

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: Residential Solicitations RULE NO.: 3F-9.002

PURPOSE AND EFFECT: The Board proposes to amend this rule to remove references to cemetery company and substitute licensee or certificateholder in its place and change the time for solicitation to 9:00 p.m. rather than 9:30.

SUBJECT AREA TO BE ADDRESSED: Residential Solicitations.

SPECIFIC AUTHORITY: 497.103, 497.115, 497.321 FS.

LAW IMPLEMENTED: 497.115, 497.321 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-9.002 Residential Solicitations.

(1) No change.

(2) No licensee or certificateholder, cemetery company officer, director, employee, or agent shall initiate, conduct, or attempt to conduct a pre-need residential solicitation, for the purpose of selling or other transfer of burial rights, merchandise, or services, after the hour of 9:00 9:30 p.m. and before the hour of 9:00 a.m. of the next calendar day except upon the prior express request of the person solicited.

(3) No licensee or certificateholder, cemetery company officer, director, employee, or agent shall knowingly initiate, conduct, or attempt to conduct pre-need residential solicitation, for the purpose of selling or other transfer of burial rights, merchandise, or services, of any person, or of any family of any person, who is suffering ill health except upon the prior express request of the person solicited.

Specific Authority 497.103, 497.115, 497.321 FS. Law Implemented 497.115, 497.321 FS. History--New 4-16-86, Formerly 3D-30.034, Amended

DEPARTMENT OF INSURANCE

RULE TITLE: Forms Incorporated by Reference RULE NO.: 4-193.065

PURPOSE AND EFFECT: This rule is being amended to adopt and incorporate the updated version of form D14-477 (Rev 07/02), "Minimum Liquid Reserve Calculation".

SUBJECT AREA TO BE ADDRESSED: Form D14-477 (Rev 07/02), "Minimum Liquid Reserve Calculation" has been updated and needs to be adopted and incorporated by rule.

SPECIFIC AUTHORITY: 624.308(1), 651.013, 651.015(1),(3) FS.

LAW IMPLEMENTED: 651.021, 651.022, 651.023, 651.024, 651.026, 651.033, 651.035 FS.

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

TIME AND DATE: 9:00 a.m., December 12, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bruce Lulofs, Bureau of Specialty Insurers, Division of Insurer Services, Department of Insurance, (850)413-2490.

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Dairy Industry

RULE CHAPTER TITLE: Milk, Milk Products and Rule CHAPTER NO.: 5D-1

Frozen Desserts

RULE TITLES: Documents Incorporated by Reference and Definitions RULE NOS.: 5D-1.001

Permits, Licenses and Inspections 5D-1.003

Dating; Standards for Milk, Milk Products and Frozen Desserts 5D-1.007

PURPOSE AND EFFECT: The purpose and effect of the rule changes is to amend Rule 5D-1, F.A.C., to address Statute changes.

SUBJECT AREA TO BE ADDRESSED: Updating definitions and document reference and clarifying certain test procedures.

SPECIFIC AUTHORITY: 502.014, 503.031 FS.
 LAW IMPLEMENTED: 502.012, 502.014, 502.032, 502.042, 502.053, 502.054, 502.165, 502.231, 503.031, 503.041, 503.051 FS.

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

TIME AND DATE: 2:00 p.m., Monday, December 16, 2002
 PLACE: Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Hines Boyd, Director, Division of Dairy Industry, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, B-29, Tallahassee, Florida 32399-1650, (850)487-1450

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

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Product Approval	9B-72
RULE TITLES:	RULE NOS.:
Definitions	9B-72.010
Local Product Approval Generally	9B-72.030
Product Evaluation and Quality Assurance for Local Approval	9B-72.040
Validation of Evaluation for Local Approval	9B-72.045
Product Approval by Local Jurisdiction	9B-72.050
Optional Statewide Approval Generally	9B-72.060
Product Evaluation and Quality Assurance for Optional Statewide Approval	9B-72.070
Product Validation by Approved Validation Entity for Optional Statewide Approval	9B-72.080
Product Approval by Building Commission	9B-72.090
Approval of Product Evaluation Entities, Product Validation Entities, Testing Laboratories, Certification Agencies, Quality Assurance Agencies and Accreditation Bodies	9B-72.100
Criteria for Certification of Independence	9B-72.110
List of Approved Product Evaluation Entities, Validation Entities, Testing Laboratories, Certification Agencies, Quality Assurance Agencies and Accreditation Bodies	9B-72.120
Forms	9B-72.130
Revocation or Modification of Product Approvals and Entity Certifications	9B-72.160
Investigation	9B-72.170
Equivalence of Standards	9B-72.180
Reference Standards	9B-72.190

PURPOSE AND EFFECT: To address issues raised by interested parties since rule adoption and implement proposed modifications as authorized by the Florida Building Commission and to address the issues found to be inconsistent with the law and its intent. The ultimate result is intended to be a rule that, in conjunction with the Florida Building Code, protects the citizens of the State of Florida, can be applied by authorities having jurisdiction, and is not unduly burdensome to manufacturers of construction products.

SUBJECT AREA TO BE ADDRESSED: Statewide system of product approval, including approval, including statewide approval and approval by local authorities having jurisdiction.

SPECIFIC AUTHORITY: 553.842(1),(2),(9),(14),(15) FS.
 LAW IMPLEMENTED: 553.842(1),(2), (5),(6), (8),(9), (14),(15) FS.

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

TIME AND DATE: 9:05 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 DEVELOPMENT, IF AVAILABLE, IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-6091

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

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Scope of Rules	12-24.001
Definitions	12-24.002
General Requirements	12-24.003
Enrollment	12-24.004
Methods of Payment by Electronic Means	12-24.005
Means of Communication to Report	
Payment Information	12-24.006
Electronic Payment Transmission Errors	12-24.007
Procedures for Payment	12-24.008
Due Date; General Provisions	12-24.009

General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements 12-24.010
 Scope 12-24.021
 Recordkeeping Requirements – General 12-24.023
 PURPOSE AND EFFECT: A) Rule 12-24.001, F.A.C. (Scope of Rules) – these proposed amendments explain that the rules in Part I of this rule chapter apply to the payment of fees and the filing of tax returns, and not just the payment of taxes. These changes also explain that the payment of taxes and filing of returns is accomplished by electronic means, instead of by electronic funds transfer (EFT). B) Rule 12-24.002 (Definitions) – these proposed changes establish new definitions for the terms “associated remittance information,” “e-Cash presentment,” “electronic filing,” “electronic payment,” “electronic means,” “e-Services,” and “tax return” which are used in Part I of this rule chapter. C) Rule 12-24.003 (General Requirements) – these recommended revisions clarify that taxpayers who paid \$30,000 or more in taxes or fees in the prior fiscal year (instead of \$50,000 or more) must pay such amounts and file their returns by electronic means. Specifies the taxes and fees subject to “e-payment” and “e-filing”. D) Rule 12-24.004 (Enrollment) – these proposed amendments state that the ACH debit system is the primary method for paying taxes or fees by electronic means. Explains that, by January 1st each year, DOR will notify affected taxpayers that they must pay unemployment compensation tax and file their returns by electronic means. Provides that DOR will send an enrollment package containing three items to taxpayers who are told they must begin paying taxes and/or submitting returns by electronic means: a) an enrollment form; b) an e-Services calendar of due dates for the upcoming calendar year; and, c) an explanation of the options available for filing electronically. Revises the procedures taxpayers must follow after receiving their enrollment package, including encouraging them to use DOR’s Internet site to complete and submit their enrollment form. Changes the information that enrolling taxpayers must provide to the Department. Explains that by completing the enrollment form (DR-600), the taxpayer is agreeing that: 1) the same statutes and rules that apply to paper documents submitted to DOR apply to submissions by electronic means; 2) the submission by electronic means will be in a manner compatible with DOR’s software and equipment, and any failure by the taxpayer will be treated as the failure to file a return or pay; 3) the typing of his or her name on the bottom of the DR-600 constitutes a declaration that the enrollee is authorized to sign on behalf of the applicant; and, 4) the typed name of the enrollee on the correct DR-600 is deemed to appear on any payment or return submitted electronically. Clarifies where a taxpayer can obtain copies of documents and information discussed in Part I. E) Rule 12-24.005 (Methods of Payment by Electronic Means) – these proposed changes conform language in this rule to the proposed new terms and procedures established in other rules in Part I. F) Rule

12-24.006 (Means of Communication to Report Payment Information) – this rule is being repealed because its content is replaced by statutory changes enacted by the 2002 Legislature, and by other proposed amendments contained in this rule package. G) Rule 12-24.007 (Electronic Payment Transmission Errors) – these proposed amendments explain how taxpayers should contact DOR if they have a problem with an electronic payment. Changes from 3:45 to 5:00 p.m. the time by which a taxpayer must complete the transmission of payment information to the Data Collection Center for each taxable period. H) Rule 12-24.008 (Procedures for Payment) – these proposed changes conform the provisions in this rule to the proposed changes for other rules in this part. States that a confirmation code, instead of a verification code, will be sent to the taxpayer at the completion of the transmission of information to the Data Collection Center. Explains that DOR is authorized to revoke the taxpayer’s authorization to use the ACH credit method if a taxpayer fails to submit the required addenda record information with the transaction. I) Rule 12-24.009 (Due Date; General Provisions) – these recommended revisions conform language in this rule to the proposed new terms and procedures established in other rules in Part I. Adds a citation to Rule 60BB-2.028, F.A.C., to ensure that the rules that govern the compromise and settlement of penalties and interest assessed on late-filed unemployment compensation tax apply to late payments made by electronic means. Removes a provision for a grace period that was previously granted by this rule, since there is no statutory authority for such provision. J) Rule 12-24.010, (General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements) – these proposed changes explain how taxpayers should contact DOR to obtain information about the e-Services program. Conforms language in this rule to the proposed new terms and procedures established in other rules in Part I. Establishes procedures a taxpayer can use to request a waiver from the requirement that he or she submit tax returns by electronic means. States that such waiver is valid for up to one year, and sets conditions for issuing subsequent waivers. K) Rule 12-24.023 (Recordkeeping Requirements – General) – these proposed amendments provide that taxpayers must maintain records that comply with the “adequate records” provisions of Rule 12-3.0012 and DOR publication GT400515. Explains that taxpayers must use the revised DR-600 to enroll to remit taxes and fees, and submit tax returns, by electronic means.

SUBJECT AREA TO BE ADDRESSED: The subject area addressed by these rule revisions and repeal is the procedures that govern payment of taxes and fees, and the submission of returns, by electronic means pursuant to changes recently enacted by the Legislature.

SPECIFIC AUTHORITY: 202.26(3)(a), 212.06(1)(a), 213.06(1) FS.

LAW IMPLEMENTED: 202.26(3)(a), 202.28, 202.30, 212.12, 213.34, 213.35, 213.755, 443.1613, 443.163 FS.

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

TIME AND DATE: 3:00 p.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 this workshop is asked to advise the Department at least 48 hours before the workshop by contacting Nancy Purvis, (850)488-0712. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Larry Green, Tax Law Specialist, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, P. O. Box 6668, Tallahassee, Florida 32314-6668, (850)922-4830, e-mail: greenl@dor.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-24.001 Scope of Rules.

Part I of this rule chapter sets forth the rules to be used by the Department of Revenue in the administration of ss. 202.30 and 213.755, F.S., authorizing the Executive Director to require taxpayers specified by statute or rule to pay remit taxes and fees and to file tax returns by electronic means by electronic transfer of funds. If there is a conflict between these rules and any other rules applicable to the payment of taxes and fees and the filing of tax returns, information reports, and data by electronic means subject to electronic funds transfer, these rules shall govern.

Specific Authority 202.26(3)(a), 213.06 FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 10-24-96, 4-30-02, _____.

12-24.002 Definitions.

For the purposes of Part I of this rule chapter, the terms and phrases used in these rules shall have the meanings prescribed in this section, unless a different meaning is clearly indicated by the context in which the term or phrase is used.

(1) “ACH” or “Automated Clearing House” means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions rather than the physical movement of paper items.

(2) “ACH credit” means the payment of funds by electronic means electronic transfer of funds generated by the taxpayer, cleared through the ACH for deposit to the State Treasury.

(3) “ACH debit” means the payment of funds by electronic means electronic transfer of funds from the taxpayer’s account which is generated upon the taxpayer’s instruction and cleared through the ACH for deposit to the State Treasury.

(4) “Addenda record” means that information required by the Department in an ACH credit transfer or wire transfer that is needed to completely identify a taxpayer or provide information concerning a payment, in approved electronic format.

(5) “Associated remittance information” means any payment information required by statute or rules adopted by agencies that administer the programs for which the funds are collected.

(6)(5) “Submission Call-in day” means the day on which a taxpayer communicates payment or tax return information to the Data Collection Center.

(7)(6) “Submission Call-in period” means:

(a) For the electronic submission of a payment and return together, or just a payment, the specified time interval in each submission call-in day during which an electronic EFT payment or electronically-filed tax return information received by the Data Collection Center is processed for transactions occurring on the next business day, or on a date specified by the taxpayer. Electronic payment and electronically-filed tax return Payment information must be communicated to the Data Collection Center and completed no later than 5:00 prior to 3:45 p.m., Eastern Time, on the submission call-in day to clear the ACH for deposit in the State Treasury on the next business day.

(b) For the electronic submission of a return only, any business day on or before the due date.

(8)(7) “Data Collection Center” means the Department, or a third party vendor, who, under contract with the Department, collects and processes electronic payments and electronically-filed tax return EFT payment information from taxpayers.

(9)(8) “Department” means Florida Department of Revenue.

(10)(9) “Due date” means the date on or before which an electronic payment must be received or an electronically-filed tax return must be submitted a payment is required to be made by a taxpayer under a revenue law of this state.

(11) “e-Cash presentment” means the conversion of an electronic check into an electronic payment.

(12) “Electronic-filing” or “electronically-filed” means the submission of a tax return by electronic means.

(13) “Electronic payment” means the remittance of a tax or fee payment by electronic means.

(10) “Electronic Funds Transfer” or “EFT” means any transfer of funds initiated through an electronic terminal, telephone instrument, computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account using the methods specified in these rules.

(14) “Electronic means” includes any one or more of the following methods of transmitting funds, information, or data: electronic data interchange, electronic funds transfer, telephone, Internet, or any other technology designated by the Department.

(15) “E-Services” means all Department programs associated with the payment of taxes and fees, and the filing of tax returns, information reports, and data by electronic means.

(16)(11) “Payment information” means the data which the Department requires of a taxpayer making an ~~electronic payment~~ ~~EFT payment~~ and which must be communicated to the Data Collection Center.

(17)(12) “Payor” means the taxpayer or an employer, or his or her designee.

(18)(13) “Personal identification Payor information number (PIN or password)” means a confidential code assigned to each taxpayer which uniquely identifies the payor and allows the payor to communicate payment information and/or return information, information reports, or data to the Data Collection Center. ~~The taxpayer will be given a separate payor identification number for each tax type.~~

(19)(14) “State fiscal year” means July 1 through June 30.

(20)(15) “Taxpayer” means any person required to ~~pay~~ ~~remit~~ an amount by electronic means ~~the electronic transfer of funds or file a tax return, information report, or data by electronic means.~~ For the purpose of these rules, “person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number. For electronic payment purposes, the ~~The~~ term “person” does not include ~~county tax collectors or those~~ political subdivisions, municipalities, state agencies, bureaus, or departments which remit taxes subject to electronic payment requirements ~~EFT~~ through journal transfer. Solely for the purposes of these rules, a person required to electronically-pay ~~remit~~ a tax or to electronically-file a tax return, information report, or data acting as a collection agent, or dealer for the state, or a person that prepared and reported the Employer’s Quarterly Report (UCT-6) for 5 or more employers in the preceding state fiscal year, shall nonetheless be considered a taxpayer. For the purposes of this definition, “prepared and reported” means the completion of the Employer’s Quarterly Report (UCT-6) and the submission of the completed report directly to the Data Collection Center.

(21) “Tax return” shall have the meaning prescribed in subsection (2)(b) of section 213.755, Florida Statutes.

(22)(16) “Tax type” means a tax or fee which is subject to remittance of payments and the submission of tax returns, information reports, or data by electronic means ~~EFT~~, each of which shall be considered a separate category of payment. The tax types for which taxpayers will be required to pay amounts due and/or submit tax returns, information reports, or data by electronic means ~~EFT~~ are as follows:

(a) Taxes administered under Chapter 212, F.S., and those taxes and fees reported on the DR-15 form series, including sales and use tax, local option taxes, surcharges, surtaxes, and solid waste fees;

(b) Corporate income/franchise tax (Chapter 220, F.S.) and emergency excise tax (Chapter 221, F.S.), reported on Form F-1120, including the required estimated tax payments (F-1120ES) and tentative tax payments (F-7004);

(c) Taxes on motor fuel, diesel fuel, liquefied petroleum gas, aviation fuel, and pollutants, including local option taxes reported under Chapter 206, F.S. (Form 3096 series);

(d) Gross receipts tax (Chapter 203, F.S.) reported on Form DR-133;

(e) All taxes reported on Forms DR-907 and DR-908, including insurance premium taxes and regulatory assessments subject to the provisions of Chapter 624, F.S., the excise tax on property insurance (s. 175.101, F.S.), and the excise tax on casualty insurance (s. 185.08, F.S.), and the insurance policy surcharge (s. 252.37, F.S.);

(f) Intangible personal property taxes (Chapter 199, F.S.), as reported on Form DR-601 ~~series~~ €;

(g) Severance taxes (Chapter 211, F.S.) and the Miami-Dade Lake Belt Mitigation Fee (Chapter 373, F.S.) reported on Form DR-140 series;

(h) Documentary stamp tax (Chapter 201, F.S.) reported on Form DR-225 or DR-225B;

(i) Communications ~~Communication~~ services tax (Chapter 202, F.S.) reported on Form DR-700016 ~~DR-70016~~ and substitute communications system tax (Chapter 202, F.S.) reported on Form DR-700019 ~~DR-70019~~; and,

(j) Unemployment tax (Chapter 443, F.S.) reported on Form UCT-6 or reimbursement payments billed on Form UCT-29.

(17) “Trace number” means the verification code provided by the Data Collection Center upon receipt of all payment information from the payor which uniquely identifies the completed communication of payment information.

(23)(18) “Treasury” or “State Treasury” means the Treasury of the State of Florida.

(24)(19) “Wire transfer” or “Fedwire” means an instantaneous electronic funds transfer generated by the taxpayer to the State Treasury.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 10-24-96, 4-30-02, _____.

12-24.003 General Requirements.

(1) Any taxpayer subject to the following taxes and fees who has paid that tax or fee in the prior state fiscal year in an amount of \$30,000 ~~\$50,000~~ or more must pay taxes and fees ~~remit tax payments~~ by electronic means ~~funds transfer~~:

(a) Sales and use tax, local option sales taxes, surcharges, surtaxes, and solid waste fees;

(b) Corporate income/franchise tax and emergency excise tax;

(c) Motor fuel, diesel fuel, liquefied petroleum gas, aviation fuel, oil and gas production, and pollutants taxes;

(d) Local option fuel tax;

(e) Insurance premium taxes and assessments;

(f) Gross receipts tax;

(g) Intangible personal property tax;

(h) Severance taxes and Miami-Dade Lake Belt Mitigation Fee; and

(i) Documentary stamp tax (other than remittances subject to s. 213.13, F.S.).

(2) Any taxpayer subject to the following taxes or fees who has paid that tax or fee in the prior state fiscal year in an amount of \$30,000 or more must file tax returns by electronic means:

(a) Sales and use tax, local option sales taxes, surcharges, surtaxes, and solid waste fees; and

(b) Intangible personal property tax, who is required to pay the communications services tax or the substitute communications systems tax must remit tax payments by electronic funds transfer in the following manner:

(a)1. Any taxpayer who has paid taxes imposed under Chapter 212, F.S. (Sales and Use Tax), in an amount of \$50,000 or more for the state fiscal year July 1, 2000, through June 30, 2001, must remit tax payments by electronic funds transfer beginning with the communications services tax or substitute communications systems tax return due on February 1, 2002.

2. Any taxpayer who has paid taxes imposed under Chapter 203, F.S. (Gross Receipts Tax), in an amount of \$50,000 or more for the state fiscal year July 1, 2001, through June 30, 2002, must remit tax payments by electronic funds transfer in conjunction with the communications services tax or substitute communications systems tax return due on February 1, 2002.

(b) Any taxpayer who has paid a combined amount of taxes discussed in paragraph (a) of this subsection in an amount of \$50,000 or more for the state fiscal year July 1, 2000, through June 30, 2001, must remit tax payments by electronic funds transfer in conjunction with the communications services tax or substitute communications systems tax return due on February 1, 2002.

~~(3)(e)~~ Any taxpayer who pays communications services tax, gross receipts tax, and sales and use tax or substitute communications systems tax in an aggregate the amount of \$50,000 or more for the state fiscal year ending June 30, 2002, or in any state fiscal year thereafter, must remit communications services tax payments by electronic funds transfer for taxes due during the succeeding calendar year.

(4) In addition, any taxpayer subject to the taxes enumerated in subsection (1) must pay taxes and fees and/or file tax returns by electronic means if he she:

(a) Filed a zero return for an applicable tax period for taxes due pursuant to Chapters 212 and 220, Florida Statutes;

(b) Filed a consolidated return pursuant to the provisions of Chapter 212, Florida Statutes, for every applicable tax period in the prior state fiscal year; or

(c) Has two or more places of business for which the combined tax and/or fee payments equal or exceed \$30,000 for the state fiscal year ending June 30, 2002, or any year thereafter, for taxes due pursuant to Chapter 212, Florida Statutes.

~~(5)(3)~~ All taxpayers required to pay taxes or fees and/or file tax returns by electronic means ~~participate in the EFT program~~ shall participate for the entire a minimum of one calendar year for which they have enrolled. Persons required to participate ~~selected~~ on the basis of prior state fiscal year tax payments will be notified ~~contacted~~ by the Department at their last address of record. Once notified of this ~~selected for the EFT requirement~~, the taxpayer must electronically transmit by electronic means all payments and/or returns for that tax type as provided in this rule. Changes in a taxpayer's tax liability or registration during an enrollment period shall not suspend or terminate the requirement to pay taxes and file returns by electronic means for the entire calendar year for which he or she is enrolled.

Specific Authority 202.26(3)(a), 212.06(1)(a), 213.06(1) FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, _____.

12-24.004 Enrollment Payor Information.

(1) ~~The ACH debit system~~ is the primary EFT method required of taxpayers selected to pay taxes or fees ~~remit funds~~ by electronic means ~~funds transfer~~. ~~The ACH credit system~~ is an electronic payment ~~a payment~~ method available only as an exception to taxpayers who qualify under the provisions of Rule 12-24.005, F.A.C. Wire transfer is an alternative method of paying taxes or fees by electronic means ~~EFT~~ available to taxpayers only as an exception under the provisions of Rule 12-24.008(3), F.A.C.

(2)(a) On or before November 1st (January 1 for taxpayers remitting only unemployment tax), the Department will notify every taxpayer required to pay a tax or fee and/or file a tax return ~~remit a tax~~ by electronic means ~~EFT~~ in the upcoming calendar year, and include with such notification all of the following:

1. ~~An Enrollment and Authorization for e-Services Program a Registration/Authorization Form Florida EFT/EDI Program Electronic Tax Payment System (Form DR-600 DR-600F) or instructions on how to access and complete enrollment on the Department's Internet site; and~~

2. ~~A a Florida e-Services Programs EFT Program Electronic Tax Payment Calendar of Due Dates (Form DR-659); and~~

3. ~~An explanation of the options from which the taxpayer must choose to pay taxes or fees and/or file tax returns by electronic means.~~

(b) ~~A taxpayer who wishes to use the ACH credit method in lieu of the ACH debit method must file a written request with the Department for permission to use the ACH credit method prior to December 1 (February 1 for taxpayers remitting only unemployment tax), as provided in Rule 12-24.005, F.A.C.~~

(3) ~~Upon receipt of the enrollment package Registration/Authorization Form Florida EFT/EDI Program Electronic Tax Payment System (Form DR-600F), the taxpayer must, on or before December 1 (February 1 for taxpayers remitting only unemployment tax):~~

(a) ~~Access and complete enrollment on the Department's Internet site; or,~~

(b) ~~Obtain and complete the form DR-600 and return it to the Department, if the taxpayer is unable to use the Department's Internet site to enroll, by December 1.~~

(4) ~~Enrollment requires the submission of information on form DR-600 that includes: Pertinent payor information provided with Form DR-600F will be furnished to the State Treasurer's bank and the Data Collection Center.~~

(a) ~~The enrollee's (taxpayer's) business entity name;~~

(b)1. ~~The enrollee's tax identification numbers assigned by the federal government and the Department, including tax account number if different from the tax identification numbers;~~

2. ~~If the enrollee prepared and reported the Employer's Quarterly Report (form UCT-6) for five or more employers in the preceding state fiscal year, the agent i. d. number assigned by the Department, plus the information required by subparagraph (b)1. of this subsection for such enrollee, and for every employer for which the enrollee currently prepares and reports Form UCT-6.~~

(c) ~~A contact person's name, mailing address, telephone number, and e-mail address who is responsible for electronic payments and/or electronic filing of returns for the enrollee's business;~~

(d) ~~Whether the contact person is an employee of the business;~~

(e) ~~The tax and/or fee type for which the enrollee is enrolling;~~

(f) ~~The filing and payment method the enrollee requests;~~

(g) ~~The enrollee's banking information, including the enrollee's bank name, the bank routing number(s), the enrollee's bank account number(s), and information stating whether the account is a savings or checking account (this information is not required if the enrollee is requesting the ACH-credit method); and,~~

(h) ~~If this is a notification from an enrollee of a change in bank information, the effective date of the change.~~

(5) ~~By completing and submitting this enrollment request (form DR-600), the enrollee is applying to file tax returns and reports and make tax and fee payments to the Department electronically. In addition, by completing and submitting this enrollment request, the enrollee and the Department agree that:~~

(a) ~~The same statute and rule sections that pertain to all paper documents filed by the enrollee govern an electronic return, report, or payment initiated electronically pursuant to this enrollment (the completed and submitted DR-600).~~

(b) ~~The enrollee's electronic transmission of such reports, returns, and payments must be made in a manner compatible with the Department's software, equipment, and facilities. Any failure to comply with this term shall result in the enrollee being deemed to have failed to file a return or payment.~~

(c) ~~Each tax return or payment other remittance communicated electronically shall be considered to be "in writing" and "written" to an extent no less than as if in paper, to be "signed" and to be an original.~~

(d)1. ~~By typing his or her name on the signature line of an electronically-submitted form DR-600, the enrollee is declaring, under penalties of perjury, that he or she is authorized to sign on behalf of the applicant entity, and that he or she has read form DR-600, and that the facts stated on the form are true.~~

2. ~~The typed name of the enrollee or its authorized agent(s) affixed to a completed and properly submitted form DR-600 shall be deemed to appear on electronically filed tax returns, as if actually so appearing.~~

(e) ~~The enrollee must notify the Department of any changes by completing and submitting a new DR-600, or accessing and completing a change request on the Department's Internet site, no later than 30 consecutive calendar days before the changes are intended to take effect, which provides the Department a reasonable opportunity to act on such changes.~~

(6)(4) ~~Upon receipt of enrollment payor information from the Department, the Data Collection Center shall assign a confidential personal payor identification number directly to the taxpayer to be used by the taxpayer when communicating electronic payment or return information to the Data Collection Center. This number shall be provided to the taxpayer prior to the date the first required payment is due under the e-services EFT program for all accounts who timely file the form DR-600 Form DR-600F with the Department.~~

(5) A taxpayer must provide at least 30 days advance written notice of any change of information required with the electronic funds transfer authorization form by submitting a revised Form DR-600F to the Department.

~~(7)(6)(a) The Department prescribes Form DR-600F, Registration/Authorization Form Florida EFT/EDI Program Electronic Tax Payment System (r. 10/00), Form DR-659, Florida EFT Program Electronic Tax Payment Calendar (r. 10/00), and Form DR-653, Electronic Filing Agreement Florida EFT/EDI Program Electronic Tax Filing System (r. 10/00), as the forms to be used for the purposes of this chapter and hereby incorporates these forms by reference. Copies of the these forms discussed in this rule chapter may be obtained, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168A 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours for general taxes at (800)352-3671 (in Florida only) or (850)488-6800, or for unemployment tax at (800)482-8293 (nationwide); or 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor) (http://www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

(b) The Department will accept facsimile transmissions of form DR-600 requests (~~form DR-600F~~) at telephone number (850)922-5088.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, _____.

12-24.005 Methods of Payment by Electronic Means Fund Transfer.

