

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Examination Security and Sanctions
for Subversion

RULE NO.: 64B17-3.006

PURPOSE AND EFFECT: The Board proposes to create a new rule.

SUBJECT AREA TO BE ADDRESSED: Examination Security and Sanctions for Subversion.

SPECIFIC AUTHORITY: 486.023(4), 486.025 FS.

LAW IMPLEMENTED: 456.017(1)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Examination Security and Sanctions
for Subversion

RULE NO.: 64B17-4.006

PURPOSE AND EFFECT: The Board proposes to create a new rule.

SUBJECT AREA TO BE ADDRESSED: Examination Security and Sanctions for Subversion.

SPECIFIC AUTHORITY: 486.023(4), 486.025 FS.

LAW IMPLEMENTED: 456.017(1)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES: Books and Records
Mortgage Brokerage Files

RULE NOS.: 3D-40.170
3D-40.175

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments to 3D-40.170 clarify that before a licensee may maintain required books, accounts, and records at a location other than the licensee's principle place of business, the Department must be notified of the location in writing. The Department's confirmation letter must be maintained at the licensee's principle place of business. When these requirements for off-site records maintenance have been met, the licensee shall have three days from the date of the Department's written request to produce the documents. In all other cases, the required documents must be maintained for inspection by the Department upon demand at the licensee's principle place of business. The proposed amendments to Rule 3D-40.175, F.A.C., clarify that, in addition to the documentation listed with specificity in subsections (2) through (7) of the rule, all other documentation originated, received, and/or related to the mortgage loan from application to final disposition must be maintained for three years from the date of origination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 494.0011(2), 494.0016(4) FS.

LAW IMPLEMENTED: 494.0016, 494.0038, 494.0041, 494.0043 FS.

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

TIME AND DATE: 10:00 a.m., December 6, 2002

PLACE: Room 547, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

Pursuant to the American's with Disabilities Act, any person requiring special accommodations to participate in this hearing, please advise the Department at least 5 calendar days before the hearing by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle, Financial Administrator, or Rick Morgan, Financial Control Analyst, Suite 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-40.170 Books and Records.

(1) Books, accounts, and records that are required to be maintained at the principal place of business shall be made available to the Department for review, upon the Department's request.

~~(1)~~(a) A licensee may maintain required books, accounts, and records at a location other than the principal place of business. The licensee must notify the Department in writing prior to said books, accounts, and records being maintained in any place other than the designated principal place of business. Such notification shall be submitted to the Department of Banking and Finance, Division of Securities and Finance, Attention: Regulatory Support, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) The notification shall include confirmation by the licensee that the proposed storage facilities are in a building of stationary construction wherein the books, accounts, and records will be kept in a secured location under conditions, which will not lead to the damage or destruction of the records.

~~(3)~~(2) If the Department is notified by a licensee that it will maintain the books, accounts, and records at a location other than the principal place of business, such books, accounts, and records shall be made available to the Department for review within three (3) business days from the date of a written request by the Department and at a reasonable and convenient location in this State designated by the Department.

(4) The licensee shall maintain at the principal place of business a copy of the confirmation letter from the Department to maintain its records at a location other than the principal place of business.

~~(5)~~(3) All books, accounts, and records must be maintained for three (3) years from the date of "original entry". For the purpose of this rule, "original entry" means the date the documentation was originated by the licensee or received by the licensee.

~~(6)~~(4)(a) The penalty for maintaining books, accounts, and records at a location other than the principal place of business, without written notification to the Department, shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a \$500 fine.

(b) The penalty for refusal to permit an investigation or examination of books, accounts, and records, after a reasonable request by the Department, shall be revocation of the license. This paragraph shall not apply to a proceeding governed by the rules of civil procedure of any state or federal court.

Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 494.0016, 494.0041(2) FS. History New 2-16-92, Amended 7-25-96, 12-12-99, _____.

3D-40.175 Mortgage Brokerage Files.

(1) No change.

(2) Each file shall contain at least the following:

(a) Mortgage brokerage agreement pursuant to Section 494.0038, F.S.;

(b) Copy of signed closing statement ~~as required by Section 494.0037(3), F.S.~~, or documentation of denial or cancellation of the loan application; and

(c) A copy of the good faith estimate of costs pursuant to Section 494.0038(2)(c), F.S.

(3) through (7) No change.

(8) In addition to the foregoing specific documentation, all documentation originated, received, or related to the mortgage loan from the application through the final disposition must be maintained for three (3) years from the date of the original entry. "Original entry" means the date the documentation was originated by the mortgage brokerage business or received by the mortgage brokerage business. For each brokerage transaction, files and documentation shall be maintained and remain complete for three (3) years from the date of "original entry" of the last document in the file.

(9) through (10) No change.

Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 494.0016, 494.0038, 494.0041, 494.0043 FS. History—New 2-16-92, Amended 7-25-96, 8-7-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Suite 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Securities and Finance, Department of Banking and Finance

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Code of Student Conduct
RULE NO.: 6D-7.007

PURPOSE AND EFFECT: The purpose of this Rule is to establish the rights, responsibilities and conduct of the students enrolled in the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates that the code requires adherence to all applicable law. Indicates specific grounds for disciplinary action and procedures to be followed for acts requiring discipline.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 1002.36(4)(c) FS.

LAW IMPLEMENTED: 1002.36(4)(d) FS.

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

TIME AND DATE: 9:00 a.m., December 14, 2002

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-7.007 Code of Student Conduct.

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

(c) Suspension – The temporary removal of a student, for a period not to exceed ten school days (without an IEP, Individual Educational Plan, to review student behavior), (1) from classes and assignment to a designated staff member for supervision; or (2) temporary removal of a student from the classroom and dormitory and temporary withdrawal from extra curricular activities. The student will be remanded to the custody of the student’s parent(s)/legal guardian with specific homework assignments for the student to complete.

(d) through (j) No change.

(k) Code of Student Conduct – Those regulations of this School, found in Rules 6D-7.007, 6D-7.0072, 6D-7.0073, FAC., which regulate the conduct of students at the School.

(l) through (4) No change.

Specific Authority 1002.36(4)(c) ~~420.53(1)(b)~~, ~~242.331(3)~~ FS. Law Implemented 1002.36(4)(d) ~~420.53(1)(b)~~, ~~242.331(4)~~ FS. History–New 9-4-84, Formerly 6D-7.07, Amended 8-26-86, 5-5-87, 1-12-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President, Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Grounds for Disciplinary Action

RULE NO.: 6D-7.0072

PURPOSE AND EFFECT: The purpose of this Rule is to establish violations to the Code of Student Conduct for students enrolled in the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates what constitutes the A, B and C violations to the Code of Student Conduct.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 1002.36(4)(c) FS.

LAW IMPLEMENTED: 1002.36(4)(d) FS.

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

TIME AND DATE: 9:00 a.m., December 14, 2002

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-7.0072 Grounds for Disciplinary Action.

Listed below are violations of the Code of Student Conduct to be utilized while the student is under the jurisdiction of the School. Notice that some violations are grounds for criminal penalties under Florida Statutes.

(1)(a) through (2)(g) No change.

~~(h) Possession of electronic pagers and/or portable telephone.~~

~~(h)(i) Repeated occurrences of Class C violations.~~

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

Specific Authority 1002.36(4)(c) ~~420.53(1)(b)~~, ~~242.331(3)~~ FS. Law Implemented 1002.36(4)(d) ~~420.53(1)(b)~~, ~~242.331(4)~~, ~~230.23(6)(d)~~ FS. History–New 5-5-87, Amended 3-13-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President, Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE: Florida Building Commission –

RULE CHAPTER NO.: 9B-3

Operational Procedures

9B-3

RULE TITLE: State Building Codes Adopted

RULE NO.: 9B-3.047

PURPOSE, EFFECT AND SUMMARY: Amendments to the Florida Building Code adopted by reference in Rule 9B-3.047, F.A.C. Copies of the proposed amendments and comments submitted are available on the Building Code Information System at www.floridabuilding.org.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.73(3) FS.

LAW IMPLEMENTED: 553.73(3) FS.

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

TIME AND DATE: 9:00 a.m., December 10, 2002

PLACE: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-3.047 State Building Code Adopted.

(1) The Florida Building Code as revised by the Florida Building Commission on ~~November 6, 2001~~, is hereby adopted and incorporated by reference as the building code for the State of Florida.

NOTE: The following sections of the Florida Building Code are subject to proposed amendments. The text of the proposed amendments may be viewed on-line at www.floridabuilding.org.

Specific Authority 553.73(1), ~~(2), (7), 553.842~~ FS. Law Implemented 553.72, 553.73~~(2), (3), (7), (9), 553.842~~ FS. History—New 7-18-90, Amended 3-30-93, 10-17-93, 8-28-95, 9-24-96, 12-26-96, 4-27-97, 10-5-97, 10-14-97, 9-7-00, 11-28-00, 2-7-01, 12-16-01, .

