmental transfers, of the purchased power is not subject to tax.

(d) Receipts from customers for separately itemized charges for the connection, disconnection, suspension, or restoration of utility services.

(e) Receipts from customers for separately itemized charges for returned checks or other forms of payment, late payments, or interest due on late payments.

(f) Receipts from customers for separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment.

(g) The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility's customers.

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

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

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

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

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

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

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

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

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

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

~~(3) When charges for utility services are separately itemized as an amount for services based on a standard rate amount with a separate rate adjustment on the same billing.~~

invoice, statement, or other evidence of sale for services, gross receipts tax is due on the receipts for utility services after the application of the rate adjustment.

(a) Example: A customer purchases electricity from an electric utility under an energy management program. The customer is billed the standard residential rate. In addition, the customer receives load management monthly credits for allowing specified electrical equipment to be interrupted at the option of the electric utility. The charge for electric service after the load management credits are applied against the charge at the standard residential rate is the amount subject to the gross receipts tax.

(b) Example: A customer purchases electricity from an electric utility at the standard residential service rate. The electric utility charges each residential customer in this rate class an additional energy cost recovery factor, called "energy charges," on a per kilowatt hour basis. The customer is billed for electricity at the standard residential rate plus the applicable energy charges. The amount charged to the customer at the standard residential rate plus the amount of the energy charges is the amount subject to the gross receipts tax.

(4) Each and every fee imposed by a political subdivision of the State of Florida on the provider of utility services, such as a franchise fee, is included in the charge upon which the gross receipts tax is computed, when the fees are passed on to the customer and separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

(5) Any municipal public service tax imposed under ss. 166.231 or 166.232, F.S., or any sales tax imposed under Chapter 212, F.S., on the sale or purchase of electric power or energy or natural or manufactured gas is NOT included in the charge upon which the gross receipts tax is computed when the municipal tax or sales tax is separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

(6) RECORDKEEPING REQUIREMENTS. A provider of utility services must maintain copies of annual reports filed with the Federal Energy Regulatory Commission or the Rural Utilities Service of the U.S. Department of Agriculture, electrical interchange agreements or contracts, resale certificates, and other documentation required under the provisions of this rule chapter in its books and records until tax imposed under Chapter 203, F.S., may no longer be determined and assessed under s. 95.091, F.S.

Specific Authority 203.01(3)(b)(e), 213.06(1) FS. Law Implemented 203.01, 203.012, 213.37 FS. History—New 11-13-78, Amended 6-5-85, Formerly 12B-6.01, Amended 10-4-89, 1-8-90, _____.

12B-6.002 Administration.

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

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

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

12B-6.0021 Registration.

~~(1) Prior to engaging in the business of providing or selling utility the things or services, as defined included in Rule 12B-6.001, F.A.C., within this state or between points within this state Chapter 203, F.S., as amended, every person is required to register shall become registered with the Department this department by completing Form DR-1GR. Form DR-1GR. Those businesses providing or selling those things or services prior to the effective date of this rule shall register with this department on or before May 31, 1985 by completing Form DR-1GR.~~

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

~~(a) Registering through the Department's Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor/>) using the Department's "e-Services"; or~~

~~(b) Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.), with the Department as indicated on the form.~~

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

12B-6.003 Rate of Tax Gross Receipts.

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

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

12B-6.004 Exemptions.

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

~~(2) Exempt Sales.~~

~~(a) All receipts derived from the sale of any of the things or services specified in Chapter 203, F.S. shall be taxable unless specifically exempt. The exempt status of the gross receipt must be established by the vendor and the tax shall be~~

paid by such vendor unless a valid resale certificate has been received from the vendee. However, a vendee's failure to register or to provide a valid resale certificate shall not negate the vendee's liability for the tax, in which event either the vendor or vendee shall be liable for the tax.

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

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

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

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

(c) Effective January 1, 1985, access charges between telecommunication carriers shall be deemed to be for resale when the vendee acquires from the vendor access or right of access to the vendor's network and the vendee resells the same as an ingredient in its final sale to the ultimate consumer. The vendee shall furnish the vendor a resale certificate thereby exempting the vendor from the tax on the amount received as access charges. Intrastate toll activity is taxable to the vendee on the total toll revenues and the vendee shall furnish a resale certificate to the vendor providing access services. Interstate tolls shall be taxable as provided in Section 203.013, F.S.

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

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

(f) Suggested Resale and Exemption Certificate Form:

This is to certify that the things or services purchased after _____ (date) from _____ (name) is or was purchased for resale pursuant to the exemption under Chapter 203, F.S. It is further certified that the undersigned vendee shall pay the tax on the things or services that are not resold pursuant to the exemption under Chapter 203, F.S., based upon the purchase price of the things or services, unless otherwise provided.

Purchaser _____

Address _____

Certificate of Registration Number _____

Effective Date _____

I hereby declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete.

By _____ (authorized signature)

Date _____

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

(4) When a taxpayer elects to pay the tax on total billings for a taxable period, rather than actual cash receipts, any adjustments to customers' bills and net uncollectibles may be adjusted on a subsequent return.

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

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

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

(1)(2) Reports.

(a) Generally. All taxes imposed under Chapter 203, F.S., shall for each month be due the Department of Revenue on the last day of the month following date of sale or transaction and shall be delinquent thereafter. Except as provided in Rule Chapter 12-24, F.A.C., and paragraph (c) below, all taxes imposed on utility services are due to the Department in any given month must either reach the office of the Department of Revenue or be postmarked on or before the last day of the month following the date of the sale or transaction to avoid penalty and interest for late filing. The payment and return must either reach the office of the Department or be postmarked on or before the last day of the month for receipts for utility services received in the preceding calendar month for a utility provider to avoid penalty and interest for late filing. When If the last day of the month falls on Saturday, Sunday, or a federal or state legal holiday, payments accompanied by returns will shall be accepted as considered

timely filed if postmarked or delivered to the Department of Revenue on the next succeeding day that which is not a Saturday, a Sunday, or a legal holiday. A tax return is required to shall be filed on or before the last day of each month even when no tax is whether or not any taxes are due. The report is required to shall be signed under oath by an officer or a representative duly authorized to act by the taxpayer. The fact that an officer has signed a return shall be prima facie evidence that the individual was authorized to sign such document on behalf of the taxpayer.

(b) For this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the 1986 Internal Revenue Code, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district. Telecommunications. Taxes and returns shall be filed in the same manner as in paragraph (a) above, except any person who has his own telephone or telecommunication system for his own use shall report and pay the tax annually with the Department on or before January 31 for the tax year which ended December 31 of the preceding year. The provisions of Rule 12-24, F.A.C., apply to such taxpayers.

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

(d)1. A taxpayer may elect to pay the gross receipts tax on total billings for utility services for each month or on the actual gross receipts for utility services received in that month.

2. When the utility provider elects to pay gross receipts tax on total billings for utility services, the provider may take a credit for net uncollectibles for which gross receipts tax has been previously paid to the Department. The credit must be reported on the provider's return within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S.

3. In lieu of a credit for net uncollectibles, the provider may seek a refund of tax previously paid by filing an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. The application for refund must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S., and must meet the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

(2)(3) The following public-use forms and instructions are employed by the Department department in its dealings with the public related to the administration of utility services. These forms are hereby incorporated by reference in this rule. Copies of these forms are available, without cost, by one or

more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331. Copies may be obtained by application to the Department of Revenue, Carlton Building, Tallahassee, Florida 32399-0100.

Form Number	Title	Effective Date
DR-133	Gross Receipts Tax; Quarterly Report	
DR-1GR	Application for Registration	
(a) DR-133	Gross Receipts Tax Return (r.)	
(b) DR-133N	Instructions for Filing Gross Receipts Tax Return (r.)	

Specific Authority 213.06(1) FS., Section 22, Chapter 89-356, Laws of Florida. Law Implemented 203.01, 213.255, 213.37, 215.26 FS., Section 25, Chapter 89-356, Laws of Florida. History—New 11-13-78, Amended 7-1-80, 8-26-81, Formerly 12B-6.05, Amended 10-4-89, 12-19-89.

12B-6.0051 Public Service Tax Reporting Form.

(1) The public-use form provided in this rule is to be utilized by each municipality or charter county to report to the Department services taxed under ss. 166.231 and 166.232, F.S., and to report any other required information. The following public-use form is employed by the Department of Revenue for this purpose in its dealings with the public, and it is hereby incorporated in this rule these rules by reference. Copies of this form are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 1(800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331. This form is to be utilized by each municipality to report to the Department of Revenue the services taxed under ss. 166.231 and 166.232, F.S., and to report any other required information.

Form Number Title Effective Date
 (2) DR-700001 Municipal Public Service Tax Data Base (r. 10/01) (N. 8/97) 4/98

Specific Authority 166.233, 213.06(1) FS. Law Implemented 166.233 FS. History—New 4-5-98, Amended _____.

12B-6.006 Collection and Distribution.

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

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

12B-6.007 Assessment and Collection.

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

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

12B-6.008 Penalties, Interest.

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

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

(2) Interest.

(1)(a) No change.

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

(2)(b) No change.

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

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: State Highway System Connection Permits
 RULE CHAPTER NO.: 14-96

RULE TITLES:	RULE NOS.:
Purpose	14-96.001
Forms	14-96.0011
Definitions	14-96.002
General Provisions	14-96.003
Connection Categories and Fees	14-96.004
Application	14-96.005
Application Submittal, Review, Approval, and Conditions	14-96.007
Construction and Maintenance of Traffic Requirements	14-96.008
Non-conforming Connection Permits	14-96.009
Modification of Connections	14-96.011
Closure of Unpermitted Connections (Including Those to be Considered "Grandfathered")	14-96.012
Immediate Remedial Action Against Hazards	14-96.0121
Department Design and Construction Projects	14-96.015
Maintenance of Connections and Traffic Control Devices	14-96.016

PURPOSE AND EFFECT: Rule Chapter 14-96 is being amended to incorporate by reference new and revised forms and to generally revise and update the rules. Rule 14-96.012 is being repealed with the text of that rule being combined in Rule 14-96.011. The words "Administrative Process" also are being deleted from the title for Rule Chapter 14-96.

SUBJECT AREA TO BE ADDRESSED: This is a proposed amendment to Rule Chapter 14-96, relating to access management permits.

SPECIFIC AUTHORITY: 334.044(2), 335.182(2), 335.183, 335.184 FS.

LAW IMPLEMENTED: 334.044(14), 335.18-.187 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-96.001 Purpose.

This rule chapter is adopted to implement the State Highway System Access Management Act for the regulation and control of vehicular access and connection points of ingress to, and egress from, the State Highway System, and other transportation facilities under the Department's jurisdiction except for limited access facilities. This rule chapter does not apply to limited access facilities. The permitting of

connections within the controlled access portion of interchange areas, pursuant to Rule 14-97.003(1)(j), F.A.C., however, is subject to the permitting procedures in this rule chapter. This rule chapter describes the connection permit application process and procedures, a voluntary preapplication process, and requirements for relocation, alteration, modification or closure of connections to the State Highway System. ~~This rule chapter also is adopted to promote close cooperation with local governments in their site planning decisions that increase the safe traffic operations of the State Highway System.~~

Specific Authority 334.044(2), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History—New 4-18-90, Amended 7-16-95, _____.

14-96.0011 Forms.

The following forms shall be used in the connection application administrative process and are incorporated by reference and made a part of the rules of the Department:

Title	Form Number	Date
Connection Permit Application – Category A	850-040-14	/02
Driveway/Connection Permit Application for All Categories	850-040-15	/02 11/94
Receipt of Connection Permit Application and Fee (or Waiver of Fee)	850-040-16	11/93
Record of Waived Requirements for All Categories	850-040-17	03/94
Driveway Connection Permit for All Categories	850-040-18	/02 11/93
Record Drawings Report by Permittee’s Professional Engineer	850-040-19	11/94
Security Instrument Receipt	850-040-20	04/93
State Highway Access Connection Completeness Review	850-040-21	11/94
Applicant Time Extension Form	850-040-22	04/93
Proposed State Highway Access Driveway/Connection Notice of Intent to Deny State Highway Access Connections Permit	850-040-23	/02 01/99
Proposed State Highway Access Connection Notice of Intent to Issue Permit for State Highway Access Connection	850-040-24	/02 01/99
Violation and Notice to Show Cause	850-040-26	/02 01/99

These forms are available from the Department of Transportation’s local area Maintenance Office, District Office, Urban Area Office, or Central Office at 605 Suwannee Street, Mail Station 19, Tallahassee, Florida 32399-0450.