(1) The Department will utilize the ACH debit transfer as the method by which taxpayers subject to electronic payment EFT requirements shall remit taxes and fees by electronic means funds transfer.

(2) However, the Executive Director or the Executive Director's designee will grant taxpayers permission to use the ACH credit method on a case by case basis for a limited period of time, as an exception to the required use of the ACH debit method.

(a) A taxpayer who requests permission to use the ACH credit method must submit a written request to the Department, by December 1 (February 1 for taxpayers remitting only unemployment tax), which demonstrates that the taxpayer is currently using the ACH credit method for other financial purposes on a regular basis.

(b) The written request to use the ACH credit method shall be filed with the e-Services E-Services Unit, Florida Department of Revenue, P. O. Box 5885, Tallahassee, Florida 32314-5885, by December 1 (February 1 for taxpayers remitting only unemployment tax). The Department will accept facsimile transmissions of requests at telephone number (850)922-5088. Taxpayers will be notified of the Department's decision within the month of January.

(c) The Department reserves the right to revoke the ACH credit method payment privilege of any taxpayer who does not consistently transmit error-free payments; or substantially varies from the requirements and specifications of these rules; or repeatedly fails to make timely electronic payments EFT payments or timely provide payment information; or, repeatedly fails to provide the required addenda record with the electronic EFT payment.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, _____.

12-24.006 Means of Communication to Report Payment Information.

~~Taxpayers who participate in the electronic funds transfer program shall use one of two means of communicating payment information through the ACH debit method:~~

~~(1) Operator-assisted communication of payment information made orally by rotary or touch-tone telephone; or~~

~~(2) PC entry communication of payment information with a computer or other communication device.~~

Specific Authority 202.26(3)(a), 213.06 FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 11-17-93, 4-30-02, Repealed.

12-24.007 Electronic Payment Transmission Errors.

(1) If a taxpayer makes an error on an electronic does not make a correct payment of tax for a particular period, such taxpayer shall, on the nearest business day after the date on which the error is discovered, contact e-Services the E-Services Unit at the telephone number for general taxes at (800)352-3671 (in Florida only), (850)488-6800, or for unemployment tax at (800)482-8293 (nationwide), or at the Department's Internet address at www.myflorida.com/dor 487-7972 for specific instructions.

(a) If the taxpayer error involves an overpayment of tax, the taxpayer may either elect to have the overpayment applied against the liability for the next reporting period or apply for a refund under the provisions of the applicable tax statute.

(b) If the taxpayer error involves an underpayment of tax, the taxpayer must make appropriate arrangements to initiate payment for the amount of the underpayment.

(2)(a) In the event a taxpayer using the ACH debit method communicates electronic payment information to the Data Collection Center after 5:00 3:45 p.m., Eastern Time, on the

business day before the due date, the payment shall be posted to the taxpayer's account on the next business day following the due date and shall constitute late payment.

(b) To assist the taxpayer in complying with all statutory requirements for timely electronic payment remittance by EFT of taxes and fees due, the Department will annually develop and distribute form DR-659, which contains detailed information that specifies ~~provides~~ the final time and date for each month of the upcoming calendar year by which the taxpayer must initiate a timely electronic EFT payment of any tax or fee subject to EFT. This form is revised annually to incorporate any changes to dates listed on the previously-issued form that, if not changed for the upcoming calendar year, will occur on a state or federal holiday, or on a weekend.

(3) Except as provided in these rules or Rule Chapter 12-13, F.A.C., a failure to make a timely electronic EFT payment because of other circumstances under the taxpayer's control, including but not limited to insufficiency of funds in the taxpayer's account ~~or a direct payment to the Department using an unauthorized payment method~~, shall result in the loss of the taxpayer's collection allowance and assessment of the appropriate penalties and interest by the Department.

Cross Reference: Rule 12-24.009, F.A.C.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History--New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, _____.

12-24.008 Procedures for Payment.

(1) ACH Debit Method.

(a) The taxpayer must report electronic payment information to the Data Collection Center by the approved means of communication, no later than ~~5:00~~ 3:45 p.m., Eastern Time, on the business day immediately preceding the due date of the payment. The Data Collection Center must be contacted during the submission ~~contact~~ period specified in the detailed instructions provided to enrolled EFT taxpayers, which include Form DR-659. The Department will bear the costs of processing electronic EFT ACH debit payments through the Data Collection Center. Communication by the taxpayer during the submission ~~contact~~ period is mandatory to assure the timely posting of the taxpayer's payment on the following business day.

(b) After establishing contact with the Data Collection Center, the taxpayer is allowed to communicate electronic payment information for more than one tax type or tax period. However, the taxpayer must initiate electronic payment information for each tax type and for each tax period for which an electronic ~~a~~ payment is due. The following electronic payment information is required from the taxpayer:

1. Company and ID number (Payment identification number);
2. Tax payment amount;
3. Tax period;

4. Payment type; and
5. Confirmation ~~Verification~~ code.

(c) A confirmation code will be issued at the conclusion of the communication of the electronic payment information for each payment type and tax period. This number provides a means of verifying the accuracy of the recorded tax payment and serves as a receipt for the transaction.

(d) Shortly after the expiration of the submission ~~contact~~ period, the Department will receive an electronic transmission from the Data Collection Center containing all the payment information that has been communicated by the taxpayer to the Data Collection Center during that submission ~~contact~~ period.

(e) Example. A taxpayer who uses the ACH debit method to remit the January sales tax payment will first determine the total amount of tax due with respect to the sales and use tax return (amount due with return) for the January applied period. Prior to the end of the submission ~~contact~~ period on February 19 (or the last business day prior to the 19th), the taxpayer must contact the Data Collection Center. After establishing contact, the taxpayer will identify the electronic payment EFT account with the preassigned payment identification number and state the payment type (monthly return), the payment amount (\$12,345), and the tax period (January), ~~and the verification code~~. At the end of the communication, the taxpayer will receive a confirmation code which will verify the accuracy of the recorded tax payment and serve as a receipt for the transaction. Electronic payment ~~Payment~~ information involving the ACH debit transfer will be electronically transmitted to the Department on February 19, shortly after the expiration of the contact period. The actual tax payment of \$12,345, however, will not be posted as collected funds to the Treasurer's account until the following day, February 20. Taxpayers must file the required return as provided by law and rule. If applicable, the taxpayer must check the box on the return to show payment by electronic payment EFT.

(2)(a) ACH Credit Method. Taxpayers who have been granted permission to use the ACH credit method must contact their own financial institutions and make the arrangements to transfer the tax payment to the state Treasury account using an ACH credit transfer. The Department will not bear the costs for taxpayers to use the ACH credit method.

(b) To assure the timely receipt of payment of tax, a taxpayer must initiate the payment transaction with its financial institution in time for the payment to be deposited as collected funds to the State Treasury account on or before the appropriate due date.

(c) All ACH credit transfers must be accompanied by a Cash Concentration or Disbursement (CCD) + addenda record, in the format specified by the Department, which includes the following information:

1. Record type code;
2. Addenda type code;
3. Taxpayer identification;

4. Tax type code;
5. Tax period end date;
6. Amount type code;
7. Amount.

(d) ~~The Department will impose the provisions of paragraph (2)(c) of Rule 12-24.005 if the taxpayer fails more than three times in 12 consecutive calendar months, beginning January 1, 2002, to provide the Department with the required addenda record which conforms to the requirements of this rule, the taxpayer will be required to use the ACH debit method.~~

(e) Example. A taxpayer who uses the ACH credit method to remit the January sales tax payment will first determine the total amount of tax due with respect to the sales and use tax return (amount due with return) for the January applied period. At a time arranged between the taxpayer and the taxpayer's financial institution, the taxpayer will provide the taxpayer's financial institution with the information necessary to initiate a timely transfer of the January tax payment and an accompanying CCD + addenda record. The timely initiated ACH credit transfer of \$12,345 will be posted as collected funds to the State Treasurer's account on February 20. To be timely, the ACH credit transfer of January tax must be deposited to the state Treasury account as collected funds on or before February 20. Taxpayers must file the required return as provided by law and rule. If applicable, the taxpayer must check the box on the return to show payment by EFT.

(3) Wire transfer. Taxpayers who, due to circumstances beyond their reasonable control, are unable to initiate a timely electronic payment of tax through the ACH debit method or the ACH credit method may request the Department's permission, on an exception basis, to transmit a payment of tax to the State Treasurer's account via wire transfer. The term "circumstances beyond their reasonable control" includes, but is not limited to, failure of equipment essential to the transmission of the payment, unavailability of the employee(s) who handles such transmissions, or natural disaster.

(a) Prior to initiating the transmission, the taxpayer must ~~contact the E-Services Unit through the E-Services hotline at telephone number (850)487-7972. The taxpayer must~~ fax a written explanation of the emergency situation which prevents timely compliance under either the ACH debit method or ACH credit method and must request written approval to wire transfer the tax payment in question to the State Treasury account. The E-Services fax number is (850)922-5088. The written request must include the information discussed in sub-paragraphs (3)(b)1.a. through f. of this rule.

(b) Taxpayers who are granted written approval to use wire transfer as an exception to either the ACH debit method or ACH credit method will be given specific instructions regarding the payment information that must accompany the wire transfer.

1. All wire transfers must be accompanied by payment information, in addition to an addenda record, in the format specified by the Department, which includes the following information:

- a. Taxpayer's name;
- b. Taxpayer's identification number;
- c. Tax type;
- d. Amount/payment type;
- e. Amount of payment;
- f. Tax period;
- g. Name and account of correspondent bank;
- h. Name of receiving bank;
- i. State treasury account number; and
- j. American Bank Association 9-digit number of receiving bank.

2. The Department will not bear any costs associated with the wire transfer.

(c) Wire transfers which are not received in the State Treasury account on or before the due date of the transmitted payments of tax will constitute late payment, and the applicable late filing penalties, interest, and loss of collection allowance shall apply.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30(1), 213.755, ~~443.1613, 443.163~~ FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, _____.

12-24.009 Due Date; General Provisions.

(1) Taxpayers who are required to pay taxes or fees ~~remit tax payments~~ through electronic means ~~EFT~~ must initiate the transfer so that the amount due is deposited as collected funds to the State Treasurer's account on or before the due date under the appropriate revenue law. If a tax due date falls on a Saturday, a Sunday, a legal holiday as defined in s. 658.70(1), F.S., or on a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic means ~~funds transfer~~ is required on or before the first banking day thereafter. For the purposes of these rules, "banking day" has the meaning prescribed in s. 658.70(1), F.S. If the date on which the taxpayer is required to initiate either an ACH debit or an ACH credit transfer falls on a Saturday, Sunday, or a business or banking holiday, the taxpayer must initiate the transaction on the preceding business day pursuant to subsection Rule 12-24.008(3), F.A.C.

(2) ~~The EFT method of payment does not change any current filing requirements for tax returns.~~ If the electronic EFT payment is not timely made or the tax return required is not electronically-filed ~~filed~~ by the statutory due date, the provisions for late filing penalties, interest, and loss of collection allowance or discount shall apply under the provisions of the appropriate revenue law, except as provided in these rules.

(3) The provisions of s. 213.21, F.S., ~~(s. 443.141(1), F.S. for unemployment tax)~~, shall govern the compromise and settlement of any tax, interest, or penalty assessed due to the late payment of an electronically filed payment, except as provided in these rules.

(a) For electronic payment EFT purposes, “reasonable cause” as stated in s. 213.21, F.S. and Rule Chapter 12-13 and “good reason” as stated in s. 443.141(1), F.S., both include, for the compromise of penalty ~~shall include, in addition to the provisions of s. 213.21, F.S., and Rule Chapter 12-13, F.A.C.,~~ the following:

1. The inability to access the electronic payment EFT system on the required date because of a system failure beyond the reasonable control of the taxpayer;

2. The failure of the electronic payment EFT system to properly apply a payment; or

3. The failure of the electronic payment EFT system to issue proper verification of receipt of payment information.

(b)1. A taxpayer who is required to remit payments under the electronic payment EFT program and who is unable to make a timely payment because of system failures within the banking system/ACH interface which are beyond the taxpayer’s control shall not be subject to penalty or interest for late payment or loss of collection allowance or discount. The taxpayer must provide a written explanation and supporting documentation to the E-Services Unit concerning any system failure within the banking system/ACH interface.

2. Taxpayers must ensure that they use reasonable and prudent judgment when selecting a banking system or ACH interface to handle their electronic payment EFT transactions.

(c) Errors made by the Data Collection Center, the State Treasury, or the Department shall not subject the taxpayer to loss of collection allowance or discount, or assessment of penalty or interest for late payment.

~~(4) During the first 3-month period a taxpayer is required to remit tax by EFT, the Department will extend a reasonable grace period of no more than 90 consecutive calendar days to the taxpayer to resolve problems which arise when new administrative procedures, data systems changes and taxpayer operating procedures are implemented. To qualify for a grace period, the taxpayer must demonstrate in writing to the Department that a good faith effort to comply was made, or that circumstances beyond the taxpayer’s reasonable control prevented compliance by the required date, or that a mistake or inadvertence prevented timely payment when the taxpayer attempted to correctly and timely initiate an EFT payment.~~

~~(4)(5)~~ Pursuant to s. 202.28(1), F.S., dealers of communications services who fail to properly pay by electronic means remit the communications services taxes by EFT as required in s. 202.30(1), F.S., are not authorized to claim the collection allowance authorized by s. 202.28, F.S., for the proper remitting of taxes.

Specific Authority 202.26(3)(a), 213.06 FS. Law Implemented 202.28, 202.30, 212.12, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 4-30-02.

12-24.010 General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements.

(1) Taxpayers who need general information concerning the e-Services programs EFT program can contact the Department toll-free at (800)352-3671 (Florida only) E-Services Unit at (850)487-7972, or (850)488-6800 or for unemployment tax toll free at (800)482-8293 (nationwide), or at the Department’s Internet address at www.myflorida.com/dor Toll-Free (800)352-3671 (Florida only).

(2) Voluntary Inclusion in the electronic payment program EFT. Those taxpayers who are required to participate in the electronic payment EFT program due to a prior year tax liability for any tax type subject to electronic payment EFT may request permission to also remit other tax types by electronic payment EFT. Written requests for voluntary inclusion in the electronic payment EFT program must be filed with the e-Services E-Services Unit at least 60 days prior to the due date of the payment(s) in question. Taxpayers may terminate voluntary participation by filing a written notice of termination with the e-Services E-Services Unit at least 60 days prior to the due date of the last electronic EFT payment. Requests for voluntary inclusion and termination notices must be directed to the e-Services E-Services Unit, Florida Department of Revenue, P. O. Box 5885, Tallahassee, Florida 32314-5885.

(3) The Data Collection Center and its employees shall be bound by the same confidentiality requirements as the Department under s. 213.053, F.S.

(4)(a) The Department is authorized to waive the requirement that a taxpayer submit tax returns by electronic means, if the taxpayer can establish that he or she is unable to comply with e-filing requirements pursuant to the provisions in the introductory paragraph to section 213.755, F.S. To request a waiver the taxpayer must complete and submit form DR-654 (Request for Waiver From Electronic Filing), to establish in writing the basis under which such waiver is requested.

(b) Grounds for approving a waiver include, but are not limited to:

1. Any of the circumstances specified in section 213.755(9)(a) and (b), F.S.; or

2. The taxpayer does not have a modem; or

3. The taxpayer does not have access to the Internet.

(c) A waiver shall be valid for up to one year and the issuance of a subsequent waiver shall be contingent on the taxpayer working with the Department during the current waiver period to resolve the problems that originally necessitated the issuance of the waiver.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.755, 443.1613, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02,_____.

PART II TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

12-24.021 Scope.

Rules 12-3.0012 and 12-24.021 through 12-24.030, F.A.C., and publication GT400515 define the requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under s. 213.35, F.S. These rules and publications address such requirements where all or a part of the taxpayer’s records are received, created, maintained or generated through computer, electronic, and imaging processes and systems. Unless in conflict with the specific requirements imposed by other rules of the Department, these rules shall govern the recordkeeping and retention requirements imposed by the revenue laws administered by the Department.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.35 FS. History—New 10-24-96, Amended 4-30-02,_____.

12-24.023 Recordkeeping Requirements – General.

(1) A taxpayer shall maintain all records that are necessary to make a determination of its correct tax liability for any tax specified in s. 72.011, F.S. All required records must be made available on request by the Department as provided in s. 213.34, F.S. Such records shall comply with the adequate records provisions discussed in Rule 12-3.0012 and publication GT400515, which is adopted by reference in Rule 12-3.0017, F.A.C., and shall include, but not be limited to: books of account, invoices, bills of lading, gross receipts from sales, resale certificates, consumer exemption certificates, and other pertinent records.

(2) through (3) No change.

(4) The Department shall use form Form DR-600 (Enrollment and Authorization for e-Services Program) DR-653 (Electronic Filing Agreement Florida EFT/EDI Program Electronic Tax Filing System) to document an agreement with a taxpayer that such taxpayer will file tax reports and returns by electronic means transmission.

(5) No change.

Specific Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS. History—New 10-24-96, Amended 4-30-02,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats	12A-1.0015
Consumer’s Certificates of Exemption; Exemption Certificates	12A-1.038
Sales for Resale	12A-1.039
Fuels	12A-1.059
Registration	12A-1.060

Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate or Foreign Commerce	12A-1.064
Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes	12A-1.0641
Rentals, Leases, or Licenses to Use Tangible Personal Property	12A-1.071
Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors	12A-1.0911
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: The purpose of the proposed creation of Rule 12A-1.0015, F.A.C. (Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats), is to provide a single administrative rule containing tax guidelines on sales of tangible personal property exported from Florida, sales to nonresident dealers, and sales to foreign diplomats and consular employees. The proposed creation of Rule 12A-1.0015, F.A.C., is necessary to (1) provide that sales of tangible personal property delivered to the purchaser or the purchaser’s representative in Florida are presumed to be delivered in Florida and to be subject to Florida’s sales tax; (2) provide guidelines on how dealers who sell tangible personal property for exportation tax-exempt must commit the property to an exportation process that remains continuous and unbroken; (3) provide examples of methods to commit property to the exportation process; (4) provide definitions for the terms “licensed customs broker” and “forwarding agent”; (5) establish guidelines for documenting tax-exempt sales for export from Florida; (6) provide that sales to nonresident dealers must be documented by obtaining a declaration from the nonresident dealer that the tangible personal property will be transported outside Florida for resale; (7) provide a definition of the term “nonresident dealer,” for purposes of the rule; (8) provide the required elements of a nonresident declaration and a suggested format of the declaration; (9) provide guidelines and documentation requirements for tax-exempt sales to foreign diplomats, consular employees, and members of their families, as determined by the United States Department of State; and (10) provide guidelines for documents required to be maintained by selling dealers for purposes of tax-exempt sales for exportation, for resale outside Florida by nonresident dealers, or for sales to foreign diplomats, consular employees, and members of their families. The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer’s Certificates of Exemption; Exemption Certificates), is to: (1) remove the exemption for the export of tangible personal property from the suggested format of an exemption certificate; and (2) provide that documentation requirements for the export of tangible personal property from Florida are provided in Rule 12A-1.0015, F.A.C., as created. The purpose of the proposed amendments to Rule 12A-1.039, F.A.C. (Sales for Resale), is to: (1) provide that documentation requirements for the export of tangible personal property from

Florida are provided in Rule 12A-1.0015, F.A.C., as created; (2) provide that guidelines for tax-exempt sales to nonresident dealers of aircraft, boats, mobile homes, motor vehicles, and other vehicles are provided in subsection 12A-1.007(6), F.A.C.; and (3) remove reference to Rule 12A-1.064, F.A.C., for purchases of vessels and parts from the provisions applicable to persons who claim the resale exemption.

The purpose of the proposed amendments to Rule 12A-1.059, F.A.C. (Fuels), is to: (1) provide that diesel fuel used in a trade or business is subject to use tax; (2) provide that persons who use diesel fuel in a trade or business are required to register and pay use tax directly to the Department, unless the dealer selling the fuel is registered and collecting sales tax on such fuel; (3) provide when the diesel fuel is exempt from sales and use tax; (4) provide that guidelines are provided in Rule 12A-1.064, F.A.C., as amended, and Rule 12A-1.0641, F.A.C., as created, for diesel fuel used to operate railroad locomotives or vessels in interstate or foreign commerce or for commercial fishing purposes that is subject to the partial exemption under s. 212.08(4)(a)2., F.S.; (5) provide that the sale of alternative fuel is subject to sales tax; and (6) provide examples of alternative fuels.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), is to provide that the following persons are required to register as dealers with the Department: (1) persons desiring to obtain self-accrual authority, as provided in s. 212.183, F.S., or authorization to remit sales tax on behalf of their independent dealers or independent sellers; (2) air carriers electing to remit tax under s. 212.0598, F.S.; and (3) persons who desire to pay tax based on the partial exemptions in ss. 212.08(8) and (9), F.S., directly to the Department.

The purpose of the proposed substantial rewording of Rule 12A-1.064, F.A.C., (Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate or Foreign Commerce), is to provide guidelines for the partial exemption provided in s. 212.08(9), F.S., for railroad rolling stock and parts and motor vehicles and parts in a single administrative rule. The proposed substantial rewording is necessary to: (1) change the title of the rule section to "Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate or Foreign Commerce"; (2) provide guidelines on how the partial exemption applies to motor vehicles, and parts thereof, operated in interstate or foreign commerce; (3) provide that qualifying motor vehicles must be operated by common carriers licensed by the United States Department of Transportation; (4) provide when a motor vehicle is used in interstate or foreign commerce; (5) provide guidelines for those items that do not qualify for the partial exemption; (6) provide guidelines on how the partial exemption applies to railroad rolling stock, and parts thereof, operated in interstate or foreign commerce; (7) provide that qualifying railroad rolling stock must be operated by railroads licensed as

common carriers by the federal Surface Transportation Board; (8) provide the requirements to hold a Sales and Use Tax Direct Pay Permit and to issue a certificate to the selling dealer to receive the partial exemption for qualifying motor vehicles and parts and for qualifying railroad rolling stock and parts at the time of purchase; (9) provide a suggested format of the required certificates; (10) provide guidelines for carriers on how to compute the mileage apportionment factor and tax due under the partial exemption directly to the Department; (11) provide guidelines for the partial exemption in s. 212.08(4)(a)2., F.S., for fuel used in motor vehicles or railroad locomotives operated in interstate or foreign commerce; (12) provide guidelines on how to obtain a refund of tax paid to a selling dealer in excess of the tax due based on the partial exemption directly from the Department, the certificates required to be submitted with an Application for Refund-Sales and Use Tax, and suggested formats of the certificates; (13) provide guidelines for the taxability of damage claims and demurrage charges by carriers; and (14) provide guidelines for recordkeeping requirements to document sales and purchases of items subject to the partial exemption.

The proposed creation of Rule 12A-1.0641, F.A.C. (Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes), is to provide guidelines for the partial exemption provided in s. 212.08(8), F.S., for vessels, and parts thereof, used in interstate or foreign commerce or for commercial fishing purposes into a single administrative rule. The new rule section is necessary to: (1) provide guidelines on how the partial exemption applies to vessels, and parts thereof, operated in interstate or foreign commerce or for commercial fishing purposes; (2) define the term "commercial fishing vessels" for purposes of the partial exemption; (3) provide guidelines for vessels and other items that do not qualify for the partial exemption; (4) provide the requirements to hold a Sales and Use Tax Direct Pay Permit and to issue an affidavit to the selling dealer to receive the partial exemption at the time of purchase of qualifying vessels, vessel parts, and other qualifying items; (5) provide a suggested format of the required affidavits; (6) provide guidelines for carriers on how to compute the mileage apportionment factor and tax due under the partial exemption directly to the Department; (7) provide guidelines for the partial exemption in s. 212.08(4)(a)2., F.S., for fuel used in vessels operated in interstate or foreign commerce or for commercial fishing purposes; (8) provide guidelines on how to obtain a refund of tax paid to a selling dealer in excess of the tax due based on the partial exemption directly from the Department, the affidavits and certificates required to be submitted with an Application for Refund-Sales and Use Tax, and suggested formats of the affidavits and certificates; (9) provide guidelines for the taxability of damage claims and demurrage charges by vessel owners and operators;

and (10) provide guidelines for recordkeeping requirements to document sales and purchases of items subject to the partial exemption.

The purpose of the proposed amendments to Rule 12A-1.071, F.A.C. (Rentals, Leases, or Licenses to Use Tangible Personal Property), is to remove requirements for railroad leases and demurrage charges that will be provided in Rule 12A-1.064, F.A.C., as amended, and Rule 12A-1.0641, F.A.C., as created.

The purpose of the proposed amendments to Rule 12A-1.0911, F.A.C., is to: (1) change the title to "Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors"; (2) provide guidelines for the self-accrual of sales and use tax, as provided in s. 212.183, F.S.; (3) require persons desiring to self-accrue tax, as provided in s. 212.183, F.S., to be registered with the Department and hold a valid Sales and Use Tax Direct Pay Permit; (4) provide guidelines on how to obtain a Sales and Use Tax Direct Pay Permit, the effective date of the permit, and how to use the permit to make qualified purchases; (5) require holders of direct pay permits to file with the Department an annual report of the tax accrued on purchases by county; (6) require a permit holder to notify the Department when the holder no longer qualifies for the permit; (7) require selling dealers to collect sales tax from purchasers whose permit has expired; (8) provide guidelines to dealers who use independent distributors or independent sellers on how to obtain approval to remit tax on the retail sales of their property by the distributors or sellers directly to the Department; (9) provide that permit holders may not use their permit to make tax-exempt purchases of items for the purposes of resale; (10) provide that tax is due on retail sales of tangible personal property based on the rate imposed in the county where the property is delivered to the independent distributor or independent seller; and (11) require dealers to notify their independent distributors or independent sellers when they are no longer remitting sales tax on their behalf.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt forms used by the Department in the administration of the self-accrual authority and the distributor level collection program for sales and use tax.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed guidelines for the following provisions: (1) tax-exempt sales for export from Florida; (2) tax-exempt sales to nonresident dealers for purposes of resale outside Florida; (3) tax-exempt sales to foreign diplomats, consular employees, and members of their families, as determined by the United States Department of State; (4) registration requirements for purposes of receiving the exemptions under ss. 212.08(4)(a)2., 212.0598, 212.08(8), and 212.08(9), F.S., at the time of purchase; (5) uses of fuel subject to sales tax; (6) the partial exemption for motor vehicles, and parts thereof, and railroad rolling stock, and parts thereof, as provided in s. 212.08(9), F.S.; (7) the partial exemption for

vessels, and parts thereof, as provided in s. 212.08(8), F.S.; (8) how to receive authorization to remit tax directly to the Department, as provided in s. 212.183, F.S.; (9) how dealers may receive authorization to remit sales tax on retail sales of tangible personal property made by their independent distributors or independent sellers, as provided in s. 212.18(3), F.S.; and (10) the proposed adoption of changes to forms used by the Department in the administration of the self-accrual authority and the distributor level collection program for sales and use tax.

SPECIFIC AUTHORITY: 212.07(1)(b), 212.17(6), 212.18(2), 212.183, 213.06(1) FS.

LAW IMPLEMENTED: 95.091, 120.57(1),(2), 120.60(3), 120.80(14), 206.86(4), 212.02(1),(4),(10)(g),(12),(14),(15)(a), (16),(20), 212.03(1),(2), 212.04, 212.05, 212.0596(1),(2), 212.0598, 212.06(1),(2),(3),(5)(a)1., (b),(8),(11), 212.07(1), 212.08(4),(5)(f),(g),(h),(n),(o),(6),(7),(8),(9),(15), 212.085, 212.096, 212.11(2),(3), 212.12, 212.13(1),(2),(3),(4),(5)(c),(d), 212.16(1),(2), 212.17(6), 212.18(2),(3), 212.183, 212.21(2),(3), 213.053(10), 288.1258, 402.61 FS.

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

TIME AND DATE: 10:00 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 may be reached at (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

12A-1.0015 Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats.

(1) SCOPE.

(a) Tangible personal property imported, produced, or manufactured in this state for export, as provided in s. 212.06(5)(a)1., F.S., is not subject to Florida sales tax when the importer, producer, or manufacturer delivers the property to a licensed exporter for export outside Florida or to a common

carrier for shipment outside Florida, or mails the property by United States mail to a destination outside Florida. This rule is intended to provide tax guidelines for the sale of tangible personal property for the purposes of export from Florida.

(b) The provisions of this rule do not apply to sales of aircraft, boats, mobile homes, motor vehicles, or other vehicles. For guidelines on the export of these items from Florida, see Rule 12A-1.007, F.A.C.