Volume Building:

Chapter 2, Definitions

The following section is amended in the Code:

201 (Words Not Defined): 201.3

202 (Definitions): “Dwelling Unit, Type A and Dwelling Unit, Type B” “Openings” “Registered Termicide” “Value” “Sunroom”

Chapter 3, Occupancy Classification

The following section is amended in the Code:

301 (General): 301

Chapter 4, Special Occupancy

The following section is amended in the Code:

419 (Hospitals and Intermediate Residential Treatment Facilities): 419

420 (Nursing Homes): 420

421 (Ambulatory Surgical Centers): 421

412.2 (Private Swimming Pools): 424.2.17.1.2, 424.2.17.1.9, 424.2.17.1.11, 424.2.2, 424.2.17.1.8, 424.2.17.1.13, 424.2.6.6.2, 424.2.6.6.4, 424.2.21.3, 424.2.6.6.3

427 (Mental Health Programs): 427.1.4.13.3

The following section is added in the Code: 424.2.17.1.15, 424.2.2

Chapter 5, General Building Limitations

The following section is amended in the Code:

T500 (Allowable Heights and Building Areas): “D Occupancy”

Chapter 9, Fire Protection Systems

The following section is amended in the Code:

903 (Sprinklers): 903.8.1,

Chapter 10, Means of Egress

The following section is amended in the Code:

1001 (General): 1001.2

1003 (Occupant Load and Means Of Egress Capacity): 1003.2.7

1005 (Special Exit Requirements): 1005.4, 1005.4.5, 1005.4.2

1007 (Stairway construction): 1007.3.2

1012 (Doors): 1012.1.3

1016 (Means Of Egress and Illumination And Signs): T1016

1026 (Residential): 1026.7

Chapter 13, Energy Efficiency

The following section is amended in the Code:

13-608 (Space Heating Systems): 608.1.ABC.1.3

13-610 (Air Distribution Systems): 610.2.A.2.1

13-Appendix A (Jurisdictional Data)
 13-Appendix B (Supplemental Information for Sub-Chapter 4): B5.1.3

13-Appendix D (Energy Code Compliance Forms 600A-01)
 13-Appendix C (Tables 6C-3 through 6C-5)

Chapter 15, Roof Assemblies and Roof Top Structures

The following section is amended in the Code:

- 1503 (Weather Protection): 1503.4.4
- 1504 (Performances requirements): 1504.5
- 1507 (Roof Coverings With Slopes 2:12 Or Greater): 1507.3.3, 1507.3.8.3, 1507.3.9.2, 1507.4.9, 1507.6.3, 1507.6.6, 1507.7.3, 1507.8.3, 1507.9.1.1, 1507.10.1.1, 1507.10.3, 1507.4.4, 1507.9.
- 1508 (Roof Coverings With Slopes Less Than 2:12): 1508.5.2,
- 1512 (High Velocity Hurricane Zones, General): 1512.4.2.4
- 1514 (High Velocity Hurricane Zones, Weather Protection): 1514.3

Chapter 16, Structural Loads

The following section is amended in the Code:

- F1606 (Wind-Bourne Debris Region & Basic Wind Speed): Map
- 1606 (Wind Loads): 1606.1.1, 1606.1.8.3, Table 1606.2B, 1606.1.7, Table 1606.2A, 1606.1.4
- 1609 (Load Combinations): 1609.4.3

Chapter 17, Structural Tests and Inspections

The following section is amended in the Code:

- 1707 (Materials and Assembly Tests): 1707.4.2.1, 1707.4.5.1, 1707.4.2, 1707.4.3, 1707.4.3.1, 1707.4.3.2, 1707.4.4.2,

Chapter 18, Foundations and Retaining Walls

The following section is amended in the Code:

- 1804 (Footings and Foundations): 1804.6.2.7.2
- 1816 (Termite Protection): 1816.1

Chapter 21, Masonry

The following section is amended in the Code:

- 2119 (High Velocity Hurricane Zones Quality, Tests, and Approvals): 2119.4.3.1

Chapter 23, Wood

The following section is amended in the Code:

- 2314 (High Velocity Hurricane Zones General): 2314.4.7

Chapter 25, Gypsum Board and Plaster

The following section is amended in the Code:

- T2503 (Materials) 2503

Chapter 26, Plastic

The following section is amended in the Code:

- 2605 (High Velocity Hurricane Zones Plastics): 2605.3.1.3

Chapter 27, Electrical

The following section is added in the Code:

- 2703 (Cross References * Defining Electrical Requirements of the Florida Building Code, Building)

Chapter 30, Elevators and Conveying Systems

The following section is added in the Code:

- 3001 (General): 3001.1

Chapter 31, Special Construction

The following section is amended in the Code:

- 3107 (Structures Seaward of A Coastal Construction Control Line): 3107.4.1, 3107.4.2

Chapter 34, Existing Buildings

The following section is amended in the Code:

- 3401.7 (Application to existing Buildings/Additions) 3401.7.1
- 3401.7 (Application to existing Buildings/Repairs and Alterations) 3401.7.2, 3401.7.2.4
- 3401.8 (High Velocity Hurricane Zone Application to Existing Buildings): 3401.8.3.2

Chapter 35, Reference Standards

The following section is amended in the Code:

- 3502 (Reference Standards) NFPA, HHCF, SMACNA, ASTM, AF&PA, ACI, D6222, FRSA/RTI,
- 3503 (Organizations): Added Organization

Appendix C, Standard for Mitigation of Radon in Existing Buildings

The following section is amended in the Code:

- 502 (Design Criteria): 502.1

Test Protocols for High Velocity Hurricane Zones

The following section is amended in the Code:

- RAS 120, RAS 127, RAS 128, TAS 124, TAS 125,

Volume Mechanical:

Chapter 3, General Regulations

The following section is amended in the Code:

- 301 (General): 301.13
- 304 (Installation): 304.7, 304.2
- 306 (Access and Service Space): 306.3

Chapter 4, Ventilation

The following section is amended in the Code:

- 402 (Natural Ventilation): 402.3.1
- 403 (Mechanical Ventilation): 403.2

Chapter 5, Exhaust Systems

The following section is amended in the Code:

- 504 (Clothes Dryer Exhaust): 504.3
- 507 (Commercial Kitchen Hoods): 507.13.3
- 513 (Mausoleum Relief Vent): 513.4

The following section is added in the Code:

- 505 (Domestic Kitchen Exhaust Equipment): 505.2, 505.3

Chapter 6, Duct Systems

The following section is amended in the Code:

- 601 (General): 601.4
- 606 (Smoke Detection Systems Control): 606.2, 606.1

Chapter 9, Specific Appliances, Fireplaces and Solid Fuel Burning Equipment

The following section is added in the Code:

- 925, 926, 927, 928, 929, 930

Volume Plumbing:

Chapter 2, Definitions

The following section is amended in the Code:
202 (Definitions) “grease interceptor” and “grease trap”

Chapter 3, General Regulations

The following section is amended in the Code:
305 (Protection of Pipes and Plumbing System Components):
305.6

Chapter 4, Fixtures, Faucets and Fixture Fittings

The following section is amended in the Code:
403 (Minimum Plumbing Facilities): T403.1

Chapter 5, Water Heaters

The following section is amended in the Code:
502 (Installation): 502.2

Chapter 6, Water Supply and Distribution

The following section is amended in the Code:
604 (Design of Building Water Distribution System): 604.9
610 (Disinfection of Potable Water System): 610.1
612 (Well Pumps and Tanks Used For Private Potable Water Systems): 612.2, 612.3.1,

Chapter 10, Traps Interceptors and Separators

The following section is amended in the Code:
1003 (Interceptors and Separators): 1003.5.2

Chapter 11, Storm Drainage

The following section is amended in the Code:
1106 (Size of Conductors, Leaders and Storm Drains):
T1106.6

Appendix F,

Proposed Construction Building Codes For Turf and Landscape Irrigation Systems

The following section is amended in the Code:
Part I (General): Part I, C.1.b.

Volume Fuel Gas:

Chapter 6, Special Appliances

The following section is amended in the Code:
623 (Water Heaters): 623.6.1, 623.7

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shirley Collins, Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100

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

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

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE: Florida Building Commission –
Operational Procedures

RULE CHAPTER NO.: 9B-3

RULE TITLE: Alternative Plans Review and Inspection

RULE NO.: 9B-3.053

Forms Adopted

PURPOSE, EFFECT AND SUMMARY: This amendment is intended to adopt forms for use in conjunction with the private provider system of plan review and inspection enacted during the 2002 legislative session. The forms will be used to notify a building official of the election of the alternate procedure and an affidavit of compliance for plan reviewers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.791(4),(5) FS.

LAW IMPLEMENTED: 553.791(4),(5) FS.

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

TIME AND DATE: 8:55 a.m., December 10, 2002

PLACE: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091

THE FULL TEXT OF THE PROPOSED RULES IS:

(NOTE: The following sections of the Florida Building Code are subject to proposed amendments. The text of the proposed amendments may be viewed on-line at www.floridabuilding.org.)

9B-3.053 Alternative Plans Review and Inspection Forms Adopted.

The following forms are adopted for use in conjunction with utilization of a private provider to perform plan review and inspection:

(1) Notice to Building Official of Use of Private Provider, Form Number 2002-01.

(2) Private Provider Plan Compliance Affidavit, Form Number 2002-02.

Specific Authority 553.791(4),(5) FS. Law Implemented 553.791(4),(5) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shirley Collins, Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE: Prototype Plan Review and Approval RULE CHAPTER NO.: 9B-74

RULE TITLES: Definitions RULE NOS.: 9B-74.010

Administration and Fees 9B-74.020

Plan Review and Approval 9B-74.030

PURPOSE, EFFECT AND SUMMARY: The amendments to the referenced sections of Rule Chapter 9B-74, F.A.C., are to allow the prototype plan approval process to address alternative design features of one general set of plans; to limit the scope of the process to buildings that are less than a prescribed size and to make editorial corrections. The amendments are also intended to define "alternate design features" and prescribe conditions for the approval thereof; to define a size limitation for buildings subject to approval; and make editorial corrections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.77(5) FS.

LAW IMPLEMENTED: 553.77(5) FS.

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

TIME AND DATE: 8:50 a.m., December 10, 2002

PLACE: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-74.010 Definitions.

For the purpose of this chapter, the following words, unless the context does not permit, shall have the meanings indicated:

(1) through (7) No change.

(8) Alternate design features, commonly referred to as "Alternates," means additional options that can be substituted for original design features.

Specific Authority 553.77(5) FS. Law Implemented 553.77(5) FS. History--New 5-2-02, Amended

9B-74.020 Administration and Fees.

(1) through (c) No change.

(d) Coordinate with and make available financial records and record keeping for inspection by the Commission on a quarterly basis bases;

(e) through (3) No change.

Specific Authority 553.77(5) FS. Law Implemented 553.77(5) FS. History--New 5-2-02, Amended

9B-74.030 Plans Review and Approval.

(1) through (5) No change.