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 334.044(14), 335.18-.187 FS. History—New 4-18-90, Amended 7-16-95, 6-24-99, _____.

14-96.002 Definitions.

For the purposes of this rule chapter the following definitions of the terms shall apply unless the context clearly indicates otherwise:

(1) “Applicant” means the person submitting a connection permit application. An applicant may be a property owner or the owner’s authorized agent. The Department will also accept a connection permit application by a person holding an unrecorded interest in the property, such as a lease, that includes the right of access to the property, upon written proof of authorization from the property owner to submit the application executed before a notary public.

(2)(1) “Application” means a completed Connection Permit Application – Category A, Form 850-040-14, /02, or Driveway/Connection Permit Application for All Categories, Form 850-040-15, /02 11/94, the required application fee, and related property, site, driveway, roadway, and traffic information required in this rule chapter.

(3)(2) “Average Daily Traffic (ADT)” means the an average number of vehicles passing a specific point on a connection or roadway on an average day.

(4)(3) “Connection” means as defined in Section 335.182(3)(a), Florida Statutes, means driveways, streets, turnouts or other means of providing for the right of reasonable access to or from the State Highway System. Traffic control features and devices in the Department’s right of way are not part of the connection.

(5)(4) “Connection Category” means a Department assigned permit designation category for all State Highway connections, based on estimated vehicle trips per day to and from the property as set forth by the Rules 14-96.004, F.A.C., of the Department or derived through gGenerally aAccepted pProfessional pPractice.

(6)(5) “Connection Permit” means a written authorization issued by the Department allowing for the initiation of construction of a specifically designed connection and any specific conditions related to the subject connection to the State Highway System at a specific location generating an estimated volume of traffic.

(7)(6) “Connection Relocation, Alteration, or Closure” (pursuant to Section 335.187, Florida Statutes) means are defined as follows:

(a) “Alteration” of a cConnection” means Department action to substantially change reduce the width of a connection or to change the availability of prohibit right turn exits or right turn entries. For purposes of this provision, two connections, one providing right turn entry and the other providing right turn exit, shall be considered one connection if they are within functional proximity of each other.

(b) “Closure” of a connection” means a Department prohibition of the ability to enter and exit via the connection.

(c) “Relocation” of a connection² means an Department action to substantially move a connection, laterally or to move relocate a connection to a service road connected to the state highway.

~~(8)(7)~~ “Controlled Access Facility” for the purpose of this rule chapter means a transportation facility to which access is regulated through the use of a permitting process by the Department.

~~(9)(8)~~ “Department” means the Florida Department of Transportation.

~~(10)(9)~~ “Development Approval or Order” means an official action by the governmental authority having jurisdiction to approve a development site plan or to authorize ~~the developer or land owner to begin~~ construction of any permanent improvements on the property.

~~(11)(10)~~ “Directional Median Opening” means an opening in a restrictive median designed to control certain and specific turning movements from ~~either~~ the state highway ~~or the access connection.~~

~~(12)(11)~~ “Distance Between Connections” means the distance ~~between connections,~~ measured from the closest edge of pavement of the first connection to the closest edge of pavement of the second connection along the edge of the traveled way.

(13) “Florida Intrastate Highway System” means the system of limited access and controlled access facilities, which are part of the State Highway System, and are developed and managed to have the capacity to provide for high speed and high volume traffic movements in an efficient and safe manner. Highways on the Florida Intrastate Highway System may only be included as part of this system as designated pursuant to Sections 334.04 and 338.001, Florida Statutes.

~~(14)(12)~~ “Full Median Opening” means an opening in a restrictive median designed to allow all safe turning movements ~~(except U-turns in some instances) to take place from both the state highway and the adjacent connection.~~

~~(15)(13)~~ “Generally Accepted Professional Practice” for the purpose of this rule chapter means the use of professional engineering and planning knowledge in the applicable professional publications, such as traffic studies or traffic study guidelines done in accordance with the procedures of recognized traffic ~~or~~ transportation organizations and agencies such as the Transportation Research Board, Eno ~~ENO~~ Foundation, Institute of Transportation Engineers, or design standards or principles of the American Association of State Highway and Transportation Officials (AASHTO), the Department, or the Federal Highway Administration (FHWA).

~~(16)(14)~~ “Governmental Entity” means as defined in Section 11.45, Florida Statutes, a unit of local government or an officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

~~(15) “Intrastate Highway System” means the system of limited access and controlled access facilities, which are part of the State Highway System, and are developed and managed to have the capacity to provide for high speed and high volume traffic movements in an efficient and safe manner. Highways on the Intrastate Highway System may only be included as part of this system as designated pursuant to Sections 334.04 and 338.001, Florida Statutes.~~

~~(17)(16)~~ “Joint Use Connection” means a connection that provides access to more than one property or development including those in different ownerships.

~~(18)(17)~~ “Limited Access Facility” means a street or highway established as such a limited access facility pursuant to Section 338.01, Florida Statutes, and meeting the definition of Section 334.03(13), Florida Statutes, including interchange areas and other facilities within the limited access right of way.

~~(19)(18)~~ “Median” means the portion of a divided highway separating vehicular traffic traveling in opposite directions. See “Restrictive Median” restrictive and “Non-Restrictive Median” also defined.

~~(20) “Modification” of connection means relocation, alteration, or closure of a connection.~~

~~(21)(19)~~ “Non-Restrictive Median” means a median or painted centerline which does not provide a physical barrier between center traffic turning lanes or traffic lanes traveling in opposite directions. This includes highways with continuous center turn lanes and undivided highways. See “Restrictive Median” also defined.

~~(22)(20)~~ “Operational Characteristics of a Connection,” (as specified in Section 335.184(3), Florida Statutes,) means² include, but are not limited to, turning movements, turning radii, channelization, grade, and connection width.

~~(23)(21)~~ “Property Owner” means the person or persons holding the recorded title to property abutting the state highway system, and other persons holding a recorded interest in such property that includes the right of access.

~~(24) “Public Road System” means the State Highway System, county roads, and city streets.~~

~~(25)(22)~~ “Reasonable Access” means the minimum number of connections, direct or indirect, necessary to provide safe and efficient ingress and egress to the State Highway System based on Section 335.18, Florida Statutes, the Access Management Classification, projected connection and roadway traffic volumes, and the type and intensity of the land use.

~~(23) “Reciprocal Agreement” means an agreement between the Department and a local government entity exempting each other from permit fees.~~

~~(26) “Replacement” means reconstructing an existing connection without alteration or relocation of the connection.~~

~~(27)(24)~~ “Restrictive Median” means the portion of a divided highway physically separating vehicular traffic traveling in opposite directions. Restrictive medians are

include physical barriers that ~~restrict~~ prohibit movement of traffic across the median such as a concrete barrier, a raised curb island guard rail, or a grassed or a swaled median.

~~(28)(25)~~ “Right of Way (R/W)” means land or interest therein, acquired for or devoted to transportation purposes. More specifically, land in which the ~~governmental entity State, the Department, a county, or a municipality~~ owns the fee simple title, has an easement devoted to or acquired for use as a public road and appurtenant facilities, or has established ownership by means of a published map pursuant to Section 95.361, Florida Statutes.

~~(29)(26)~~ “Safety Upgrade Category” includes all modifications to existing connections initiated by the property owner, which ~~improve~~ upgrade the safety of the public road system(s) and the connection. This category is not applicable to connections ~~involving significant change covered under “Significant Change,” as defined in Section 335.182(3)(b), Florida Statutes.~~ Examples of this type of work ~~are~~ include increase of turning radii, channelization, resurfacing, relocation to improve connection spacing, widening or narrowing of connection to better meet Department standards, and connection closure.

~~(30)~~ “Security Instrument” means a letter of credit or bond as described in Section 334.187, Florida Statutes.

~~(31)(27)~~ “Significant Change,” ~~means~~ as defined in 335.182, Florida Statutes, ~~means a change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding 25 percent more trip generation (either peak hour or daily) and exceeding 100 vehicles per day more than the existing use.~~ If the Department determines that the increased traffic generated by the property does not require modifications to the existing permitted connections, a new permit application shall not be required.

~~(32)(28)~~ “State Highway System (SHS)” means the network of limited access and controlled access highways that have been functionally classified ~~as such~~, and which are under the jurisdiction of the State of Florida pursuant to ~~as defined in~~ Section 334.03(25), Florida Statutes.

~~(33)(29)~~ “Traffic Control Features and Devices” includes signs, markings, traffic signals, ~~channelizing islands, medians, median openings, and turn lanes, and other features~~ described in the *Manual on Uniform Traffic Control Devices (MUTCD)*, (incorporated by reference in Rule 14-15.010, F.A.C.).

~~(34)(30)~~ “Traveled Way” means the portion of roadway for the movement of vehicles, not including shoulders and auxiliary lanes.

~~(35)(31)~~ “Trip” means a one way vehicle movement. For example, one customer visiting an establishment in a car usually equals two trips, one in and one out.

~~(36)(32)~~ “Trip Generation” means the number of trips, existing or projected, based on actual counts or the estimation methodology in the ~~6th 5th~~ Edition of the Institute of Transportation Engineers *Trip Generation Report* or other ~~g~~Generally ~~a~~Accepted ~~p~~Professional ~~p~~Practice.

~~(37)(33)~~ “Vehicle Trips Per Day (VTPD)” means ~~the an~~ average number of vehicle trips generated on an average day by a specific site development. For the purpose of this rule chapter VTPD will not be adjusted for roadway diversion, which estimates what percent of land use trips were already existing on the road system and not new trips specially generated by the land use.

Specific Authority 334.044(2), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History—New 4-18-90, Amended 7-16-95, _____.

14-96.003 General Provisions.

(1) Local Permits and Approvals. Connection permits authorize the initiation of construction of connections within Department right of way and the maintenance of connection(s) according to the permit provisions and adopted ~~D~~Department standards. It is the responsibility of the applicant or permittee to obtain any other local permits or other agency approvals that may be required before the initiation of the connection construction ~~regardless of local government permits and approvals.~~ No person may construct, ~~relocate,~~ or substantially alter a connection without first obtaining a connection permit from the Department, as provided in this rule chapter, ~~regardless of governmental entity permits and approvals.~~

(2) Pre-Application. Prior to filing an ~~connection~~ application and prior to receipt of development or site plan approval, all applicants, but in particular those applying for a Category C, D, E, F, ~~or~~ and G connections, are strongly encouraged to request a pre-application meeting ~~to review on~~ the site plan ~~with the Department and other governmental entities, as appropriate,~~ with respect to the proposed connection(s) ~~locations with the Department and other local agencies as appropriate.~~ This review will be performed by the Department without a fee.

(a) Purpose of Pre-~~A~~Application Meeting. The purpose of the pre-application meeting is to establish the ~~connection(s)~~ ~~application~~ category and the general location and design of the connection(s) to the property. Traffic study requirements may also be determined during this meeting.

(b) Non-Binding Nature of the Pre-~~A~~Application Meeting. The pre-application meeting is advisory only and the results of this meeting are ~~not non~~ binding on the Department ~~or~~ and the applicant. An ~~connection~~ application must be submitted and a ~~c~~Connection ~~p~~Permit must be issued before the applicant can initiate construction.

~~(3) Connections Involving Drive-in Theaters. Connections involving drive-in theaters shall comply with the requirements of rule chapter 14-42, F.A.C.~~

~~(3)~~(4) Cost of Construction.