(2) SALES OF PROPERTY IRREVOCABLY COMMITTED TO EXPORTATION.

(a) A dealer is required to collect tax on sales of tangible personal property when the property is delivered to the purchaser or the purchaser's representative in Florida, whether the disclosed or undisclosed intention of the purchaser is to transport the property to a location outside Florida, or whether the property is actually so transported. Every sale of tangible personal property to a person physically present at the time of sale is presumed to have been delivered in Florida.

(b) When a dealer sells tangible personal property, commits the property to the exportation process at the time of sale, and the exportation process remains continuous and unbroken until the property is exported from Florida, the dealer is not required to collect tax. The intent of the seller and the purchaser to export the property is not sufficient to establish that the property is not subject to tax in Florida. The delivery of the property to a location in Florida for subsequent export from Florida is insufficient to establish documentary evidence that the property sold was irrevocably committed to the exportation process. The following are examples of methods to commit the property to the exportation process at the time of sale:

1. The dealer is required by the terms of the sale contract to deliver the property outside Florida using the dealer's own mode of transportation;

2. The dealer is required by the terms of the sale contract to mail the property by United States mail to a destination located outside Florida; or

3. The dealer is required by the terms of the sale contract to deliver the property to a carrier, licensed customs broker, or forwarding agent for final and certain movement of the property to a destination located outside Florida.

a. The term "carrier" means a person or firm regularly engaged in the business of transporting tangible personal property owned by other persons for compensation. The term "carrier" includes common carriers and contract carriers.

b. The term "licensed customs broker" means a person licensed by the United States customs service to act as a custom house broker.

c. The term "forwarding agent" means a person or firm regularly engaged in the business of preparing property for shipment or arranging for its shipment for compensation.

d. An individual or firm not engaged in the business of receiving tangible personal property owned by other persons and shipping or arranging for shipping for compensation does

not become a carrier or forwarding agent by being designated by the purchaser to receive and ship goods to a point outside Florida.

(c) Any dealer who makes tax-exempt sales of tangible personal property for export outside Florida is required to maintain records to document that the property is committed to the exportation process at the time of sale and that the exportation process is continuous and unbroken until the property is exported from Florida. The dealer is required to maintain records that identify the tangible personal property sold and the delivery destination of the property. The documentation must clearly establish that the property was not commingled with the mass of property within Florida. If the purchaser exercises any act of dominion or control that would constitute "use" of the property by the purchaser in Florida within the meaning of that term set forth in s. 212.02(20), F.S., the property was not irrevocably committed to the exportation process. Examples of records to document sales for export to points outside Florida are:

1. Internal delivery orders identifying the property sold and the destination and date of delivery that are supported by receipts of expenses incurred in delivering the property, such as trip tickets or truck logs signed by the person who delivers the property;

2. United States Postal Service parcel post receipts with supporting documentation identifying the property and the destination;

3. Common carriers' receipts, bills of lading, or similar documentation that evidences the delivery destination;

4. Export declaration;

5. Receipts from a licensed customs broker; or

6. Proof of export signed by a customs officer.

(d) A dealer who imports taxable tangible personal property into Florida for exportation from Florida is required to maintain documentation that the imported property was irrevocably committed to the exportation process at the time of importation and that the exportation process was continuous and unbroken while such property was within Florida.

(e) Regardless of the evidence maintained by the dealer to document delivery of the property to a common carrier or a licensed customs broker for shipment to a location outside Florida, or the mailing of the property by the United States mail to a location outside Florida, tax is due when the property is diverted in transit to the purchaser or the purchaser's agent or representative in Florida and such person takes possession in Florida, or when for any other reason the property is not delivered outside Florida.

(3) SALES TO NONRESIDENT DEALERS.

(a) The sale of taxable tangible personal property to a nonresident dealer is exempt when the selling dealer obtains a statement from the nonresident dealer declaring that the tangible personal property will be transported outside Florida

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(20), 212.05(1), 212.06(1),(2),(5)(a)1.,(b), 212.12(8), 212.13(1),(2),(3),(4), 212.21(3) FS. History—New

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

(1) through (4) No change.

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

(a) through (c) No change.

(d)1. The following is a suggested format of an exemption certificate to be issued by a purchaser who does not hold a Consumer’s Certificate of Exemption, but who claims that the purchase, rental, lease, or license of the property, or the purchase of the services is for an exempt purpose. Exemption purposes listed on the suggested format that are not relevant to the purchaser may be eliminated from the certificate.

EXEMPTION CERTIFICATE FOR EXEMPTIONS
BASED ON THE PROPERTY’S USE

This is to certify that the tangible personal property purchased, leased, licensed, or rented, or services purchased, on or after (date) from (Selling Dealer’s Business Name) is purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

() Materials, containers, labels, sacks, bags, or similar items intended to accompany a product for sale at other than retail, as provided in s. 212.02(14)(c), F.S., by persons who are not required to be registered under s. 212.18(3), F.S.

~~() Export of tangible personal property for use outside this state, as provided in Rule 12A-1.064(1), F.A.C.~~

() Incorporation into items of tangible personal property manufactured, produced, compounded, processed, or fabricated for one’s own use, as provided in Rule 12A-1.043, F.A.C.

() Printing of a publication exempt under the provisions of s. 212.08(7)(w), F.S.

() Items, such as paper and ink, that will be incorporated into and become a component part of a publication exempt under the provisions of s. 212.08(7)(w), F.S.

() Educational materials that are used in the classroom and not used for its administration by child care facilities outlined in s. 402.305, F.S., that hold a current license under s. 402.308, F.S., hold a current Gold Seal Qualify Care designation as provided in s. 402.281, F.S., and provide all employees with basic health insurance as defined in s. 627.6699(12), F.S., as provided in s. 212.08(5)(m), F.S.

() Motor vehicle rented or leased by a dealer who will provide the motor vehicle at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the dealer, as provided in s. 212.0601(4), F.S.

() Other (include description and statutory citation): _____

I understand that if I use the property or service for any nonexempt purpose, I must pay tax on the purchase or lease price of the taxable property or service directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling (800)352-3671 ~~1-(800)352-3671~~.

Purchaser’s Name _____

Purchaser’s Address _____

Name and Title of Purchaser’s Authorized Representative _____

Sales and Use Tax Certificate of Registration No. (if applicable) _____

By _____

(Signature of Purchaser or Authorized Representative)

Title _____

(Title – only if purchased by an authorized representative of a business entity)

Date _____

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

a. through d. No change.

e. Export of Tangible Personal Property Irrevocably Committed to the Exportation Process Outside of Florida. Rule 12A-1.0015, F.A.C. Paragraph 12A-1.064(1)(b), F.A.C., provides the documentation required to establish that when tangible personal property has been ~~is deemed to be~~ committed to the exportation process.

f. through n. No change.

(6) No change.

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

12A-1.039 Sales for Resale.

(1) through (3) No change.

(4) SALES OF ALCOHOLIC BEVERAGES AND CERTAIN MOTOR VEHICLES; SALES TO OUT-OF-STATE DEALERS.

(a) through (b) No change.

(c) Guidelines for sales of tangible personal property, except aircraft, boats, mobile homes, motor vehicles, and other vehicles. A sale to a nonresident dealer who is not required to be registered in this state for resale outside Florida are provided in Rule 12A-1.0015 this state is governed by Rule 12A-1.064(2)(b), F.A.C., or Rule 12A-1.007(6), F.A.C. However, blanket resale affidavits from out-of-state motor vehicle dealers are acceptable in lieu of individual affidavits in Rule 12A-1.007(6), F.A.C., for each sale of each motor vehicle to such out-of-state motor vehicle dealers.

(d) For sales of aircraft, boats, mobile homes, motor vehicles, and other vehicles, blanket resale affidavits from out-of-state motor vehicle dealers are acceptable in lieu of individual affidavits required under Rule 12A-1.007(6), F.A.C., for each sale of each motor vehicle to such out-of-state motor vehicle dealers.

(5) through (6) No change.

(7) PROVISIONS APPLICABLE TO PERSONS WHO CLAIM CLAIMING THE RESALE EXEMPTION.

(a) through (f) No change.

~~(g) Purchasers of vessels and parts thereof used to transport persons or property in interstate or foreign commerce must complete the affidavit as required in subsection 12A-1.064(5), F.A.C.~~

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

(8) No change.

Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06 (1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b),(j), 212.07(1), 212.085, 212.13(5)(c),(d), 212.17(6), 212.18(2),(3), 212.21(2), 213.053(10) FS. ss. 21-22, 23, 24, Ch. 99-208, L.O.F. History-Revised 10-7-68, 1-7-70, 6-16-72, 9-26-77, Amended 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94, 10-2-01,_____.

12A-1.059 Fuels.

(1) through (2) No change.

(3)(a) Dyed diesel fuel used in a trade or business is subject to use tax. Every person who uses dyed diesel fuel in a trade or business is required to register as a dealer to remit use tax due on the total cost price of the fuel consumed, unless:

1. The diesel fuel is specifically exempt from sales tax; or

2. The dealer selling diesel fuel has elected to collect sales tax on sales to persons who use or consume the diesel fuel in a trade or business.

(b) The following sales or purchases of diesel fuel are exempt from sales and use tax:

1. Fuel upon which the fuel taxes imposed under Chapter 206, F.S., has been paid;

2. Fuel used for agricultural purposes, as provided in Rule 12A-1.087, F.A.C.; and

3. Fuel purchased or stored for purposes of resale.

(4) Diesel fuel used by a licensed common carrier to operate railroad locomotives or vessels used to transport persons or property for hire in interstate or foreign commerce, or used to operate a commercial fishing vessel, is subject to the

partial exemption provided in s. 212.08(4)(a)2., F.S. Tax is based on the mileage apportionment factor of the licensed carrier or vessel owner or operators. See Rules 12A-1.064 and 12A-1.0641, F.A.C.

(5) The sale of alternative fuel, as defined in s. 206.86(4), F.S., is subject to sales tax. Alternative fuels include liquefied petroleum gas, compressed natural gas, natural gasoline, butane gas, and propane gas. See Rule 12A-1.087, F.A.C., for alternative fuel used for agricultural purposes.

Specific Authority 212.17(6), 212.18(2), 213.06(1), FS. Law Implemented 206.86(4), 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,_____.

12A-1.060 Registration.

(1) PERSONS REQUIRED TO REGISTER AS DEALERS.

(a) Every person desiring to engage in or conduct any one of the following businesses in this state as a “dealer” must register with the Department of Revenue and obtain a separate certificate of registration for each place of business:

1. through 13. No change.

14. Soliciting, offering, providing, entering into, issuing, or delivering any service warranty subject to tax under s. 212.0506, F.S.; ~~or~~

15. No change.

16. Engaging in any business for which a person desires to obtain self-accrual authorization, as provided in s. 212.183, F.S., or authority to remit sales tax on behalf of its independent distributors or independent sellers, as provided in s. 212.18(3), F.S. See Rule 12A-1.0911, F.A.C.:

17. An air carrier electing to remit tax under the provisions of s. 212.0598, F.S.; or

18. Any person electing to obtain self-accrual authorization in order to pay tax based on the partial exemptions provided in s. 212.08(8) and (9), F.S.

(b) through (5) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(2), 212.04(4), 212.0596(1),(2), 212.06(2), 212.12(2),(5),(6), 212.16(1),(2), 212.18(3) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02,_____.

(Substantial rewording of Rule 12A-1.064 follows. See Florida Administrative Code for present text.)

12A-1.064 Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats.

(1) SCOPE. This rule is intended to provide guidelines for the partial exemption for railroad rolling stock and parts and motor vehicles and parts provided in s. 212.08(9), F.S., to carriers who transport persons or property for hire in interstate or foreign commerce.

(2) MOTOR VEHICLES.

(a) Motor vehicles used to transport persons or property for hire in interstate or foreign commerce that are operated by any common carrier licensed by the United States Department of Transportation, and parts for such motor vehicles, are subject to the partial exemption provided in s. 212.08(9)(b), F.S. Tax imposed is based on the ratio of Florida highway mileage to total highway mileage traveled by the carrier's motor vehicles that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year of the carrier.

(b) A motor vehicle is used by a common carrier in interstate and foreign commerce if it carries persons or property that are moving in interstate or foreign commerce, whether the vehicle travels outside Florida or only within Florida.

(c) Motor vehicles and parts thereof that are purchased by common carriers outside Florida and put into service in interstate commerce outside Florida prior to entering Florida are not subject to Florida sales or use tax.

(d) Charges for the installation of parts that are installed in Florida on motor vehicles used by a licensed common carrier in interstate or foreign commerce are subject to the partial exemption. Repairs and installation of parts on such vehicles performed outside Florida are not subject to tax.

(e) Motor vehicles, and parts thereof, used exclusively in intrastate commerce do not qualify for the partial exemption.

(f)1. Trucking companies or other companies that transport products between Florida and other states that do not operate as licensed common carriers are not entitled to the partial exemption.

2. Vehicles, and parts thereof, used by contract carriers or private carriers that are not licensed by the United States Department of Transportation as common carriers do not qualify for the partial exemption.

(g) Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of motor vehicles while they are in Florida are subject to tax at the rate imposed by s. 212.05(1), F.S.

(h) Tangible personal property used in the construction, improvement, and repair of a common carrier's real property is subject to tax at the rate imposed by s. 212.05(1), F.S.

(3) RAILROADS.

(a) Railroads that are licensed as common carriers by the United States Surface Transportation Board are subject to tax on rolling stock, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce, as provided in s. 212.08(9)(a), F.S. The tax is based on the ratio of Florida mileage to total mileage traveled by the carrier during the previous fiscal year of the carrier.

(b) The lease or rental of railroad cars by a railroad company for use on its tracks is exempt if the charges are subject to the jurisdiction of the United States Surface Transportation Board and based on hourly, daily, or mileage charges for the presence of a railroad car on the tracks of the railroad company paying the rental charge.

(c) Charges made pursuant to railroad car service agreements are exempt from tax.

(d) Railroad rolling stock, and parts thereof, used by persons are not licensed by the United States Surface Transportation Board as common carriers do not qualify for the partial exemption.

(e) Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of railroad rolling stock while the rolling stock is in Florida are subject to tax at the rate imposed by s. 212.05(1), F.S.

(f) Tangible personal property used in the construction, improvement, and repair of a railroad company's real property is subject to tax at the rate imposed by s. 212.05(1), F.S.

(4) PARTIAL EXEMPTION AT THE TIME OF PURCHASE.

(a) To obtain the partial exemption provided in s. 212.08(9)(a) or (b), F.S., at the time of purchase, the licensed common carrier purchasing a motor vehicle, or parts thereof, or the licensed railroad carrier purchasing rolling stock, or parts thereof, for use to transport persons or property for hire in interstate or foreign commerce, is required to:

1. Hold a valid sales and use tax certificate of registration; and

2. Hold a valid Sales and Use Tax Direct Pay Permit issued by the Department. To obtain a direct pay permit, the carrier is required to file an Application for Self-Accrual Authority/Direct Pay Permit-Sales and Use Tax (form DR-16A, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as provided in Rule 12A-1.0911, F.A.C.

(b) Any licensed common carrier or licensed railroad carrier that holds a valid direct pay permit may extend a copy of its direct pay permit to the selling dealer at the time of purchase or lease in lieu of paying tax to the selling dealer. Licensed common carriers and licensed railroad carriers are not authorized to extend a copy of an Annual Resale Certificate to make such purchases tax-exempt. Any licensed common carrier or licensed railroad carrier that extends a copy of its direct pay permit to a selling dealer in lieu of paying tax on property subject to the partial exemption under s. 212.08(9)(a) or (b), F.S., is required to accrue and remit the tax due based on the carrier's mileage apportionment factor directly to the Department.

(5) COMPUTATION OF MILEAGE APPORTIONMENT FACTOR AND TAX DUE.

(a)1. Licensed common carriers are required, at the end of each fiscal year of operation, to determine the ratio of Florida highway mileage to total highway mileage traveled by the carrier's motor vehicles used in interstate or foreign commerce that had at least some Florida highway mileage during the fiscal year. The ratio computed is the carrier's mileage apportionment factor to be applied to purchases during the following fiscal year.

2. Licensed railroad carriers are required, at the end of each fiscal year of operation, to determine the ratio of Florida mileage to total mileage traveled by the carrier's rolling stock during the fiscal year. The ratio computed is the carrier's mileage apportionment factor to be applied to purchases during the following fiscal year.

(b)1. Licensed common carriers operating motor vehicles to transport persons or property for hire in interstate or foreign commerce are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to the total monthly purchases and leases in Florida of qualified motor vehicles, and parts thereof, during the current fiscal year. Carriers are required to calculate and report tax to the Department on a monthly basis.

2. Licensed railroad carriers operating rolling stock to transport persons or property for hire in interstate or foreign commerce are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to the total monthly purchases in Florida of qualified rolling stock, and parts thereof, during the current fiscal year. Carriers are required to calculate and report tax to the Department on a monthly basis.

(c) During a licensed common carrier's or a licensed railroad carrier's initial year of operation in Florida, the carrier may estimate the mileage apportionment factor on the basis of the ratio of anticipated Florida mileage to anticipated total miles for that year for motor vehicles or railroad rolling stock that are anticipated to have at least some Florida mileage. At the end of the initial year of operation, the carrier is required to determine the mileage apportionment factor based on the actual Florida mileage and the actual total mileage for the initial year of operation. The carrier is required to pay any additional tax due based on the actual mileage apportionment factor. The tax is due with the carrier's return due for the first month of the carrier's second year of operation in this state. The carrier may take a credit or apply to the Department for a refund of tax paid, as provided in Rule 12A-1.014, F.A.C., when the tax paid based on the estimated mileage apportionment factor exceeds the tax due based on the actual factor for the initial year of operation.

(6) FUEL USED IN INTERSTATE OR FOREIGN COMMERCE.

(a) Diesel fuel used in vehicles for off-road purposes is subject to the partial exemption provided in s. 212.08(4)(1)2., F.S. Tax is based on the licensed carrier's mileage apportionment factor when:

1. The fuel is placed into a separate tank that is not connected to the fuel supply system of a motor vehicle operated by a licensed common carrier to transport persons or property for hire in interstate or foreign commerce, and the fuel is used to operate a refrigeration unit or other equipment located on the motor vehicle; or

2. Used during idle time for the purpose of running climate control systems and maintaining electrical systems in motor coaches that meet the criteria specified in s. 206.8745(8), F.S., and that are operated by licensed common carriers to transport persons or property for hire in interstate or foreign commerce.

(b) Diesel fuel used in locomotives operated by licensed railroad carriers to transport persons or property for hire in interstate or foreign commerce is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. Tax is based on the carrier's mileage apportionment factor.

(c)1. Licensed common carriers or licensed railroad carriers who purchase dyed diesel fuel subject to sales tax at the time of purchase may extend a copy of the carrier's Sales and Use Tax Direct Pay Permit to the selling dealer to claim the partial exemption at the time of purchase. Any carrier that extends a permit to purchase the fuel exempt from sales tax is required to remit the sales tax due on the diesel fuel based on the carrier's mileage apportionment factor directly to the Department.

2. Licensed railroad carriers that hold a valid Sales and Use Tax Direct Pay Permit may extend a copy of the permit to the selling dealer to claim the partial exemption at the time of purchase. The carrier is required to remit the tax due on the diesel fuel based on the carrier's mileage apportionment factor directly to the Department.

(7) REFUNDS TO CLAIM THE PARTIAL EXEMPTION.

(a) Licensed common carriers and licensed railroad carriers who do not hold a valid Sales and Use Tax Direct Pay Permit are required to pay tax to the selling dealer at the time of purchase or lease. Carriers entitled to the partial exemption provided in s. 212.08(9), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Any licensed common carrier or licensed railroad carrier seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. Obtain a certified statement from the selling dealer that the tax paid to the dealer has been remitted to the Department. The certified statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (c):

2. File with the Department an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including the required statement, that meets the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

a. Form DR-26S, Application for Refund-Sales and Use Tax, 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.

b. Form DR-26S, Application for Refund-Sales and Use Tax, 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.

(c) The following is a suggested format for a certified statement to be executed by the selling dealer to evidence that tax paid to the selling dealer has been remitted to the Department of Revenue:

CERTIFICATE TAX PAID TO THE
DEPARTMENT OF REVENUE

The undersigned officer who is duly authorized by _____, SELLING DEALER, hereby certifies to _____, PURCHASER, it has paid sales tax to the Florida Department of Revenue, totaling the sum of \$ _____.

The company further certifies the sales tax for the attached invoice(s) was paid to the State of Florida in the month(s) of _____ under sales tax number _____.

SIGNATURE OF AUTHORIZED OFFICER

TITLE

(8) DAMAGE CLAIMS AND DEMURRAGE CHARGES BY CARRIERS.

(a) The payment of a damage claim by a carrier to any person for damage suffered by merchandise in transit is not a sale of tangible personal property and is not subject to tax, even when the carrier retains the damaged property under settlement of the claim.

(b) The charge for repairs of the damaged property to the carrier is subject to tax.

(c) Any carrier who maintains and operates a salvage depot to sell merchandise damaged in transit and acquired by the carrier in settlement of a damage claim is required to collect sales tax on sales of the damaged property.

(d) Demurrage charges for delays due to loading or unloading cargo beyond the stipulated time are not for the rental or lease of property and are not subject to tax. Example: The charge made to a shipper by a carrier for the retention of a railroad car, trailer, or semi-trailer beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how the charge is designated.

(9) RECORDKEEPING REQUIREMENTS.

(a) Dealers must maintain copies of direct pay permits, certificates, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required certificates and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06 (1) FS. Law Implemented 212.02(10)(g), 212.05(1), ~~212.0598~~, 212.06(1), ~~(2), (5)~~, 212.08(4)(a), ~~(8), (9)~~, 212.085, ~~212.12(8)~~, 212.13(1), ~~212.16~~, 212.21(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-28-84, Formerly 12A-1.64, Amended 1-2-89, 10-16-89, 7-30-91, 3-20-96, 11-30-97, 7-1-99, 6-19-01, 10-2-01.

12A-1.0641 Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes.

(1) SCOPE. This rule is intended to provide guidelines for the partial exemption for vessels and vessel parts provided in s. 212.08(8), F.S., to persons who transport persons or property for hire in interstate or foreign commerce or who operate commercial fishing vessels.

(2) VESSELS.

(a) Vessels that are used to transport persons or property for hire in interstate or foreign commerce and commercial fishing vessels are subject to the partial exemption provided in s. 212.08(8), F.S. Tax imposed is based on the ratio of Florida mileage to total mileage traveled by the carrier's vessels that were used in interstate or foreign commerce or for commercial fishing purposes and that had at least some Florida mileage during the previous fiscal year of the carrier.

(b) The mileage of vessels from the territorial limit to port dockside and return into international waters, foreign or coastwise, in the continuous movement of persons or property in interstate or foreign commerce is not considered to be mileage in Florida.

(c) “Commercial fishing vessels” include vessels designed, constructed, and used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt and fresh waters for sale. Vessels used for sports or pleasure fishing, such as pleasure fishing boats, charter boats, or party boats, are not commercial fishing vessels.

(d) Vessels used in intrastate commerce exclusively within the territorial waters of Florida do not qualify for the partial exemption.

(e) Vessels that are not operated to transport persons or property for hire in interstate or foreign commerce, even though such vessels may move persons or property across the Florida state line, do not qualify for the partial exemption. For example, a dredge is operated by a company to transport its workmen and equipment between two states. The dredge is not operated to transport persons or property for hire in interstate

or foreign commerce, because the company is not receiving compensation for transporting its own workmen. The purchase of the dredge does not qualify for the partial exemption.

(f) Vessels that are not engaged in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes are subject to tax, as provided in s. 212.05, F.S.

(3) COMPUTATION OF MILEAGE APPORTIONMENT FACTOR AND TAX DUE.

(a) Vessel owners are required, at the end of each fiscal year of operation, to determine the ratio of Florida mileage to total mileage traveled by the owner's vessels operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that had at least some Florida mileage during the fiscal year. The ratio computed is the owner's mileage apportionment factor to be applied to purchases, leases, and rentals of vessels, and parts thereof, subject to the partial exemption under s. 212.08(8), F.S., during the following fiscal year.

(b) Vessel owners are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to purchases and leases of vessels, and parts thereof, that will be operated exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes during the current fiscal year. Vessel owners are required to calculate and report tax to the Department on a monthly basis.

(c) During the owner's initial year of operation in Florida, the owner's mileage apportionment factor may be determined on the basis of the ratio of anticipated Florida mileage to anticipated total mileage for that year for the owner's vessels used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that are anticipated to have at least some Florida mileage. At the end of the initial year of operation, the owner is required to determine the mileage apportionment factor based on the actual Florida mileage and the actual total mileage for the initial year of operation. The owner is required to pay any additional tax due based on the actual mileage ratio. The tax is due with the owner's return due for the first month of the owner's second year of operation in this state. The owner may take a credit or apply to the Department for a refund of tax paid, as provided in Rule 12A-1.014, F.A.C., when the tax paid based on the estimated mileage ratio exceeds the tax due based on the actual mileage ratio for the initial year of operation.

(4) CLAIMING THE EXEMPTION AT THE TIME OF PURCHASE OF A VESSEL.

(a) To claim the exemption at the time of purchase of a vessel that will be used exclusively in non-Florida waters to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes, the vessel owner, or the owner's agent or representative purchasing the vessel, is required to issue an affidavit to the selling dealer. The purchaser executing the affidavit must affirm that the vessel is for the exclusive use designated in s. 212.08(8), F.S., the vessel will be used exclusively in non-Florida waters, and the vessel will not be used for sport or pleasure fishing purposes. Purchasers who purchase vessels solely for this purpose require no registration with the Department. A suggested format of an affidavit is provided in paragraph (d).

(b)1. To claim the partial exemption at the time of purchase, the person purchasing a vessel used in interstate or foreign commerce in both Florida and non-Florida waters or purchasing a commercial fishing vessel is required to:

a. Hold a valid sales and use tax certificate of registration;

b. Hold a valid Sales and Use Tax Direct Pay Permit issued by the Department. To obtain a direct pay permit, the purchaser of the vessel is required to file an Application for Self-Accrual Authority/Direct Pay Permit (form DR-16A) with the Department, as provided in Rule 12A-1.0911, F.A.C.; and

c. Execute an affidavit to the selling dealer affirming that the vessel is for the exclusive use designated in s. 212.08(8), F.S., the vessel will not be used for sport or pleasure fishing purposes, and the basis of the tax due on the purchase of the vessel. A suggested affidavit is provided in paragraph (d).

(c) Any owner who executes an affidavit to purchase a vessel used in both Florida and non-Florida waters for use in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is required to remit the tax based on the owner's mileage apportionment factor to the Department. The owner is required to remit such tax when the owner's agent or representative has executed an affidavit.

(d) The following is a suggested format of an affidavit to be executed at the time of purchase by the owner or the owner's agent or representative to the dealer selling or leasing the vessel:

STATE OF FLORIDA

COUNTY OF _____

AFFIDAVIT

VESSELS USED TO TRANSPORT PERSONS OR PROPERTY FOR HIRE IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby swear or affirm that I am the Purchaser or the purchaser's agent or representative authorized to act for the Purchaser in the purchase of the vessel described below. The option checked below applies to this purchase:

() The vessel will be used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel will not operate in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

() The vessel will be used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. The Purchaser holds a valid Sales and Use Tax Direct Pay Permit issued by the Florida Department of Revenue and must pay tax imposed under s. 212.08(8), F.S., at the rate of % of the sales price of the vessel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the designated vessel and is delinquent on the 21st day of that month.

DESCRIPTION OF VESSEL: _____
NAME OF VESSEL: _____
STATE REGISTRATION NUMBER: _____
COAST GUARD DOCUMENTATION NUMBER: _____
MAKE: _____ MODEL: _____
YEAR: _____ SERIAL NUMBER: _____
SALES PRICE OF DESIGNATED VESSEL: _____
NAME OF SELLING DEALER: _____
SELLING DEALER'S ADDRESS: _____
SELLING DEALER'S SALES TAX NO.: _____
NAME OF VESSEL OWNER: _____
NAME OF PURCHASER: _____
PURCHASER'S TITLE OR DESIGNATION: _____
VESSEL OWNER'S SALES TAX NO.: _____

I understand that if I fraudulently issue this Affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

SIGNATURE OF PURCHASER OR PURCHASER'S AGENT OR REPRESENTATIVE _____

TITLE OR DESIGNATION

DATE

Sworn to and subscribed before me this _____ day of _____, 20 _____ BY _____ (name of person making statement).

Personally Known: _____
Or Produced Identification: _____ Signature of Notary _____
Type of Identification Produced: _____
(Print, Type, or Stamp Commissioned Name of Notary)

(5) PARTS AND OTHER ITEMS USED ON VESSELS.