(6) Use of alternate design features shall be acceptable if the applicant indexes the alternate design features on the first sheet of the plans.

(7) Buildings subject to approval through this program shall be limited to those buildings not exceeding three stories in height or 300,000 square feet in area.

Specific Authority 553.77(5) FS. Law Implemented 553.77(5) FS. History--New 5-2-02, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shirley Collins, Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sales and Use Tax	12A-1
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), Rule 12A-1.053, F.A.C. (Electric Power and Energy), and Rule 12A-1.059, F.A.C. (Fuels), 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 guidelines regarding federal excise taxes imposed on the sale of 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 how sales tax applies to separately itemized charges for the federal manufacturers tax or for the federal retail excise taxes imposed on the retail sale of certain items; (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 itemized charges for the new tire fee, lead-acid battery fee, motor vehicle warranty fee, and rental car surcharge are included in the sales prices subject to sales tax; (5) provide that separately itemized charges for the municipal public service taxes imposed under ss. 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 itemized on a customer's bill, invoice, statement, or other evidence of sale.

SUMMARY: The proposed amendments to Rule 12A-1.007, F.A.C. (Aircraft, Boats, Mobile Homes, and Motor Vehicles), remove provisions regarding charges for federal excise taxes and provide that guidelines on how sales tax applies to separately itemized charges for federal excise taxes, gross receipts tax, and other fees are provided in Rule 12A-1.022, F.A.C., as amended.

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), remove obsolete provisions regarding federal excise taxes imposed on the sale of meals.

The proposed amendments to Rule 12A-1.022, F.A.C.: (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 how sales tax applies to separately itemized charges for the federal manufacturers tax or charges for the federal retail excise taxes imposed on the retail sale of certain items; (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 itemized charges for the new tire fee, lead-acid battery fee, motor vehicle warranty fee, and rental car surcharge are included in the sales prices subject to sales tax; (5) provide that separately itemized charges for the municipal public service taxes imposed under ss. 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 when separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

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

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

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

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

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),(2),(3),(4),(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 HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 11, 2002

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

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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: 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 or e-mail: youngj@dor.state.fl.us
The Department's Proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE FULL TEXT OF THE PROPOSED RULES 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)(f),(aa),(cc),(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 itemized 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 itemized 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 itemized on the customer's bill, invoice, statement, or other evidence of sale:

1. New tire fee levied under s. 403.718, F.S.;
2. Lead-acid battery fee levied under s. 403.7185, F.S.;
3. Rental car surcharge levied under s. 212.0606, F.S.; and
4. Motor vehicle warranty fee levied under s. 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 ss. 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 itemized 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 itemized 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, F.A.C., 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727, e-mail: youngj@dor.state.fl.us.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles B. Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C., Sales and Use Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on July 12, 2002 (Vol. 28, No. 38, pp. 2953-2955). A rule development workshop was held on July 31, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No changes were made in response to oral and written comment received by the Department. Technical changes were made by the Department and included in the Notice of Proposed Rulemaking.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE: Communications Services Tax
 RULE CHAPTER NO.: 12A-19

RULE TITLES:	RULE NOS.:
Registration	12A-19.010
Tax Due at Time of Sale; Tax Returns and Regulations	12A-19.020
Communications Services Tax Direct Pay Permits	12A-19.030
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
Public Use Forms	12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.010, F.A.C. (Registration), is to: (1) provide the methods by which a person may register with the Department for communications services tax purposes; and (2) provide that forms currently used by the Department in the administration of the communications services tax are incorporated by reference in the newly created Rule 12A-19.100, F.A.C.

The purpose of the proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), and to Rule 12A-19.030, F.A.C. (Communications Services Tax Direct Pay Permits), is to provide that forms currently used by the Department in the administration of the communications services tax are incorporated by reference in the newly created Rule 12A-19.100, F.A.C.

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 s. 202.125(4), F.S., as amended by s. 1, Chapter 2002-48, L.O.F.; and (3) provide that sales by certain religious institutions are exempt from communications services tax under s. 202.125(4), F.S., as amended by s. 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: (1) incorporate the provisions of s. 6, Chapter 2002-48, L.O.F., which amends s. 337.401(3)(j)3.b., F.S., and change the required date that a county or municipality is required to notify all communications services tax dealers in the jurisdiction that it has exercised its authority to collect permit fees to September 1; (2) provide that forms currently used by the Department in the administration of the communications services tax are incorporated by reference in the newly created Rule 12A-19.100, F.A.C.; and (3) provide guidance on how to obtain current communications service tax rates for each local taxing jurisdiction.

The effect of these proposed amendments to these rule sections will be to: (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 s. 202.125(4), F.S., as amended by s. 1, Chapter 2002-48, L.O.F.; (3) incorporate the changes to s. 337.401(3)(j)3.b., F.S., as amended by s. 6, Chapter 2002-48, L.O.F.; and (4) provide a single administrative rule to incorporate by reference forms used by the Department in the administration of the communications services tax.

SUMMARY: The proposed amendments to Rule 12A-19.010, F.A.C. (Registration): (1) provide the methods by which a person may register with the Department for communications services tax purposes; (2) provide that form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communication Services Tax), is incorporated by reference in the newly created Rule 12A-19.100, F.A.C.; and (3) remove the instructions on how to obtain forms that will be provided in the newly created Rule 12A-19.100, F.A.C.

The proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations): (1) provide that form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communication Services Tax), and form DR-70016, Florida Communications Services Tax Return, are incorporated by reference in the newly created Rule 12A-19.100, F.A.C.; and (2) remove the instructions on how to obtain forms that will be provided in the newly created Rule 12A-19.100, F.A.C.

The proposed amendments to Rule 12A-19.030, F.A.C. (Communications Services Tax Direct Pay Permits): (1) provide that form DR-700020 and form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax, are incorporated by reference in the newly created Rule 12A-19.100, F.A.C.; and (2) remove the instructions on how to obtain forms that will be provided in the newly created Rule 12A-19.100, F.A.C.

The proposed amendments to Rule 12A-19.043, F.A.C.: (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 s. 202.125(4), F.S., as amended by s. 1, Chapter 2002-48, L.O.F.; and (3) provide that sales by certain religious institutions are exempt from communications services tax under s. 202.125(4), F.S., as amended by s. 1, Chapter 2002-48, L.O.F.

The proposed amendments to Rule 12A-19.050, F.A.C. (Notification of Local Communication Services Tax Rate Changes and Permit Fee Elections): (1) provide that form DR-700021, Local Communications Services Tax Notification of Tax Rate Change, is incorporated by reference in the newly created Rule 12A-19.100, F.A.C.; (2) remove the instructions

on how to obtain forms that will be provided in the newly created Rule 12A-19.100, F.A.C.; (3) change the required date that a county or municipality is required notify to all communications services tax dealers in the jurisdiction that it has exercised its authority to collect permit fees to September 1, which is consistent with the provisions of s. 6, Chapter 2002-48, L.O.F.; and (4) provide guidance on how to obtain current communications service tax rates for each local taxing jurisdiction.

The proposed creation of Rule 12A-19.100, F.A.C. (Public Use Forms), provides a single administrative rule to incorporate by reference forms used by the Department in the administration of the communications services tax and to provide instructions on how taxpayers may obtain forms from the Department.

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

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

SPECIFIC AUTHORITY: 202.15, 202.16(2), 202.21, 202.26(3)(a),(c),(d),(e),(h),(i), 202.27(6), 202.28(1)(b)2. FS.

LAW IMPLEMENTED: 92.525(2), 202.11(3),(4),(7),(9),(11), (12),(13),(14),(16), 202.12(1),(3), 202.125(4), 202.13(2), 202.15, 202.16, 202.17(1), (3)(a),(4),(6), 202.19(1),(8), 202.20(2)(a), 202.21, 202.22(6), 202.26(2), 202.27, 202.28(1),(2), 202.30, 202.33(2), 202.34(3),(4)(c), 202.35(1), 213.37, 337.401(3)(c),(j) FS.

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

TIME AND DATE: 9:00 a.m., December 11, 2002

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

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 Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD). **THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES 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 or e-mail: silveyj@dor.state.fl.us.

The Department's proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE FULL TEXT OF THE PROPOSED RULES 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 (www.myflorida.com/dor) using the Department's "e-Services"; or

~~2.(e)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. Except as provided herein, a person registering with the Department for the communications services tax must notify the Department of the method(s) that will be employed to determine the local taxing jurisdiction in which service addresses are located. The notification to the Department shall be made using form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) ~~(- 11/01, hereby~~ incorporated by reference in Rule 12A-19.100, F.A.C.). The following persons are not required to file form DR-700020 with respect to the activities listed:

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.~~

~~(4) Form DR-1, Application to Collect and/or Report Tax in Florida, and form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction, are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168 A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the 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 the form from the Department's Internet site at the address shown inside the parentheses (http://www.myflroida.com/dor/). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

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-19.020 Tax Due at Time of Sale; Tax Returns and Regulations.

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

(b) Except as provided herein, all communications services tax dealers must notify the Department of the method or methods the dealer will employ to determine local taxing jurisdictions in which service addresses are located. The notification to the Department shall be made using form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule ~~12A-19.100~~ 12A-19.010, F.A.C.). If a communications services tax dealer that is required to notify the Department of the method to be used to determine local taxing jurisdictions fails to notify the Department that the dealer will use a method described in subparagraph (a)1., the dealer will be assigned an initial collection allowance of .25 percent. If a dealer is assigned a collection allowance of .25 percent due to failure to notify the Department of use of a method described in subparagraph (a)1., the dealer will be assigned a .75 percent collection allowance upon subsequently providing a completed form DR-700020. The dealer will be entitled to a refund or credit of the difference between the .25 percent collection allowance

initially assigned and the .75 percent collection allowance during any period the dealer was using an eligible method and claiming the lower allowance prior to notifying the Department. The following persons are not responsible for collecting and remitting local communications services taxes and are not required to file form DR-700020:

a. through f. No change.