(a) The cost of all construction related to the permit shall be the responsibility of the applicant ~~permittee~~.

(b) Existing permitted connections impacted by the Department’s current construction activities and which, require relocation, alteration, closure, ~~relocation~~, or safety upgrade ~~replacement~~ in order to meet current adopted Department standards shall be relocated, altered, closed, ~~relocated~~, or upgraded for safety ~~replaced~~ by the Department at no cost to the permittee.

~~(4)~~(5) Traffic Control Features and Devices in the State Right of Way. Traffic control features and ~~Traffic Control~~ ~~Devices~~ in the Department’s right of way, such as including, but not limited to, traffic signals, channelizing islands, medians, median openings, and turn lanes or any other ~~transportation control features or measures in the state right of way~~ are operational and safety characteristics of the State Highway System and are not means of access. The Department may install, remove, or modify any present or future traffic control feature or ~~traffic control~~ device in the ~~state~~ right of way, such as median opening, traffic signal or a feature affecting turning movements through a connection, to promote traffic safety in the right of way or promote efficient traffic operations on the highway. A connection permit is only issued for connections and not for any present or future ~~median openings, signals, or traffic control~~ features or devices at or near the permitted connections. The permit may describe these features and/or devices, but such description does not create any type of a vested interest in such features.

~~(5)~~(6) Other Review Processes, such as Development of Regional Impact (DRI). The Department shall not be obligated ~~bound~~ to permit or approve any connection, traffic control feature or device, or any other site related improvement that has been specified in a development approval process separate from the official connection approval process described in this rule chapter. However, early coordination may minimize conflicts at application time.

~~(6)~~(7) Alternative Access Plans not Consistent with Access Management Standards. If the requirements of Rule Chapter 14-97, F.A.C., or other adopted Department access management standards, cannot be reasonably complied with, or if the standards can be met but the applicant desires to submit an alternative plan, the applicant may submit alternative access plans which will require approval of the Department’s District Secretary or designee. The acceptance of any alternative access plans shall be based upon maximum achievement of the purpose of Rule Chapter 14-97, F.A.C., and Sections 335.18-.188 ~~335.181~~, Florida Statutes. Any alternative access plan proposed under this section will need to provide documentation, in a traffic study, signed and sealed by a professional engineer registered in the State of Florida, of how the plan better serves the driving public and not just the applicant or its ~~applicant’s~~ clients or customers. The

Department will also consider the transportation conditions stated in Section 335.184(3)(a), Florida Statutes. See also, Rules 14-96.007(4)(a)2. and 14-96.009, F.A.C.

~~(7)~~(8) Limited Access Facilities. Owners of property abutting a limited access facilities ~~facility~~ have no right of access to such facilities. Requests for any access (such as new interchanges) to limited access ~~such~~ facilities will not be processed under this rule chapter.

Specific Authority 334.044(2), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History–New 4-18-90, Amended 7-16-95, _____.

14-96.004 Connection Categories and Fees.

All connections, public or private, shall be determined by the Department to be in one of the following categories:

(1) Standard Connection Categories. The following table summarizes the standard connection categories and application fees:

DESCRIPTION/PROJECTED AVERAGE VEHICLE TRIPS PER DAY OF SITE	APPLICATION FEE
Category A – Uses to 20 VTPD	\$ 50
Category B – Uses with 21 – 600 VTPD	\$ 250
Category C – Uses with 601 – 1,200 VTPD	\$1,000
Category D – Uses with 1,201 – 4,000 VTPD	\$2,000
Category E – Uses with 4,001 – 10,000 VTPD	\$3,000
Category F – Uses with 10,001 – 30,000 VTPD	\$4,000
Category G – Uses with 30,000 + VTPD	\$5,000

(2) Special Connection Categories.

(a) “Temporary Connection Category” provides a temporary, time limited, connection to the State Highway System for a specific property, use, and estimated traffic volume. Such uses may include forest land clearing and temporary agricultural or construction uses. This category may not be used for permanent construction at a site where it is reasonably expected that the use this permanent construction is the ultimate use of the property. Further, a temporary connection permit does not bind the Department, in any way, to the future issuance of a permanent connection permit at the temporary connection location. The permittee shall remove, at the permittee’s own cost, the temporary connection at the end of the permit period or shall apply for an extension or a new permit. The fee for this category is \$250 for a six month period. The period will may be extended for increments of six months upon written request, payment of a new fee, and a showing of good cause, such as weather delays, natural disasters, ~~local~~ governmental entity coordination delays, or other technical problems not within the control of the applicant. However, in no event shall may the period extend beyond 24 consecutive months. The Department reserves the right to remove any temporary connection upon expiration of the permit.

(b) ~~“Local Government Public Street or Road Category”~~ provides for a connection or connection modification for any new or substantially improved public road. The fee will be waived if the applicant is a local governmental entity having a

reciprocal fee waiver agreement with the department if this is a local government sponsored project and the local government is the applicant. If the fee is not waived, then the fee shall be based on the fee schedule in subsection 14-96.004(1), F.A.C., using expected Average Daily Traffic for the Category determination.

(c) ~~“Safety Upgrade Category” shall not be used for connections involving significant change. This category includes all modifications to existing connections not included as Substantial Connection Changes. This category allows for work to existing or operating connections or sites which upgrade the safety of the public road system and the connection. This category shall not be used for connections covered under “Significant Change” as defined in Section 335.182(3)(b), Florida Statutes. Examples of this type of work include increase of turning radii, channelization, turn lane construction, resurfacing, relocation to improve connection spacing, widening or narrowing of connection to better meet Department standards, and connection closure. These applications shall be initiated by the applicant and will not require a fee.~~

~~(3)(4) Phased Developments.~~ New phases of an existing development requiring a new permit will have their fee based on the development in the individual phase.

~~(4)(3) Fee Payment Type.~~ Full payment of fees shall be made by cashier’s check, certified check, cash, or money order, and shall be made payable to the State of Florida Department of Transportation at the time of application. Checks drawn on gGovernmental entity accounts will be accepted by the Department. The use of pre-paid accounts are also allowed in accordance with the Department’s pre-paid account practices. ~~Cash will not be accepted.~~ If at any time during the application process a check for the fee is returned for insufficient funds, the applicant will be notified that the application is not complete and no further processing will occur until a cashier’s check, certified check, cash, or money order is presented. The application fee is non-refundable, as required by ~~in~~ Section 335.183, Florida Statutes.

Specific Authority 334.044(2), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History–New 4-18-90, Amended 7-16-95, _____.

14-96.005 Application.

(1) Connection Permit Application and Information. The Connection Permit Application – Category A, Form 850-040-14 (/02) and Driveway/Connection Permit Application for All Categories, Form 850-040-15, (/02) 11/94, and application information are available from the office of the local area Maintenance Engineer, District Office, or Urban Area Qoffice. A complete application shall consist of the Connection Permit Application Form, (with original signatures, the number of signatures ~~these~~ to be determined by

the District staff) application fee, site plans, drawings, traffic data, and connection and roadway information specified in this rule chapter.

(a) The Department suggests that prior to submitting an application the applicant ask the Department about ~~inquire on~~ the level of detail and ~~on~~ additional information requirements pursuant to this rule chapter. [See Rule Section 14-96.003(2), F.A.C. “Pre-Application”].

(b) The Department will ~~reserves the right to~~ request clarification or additional information required in this rule chapter during the application review process where the applicant has failed to complete the application.

(c) Failure to provide the requested information within time limits specified within this rule chapter shall result in the review and decision being based on information provided.

(d) An application will not be accepted if the appropriate fee is not paid.

(e) The applicant shall be allowed to submit any site specific information which the applicant deems to be pertinent to the Department’s Permitting Authority’s review of the connection application.

~~(2) A connection permit application may be submitted by a property owner or his authorized agent. The Department will also accept a connection permit application by a person holding an unrecorded interest in the property, such as a lease, that includes the right of access to the property, upon written proof authorization to submit the application executed by a property owner.~~

~~(2)(3) Changes in Property Use.~~

(a) ~~Significant Change in Land Use as Defined in Section 335.182(3)(b), Florida Statutes.~~ Where ~~such~~ additional traffic is projected due to expansion or redevelopment, the property owner shall contact the Department to determine if a new permit application and modifications of ~~to~~ existing connections will be required. If the Department determines that the increased traffic generated by the property results in a significant change, ~~does not require modifications to the existing permitted connections,~~ a new permit application shall ~~not~~ be required.

(b) Failure to contact the Department to determine the need for connection modifications or to submit apply ~~for~~ a new application permit for such modifications prior to initiation of property improvements, land use changes, or traffic flow alteration actions which constitute significant change will, defined as “Significant Change” in Section 335.182, Florida Statutes, ~~may~~ result in notification to the property owner of the Department’s intent to revoke or modify the existing permit and closure of the connection to the property as specified in Rule Section 14-96.011(2), F.A.C.

(c) Vacant or Abandoned Sites. For purposes of determining the “existing use” of a property under the definition of significant change, the following criteria apply: “Significant Change” in 335.182(3)(b), Florida Statutes.

1. For connections under Sections 335.187(1) and (2), Florida Statutes, (~~“Grandfathered”~~), the use of the property on July 1, 1988, shall be considered the existing use, unless thereafter discontinued for a period of one year or more.

2. For connections under Section 335.187(4), Florida Statutes, (~~normal permitted~~), the use of the property reflected in the permit shall be considered the existing use, unless thereafter discontinued for a period of one year or more.

3. The use of a property is considered discontinued when there has been a cessation of trips to the property ~~for a period of one year or more~~, except for trips to maintain or market the property associated with that use. The use of the property will also be considered discontinued where the business located on the property has been out of service for a period of one year or more.

4. If the use of a business property has been discontinued for the period of one year or more, ~~that period of discontinued use will be the “existing use” in calculating significant change when a new any use is proposed by an applicant shall constitute significant change.~~

(d) The applicant permittee is responsible for all costs associated with ~~connection removal, relocation, alteration, or closure of a connection if the need for relocation, alteration, or closure modification if removal, relocation or change is directly caused by the actions of the applicant permittee.~~

~~(3)(4) Information Required for-~~ All Applications. The following information is required of all applications for all connections categories: ~~Proposed features in the right of way, such as median openings and other traffic control devices, are not part of the connection(s) to be authorized by a connection permit and information regarding such features which is required by this rule chapter or the application for is used only to evaluate the proposed connection(s).~~

(a) Identification and signature of property owner and applicant. The ~~current~~ complete names, and current mailing addresses and telephone numbers of property owner(s), the developer(s), the applicant, and transportation and legal consultants representing the applicant (if any), will be noted on the appropriate application ~~forms~~ as detailed in this rule chapter.

(b) Notarized letter of authorization. If the property owner desires to have a representative sign, file, and handle the application, a notarized letter of authorization from the property owner designating the applicant and the authorized representative (~~if the applicant has one~~) shall be provided with the application package.

(c) Responsible officer. When the owner or applicant is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished with the application.

(d) Signatures. The names of all individuals signing the application and their titles shall be typed or printed directly below the signatures.

(e) Property use. The existing and planned property use shall be noted in sufficient detail to determine the appropriate connection category of the application.