(a) Vessel parts and other items purchased or leased in Florida that are appropriate to perform the purposes for which a vessel operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is designed or equipped are subject to the partial exemption provided in s. 212.08(8), F.S. Tax is based on the owner's mileage apportionment factor. Examples of these items are: ice, bait, charts, foul weather gear, ropes, fishing tackle, logs, cooking utensils, and paper supplies.

(b) Charges for repairs or the maintenance of vessels to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that are performed in Florida are subject to the partial exemption. The tax is based on the owner's mileage apportionment factor.

(c)1. Items purchased or leased in Florida that are not appropriate to perform the purposes for which a vessel is operated, designed, or equipped are subject to tax at the rate imposed by s. 212.05(1), F.S.

2. Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of a vessel while the vessel is within Florida are subject to tax at the rate imposed by s. 212.05(1), F.S.

(d) Nets, and parts used in the repair of nets, are exempt when used exclusively by commercial fisheries. To claim the exemption, the fishery is required to issue an exemption certificate to the seller. A suggested format of an exemption certificate is provided in Rule 12A-1.087, F.A.C.

(e) The vessel owner, operator, or the owner's agent or representative is required to execute an affidavit to the selling dealer to purchase, lease, or rent vessel parts and other items subject to the partial exemption tax-exempt at the time of purchase. The owner is required to pay tax on vessels parts and other qualified items based on the owner's mileage apportionment factor directly to the Department. The following is a suggested format of the affidavit:

STATE OF FLORIDA
COUNTY OF _____

AFFIDAVIT

VESSEL PARTS AND ITEMS APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS DESIGNED, EQUIPPED, AND USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby swear or affirm that I am the Owner, the operator, or the owner's agent or representative authorized to act for the Owner in the purchase of the items used on the vessel, _____, Home Port of _____.

I hereby swear or affirm that the named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes and the items purchased from the Seller listed on INVOICE NO(S), _____ will be used exclusively on the named vessel and are appropriate to carry out the purpose for which the vessel is designed, equipped, and used.

I hereby swear or affirm that: (The option checked below applies to this purchase.)

The items purchased will be used exclusively on the named vessel in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel will not be operated in or on the canals or waterways, or within the territorial waters, of Florida. The items purchased are not subject to Florida sales tax.

The items purchased will be used exclusively on the named vessel in both non-Florida waters and in Florida territorial waters. The Owner holds a valid Sales and Use Tax Direct Pay Permit issued by the Florida Department of Revenue and must pay tax imposed under s. 212.08(8), F.S., at the rate of _____ % of the sales price of the vessel parts and items directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the designated vessel parts and items and is delinquent on the 21st day of that month.

I understand that if I fraudulently issue this Affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

SIGNATURE OF VESSEL OWNER, OPERATOR, OR OWNER'S AGENT OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

Sworn to and subscribed before me this _____ day of _____, 20____ BY _____ (name of person making statement).

Personally Known: _____
Or Produced Identification: _____ Signature of Notary
Type of Identification Produced: _____

(Print, Type, or Stamp Commissioned Name of Notary)

(6) FUEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES.

(a) The sale of dyed diesel fuel to the owner, operator, or the owner's agent or representative of vessels operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. Tax imposed is based on the vessel owner's mileage apportionment factor.

(b) To purchase dyed diesel fuel exempt from sales tax at the time of purchase, the owner, operator, or the owner's agent or representative is required to execute a statement to the selling dealer declaring that the fuel will be used in a vessel operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes. The following is a suggested format of a certificate:

CERTIFICATE
FUEL FOR USE IN A VESSEL OPERATED
IN INTERSTATE OR FOREIGN COMMERCE
OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the Owner, Operator, or the Owner's agent or representative of the vessel, _____, Home Port of _____, certify the following. The option checked below applies to this purchase:

The named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel will not be used to operate the vessel in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

The named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters and in Florida territorial waters. The fuel will be used to operate vessels in interstate or foreign commerce or for commercial fishing purposes and is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. The Owner holds a valid sales and use tax certificate of registration issued by the Florida Department of Revenue and must pay tax due on the fuel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the fuel and is delinquent on the 21st day of that month.

I understand that if I fraudulently issue this Certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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.

SIGNATURE OF OWNER, OPERATOR, AGENT, OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

(7) REFUNDS TO CLAIM THE PARTIAL EXEMPTION.

(a) Persons who are entitled to the partial exemption provided in s. 212.08(4)(a)2., F.S., or s. 212.08(8), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Persons seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. Obtain a certified statement from the selling dealer that the tax paid to the dealer has been remitted to the Department. The certified statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (c).

2. When seeking a refund of tax paid in excess of the tax due on vessels in excess of the tax due under the partial exemption, execute an affidavit affirming that the designated vessel or designated vessel parts are subject to the partial exemption and the extent of that partial exemption. The affidavit is to be submitted to the Department with an Application for Refund-Sales and Use Tax. Suggested formats of the affidavits are provided in paragraphs (d) and (e).

3. When seeking a refund of sales tax paid on diesel fuel purchased in excess of the tax due under the partial exemption, execute a statement that the fuel purchased qualified for the exemption. The statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (f).

4. File with the Department an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including any required statement or affidavit, that meets the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

a. Form DR-26S, Application for Refund-Sales and Use Tax, 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.

b. Form DR-26S, Application for Refund-Sales and Use Tax, 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.

(c) The following is a suggested format for a certified statement to be executed by the selling dealer to evidence that tax paid to the selling dealer has been remitted to the Department of Revenue:

CERTIFICATE

TAX PAID TO THE DEPARTMENT OF REVENUE

The undersigned officer who is duly authorized by _____, SELLING DEALER, hereby certifies to _____, PURCHASER, it has paid sales tax to the Florida Department of Revenue, totaling the sum of \$ _____.

The company further certifies the sales tax for the attached invoice(s) was paid to the State of Florida in the month(s) of _____ under sales tax number _____.

SIGNATURE OF AUTHORIZED OFFICER

TITLE

(d) The following is a suggested format of an affidavit to be provided to the Department to obtain a refund of tax paid to the selling dealer in excess of the tax due on vessels operated in interstate or foreign commerce or for commercial fishing purposes:

STATE OF FLORIDA

COUNTY OF _____

AFFIDAVIT

SALES TAX PAID TO THE SELLING DEALER FOR A VESSEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby swear or affirm that I am the Owner, or the Owner's agent or representative authorized to act for the Owner or Operator in the purchase of the vessel described below. The option checked below applies to this purchase:

() The vessel is used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel is not operated in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in the amount of \$ _____ directly from the Florida Department of Revenue.

() The vessel is used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the Seller and

am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due pursuant to s. 212.08(8), F.S. I understand that, as the Purchaser, I must pay tax imposed under s. 212.08(8), F.S., at the rate of _____ % of the sales price of the vessel and am requesting a refund of tax paid in the amount of \$ _____ directly from the Florida Department of Revenue.

DESCRIPTION OF VESSEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES:

NAME OF VESSEL: _____

STATE REGISTRATION NUMBER: _____

COAST GUARD DOCUMENTATION NUMBER: _____

MAKE: _____ MODEL: _____

YEAR: _____ SERIAL NUMBER: _____

SALES PRICE OF DESIGNATED VESSEL: _____

NAME OF SELLING DEALER: _____

SELLING DEALER'S ADDRESS: _____

SELLING DEALER'S SALES TAX NO.: _____

VESSEL OWNER OR OWNER'S AGENT OR REPRESENTATIVE: _____

TITLE OR DESIGNATION _____

DATE _____

I understand that if I fraudulently issue this Affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

SIGNATURE OF OWNER OR OWNER'S AGENT OR REPRESENTATIVE _____

TITLE OR DESIGNATION _____

DATE _____

Sworn to and subscribed before me this _____ day of _____, 20____ BY _____ (name of person making statement).

Personally Known: _____

Or Produced Identification: _____ Signature of Notary _____

Type of Identification Produced: _____

(Print, Type, or Stamp Commissioned Name of Notary)

(e) The following is a suggested format of an affidavit to be provided to the Department to obtain a refund of tax paid to the selling dealer on items appropriate to carry out the purpose for which a vessel is designed, equipped, and used in interstate or foreign commerce or for commercial fishing purposes:

STATE OF FLORIDA

COUNTY OF _____

AFFIDAVIT

ITEMS APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS DESIGNED, EQUIPPED, AND USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the Owner, the Operator, or the Owner's agent or representative of the vessel, _____, Home Port of _____, hereby swear or affirm that the items purchased from the Seller listed on INVOICE NO(S), are used exclusively on the named vessel and are appropriate to carry out the purpose for which the vessel is designed, equipped, and used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes. The option checked below applies to the items purchased:

() The items purchased are used on the named vessel that is used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel is not operated in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of sales tax paid to the Seller.

() The items purchased are used on the named vessel that is used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due under to s. 212.08(8), F.S. I understand, that as the Owner or Operator of the vessel, that I must pay tax imposed under s. 212.08(8), F.S., at the rate of _____ % of the sales price of the vessel parts and items and am requesting a refund of tax paid in the amount of \$ _____ directly from the Florida Department of Revenue.

I understand that if I fraudulently issue this Affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

SIGNATURE OF THE VESSEL OWNER OR THE OWNER'S AGENT OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

Sworn to and subscribed before me this _____ day of _____, 20____ BY _____ (name of person making statement).

Personally Known: _____

Or Produced Identification: _____ Signature of Notary

Type of Identification Produced: _____

(Print, Type, or Stamp Commissioned Name of Notary)

(f) The following is a suggested format of a certificate to be provided to the Department to obtain a refund of tax paid to the selling dealer on fuel in excess of the partial exemption provided in s. 212.08(4)(a)2., F.S.:

CERTIFICATE

TAX PAID ON FUEL USED IN A VESSEL OPERATED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the Owner, the Operator, or the Owner's agent or representative of the vessel, _____, Home Port of _____, hereby certify that the fuel purchased from the Seller listed on INVOICE NO(S), _____ is used on the named vessel engaged in transporting persons or property for hire in interstate or foreign commerce or engaged in commercial fishing. The option checked below applies to this purchase of fuel.

() The fuel was used in the named vessel used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel was not used to operate the named vessel in or on the canals or waterways, or within territorial waters, of Florida and is not subject to Florida sales tax. I am requesting a refund of tax paid in the amount of \$ _____ directly from the Florida Department of Revenue.

() The fuel was used in the named vessel used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters in Florida territorial waters. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due pursuant to s. 212.08(4)(a)2., F.S. I understand that, as the Purchaser, I must pay tax imposed under

s. 212.08(4)(a)2., F.S., at the rate of _____ % of the sales price of the fuel and am requesting a refund of tax paid in the amount of \$ _____ directly from the Florida Department of Revenue.

I understand that if I fraudulently issue this Certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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

SIGNATURE OF OWNER OR OWNER'S AGENT OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

(8) DAMAGE CLAIMS AND DEMURRAGE CHARGES BY CARRIERS.

(a) The payment of a damage claim by a vessel owner or operator to any person for damage suffered by merchandise in transit is not a sale of tangible personal property and is not subject to tax, even when the carrier retains the damaged property under settlement of the claim.

(b) The charge for repairs of the damaged property to the vessel owner or operator is subject to tax.

(c) Any person who maintains and operates a salvage depot to sell merchandise damaged in transit and acquired in settlement of a damage claim is required to collect sales tax on sales of the damaged property.

(d) Demurrage charges for delays due to loading or unloading cargo beyond the stipulated time are not for the rental or lease of property and are not subject to tax. Example: The charge made to a shipper for the retention of a marine-cargo container beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how the charge is designated.

(9) RECORDKEEPING REQUIREMENTS.

(a) Dealers must maintain copies of affidavits, direct pay permits, certificates, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required affidavits, certificates, and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.06(1), 212.08(4)(a),(8), 212.085, 212.13(1), 212.21(3) FS. History--New _____.

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

(1) through (3) No change.

(4)(a) No change.

~~(b) The lease of railroad cars to a railroad company for use on its tracks is exempt, provided the rental charges are subject to the jurisdiction of the United States Interstate Commerce Commission and are based on hourly, daily, or mileage charges, and they are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer. Charges made pursuant to railroad car service agreements are also exempt.~~

~~(5) The rental of railroad cars to any lessee, other than a railroad company, is taxable, subject to paragraph (a) of subsection (4) and subsection (7) of this section.~~

(6) through (14) renumbered (5) through (13) No change.

~~(14)(15)(a) No change.~~

~~(b) Demurrage charges are not subject to tax, because such charges are for delays due to loading or unloading cargo, and not for the lease of tangible personal property.~~

~~1. Example: The charge made to a shipper by a carrier for the retention of a railroad car, trailer, semi-trailer, vessel, or marine cargo container beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how that charge is designated, because such charge is not for the lease of tangible personal property.~~

~~2. Example: The charge for keeping gas cylinders beyond a stipulated time due to loading and unloading of the gas from the cylinders is not taxable. However, the charge made by a lessor to a lessee for the rental of a gas cylinder, whether it is empty or contains gas, is subject to tax. See subsection (38), below.~~

~~(b)(e) No change.~~

(16) through (48) renumbered (15) through (47) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1),(4),(10)(g),(12),(14)(a),(15)(a),(16),(19), 212.04, 212.05(1)(c),(d),(f),(h),(j), 212.06(1)(a),(2)(e),(8), 212.08(7)(e),(f),(v),(y), 212.11(2),(3), 212.12(9), 212.18(2), 402.61 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 12-31-81, 7-20-82, Formerly 12A-1.71, Amended 1-2-89, 10-5-92, 11-16-93, 8-15-94, 10-17-94, 3-20-96, 8-1-02,_____.

(Substantial rewording of Rule 12A-1.0911 follows. See Florida Administrative Code for present text.)

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors.

(1) SCOPE OF RULE. This rule is intended to provide guidelines regarding the authority to self-accrue sales and use tax, as provided in s. 212.183, F.S. This rule is also intended to provide guidelines regarding the authority granted by s. 212.18(3)(a), F.S., to dealers that use independent sellers or distributors regarding procedures for remitting tax directly to the Department on the retail sales price charged to the ultimate consumer.

(2) SELF-ACCRUAL AUTHORIZATION.

(a) The Department will authorize dealers to assume the obligation of self-accruing and remitting tax directly to the Department for the following purposes:

1. The apportionment of sales tax by eligible air carriers provided in s. 212.0598, F.S.

2. The partial exemption provided in s. 212.08(9)(a), F.S., for railroad rolling stock, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce and the partial exemption provided in s. 212.08(4)(a)2., F.S., for fuel used in railroad locomotives. See Rule 12A-1.064, F.A.C.

3. The partial exemption provided in s. 212.08(9)(b), F.S., for motor vehicles, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce. See Rule 12A-1.064, F.A.C.

4. The partial exemption provided in s. 212.08(8), F.S., for vessels, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes and the partial exemption provided in s. 212.08(4)(a)2., F.S., for fuel used in such vessels. See Rule 12A-1.0641, F.A.C.

5. The purchase of tangible personal property by dealers who annually purchase in excess of \$10 million of taxable tangible personal property in any county for the dealer's own use.

6. The purchase of tangible personal property by dealers who annually purchase at least \$100,000 of taxable tangible personal property, including maintenance and repairs for the dealer's own use, and the taxable status of the property will be known only when the dealer uses the property. For example, dealers whose normal trade or business characteristics require them to purchase property, maintenance, or repairs that will either become a component part of a product manufactured for sale or will be used and consumed by the dealer will know the taxable status of the property only when the property is used.

7. The purchase of promotional materials, as defined in s. 212.06(11)(b), F.S., by dealers who are unable to determine at the time of purchase whether the promotional materials used to promote subscriptions to publications will be used in Florida or exported from Florida. The seller of subscriptions to publications promoted by the promotional materials must be a registered dealer who is remitting sales tax to the Department on publications sold in Florida. The dealer purchasing and distributing the promotional materials and the seller of the promoted subscriptions to publications sold in Florida are not required to be the same entity.

8. The lease or license to use real property subject to the tax imposed by s. 212.031, F.S., from independent owners or lessors of real property by dealers who are required to remit sales tax electronically under s. 213.755, F.S.

9. The lease of or license to use real property subject to the tax imposed by s. 212.031, F.S., by a dealer who leases or obtains licenses to use real property from a number of independent property owners who, except for the lease or license to the dealer, would not be required to register as dealers engaged in the business of leasing real property.

10. The lease or license to use real property subject to the tax imposed by s. 212.031, F.S., by operators of amusement machines or vending machines who lease or obtain licenses to use real property from property owners or lessors for the purpose of placing and operating an amusement or vending machine.

(b) Any person requesting authority from the Department to self-accrue and remit tax directly to the Department must:

1. File an Application for Self-Accrual Authority/Direct Pay Permit-Sales and Use Tax (form DR-16A, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, in the manner provided on the application; and

2. Hold a valid certificate of registration for purposes of reporting sales and use tax. See Rule 12A-1.060, F.A.C.

(c) The Department will issue a Sales and Use Tax Direct Pay Permit to qualified applicants. The effective date of the permit is the postmark date of the application or, when the application is delivered by means other than the United States Postal Service, the date the application is received by the Department.

(d) The Department will specify on each permit the circumstances for which the dealer is authorized to self-accrue and remit sales and use tax directly to the Department. The authorized dealer is required to remit the tax directly to the Department.

(e) Any dealer that holds a valid Sales and Use Tax Direct Pay Permit may extend a copy of its permit to the selling dealer in lieu of paying tax for authorized purchases to the selling dealer.

(f) The expiration date of Sales and Use Tax Direct Pay Permit shall be the end of the month preceding five years from the effective date, if the effective date is on or before the 15th of the month. The expiration date shall be the end of the month that is five years from the effective date, if the effective date is after the 15th of the month. The Department will provide a renewal notice to a permit holder 60 days prior to the expiration date of a permit. Persons that fail to receive a renewal notice or that need more information regarding the notice may contact the Department at:

Central Registration
Florida Department of Revenue
P. O. Box 6480
Tallahassee, Florida 32314-6480.

(g) All dealers who hold a valid Sales and Use Tax Direct Pay Permit are required to file with the Department, by September 30 of each year, a report showing the amount of

total purchases by county for the period from September 1 through August 31 and the amount of use tax self-accrued on such purchases by county. This report should be mailed to:

Florida Department of Revenue
Central Registration
P. O. Box 6480
Tallahassee, Florida 32314-6480.

(h) Holders of Sales and Use Tax Direct Pay Permits must notify the Department within 30 days of any change of circumstances that may affect the dealer's qualification to hold the permit. The permit will be revoked if the Department determines that the holder of a direct pay permit no longer meets the requirements set forth in this rule.

(i) Selling dealers are required to collect tax from customers whose Sales and Use Tax Direct Pay Permit has expired.

(3) DEALERS USING INDEPENDENT SELLERS OR DISTRIBUTORS.

(a) The Department will authorize a dealer that uses independent sellers or independent distributors to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller or independent distributor register as a dealer and remit the tax. To request authorization from the Department, the dealer is required to:

1. Provide documentation of the dealer's financial resources, including certified financial statements;

2. Provide a detailed description of the dealer's information processing system to be used for the tax liabilities assumed and the allocation of discretionary sales surtaxes;

3. Provide a description of the property being sold by the independent sellers or independent distributors; and

4. Agree to report and pay directly to the Department all sales tax liabilities that are transferred from the independent sellers or independent distributors to the dealer and to comply with the provisions of Chapter 212, F.S., and this rule.

(b) A dealer who is authorized by the Department to remit tax for its independent sellers or independent distributors must report and remit the amount of sales tax and surtax due at the rate imposed by the county where delivery of the property to the independent seller or independent distributor occurs.

(c) A dealer authorized to remit tax on behalf of its independent sellers or independent distributors will not be authorized to make tax-exempt purchases under the permit. Such a dealer may use its Annual Resale Certificate to make tax-exempt purchases for the purposes of resale, as provided in Rule 12A-1.039, F.A.C.

(d) When a dealer's authorization to remit tax on behalf of its independent sellers or independent distributors is canceled by the Department or voluntarily terminated by the dealer, that dealer is required to immediately provide written notification

to each independent seller or distributor that it is no longer authorized to remit tax on behalf of its independent sellers or independent distributors.

Specific Authority 212.17(6), 212.18(2),(3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3., 4., 212.0598, 212.06(11), 212.08(4)(a)2., (8),(9), 212.12(13), 212.18(3), 212.183 FS. History—New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99, 10-2-01, _____.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (6) No change.

<u>(7) DR-16A</u>	<u>Application for Self-Accrual Authority/Direct Pay Permit (N.)</u>	_____
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<u>(8) DR-17</u>	<u>Application for Distributor Level Collection Agreement (N.)</u>	_____
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(7) through (20) renumbered (9) through (22) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0598, 212.08(5)(f),(g),(h),(n),(o),(8),(9),(15), 212.096, 212.12, 212.17(6), 212.18(2),(3), 212.183, 288.1258 FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, _____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sales and Use Tax	12A-1
RULE TITLES:	RULE NOS.:
Public Use Forms	12A-1.097
Enterprise Zone and Florida Neighborhood Revitalization Programs	12A-1.107

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the Florida enterprise zone jobs credit program. This change is necessary to implement s. 25, Chapter 2002-218, L.O.F., which permits the Department to verify credits allowable under the sales and use tax law.

The purpose of the proposed amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), is to implement s. 23, Chapter 2002-218, L.O.F. This law provides that applications to receive an enterprise zone jobs credit against sales tax due must be submitted to the Department within 7 months after an employee is leased.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the implementation of the requirement to submit an application to receive an enterprise zone job credit against sales tax due within 7 months after an employee is

leased; and (2) the adoption of changes to forms used by the Department in the administration of the Florida enterprise zone jobs credit program.

SPECIFIC AUTHORITY: 212.08(5)(g)6.,(h)6.,(n)4., (o)4.,(15)(e), 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.08(5)(f),(g),(h),(n),(o),(q),(15), 212.096, 212.11(5), 212.15(2), 212.17(6), 212.18(2),(3), 288.1258 FS.

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

TIME AND DATE: 1:30 p.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 RULE DEVELOPMENT WORKSHOP IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733 or e-mail: pauls@dor.state.fl.us.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (6)(j) No change.

(k) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, 2002 (R. 01/03 N. 01/02)	_____ 08/02
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- (l) DR-15ZCN Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit under the New Law (R. 01/03 N. 01/02) _____ 08/02
- (m) through (n) No change.
- (7) through (20) No change.

Specific Authority 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(f),(g),(h),(n),(o),(q),(15), 212.096, 212.11(5), 212.17(6), 212.18(2),(3), 288.1258 FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, _____.

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

(1) ENTERPRISE ZONE JOBS CREDIT.

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

(b) Forms Required. Taxpayers claiming the enterprise zone jobs credit against sales and use tax for employees hired after October 1, 2001, must use form DR-15ZC to apply for, calculate, and claim the credit with the Department of Revenue. Form DR-15ZC must be certified by the Enterprise Zone Development Agency, attached to a sales and use tax return, and delivered directly to the Department, or postmarked, within six months after the new employee is hired. Beginning May 1, 2002, employers have seven months from the date a qualified leased employee is hired to file the certified DR-15ZC with the Department.

- (2) through (9) No change.

Specific Authority 212.08(5)(g)6.,(h)6.,(n)4.,(o)4.,(15)(e), 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g),(h),(n),(o),(q),(15), 212.096, 212.11(5), 212.15(2), 212.17(6), 212.18(2) FS. History—New 1-3-96, Amended 6-19-01, 8-1-02, _____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLES:	RULE NOS.:
Payment of Tax	12B-4.001
Public Use Forms	12B-4.003
Refunds	12B-4.004
Conveyances Subject to Tax	12B-4.013
Imposition of Tax	12B-4.031
Issues Subject to Tax	12B-4.032
Issues Not Subject to Tax	12B-4.033

Imposition of Tax	12B-4.051
Computation of Tax; Definitions	12B-4.052
Taxable Documents	12B-4.053
Exempt Transactions	12B-4.054

PURPOSE AND EFFECT: PART I – ADMINISTRATION

The purpose of the proposed amendments to Part I (Administration), Chapter 12B-4, F.A.C., is to provide current guidelines regarding the payment and the reporting of the documentary stamp tax and discretionary surtax, to provide current guidelines on how to obtain a refund of documentary stamp tax or discretionary tax, and to adopt, by reference, the forms used by the Department in the administration of the documentary stamp tax and discretionary surtax.

The proposed amendments to Rule 12B-4.001, F.A.C. (Payment of Tax), are necessary to: (1) provide current guidelines for Clerks of the Court who are required to collect, remit, and properly annotate the documentary stamp tax due on the recording of documents; (2) implement s. 2, Chapter 2002-8, L.O.F., which provides that the required notation on a recorded document may be signed, initialed, or stamped with the name or initials of the Clerk of the Court, Comptroller, or designated agent; (3) provide current guidelines to persons who are required to register with the Department to report and remit the documentary stamp tax due directly to the Department; (4) provide current guidelines to persons not required to register as dealers on how to pay the tax directly to the Department; and (5) provide current procedures for Clerks of the Court to utilize when closing out alternate procedure documentary stamp tax accounts and remove provisions regarding shortages and overages that are not supported by statutory authority.

The proposed amendments to Rule 12B-4.003, F.A.C., are necessary to: (1) change the title to “Public Use Forms”; (2) remove the unnecessary and obsolete provisions regarding the applicability of revenue laws relating to the assessment and collection of tax and the issuance of tax warrants; (3) remove obsolete forms and forms that do not meet the definition of a “rule,” as defined in s. 120.52(15), F.S.; and (4) adopt changes to forms used by the Department in the administration of the documentary stamp tax.

The proposed amendments to Rule 12B-4.004, F.A.C. (Refunds), are necessary to: (1) remove obsolete guidelines regarding applications for refunds; (2) provide that an Application for Refund (form DR-26) must be filed with the Department to obtain a refund of documentary stamp tax or discretionary surtax and the requirements for filing such applications; (3) provide that an applicant for a refund of tax must provide documentation that the applicant paid the tax.

PART II – DEEDS – DOCUMENTARY STAMP TAX AND SURTAX

The purpose of the proposed amendments to Rule 12B-4.013, F.A.C. (Conveyances Subject to Tax), of Part II (Deeds, Documentary Stamp Tax and Surtax), Chapter 12B-4, F.A.C.,

is to implement the provisions of s. 1, Chapter 2002-8, L.O.F., regarding the computation of documentary stamp tax under s. 201.02, F.S. This law provides that in cases where real property is sold by judicial sale based on an order or final judgment issued in a foreclosure proceeding the tax is to be based solely on the final bid price received for the property at the foreclosure sale.

PART IV – ORIGINAL ISSUES OF STOCK

The purpose of the proposed repeal of Part IV (Original Issues of Stock), Chapter 12B-4, F.A.C., is to implement s. 60, Chapter 2002-218, L.O.F., which repeals the imposition of the documentary stamp tax on the original issuance of stock. The proposed repeal of Rule 12B-4.031, F.A.C. (Imposition of the Tax), Rule 12B-4.032, F.A.C. (Issues Subject to Tax), and Rule 12B-4.033, F.A.C. (Issues Not Subject to Tax), is necessary to remove obsolete provisions regarding the taxability of original issues of stock.

PART VI – NOTES AND WRITTEN OBLIGATIONS TO PAY MONEY

The purpose of the proposed amendments to Part VI (Notes and Written Obligations to Pay Money), Chapter 12B-4, F.A.C., is to implement s. 9, Chapter 2002-218, L.O.F., which limits the documentary stamp tax to \$2450 on notes and other written obligations to pay money.

The proposed amendments to Rule 12B-4.051, F.A.C. (Imposition of Tax), are necessary to provide guidelines and examples of how the tax limitation does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida.

The proposed amendments to Rule 12B-4.052, F.A.C. (Computation of Tax; Definitions), are necessary to provide guidelines and examples of how the tax limitation applies to tax due on original obligations and all renewals that meet the requirements of s. 201.09(1), F.S.

The proposed amendments to Rule 12B-4.053, F.A.C. (Taxable Documents), are necessary to: (1) provide that the tax limitation applies to demand loans, wrap-around notes, and all other notes or written obligation to pay money executed, delivered, or approved and accepted in Florida; (2) removes obsolete provisions requiring tax on the full amount of the indebtedness of out-of-state notes secured by Florida property; (3) provides guidelines on how the tax limitation applies to in-state notes secured by Florida property; (4) and provides other necessary technical changes.

The proposed amendments to Rule 12B-4.054, F.A.C. (Exempt Transactions), are necessary to provide that the tax limitation applies to a banker's or trade acceptance.