(c) No change.

(3)(a) Form DR-700016, Florida Communications Services Tax Return (~~r. 12/01, hereby~~ incorporated by reference in Rule 12A-19.100, F.A.C.), accompanied by the applicable payment, is due on the first day of the month subsequent to the sale of communications services. A return is required to be filed with the Department even when no tax is due with the return.

(b) Form DR-700016, Florida Communications Services Tax Return, contains current tax rates for each local taxing jurisdiction. These rates are also contained on the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor/taxes/local_tax_rates.html). The Department's Internet site and form DR-700016 are revised when the tax rate in any local jurisdiction changes.

~~(c)(b)~~ No change.

(4) through (6) No change.

~~(7) Communications services tax returns 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 32399-0100; 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.~~

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

Specific Authority 202.15, 202.26(3)(a) FS. Law Implemented 202.12(1), 202.15, 202.16, 202.19(1), 202.22(6), 202.27, 202.28(1),(2), 202.30(3), 202.33(2), 202.35(1) FS. History—New 1-31-02, Amended.

12A-19.030 Communications Services Tax Direct Pay Permits.

(1) through (2) No change.

(3)(a) To request a Communications Services Tax Direct Pay Permit, a person must file form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications

Services Tax (~~§ 07/01, hereby~~ incorporated by reference in Rule 12A-19.100, F.A.C.), with the Department, in the manner provided on the form.

(b) Each permit holder must hold a valid dealer's Communications Services Tax Certificate of Registration (form DR-700014) issued by the Department. Persons that are not registered with the Department for the communications services tax must file an Application to Collect and/or Report Tax in Florida (form DR-1) with the Department. If form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax accompanies form DR-1, then form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (incorporated by reference in Rule ~~12A-19.100~~ 12A-19.010, F.A.C.), is only required to be filed if an applicant will be responsible for collecting and remitting local communications services taxes on sales of communications services.

~~(c) These forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168 A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the 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 the form 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.~~

(4) through (9) No change.

Specific Authority 202.26(3)(e), (i), 202.27(6) FS. Law Implemented 202.12(3), 202.16(4), 202.19(8), 202.27(6)(b), 202.30, 202.34(3) 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 s. 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 s. 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 s. 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)(d) 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 s. 202.125(4), F.S. this rule, that is exempt from federal income tax under s. 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 s. 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 s. 501(c)(3) of the Internal Revenue Code and is a "religious ~~institution organization~~" as that term is defined by s. 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 s. 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 s. 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 s. 202.125(4), F.S. ~~this rule~~, that is exempt from federal income tax under s. 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 s. 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 s. 501(c)(3) of the Internal Revenue Code and is an "educational institution organization," as defined by s. 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) Any municipality or county that adopts, repeals, or changes a local communications services tax rate or changes a permit fee election must notify the Department as provided in this rule.

(a) Notification of local communications services tax rate changes and changes in permit fee elections must be made on form DR-700021, Local Communications Services Tax Notification of Tax Rate Change (~~effective 12/01, hereby~~ incorporated by reference in Rule 12A-19.100, F.A.C.), and a copy of the applicable resolution or ordinance must be submitted with the notification.

(b) through (c) No change.

~~(2) Form DR-700021, Local Communications Services Tax Notification of Tax Rate Change, is 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 32399-0100; 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.~~

~~(2)(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 1 immediately preceding the January 1 effective date of the change of election.

(c) No change.

~~(3)(4) No change.~~

(4) In addition to the methods used by the Department to notify dealers of changes in the tax rate pursuant to ss. 202.20(2) and 202.21, F.S., the Department provides the tax rates for each local taxing jurisdiction by listing the rates on the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor/taxes/local_tax_rates.html) and on form DR-700016, Florida Communications Services Tax Return (incorporated by reference in Rule 12A-19.100, F.A.C.). The Department's Internet site and form DR-700016 are revised when the tax rate in any local taxing jurisdiction changes.

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 _____.

12A-19.100 Public Use Forms.

(1) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax. 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, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the 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 the form 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.

Form Number	Title	Effective Date
(2) DR-700012	Application for Certification of Communications Services Database (R. 07/02)	_____
(3)(a) DR-700016	Florida Communications Services Tax Return (R. 01/03)	_____
(b) DR-700016	Florida Communications Services Tax Return (R. 11/02)	_____
(c) DR-700016	Florida Communications Services Tax Return (R. 10/02)	_____

- (d) DR-700016 Florida Communications Services Tax Return (R. 01/02) _____
- (e) DR-700016 Florida Communications Services Tax Return (R. 12/01) _____
- (4) DR-700020 Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (R. 05/02) _____
- (5) DR-700021 Local Communications Services Tax Notification of Tax Rate Change (R. 12/01) _____
- (6) DR-700022 Local Communications Services Tax Notification of Jurisdiction Change (R. 04/02) _____
- (7) DR-700025 Objection to Communications Services Tax Electronic Database Service Address Assignment (N. 04/02) _____
- (8) DR-700030 Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax (N. 07/01) _____

Specific Authority 202.16(2), 202.26(3)(c),(d) FS. Law Implemented 202.11(4),(11),(12), 202.13(2), 202.16(2),(4), 202.17(6), 202.34(3),(4)(c) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727, e-mail: silveyj@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-7157

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rules 12A-19.010, 12A-19.020, 12A-19.030, and 12A-19.050, F.A.C., and the proposed creation of Rule 12A-19.100, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on April 19, 2002 (Vol. 28, No. 16, pp. 1742-1745). A rule development workshop was held on May 7, 2002. Participants attending the workshop did not provide comment. The Department has not received written comment. The proposed amendments to Rules 12A-19.010, 12A-19.043, and 12A-19.050, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on July 12, 2002 (Vol. 28, No. 28, pp. 2955-2958). A rule development workshop was held on July 31, 2002. Participants attending the

workshop did not provide comment. The Department has not received written comment. Changes to Rule 12A-19.100, F.A.C., have been made by the Department to include all public-use forms used by the Department in the administration of the communications services tax.

The Department combined the proposed changes presented at the rule development workshop on May 7, 2002, with the proposed changes presented at the rule development workshop conducted on July 31, 2002. All proposed changes were included in the Notice of Proposed Rulemaking. Additional changes were made to subsection (3) of Rule 12A-19.020, F.A.C., to provide where rates for local taxing jurisdictions may be found in the newly created Rule 12A-19.100, F.A.C., and to include all public-use forms currently used by the Department in the administration of the communications services tax. Technical changes to the Department’s Internet site address to obtain local communications services tax rates were also included in the proposed changes.

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-6.003
Exemptions	12B-6.004
Payment of Tax; Reports; Public Use Forms	12B-6.005
Public Service Tax Reporting Form	12B-6.0051
Collection and Distribution	12B-6.006
Assessment and Collection	12B-6.007
Interest	12B-6.008

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12B-6, F.A.C., is to: (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. Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax), as amended, will provide current guidelines regarding the imposition of the gross receipts tax on electricity and natural or manufactured gas.

SUMMARY: The proposed amendments to Rule 12B-6.001, F.A.C.: (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, receipts from fees for returned checks, late payments, and interest due on late payments, and receipts from separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment are not subject to gross receipts tax; (11) provide that line losses of electricity at no charge to the customer are not subject to gross receipts tax; (12) 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; (13) 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; (14) 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 (15) provide recordkeeping requirements for providers of utility services.

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

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

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

The proposed repeal of Rule 12B-6.004, F.A.C. (Exemptions), removes 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 proposed amendments to Rule 12B-6.005, F.A.C.: (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 proposed amendments to Rule 12B-6.0051, F.A.C. (Public Service Tax Reporting Forms), adopt the changes to form DR-700001, Municipal Public Service Tax Data Base.

The proposed repeal of Rule 12B-6.006, F.A.C. (Collection and Distribution), eliminates 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 proposed repeal of Rule 12B-6.007, F.A.C. (Assessment and Collection), eliminates an unnecessary rule regarding the administration of the gross receipts tax.

The proposed amendments to Rule 12B-6.008, F.A.C.: (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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

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

TIME AND DATE: 9:00 a.m., December 11, 2002

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

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 Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may 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 RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407, e-mail: youngj@dor.state.fl.us.

The Department's proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE FULL TEXT OF THE PROPOSED RULES 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)1- 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 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 provided included in Rule 12B-6.001, F.A.C., 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. 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 (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.

(2) Reports.

(1)(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. 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. 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) 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. 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) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means;

2. Any return for reporting tax is required to be submitted by electronic means; or

3. No tax is due with a return for reporting tax.

(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 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 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.

4.a. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid. Credits for tax paid on or after October 1, 1994, and prior to July 1, 1999, must be reported on the provider's return within 5 years after the date the tax was paid.

b. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid. Credits for tax paid on or after July 1, 1999, must be reported on the provider's return within 3 years after the date the tax was paid.

(2)(3) The following public-use forms and instructions are employed by the 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, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the 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 (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. 01/03)	
(b) DR-133N	Instructions for Filing Gross Receipts Tax Return (R. 01/03)	

Specific Authority 213.06(1) FS., Section 22, Chapter 89-356, Laws of Florida. Law Implemented 203.01, 213.255(1),(2),(3), 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)(a) 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.