(f) (~~Site Plan~~) Location of all ~~e~~Existing and ~~p~~Proposed ~~c~~Connections ~~on the Property~~. This will include a site plan indicating of any physical features (existing or proposed) that would have an impact on traffic circulation and sight distance on the ~~p~~Public ~~r~~Road ~~s~~System. Examples of such physical features are walls, fences, trees, mail boxes, gates, and utility poles, ~~etc.~~

~~(4)(5) Additional Information Required for Category C, D, E, F, and G Applications.~~ In addition to the information required on all applications, the following information is required will be necessary on all Category categories C, D, E, F, and G applications: ~~-~~

(a) Trip ~~g~~Generation ~~d~~Data. The applicant will estimate the site's ADT average vehicles trips per day (VTPD) and peak hour trip generation. The peak hour(s) will be proposed at the time of application or conceptual review based on the most critical hour for the proposed property use. This determination of the most critical peak hour will be made considering both the peaking characteristics of the proposed site and the surrounding road system. Estimates shall be made in accordance with the 6th 5th Edition Trip Generation Report, published by the Institute of Transportation Engineers, Washington D.C., or other ~~g~~Generally ~~a~~Accepted ~~p~~Professional ~~p~~Practice. If the Department determines, ~~based on Generally Accepted Professional Practice~~, that the trip generation data provided by the applicant are not accurate or not realistic, the Department will require further trip generation analysis signed, sealed, and dated by a Professional Engineer registered in the State of Florida ~~qualified in the area of Transportation Engineering.~~

(b) Site ~~p~~Plan. Each site plan submitted with ~~the application for a Category Categories C, D, E, F, or and G application shall contain the following (by phase): (r~~Recent aerial photographs of sufficient scale and clarity ~~which are acceptable to the Department~~ may be used in conjunction with the following): ~~-~~

1. Any physical features (existing or proposed) such as buildings, other structures, or natural features which would have an impact on traffic circulation and sight distances on the Public Road System.

2. Traffic circulation plan and parking lay out.

3. Right of way and property lines (surveys are acceptable, but not required, this is not necessarily a requirement for a full legally binding survey).

4. Any existing joint access or cross access connection features.

5. A plat map showing abutting parcels and ownership, ~~may be required by the Department.~~

(c) Transportation Facility and Neighboring Connection Information. Each site plan submitted for a Category C, D, E, F, or G application shall also contain the following information:

1. Road names and highway numbers for all abutting roads and highways.

2. ~~The Florida Department's of Transportation~~ county section and milepost number (~~this identification is available at the Department~~).

3. Existing laneage for all roads abutting the development, including left and right turn storage and auxiliary lanes and medians.

4. Location of future roads (known to the applicant) and improvements to existing roads, abutting or entering the property.

5. Neighboring Connections and median Median Openings. The location and type of connections (on both sides of the road, ~~where applicable~~), median openings, intersections, and traffic signals within the following distances from the site's property lines:

a. If the posted speed limit is over ~~70 km/h (45 MPH)~~ then the distance of the features documented shall be ~~400 m (1320 feet ft.)~~, or to the closest public street intersection, (whichever is less.)

b. If the posted speed limit is ~~70 km/h (45 MPH)~~ or less, the distance of the features documented shall be ~~200 m (660 feet ft.)~~, or to the closest public street intersection, (whichever is less.)

c. Recent aerial photographs of sufficient scale and clarity to depict the site and the immediate area may be used to provide this information.

d. The Department will waive or reduce the requirement for neighboring connection information where restrictive medians or other physical features negate the need for this information.

e. If the Department determines that additional information is needed (such as ~~connection driveway~~ location ~~farther further~~ than the distances stated here) the Department shall request such information in writing and at the same time provide the justification for the need for information in writing justify and document this need before it can be required of the applicant.

(d) Connection Location and Design Information. Applications for connection categories C, D, E, F, and G, as well as public road system street connections and those connections requiring auxiliary lanes, shall contain detailed connection and design information, in accordance with the Department's Plans Preparation Manual, January 2000, or other generally accepted professional practice. This information shall be signed, sealed and dated by a Professional Engineer registered in the State of Florida ~~qualified in the area of Transportation Engineering~~. The connection location and design information will include:

1. Location of all proposed connections, connection profiles, as well as public road system street connections, and those connections requiring auxiliary lanes, connection width, connection radii, connection angle.

2. Design and cross section (to the ~~right of way~~ line) of auxiliary lanes and pavement to serve the requested connection(s).

3. Location and type of traffic control devices proposed.

4. Proposed pavement marking and signing.

5. Location and type of drainage features existing and proposed within the ~~state~~ right of way.

6. Median opening design and cross-section, for any new or modified median or median opening to be used by the property's traffic.

7. Type of roadway materials to be used.

8. Location and type of existing utilities.

9. ~~Maintenance of Traffic Plan.~~ The maintenance of traffic control plan must conform conforming to Department standards set forth in the Federal Manual on Uniform Traffic Control Devices, incorporated by reference in Rule 14-15.010, F.A.C. The maintenance of traffic plan must also conform to and the Department's Roadway and Traffic Design Standards, January 2002 1994, or other generally accepted professional practice. The Topic #625-010-003-c, incorporated by reference under Rule 14-96.008, and the expected time of roadway closure must be in accordance with the Department's Roadway Plans and Preparation Manual, January 2000, 1989 edition, or other generally accepted professional practice as amended June 1994, Topic 625-000-101-b, incorporated by reference under Rule 14-96.008. A maintenance of traffic plan which does not conform to the Plans and Preparation Manual and the Roadway and Traffic Design Standards must be signed and sealed by a Professional Engineer registered in the State of Florida.

10. Horizontal and vertical curvature of abutting roads where severe topography or sight distance concerns warrant.

11. Indication of all proposed turning movements.

(e) Traffic Study Requirements. ~~Category A, B, and C applications will generally be exempted from traffic study requirements except where the Department identifies a special need based on operation or safety.~~ For Category C, D, E, F, and G applications, or any application requesting or requiring a new traffic signal, new median opening, auxiliary lane, or modified median opening, the following traffic study data requirements apply. The specific detail and content of the traffic study will vary depending upon the existing and projected traffic volumes, highway capacity, levels of service, and safety concerns. Any ~~Traffic Study~~ (except a cursory analysis, such as an indication of peak hour movements from the applicant's site) must be signed, dated, and sealed by a Professional Engineer registered in the State of Florida ~~qualified in the area of Transportation Engineering~~. All work submitted by such a Professional Engineer in a ~~Traffic Study~~

will be reviewed by or under the supervision of a Department Professional Engineer registered in the State of Florida qualified in the area of Transportation Engineering. The ~~Traffic Study~~ must include at least:

1. Critical peak hour turn movements from each proposed connection and abutting public road in graphic form.

2. Traffic operations analysis of sufficient depth to analyze the impacts of the development on the surrounding transportation system.

3. An appropriately sized study area and the size of the study area as well as the time horizon based upon will depend on the type and size of the development. The specific detail and content of the report will vary depending upon the existing and projected traffic volumes, highway capacity, levels of service and safety concerns.

(f) Category C Exemptions. Category C applicants ~~are will~~ be exempted from some of the requirements listed above if the applicant can show that the information would have no significant bearing on the permitting decision process.

Specific Authority 334.044(2), (27), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History--New 4-18-90, Amended 7-16-95. _____

14-96.007 Application Submittal, Review, Approval, and Conditions.

(1) Application Submittal. The application shall be submitted to the Department's District Permits Office or to the Department's District Maintenance Office. ~~Applications that are submitted to the local maintenance office or the urban offices of the Department will then be forwarded to the District Permits Office, however, the application will not be considered received until it arrives at the District Permits Office.~~

(2) Application Completeness Review. The Department shall notify the applicant within 30 days of submittal, using State Highway Access Connection Completeness Review, Form 850-040-21, (11/94), if additional information is needed, or if there are errors or omissions. This notification will list those items needed to complete the application, consistent with the requirements of this rule chapter or additional information needed to evaluate the application. If such a request for additional information is given to an applicant within the 30-day period, the application will be deemed incomplete until the additional requested information is supplied to the Department. An application that requires a fee will not be accepted without the fee.

(a) Unless otherwise indicated in the notice of completeness review, applicants must provide such requested information within 60 days of the receipt of the Access Connection Completeness Review Form.

(b) If the additional information has not been received by the Department within the prescribed time from the date of notification, the application shall be processed based upon with the information provided. ~~This may result in an automatic denial of the application.~~

(c) If no additional information is requested during the prescribed ~~30~~ 60 day Completeness Review Period, the application shall be deemed complete as of the date the Department received the application.

(3) Applicant Time Extension. If the applicant needs more time to provide additional information or correct deficiencies in the application, ~~than would be~~ allowed under this rule chapter, then the applicant may request a waiver of the time requirements by stating the reasons in writing on an Applicant Time Extension Form, Form 850-040-22, 04/93.

(4) Technical Planning and Engineering Sufficiency/ Compliance Review. The applicant will be notified within 90 days of receipt of a complete application, receipt of all required information, or expiration of the time period for receipt of additional or corrected information. The notification will include the Department's the important details regarding the analysis and decision of on access approval or denial of the application.

(a) Notice of Intent to Issue Permit. The Department shall send the applicant a Proposed State Highway Access Connection Notice of Intent to Issue Permit, Form 850-040-24, (/02), if either: 11/93.

1. ~~The~~ If the Department determines that an application is consistent with Rule Chapters 14-96 and 14-97, F.A.C., and there is no need to exceed the minimum standards as stated in Section 14-97.003(1)(e), F.A.C.; or

2. ~~The~~ If the Department determines that an application is not consistent with Rule Chapters 14-96 and 14-97, F.A.C., but that denial of a connection would be denial of reasonable access and that such a connection would not jeopardize the safety of the public or have a negative impact upon the operational characteristics of the highway, consistent with Rule 14-96.007, F.A.C.

(b) Direct Permitting. If an applicant provides an application that otherwise meets all the requirements of Rule Chapters 14-96 and 14-97, F.A.C. ~~this rule chapter~~ and the Department is not imposing any additional conditions, the Department will issue a permit ~~directly~~.

(c) Notice of Intent to Deny. The Department shall send the applicant Proposed State Highway Access Driveway/ Connection Notice of Intent to Deny Permit, Form 850-040-23, (/02) 03/94, if the Department determines that an application applicant is not consistent with currently adopted Department rules and design standards or additional site specific operations and safety concerns as stated in Rule 14-97.003(1)(e), F.A.C., apply, and:

1. The Department determines that denial of a connection would not be a denial of reasonable access; or

2. The Department determines that denial of a connection would be a denial of reasonable access but that a connection would jeopardize the safety of the public or have a negative impact upon the operational characteristics of the highway.

(d) Additional Connections. When ~~For permitted driveway/connections where one or more connections of a property to a state highway have previously been approved and~~ an applicant seeks a permit for additional or alternative connection(s), the previously ~~permitted approved~~ connections are presumed to provide reasonable access to ~~the a~~ State Highway System unless the property owner shows:

1. ~~That~~ there has been a change in the use of the property from that reflected in the application(s) for the previously approved connection(s), which change has or will cause an increase in the trip generation (peak hour or daily) of the property exceeding 25 percent more ~~trip generation (peak hour or daily)~~ than reflected in the prior application(s), and that such change in use and increase in trip generation was not reasonably foreseeable at the time the application(s) for the previously approved connection(s) was ~~were~~ filed; or

2. ~~That~~ the circumstances relating to traffic safety and efficiency, ~~efficiently~~ outside the control of the permittee, have arisen that were not reasonably foreseeable at the time of approval of the connections that prevent the connection(s) from providing reasonable access to the highway.

(e) Agreements made after Proposed State Highway Access Driveway/Connection Notice of Intent to Deny Permit, Form 850-040-23, 01/99, is issued. If an agreement is made between an applicant and the Department which will allow the Department to approve a connection, this agreement will not be effective, nor supersede the Notice of Intent to Deny Proposed State Highway Access Driveway/Connection Notice of Intent to Deny Permit, Form 850-040-23, (/02) 01/99, unless it is in writing written, executed by the applicant and the Department, and appropriate revisions are reflected on signed and sealed construction plans before the ~~30-day~~ time period allowed for a denial challenge an appeal has expired. The agreement will completely describe the mutually agreed access plan.

(5) Conditions of the Notice of Intent to Issue Permit. The Notice of Intent to Issue Permit for Proposed State Highway Access Connection ~~Notice of Intent to Issue Permit~~, Form 850-040-24, (/02) 11/93, shall set forth all conditions not otherwise required by this rule chapter for issuance of a permit and maintenance of the connection(s). The notice will specify which of the conditions set forth in the notice must be met before issuance of a permit and those that must be met after the permit is issued.