SUBJECT AREA TO BE ADDRESSED: The subject of the rule development workshop is the proposed guidelines regarding: (1) the payment and the reporting of the documentary stamp tax and discretionary surtax; (2) the adoption of forms used by the Department in the administration of the documentary stamp tax and discretionary

surtax; (3) the guidelines on how to obtain a refund of documentary stamp tax or discretionary surtax; (4) the implementation of s. 9, Chapter 2002-218, L.O.F., which limits the documentary stamp tax to \$2450 on notes and other written obligations to pay money; (5) the repeal of the documentary stamp tax previously imposed on the original issues of stock.

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 95.091, 116.01, 201.01, 201.02, 201.022, 201.05, 201.08, 201.09, 201.10, 201.11, 201.12, 201.13, 201.132, 201.133, 201.14, 201.21, 201.22, 201.23, 201.24, 213.255, 213.756, 215.26, 219.07, 517.32 FS.

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

TIME AND DATE: 1:30 p.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 Department's proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4724, e-mail: phillipst@dor.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

PART I ADMINISTRATION

12B-4.001 Payment of Tax.

(1) County Comptroller or Clerk of the Circuit Court.
Payment of Tax:

(a) County Comptroller or Clerk of the Circuit Court—Each County Comptroller, or if there ~~is~~ be none, then ~~the~~ Clerk of the Circuit Court of each county, hereinafter referred to as Clerk of the Court, shall collect the tax imposed by Chapter 201, F.S., this chapter on recorded documents, and may collect the tax on unrecorded documents, keeping a journal indicating the amount of tax paid adhering to the requirements outlined in subparagraph 12B-4.001(1)(b)5. Clerks of the Court that elect to collect the tax on unrecorded documents shall meet the requirements of paragraph (b). All taxes collected on behalf of

the state and associated information shall be electronically submitted to the Department, as provided in Section 213.13, F.S., and Rule Chapter 12-28, F.A.C.

4. There shall be no collection allowance allowed to the Clerk of the Court when the tax is collected and not remitted in accordance with these rules. Each Clerk shall file a report with the Department certifying the amount of tax due and remit to the Department all tax collected under this procedure as required by Section 201.132, F.S. A report shall be considered timely filed if postmarked on or before such due date. If the due date is a federal or state legal holiday, reports shall be accepted if postmarked on the next succeeding workday. The taxes shall be transmitted to the Department with a report on forms specified by the Department. The taxes imposed by Chapter 201, F.S., shall become state funds at the moment of collection by the Clerk. No Clerk shall be allowed to receive a collection allowance for collecting the tax when the said Clerk fails or refuses to remit the tax collected in accordance with these rules;

(b)2. A notation is required shall be placed on each document to be recorded or unrecorded by the Clerk of the Court that indicates showing the amount of tax paid and the county where payment is being made. The notation may be signed, initialed, or stamped with the name or initials of the Clerk of the Court, or designated agent thereof.

3. This procedure shall only be used for documents to be recorded by the Clerk.

(c)4. The Clerk of the Court shall not accept for recording any document which contains the notation required under authorized by paragraph (2)(f), (b) of this subsection;

(2)(b) Registered Persons – Unrecorded Documents. Procedure for Paying Tax By Persons, Firms, Corporations, etc. The tax shall be collected and remitted to the Department, except for a document to be recorded.

(a)1. Any person who has averaged or will average with at least 5 taxable transactions per month is required to shall register with the Department and remit the taxes due directly to the Department for all documents not to be recorded. A separate registration application is required for each location where taxable documents are maintained. Any person with less than 5 transactions per month has the option, but is not required, to register with the Department. Such person shall remit and report the tax to the Department as described in Rule 12B-4.001(1)(b)(3).

(b)2. Registration with the Department for the purposes of the documentary stamp tax is available by using one of the following methods: Any person with 5 or more taxable transactions per month must file an application for a certificate of registration on Form DR-1DS for each location and the Department shall issue a certificate of registration to such application for the location. "Location" means the place where the taxable documents are kept.

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

2. 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 registration application.

3. Any person with 5 or more taxable transactions per month shall file a return with the Department by the 20th of the month following the period for which the tax is due. The tax shall be remitted with the return on a monthly basis when the tax remitted for the four preceding calendar quarters exceeds \$1000, on a quarterly basis when the tax remitted for the four preceding calendar quarters does not exceed \$1000, on a semi-annual basis when the tax remitted for the four preceding calendar quarters does not exceed \$500, and on an annual basis when the tax remitted for the four preceding calendar quarters does not exceed \$100, or as required by the Department. Any person with less than 5 taxable transactions per month shall remit and report the tax not later than the 20th day of each month certifying the amount of tax due for the preceding month, and shall remit the tax due with the return for the preceding month, and shall remit the tax due with the return for the preceding month. Any return and remittance mailed after the 20th day of the month for the tax payable for the period shall subject the person to the penalties imposed by this chapter. A return is timely filed if postmarked on or before the 20th day of the month. If the 20th day of the month falls on a Saturday, Sunday, or a federal or state legal holiday, returns shall be accepted if postmarked on the next succeeding workday. Returns and report forms shall be furnished by the Department.

(c)4. Each application submitted to the Department must contain sufficient information to facilitate the processing of the application. All persons required to remit the tax shall be subject to audit, shall make their records available for ready inspection by the Department, and shall post at their own expense a bond as may be required by the Department.

(d) Any person registered with the Department for documentary stamp tax purposes is required to file a Documentary Stamp Tax Return for Registered Taxpayers (form DR-225, incorporated by reference in Rule 12B-4.003, F.A.C.) and remit the tax due.

(e)5. Any person registered shall keep a journal, or other account book or record of original entry, maintaining showing a listing of all documents executed and delivered. The journal shall show a daily listing of each document, indicating every document transaction, or a listing as required by the Department, and shall show the amount, and of each document, whether the document is taxable or not. When If the document is taxable, the amount of tax due shall be indicated

for each document. ~~When~~ If the document is not taxable, the journal must indicate ~~shall disclose~~ the reason for the exemption.

~~(f)6-~~ The following notation or similar language, along with the amount of tax and the certificate of registration number, is required to be made ~~shall be made~~ on each document requiring tax under this procedure: "Florida documentary stamp tax required by law in the amount of \$ _____ has been paid or will be paid directly to the Department of Revenue. Certificate of Registration No. _____." ~~For persons filing returns who have less than five taxable transactions per month and have opted not to register, no registration number is required on such documents.~~

(3) Unregistered Persons.

(a) Any person engaged in an average of less than 5 taxable transactions per month is not required to register with the Department, but may elect to register to report documentary stamp tax due.

(b) Any person who is not required to register and has not elected to register is required to file a Documentary Stamp Tax Return For Nonregistered Taxpayers' Unrecorded Documents (form DR-228, incorporated by reference in Rule 12B-4.003, F.A.C.) and remit tax due.

(4) Payment and Return Due Dates.

(a) For monthly filers, payments for documentary stamp tax and the associated return certifying the amount of tax due for the preceding month must either reach the Department or be postmarked on or before the 20th day of the month following the transaction to avoid penalty and interest for late filing. When the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied with returns will be accepted as timely if postmarked on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, 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 Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to Section 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.

(b) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to Section 201.133(8), F.S., the tax and associated return is due no later than the 20th day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

~~(4)(2)~~ Procedures to Follow in Closing Out Alternate Procedure Stamp Accounts of Clerks:

~~(a) Closing Account~~ — ~~The following procedure will be used to close an alternate procedures account:~~

~~(a)4-~~ The Clerk's receipts will be reconciled with remittances of tax to the Department.

~~(b)2-~~ The Clerk's receipts will be reconciled with tax affixed to recorded documents.

~~(c)3-~~ The amount of tax due, less the collection allowance, will be collected from the Clerk by the Department.

~~(b) Shortage or Overage~~ — ~~If for any reason there is a shortage in the documentary stamp account, the outgoing Clerk is liable for the difference. If there is an overage in the documentary stamp account, the overage belongs to the county.~~

Specific Authority 201.11, 213.06(1) FS. Law Implemented 116.01, 201.01, 201.08, 201.09, 201.11, 201.12, 201.13, 201.132, 201.133, 201.14, 213.756, 219.07 FS. History—Revised 8-18-73, Formerly 12A-4.01, Amended 2-21-77, 12-3-81, Formerly 12B-4.01, Amended 12-5-89, 2-16-93, 12-30-97, _____.

12B-4.003 Public Use Assessment, Collection and Forms.

~~(1) Other Tax Laws Applicable:~~ All revenue laws relating to the assessment and collection of taxes are extended to and made a part of Chapter 201, F.S., so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, or writing named therein.

~~(2) Issuance of Tax Warrant:~~ If any taxes or penalties imposed by Chapter 201, F.S., shall remain due and unpaid, the Department shall issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular the sheriffs of the state, and mail the warrant to the Clerk of Circuit Court of the county where any property of the taxpayer is located. Upon receipt of the warrant, the Clerk of Circuit Court, shall record it, and thereupon the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment. The Department may issue a tax execution to enforce the collection of taxes imposed and deliver it to any sheriff. The sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. Upon payment of the execution, warrant, or judgment, the Department shall satisfy the lien of record within thirty days.

~~(1)(3)~~ The following public-use forms and instructions are employed by the Department of Revenue in its administration of the documentary stamp tax dealings with the public, and are hereby incorporated in this rule by reference. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the ~~Forms~~ Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the

parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(a) DR-1DS	Application for Certificate of Registration to Collect Documentary Stamp Tax (r. 3/97)	3/97
(b) DR-1HDS	Documentary Stamp Tax Certificate of Registration (r. 2/97)	3/97
(c) DR-208	Notice to Creditor of Delinquent Tax (r. 5/79)	5/79
(d) DR-214	Notice of Intent to Make Documentary Stamp Tax Audit Changes (r. 7/93)	10/93
(2)(e) DR-219	Return for Transfers of Interest in Florida Real Property (r. 7/98 6/94)	— 6/94
(f) DR-220	Request for Information on Instruments in Official Record (r. 6/93)	6/93
(3)(g) DR-225	Documentary Stamp Tax Return For Registered Taxpayers' Unrecorded Documents (r. — 7/97)	— 3/97
(h) DR-225B	Documentary Stamp Tax Return For Registered Taxpayers' Unrecorded Documents (r. 10/97)	3/97
(i) DR-226	Documentary Stamp Tax Return For Clerk of the Court (r. 10/97)	3/97
(j) DR-226D	Documentary Stamp Tax and Discretionary Surtax Return For Clerk of the Court (r. 10/97)	3/97
(4)(k) DR-228	Documentary Stamp Tax Return For Nonregistered Taxpayers' Unrecorded Documents (r. — n. 10/97)	— 3/97
(l) DR-234	Documentary Stamp Tax Statement of Payment (r. 08/92)	2/93

Specific Authority 201.11, 213.06(1) FS. Law Implemented ~~201.022, 201.133 201.53, 201.16~~ FS. History—Revised 8-18-73, Formerly 12A-4.03, Amended 9-26-77, 12-11-78, Formerly 12B-4.03, Amended 12-5-89, 2-16-93, 10-20-93, 12-30-97, _____.

12B-4.004 Refunds.

(1) Any person who has overpaid documentary stamp tax or discretionary surtax may seek a refund by filing an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26, F.S., and must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. The State Comptroller may refund to the person who paid same, or his heirs, personal representatives or assigns, any monies paid into the state treasury which constitute:

(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. An overpayment of any tax, license or account due;

(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. A payment where no tax, license, or account is due; and

(c) Any payment made into the state treasury in error.

(2) Application for refunds as provided by this section shall be filed with the Comptroller within three years after the right to such refund shall have accrued else such a right shall be barred. An application for refund for tax paid after September 30, 1994, must be filed with the Comptroller within five years after the date the tax is paid. Applications shall be on a form to be prescribed by the Comptroller and shall be sworn to and supplemented with such additional proof as is necessary to establish such claim. One (1) photocopy of all documents on which the tax has been paid must be filed with the application. In the case of duplicate payment, photocopies of both documents must be submitted.

(3) Applications for refund should be filed in duplicate.

(4) All photocopies of documents must show the tax paid.

(5) Documentary stamp tax and documentary surtax refunds are paid from separate funds, therefore, separate refund claims must be submitted for documentary stamp tax and documentary surtax.

(2)(6) When an There seems to be a legal presumption that taxes paid under Chapter 201, F.S., were paid by the maker; therefore, when the application for refund of taxes paid is made by a person other than the maker of the document or instrument, the burden is on such applicant must provide documentation that the tax was paid by the applicant to prove as a fact that he actually paid the tax. (Attorney General Opinion 065-76, July 22, 1965, 1965-66 Biennial Report, Page 105)

Specific Authority 201.11, 213.06(1) FS. Law Implemented ~~95.091, 213.255, 201, 215.26, Chapter 94-353, L.O.F.~~ FS. History—Revised 8-18-73, Formerly 12A-4.04, Amended 12-26-77, Formerly 12B-4.04, Amended 12-30-97, _____.

PART II DEEDS – DOCUMENTARY STAMP TAX AND SURTAX

12B-4.013 Conveyances Subject to Tax.

(1) through (2) No change.

(3)(a) Clerk of the Circuit Court, Master, Sheriff, A Conveyance by a master in chancery, a sheriff, or a clerk of the circuit court, for realty sold under foreclosure or execution is subject to tax. The tax is computed on the amount of the highest and best bid received for the property at the foreclosure sale. The Clerk of the Court is required to collect the tax from the highest bidder when the Certificate of Title is recorded consideration paid, which includes any mortgages or liens that are not removed from the foreclosed property.

~~(b) The However, such~~ documentary stamp taxes cannot reduce the claim of the mortgagee when the mortgagee is an agent of the federal government. ~~The tax being the obligation of the mortgagor, he~~ is liable for the payment of the tax from any funds ~~paid to the mortgagor owed and payable to him, if there are any funds payable to him~~ after the payment of prior claims of, or in connection with, the foreclosure. (1960 Op. Att’y Gen. Fla. 060-125 (July 29, 1960) Cross Reference ~~subsection (13) of Rule 12B-4.014(13), F.A.C.~~

(4) through (32) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History–Revised 8-18-73, Formerly 12A-4.13, Amended 12-11-74, 2-21-77, 5-23-77, 12-26-77, 7-3-79, 9-16-79, 11-29-79, 3-27-80, 12-23-80, 12-30-82, Formerly 12B-4.13, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 7-28-98, 1-4-01, _____.

PART IV ORIGINAL ISSUES OF STOCK

12B-4.031 Imposition of Tax.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.05 FS. History–Revised 8-18-73, Formerly 12A-4.31, 12B-4.31, Amended 12-5-89, 2-13-91, 2-16-93, Repealed.

12B-4.032 Issues Subject to Tax.

Specific Authority 201.11 FS. Law Implemented 201.05 FS. History–Revised 8-18-73, Formerly 12A-4.32, Formerly 12B-4.32, Amended 12-5-89, Repealed.

12B-4.033 Issues Not Subject to Tax.

Specific Authority 201.11 FS. Law Implemented 201.05 FS. History–Revised 8-18-73, Formerly 12A-4.33, 12B-4.33, Amended 12-5-89, Repealed.

PART VI NOTES AND WRITTEN OBLIGATIONS TO PAY MONEY

12B-4.051 Imposition of Tax.

(1) A tax is imposed on promissory notes, non-negotiable notes, written obligations to pay money, assignments of salaries, wages, or other compensation, which are made, executed, delivered, sold, transferred, or assigned in the state. A renewal note, as defined in s. 201.08(5), F.S., is also taxable unless it qualifies for the exemption provided for under s. 201.09(1), F.S. The rate of tax is 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced by the document. The tax on any document described in this paragraph shall not exceed \$2450.

Cross Reference – Paragraph (12)(e) of Rule 12B-4.052, F.A.C.

(2) Mortgages ~~that which~~ incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are taxable. Furthermore, a mortgage, trust deed, security agreement, or other evidence of indebtedness filed or recorded in this state which secures a promissory note or written obligation to pay money at the time of recordation is also taxable. A notation shall be made on the promissory note or written obligation to pay money, at the time of recordation, that the proper tax, and the amount thereof, ~~has have~~ been paid on

the mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal mortgage, trust deed, security agreement, or other evidence of indebtedness, as defined in s. 201.08(5), F.S., is also taxable unless it qualifies for the exemption provided under ss. 201.09(2) and 201.091, F.S. The rate of tax is 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. The \$2450 tax limit placed on a note or other written obligation to pay money, executed in Florida or approved and accepted in Florida, does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida. A mortgage, security agreement, or other lien filed or recorded in Florida is subject to documentary stamp tax on the full amount of the obligation secured thereby. Example: A term obligation of \$1,000,000 was executed in Florida on July 1, 2002. A mortgage securing the full amount of the obligation was recorded in Florida on that same date. Documentary stamp tax in the amount of \$3500 was due on the mortgage at the time of recordation.

Cross Reference – Paragraph (12)(e) of Rule 12B-4.052, F.A.C.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.08 FS. History–Revised 8-18-73, Formerly 12A-4.51, Amended 8-8-78, 11-29-79, Formerly 12B-4.51, Amended 12-5-89, 2-13-91, 2-16-93, 12-30-97, 7-28-98, _____.

12B-4.052 Computation of Tax; Definitions.

(1) through (11) No change.

(12) Renewals: Each renewal, as defined in s. 201.08(5), F.S., of a written obligation to pay money, or of a mortgage or other security agreement, is taxable, unless it satisfies the requirements of s. 201.09(1), F.S.

(a) Except as provided in paragraph ~~(f)(e)~~, a written agreement, such as a loan agreement, that alters or modifies the contract or obligation of an original promissory note, mortgage, trust deed, security agreement, or other evidence of indebtedness, by adding one or more obligors, increasing the principal balance, changing the interest rate, changing the maturity date, changing the payment terms, or assuming the terms of the original contract or obligation, is a renewal of the original note, mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal that does not add obligor(s) and merely changes the interest rate, the maturity date, or the payment terms is not subject to tax, provided tax was paid on the original document and the original document is attached to the renewal.

(b) A renewal of a term obligation is subject to tax on the amount of the increase of the unpaid principal balance, with a maximum tax due of \$2450 on the aggregate of the original obligation and all renewals thereof that satisfy the requirements of Section 201.09(1), F.S. A term loan with periodic disbursements, such as a construction loan, may be renewed for the undisbursed amount, together with the unpaid balance of the amount that was previously disbursed, without payment of additional tax.

Cross Reference – Paragraph (e) of this subsection.

(c) A renewal of a revolving obligation is subject to tax on the amount of the increase over the original face amount of the original obligation with a maximum tax due of \$2450 on the aggregate of the original obligation and all renewals thereof that satisfy the requirements of Section 201.09(1), F.S.

Cross Reference – Paragraph (e) of this subsection.

(d) Under paragraphs (b) and (c), a separate side note is not required. The principal balance or original face amount can be indicated by a notation on the renewal document, by reference to the document being renewed, or by other proof retained by the borrower(s) or lender.

(e) The maximum tax due on an original obligation and all renewals thereof that satisfy the requirements of Section 201.09(1), F.S., is \$2450. An obligation upon which the maximum tax due of \$2450 was paid may be renewed, so long as the requirements of s. 201.09(1), F.S., are met, without additional tax assessed. The \$2450 tax limitation does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida.

1. Example: The proper amount of tax of \$2450 was paid on a term obligation of \$1,000,000 that was executed in Florida on July 1, 2002, and was not secured by a mortgage, security agreement, or other lien filed or recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$500,000 increase of the unpaid principal balance. No additional tax was due on the renewal, since the maximum aggregate tax of \$2450 was paid on the original obligation. Each renewal thereafter is not subject to additional tax, so long as each renewal meets the requirements of Section 201.09(1), F.S.

2. Example: The proper amount of tax of \$1750 was paid on a revolving obligation of \$500,000, that was executed in Florida on July 1, 2002, and was not secured by a mortgage, security agreement, or other lien filed or recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$500,000 increase above the original face amount of the original obligation. Additional tax of \$700 was due on the renewal, bringing the total tax paid on the original obligation and all renewals thereof to the maximum aggregate amount of \$2450. Each renewal thereafter is not subject to additional tax, so long as each renewal meets the requirements of Section 201.09(1), F.S.

3. Example: The proper amount of tax of \$1750 was paid on a revolving obligation of \$500,000, that was executed in Florida on July 1, 2002, and was not secured by a mortgage or other lien filed or recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$100,000 increase above

the original face amount of the original obligation. Additional tax of \$350 was due on the renewal, bringing the aggregate tax paid on the original obligation and this renewal to \$2100. Additional tax of \$350 will be due on any renewal or renewals thereafter, where the amount of the increase or increases equals or exceeds \$100,000 (the amount of the increase or increases required to bring the aggregate tax to \$2450).

4. Example: The proper amount of tax of \$2450 was paid on a term obligation of \$700,000 that was executed in Florida on July 1, 2002, and was secured by a mortgage recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$500,000 increase of the unpaid principal balance. The mortgage was spread to secure the renewal. Additional tax of \$1750 was due on the mortgage spreader, since there is no limit on the amount of tax due on a mortgage.

(f)(e) Notwithstanding paragraphs (a) and (b) and (c) above:

1. A renewal note that adds one or more obligors is subject to tax on the full amount of the obligation. The maximum tax due on a renewal that adds one or more obligors is \$2450.

2. An assumption of an existing obligation is subject to tax on the full amount of the note assumed. The maximum tax due on an assumption of an existing obligation is \$2450.

3. A renewal note is subject to tax on the full amount of the obligation, with a maximum tax due of \$2450, if the proper tax was not paid on the instrument being renewed.

a. A renewal of a promissory note is subject to tax on the full amount of the obligation, with a maximum tax due of \$2450, if the note being renewed is not attached with cancelled stamps or an appropriate notation showing full payment of tax imposed by law.

b. A renewal mortgage or other security document shall state the official book and page number of the original mortgage or other security document being renewed which evidences prior payment in full of stamp tax due, or shall have attached to it for recording the original note or a copy thereof with evidence of proper stamp tax paid. Unless this evidence is present, the renewal mortgage is subject to tax on the full amount of the obligation.

4. If the original note and mortgage is satisfied, an instrument that might otherwise appear to be a renewal of the original note and mortgage is taxable on the full amount of the obligation. (In this case, the instrument represents a new obligation.)

(f) through (g) renumbered (g) through (h) No change.

(13) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.08, 201.09 FS. History—Revised 8-18-73, Formerly 12A-4.52, Amended 8-8-78, 3-12-79, 2-3-80, 3-30-81, 8-29-84, Formerly 12B-4.52, Amended 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01,_____.

12B-4.053 Taxable Documents.

(1) through (10) No change.

(11) Demand Loans: Forms used by banks in making so-called "demand loans" which contain a written obligation to pay money are subject to the documentary stamp tax based upon the full amount of the demand loan, with a maximum tax due of \$2450. (1941 Op. Att'y. Gen. Fla. 041-677 (Dec. 5, 1941))

(12) through (19) No change.

(20) Revolving Charge Account Agreements: Purchases made under a revolving charge account agreement where sales slips made in connection with the agreement contain a written obligation to pay money are taxable under s. 201.08(2), F.S., except those activated with the use of a credit card, charge card, or debit card. (1971 Op. Att'y. Gen. Fla. 071-116 (May 24, 1971)) Cross Reference – subsection (11) of Rule 12B-4.054(H), F.A.C.

(21) through (24) No change.

(25) "Wrap-Around" Notes: Documentary stamp tax is due upon the face amount of a note (with a maximum tax due of \$2450), under which a maker obligates himself to pay a sum certain, even though the payee obligates himself to use such payments to pay off a prior note, (Department of Revenue v. McCoy Motel, Inc., 302 So. 2d 440 (Fla. 1st DCA 1974))

(26) Acceptances: Acceptances are obligations to pay according to the tenor of the document and are taxable under s. 201.08(1)(a), F.S. (1931 Op. Att'y. Gen. Fla. 1931-32 Biennial Report, Page 831 (Sept. 24, 1931); 1931 Op. Att'y. Gen. Fla. 1931-32 Biennial Report, Page 845 (Oct. 15, 1931)) Cross Reference – Subsections (7) and (16) 12B-4.053(7) and 12B-4.053(16), F.A.C.

(27) No change.

(28) Note Executed and Delivered: All notes or written obligations to pay money delivered to the lender, such as including, but not limited to, master notes, and notes drawn in connection with a line of credit, letter of credit, bail bond, or otherwise, executed in Florida or approved and accepted in Florida, are subject to Florida documentary stamp tax. Tax is due based on the face amount of the note, with a maximum tax due of \$2450, whether or not funds are advanced at time of delivery. If the note is secured by a recorded mortgage, tax shall be paid on the mortgage at time of recording and a notation made on the note that tax has been paid on the mortgage. There \$2450 tax limit placed on a note or other written obligation to pay money, executed in Florida or approved and accepted in Florida, does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida. Renewals are also taxable unless exempted under s. 201.09, F.S.

Cross Reference – Subsection (2) of Rule 12B-4.051 and Paragraph (12)(e) of Rule 12B-4.052, F.A.C.

(29) through (30) No change.

(31) Out-of-State Notes-Secured by Florida Mortgage: A mortgage recorded in this state encumbering Florida real or personal property, which is security for an out-of-state note is subject to tax as follows:

(a) Indebtedness Secured: The tax is based upon the full amount of the indebtedness secured, whether the indebtedness is contingent or not, unless paragraphs (b) and (c) of this rule apply. See also s. 201.08(5) and ~~s. 201.08(7)~~, F.S.

(b) Secured by Multi-State Mortgage: When a note is made in another state and is secured by a multi-state mortgage recorded in Florida which describes and pledges the Florida property and the out-of-state property, tax ~~is will be~~ due on the mortgage when filed or recorded in Florida based upon the percentage of indebtedness which the value of the mortgaged property located in Florida bears to the total value of all the mortgaged property. However, where the mortgage limits recovery to less than the amount of the indebtedness secured, the tax is due on the amount to which recovery is limited. The mortgage shall state the value of the property in Florida and the other state(s); and also the percentage of the Florida property in relation to the total property. ~~When a note is made in Florida and is secured by a multi-state mortgage recorded in Florida, the mortgage will be subject to tax based upon the full amount of the indebtedness stated in the mortgage, since a note executed in Florida is fully taxable.~~

COMPUTATION OF TAX:

$$\frac{\text{Value of Florida property}}{\text{Total value of all property}} \times \text{Indebtedness} = \text{Amount}$$

Example:

Value of Florida property	\$100,000(1)
Value of out-of-state property	\$900,000
Total Value of all property	\$1,000,000(2)
Amount of Indebtedness:	\$1,000,000(3)

$$(1) \$100,000 / (2) \$1,000,000 \times (3) \$1,000,000 = \$100,000*$$

*Tax would be calculated on \$100,000.

(c) Secured by Florida Mortgage only: Where a mortgage describing and pledging only the Florida property is recorded in Florida, which only partially secures an out-of-state loan, and the loan is also secured by a mortgage(s) on out-of-state property, only a pro-rata ~~pro-rata~~ portion of the indebtedness secured by the Florida mortgage is taxable. The tax will be based upon the percentage of indebtedness which the value of the mortgaged property located in Florida bears to the total value of all mortgaged property, unless the value of the Florida property exceeds this amount. Then the tax will be based upon the value of the Florida property. However, in no event will the tax be due on more than the indebtedness secured by the Florida mortgage or any other amount to which the mortgagee limits its recovery to. The mortgage shall state the value of the property in Florida and the other state(s); and also the percentage of the Florida property in relation to the total property. ~~When a note is made in Florida and is secured by a~~

mortgage on Florida property and is also secured by an out-of-state mortgage, tax will be due on the Florida mortgage based upon the full amount of indebtedness, since the note is fully taxable.

COMPUTATION OF TAX:

Example 1:

Value of Florida property/Total value of all property × Loan = Amount *

Value of Florida property	\$ 400,000(1)
Value of out-of-state property	100,000
Total value of all property	\$ 500,000(2)
Amount of loan	\$ 550,000(3)

(1) $\$400,000 / (2) \$500,000 \times (3) \$550,000 = \$440,000^*$

*Tax is calculated upon the pro-rata ~~prorata~~ amount of the loan in the amount of \$440,000, rather than the value of the Florida property, since the value of the Florida property is less than the pro-rata ~~prorata~~ amount of the indebtedness.