(b) Copies of this form are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the 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 (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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407 or e-mail: youngj@dor.state.fl.us

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments to Rule Chapter 12B-6, F.A.C., Gross Receipts Tax, were published in the Florida Administrative Weekly on November 12, 1999 (Vol. 25, No. 45, pp. 5205-5209). A rule development workshop was held on December 2, 1999. Based on comments received and the 2000 legislative change to implement the communications services tax on October 1, 2001, substantial changes to the proposed rules were made by the Department. The revised changes to Rule Chapter 12B-6, F.A.C., were included in a Notice of Proposed Rule Development, as published in the Florida Administrative Weekly on April 20, 2001 (Vol. 27, No. 16, pp. 1834-1839). A second rule development workshop was held on May 8, 2001. Substantial changes were made in response to comments received and made a part of the record of the second rule development workshop conducted by the Department. The revised changes to Rule Chapter 12B-6, F.A.C., were included in the Notice of Proposed Rule Development, as published in the Florida Administrative Weekly on July 12, 2002 (Vol. 28, No. 28, pp. 2958-2965). A third rule development workshop was held on July 31, 2002, regarding the revised proposed changes to Rule Chapter 12B-6, F.A.C. Technical change were made by the Department and are included in this Notice of Proposed Rulemaking. Changes were also made to clarify the timing provisions of s. 215.26(2), F.S.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Equalization Tax on Non-Florida, United States Juice	20-15
RULE TITLES:	RULE NOS.:
Intent	20-15.001
Definitions	20-15.002
Collection	20-15.003

PURPOSE AND EFFECT: Effectuating the collection of Equalization Taxes as required by Court order. Such taxes are owed by persons who, during the time period commencing on October 6, 1997, and ending on March 14, 2002, benefitted from the exemption for non-Florida, United States juice as set forth in the statutory provision which was ultimately severed by the Court from section 601.155(5), Florida Statutes, as unconstitutional.

SUMMARY: Effectuating the collection of Equalization Taxes as required by Court order.

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

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

SPECIFIC AUTHORITY: 601.02, 601.10, 601.15, 601.155 FS.

LAW IMPLEMENTED: 601.02, 601.10, 601.15, 601.155 FS.

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

TIME AND DATE: 9:00 a.m., December 18, 2002

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-15.001 Intent.

(1) The Court in Tampa Juice Service, et al v. Florida Department of Citrus in Consolidated Case Number GCG-003718 (Circuit Court in and for Polk County, Florida) severed the exemption contained in Section 601.155(5), Florida Statutes, that provided an exemption for persons who exercised one of the enumerated Equalization Tax privileges on non-Florida, United States juice. The Court had previously determined that the stricken provisions operated in a manner that violated the Commerce Clause of the United States Constitution. On August 8, 2002, the Court ordered that the Florida Department of Citrus “take appropriate steps, consistent with existing law, to assess and collect the Equalization tax from those entities which benefitted from the unconstitutional exemption.”

(2) It is the Florida Department of Citrus’ intent by promulgating the following remedial rule, 20ER02-01 and Chapter 20-15, F.A.C., to implement a non-discriminatory tax scheme, which does not impose a significant tax burden that is so harsh and oppressive as to transgress constitutional

limitations. These rules shall be applicable to those previously favored persons who received favorable tax treatment under the statutory sections cited above.

Specific Authority 601.02, 601.10, 601.15, 601.155 FS. Law Implemented 601.02, 601.10, 601.15, 601.155 FS. History—New

20-15.002 Definitions.

(1) “Previously favored persons” shall be defined as any person who exercised an enumerated Equalization Tax privilege as defined by Section 601.155, Florida Statutes, but who was exempt from payment of the Equalization Tax due to the exemption for non-Florida, United States juice set forth in the statutory provision, which was ultimately determined to be unconstitutional and severed from Section 601.155(5), Florida Statutes.

(2) The “tax period” during which the severed provisions of Section 601.155(5), Florida Statutes, were in effect shall be defined as commencing on October 6, 1997, and ending on March 14, 2002.

(3) “Tax liability” shall be defined as the total amount of taxes due to the Florida Department of Citrus during the “tax period,” at the following rates per box for each respective fiscal year:

<u>Fiscal Year</u>	<u>Processed Rate</u>	
	<u>Orange</u>	<u>Grapefruit</u>
<u>1997-1998</u>	<u>.175</u>	<u>.30</u>
<u>1998-1999</u>	<u>.17</u>	<u>.30</u>
<u>1999-2000</u>	<u>.18</u>	<u>.325</u>
<u>2000-2001</u>	<u>.175</u>	<u>.30</u>
<u>2001-2002</u>	<u>.165</u>	<u>.18</u>

Specific Authority 601.02, 601.10, 601.15, 601.155 FS. Law Implemented 601.02, 601.10, 601.15, 601.155 FS. History—New

20-15.003 Collection.

(1) The Florida Department of Citrus shall calculate the tax liability for each person or entity that exercised an enumerated Equalization Tax privilege outlined in Section 601.155, Florida Statutes, upon non-Florida, United States juice based upon inspection records maintained by Florida Department of Agriculture and Consumer Services and the United States Department of Agriculture. Additionally, the Florida Department of Citrus will provide notice of the calculation to the previously favored persons by certified mail. The notice of the calculation shall contain a statement including the following categories:

- (a) Tax liability;
- (b) Gallons;
- (c) Brix;
- (d) Type of product;
- (e) Total solids;
- (f) Conversion rate;
- (g) Total boxes;
- (h) Delineation of non-Florida, United States juice.

(2) Subsequent to adoption of this rule, the Florida Department of Citrus will provide to the previously favored persons by certified mail a Notice of Tax Liability which shall contain a demand for payment consistent with the above-referenced itemized statement. The Department will deem late payment of Equalization Taxes owed by previously favored persons to constitute good cause, and shall waive the 5% penalty authorized by Section 601.155(10), F.S., as compliance with either of the following is established by Department:

(a) Lump sum payment of the tax liability remitted with the filing of Department of Citrus Form 4R (incorporated by reference in Rule 20-100.004, F.A.C.) for the relevant years and then-applicable tax rate(s) per subsection 20-15.002(3), F.A.C., within 61 days of receiving Notice of Tax Liability; or

(b) Equal installment payments remitted with the filing of Department of Citrus Form 4R (incorporated by reference in Rule 20-100.004, F.A.C.) for the relevant years and then-applicable tax rate(s) per subsection subsection 20-15.002(3), F.A.C., over a 60-month period, the first payment being due within 61 days of receiving Notice of Tax Liability pursuant to subsection 20-15.003(2), F.A.C.; or

(c) The Good Cause provisions of 601.155(10), F.S., shall not apply to persons who do not comply with paragraph 20-15.003(2)(a), F.A.C., or paragraph 20-15.003(2)(b), F.A.C.

(d) Failure to pay the taxes or penalties due under 601.155, F.S. and Chapter 20-15, F.A.C., shall constitute grounds for revocation or suspension of a previously favored person's citrus fruit dealer's license pursuant to 601.56(4), F.S., 601.64(6), F.S., 601.64(7), F.S., and/or 601.67(1), F.S.

(3) The Florida Department of Citrus will not oppose the timely intervention of persons who previously enjoyed the subject exemption that wish to present a claim to the Court in the Tampa Juice Service, Inc., et al v. Florida Department of Citrus. However, the Florida Department of Citrus does not waive any argument regarding the validity of the calculation of the tax liability or that imposition of this tax is constitutional.

Specific Authority 601.02, 601.10, 601.15, 601.155 FS. Law Implemented 601.02, 601.10, 601.15, 601.155 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ken O. Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken O. Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2002

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Chaplaincy Services
RULE NO.: 33-503.001

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the circumstances under which inmates may attend and participate in religious services.

SUMMARY: The proposed rule clarifies the circumstances under which inmates may attend and participate in religious services and corrects titles used in the chaplaincy services program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.11 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-503.001 Chaplaincy Services.

(1) Organization and Functions.

(a) The Chaplaincy Services Section of the ~~Adult Services Program~~ Office of Program, Transition and Post-Release Services is responsible for:

1. through 4. No change.

(b) The Chaplaincy Services ~~Administrator~~ ~~Coordinator~~ is the chief administrative officer of the Chaplaincy Services section and directs and coordinates all activities of the section.

(c) through (2) No change.

(3) Religious Services and Rituals.

(a) through (b) No change.

(c) In the interest of security, order or effective management of the institution, the warden may limit the number of religious services or activities inmates may attend per week. When it is considered necessary for security or good order of the institution, the warden may limit attendance at or discontinue completely a religious service or activity. The warden may not restrict or allow the religious group itself to restrict attendance at or participation in a religious service or activity on the basis of race, color, or nationality, ~~or creed~~. Inmates are allowed to visit religious services other than their own so long as the services are not scheduled by call-out, the inmate visits the religious service during his own free time, and the inmate does not provoke disruption of the service. The

volunteer clergy or religious leader is authorized to limit participation in specific sacraments to members of the faith according to the faith tradition. Inmates attending a religious service or activity may be required to sign an attendance record.

(d) through (12) No change.

Specific Authority 944.09, 944.11 FS. Law Implemented 20.315, 944.09, 944.11 FS. History–New 1-6-82, Formerly 33-3.14, 33-3.014, Amended 10-18-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Alex Taylor

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 18, 2002

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Basic Training Program Selection Process RULE NO.: 33-601.234

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide clarity and ensure consistency with s. 958.045, F.S.

SUMMARY: The proposed rule clarifies that those youthful offenders designated by the department must be control release eligible in order to participate in the basic training program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 958.04, 958.045 FS.

LAW IMPLEMENTED: 946.40, 958.04, 958.045 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.234 Basic Training Program Selection Process.

(1) In order to participate in the program, a youthful offender as defined by chapter 958, F.S. shall meet the following criteria:

(a) No change.

(b) If designated by the department as a youthful offender, must be eligible for Meets control release pursuant to criteria identified in s. 947.146(3), F.S.;

(c) through (3) No change.

Specific Authority 958.04, 958.045 FS. Law Implemented 946.40, 958.04, 958.045 FS. History–New 2-26-89, Amended 11-2-90, 1-25-96, 10-23-97, Formerly 33-27.004, Amended 3-13-01, Formerly 33-506.204, Amended 1-17-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jerry Vaughan

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 18, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Chiropractic Services RULE NO.: 59G-4.040

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2002 and April 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Chiropractic Services Coverage and Limitations Handbook.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2002 and April 2002. The Handbook revisions include an updated fee schedule effective for the months of January through March 2002 and another updated fee schedule beginning April 1, 2002.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., December 11, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Medicaid Health Systems Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.040 Chiropractic Services.