(a) Not a Permit. The Notice of Intent to Issue Permit for Proposed State Highway Access Connection ~~Notice of Intent to Issue Permit~~, Form 850-040-24, (/02) 11/93, does not authorize the initiation of connection construction within the Department right of way but acknowledges completion of the Department review and indicates the Department's intent to issue a permit upon compliance with the conditions stated in

the ~~Proposed State Highway Access Connection~~ Notice of Intent to Issue Permit for State Access Connection, Form 850-040-24, (/02) 11/93.

(b) Time Period. A Notice of Intent to Issue Permit for Proposed State Highway Access Connection ~~Notice of Intent to Issue Permit~~, Form 850-040-24, (/02) 11/93, is valid for one year and may not be revoked during that period, provided that no material change has occurred in the proposed development or traffic characteristics on the abutting State Highway System. The Notice of Intent to Issue Permit for Proposed State Highway Access Connection ~~Notice of Intent to Issue Permit~~, Form 850-040-24, (/02) 11/93, may be extended, upon Department approval, upon a showing of good cause by the applicant (such as: weather delays, natural disasters, ~~local~~ governmental entity coordination delays, or other technical problems not within the control of the applicant). A Notice of Intent to Issue Permit for Proposed State Highway Access Connection ~~Notice of Intent to Issue Permit~~, Form 850-040-24, (/02) 11/93, may be assigned to a purchaser or new occupant within one year of issuance if there is ~~no-1. No~~ change in the land use or in the site plan and the-2. It has been reassigned within one year of issuance, 3. The Department is notified of the reassignment by the original applicant.

(c) Standard Conditions. The following standard conditions will apply to all Notices of Intent to Issue Permit for State Highway Access Connection, Form 850-040-24, (/02), before a connection permit can be issued:

1. Development approval from the appropriate ~~local~~ governmental entity consistent with the Notice of Intent to Issue Permit for Proposed State Highway Access Connection, Form 850-040-24, (/02), Notice of Intent to Issue Permit;

2. Assurance of performance pursuant to Section 334.187, Florida Statutes, (if required);

3. An indemnity agreement shall be executed by the applicant wherein it is agreed that the Department shall be indemnified, defended, and held saved harmless from any and all claims, demands, costs, or expense for loss, damage, or injury to persons or property of the other caused by, arising out of, or resulting from:

a. Any act or omission by the applicant or the applicant's contractors, agents, servants, or and employees in connection with any construction activities undertaken pursuant to the connection permit, within the right of way;

b. The negligence of the applicant or negligence of the applicant's contractors, agents, servants, or employees; ~~or~~

c. Any other event or act that is the result of, or proximately caused by, the applicant or the applicant's contractors, agents, servants, or and employees in constructing or maintaining the connection or any other features.

4. Compliance with drainage requirements in Rule Chapter 14-86, F.A.C.; ~~and~~

5. Special requirements ~~may be added if necessary~~ to promote safety and efficiency,⁵ and

6. Liability Insurance For All ~~Category~~ Categories C, D, E, F, and G Permits. Before construction is to begin, the applicant shall deliver to the Department proof of insurance verifying that the applicant or the applicant's contractor has coverage under a liability insurance policy issued by an ~~reputable~~ insurance company authorized to do business in the State of Florida naming ~~itself themselves~~ as insured, and the Department as an additional named insured, which policy shall contain a ~~broad form~~ contractual endorsement specifically covering the liabilities arising from the indemnity agreement.

a. The policy shall provide public liability insurance, including property damage, in the amount of \$500,000 combined single limit for each occurrence.

b. The above required policy shall be endorsed with a provision requiring the insurance company to notify the Department ~~30 thirty~~ days prior to the effective date of cancellation or ~~of any~~ material change in the policy if the change occurs during the construction period.

c. The applicant shall pay all premiums and other charges due on said policy and keep said policy, ~~or a materially identical replacement policy,~~ in force ~~to insure during~~ the entire period of construction of the connection.

(6) Issuance of Permit. A Driveway Connection Permit for All Categories, Form 850-040-18, (~~/02~~) ~~11/93~~, will be issued after the applicant provides satisfactory evidence of compliance with all conditions that must be met before issuance of a permit. ~~A Unless modified pursuant to an administrative proceeding, or negotiation with the applicant, a permit shall be subject to all the conditions set forth in the Notice of Intent to Issue Permit for Proposed State Highway Access Connection Notice of Intent to Issue Permit, Form 850-040-24, (/02) 01/99. A permit authorizes construction is valid for one year from the date of issuance and expires if construction of the connection is not completed within that period.~~

(a) Failure to Comply. If the Department determines that the applicant has failed to comply with all conditions required prior to the issuance of a permit, it shall notify the applicant that the Department will not issue a permit and specify the conditions that have not been met. Notice of the Department's intended action will be provided in accordance with Rule ~~Chapter 28-106.444~~, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules ~~Chapter 28-106.104, 28-106.201, and 28-106.304~~, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule ~~Chapter 28-106.444~~, F.A.C.

(b) Permit Time Extension. The permit will be extended ~~beyond past~~ the one year time limit (only with Department approval) for good cause, such as weather delays, natural

disasters, ~~local~~ governmental entity coordination delays, or other technical problems not within the control of the ~~permittee applicant~~.

(7) Concurrent Local Governmental Entity Review. Nothing contained herein shall preclude concurrent review of the permit application by the Department and ~~governmental entities local government(s)~~.

(8) Permit Conditions. Failure by the applicant ~~or permittee~~ to abide by the permit ~~conditions provisions~~ that are applicable after permit issuance shall be just cause for the Department to order alteration of the connection, or ~~to~~ revoke the permit and close the connection at the expense of the ~~applicant permittee~~, subject to the provisions in this rule chapter, or for the Department ~~to exercise the Performance Bond~~ to have the necessary modifications made ~~and seek payment from the applicant~~. The permit requirements shall be binding on the ~~applicant permittee~~, the ~~applicant's permittee's~~ successors, heirs and assigns, the permit application signatories, and all future owners and occupants of the property. The Department may require ~~permits these conditions~~ to be recorded ~~in the public records~~ with the legal description of the property ~~when cross or joint access exists, when permit conditions requiring future performance by the permittee exist such as installation of traffic control features or devices, or when other conditions warrant recording where cross access agreements or other applicable conditions apply.~~

(9) Government Owned Rail or Abandoned Non-Highway Vehicular Use Corridors. ~~Corridors including separate pedestrian trails, bike trails, current or abandoned exclusive bus or transit corridors, current or abandoned rail corridors, or waterways. These corridors are not part of the State Hhighway Ssystem and are not subject to the provisions of the Access Management Act, Sections 335.18-335.188, Florida Statutes. These corridors, that abut the a State Hhighway System, are considered intervening property and property on the other side of such a corridor from a state highway will not be considered to be abutting the Sstate Hhighway System. Action will be taken under Rule 14-96.011, F.A.C. to revoke, close, or modify an existing connection access across a corridor if it interferes with the safe or efficient operation of the corridor or Sstate Hhighway System. In such event, revocation will be in accordance with Rule 14-96.011 or 14-96.012, F.A.C.~~

Specific Authority 334.044(2), 334.187(4), 335.182(2), 335.183 FS. Law Implemented 334.187, 335.181-1825, 335.184, 335.185 FS. History—New 4-18-90, Amended 7-16-95, 6-24-99, _____.

14-96.008 Construction and Maintenance of Traffic Requirements.

All construction and maintenance on Department right of way shall conform to the Federal *Manual on Uniform Traffic Control Devices* (MUTCD), incorporated by reference under Rule 14-15.010, F.A.C. All construction and maintenance on Department right of way shall also conform to the Department's *Roadway and Traffic Design Standards*, January

~~2000 1994, Topic #625-010-003-e; and the Standard Specifications for Road and Bridge Construction, 2000 1994 Edition, as amended, and the Department's Roadway Plans and Preparation Manual, January 2000, or other generally accepted professional practices 1989 Edition, as Amended June 1994, Topic #625-000-101-b. With the exception of the MUTCD, which already is incorporated by reference under Rule 14-15.010, F.A.C., the manuals and standards specifically listed in this section are hereby incorporated by reference and made a part of the rules of the Department of Transportation.~~

(1) Disruption of Traffic. For safety and operational purposes, the Department may require or restrict hours of construction to minimize disruption of traffic on the State Highway System. When construction activity on a connection causes undue disruption of traffic or creates safety hazards on a ~~s~~State ~~h~~Highway, the District Secretary or designee shall advise the permittee of the need for immediate corrective action by a specified time, and may issue a stop work order if deemed necessary.

(2) Connection Completion Time Limit. Construction shall be completed within one year of the date of issuance of the permit. Failure to comply with the one year time limit shall result in an automatic expiration of the permit unless extended by the Department as described in Section 335.185(2), Florida Statutes. A stop work order may be issued by the Department if work exceeds the imposed time ~~restrictions~~ limit. For any permit which expires for failure to construct the connection within the one year limit, the ~~applicant~~ permittee shall submit a new ~~a~~Application, including the payment of the required application fee prior to the initiation or continuation of any construction.

(3) Assurance of Performance. Assurance of performance pursuant to Section 334.187, Florida Statutes, will be required if the permit requires extensive work within the ~~state~~ right of way, such as auxiliary lanes, median modifications, relocation of structures, ~~and~~ or traffic signals.

(a) Prior to the issuance of a permit, the applicant shall provide ~~a~~ the security instrument in the estimated dollar amount of the improvements in the ~~state~~ Right of ~~w~~Way. The Department shall be named as the beneficiary. ~~The This said~~ security instrument shall be provided to the Department before the ~~Connection p~~Permit is issued. The security instrument shall be valid for a sufficient time to cover the construction and inspection of the permitted work, but for not less than 18 months.

(b) The applicant shall provide the estimated cost of improvements on ~~state~~ right of way in a document as signed, sealed, and dated by a Professional Engineer registered in the State of Florida.

(c) Security Instrument Receipt, Form 850-040-20, (~~/02~~ 04/93) must be used.

(d) Such security instruments shall be required except ~~when in such cases or where~~ a performance bond covering the work on the ~~state~~ Right of ~~w~~Way is included as part of the bond necessary for development approval by the local governmental entity and the Department is ~~also~~ a named beneficiary.

(e) The Department will waive the security instrument requirement ~~when where~~ there is an agreement with the ~~appropriate~~ local governmental entity to withhold the certificate of occupancy until problems are corrected and there is no indication that the requirements of this rule chapter will be violated.

(f) The Department ~~shall may~~ require a security instrument for any connection or access feature, construction, or permit activity if ~~the this~~ activity is in relation to:

1. ~~An a discovered~~ unpermitted connection that is going through the process of becoming permitted;

2. ~~The~~ correction of a safety hazard caused by activities on the property; or

3. ~~M~~modification of an existing connection or traffic control access feature or device as per Rule 14-96.011, F.A.C., or 14-96.012 for changed conditions on the property.

(g) The security instrument will be returned to the ~~applicant~~ permittee when final inspection by the Department shows that the work has been ~~completed~~ done as permitted.

(4) Posting of Permit. The approved connection permit shall be displayed in a prominent location in the vicinity of the connection construction.

(5) Traffic Signals and Other Traffic Control Devices. Such devices, installed by ~~a~~ ~~applicant~~ permittee, shall conform to the MUTCD and Department design and construction standards. The ~~applicant~~ permittee is responsible for securing any additional ~~state and local~~ permits or governmental entity ~~and~~ approvals needed for traffic signalization and regulatory signing and marking.