Example 2:

Value of Florida property/Total value of all property × Loan = Amount

Value of Florida property	\$ 600,000(1)
Value of out-of-state property	900,000
Total value of all property	\$ 1,500,000(2)
Amount of Loan	\$ 1,200,000(3)

(1) $\$600,000^* / (2) \$1,500,000 \times (3) \$1,200,000 = \$480,000$

*Tax is calculated on value of Florida property in the amount of \$600,000, rather than the pro-rata ~~prorata~~ amount of the loan, since the value of the Florida property is more than the pro-rata ~~prorata~~ amount of the indebtedness.

Example 3:

Value of Florida property/Total value of all property × Loan = Amount

Value of Florida property	\$ 800,000(1)
Value of out-of-state property	\$ 200,000
Total value of all property	\$ 1,000,000(2)
Amount of Loan	\$ 600,000(3)

(1) $\$800,000 / (2) \$1,000,000 \times (3) \$600,000^* = \$480,000$

*Tax is calculated on \$600,000, since the amount of indebtedness is less than the value of the Florida property but more than the pro-rata ~~prorata~~ amount of the loan.

(32) In-State Notes-Secured by Florida Mortgage: A mortgage recorded in this state encumbering Florida real or personal property, which is security for an in-state note, is subject to tax as follows:

(a) Secured by Multi-State Mortgage: When a note is made in Florida and is secured by a multi-state mortgage recorded in Florida, tax is due on the full amount of the note (with a maximum tax due of \$2450) or the percentage of the indebtedness which the value of the mortgaged property located in Florida bears to the total value of all the mortgaged property, whichever is greater. However, where the mortgage

limits recovery to less than the amount of the indebtedness secured, the tax is due on the full amount of the note (with a maximum tax due of \$2450) or the amount to which the mortgage limits recovery, whichever is greater.

(b) Secured by Florida Mortgage only: When a note is made in Florida and is secured by a mortgage on Florida property and is also secured by an out-of-state mortgage, tax is due on the full amount of the note (with a maximum tax due of \$2450), the percentage of the indebtedness which the value of the mortgaged property located in Florida bears to the total value of all the mortgaged property, or the value of the property located in Florida, whichever is greater. However, where the mortgage limits recovery to less than the amount of the indebtedness secured, the tax is due on the full amount of the note (with a maximum tax due of \$2450) or the amount to which the mortgage limits recovery, whichever is greater.

(33)(32) Recorded Evidences of Obligations: Tax is required on a mortgage, trust deed, security agreement, or other evidence of indebtedness filed or recorded in this state. The tax shall be due on the full amount of the primary obligation secured by said mortgage, trust deed, security agreement, or other evidence of indebtedness. The tax is due only on the full amount of one-time-on the primary obligation, whether the primary obligation is secured by one or more mortgages from the same obligor, or by an additional or supplemental mortgage from another party. All such mortgages are deemed to secure the primary obligation. For example, a mortgage given as additional collateral, to secure a cross-collateralization agreement or guaranty agreement, or given as substitution of collateral, will not require additional tax if proper tax is paid on the full amount of the primary obligation. However, where proper tax is not paid on the full amount of the primary obligation, the tax shall be paid on any additional or supplemental mortgage. A document recorded which renews or extends an existing obligation is subject to tax, unless it meets the requirements of s. 201.09, F.S. Some examples Examples of documents on which tax may be required, within the limitations stated in this rule, when recorded in this state are include, but are not limited to:

- (a) Mortgage
- (b) Trust Deed
- (c) Indenture
- (d) Supplemental Mortgage or Indenture
- (e) Amendment to Mortgage or Indenture
- (f) Mortgage Modification or Extension Agreement
- (g) Assumption Agreement
- (h) Mortgage Securing Guaranty
- (i) Mortgage Securing Indemnification Agreement
- (j) Mortgage Securing Bail Bond
- (k) Mortgage Securing Letter of Credit
- (l) Mortgage Securing Line of Credit
- (34)(33) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08 FS. History—Revised 8-18-73, Formerly 12A-4.53, Amended 2-21-77, 11-29-79, 4-11-80, 7-27-80, 12-23-80, 3-30-81, 12-30-82, 8-29-84, Formerly 12B-4.53, Amended 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01,_____.

12B-4.054 Exempt Transactions.

(1) through (8) No change.

(9) Agreement for Deed: No Personal Liability: Contracts for sale of land, which contain no “written obligation to pay money” of the same nature of promissory notes and non-negotiable notes, are not to be deemed written obligations to pay money within the purview of s. 201.08(1)(a), F.S. (State v. Green, 132 So. 2d 761 (Fla. 1961)) Attorney General Opinion 059-244 is construed as extending to contracts for the sale of land which contain express obligations to pay money, of the same genus as promissory notes and non-negotiable notes. With this limitation, Opinion 059-244 is adhered to and confirmed. (1961 Op. Att’y. Gen. Fla. 061-176 (Oct. 27, 1961)) If the following provision is incorporated in agreement for deed: “. . . as against the buyer or any subsequent purchaser from the buyer or any beneficiary for whom they may be acting, it being the understanding of the parties that the seller will look only to the land itself for payment of the balance of the purchase price,” there is no obligation to pay money in the contract and no documentary stamps are due. However, if such agreement for deed is filed or recorded in Florida, it would be subject to the documentary stamp tax under s. 201.08(1)(b), F.S.

(10) through (19) No change.

(20) Banker’s or Trade Acceptances: Banker’s or trade acceptances, when payable on a date subsequent to acceptance, are written obligations for the payment of money from the date of such acceptance and are taxable. The maximum tax due on a banker’s or trade acceptance is \$2450. However, when payable on demand or presentation, and presentation is made after acceptance, they are not written obligations to pay money and are not taxable. (1961 Op. Att’y. Gen. Fla. 066-18 (Mar. 11, 1966)) Cross Reference – Subsection (16) of Rule 12B-4.053(16), F.A.C.

(21) through (30) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS. History—Revised 8-18-73, Formerly 12A-4.54, Amended 2-21-77, 11-29-79, 3-5-80, 4-11-80, 7-27-80, 12-23-80, 2-12-81, 3-30-81, 12-3-81, Formerly 12B-4.54, Amended 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01,_____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Tax on Production of Oil and Gas	12B-7
RULE TITLES:	RULE NOS.:
Public Use Forms	12B-7.008
Public Use Forms	12B-7.026

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-7.008, F.A.C., of Part I (Tax on Production of Oil and Gas) and Rule 12B-7.026, F.A.C., of Part II (Severance Tax on Solid Minerals), of Chapter 12B-7, F.A.C., is to adopt, by reference, new forms and revisions to forms used by the Department in the administration of the tax on the production of oil and gas and the severance tax.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the adoption, by reference, of new forms and revisions to forms used by the Department in the administration of the tax on the production of oil and gas and the severance tax.

SPECIFIC AUTHORITY: 211.125(1), 211.33(6), 213.06(1), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 211.125, 211.30, 211.31, 211.3103, 211.3106, 211.33, 373.41492 FS.

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

TIME AND DATE: 1:30 p.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 (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4696, e-mail: sulkerb@dor.state.fl.us.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

PART I – TAX ON PRODUCTION OF OIL AND GAS

12B-7.008 Public Use Forms.

(1)(a) The following public-use forms and instructions are used by the Department in its dealings with the public. These forms are hereby incorporated and made a part of this rule by reference.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the ~~Forms~~ Distribution Center at (850)922-2208; or, 3)

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

Form Number	Title	Effective Date
(1) DR-144	Gas and Sulfur Production Quarterly Tax Return (R. 01/00 1-2-94)	___ 12/94
(2) DR-144ES	<u>Declaration of Estimated Gas and Sulfur Production Tax (R. 02/00)</u>	___
(3)(2) DR-145	Oil Production Monthly Tax Return (R. 02/00 1-5-93)	___ 12/94
(4)(3) DR-145X	Amended Florida Oil Production Monthly <u>Amended</u> Tax Return (R. 02/00 1-2-94)	___ 12/94

Specific Authority 211.125(1), 213.06(1) FS. Law Implemented 211.125 FS. History—New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, _____.

PART II – SEVERANCE TAX ON SOLID MINERALS

12B-7.026 Public Use Forms.

(1)(a) The following public-use forms and instructions are used by the Department in its dealings with the public. These forms are hereby incorporated and made a part of this rule by reference.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the ~~Forms~~ Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department’s Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

Form Number	Title	Effective Date
(1) DR-142	Producers Severance Tax Return (R. 12/99 1-12-98) (R. 01/00 1-2-94)	___ 10/01 ___ 12/94

(2) DR-142ES Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. 02/00) _____

(3)(2) No change.

Specific Authority 211.33(6), 213.06(1), 373.41492(4)(b) FS. Law Implemented 211.30, 211.31, 211.3103, 211.3106, 211.33, 373.41492 FS. History—New 12-18-94, Amended 10-4-01, _____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE CHAPTER TITLE: Insurance Premium Taxes, Fees, and Surcharges
RULE CHAPTER NO.: 12B-8

RULE TITLE: Tax Statement; Overpayments
RULE NO.: 12B-8.003

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

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed adoption of changes to forms used by the Department in the administration of the insurance premium tax.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 213.05, 213.37, 624.5092, 624.511, 624.518 FS.

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

TIME AND DATE: 1:30 p.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 RULE DEVELOPMENT WORKSHOP IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715 or e-mail: ducasser@dor.state.fl.us

THE DEPARTMENT’S PROPOSED RULES ARE AVAILABLE ON THE DEPARTMENT’S WEB SITE: www.myflorida.com/dor/rules.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule.

(2) through (4) No change.

Form Number	Title	Effective Date
(5)(a) DR-907	Florida Department of Revenue Insurance Premium Installment Payment (R. 01/03 01/02)	____ 08/02
(b) DR-907N	Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. 01/03 01/02)	____ 08/02
(6)(a) DR-908	Insurance Premium Taxes and Fees Return Calendar Year- 2002 2001 – Due March 1, 2003 2002 (R. 01/03 01/02)	____ 08/02
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. 01/03 01/02)	____ 08/02
(7) DR-350900	2001 Insurance Premium Tax Information for Schedules XII and XIII, DR-908 (R. 01/03 01/02)	____ 08/02

Specific Authority 213.06(1) FS. Law Implemented 213.05, 213.37, 624.5092, 624.511, 624.518 FS. History—New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02,_____.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Corporate Income Tax	12C-1
RULE TITLES:	RULE NOS.:
Returns; Filing Requirement Forms	12C-1.022 12C-1.051

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.022, F.A.C. (Returns; Filing Requirement), is to implement s. 43, Chapter 2002-218, L.O.F., which eliminates the requirement to file information returns for Subchapter S corporations, tax-exempt entities, or certain other entities that do not usually owe federal income tax. The provisions that require these entities to report taxable income are not affected by these proposed amendments.

The proposed amendments to Rule 12C-1.022, F.A.C., will: (1) provide that a Subchapter S corporation must file Form F-1120 (Florida Corporate Income/Franchise and Emergency Excise Tax Return) for taxable income when it is subject to federal income tax; (2) provide that homeowners that elect to be taxed under s. 528, I.R.C., are not required to file form F-1120; (3) provide that organizations that hold a “determination letter” from the Internal Revenue Service as a nonprofit organization are required to file Form F-1120 when the organization has unrelated trade or business income or is filing Form 990-C or Form 990-T with the Internal Revenue Service; (4) remove the requirement for credit unions exempt under s. 501(c)(14), I.R.C., to file Form F-1120 for the first year of operation; (5) provide that qualified pension, health, or dental plans that remain exempt from federal income tax are not required to file Form F-1120; and (6) provide that entities treated as a U.S. real estate mortgage investment for federal purposes must file Form F-1120 for taxable years when they are subject to federal income tax.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the Florida corporate income tax.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed elimination of the requirement to file information returns for subchapter S corporations, tax-exempt entities, and certain other entities that do not usually owe federal income tax; and (2) the proposed adoption of changes to forms used by the Department in the administration of the Florida corporate income tax.

SPECIFIC AUTHORITY: 213.06(1), 220.21, 220.51 FS.

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

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

TIME AND DATE: 1:30 p.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 RULE DEVELOPMENT WORKSHOP IS: Gary Moreland, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4831, e-mail (morelandg@dor.state.fl.us).

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-1.022 Returns; Filing Requirement.

(1) In general, every corporation as defined in s. 220.03(1)(e), F.S., subject to tax under Part II of Chapter 220, F.S., and every bank and savings association subject to tax under Part VII of Chapter 220, F.S., shall make a return of income for each taxable year in which such entity is either is liable for tax under the Florida Income Tax Code, or is required to make a federal income tax return, regardless of whether such taxpayer is liable for tax under the Florida Income Tax Code.

(a) No change.

(b) "S" corporations are not subject to the tax, except for taxable years when they are liable for the federal tax under the Internal Revenue Code. An "S" corporation must file a Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on the regular Form F-1120, answering questions that are appropriate, for the first year under the Florida Income Tax Code that it elects or has elected to be taxed under Subchapter S of the Internal Revenue Code. Returns for subsequent years are not required so long as the Subchapter S election continues; however, returns are required for taxable years when it is they are liable for federal tax under the Internal Revenue Code.

2. A single member limited liability company or qualified subchapter S corporation that is disregarded for Florida and federal tax purposes is not required to file a separate Florida corporate income tax return. However, the income of the company is not exempt from tax. If it is owned by a corporation, whether directly or indirectly, the corporation is required to file Form F-1120 reporting its own income together with the income of the single member limited liability company.

(c)1. Homeowners associations, including corporations or associations organized to operate condominiums pursuant to the Condominium Act, that are required to file federal returns on Form 1120, or that elect to file federal returns on Form 1120, must file a Florida Form F-1120 annually, regardless of whether any tax may be due.

2. Homeowners associations that elect to be taxed under s. 528, I.R.C., and file federal Form 1120-H, are not required to must file Form F-1120 with the Department the Florida Corporate Income/Franchise and Emergency Excise Tax Return, answering questions that are appropriate, for the first year under the Florida Income Tax Code that Form 1120-H is filed. Returns for subsequent years are not required so long as the homeowners association does not file federal Form 1120. However, returns are required for taxable years when federal Form 1120 is filed, and for the first year federal Form 1120-H is filed subsequent to the filing of Form 1120.

(d) No change.

(e) ~~Any nonprofit non-profit or other organization, including a private foundation, which is fully exempt from the federal income tax and which has a "determination letter" from the Internal Revenue Service to that effect, is required to file Form F-1120 annually when such organization has "unrelated trade or business income," as defined in s. 512, I.R.C., or is filing with the Internal Revenue Service on Form 990-C or Form 990-T (as opposed to other 990 forms) a copy of the determination letter attached to Form F-1120 in order to establish with the Department that it qualifies as an exempt organization under the Florida Income Tax Code. Additional Florida returns will not be required as long as the organization continues to qualify for exemption from federal income tax.~~

~~2. However, such organizations having "unrelated trade or business income" as defined in I.R.C. Section 512 or filing with the Internal Revenue Service on Forms 990-C or 990-T (as opposed to other 990 forms) must file Form F-1120 annually.~~

~~3. For federal tax purposes if an organization is claiming exempt status, but has not yet received a determination letter verifying its exempt status, Treas. Reg. 1.6033-2(c) requires it to file the information return for exempt organizations. The information return must indicate that the return is being filed in belief that the organization is exempt under s. 501(a), I.R.C., but that the Internal Revenue Service has not yet recognized such status. For Florida purposes, the organization must file an F-1120 with the attached federal information return. If the organization is considered to be fully exempt and does not have unrelated trade or business income, only the information questions on the Florida corporate income/franchise tax return need be completed. If the determination letter is received verifying the exempt status, the organization will be required to file an F-1120, with the attached determination letter, for its next taxable year. If the exempt organization has no unrelated trade or business income, it will not have any further filing requirements. If the Internal Revenue Service determines that an organization is not fully exempt after it has filed a form 990 in anticipation of being granted 501(a) status under the Internal Revenue Code, the organization will be required to file an amended return for Florida purposes, pursuant to s. 220.23, F.S.~~

(f) No change.

(g) Credit unions without capital stock organized and operated for mutual purposes and without profit that are exempt under s. 501(c)(14), I.R.C., are not subject to the Florida tax, except for taxable years when they are liable for federal tax under the Internal Revenue Code. ~~A credit union must file a Florida corporate income/franchise tax return, answering questions that are appropriate, for the first year under the Florida Income Tax Code. Returns for subsequent years are not required so long as the credit union remains completely exempt from tax under the Internal Revenue Code. Returns are required for taxable years they are liable for federal tax under the Internal Revenue Code.~~

(h) Benefit plans qualifying under s. 401(a), I.R.C., and health and dental plans qualifying under s. 125, I.R.C., are only required for federal tax purposes to file information returns. A qualified pension, health, or dental plan ~~that which~~ is totally exempt from federal income tax ~~will not be required to~~ must only file Form F-1120 with the Department, the initial Florida income/franchise tax return claiming its exemption under the appropriate section of the Internal Revenue Code. Subsequent returns will not be required as long as the plan remains totally exempt for federal purposes.

(i) No change.

(j) Entities that have elected to be treated as a U.S. real estate mortgage investment conduit (REMIC) for federal purposes are not subject to the tax, except for taxable years when they are liable for the federal tax on income from foreclosure property pursuant to s. 860G(c), I.R.C. ~~A REMIC must file a Florida Corporate Income/Franchise and Emergency Excise Tax Return on the regular Form F-1120, answering questions that are appropriate, for the first year under the Florida Income Tax Code that it elects or has elected under s. 860D, I.R.C., to be taxed as a REMIC. Such entities Returns for subsequent years are not required so long as the election continues; however, returns are required to file Form F-1120 for taxable years when they are liable for federal tax on income from foreclosure property pursuant to s. 860G(c), I.R.C.~~

(k) No change.

(2) through (6) No change.

Specific Authority 213.06(1), 220.21, 220.51 FS. Law Implemented 220.22 FS. History—New 10-20-72, Amended 10-20-73, Revised 10-8-74, Amended 3-5-80, Formerly 12C-1.22, Amended 12-21-88, 4-8-92, 12-7-92, 3-18-96, 10-2-01, _____.

12C-1.051 Forms.

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

(b) No change.

Form Number	Title	Effective Date
(2) through (3)	No change.	
(4)(a) F-1065	Florida Partnership Information Return (R. 01/03 01/01)	___ 08/02
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. 01/03 01/01)	___ 08/02
(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. 01/03 01/02)	___ 08/02
(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. 01/03 01/02)	___ 08/02
(b) F-1120N	F-1120 Instructions-Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, 2002 <u>2004</u> (R. 01/03 01/02)	___ 08/02
(7) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax for Taxable Year beginning on or after January 1, 2002 <u>2003</u> (R. 01/03 01/02)	___ 08/02
(8) F-1120P	Payment Coupon (R. 01/03 01/02)	___ 08/02
(8)(9)(a) F-1120X	Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. 01/03 01/02)	___ 08/02
(b) F-1120XN	General Instructions for Filing F-1120X (R. 01/03 01/02)	___ 08/02
(9)(10)	No change.	

- ~~(10)(11)~~(a) F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax-Effective January 1, ~~2003~~ ~~2002~~ (R. ~~01/03~~ ~~N. 01/02~~) _____ ~~08/02~~
- (b) F-1156ZN Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax-Effective January 1, ~~2003~~ ~~2002~~ (R. ~~01/03~~ ~~N. 01/02~~) _____ ~~08/02~~
- (12) through (13) renumbered (11) through (12) No change.
- ~~(13)(14)~~(a) F-1158Z Enterprise Zone Property Tax Credit – Effective July 1, 1995 (R. ~~01/03~~ ~~01/00~~) _____ ~~08/02~~
- (b) F-1158ZN Instructions for Form F-1158Z (Effective July 1, 1995) Enterprise Zone Property Tax Credit (R. ~~01/03~~ ~~01/00~~) _____ ~~08/02~~
- ~~(14)(15)~~(a) F-1159 Application for Child Care Tax Credits (R. ~~01/03~~ ~~10/01~~) _____ ~~08/02~~
- (b) F-1159N Instructions for Filing F-1159 (R. ~~01/03~~ ~~10/01~~) _____ ~~08/02~~
- ~~(15)(16)~~ F-1160 Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (R. ~~01/03~~ ~~N. 01/02~~) _____ ~~08/02~~
- ~~(16)(17)~~ No change.
- ~~(17)(18)~~ F-7004 Florida Tentative Income/Franchise and/or Emergency Excise Tax Return and Application for Extension of Time to File Return (R. ~~01/03~~ ~~01/02~~) _____ ~~08/02~~

Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.55(1)(a)4., 220.11, 220.12, 220.13(1),(2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Intangible Personal Property Tax	12C-2
RULE TITLES:	RULE NOS.:
Due Date – Payment of Tax –	
Discounts Allowed	12C-2.005
Taxable Situs – Reporting Requirements –	
Who Shall File a Return	12C-2.006
Penalties and Interest	12C-2.007
Information Reports	12C-2.008
Public Use Forms	12C-2.0115
Refunds	12C-2.012

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-2.005, F.A.C. (Due Date – Payment of Tax – Discounts Allowed), and Rule 12C-2.006, F.A.C. (Taxable Situs – Reporting Requirements – Who Shall File a Return), is to: (1) provide that forms used by the Department in the administration of the intangible personal property tax are incorporated by reference in Rule 12C-2.0115, F.A.C.; and (2) remove provisions on how to obtain forms from the Department that are redundant of Rule 12C-2.0115, F.A.C.

The purpose of the proposed amendments to Rule 12C-2.007, F.A.C. (Penalties and Interest), is to implement the provisions of s. 60, Chapter 2002-218, L.O.F., by removing provisions for penalties imposed for the late filing of a Corporate Information Report, a report that is no longer required to be filed.

The purpose of the proposed amendments to Rule 12C-2.008, F.A.C. (Information Reports), is to: (1) implement the provisions of s. 60, Chapter 2002-218, L.O.F., which repeals the requirement for a corporation to provide written notice to its Florida stockholders reflecting the just value of each class of its stock subject to the annual intangible tax; (2) provide that forms used by the Department in the administration of the intangible personal property tax are incorporated by reference in Rule 12C-2.0115, F.A.C.; (3) provide that form DR-301 is incorporated by reference in Rule 12C-3.008, F.A.C.; and (4) remove provisions on how to obtain forms from the Department that are redundant of Rule 12C-2.0115, F.A.C.

The purpose of the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), is to: (1) remove obsolete forms and forms that do not meet the definition of a “rule,” as defined in s. 120.52(15), F.S.; and (2) adopt new forms, and changes to forms, used by the Department in the administration of the intangible personal property tax.

The purpose of proposed amendments to Rule 12C-2.012, F.A.C. (Refunds) is to: (1) remove obsolete provisions and examples of claims for refunds of the intangible personal property tax; (2) provide that a request for refund must be submitted to the Department on form DR-26, Application for Refund; (3) provide guidelines on the statute of limitations for a refund of intangible personal property tax; and (4) remove provisions on how to obtain forms from the Department that are redundant of Rule 12C-2.0115, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) implementation of s. 60, Chapter 2002-218, L.O.F., which repeals the requirement for a corporation to provide written notice to its Florida stockholders reflecting the just value of each class of its stock subject to the annual intangible tax; (2) the adoption of forms used by the Department in the administration of the intangible personal property tax; (3) the guidelines for obtaining a refund of the intangible personal property tax from the Department; and (4) the removal of obsolete or unnecessary provisions.

SPECIFIC AUTHORITY: 199.202, 213.06(1), 213.21 FS.

LAW IMPLEMENTED: 199.023, 199.032, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.135, 199.175, 199.185, 199.202, 199.232, 199.252, 199.282, 199.292, 213.235, 215.26, 607.1622, 733.702 FS.

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

TIME AND DATE: 1:30 p.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 Department's proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4696, e-mail: sulkerb@dor.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-2.005 Due Date – Payment of Tax – Discounts Allowed.

(1) through (3)(a)1. No change.

2. All requests for extensions of time, for filing returns or reports and paying the tax, must be made in writing and received by the department prior to the due date. Request for extension of time to file an intangible tax return is to be made on form DR-602 (Intangible Tax Application for Extension of Time to File Return, incorporated by reference in Rule 12C-2.0115, F.A.C.). The Department ~~department~~ will inform taxpayers of respond only to requests that which are denied.

3. No change.

~~(b) Application for Extension of Time to File Florida Intangible Tax Return (DR-602) is incorporated in Rule 12C-2.0115. The form entitled Application for Extension of Time to File Florida Intangible Tax Return (DR-602) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

~~(b)(e)~~ No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.042, 199.052, 199.135, 199.202, 607.1622 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, Formerly 12C-2.05, Amended 11-21-91, 10-9-01, _____.

12C-2.006 Taxable Situs – Reporting Requirements – Who Shall File a Return.

(1)(a) No change.

(b)1. Individuals, married couples filing jointly, and guardians filing on behalf of their ward shall file on form DR-601I, Intangible Personal Property Tax Return (incorporated by reference in Rule 12C-2.0115, F.A.C.). ~~Intangible Tax Return (DR-601) is incorporated in Rule~~

12C-2.0115, F.A.C., F.A.C. The form entitled Intangible Tax Return (DR-601I) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

2. Corporations, partnerships, affiliated groups, and fiduciaries shall file on form DR-601IC, Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers (incorporated by reference in Rule 12C-2.0115, F.A.C.). ~~Intangible Tax Return (DR-601C) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (DR-601C) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

3. No change.

4. Governmental Leasehold Estates are to be reported on form DR-601G, Governmental Leasehold Intangible Personal Property Tax Return for Individual and Joint Filers (incorporated by reference in Rule 12C-2.0115, F.A.C.). ~~Governmental Leasehold Intangible Tax Return (DR-601G) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Government Leasehold Intangible Tax Return (DR-601G) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5)~~

~~calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

(2) through (5) No change.

(6) Corporations: Every corporation electing to pay the tax as agent for its Florida stockholders must file a return by June 30 of the tax year, even if no tax is due with the return. If no return is filed or the return is filed after June 30, the election to pay the tax for stockholders will not be valid. Form DR-601C, Intangible Personal Property Tax Return (incorporated by reference in Rule 12C-2.0115, F.A.C.) ~~or DR-601AC or DR-601AC~~; is the form to be used when filing and paying the tax as agent for shareholders. ~~The form entitled Intangible Tax Return (DR-601C or DR-601AC) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (DR-601AC or DR-601C) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

(7) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.175, 199.202 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, 9-27-76, 9-6-77, Formerly 12C-2.06, Amended 11-21-91, 1-5-94, 6-2-98, 10-9-01,_____.

12C-2.007 Penalties and Interest.

(1) through (5) No change.

(6) ~~Penalty for For~~ Late Filing of a Corporate Information Report or Security Position Statement.

(a) ~~Late filing of an information report by a corporation will subject the corporation to a penalty of \$100. However, if the corporation has been granted an extension of time under Chapter 199, F.S., the penalty shall not be assessed if the report is filed within the extended period.~~

(b)1. through 3. renumbered (a) through (c) No change.

(7) through (8) No change.

Specific Authority 199.202, 213.06(1), 213.21 FS. Law Implemented 199.052, 199.282, 213.235 FS. History—New 4-17-72, Revised 12-20-73, Amended 9-27-76, 4-2-78, Formerly 12C-2.07, Amended 11-21-91, 5-18-93, 4-2-00, 10-9-01,_____.

12C-2.008 Information Reports.

(1)(a) Each tax year, every corporation qualified or doing business in this state shall provide its Florida shareholders and the Department a written notification where applicable of the following:

(a) The corporation's election to pay the tax as agent for its Florida shareholders. The notice shall be filed on an Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers (form DR-601C, incorporated by reference in Rule 12C-2.0115, F.A.C.) by completing Schedule E and checking the notification box. A copy of the notice given to Florida shareholders is to be attached to the return.

(b) On or before April 1 of the tax year, corporations electing to pay the tax as agent for shareholders shall notify their Florida shareholders in writing of the election to pay the intangible tax as agent for shareholders. A representative copy of the written notice is to be attached to form DR-601C and filed with the Department.

3. On or before April 1 of the tax year each corporation doing business in this state must provide its Florida shareholders with a written notice of the value of its shares of stock which are not regularly traded on an exchange, over the counter, subject to restrictions, or which have a value less than the published or traded value. A copy of the value notice given to Florida shareholders must be attached to the corporation's intangible tax return. No notice of value is required when the corporation pays the tax as agent for its Florida shareholders.

(b) The form entitled Intangible Tax Return (DR-601C) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (DR-601C) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

(c) A representative copy of the notices required to be given to shareholders by subparagraphs 2. and 3. of paragraph (a) above shall be attached to the corporation's intangible tax return. The notices required to be given to the department by paragraph (a) above shall be given by marking the appropriate box or boxes on the Intangible Tax Return (DR-601C).

(2) through (4) No change.