(1) No change.

(2) All chiropractic services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2002 and April 2002 ~~January 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History--New 6-1-89, Amended 7-1-91, 12-31-91, 3-17-92, 4-21-92, 11-9-92, 7-5-93, 1-19-94, Formerly 10C-7.066, Amended 10-10-94, 5-25-95, 1-9-96, 10-21-97, 5-24-99, 4-23-00, 7-5-01 _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Jackson

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Hearing Services
RULE NO.: 59G-4.110

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2002.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2002.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

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

TIME AND DATE: 9:00 a.m., December 11, 2002

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Agency for Health Care Administration, Medicaid Health Systems Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.110 Hearing Services.

(1) No change.

(2) All physicians, audiologists and hearing aid specialists enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2002 ~~January 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History--New 8-3-80, Amended 7-21-83, Formerly 10C-7.522, Amended 4-13-93, Formerly 10C-7.0522, Amended 12-21-97, 10-13-98, 5-7-00, 7-5-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Jackson

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Optometric Services
RULE NO.: 59G-4.210

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2002 and April 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2002 and April 2002.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2002 and April 2002. The Handbook revisions include and updated fee schedule effective for the months of January through March 2002 and another updated fee schedule beginning April 1, 2002.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NO HEARING IS REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., December 11, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Agency for Health Care Administration, Medicaid Health Systems Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.210 Optometric Services.

(1) No change.

(2) All optometry practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2002 and April 2002 ~~January 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 4-13-93, Amended 7-1-93, Formerly 10C-7.069, Amended 12-21-97, 10-13-98, 5-24-99, 4-23-00, 7-5-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Jackson

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE:

RULE NO.:

Podiatry Services

59G-4.220

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2002 AND April 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2002 and April 2002.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2002 and April 2002. The Handbook revisions include an updated fee schedule effective for the months of January through March 2002 and another fee schedule beginning April 1, 2002.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., December 11, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Agency for Health Care Administration, Medicaid Health Systems Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.220 Podiatry Services.

(1) No change.

(2) All podiatry providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2002 and April 2002 ~~January 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History--New 1-23-84, Amended 10-25-84, Formerly 10C-7.529, Amended 4-21-92, 11-9-92, 7-1-93, Formerly 10C-7.0529, 10P-4.220, Amended 1-7-96, 3-11-98 10-13-98, 5-24-99, 4-23-00, 7-5-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Karen Jackson
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Registered Nurse First Assistant Services
 RULE NO.: 59G-4.270
 PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2002 and April 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2002 and April 2002.
 SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2002 and April 2002. The Handbook revisions include an updated fee schedule effective for the months of January through March 2002 and another fee schedule beginning April 1, 2002.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.
 LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):
 TIME AND DATE: 9:00 a.m., December 11, 2002
 PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeleine Nobles, Agency for Health Care Administration, Medicaid Health Systems Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7326

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.270 Registered Nurse First Assistant Services.

(1) No change.

(2) All registered nurse first assistant services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2002 and April 2002 ~~January 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History--New 3-11-98, Amended 10-13-98, 5-24-99, 4-23-00, 7-5-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Madeleine Nobles
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Visual Services
 RULE NO.: 59G-4.340
 PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2002.
 SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2002. The Handbook revision includes an updated fee schedule.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.
 LAW IMPLEMENTED: 409.906, 409.908 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 9:00 a.m., December 11, 2002

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, MS 20, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Agency for Health Care Administration, Medicaid Health Systems Development, 2727 Mahan Drive, Building #3, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.340 Visual Services.

(1) No change.

(2) All visual services practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2002 ~~January 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS, Law Implemented 409.906, 409.908 FS, History—New 7-30-80, Formerly 10C-7.521, Amended 4-20-93, 8-25-93, Formerly 10C-7.0521, Amended 12-21-97, 10-13-98, 6-10-99, 1-23-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Jackson

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: Disciplinary Guidelines RULE NO.: 61-20.010

PURPOSE AND EFFECT: The new rule is being created to implement requirements imposed by Section 455.2273, Florida Statutes, relating to disciplinary guidelines. The effect will be to provide notice to the regulated public of potential penalties for violating regulatory provisions and to provide guidance to courts and the agency head on the assessment of penalties.

SUMMARY: The rule implements requirements imposed by Section 455.2273, Florida Statutes, relating to disciplinary guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.2273(1) FS.

LAW IMPLEMENTED: 455.2273 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61-20.010 Disciplinary Guidelines.

(1) PURPOSE. Pursuant to Section 455.2273, Florida Statutes, the department provides within this rule disciplinary guidelines which shall be imposed upon applicants, registrants, or licensees whom it regulates under Chapter 468, Part VIII, Florida Statutes. The purpose of this rule is to notify applicants, registrants, and licensees of the ranges of penalties which will routinely be imposed unless the department finds it necessary to deviate from the guidelines for the stated reasons given in subsection (2). The ranges of penalties provided in this rule are based upon a single count violation of each provision listed. Multiple counts of the violated provisions or a combination of the violation may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants, registrants, or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants, registrants, or licensees from violations.

(2) AGGRAVATING AND MITIGATING CIRCUMSTANCES. The department shall be entitled to deviate from the disciplinary guidelines provided by this rule upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the department prior to the imposition of a final penalty. The department must make a specific finding of mitigating or aggravating guidelines. Based upon consideration of the facts present in an individual case, the department shall consider the following factors in aggravation and mitigation when deviating from the disciplinary guidelines set forth in this rule:

- (a) Danger to the public;
- (b) Physical or financial harm resulting from the violation;
- (c) Prior violations committed by the subject;
- (d) Length of time the registrant or licensee has practiced;
- (e) Deterrent effect of the penalty;
- (f) Correction or attempted correction of the violation;

(g) Effect on the registrant's or licensee's livelihood;

(h) Any efforts toward rehabilitation;

(i) Any other aggravating or mitigating factor which is directly relevant under the circumstances.

(3) PENALTIES CUMULATIVE AND CONSECUTIVE.

Where several violations occur in one or several cases being considered together, the penalties shall normally be cumulative and consecutive.

(4) STIPULATION OR SETTLEMENT. The provisions of this part are not intended and shall not be construed to limit the ability of the department to dispose disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), Florida Statutes.

(5) VIOLATIONS AND RANGE OF PENALTIES. In imposing discipline upon applicants, registrants, and licensees in proceedings pursuant to Section 120.569 and 120.57(1) and (2), Florida Statutes, the department shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations as set forth in this subsection. The verbal identification of offenses is descriptive only. The full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION:	PENALTY RANGE	
	MINIMUM	MAXIMUM
<u>(a) Section 468.436(1)(b)1., F.S.</u>		
<u>– Violating any provision of this part, if not otherwise delineated in this rule.</u>		
First Offense	Reprimand	\$1000 fine; costs
Second Offense	\$500 fine	Probation; \$2500 fine; costs
Third Offense	Probation; \$2500 fine	One year suspension; \$5000 fine; costs
<u>(b) Section 468.436(1)(b)2., F.S.</u>		
<u>– Violating any lawful order or rule, if not otherwise delineated in this rule.</u>		
First Offense	Reprimand	\$1000 fine; costs
Second Offense	\$500 fine	Probation; \$2500 fine; costs
Third Offense	Probation; \$2500 fine	One year suspension; \$5000 fine; costs
<u>(c) Section 468.436(1)(b)3., F.S.</u>		
<u>– Being convicted of or pleading nolo contendere to a felony.</u>		
First Offense	Reprimand; \$500 fine	Revocation; \$5000 fine; costs
Second Offense	One year suspension; \$1000 fine; costs	Revocation; \$5000 fine; costs
Third Offense	Two years suspension; \$1000 fine	Revocation; \$5000 fine; costs
<u>(d) Section 468.436(1)(b)4., F.S.</u>		
<u>– Obtaining a license or certification or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.</u>		
First Offense	\$1000 fine; costs	Revocation; \$5000 fine; costs
Second Offense	One year suspension; \$1000 fine; costs	Revocation; \$5000 fine; costs
Third Offense	Revocation	Revocation; \$5000 fine; costs

(e) Section 468.436(1)(b)5., F.S.

– Committing acts of gross misconduct or gross negligence in connection with the profession.

First Offense	\$500 fine	Revocation; \$5000 fine; costs
Second Offense	\$2500 fine; costs	Revocation; \$5000 fine; costs
Third Offense	One year suspension; one year probation; \$2500 fine	Revocation; \$5000 fine; costs

(f) Subsection 61-20.002(1), F.A.C. –

Change of address, notification, license renewal.

First Offense	Reprimand	\$500 fine; costs
Second Offense	Reprimand	\$1000 fine; costs
Third Offense	Reprimand	\$2000 fine; costs

(g) Paragraph 61-20.002(3)(c), F.A.C. –

Legal name change, notification.

First Offense	Reprimand	\$500 fine; costs
Second Offense	Reprimand	\$1000 fine; costs
Third Offense	Reprimand	\$2000 fine; costs

(h) Subsection 61-20.503(2), F.A.C. –

A licensee or registrant shall not make an untrue statement of a material fact or fail to state a material fact.

First Offense	Reprimand	One year suspension; \$1000 fine; costs
Second Offense	One year probation; \$500 fine; costs	One year suspension; two years probation; \$5000 fine; costs
Third Offense	Two years suspension; \$2500 fine; costs	Revocation; \$5000 fine; costs

(i) Subsection 61-20.503(3), F.A.C. –

A licensee or registrant shall perform only those services which he or she can reasonably expect to complete with professional competence.

First Offense	Reprimand	\$1000 fine; costs
Second Offense	One year probation; \$500 fine; costs	One year suspension; two years probation; \$5000 fine; costs
Third Offense	Two years suspension; \$2500 fine; costs	Revocation; \$5000 fine; costs

(j) Paragraph 61-20.503(4)(a), F.A.C. –

A licensee or registrant shall exercise due professional care.