(6) Professional Engineer Statement of Construction for Extensive Roadway Construction or Large Developments. If the permit requires extensive work within the ~~state~~ right of way, such as auxiliary lanes, median modifications, relocation of structures, ~~and~~ or traffic signals, a statement from the project's Professional Engineer will be necessary. The ~~applicant~~ permittee will provide documentation by a ~~P~~Professional ~~E~~ngineer registered in the State of Florida ~~and qualified to inspect highway construction~~ that construction was accomplished in accordance with the requirements set out in the permit. This documentation shall include a statement that necessary inspections, tests, and physical measurements have been made, that construction was accomplished in accordance with the design information included with the ~~connection permit application~~ in accordance with ~~this~~ Rule Chapter 14-96, F.A.C., and that all materials entering into the work conform to the specifications in the connection permit, conform to the applicable specifications contained in the

Standard Specifications for Road and Bridge Construction, 2000 1994 edition as amended, or otherwise conform to or meet generally accepted professional practices, incorporated by reference under Rule 14-96.008. The Record Drawings Report by Permittee's Professional Engineer, Form 850-040-19, 11/94, shall be used for this purpose.

(7) Utility and Right of Way User Notification. The applicant has the responsibility to determine and notify the users of the right of way of the permitted construction. ~~The applicant shall then notify all users within the right of way.~~ The applicant shall also resolve any conflicts within the right of way. Before a permit is issued, the applicant shall show documentation of this notification and resolution of conflicts.

Specific Authority 334.044(2), 334.187(4), 335.182(2), 335.184 FS. Law Implemented 334.044(14), 334.187, 335.181-.1825, 335.185 FS. History--New 4-18-90, Amended 7-16-95.

14-96.009 Non-conforming Connection Permits.

The Department ~~shall permitting authority may~~ issues a permit for a connection not meeting Department location and spacing criteria standards if the Department determines it finds that a conforming connection connecting is not attainable at the time of the permit application submittal, and that denial would leave the property without access a reasonable means of connection to the public road system and that the connection would not jeopardize the safety of the public or have a negative impact upon the operation of the highway. The Department ~~permitting authority~~ also shall issue a connection permit requiring a legally enforceable joint-use connection when determined to be in the best interest of the State for restoring or maintaining the operational efficiency and safety of the State Highway System. Non-conforming connection permits shall specify conditions or limits including:

- (1) The maximum vehicular usage of the connection;
- (2) The construction of a conforming connection when future alternate means can be obtained with removal of the non-conforming connection;
- (3) The properties to be served by the connection; ~~and any other conditions as necessary to carry out the provisions of the State Highway System Access Management Act.~~

Specific Authority 334.044(2), 335.182(3), 335.184 FS. Law Implemented 334.044(14), 335.18-.1825, 335.185 FS. History--New 4-18-90, Amended

14-96.011 ~~Permit Modification or Revocation; Alteration or Closure of Permitted Connections.~~

~~Closing a connection, (unless it has an adverse effect on traffic safety or operations) resurfacing, or bringing a connection to current Department design standards, at the existing location may be considered a safety upgrade as in this rule chapter and will not require a permit.~~

(1) Validity of Existing Permits. All connection permits issued by the Department after July 1, 1988, prior to the effective date of this rule chapter remain valid until ~~revoked or~~ modified pursuant to the criteria set forth in this rule chapter.

The Department ~~will may~~ initiate action to ~~revoke or~~ modify any permit or existing permitted connection if any of the following occurs:

(a) A ~~significant change, as defined in Section 335.18, Florida Statutes, has occurred;~~

(b) The connection was not constructed at the location or in accordance with ~~to~~ the design specified in the permit;

(c) Permit conditions are not met by the permittee;

(d) Such revocation or modification is determined to be necessary because the connection poses a current or potential safety or operational problem on the State Highway System. This problem must be substantiated by an engineering study signed and sealed by a ~~professional engineer~~ registered in the State of Florida qualified in transportation engineering. Such engineering study shall consider, ~~but not be limited to,~~ the following:

1. Analysis of accidents Accident or operational analysis directly involving the connection access points or similar connections access points, or a traffic conflicts analysis of the site.

2. Analysis of the impact, ~~the closure,~~ modification of the connection, or relocation, will have on maintenance, or safety on the ~~Public Road System.~~

3. Analysis of the impact, ~~closure,~~ modification of the connection, or relocation will have on traffic patterns and circulation on the ~~Public Road System.~~

4. The principles of transportation engineering as determined by Generally Accepted Professional Practice.

(e) If the Department acts to revoke or modify a permit, the Department shall offer an opportunity to meet on site on-site with the ~~permittee,~~ property owner, or designated their representative. The Department will take into consideration the following:

1. Documents, reports, or studies obtained by the property owner and provided to the Department.

2. ~~Consideration and development of~~ Alternative solutions proposed by the property owner applicant.

(f) ~~Also see 14-96.0051(2)(c), Vacant or Abandoned Sites.~~

(2) Notification Process for Permitted Connections. Notice of the Department's intended action will be provided in accordance with Rule Chapter 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules Chapter 28-106.104, ~~28-106.201,~~ and ~~28-106.301,~~ F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule Chapter 28-106.111, F.A.C.

(a) If the reason for the ~~revocation or~~ modification is due to ~~permittee~~ noncompliance, this notice will include the Violation and Notice to Show Cause, Form 850-040-26, ~~(/02) 01/99.~~ The notification shall state that, unless the deficiencies

are corrected, the permit shall be ~~revoked or~~ modified and the connection to the State Highway shall be ~~closed or~~ modified by the Department at the expense of the property owner.

(b) If the reason for ~~revocation or~~ modification is due to ~~significant change, as defined in Section 335.18, Florida Statutes,~~ the notice will state the basis of the Department's determination for modification and the Department's intent to modify or revoke the permit by requiring the relocation, alteration, or closure of an existing connection. Where the Department's action has become final and no timely application for a new ~~access~~ connection permit has been filed, the Department will take immediate action to ~~close or~~ modify the connection in accordance with the notice.

(c) If the reason for revocation or modification is a safety or operational problem, the notice will state the basis of the Department's determination and describe the changes necessary to reduce the hazard or correct the situation.

(3) Unpermitted Connections.

(a) Grandfathered Connections to the State Highway System. Connections permitted or in existence prior to July 1, 1988, use of which have never been discontinued as described in Rule 14-96.005(2)(c)3., are considered "grandfathered" and shall not require the issuance of a permit and may continue to provide connection to the State Highway System except as provided in subsection (4).

(b) Unpermitted/Non-Grandfathered Connections. All other unpermitted connections are subject to closure in accordance with paragraph (5)(b).

(4) Modification of Grandfathered Connections.

(a) The Department will require that a permit be obtained in accordance with Rule Section 14-96.005(3), F.A.C., pursuant to the provisions of Section 335.187(1), Florida Statutes, if significant changes have occurred.

(b) The Department will modify a connection if such modification is determined to be necessary because the connection would jeopardize the safety of the public or have a negative impact on the operational characteristics of the state highway. The problem may be substantiated by an engineering study signed and sealed by a professional engineer registered in the State of Florida. Such engineering study shall consider the following:

1. Analysis of accidents or operational analysis directly involving the connection or similar connections, or a traffic conflicts analysis of the site.

2. Analysis of the impact modification of the connection will have on maintenance or safety on the public road system.

3. Analysis of the impact, modification of the connection will have on traffic patterns and circulation on the public road system.

4. The principles of transportation engineering as determined by generally accepted professional practice.

(c) If the Department acts to modify a connection, the Department shall offer an opportunity to meet on site with the property owner or designated representative. The Department will take into consideration the following:

1. Documents, reports, or studies obtained by the property owner or lessee and provided to the Department.

2. Alternative solutions proposed by the property owner.

(5) Notification Process for Modification of Unpermitted Connections. Notice of the Department's intended action will be provided in accordance with Rule Chapter 28-106, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rule Chapter 28-106, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule Chapter 28-106, F.A.C.

(a) The Department shall give written notice to the property owner, with a copy to the occupant, for a grandfathered connection if significant changes have occurred or if the connection is found to cause a safety or operational problem (as specified in this rule chapter). The notice will identify the specific information regarding the safety or operational problem and request that the problem be corrected or that a written agreement on a schedule for the correction be approved by the Department within 30 days of receipt of the notice.

1. If the reason for the modification is due to significant change the notice will state the basis of the Department's determination and require the filing of a permit application by a specified date. Where the Department's requirement to file an application has become final and no timely application has been filed, the Department will take immediate action to modify the connection in accordance with the notice at the owner's expense.

2. If the reason for the modification is a safety or operational problem, the notice will state the basis of the Department's determination and describe the changes necessary to reduce the hazard or correct the situation.

(b) If a timely request for an administrative proceeding is filed, or a permit application is filed within the 21 days, no further action shall occur until review of the application or the administrative proceeding is complete. If the connection is not closed and no timely application or request for an administrative proceeding is filed, the Department will take immediate action to install barriers across or modify the connection at the property owner's expense.

1. If a timely application is approved, the Department may allow the existing connection to be used for a period of time specified or until the connection specified in the permit application is constructed and the existing connection is closed. If necessary to ensure safety and highway integrity, modifications of unpermitted connections will be required by the Department as a requirement of permit approval, subject to

the requirements of this rule chapter and Chapter 120, Florida Statutes. If the application is denied, the Department shall notify the property owner or lessee of the denial, with a copy to the occupant, and shall immediately close the unpermitted connection(s), subject to the provisions of this rule chapter and Chapter 120, Florida Statutes.

2. In lieu of filing an application, the property owner or lessee may challenge the requirement to file a permit application by filing in accordance with Rule Chapter 28, F.A.C., a timely written request (within 21 days of receipt of notice) for an administrative proceeding stating the reasons why a permit is not required for the connection. In such a case, final action to modify the unpermitted connection shall be taken in accordance with the results of the administrative proceeding.

(6) Responsibility for Costs of Correcting Deficiencies. The property owner and current user of the connection shall be responsible for the costs of modifications required pursuant to actions taken in accordance with the procedure in Rule 14-96.011, F.A.C.

~~(3) Responsibility for Costs of Correcting Deficiencies. The permittee, assignee, or current user of the permit shall be responsible for the costs of correcting deficiencies and the closure due to revocation pursuant to the procedure in this rule chapter.~~

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 334.044(14), 335.182, 335.185, 335.1825 FS. History—New 4-18-90, Amended 7-16-95, 6-24-99, _____.

14-96.012 Closure and Modification of Unpermitted Connections (Including Those to be Considered “Grandfathered”).

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 334.044(14), 335.182, 335.185, 335.1825 FS. History—New 4-18-90, Amended 7-16-95, 6-24-99, Repealed _____.

14-96.0121 Immediate Remedial Action Against Hazards. This rule chapter shall not restrict the Department’s right to take immediate remedial action, including the modification closure of a connection if there is an immediate and serious danger to the public health, safety, and welfare as determined in writing by the District Secretary or designee. Upon determination that there is a need for immediate remedial action against hazards, the District Secretary or designee shall issue an order in compliance with Section 120.60(8), Florida Statutes, and the Department District shall provide the property owner and occupant with written notice of the Department’s immediate action to close or modify the connection and of the right to contest the decision pursuant to Rule Chapter 28-106, F.A.C. Department’s initiation of a formal revocation or modification of the connection and any permit issued for the connection.

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 335.182, 120.60(8) FS. History—New 7-16-95, Amended _____.

14-96.015 Department Design and Construction Projects. When existing connections are modified affected by a Department project, access will be provided to abutting properties, subject to reasonable regulations as referred to in Section 335.181(2)(b), Florida Statutes will be provided to abutting properties. To the maximum extent feasible, this new access will should be consistent with adopted Department connection standards.

(1) Corridors will be examined during the preliminary engineering and design phases to determine if existing connections, median openings, and signals spacing and design standards are in conformance, or can be brought into reasonable conformance, with adopted Department standards.

(2) When a permitted or grandfathered connections is are made or modified as part of a Department construction project, replacing or modifying existing permitted connections, and not due pertaining to a Significant Change of land use, as defined in 335.18, Florida Statutes, no additional permit shall be required.