(5)(a) Personal representatives of estates shall file with the Department a copy of the Preliminary Notice and Report (form DR-301), which is incorporated by reference in Rule 12C-3.008 (12C-2.0115, F.A.C.).

2. The form entitled Preliminary Notice and Report (DR-301) 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 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

(b) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.185, 607.1622, 733.702 731.111, 733.604 FS. History—New 4-17-72, Revised 12-20-73, Amended 4-21-75, Formerly 12C-2.08, Amended 7-31-90, 11-21-92, 1-5-94, 10-9-01,_____.

12C-2.0115 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://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
(1) DR-301	Preliminary Notice and Report Estate Tax (r. 05/93)	1/94

(2) DR-601-C	<u>2003 Florida Intangible Personal Property Tax Return for (Corporation, and Partnership, and Fiduciary Filers as of January 1, 2003)</u> (R. 01/03 r. 01/02)	____ 10/01	(13) <u>DR-350617 DR-618-TPS</u>	<u>Application for Exclusion from Filing Stockbroker Position Statement</u> (R. 01/02)	_____
(3) DR-601CN	Instructions for Filing Form DR-601C (R. 01/03 r. 01/02)	____ 10/01	(14) <u>DR-350618 DR-629-C</u>	<u>Intangible Tax Input Document (Third Party Source Billing Document)</u> (r. 07/82)	7/82
(4) DR-601CS	<u>2003 Accompanying Schedules B, C, D, and E for use with Form DR-601C</u> (R. 01/03 r. 01/02)	____ 10/01		<u>Stockbroker Instructions and Specifications for Reporting Information on Magnetic Media for Year Ending 12/31/01</u> (R. 01/02)	_____
(5) DR-601-G	Government Leasehold Intangible <u>Personal Property Tax Return for 2003 Tax Year</u> (R. 01/02 r. 01/01)	____ 10/01	(15) <u>DR-350619 DR-629-I</u>	<u>Florida Intangible Personal Property Tax Letter of Inquiry</u> (r. 11/92)	1/94
(6) DR-601-I	<u>2003 Florida Intangible Personal Property Tax Return for (Individual and Joint Filers as of January 1, 2002 Fiduciary)</u> (R. 01/03 r. 01/02)	____ 10/01		<u>Stockbroker Filing Magnetic Media Transmittal</u> (R. 01/02)	_____
(7) DR-601IN	Instructions for Filing Form DR-601I (R. 01/03 r. 01/02)	____ 10/01	(16) <u>DR-350620 DR-629-S</u>	<u>Florida Intangible Personal Property Tax Letter of Inquiry</u> (r. 03/93)	1/94
(8) DR-601IS	<u>2003 Accompanying Schedules B, C, D, and E for use with Form DR-601I</u> (R. 01/03 r. 01/02)	____ 10/01		<u>Stockbroker Information Report</u> (R. 01/02)	_____
(9) DR-602	<u>Intangible Tax Application for Extension of Timeto File Florida Intangible Tax Return</u> (R. 03/02 r. 02/93)	____ 1/94		<u>Individual and Fiduciary Intangible Personal Property Tax Letter of Inquiry</u> (r. 9/91)	1/94
(10) <u>DR-350111 DR-609</u>	<u>Intangible Tax Self-Audit Worksheet – (R. 01/03) Clerk's Monthly Intangible Tax Transmittal Form</u> (r. 10/87)	____ 10/87			
(11) <u>DR-350112 DR-610-B</u>	<u>Taxpayer Affidavit (R. 06/01) Intangible Personal Property Tax Receipt (bookstyle)</u> (r. 04/87)	____ 4/87			
(12) <u>DR-350113 DR-610-US</u>	<u>Intangible Tax Self-Analysis Worksheet for Trusts (R. 01/03) Intangible Personal Property Receipt (unit set snap-out style)</u> (r. 05/86)	____ 5/86			

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 199.023, 199.032, 199.042, 199.052, 199.062, 199.103, 199.1055, 199.135, 199.232, 199.292 FS., s. 1, Ch. 2001-225, L.O.F. History—New 11-21-91, Amended 1-5-94, 10-9-01.

12C-2.012 Refunds.

(1) Any person entitled to a refund of intangible personal property taxes may seek a refund by filing an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be in accordance with the timing provisions of s. 215.26, F.S., and must meet the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. A claim for refund may be filed within 3 years of the due date (June 30) of a return or 3 years from the date the tax payment was made.

(2)(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. The postmark date determines the date on which the refund claim was filed.

(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.

~~(3) All requests for refund must be made on form DR-26. Form DR-26, Application for Refund from the State of Florida, is incorporated in Rule 12C-2.0115. Copies of the form are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or 2) faxing the Forms Distribution center at (850)922-2208; or 3) using a fax machine telephone handset to call the Department's automated Fax on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD 1(800)367-8331.~~

~~(4)(a) Example 1: Taxpayer filed a return and paid the tax on March 31, of the current tax year. The taxpayer may file a claim for refund 3 years from March 31 or 3 years from June 30, the due date for the return.~~

~~(b) Example 2: Assume the same facts as above. The taxpayer files a claim for refund which is postmarked July 15, of the third year following payment of the tax. No refund will be granted as the claim is barred by the statute of limitation.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.252, 215.26. History—New 4-17-72, Formerly 12C-2.12, Amended 11-21-91,_____.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Estate Tax	12C-3
RULE TITLES:	RULE NOS.:
Public Use Forms	12C-3.008
Releases	12C-3.012

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the Florida estate tax.

The purpose of the proposed amendments to Rule 12C-3.012, F.A.C. (Releases), is to reduce the number of copies of a legal description of property required to be submitted to the Department with form DR-308.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the adoption of changes to forms used by the Department in the administration of the Florida estate tax; and (2) the reduction in the number of copies of a legal description of property required to be submitted to the Department with form DR-308.

SPECIFIC AUTHORITY: 198.08, 213.06(1) FS.

LAW IMPLEMENTED: 198.08, 198.22 FS.

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

TIME AND DATE: 1:30 p.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 RULE DEVELOPMENT WORKSHOP IS: Maryellen Clemens, Senior Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4712, e-mail: clemensm@dor.state.fl.us.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-3.008 Public Use Forms.

~~(1)(a)~~ The following public-use forms and instructions are employed by the Department in its dealings with the public and are hereby adopted by reference.

~~(b) Copies of these~~ These forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD, (800)367-8331.

Form Number	Title	Effective Date
(2)(+) DR-301	Preliminary Notice and Report (R. 09/01 + 07/98)	01/22/01
(3)(2) DR-308	Request and Certificate for Waiver and Release of Florida Estate Tax Lien (R. 08/02 + 01/00)	01/22/01

(4) (3) DR-310	Domicile Statement (R. 08/02 r. 11/96)	___ 01/22/01
(5) (4) DR-312	Affidavit of No Florida Estate Tax Due (for decedents dying on or after January 1, 2000) (R. 09/01 n. 01/00)	___ 01/22/01
(6) (5) F-706	Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (R. 10/01 n. 01/00)	___ 01/22/01

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.08 FS. History—New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, _____.

12C-3.012 Releases.

A decedent’s estate being probated in this state may request a release of certain property from the estate tax lien. A release will be issued under the following conditions:

(1) Estate of Resident Decedents

(a) Filing of a Request and Certificate for Waiver and Release of the Florida Estate Tax Lien (Form DR-308), together with:

1. ~~Two~~ ~~three~~ copies of a description sufficient to identify the property to be released, and
2. Either payment of the full tentative tax or additional tax due Florida, or provision for the tentative tax or additional tax.

(b) No change.

(2) through (3) No change.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.22 FS. History—New 8-25-94, Amended 12-13-94, 1-22-01, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Interstate Corrections Compact
 RULE NO.: 33-601.401
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to reflect office reassignment of responsibilities for interstate corrections compact issues.
 SUBJECT AREA TO BE ADDRESSED: Interstate corrections compact.
 SPECIFIC AUTHORITY: 941.57, 944.09, 945.21 FS.
 LAW IMPLEMENTED: 941.55, 941.56, 941.57 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.401 Interstate Corrections Compact.

(1) Definitions. As used in this Chapter:

(a) “~~T~~ransfer” means transfer under the Interstate Corrections Compact authorized by Sections 941.56 and 941.57, F.S.

(b) “Administrator” means the Interstate Corrections Compact Administrator in the Office of Institutions ~~the Assistant Secretary for Community Corrections~~.

(c) “~~S~~ending state” means the state from which an inmate is transferred.

(d) “~~R~~eceiving state” means the state to which an inmate is transferred.

(2) A current list of states that are parties to the Interstate Corrections Compact and copies of contracts with individual party states may be obtained by writing the Interstate Corrections Compact Administrator, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. A list of party states is also published in Florida Statutes Annotated (West Publishing Co.) at Section 941.55.

(3) ~~All transfers must be approved by T~~he Interstate Corrections Compact Administrator shall approve, deny or initiate the interstate transfer of an inmate.

(4) When Florida is the Sending State.

(a) A request for transfer may be initiated by the inmate to the institutional classification team (ICT) ~~or by the Warden~~ of the institution at which the inmate is incarcerated.

(b) Any inmate whose transfer has been requested, but who does not consent to the transfer, shall be given a hearing before the ICT Classification Team ~~or other appointed committee~~. The inmate shall be given at least 48 hours written notice of such hearing.

(c) Any request for transfer shall be evaluated by the ICT Classification Team, which shall make its recommendations to the Interstate Corrections Compact Warden. ~~If the Warden approves the requested transfer he shall forward the request to the Administrator for final action by the Assistant Secretary for Community Corrections.~~

(d) Inmates may be transferred:

1. ~~To be near home and job opportunities;~~
2. ~~For the safety of the inmate;~~
3. ~~To serve two sentences concurrently, or~~
4. For any ~~other~~ reason within the scope of Section 941.56, F.S.

(e) through (g) No change.

(5) When Florida is the Receiving State.

(a) A progress report shall be provided ~~given~~ to the sending state at six month intervals. The sending state shall be kept informed at all times of the inmate’s institutional address and shall be notified immediately if the inmate escapes.

(b) No change.

~~(c) Institutional or other officials of Florida shall not release publicity concerning inmates from a sending state except information of public record, such as sentence date. Information concerning the escape of an inmate may be given directly to news media by Florida. Persons who request other information shall be referred to the sending state.~~

~~(c)(d)~~ The release of inmates confined under the Interstate Corrections Compact will be in accordance with the instructions of the sending state.

~~(d)(e)~~ Inmates confined under the Interstate Corrections Compact shall be afforded the opportunity and shall be required to participate in programs of occupational training, industrial or other work on the same basis as inmates of Florida. Qualified inmates will be eligible for participation in Community Work Release Programs with the approval of the sending state. Approval will be obtained through the Interstate Corrections Compact Administrator.

~~(e)(f)~~ No change.

~~(f)(g)~~ No change.

~~(g)(h)~~ Inmates may be returned to the sending state upon recommendations by the ICT Classification Team and subsequent approval by the Interstate Corrections Compact Administrator ~~Warden and the Secretary or his designee~~ for the following reasons:

1. ~~F~~ failure to adjust,
2. ~~P~~ personal safety of an inmate in the sending state is no longer a factor,
3. ~~P~~ personal safety of an inmate in the receiving state becomes a factor,
4. ~~A~~ at the request of the sending state, or
5. ~~O~~ other valid reason(s).

~~(h)~~ ~~If~~ When the return of an inmate is ~~finally~~ approved the sending state shall be notified to retake the inmate within 30 days.

(6) The Interstate Corrections Compact Administrator shall coordinate the implementation of this section and shall conduct all routine correspondence with other party states.

Specific Authority 941.57, 944.09, 945.21 FS. Law Implemented 941.55, 941.56, 941.57 FS. History—New 7-7-81, Formerly 33-21.01, Amended 12-30-96, Formerly 33-21.001, Formerly 33-301.101, Amended.

WATER MANAGEMENT DISTRICTS
St. Johns River Water Management District

RULE TITLE:	RULE NO.:
Minimum Surface Water Levels and Flows and Groundwater Levels	40C-8.031

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to establish minimum water levels for the following lakes in the following counties: Emma and Lucy, Lake County; Charles and Halfmoon, Marion County; Avalon, Orange County; and South Como Park, Putnam County. The proposed rule amendment would also establish minimum water levels for a wetland system known as "The Savannah" in Volusia County. Additionally the proposed rule amendment will revise minimum water levels for the following lakes in the following counties: Apshawa South, Lake County; and Silver and Tarhoe, Putnam County.

SUBJECT AREA TO BE ADDRESSED: The proposed rule would establish or revise minimum water levels for the above listed lakes and wetland pursuant to the mandate of Section 373.042, Florida Statutes. Each of these levels would have an associated hydroperiod category. The terms herein are already defined in Chapter 40C-8, F.A.C. As with all minimum levels established by the District, if adopted, the minimum levels in this rule amendment would be used as a basis for imposing limitations on withdrawals of groundwater and surface water in the consumptive use permit regulatory process and for reviewing proposed surface water management systems in the environmental resource permit regulatory process.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

TIME AND DATE: 2:00 p.m., December 12, 2002

PLACE: St. Johns River Water Management District's Governing Board Room, 4049 Reid Street, Palatka, Florida 32177

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-8.031 Minimum Surface Water Levels and Flows and Groundwater Levels.

- (1) No change.
- (2) The following minimum surface water levels are established:

LAKE NAME	COUNTY	HYDROPERIOD CATEGORY	MINIMUM INFREQUENT HIGH	MINIMUM FREQUENT HIGH	MINIMUM AVERAGE LEVEL	MINIMUM FREQUENT LOW	MINIMUM INFREQUENT LOW
(a) No change.							
(b) APSHAWA	Lake SOUTH	Seasonally Flooded Typically Flooded Semipermanently Flooded		86.0 86.8	84.7		83.2
(c) through (d) No change.							
(e) AVALON	Orange	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>90.0</u>	<u>88.3</u>		<u>86.3</u>
(e) through (n) renumbered (f) through (o) No change.							
(p) CHARLES	Marion	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>40.6</u>	<u>39.3</u>		<u>37.9</u>
(o) through (ff) renumbered (q) through (hh) No change.							
(ii) EMMA	Lake	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>94.1</u>	<u>92.5</u>		<u>91.1</u>
(gg) through (nn) renumbered (jj) through (qq) No change.							
(rr) HALFMOON	Marion	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>49.7</u>	<u>47.9</u>		<u>46.5</u>
(oo) through (yy) renumbered (ss) through (ccc) No change.							
(ddd) LUCY	Lake	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>94.1</u>	<u>92.5</u>		<u>91.1</u>
(zz) through (xxx) renumbered (eee) through (cccc) No change.							
(dddd) SAVANNAH	Volusia	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>31.1</u>	<u>29.5</u>		<u>28.0</u>
(yyy) through (zzz) renumbered (eeee) through (ffff) No change.							
(gggg)(aaa) SILVER	Putnam	Seasonally Flooded Typically Saturated Semipermanently Flooded		<u>36.8</u> 36.5	35.1		<u>33.7</u> 34.0
(hhh)(bbb) No change.							
(iii) SOUTH COMO PARK	Putnam	<u>Seasonally Flooded</u> <u>Typically Saturated</u> <u>Semipermanently Flooded</u>		<u>38.1</u>	<u>36.7</u>		<u>35.3</u>
(cccc) through (gggg) renumbered (jjjj) through (nnnn) No change.							
(oooo)(hhh) TARHOE	Putnam	Seasonally Flooded Typically Saturated Semipermanently Flooded		37.0	<u>34.9</u> 36.0		<u>33.5</u> 35.2
(iii) through (qqqq) renumbered (pppp) through (xxxx) No change.							
(3) through (4) No change.							

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 272.0421, 373.103, 373.415 FS. History--New 9-16-92. Amended 8-17-94, 6-8-95, 1-17-96, 8-20-96, 10-20-96, 11-4-98, 6-27-00, 2-13-01, 3-19-02, _____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Minimum Flows and Levels
RULE CHAPTER NO.: 40E-8

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish minimum flows and levels for the Loxahatchee River & Estuary, in accordance with Chapter 373, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Minimum flows and levels.

SPECIFIC AUTHORITY: 373.042, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

TIME AND DATE: 9:30 a.m. – 4:30 p.m., December 9, 2002
PLACE: Clayton Hutchinson, Exhibit Hall A, 559 N. Military Trail, West Palm Beach, FL

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues contact, John Zahina, telephone 1(800)432-2045, Extension 2824 or (561)682-2824 (internet: jzahina@sfwmd.gov). For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AT THE SUBJECT WORKSHOPS AND CAN BE OBTAINED AT THE SFWMD WEBSITE OR BY CALLING THE DESIGNATED SFWMD STAFF CONTACTS.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Patient Records; Costs of Reproduction; Timely Release
RULE NO.: 64B15-15.003

PURPOSE AND EFFECT: The Board proposes to amend the rule to clarify osteopathic physicians' obligations relating to patient medical records.

SUBJECT AREA TO BE ADDRESSED: Release of medical records to patients and time limit for releasing records.

SPECIFIC AUTHORITY: 456.057, 459.005 FS.

LAW IMPLEMENTED: 456.057, 455.242 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 7, 2002 IN ORLANDO, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-15.003 Patient Records; Costs of Reproduction; Timely Release Reproducing Medical Records.

(1) Any Osteopathic Physician who makes an examination of or administers treatment to any person shall upon request of such person or his/her legal representative person licensed pursuant to Chapter 459, F.S., required to release copies of all reports or patient medical records made of such examination or treatment, including x-rays. The furnishing of such copies shall not be conditioned upon payment of an unpaid or disputed fee for services rendered, but may be conditioned may condition such release upon payment by the requesting party of the reasonable costs of reproducing the records.

(2) through (3) No change.

(4) An Osteopathic Physician shall comply with a patient's written request for copies of records and reports in a timely manner, with due regard for the patient's health needs. In the absence of circumstances beyond the control of the licensee, timely shall mean less than 30 days.

Specific Authority 456.057, 459.005 FS. Law Implemented 456.057, 455.242 FS. History--New 10-28-91, Formerly 21R-15.003, 61F9-15.003, 59W-15.003, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE CHAPTER TITLE: Licensure of Residential Treatment Centers
RULE CHAPTER NO.: 65E-9

RULE TITLES: Applicability, Definitions, Licensure, Staffing, Admission, Treatment Planning, Length of Stay
RULE NOS.: 65E-9.001, 65E-9.002, 65E-9.003, 65E-9.004, 65E-9.005, 65E-9.006, 65E-9.007

Discharge and Discharge Planning	65E-9.008
Rights of Children	65E-9.009
Restraint, Seclusion, and Time Out	65E-9.010
Medication Administration and Use of Psychotropic Medication	65E-9.011
Program Standards	65E-9.012
Operating Standards	65E-9.013
Administrative Enforcement	65E-9.014

PURPOSE AND EFFECT: The purpose and effect of this chapter is to implement the provisions of s. 394.875(10), F.A.C., with respect to residential treatment centers for children and adolescents which specify licensure standards for admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraint and time out; rights of patients; use of psychotropic medications; and standards for operation of such centers.

SUBJECT AREA TO BE ADDRESSED: The subject area addressed is s. 394.875(10), Florida Statutes. The department, in consultation with the agency, must adopt rules governing a residential treatment center for children and adolescents which specify licensure standards for: admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraints, and time-out; rights of patients under s. 394.459, F.A.C.; use of psychotropic medications; and standards for the operation of such centers.

SPECIFIC AUTHORITY: 394.875(10), 394.875 FS.

LAW IMPLEMENTED: 394.875 FS.

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

THE PERSON TO BE CONTACTED WITH REGARD TO THE PROPOSED RULE DEVELOPMENT IS: Michael Sorrell, Medical/Health Care Program Analyst, Bldg. 6, Room 297, 1317 Winewood Blvd., Tallahassee, Florida 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65E-9.001 Applicability.

These rules shall apply to all residential treatment centers, including therapeutic group homes, under contract with the department to provide treatment services to children with an emotional disturbance or serious emotional disturbance who are admitted to services pursuant to Chapter 39 or Chapter 394, Florida Statutes.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History-New

65E-9.002 Definitions.

(1) "Abuse" means any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or

emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

(2) "Adolescent" means a person who is at least 13 years of age but under 18 years of age.

(3) "Administrator" means the chief administrative officer of a receiving or treatment facility or his or her designee.

(4) "Agency" or "AHCA" means the Agency for Health Care Administration and the terms are used interchangeably to refer to the Agency for Healthcare Administration.

(5) "Assessment" means the appraisal or evaluation of a child's current condition based on but not limited to clinical and functional data, physical examination, medical history, and current symptomatology.

(6) "Behavior Analyst" means a Board Certified Behavior Analyst, or a Florida Certified Behavior Analyst with expanded privileges.

(7) "Brief Intervention" means when a staff member(s) physically redirects or briefly holds a child, without undue force and without the child's permission, for five minutes or less. Such term does not include a physical escort or physical restraint.

(8) "Chemical restraint" means the administration of any drug to control a child's behavior or restrict the child's freedom of movement, and is not a standard treatment for the child's medical or psychiatric condition.

(9) "Child" means any person under the age of 18 and, as used in this rule unless otherwise specified, includes the term "adolescent" as defined in s. 394.492(1), F.S.

(10) "Collocation" means the simultaneous operation by a provider of two or more programs on the same grounds or in the same building with complete separation of the children served by the programs.

(11) "Community Mental Health Practitioner" means an individual with, at a minimum, a bachelor's degree from an accredited college or university with a major in counseling, social work, psychology, nursing, rehabilitation, special education, health education, or a related human services field. In addition, the practitioner must have documented training in the treatment of mental health disorders, human growth and development, evaluations, assessments, treatment planning, basic counseling and behavioral management interventions, case management, documentation, psychopharmacology, abuse regulations, patient rights and special clinical circumstances such as emergencies, suicide, and out-of-control behavior.

(12) "Contract" means a formal written agreement or purchase order executed between the department and a provider for the procurement of children's mental health services. The term includes performance contracts, rate contracts, purchase orders, and subcontracts.

(13) “Cultural competence” means attaining and applying knowledge, skills, and attitudes to enable administrators and staff to provide effective care and treatment for diverse populations that respect the child and family’s individual values and beliefs.

(14) “Department” means the Department of Children and Family Services (DCF) unless otherwise specified.

(15) “DSM” means the latest edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(16) “Direct care staff” means a staff member who has direct contact with the child and has primary responsibility, identified in their job description, for providing personal care, assistance, and supervision to a child.

(17) “Emergency safety intervention” means the use of restraint or seclusion as an immediate response to an emergency safety situation.

(18) “Emergency safety situation” means unanticipated child behavior that places the child or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined in this section.

(19) “Employee” means all salaried and hourly wage personnel of the RTC, including therapeutic group home, as well as contracted persons, who may be professionals and licensed or certified pursuant to Florida law or other persons who may meet qualifications as set forth in this rule.

(20) “F.A.C.” means the Florida Administrative Code; the notebook-style publication containing these rules and the rules of all other agencies and departments.

(21) “F.S.” means the Florida Statutes; the books containing Florida’s legal statutes.

(22) “Family” means the child’s biological, adoptive or foster parent(s), guardian, siblings, grandparents, aunts and uncles, and other related or unrelated persons who have a significant relationship with the child. For children placed pursuant to Chapter 39, F.S., the term family also includes the child’s guardian ad litem.

(23) “Family centered care” means providing, within the scope of the treatment modality and provider setting, services to families in a manner that recognizes the family as the constant in the child’s life, facilitates family-professional collaboration, exchanges information in a complete and unbiased manner, honors the cultural, ethnic, and socioeconomic background of the family, respects different methods of coping, encourages and facilitates family to family networking and support. It also ensures, within the scope of the treatment modality and provider setting, that services are flexible, accessible, and comprehensive.

(24) “Governing body” means the board of trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the provider organization and who are legally responsible for the operation of the provider organization.

(25) “Interstate Compact” means the Interstate Compact on the Placement of Children, governed by s. 409.401, F.S., which all states, the District of Columbia and the United States Virgin Islands have joined as members. The law applies to all interstate placements of children into a Florida licensed residential treatment center by a sending agency from a member state or jurisdiction, as defined in Article II (b) of s. 409.401, F.S., and includes placements by public and private agencies, parents, relatives and guardians.

(26) “Licensed Practitioner of the Healing Arts” means a licensed practitioner in the community mental health services program, and includes the following professionals licensed pursuant to Florida Statute: psychiatric nurses, registered nurses, advanced registered nurse practitioners, physician assistants, clinical social workers, mental health counselors, marriage and family therapists, and psychologists.

(27) “Mechanical restraint” means any device attached or adjacent to a child’s body that the child cannot easily remove that restricts freedom of movement or normal access to the child’s body. However, mechanical restraint does include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, protective helmets and supportive body bands, or other physical holding when necessary for routine physical examinations and tests for orthopedic, surgical and other similar medical treatment purposes or when used to provide support for the achievement of functional body position or proper balance or to protect a patient from falling out of bed or to permit a patient to participate in ongoing activities without the risk of physical harm.

(28) “Medication administration” means the obtaining and giving of a single dose of medication, prescription or over-the-counter, by an authorized person to a child for his or her consumption.

(29) “Neglect” means when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or legal custodian. Neglect of a child includes acts or omissions.

(30) “Physical restraint” means the application of physical force without the use of any device, for the purpose of restricting the free movement of a child’s body. Such term does not include a physical escort or brief intervention as defined in this section.

(31) “Physical Escort” means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a child who is acting out to walk to a safe location or to safely escort an individual from one area to another. However, an intervention shall be considered a physical restraint, as defined in this section, and not a physical escort, when an attempt to re-direct or guide a child is physically resisted and the situation escalates into the need to apply physical force which restricts freedom of movement.

(32) “Plan of correction” means a written document that specifies actions a provider will take and the time frame within which the provider will come into compliance with these rules.

(33) “Primary diagnosis” means the principle mental disorder that is the medically necessary reason for clinical care and the primary focus of treatment.

(34) “Provider” means an individual, organization, corporation, including subcontractor, that is under contract with the department to provide children’s mental health services in a residential treatment center.

(35) “Psychotropic medication” means any drug prescribed with the primary intent to stabilize or improve mood, mental status, behavioral symptomatology, or mental illness.

(36) “Residential treatment center” means a 24-hour residential program, including a therapeutic group home, which provides mental health treatment and services to children as defined in s. 394.492(5) or (6), F.S., and which is a private for-profit or not-for-profit corporation under contract with the department. This rule does not change the Chapter 419 designation of a program as a “community residential home.”

(37) “Restraint” means a “chemical restraint”, “mechanical restraint” or “personal or physical restraint”, as defined in this section. Physical escort and brief intervention are excluded from this definition.

(38) “Screening” means the act of assessing the background of personnel and includes employment history checks, checks of references, local criminal records checks through local law enforcement agencies, fingerprinting, statewide criminal records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation.

(39) “Seclusion” means the involuntary confinement of a resident alone in a room or an area which the resident is physically prevented from leaving.

(40) “Senior Community Mental Health Practitioner” means an individual with, at a minimum, a master’s degree from an accredited college or university with a major in the field of counseling, social work, psychology, nursing,

rehabilitation, special education, health education, or a related human services field; and two years of documented professional experience in providing services to persons with serious mental illness; and training in evaluations and assessments, treatment planning, treatment interventions, documentation, psychopharmacology, abuse regulations, patients rights, and special clinical circumstances such as emergencies, suicide, and out-of-control behavior. A senior community mental health practitioner may also be an individual with a master’s degree from an accredited college or university with a major in the field of counseling, social work, psychology, nursing, rehabilitation, special education, health education or a related human services field; and who is under the supervision of a licensed practitioner of the healing arts.

(41) “Serious injury” means any significant impairment of the physical condition of the child as determined by qualified medical personnel. The term includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else as defined in 42 CFR, Part 483.352.

(42) “Staff” means all owners, operators, employees, whether full-time, part-time and/or volunteers working in a residential treatment center, or other facility licensed by this rule, who may be employed or contracted by or do volunteer work for a person, corporation, or organization. The term does not include those who do not work on the premises where treatment is provided or either have no direct contact with a child or have no contact with a child outside of the presence of the child’s parent or guardian.

(43) “Supervision of self-administration of medications” means the provision of overseeing, guiding and assisting a child in the self-administration of a dose of medication, including prescription and over-the-counter medications.