First Offense	Reprimand	Fine \$1000; costs
Second Offense	One year probation; \$500 fine	One year suspension; two years probation; \$5000 fine; costs
Third Offense	Two years suspension; \$2500 fine; costs	Revocation; \$5000 fine; costs

(k) Paragraph 61-20.503(4)(b), F.A.C. –

A licensee or registrant shall not knowingly fail to comply with the requirements of the documents by which the association is created or operated.

First Offense	Reprimand	One year suspension; \$2500 fine; costs
Second Offense	One year probation; \$1000 fine; costs	One year suspension; two years probation; \$5000 fine; costs
Third Offense	\$2500 fine; costs	Revocation; \$5000 fine; costs

(l) Subsection 61-20.503(5), F.A.C. –

A licensee or registrant shall not permit others to commit certain acts or omissions.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$1000 fine; costs</u>
<u>Second Offense</u>	<u>One year probation; \$500 fine; costs</u>	<u>Two years suspension; two years probation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(m) Paragraph 61-20.503(6)(a), F.A.C.

- A licensee or registrant shall not withhold possession of records.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$2500 fine; one year suspension; costs</u>
<u>Second Offense</u>	<u>\$500 fine</u>	<u>\$2500 fine; Revocation; costs</u>
<u>Third Offense</u>	<u>\$1000 fine</u>	<u>Revocation; \$5000 fine; costs</u>

(n) Paragraph 61-20.503(6)(b), F.A.C. –

A licensee or registrant shall not deny access to association records.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>\$2500 fine; one year suspension; one year probation; costs</u>
<u>Third Offense</u>	<u>One year probation; \$3000 fine; costs</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>

(o) Paragraph 61-20.503(6)(c), F.A.C. –

A licensee or registrant shall not create false records.

<u>First Offense</u>	<u>Reprimand; \$1000 fine; costs</u>	<u>One year suspension; two years probation; \$1000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; two years probation; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension; two years probation; \$5000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(p) Paragraph 61-20.503(6)(d), F.A.C. –

A licensee or registrant shall not fail to maintain records.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>Two years suspension; \$2500 fine; two years probation; costs</u>
<u>Third Offense</u>	<u>One year suspension; two years probation</u>	<u>Revocation; \$5000 fine; costs</u>

(q) Subsection 61-20.503(7), F.A.C. –

Use funds for intended purpose.

<u>First Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>\$2500; two years probation; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(r) Paragraph 61-20.503(8)(a), F.A.C –

other license suspended, revoked, misconduct.

<u>First Offense</u>	<u>Two years probation</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>\$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(s) Paragraph 61-20.503(8)(b), F.A.C. –

Perform services requiring licensure without requisite licensure.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$2500 fine; costs</u>
<u>Second Offense</u>	<u>\$1000 fine; costs</u>	<u>\$5000 fine; one year suspension; two years probation; costs</u>
<u>Third Offense</u>	<u>\$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(t) Paragraph 61-20.503(8)(c), F.A.C. –

Other licenses, reveal.

<u>First Offense</u>	<u>Reprimand</u>	<u>Reprimand; \$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>One year suspension; two years probation; \$3000 fine; costs</u>
<u>Third Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(u) Subsection 61-20.508(1), F.A.C. –

Continuing Education.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year probation; \$1000 fine; compliance; costs</u>
<u>Second Offense</u>	<u>\$250 fine; compliance within 60 days</u>	<u>Suspension until compliance; \$2500 fine; costs</u>
<u>Third Offense</u>	<u>\$1000 fine; compliance within 60 days</u>	<u>One year suspension or until compliance, whichever is greater; \$5000 fine; compliance; costs</u>

(v) Subsection 61-20.5083(5), F.A.C. –

Continuing education audit, failure to respond.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$500 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine</u>	<u>\$2500 fine; costs</u>
<u>Third Offense</u>	<u>One year probation; \$2500 fine; costs</u>	<u>One year suspension; \$2500 fine; costs</u>

(w) Subsection 61-20.003(2), F.A.C. –

Practice through unregistered entity 3 months or less.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$500 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>\$2500 fine; costs</u>
<u>Third Offense</u>	<u>One year probation; \$1000 fine; costs</u>	<u>One year suspension; \$5000 fine; costs</u>

(x) Section 455.271(1), F.S. –

Practice on delinquent, inactive license.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$100 per month fine</u>
<u>Second Offense</u>	<u>\$100 per month fine</u>	<u>\$2500 fine; costs</u>
<u>Third Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(v) Section 455.227(1)(c), F.S. –

Being convicted or found guilty of a crime related to the practice of a licensee's or registrant's profession.

<u>First Offense</u>	<u>Reprimand</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; \$1500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension; \$3000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(z) Section 455.227(1)(g), F.S. –

Filing a false report or complaint with the department.

<u>First Offense</u>	<u>\$500 fine</u>	<u>One year suspension; \$3000 fine; costs</u>
<u>Second Offense</u>	<u>Two years probation; \$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>One year suspension; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(aa) Section 455.227(1)(h), F.S. – Attempting, obtaining, or renewing a license by bribery or fraud.
 First Offense \$1000 fine; costs Revocation; \$5000 fine; costs
 Second Offense One year suspension; \$3000 fine; costs Revocation; \$5000 fine; costs
 Third Offense Two years suspension; \$5000 fine; costs Revocation; \$5000 fine; costs

(bb) Section 455.227(1)(i), F.S. – Failing to report any person in violation of this part or the chapter regulating the alleged violator.
 First Offense Reprimand One year suspension; \$3000 fine; costs
 Second Offense Reprimand; one year probation Two years suspension; \$5000 fine; costs
 Third Offense Reprimand; two years probation; costs Revocation; \$5000 fine; costs

(cc) Section 455.227(1)(j), F.S. – Aiding, assisting, unlicensed persons or entity.
 First Offense Reprimand One year suspension; \$3000 fine; costs
 Second Offense \$1000 fine; costs Two years suspension; two years probation; \$5000 fine; costs
 Third Offense One year suspension; one year probation; costs Revocation; \$5000 fine; costs

(dd) Section 455.227(1)(k), F.S. – Failing to perform any statutory or legal obligation placed on a licensee or registrant, if the obligation is not otherwise covered by this rule.
 First Offense Reprimand One year suspension; two years probation; \$3000 fine; costs
 Second Offense Reprimand Two year suspension; two years probation; \$5000 fine; costs
 Third Offense Reprimand; \$500 fine; Costs Revocation; \$5000 fine; costs

(ee) Section 455.227(1)(l), F.S. – Making a report that the licensee or registrant knows to be false, failing to file a required report.
 First Offense \$500 fine; costs Revocation; \$5000 fine; costs
 Second Offense \$1000 fine; costs Revocation; \$5000 fine; costs
 Third Offense \$2500 fine; costs Revocation; \$5000 fine; costs

(ff) Section 455.227(1)(m), F.S. – Making deceptive, untrue, or fraudulent misrepresentations, trick or scheme, related to the practice or profession.
 First Offense Reprimand; \$500 fine Revocation; \$5000 fine; costs
 Second Offense One year probation; \$1000 fine; costs Revocation; \$5000 fine; costs
 Third Offense One year suspension; two years probation; \$2500 fine; costs Revocation; \$5000 fine; costs

(gg) Section 455.227(1)(p), F.S. – Knowingly delegating or contracting for the performance of professional responsibilities.

First Offense Reprimand; costs One year suspension; \$3000 fine; costs
 Second Offense Two years probation; \$500 fine; costs Two years suspension; two years probation; \$5000 fine; costs
 Third Offense One year suspension; two years probation; \$2500 fine; costs Revocation; \$5000 fine; costs

(hh) Section 455.227(1)(r), F.S. – Improperly interfering with an investigation or inspection authorized by statute, or within any disciplinary proceedings.
 First Offense \$1000 fine Revocation; \$5000 fine; costs
 Second Offense One year suspension; \$2500 fine; costs Revocation; \$5000 fine; costs
 Third Offense Two years suspension; \$5000 fine; costs Revocation; \$5000 fine; costs

Specific Authority 455.2273(1) FS. Law Implemented 455.2273 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 18, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: Written Examination; Passing Grade;
 Review Process; Reexamination

RULE NO.: 61-24.013

PURPOSE AND EFFECT: The rule is being repealed following the 2002 legislative changes made to Section 468.453(2)(c), Florida Statutes, which eliminated the examination and surety bond requirements for athlete agent licensure.

SUMMARY: The rule describes the requirements, now repealed, that a written examination must be taken and a passing grade achieved for licensure as an athlete agent; the grading criteria; the review process; and the reexamination procedure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.217(1)(b), 468.457 FS.

LAW IMPLEMENTED: 455.217, 468.453 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61-24.013 Written Examination; Passing Grade; Review Process; Reexamination.

Specific Authority 455.217(1)(b), 468.457 FS. Law Implemented 455.217, 468.453 FS. History--New 5-29-96, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-21R

RULE CHAPTER TITLE: Permits RULE CHAPTER NO.: 62-4

RULE TITLE: Procedure to Obtain Permits and Other Authorizations; Application RULE NO.: 62-4.050

PURPOSE, EFFECT AND SUMMARY: The proposed rulemaking will amend Rule 62-4.050, F.A.C., to reflect a new fee for proposed formal determinations for single-family residences of properties five acres or less in the DEP South Florida District. This fee is proposed as part of concurrent rulemaking involving amendments to Rule 62-343.040 and .900, F.A.C.