(3) Where connections are to be modified closed or substantially re-located as part of a Department construction improvement project, and the Department is not planning to acquire any portion of the property for the project, the Department will provide notice and opportunity for an administrative proceeding pursuant to Rules 14-96.0011, F.A.C., or 14-96.012 and Chapter 120, Florida Statutes. For purposes of paragraph 14-96.011(1)(d), F.A.C., construction plans for a Department project signed and sealed by a Professional Engineer registered in the State of Florida shall substantiate a connection’s non-conformance with Department standards or potential safety or operational problem, and a separate engineering study shall not be required.

(4) The construction of new connection points, if approved by the Department, through the permit process in this rule chapter, shall be done at the property owner’s expense by either the Department’s contractor as part of the construction project roadway improvement or by the owner’s contractor.

(5) The Department will bear the cost of modification routine replacement of existing approved connections necessitated solely by Department construction projects.

(6) The Department shall require that work done by the owner’s contractor be accomplished without interfering with the Department’s contractor.

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 334.044(14), 335.182-1825 FS. History—New 4-18-90, Amended 7-16-95, _____.

14-96.016 Maintenance of Driveways, Roadway Connections and Traffic Control Devices.

(1) Maintenance of Driveways and Roadway Connections.

(a) Rural Section. Department maintenance shall extend out to five feet from the edge of pavement (including auxiliary lanes) or to the limits of paved shoulders. The remainder of any paved or unpaved connection area on the right of way shall be maintained by the owner or the authorized agent.

(b) Urban (Curb and Gutter) Section. Department maintenance of pavement shall extend to the existing or maintained right of way line or to the back of sidewalk ~~back of sidewalk~~, whichever distance is less.

(c) Drainage. Control and maintenance of drainage facilities within the right of way shall be solely the responsibility of the Department, unless otherwise specified in ~~different~~ by the connection ~~Department~~ permit.

(2) Maintenance of Traffic Control Devices.

(a) The maintenance and operation of highway lighting, traffic signals, associated equipment, and other necessary devices shall be the responsibility of the governmental entity ~~public agency~~ having maintenance jurisdiction of the equipment or devices. During the construction of connection(s), the permittee will be responsible for the operation, repair, replacement, or provision of temporary maintenance, ~~if the above~~ traffic control devices are impacted by the permittee's operations.

(b) All pavement markings on the State Highways System, including acceleration and deceleration lane markings, and signing installed for the operation of the State Highway System shall be maintained by the Department.

(c) All signing and markings required for the operation of the connection (such as stop bars and stop signs for the connection) shall be the responsibility of the property owner ~~and permittee~~, current user owner, entity responsible for the connection, or governmental entity having jurisdiction over the connection, road, or intersection of the state highway regardless of the owner of the right of way as provided ~~stated~~ in Chapter 316, Florida Statutes.

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 334.044(14), 335.182-1825 FS. History—New 7-16-95, Amended.

LAND AND WATER ADJUDICATORY COMMISSION
Circle Square Woods Community Development District

RULE CHAPTER TITLE: Circle Square Woods Community Development District
RULE CHAPTER NO.: 42S-1

RULE TITLE: Boundary
RULE NO.: 42S-1.002

PURPOSE AND EFFECT: The purpose of this proposed rule amendment is to amend the boundaries of the Circle Square Woods Community Development District (“District”), a community development district (CDD) established pursuant to Chapter 190, F.S. The petition was filed by Circle Square Woods Community Development District with offices at 8447 S. W. 99th St., Ocala, Florida 34481. The District requests that the Commission adopt an amendment to Chapter 42S-1, FAC, to delete approximately 1,737.03 acres from the existing boundaries of the District. After contraction, the District’s boundaries will consist of approximately 718.75 acres within the jurisdictional boundaries of Marion County. The District has written consent to the contraction of 100% of the

landowners within the contraction parcel. The services and facilities currently provided by the District to the contraction parcel consist of water treatment and distribution, wastewater collection, treatment, and residual disposal. The contraction parcel is currently undeveloped land and is projected for development in the future.

SUBJECT AREA TO BE ADDRESSED: Contraction of the boundaries of the Circle Square Woods Community Development District.

SPECIFIC AUTHORITY: 120.53(1), 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 Noon, Monday, August 5, 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 at (850)488-7793 at least 2 business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Fred F. Harris, Jr., Esquire, Greenberg Traurig, Post Office Drawer 1838, Tallahassee, Florida 32302, telephone (850)222-6891, or Barbara Leighty, Senior Governmental Analyst, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of Facility Management and Building Construction

RULE TITLES:	RULE NOS.:
Purpose and Scope	60-8.001
Definitions	60-8.002
Prohibition	60-8.003
Non-Smoking Areas	60-8.004
Action By Department Officials and Employees	60-8.005
Posting of Signs	60-8.006
Enforcement, Penalties	60-8.007

PURPOSE AND EFFECT: To implement the “Florida Clean Indoor Air Act,” Chapter 386, Part II, Florida Statutes, and to assure a smoke-free environment to protect the health and well being of state employees and members of the public who do business with state agencies.

The rules define smoking, prohibit smoking in all buildings and offices owned, leased or rented by the Department of Management Services and all Department owned vehicles.

SUBJECT AREA TO BE ADDRESSED: Smoking in state buildings, offices and vehicles.

SPECIFIC AUTHORITY: 386.205 FS.

LAW IMPLEMENTED: 386.202, 386.203, 386.204 FS.

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

TIME AND DATE: 10:00 a.m., August 7, 2002

PLACE: Department of Management Services, 4050 Esplanade Way, Room 310, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Julia P. Forrester, Assistant General Counsel, Office of the General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, FL 32399-0950, (850)414-0240, forresj@dms.state.fl.us.

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLE: Abandonment of Applications

RULE NO.: 61G4-12.0065

PURPOSE AND EFFECT: The Board proposes to create text for a rule to address the subject of Abandonment of Applications.

SUBJECT AREA TO BE ADDRESSED: Abandonment of Applications.

SPECIFIC AUTHORITY: 489.111, 489.115, 489.119, 455.213 FS.

LAW IMPLEMENTED: 489.111, 489.115, 489.119, 489.1195, 455.213 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert A. Crabill, Executive Director, Construction Industry Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-1039

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G4-12.0065 Abandonment of Applications.

(1) The Board shall consider a certification or registration application to be abandoned whenever an applicant fails to complete an application within ninety (90) days of the date of the original notice of deficiencies.

(2) An abandoned application shall not be reinstated; however, the applicant may file a new application accompanied by the required fee.

Specific Authority 489.111, 489.115, 489.119, 455.213 FS. Law Implemented 489.111, 489.115, 489.119, 489.1195, 455.213 FS. History--New

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLE: Examination for Embalmer Applicants

RULE NO.: 61G8-16.001

PURPOSE AND EFFECT: The Board proposes to review this rule to determine the necessity of amendments.

SUBJECT AREA TO BE ADDRESSED: Examination for embalmer applicants.

SPECIFIC AUTHORITY: 455.217, 470.005, 470.006 FS.

LAW IMPLEMENTED: 455.217, 470.006 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Leon Biegalski, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLE: Examination Requirements

RULE NO.: 61G8-23.002

PURPOSE AND EFFECT: The Board proposes to review this rule to determine the necessity of amendments.

SUBJECT AREA TO BE ADDRESSED: Examination requirements.

SPECIFIC AUTHORITY: 470.017 FS.

LAW IMPLEMENTED: 470.017 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Leon Biegalski, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

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

DEPARTMENT OF HEALTH

RULE TITLES: Registration Requirements, Fees
 Scope of Responsibility for Medical and Clinical Directors

RULE NOS.: 64-2.001
 64-2.002

PURPOSE AND EFFECT: In accordance with section 456.0375, F.S., the Department of Health is developing rules specifying limitations on the number of registered clinics and licensees for which a medical or clinical director may assume responsibility. Additional rules proposed are necessary for the continued implementation of the clinic registration program, and will address a clinic's changes to its original registration.

SUBJECT AREA TO BE ADDRESSED: Registration of certain clinics, pursuant to the requirements of section 456.0375, F.S.

SPECIFIC AUTHORITY: 456.0375 FS.

LAW IMPLEMENTED: 456.0375 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND TO RECEIVE A PRELIMINARY DRAFT, IF AVAILABLE, IS: Pamela King, Program Operation Administrator, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida, 32399-3253.

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

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Definitions

RULE NO.: 64B3-2.003

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

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.803, 483.811, 483.821, 483.823 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-2.003 Definitions.

(1) through (19) No change.

(20) Manual Pretesting procedures means collecting and labeling specimens; initially separating specimens by centrifugation prior to testing; receiving specimens and requisitions, processing, sorting, accessioning, prior to testing and delivering specimens to the appropriate testing sites; specimen processing for storage and shipping to a reference laboratory; routine cytopreparatory staining; and measuring and aliquoting specimens; and direct primary inoculation of microbiology cultures.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.803, 483.811, 483.821, 483.823 FS. History—New 11-4-93, Formerly 61F3-2.003, Amended 11-21-94, 11-30-94, 12-26-94, 5-3-95, 7-12-95, Formerly 59O-2.003, Amended 3-19-98, 12-13-98, 3-28-99, 9-12-99, 11-15-99, 3-24-02

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Curriculum Requirements for Clinical Laboratory Personnel Training Programs

RULE NO.: 64B3-3.003

PURPOSE AND EFFECT: The Board proposes to add new language to the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Curriculum Requirements for Clinical Laboratory Personnel Training Programs.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.800, 483.809, 483.811 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-3.003 Curriculum Requirements for Clinical Laboratory Personnel Training Programs.

(1) No change.

(2) All programs not accredited by the National Accrediting Agency for Clinical Laboratory Science (NAACLS), the Council on Accreditation of Allied Health Education Programs (CAAHEP), or the Accrediting Bureau of Health Education Schools (ABHES) except for those in the categories of cytology, cytogenetics or histocompatibility shall adopt the curriculum standards defined in the Florida

Department of Education Program Standards as designated in Section 229.565, F.S., for the categories in which training occurs as follows:

- (a) through (d) No change.
- (3) through (8) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History—New 5-9-95, Amended 12-4-95, 4-24-96, Formerly 590-3.003, Amended 3-19-98, 9-20-98, 1-11-99, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES:	RULE NOS.:
Supervisor	64B3-5.002
Technologist	64B3-5.003
Technician	64B3-5.004
Director; Limitations and Qualifications	64B3-5.007

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

SUBJECT AREA TO BE ADDRESSED: Supervisor; Technologist; Technician; Director; Limitations and Qualifications.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.815, 483.823 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-5.002 Supervisor.

Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. In order to be licensed as a supervisor, an applicant shall have one hour ~~four hours~~ of Board approved HIV/AIDS continuing education and one of the following:

- (a) through (i) No change.
- (2) No change.

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01, 9-19-01, 5-23-02, _____.

64B3-5.003 Technologist.

(1) Technologist Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or, if foreign education, equated pursuant to subsection 64B3-6.002(6), F.A.C. All associate degrees used to qualify shall include, at a minimum, 60 semester hours of academic credit including a total of 16 semester hours of academic biological and/or chemical science. Applicants for technologist licensure in the categories of microbiology, serology/immunology, chemistry, hematology, immunohematology, radioassay, histocompatibility, blood banking and blood gas analysis shall have one hour ~~four hours~~ of Board approved HIV/AIDS continuing education and at a minimum have one of the following:

- (a) through (k) No change.
- (2) through (3) No change.
- (4) Qualifications for Cytogenetics Technologists. In the category of cytogenetics, applicants for technologist licensure shall have a minimum of a baccalaureate degree in clinical laboratory, chemical or biological science, four hours of Board approved HIV/AIDS continuing education and have one of the following:

- (a) Successfully completed a technologist level, accredited or Board approved program in cytogenetics.
- (b) One year of pertinent clinical laboratory experience in cytogenetics.
- (c) Successfully passed the cytogenetics examination given by NCA (National Certification Agency for Medical Laboratory Personnel).

(5) through (6) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 9-10-95, 12-4-95, Formerly 590-5.003, Amended 5-26-98, 1-11-99, 7-5-01, 3-24-02, _____.

64B3-5.004 Technician.

(1) No change.