CONTACT: Jeanese McCree, Bureau of Beaches and Wetland Resources, Tallahassee, Florida, (850)245-8474, facsimile (850)245-8499 or e-mail: jeanese.mccree@dep.state.fl.us.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at http://www.dep.state.fl.us/ under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-57R

RULE CHAPTER TITLE: Permits RULE CHAPTER NO.: 62-4

RULE TITLE: Procedure to Obtain Permits and Other Authorizations, Application RULE NO.: 62-4.050

The Department of Environmental Protection has proposed language, amending Rule 62-4.050, F.A.C., which establishes fees to be paid by operators of MS4 facilities regulated under the Department's Phase II MS4 generic permit.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at http://www.dep.state.fl.us/ under the link or button entitled "Official Notices." The person to be contacted regarding the propose rule is: Fred Noble, P.E., NPDES Stormwater Section, Florida Department of Environmental Protection, Mail Station 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO: 02-47R

RULE CHAPTER TITLE: Air Pollution Control – General Provisions RULE CHAPTER NO.: 62-204

RULE TITLE: Federal Regulations Adopted by Reference RULE NO.: 62-204.800

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments update through September 30, 2002, the adoptions by reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR Parts 52, 63, 72, 75, and 93.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at http://www.dep.state.fl.us/ under the link or button titled "Official Notices".

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Docket No.: 00-55R

RULE CHAPTER TITLE: Noticed General Environmental Resource Permits RULE CHAPTER NO.: 62-343

RULE TITLES: Formal Determinations of the Landward Extent of Wetlands and Other Surface Waters RULE NOS.: 62-343.040

Environmental Resource Permit Forms 62-343.900

PURPOSE, EFFECT AND SUMMARY: The proposed rule will amend Rule 62-343.040, of the Florida Administrative Code, to establish new criteria and procedures for petitions for formal determinations of the landward extent of wetlands and other surface waters for private single-family residential parcels of up to five acres in size within the geographic territory of the DEP South Florida District conducted under subsection 62-343.040(3), F.A.C. The procedures will include provisions for the following: (1) petition content and submittal requirements; (2) processing timeframes; (3) verification

provisions; (4) timeframes for agency action; and (4) noticing. Form 62-343.900(2), which is used to petition for a formal determination, also is being amended to address the streamlined procedures. The fee for petitioning for these determinations will be set through concurrent rulemaking amendments to Rule 62-4.050, F.A.C., at \$250. The proposed amendments also will change the requirement for persons to initially delineate the boundaries of wetlands and other surface waters for other parcels of ten or fewer acres before Department staff conduct their evaluation of the boundaries.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Beaches and Wetland Resources, MS 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8474, or e-mail: jeanese.mccree@dep.state.fl.us.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Re-examination
RULE NO.: 64B7-27.004

PURPOSE AND EFFECT: To address re-examination fees.
SUMMARY: The Board proposes to update and clarify the fees for the national and colonics examinations.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.
LAW IMPLEMENTED: 480.044(1)(g) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.004 Re-examination.

The re-examination fees shall be:

(1) The fee to retake the Board approved national examination shall be the same fee as the original examination \$190 to retake the Board approved national examination which includes a \$25 non-refundable application fee.

(2) The fee to retake the colonics examination shall be the same fee as the original colonics examination \$75 to retake the colonics examination which includes a \$25 non-refundable application fee.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(g) FS. History--New 11-27-79, Formerly 21L-27.04, Amended 6-17-86, 5-17-90, Formerly 21L-27.004, Amended 12-12-94, 9-18-95, 9-9-96, Formerly 61G11-27.004, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

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

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

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Inactive and Delinquent Status Fees
RULE NO.: 64B11-5.006

PURPOSE AND EFFECT: To update inactive and delinquent status fees.
SUMMARY: After a review of the fees in this rule, the Board determined to make necessary adjustments.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 468.221 FS.
LAW IMPLEMENTED: 468.221 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-5.006 Inactive and Delinquent Status Fees.

The fees for individuals holding a license pursuant to Section 468.221, F.S., shall be as follows:

(1) The fee for an inactive status license shall be \$55.00 ~~\$75.00~~.

(2) The fee for delinquent status as set forth in subsection 456.036(7), F.S., shall be \$55.00 ~~\$100~~.

(3) The fee for reactivation of an inactive license shall be \$100.00 ~~\$200.00~~.

(4) The fee for renewal of an inactive license shall be \$55.00 ~~\$75.00~~.

Specific Authority 468.221 FS. Law Implemented 468.221 FS. History--New 4-17-95, Formerly 59R-64.040, Amended 2-7-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 18, 2002

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: Examination for Licensure RULE NO.: 64B12-9.001

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

SUMMARY: The proposed amendments are intended to update the rule text regarding examination for licensure and to strike unnecessary language.

SPECIFIC AUTHORITY: 456.017(1),(5), 484.005 FS. LAW IMPLEMENTED: 456.017(1),(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.001 Examination for Licensure.

~~(1) An applicant who has completed all requirements for examination and has been certified eligible by the board will be admitted to the examination for licensure.~~

~~(1)(2) There shall be three ~~five~~ parts to the examination for Florida licensure in opticianry: a national written opticianry competency examination ~~portion~~; a national written contact lens examination; and a neutralization portion; a practical examination ~~portion~~; and a written portion based upon Chapter 484, Part I, F.S., and rules promulgated pursuant thereto.~~

~~(2)(3) The national written opticianry competency examination portion of the examination shall be the National Opticianry Competency Examination developed by the American Board of Opticianry. This portion of the licensure examination shall be completed through the American Board of Opticianry, and proof of successful completion shall be required prior to a candidate's taking of the practical examination ~~in the three subject areas administered by the Department.~~~~

~~(3)(4) The national written contact lens examination portion of the examination shall be the Contact Lens Registry Examination developed by the National Contact Lens Examiners. This portion of the licensure examination shall be completed through the National Contact Lens Examiners, and proof of successful completion shall be required prior to a candidate's taking of the practical examination ~~in the three subject areas administered by the Agency.~~~~

~~(4)(5) No change.~~

~~(5)(6) Proof of having successfully completed the national portions of the examination shall consist of certification of the candidate's scores from the testing body directly to the Board. It is the candidate's responsibility to arrange for transfer of scores. The scores shall reflect that the candidate successfully completed the examinations within the three ~~two~~ years preceding application for licensure or that the candidate successfully completed the examinations after August, 1979 and has maintained a current certificate since having successfully completed the examinations by having completed continuing education courses. The Board shall accept a copy of the original certificate of National Certification as evidence of successful completion.~~

~~(6) An applicant who has completed all requirements for the practical examination and who has been certified eligible by the Board will be admitted to the practical examination.~~

~~(7) The neutralization portion of the practical examination for opticianry licensure shall require candidates to neutralize lenses within the tolerances set out in the American National Standard (Z80.1-1987) which is incorporated herein by reference to achieve a score of seventy percent (70%).~~

~~(8) The ~~practical portion~~ remainder of the practical examination for opticianry licensure shall consist of and be graded as to each part as follows, as relates to all optical devices:~~

Measuring and Calipering	20%
Taking a P.D., Lens I.D., and Fitting and Adjustments	40%
Practical Dispensing	40%
For each section of the practical, grading tolerances shall be as follows:	
Measuring and Calipering thickness	± .2mm
base curve	± .25 diopters
length	± 2mm
mechanical	± 1mm
width	± 1mm
decentration	± 1mm

~~The candidates' median answer shall establish the correct answer for each measurement made in the measuring and callipering section.~~

Fitting and Adjustment, Taking a P.D.
 Fitting – Examiner’s judgment of pantoscopic tilt and symmetrical angling
 Monocular Distance
 P.D. Binocular P.D.
 Left ± 1mm Distance ± 2mm
 Right ± 1mm Near ± 2mm

~~The candidates' median answer shall establish the correct answer for each of the above P.D. measurements.~~

Practical Dispensing
 The transposition, decentration, prism, slaboff and vertex shall be exact.

A score of at least seventy percent (70%) shall be required in order to pass the practical portion of the examination.

~~(9) The written portion based upon the Opticianry Practice Act, Chapter 484, F.S., and the rules promulgated pursuant thereto shall consist of written multiple choice questions of equal weight. A score of at least seventy percent (70%) shall be required in order to pass the written portion of the examination based on the Florida law and rules.~~

~~(9)(10)~~ In arriving at a final score for each part of the examination ~~that which~~ uses percentage scores, any percentage score which contains a fractional part of a point of one-half (.5) or higher will be raised to the next highest whole number.

~~(10)(11)~~ No change.

Specific Authority 456.017(1), (5), 484.005 FS. Law Implemented 456.017(1),(5) FS. History—New 12-6-79, Amended 8-10-80, 3-11-81, 10-29-81, 6-30-82, 8-11-82, 2-2-83, 8-29-85, Formerly 21P-9.01, Amended 9-17-87, 3-30-89, 2-18-93, Formerly 21P-9.001, Amended 5-2-94, Formerly 61G13-9.001, Amended 5-4-97, Formerly 59U-9.001, Amended 4-20-98, 9-12-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Board of Opticianry
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 21, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 23, 2002

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE
Division of Library and Information Services
 RULE NO.: RULE TITLE:
 1B-2.011 Library Grant Programs
 NOTICE OF CHANGE

In accordance with subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule which was published in the Florida Administrative Weekly, Vol. 28, No. 37, on September 13, 2002.

The rule incorporates by reference guidelines and forms relating to the Public Library Construction grant program. Changes have been made to the guidelines and forms for the Public Library Construction grant program to reflect comments made by the Joint Administrative Procedures Committee (JAPC) and in response to comments received.

Copies of the full text of the changes may be obtained by contacting: Barratt Wilkins, Director, Division of Library and Information Services, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)245-6600, Suncom 205-6600.

DEPARTMENT OF STATE
Division of Cultural Affairs
 RULE NO.: RULE TITLE:
 1T-1.001 Division of Cultural Affairs
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 34, August 23, 2002, issue of the Florida Administrative Weekly.

(20) Regional Cultural Facilities Program. The purpose of this program is to accept and administer funds to provide grants for the renovation, construction, or acquisition of regional cultural facilities. It is not intended to fund project planning, such as feasibility studies and architectural drawings, or operational support.

(a) Administrative and Legal Eligibility. The applicant for a regional cultural facilities grant must:

1. Be a ~~public entity governed by either~~ a municipality, county, or qualified corporation as defined in section 265.702(2), Florida Statutes.