(2) Qualifications for General Laboratory Technicians. In order to be licensed as a general laboratory technician which includes the categories of microbiology, serology/immunology, chemistry, hematology, and immunohematology, an applicant shall have one hour ~~four (4) hours~~ of Board approved HIV/AIDS continuing education, a minimum of a high school diploma or a high school equivalency diploma and one of the following:

- (a) through (e) No change.
- (3) through (6) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.004, Amended 5-26-98, 9-20-98, 1-11-99, 8-31-99, 9-27-00, 12-26-00, 4-29-02, _____.

64B3-5.007 Director; Limitations and Qualifications.

(1) through (3) No change.

(4) Qualifications – Non-Physician Directors. Degrees or semester hours of academic credit required in this section shall be obtained at an accredited college or university or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. Currently licensed directors who no longer meet the provisions of Rule 64B3-5.007, F.A.C., can retain and renew their director’s license. In order to be licensed as a director, an applicant shall have one hour ~~four hours~~ of Board approved HIV/AIDS continuing education and shall meet the following requirements: holds an earned doctoral degree with a chemical, biological or clinical laboratory science as a major and is certified in one of the laboratory specialties by an agency recognized by the U.S. Department of Education or the U.S. Department of Health and Human Services which includes the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Medical Genetics, the American Board of Bioanalysis, the American Board of Medical Laboratory Immunology, and the American Board of Histocompatibility and Immunogenetics.

Specific Authority 483.051, 483.805(4) FS. Law Implemented 483.041(5), 483.051(1), 483.811(2), 483.823(1), 483.824 FS. History—New 6-6-85, Formerly 10D-41.67, Amended 3-11-90, Formerly 10D-41.067, Amended 7-1-97, Formerly 59O-5.007, Amended 5-26-98, 3-2-99, 3-24-02.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: COURSE TITLE: COURSE NO.:

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

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

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

SPECIFIC AUTHORITY: 456.031, 456.033 FS.

LAW IMPLEMENTED: 456.031, 456.033, 456.013 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3254

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

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: COURSE TITLE: COURSE NO.:

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

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

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

SPECIFIC AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 456.013(6),(7),(8), 466.0135, 466.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3254

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

DEPARTMENT OF HEALTH

Board of Nursing

RULE CHAPTER TITLE: COURSE TITLE: COURSE NO.:

Certified Nursing Assistants 64B9-15

PURPOSE AND EFFECT: The Board proposes to discuss and review this entire chapter to determine if amendments and/or new rules are necessary pertaining to all matters concerning certified nursing assistants.

SUBJECT AREA TO BE ADDRESSED: Certified nursing assistants.

SPECIFIC AUTHORITY: 464.204 FS.

LAW IMPLEMENTED: 456.072, 464.204 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dan Coble, Executive Director, Board of Nursing /MQA, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3252

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

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Continuing Education Credits RULE NO.: 64B16-26.103

PURPOSE AND EFFECT: The Board proposes to update rule text to conform with Section 465.009, Florida Statutes as amended by Chapter 2002-184, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Continuing education credits per biennium period.

SPECIFIC AUTHORITY: 456.033, 465.009 FS.

LAW IMPLEMENTED: 456.013(7), 456.033, 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-26.103 Continuing Education Credits.

(1) No biennial renewal certificate shall be issued by the Board until the applicant submits proof satisfactory to the Board that during ~~each year of~~ the biennial period preceding the renewal period the applicant ~~that he~~ has participated in not less than 30 ~~45~~ hours of approved courses of continued professional pharmaceutical education ~~for a total of not less than 30 hours in the biennial period preceding the renewal period.~~

(2) through (8) No change.

Specific Authority 456.033, 465.009 FS. Law Implemented 456.013(7), 456.033, 465.009 FS. History—New 3-19-79, Formerly 21S-6.07, Amended 1-7-87, Formerly 21S-6.007, Amended 7-31-91, 10-14-91, Formerly 21S-26.103, 61F10-26.103, Amended 7-1-97, Formerly 59X-26.103, Amended 7-11-00, 10-15-01, 1-2-02, _____.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Manner of Application – Examination RULE NO.: 64B16-26.203

PURPOSE AND EFFECT: To provide approval for certain educational courses in prevention of medication errors taken by students as part of their academic course work.

SUBJECT AREA TO BE ADDRESSED: Requirements for taking an educational course in medical error prevention prior to licensure.

SPECIFIC AUTHORITY: 456.033, 465.005 FS.

LAW IMPLEMENTED: 456.013(1),(7), 456.033, 465.007, 465.022 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-26.203 Manner of Application – Examination.

All applicants for licensure shall complete a course on HIV/AIDS prior to licensure. The course shall be no less than 3 contact hours and shall cover the subjects listed in subsection 64B16-26.103(3), F.A.C. For those applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on HIV/AIDS will be accepted by the Board as an educational course under this section, provided such course work is no less than 3 contact hours and that it covers the subjects listed in subsection 64B16-26.103(3), F.A.C., as evidenced by a letter attesting to subject matter covered from the Dean of the University. All applicants for licensure shall complete a course on medication errors prior to licensure. The course shall be no less than 2 contact hours and shall cover the subjects listed in subsection 64B16-26.103(4), F.A.C. For those applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the subjects listed in subsection 64B16-26.103(4), F.A.C., as evidenced by a letter attesting to subject matter covered from the Dean of the University.

(1) through (3) No change.

Specific Authority 456.033, 465.005 FS. Law Implemented 456.013(1),(7), 456.033, 465.007, 465.022 FS. History—New 10-17-79, Formerly 21S-12.04, 21S-12.004, Amended 7-31-91, 10-14-91, Formerly 21S-26.203, 61F10-26.203, Amended 7-1-97, Formerly 59X-26.203, Amended 8-17-99, 10-15-01, 1-2-02, _____.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Continuing Education – Ordering and Evaluation of Laboratory Tests RULE NO.: 64B16-26.320

PURPOSE AND EFFECT: The Board proposes to update rule text to conform to Section 465.009, Florida Statutes as amended by Chapter 2002-184, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Continuing education requirements for licensure renewal per biennial period.

SPECIFIC AUTHORITY: 465.0125(3), 465.009 FS.

LAW IMPLEMENTED: 465.0125(2), 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-26.320 Continuing Education – Ordering and Evaluation of Laboratory Tests.

(1) through (2) No change.

(3) A consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the requirement that a consultant pharmacist biennially ~~annually~~ complete twenty-four (24) ~~twelve (12)~~ hours of continuing education for renewal of a consultant pharmacist license under Rule 64B16-26.300, or may apply such continuing education hours toward the requirement that a pharmacist biennially ~~annually~~ complete thirty (30) ~~fifteen (15)~~ hours of continuing education for renewal of a pharmacist license under Rules 64B16-26.103 and 64B16-26.606, but may not use the same continuing education hours to satisfy both requirements. A Doctor of Pharmacy who is not a consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the requirement that a pharmacist biennially ~~annually~~ complete thirty (30) ~~fifteen (15)~~ hours of continuing education for renewal of a pharmacist license under Rules 64B16-26.103 and 64B16-26.606.

Specific Authority 465.0125(3), 465.009 FS. Law Implemented 465.0125(2), 465.009 FS. History–New 2-23-98, Amended 6-15-98, _____.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: _____ RULE NO.: _____

Number of Required Hours 64B16-26.606

PURPOSE AND EFFECT: The Board proposes to update rule text to conform to Section 465.009, Florida Statutes as amended by Chapter 2002-184, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Number of required hours of continuing education per biennial period.

SPECIFIC AUTHORITY: 465.005 FS.

LAW IMPLEMENTED: 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-26.606 Number of Required Hours.

As a condition of the biennial renewal of his license a registered pharmacist must submit proof in the form of certification to the Board the completion of not less than thirty (30) ~~fifteen (15)~~ hours ~~per year~~ of continuing professional education during the preceding biennium which fulfills the requirements of this rule. A pharmacist, upon request by the Board office, shall provide additional proof of the required continued pharmaceutical education credits as provided by Rule 64B16-26.603, F.A.C. At least ten (10) ~~five (5)~~ of the required thirty (30) ~~fifteen (15)~~ hours ~~per year~~ must be obtained either at a live seminar, a live video teleconference, or through an interactive computer based application.

Specific Authority 465.005 FS. Law Implemented 465.009 FS. History–New 10-17-79, Formerly 21S-13.07, 21S-13.007, Amended 7-31-91, Formerly 21S-26.606, 61F10-26.606, 59X-26.606, Amended 2-23-98, _____.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: _____ RULE NO.: _____

Nuclear Pharmacist – Continuing Education 64B16-28.904

PURPOSE AND EFFECT: The Board proposes to update rule text to conform with Section 465.009, Florida Statutes as amended by Chapter 2002-184, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Continuing education hours per biennium period.

SPECIFIC AUTHORITY: 465.0126, 465.022, 465.009 FS.

LAW IMPLEMENTED: 465.0126, 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-28.904 Nuclear Pharmacist – Continuing Education.

(1) Proof satisfactory that a nuclear pharmacist licensed pursuant to this section has met the requirements necessary for biennial renewal of this license shall be constituted by the following:

(a) The licensee has completed no less than twenty-four (24) additional hours per biennium (~~12 hours per year~~) of coursework each two year period by or through a Committee-approved provider, instructionally designed to provide in-depth treatment of nuclear pharmacy practice with suggested matter set out in (2).

(b) The number of hours if applied to the twenty-four (24) required for nuclear pharmacist renewal may not be used toward the continuing education credits as set forth in Rule 64B16-26.606. However, if any additional nuclear pharmacist program hours earned are not used for nuclear pharmacist renewal, these hours may be applied toward the continuing professional education requirements of 64B16-26.606.

(2) No change.

Specific Authority 465.0126, 465.022, 465.009 FS. Law Implemented 465.0126, 465.009 FS. History–New 10-28-91, Formerly 21S-28.904, 61F10-28.904, 59X-28.904, Amended _____.

Section II Proposed Rules

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: RULE NO.:

Clinical Laboratory Personnel 64B3-2.002

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

SUMMARY: The Board is clarifying the definition for director as used in the rules and is correcting out-of-date references to other rules.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(4) FS.

LAW IMPLEMENTED: 483.035(1), 483.803, 483.811(3),(4) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-2.002 Clinical Laboratory Personnel.

(1) Director means a Clinical Laboratory Director ~~person~~ qualified ~~to be a director~~ pursuant to the Board’s rules who is responsible for and assures the overall operation and administration of the clinical laboratory and fulfills the responsibilities specified in Rule 64B3-13.001, ~~64B3-5.007(5)~~, F.A.C.

(2) Supervisor means a person qualified to be a supervisor pursuant to the Board’s rules who is responsible for the day-to-day supervision and oversight of technical and scientific operations in a clinical laboratory and fulfills the responsibilities specified in Rule 64B3-13.002, ~~64B3-5.002(3)~~, F.A.C.

(3) Technologist means a person qualified to be a technologist under the Board’s rules who represents the first level of independent practice and under general supervision, fulfills the responsibilities specified in Rule 64B3-13.003, ~~64B3-5.003(5)~~, F.A.C.

(4) Technician means a person qualified as a technician pursuant to the Board’s rules who practices the profession and may perform tests classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein, and the requirements contained in Rule 64B3-5.004(5) and fulfills the responsibilities specified in Rule 64B3-13.004, ~~64B3-5.004(7)~~, F.A.C.

(5) through (6) No change.

(7) Direct supervision means supervision by a qualified director, licensed supervisor, or licensed technologist who is on the premises, or is available to the laboratory when test procedures are being performed and is responsible for the oversight of testing and reporting of results.

Specific Authority 483.805(4), 483.811(4) FS. Law Implemented 483.035(1), 483.803, 483.811(3),(4) FS. History–New 11-4-93, Formerly 61F3-2.002, Amended 11-21-94, 7-12-95, 5-15-96, Formerly 59O-2.002, Amended 3-19-98, 12-13-98, 9-27-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2001