(44) “Therapeutic Group Home” means a 24-hour residential program providing community-based mental health treatment and extensive mental health support services in a homelike setting to no more than 12 children who meet the criteria in s. 394.492(5) or (6), F.S. Unlike the Family Safety Residential Group Home and Behavioral Health Overlay Services (BHOS) provider whose primary mission is to provide a living environment, the primary mission of the therapeutic group home is to provide treatment of serious emotional disturbance. Distinguishing features of a therapeutic group home include the following:

(a) Meets the requirements of a single-family unit or community residential home as defined in Chapter 419, F.S.; the home is a non-secure or unlocked facility;

(b) The use of physical, mechanical or chemical restraints is prohibited;

(c) The use of seclusion is prohibited. If time out is used, the provider shall comply with the procedures outlined in subsection 65E-9.010(11), F.A.C.;

(d) Children or adolescents must be medically stable;

(e) Children or adolescents being served spend a significant amount of time in the community, attending school in the community and engaged in community recreational and social activities;

(f) Treatment and support services are designed to enable children being served to transition to a less restrictive level of care or be reunited with their family; and

(g) Treatment and other mental health services are provided in a family-like setting, and the provider may employ professional parents to staff the home. Extensive mental health support services and training are provided to the group home parents and staff.

(45) "Time-out" means the restriction of a child for a brief period of time (30 minutes or less) to a designated area from which the child is not physically prevented from leaving, for the purpose of providing the child an opportunity to regain self-control and when the use is consistent with the individual's treatment plan. This procedure is sometimes known by other names, such as "brief isolation" or "exclusion." Regardless of name, the actions taken define the procedure and are therefore subject to this rule.

(46) "Treatment" means the planned, medically necessary, individualized program of medical, psychological, and/or rehabilitative procedures, experiences and activities for a child designed to remediate symptoms of a principal mental or emotional disorder diagnosed on Axis I of a five-axes DSM diagnosis. The primary diagnosis and the child's level of functioning are the reasons for treatment and the focus of the clinical interventions provided. The need for treatment is determined by a mental health assessment, including the principal disorder and child's level of functioning.

(47) "Treatment plan" means the written compilation of the child's individualized treatment goals, measurable objectives and treatment services to be provided. The treatment plan is the goal-oriented, time limited, individualized plan of action, which directs the treatment and services provided for the child and family.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New.

65E-9.003 Licensure.

(1) An entity that holds itself out to be or acts as a residential treatment center shall obtain annually and maintain active licensure from the agency, unless specifically excluded from being licensed under the provisions of s. 394.875(5), F.S.

(2) Buildings that are separated from one another in which a similar level of residential care and treatment is provided may be licensed as one facility under the following circumstances:

(a) Such buildings are not separated by another building, part of a building, or buildings used for other purposes; and

(b) Such buildings are not separated by obstructions that impede the rapid movement of staff between them.

(3) Initial license – New construction or new operation. Applicants for an initial license shall submit a completed AHCA Form 3180-5004, Mar 2001, "Residential Treatment Centers for Children and Adolescents," which is incorporated by reference and may be obtained from the agency. The following supplemental information shall be attached to the application:

(a) Program narrative that contains the following:

1. List of services provided, including a description of each service;

2. Staffing pattern description, including the hours and days of on-premises and on-call staff coverage, and the number and types of staff on duty for each shift; and

3. Resident population description, based on the criteria in Rule 65E-9.005, F.A.C.

(b) Table of organization, including all management levels between the residential treatment center and the governing board.

(c) Résumé of the residential treatment center administrator.

(d) Fiscal information, including a current balance sheet and a statement of operation projecting revenues, expenses, taxes, extraordinary items and other credits and charges for the first six months of operation.

(e) Proof of liability insurance coverage from a licensed insurer in an amount not less than \$300,000 per occurrence with a minimal annual aggregate of not less than \$1,000,000.

(f) Copy of a satisfactory fire safety inspection report completed within the last 365 days shall be obtained from the local fire authority.

(g) Copy of a satisfactory sanitation inspection report completed within the last 365 days shall be obtained from the county health department of the county in which the facility is located.

(h) For therapeutic group homes that will be licensed for one to 12 beds, a completed DCF Form 1786, "Community Residential Home Sponsor Form," which is incorporated by reference and may be obtained from the department.

(i) For facilities that will be licensed for 13 beds or more, a signed statement from the local governing authority that the facility has met local zoning requirements.

(j) If accredited, proof of current accreditation from Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Commission on Accreditation of Rehabilitation Facilities (CARF), Council on Accreditation for Children and Family Services (COA), or the National Committee for Quality Assurance (NCQA). Proof of accreditation shall include:

1. A copy of the accreditation award letter;

2. A copy of the accreditation certificate;

3. A copy of the accreditation report; and

4. A copy of any follow-up reports to or from the accrediting organization.

(k) Proof of the legal right to occupy the property. Proof may include copies of warranty deeds, or copies of a lease or rental agreement, contracts for deeds, quitclaim deeds, or other such documentation.

(l) Proof that the corporation is active with the Florida Department of State, Division of Corporations.

(m) A copy of the signed contract with the department.

(4) A new facility may be provided a 90-day probationary license after the completed application has been verified for compliance with applicable statutes and rules. The probationary period may be extended for an additional 90 days if the applicant has substantially complied with the requirements for licensure, and if action has been initiated to satisfy all of these requirements. When it is determined that the facility is endangering the health and safety of persons receiving services, the probationary license must be cancelled by the Agency.

(5) Renewal license.

(a) An applicant for renewal of a license shall apply to the agency no later than 90 days before expiration of the current license. Failure to submit the renewal application at least 90 days prior to the expiration of the license will result in a fine as authorized under s. 394.879(4), F.S.

(b) Applicants for a renewal license to operate a residential treatment center shall submit:

1. A completed AHCA Form 3180-5004, March 2001, "Residential Treatment Centers for Children and Adolescents", which is incorporated by reference and may be obtained from the agency.

2. Fiscal information, including a current balance sheet.

3. Proof of liability insurance coverage from a licensed insurer in an amount not less than \$300,000 per occurrence with a minimal annual aggregate of not less than \$1,000,000.

4. Proof of current accreditation from a national accrediting agency, if applicable.

5. Proof that the corporation is active with the Florida Department of State, Division of Corporations.

6. A copy of the department's renewal contract.

7. The following supplemental information shall be attached to the application only if it has been revised since it was previously submitted to the agency.

a. The current program narrative which contains the following:

1. List of services provided, including a description of each service;

2. Staffing pattern description, including the hours and days of on-premises and on-call staff coverage, and the number and types of staff on duty for each shift; and

3. Resident population description, based on the criteria in Rule 65E-9.005, F.A.C.

b. Table of organization, including all management levels between the residential treatment center and the governing board.

c. Résumé of the residential treatment center administrator.

d. Fiscal information, including a current balance sheet.

(6) Change of ownership or change of licensed operator.

(a) An applicant for a change of ownership or change of licensed operator shall submit an application that meets the requirements of subsection 65E-9.003(3), F.A.C., to the agency at least 30 days before the change is effective.

(b) The transferor shall be responsible and liable for:

1. The lawful operation of the facility until the date the transferee is licensed by the agency.

2. All penalties imposed against the facility for violations occurring before the date of the transfer of ownership unless the penalty imposed is a moratorium on admissions or denial of the license. The moratorium on admissions or denial of the license remains in effect after the transfer of ownership, unless the agency has approved the transferee's corrective action plan or the conditions that created the moratorium or denial have been corrected, and may result in denial of license to the transferee in accordance with Chapter 120, F.S.

3. Any outstanding liability to the state, unless the transferee has agreed as a condition of sale or transfer to accept the outstanding liabilities and to guarantee payment therefore; except that, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability and shall honor such liability by payment to the state prior to issuance of the new license or by executing such documents of indebtedness as the state shall require as a condition of this licensing process.

4. The transferor of a facility, the license of which is denied pending an administrative hearing, shall, as a part of the written transfer-of-ownership contract, advise the transferee that a plan of correction shall be submitted by the transferee and approved by the agency at least seven (7) days before the transfer of ownership and that failure to correct the condition which resulted in the moratorium on admissions or denial of the license shall be grounds for denial of the transferee's license.

(c) The transferee shall provide the agency with proof of legal right to occupy the property before a license may be issued. Proof may include copies of warranty deeds, or copies of a lease or rental agreement, contracts for deeds, quitclaim deeds, or other such documentation satisfactory to the department.

(d) When the provider receives documentation that the agency has determined that the application package for a change of ownership or a change of licensed operator contains all required documentation and the required fee has been paid, a 90-day probationary license may be issued. The probationary period may be extended for an additional 90 days if the

applicant has substantially complied with the requirements for licensure, and if action has been initiated to satisfy all of the remaining requirements.

(7) Accredited programs. Providers accredited by a national accrediting agency, including but not limited to the JCAHO, CARE, COA, or NCOA are not required to submit a program narrative, table of organization, or the résumé of the residential treatment center administrator with the application package.

(8) License fee. An application fee shall be submitted with the initial application, change of ownership or change of licensed operator application or capacity increase application, and with the annual renewal application. The fee is non-refundable. The fee shall be reasonably calculated annually by the agency to cover the cost of regulation. The formula for calculating this fee is the prorated cost of agency staff and expense needed for licensing and surveying residential treatment centers divided by the number of residential treatment centers, times the number of beds in the facility applying for a license.

(9) The license shall be displayed in a conspicuous location inside the facility.

(10) Enforcement of these rules shall be in accordance with s. 394.879, F.S., and s. 394.902, F.S.

(11) The provider shall allow department and agency staff to make scheduled or unannounced visits to a residential treatment center at any time in accordance with the provisions of s. 394.90, F.S. The provider shall also allow qualified evaluators to make scheduled visits for the purpose of conducting evaluations and suitability assessments as required by Chapter 39.407(5)(b) and (i), F.S.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New

65E-9.004 Staffing.

(1) Personnel procedures. The provider shall have written personnel procedures for the recruitment, retention, and effective performance of qualified staff. The procedures shall define the types and numbers of clinical, managerial and direct care staff needed to provide children with care and treatment in a safe and therapeutic environment.

(2) Staff communication. The provider's personnel procedures shall ensure and require the inter-communication among staff of information regarding children necessary to the performance of each staff responsibility, including between working shifts, staff changes and consultations with professional staff. Where one staff member or one program group relies upon information provided through this required free interchange of information, these interactions shall be documented in writing and maintained in the respective children's case files.

(3) Staff composition. The staff composition shall be determined by the needs of the children being served, by the nature of the treatment program, and by this rule. The provider shall have sufficient numbers of professional, direct care, program and administrative staff to provide effective care and treatment as defined in the child's treatment plan. Staff shall be assigned duties consistent with their position, qualifications, training and experience. The provider shall have the following staffing, any of which may be part-time, if the required coverage is provided, except for those positions with a required specified staffing ratio:

(a) Psychiatrist.

1. For Residential Treatment Centers, the provider shall have on staff or under contract a psychiatrist who is board certified or board eligible in child and adolescent psychiatry to serve as medical director for the program and such position shall direct all aspects of mental health treatment provided for the children. A psychiatrist who consults with the board certified psychiatrist may provide back-up coverage. A psychiatrist shall be on call 24 hours a day, seven days a week, and shall participate in staffings.

2. For Therapeutic Group Homes, the provider shall have on staff or under contract a board certified or board eligible psychiatrist or have a definitive written agreement with a board certified or board eligible psychiatrist or an agency to provide psychiatric services to children in the home, including participation in staffings.

(b) Medical Doctor. The provider shall have on staff or under contract a pediatrician or family practitioner with training in the care of children and adolescents, or have definitive written agreements for licensed physicians to provide primary medical coverage.

(c) Registered nurse.

1. For Residential Treatment Centers that use seclusion or restraint or administer medications in their program, a registered nurse shall supervise the nursing staff. At a minimum, a licensed practical nurse shall be on duty 24-hours-a-day, 7-days-a-week. During the times that the children are present in the facility and normally awake, the nursing staff to child ratio shall be no less than 1:30, and during normal sleeping hours, the nursing staff to child ratio shall be no less than 1:40.

2. For Therapeutic Group Homes or Residential Treatment Centers who do not use restraint or seclusion in their program, the provider is not required to have a registered nurse or other nursing staff on duty, but shall have definitive written agreements for necessary nursing services.

(d) Psychologist. Each provider shall have on staff or under contract, at a minimum, one licensed psychologist or have definitive written agreements with an individual psychologist or agency to provide such services as needed.

(e) Direct care staff. At a minimum, two (2) direct care staff shall be awake and on duty at all times. In addition, the following direct care staff-to-child ratios shall be provided and maintained:

1. For Residential Treatment Centers:

a. During hours when children are present in the facility and normally awake, the direct care staff to child ratio shall be no less than 1:4; and

b. During hours when the children are normally asleep, the direct care staff to child ratio shall be no less than 1:6;

2. For Therapeutic Group Homes:

a. For children six years of age or older, the direct care staff to child ratio shall be no less than 1:6 during hours when children are present in the facility and normally awake; and

b. For children six years of age or older, the direct care staff to child ratio shall be no less than 1:10 during hours when the children are normally asleep.

c. If there are children under six years of age residing in the facility, the direct care staff to child ratio shall be no less than 1:4 during hours when children are present in the facility and normally awake; and no less than 1:6 when children are normally asleep.

3. Direct care staff shall not divide time on their shift between programs located in other areas of the facility or other buildings.

4. While transporting residents, the driver shall not be counted as the direct care staff providing care, assistance or supervision of the child.

(f) A Board Certified Behavior Analyst, a Florida Certified Behavior Analyst with expanded privileges or Community Mental Health Practitioner. If the provider's program includes behavioral programming, a certified behavior analyst or community mental health practitioner with documented training and experience in behavior analysis shall be employed on staff or under contract, either full or part time, to provide ongoing staff training and quality assurance in the use of the behavioral techniques, including the use of time-out procedures, point systems or level systems.

(g) The provider shall be able to demonstrate and provide as necessary, upon request, the ability to acquire and the past uses of the consultation services of dietitians, speech, hearing and language specialists, recreation therapists, and other specialists, when same will be or has been needed.

(4) Staff qualifications.

(a) The administrator shall have a master's degree in administration or be of a professional discipline such as social work, psychology, counseling, or special education and have at least two years administrative experience. The administrator may be an agency or corporate administrator, who is not located onsite and who is responsible for a number of programs operated by the agency or corporation. If the administrator is not routinely located on site, an individual qualified by training and experience who is routinely located on site must be

appointed in writing to act as the administrator's designee. A person with a baccalaureate degree may also qualify for administrator with seven years experience of child and adolescent mental health care and three years administrative experience. Persons occupying this position before July 1, 2001, or promulgation of this rule, whichever is later, may be allowed to continue in this position.

(b) The medical director shall have experience in the diagnosis and treatment of child and adolescent mental health and be board certified or board eligible in psychiatry with the American Board of Psychiatry.

(c) If the clinical director is not full-time, there shall be a full-time service coordinator who is a senior community mental health practitioner.

(d) Individual therapy shall be provided by an individual licensed under Chapter 491, F.S., or a master's level individual working under the direct supervision of an individual licensed under Chapter 491, F.S.

(e) Family therapy shall be provided by an individual licensed under Chapter 491, F.S., or a master's level individual working under the direct supervision of an individual licensed under Chapter 491, F.S.

(f) Group therapy shall be provided by an individual licensed under Chapter 491, F.S., or a master's level individual working under the direct supervision of an individual licensed under Chapter 491, F.S.

(g) Staff responsible for treatment and discharge planning shall have a minimum of a bachelors degree in psychology, counseling, social work, special education, health education or related human services field with at least two years of experience working with children with emotional disturbance. These staff shall be supervised by a master's level clinician.

(h) Direct Care Staff employed to work directly with children shall be at least 18 years of age and have a high school diploma or general education development (GED) certificate. Staff employed before the effective date of this rule who do not meet the above education criteria may continue to work at their current place of employment.

(5) Staff orientation and training.

(a) The provider shall have, and implement on an ongoing basis, a written plan for the orientation, ongoing training, and professional development of staff.

(b) The provider shall implement orientation and training programs for all new employees and ongoing staff training to increase knowledge and skills and improve quality of care and treatment services.

(c) The provider shall conduct orientation for each new employee during the first 2 weeks of employment. The orientation shall include specific job responsibilities, policies and procedures, care and supervision of children, and competency-based first aid and CPR.

(d) The provider shall document training received by staff, including staff name and position, training subject, date completed and signature of instructor. The documented training shall be filed in the staff member's personnel record.

(e) The provider shall implement a minimum of 40 hours of in-service training annually for all staff and volunteers who work directly with children. Continuing education for professional licenses may count towards training hours if the training covers the appropriate areas. This training shall cover all policies and procedures relevant to each position and shall, at a minimum, include each of the following:

1. Administrative:

a. Administrative policies and procedures and overall program goals;

b. Federal and state laws and rules governing the program;

c. Treatment plan development and implementation;

d. Discharge planning;

e. Identification and reporting of child abuse and neglect;

f. Protection of children's rights; and

g. Confidentiality.

2. Safety:

a. Disaster preparedness and evacuation procedures;

b. Fire safety;

c. Emergency procedures;

d. Violence prevention and suicide precautions; and

e. First aid and CPR, with competency demonstrated annually.

3. Child development:

a. Child supervision skills;

b. Children's physical and emotional needs;

c. Developmental stages of childhood and adolescence;

d. Family relationships and the impact of separation;

e. Substance abuse recognition and prevention; and

f. Principles and practices of child care.

4. Treatment services:

a. Individualized treatment that is culturally competent;

b. Treatment that addresses issues the child may have involving sexual or physical abuse, abandonment, domestic violence, separation, divorce, or adoption;

c. Behavior management techniques, including but not limited to use of restraint and seclusion, physical escort, brief intervention, time out, point systems or level systems, de-escalation procedures, and crisis prevention and intervention;

d. Treatment that supports the child's permanency goals; and,

e. The provider shall ensure ongoing training and be able to produce documentation of such training on the use of restraint and seclusion, physical escort, brief interventions, de-escalation procedures and crisis prevention and intervention.

(I) Before staff may participate in any use of restraint or seclusion, staff shall be competency trained to minimize the use of restraint and seclusion, to use alternative, non-physical, non-intrusive behavioral intervention techniques to handle agitated or potentially violent children, and to use restraints and seclusion safely.

(II) Staff shall complete a training course approved by the department and provided by individuals qualified by education, training, and experience. Competencies shall be demonstrated on a semiannual basis. Training requirements for all staff who are authorized to participate in the use of restraint and seclusion shall include:

(A) An understanding of the underlying causes, e.g., medical, behavioral and environmental, of consequential behaviors exhibited by the children being served;

(B) How staff behaviors can affect the behaviors of others;

(C) The use of de-escalation, mediation, active listening, self-protection and other techniques, such as time-out;

(D) Recognizing signs of respiratory and cardiac distress in children;

(E) Recognizing signs of depression and potential suicidal behaviors;

(F) Certification in the use of cardiopulmonary resuscitation;

(G) How to monitor children in restraint or seclusion; and

(H) The safe use of approved restraint techniques, including physical holding techniques, take-down procedures, and the proper application, monitoring and removal of restraints.

(III) Training requirements for staff who are authorized to monitor a child's condition and perform assessments while the child is in seclusion or restraint shall include:

(A) Taking vital signs and interpreting their relevance to the physical safety of the child;

(B) Tending to nutritional and hydration needs;

(C) Checking circulation and range of motion in the extremities;

(D) Addressing hydration, hygiene and elimination;

(E) Addressing physical and psychological status and comfort;

(F) Assisting children in meeting behavior criteria that would allow for the discontinuation of restraint or seclusion;

(G) Recognizing the child's appropriate behavior and readiness for the discontinuation of restraint or seclusion; and

(H) Recognizing the need for and when to contact a medically trained licensed practitioner or emergency medical services in order to evaluate and treat the child's physical status.

(6) Volunteers and students.

(a) A provider that uses volunteers to work directly with children shall:

1. Screen the volunteers in accordance with s. 394.4572, F.S.:

2. Develop descriptions of duties and specific responsibilities expected of each such student or volunteer;

3. Provide orientation and training, including policies and procedures, the needs of children in care, and the needs of their families;

4. Ensure that volunteers who perform any services for children have the same qualifications and training as a paid employee for the position and receive the same supervision and evaluation as a paid employee; and

5. Keep records on the hours and activities of volunteers.

(b) A provider that accepts students who will have direct contact with residents shall:

1. Develop, implement, and maintain on an ongoing basis a written plan describing student tasks and functions. Copies of the plan shall be provided to each student and his or her school;

2. Designate a staff member to supervise and evaluate the students;

3. Conduct orientation and training, including policies and procedures, the needs of children in care and the needs of their families;

4. Ensure that students do not assume the total responsibilities of any paid staff member (students shall not be counted in the staff to client ratio); and

5. Screen the students in accordance with s. 394.4572, F.S.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New

65E-9.005 Admission.

(1) The following admission procedures do not apply to children placed in accordance with Chapter 985, F.S.

(2) The provider shall have and utilize written admission procedures that address:

(a) Admission criteria;

(b) List of materials and forms required from the parent, guardian or referring organization;

(c) Outline of the pre-placement procedures for the child, parent or guardian, the referring organization and the department; and

(d) Orientation for the child and parent or guardian, and guardian ad litem.

(3) Acceptance of a child for residential treatment in a residential treatment center, including therapeutic group home, (excluding children placed under Chapter 985, F.S.) shall be based on the assessed needs of the child, the determination that the child requires treatment of a comprehensive and intensive nature and the provider's ability to meet those needs.

(4) Children placed by the department (excluding children placed under Chapter 985, F.S.) and funded in full or in part by state, Medicaid or local matching funds shall be admitted only after they have been personally examined and assessed for suitability for residential treatment by a licensed psychologist

or psychiatrist who has at least three years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center, whose written findings are that:

(a) The child has an emotional disturbance as defined in s. 394.492(5), F.S., or a serious emotional disturbance as defined in s. 394.492(6), F.S.;

(b) The emotional disturbance or serious emotional disturbance requires treatment in a residential treatment center;

(c) All available treatment that is less restrictive than residential treatment has been considered or is unavailable;

(d) The treatment provided in the residential treatment center is reasonably likely to resolve the child's presenting problems as identified by the qualified evaluator;

(e) The provider is qualified by staff, program and equipment to give the care and treatment required by the child's condition;

(f) The child is under the age of 18; and

(g) The nature, purpose and expected length of the treatment have been explained to the child and the child's parent or guardian and guardian ad litem.

(5) The provider may establish additional admission criteria to ensure that the program admits only children the program is capable of serving.

(6) Admission packet. The provider shall require documentation in the child's admission packet, including:

(a) The child's parent or guardian has given expressed and informed consent to treatment;

(b) A funding source has been secured for the expected duration of the treatment. If the department is the funding source, there shall be written authorization from the department's mental health program office that approved the funding;

(c) An initial discharge plan has been developed for the child and is included in the admission packet;

(d) The location of the parent or legal guardian or court ordered custodian with responsibility for medical and dental care, including consent for medical and surgical care and treatment and a statement signed by the parent or legal guardian, and a copy given to the parent or legal guardian, requiring the parent or legal guardian to notify the provider of any change in the parent's or legal guardian's address or telephone number;

(e) Order of court commitment or a voluntary placement agreement with parents, guardian, or legal custodian;

(f) Arrangements for family participation in the program, including phone calls and visits with the child;

(g) Arrangements for clothing, allowances and gifts;

(h) Arrangements regarding the child leaving the facility with or without the clinical director's consent;

(i) Written policies specifying the child's rights;

(j) Written acknowledgment of receipt and understanding by the parent or legal guardian and guardian ad litem of the provider's policy regarding the use of restraint or seclusion during an emergency safety situation;

(k) Psychiatric and psychological evaluations with diagnosis and prior treatment history and psychosocial evaluations, including family relationships, legal status and prior placement history;

(l) Educational evaluation, including current individual education plan and school placement; and

(m) Medical information, including a listing of current medications;

1. If a physical examination was not performed within the 90 days prior to admission and documentation of such examination was not provided, a physical examination by a licensed physician shall be initiated within 24 hours of admission;

2. The child's medical history;

3. Written consent from the child's parent or guardian for the provider to authorize routine medical and dental procedures for the child, and to authorize emergency procedures when written parental consent cannot be obtained; and

4. Immunization status and completion according to the U.S. Public Health Service Advisory Committee on Immunization Practices and the Committee on Control of Infectious Diseases of the American Academy of Pediatrics.

(7) Placement agreement. The provider shall have and make available upon request a written agreement between the provider, the child's parent, guardian, and the department, which shall be kept in the child's file and available for review by the department and agency. The written agreement shall be signed and dated by each of the parties involved. Any revisions or modifications to the written agreement shall be signed and dated. The agreement shall include, at a minimum:

(a) The frequency and types of regular contact between the child's family and the provider staff;

(b) A plan for sharing information about the child's care and development with the parent, guardian, the guardian ad litem, and the department;

(c) The family and the provider's participation in the ongoing evaluation of the child's needs and progress;

(d) The designation of staff responsibility for working with the child's parent, guardian, guardian ad litem and the organization that signs the placement agreement;

(e) Visitation plans for the child's parent, guardian, guardian ad litem or the department. The visitation plans must be flexible to accommodate work and other important schedules of the child's family;

(f) Provisions for service plan reviews;

(g) The financial plan for payment of care and any fees to be covered;

(h) The conditions under which the child will be released from the program;

(i) A designation of responsibility for aftercare services and, if the child is assessed as needing transition to adult mental health services, designation of responsibility for assisting with the transition;

(j) A written description of complaint procedures, including a method of appeal to the provider management for complaints not resolved to the satisfaction of the child or parent or guardian; and

(k) A statement signed by the parent or guardian acknowledging they are aware of their responsibility to keep the provider aware of any changes in their address or telephone number.

(8) Interstate compact.

(a) Before the provider accepts placement of a child from out-of-state, the provider shall receive written approval from the department's Office of the Interstate Compact on the Placement of Children. In order to receive written approval from the department, the provider shall require as part of the admission process that the person responsible for the child prepare an interstate compact placement request package and send it to the state Interstate Compact on the Placement of Children Office in their state of residence for processing and mailing to the department's Interstate Compact on the Placement of Children Office in Florida.

(b) This interstate compact placement request package shall contain an ICPC 100A Interstate Compact Placement Request, Form CF 794, Oct 96, which is hereby incorporated by reference, or a substantially similar form used by the state or jurisdiction of residence of the sending agency or person. It shall also contain a letter on the Florida Residential Treatment Center letterhead stationery indicating that the child has been accepted for placement, or that the child is being considered for placement, and any other supporting documents that may be required under Article III of the Interstate Compact. The signed, dated and approved ICPC 100A shall be evidence of the approval required by the department and shall be placed and maintained in the child's record.

(c) Within 10 business days of physical arrival of a child from out-of-state, the provider shall complete, date, and sign an ICPC 100B Interstate Compact Report on Child's Placement Status, Form CF 795, Oct 96, which is hereby incorporated by reference, place a copy of the form in the child's record, and mail the original and two copies to: Office of the Interstate Compact on the Placement of Children, Family Safety Program Office, Florida Department of Children & Families, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New _____.

65E-9.006 Treatment Planning.

(1) Within ten business days after admission, a written treatment plan shall be developed with input from, interpreted to and signed and dated by the child, if capable, the child's parent(s) or guardian, foster parents or guardian ad litem, if applicable, a representative of the department, and any other party involved in the development of the plan, with a copy submitted to each. If a child is determined to be incapable of signing the treatment plan, a written justification of the determination must be placed in the child's record.

(2) For children admitted under s. 39.407, F.S., the provider shall also:

(a) Explain the treatment plan to the child, the child's Family Services Counselor, and the guardian ad litem; and

(b) Submit a copy of the plan to the child, guardian ad litem, and the department's district/regional office.

(3) The multi-disciplinary professional staff, including the psychiatrist, shall participate in the preparation of the treatment plan and any major revisions of it.

(4) The treatment plan shall include clinical consideration of the child's physical, behavioral, developmental, psychological, and chronological age, family situation, educational level, and social and recreational needs.

(5) The treatment plan shall include specific observable and measurable behavioral goals and objectives with expected treatment outcomes. The treatment objectives shall be stated in measurable and observable terms, including projected time frames, treatment modalities to be used, staff responsible for coordinating and carrying out specific objectives, expected length of stay and the designated person or organization to whom the child will be discharged.

(6) The treatment plan shall also include, with input from the child and parent or guardian, guardian ad litem, and other stakeholders (e.g.: Family Safety case manager, other community agencies or organizations) as necessary:

(a) Description of the presenting problem, including descriptions of behaviors and reason for admission;

(b) Treatment and services to be provided in response to the presenting problem and the child's assessed strengths and needs;

(c) The expected degree of the parent or guardian's involvement;

(d) Planned regular provider contact with the child's parent or guardian; and

(e) Description of the child and family's current and potential strengths and problems, service agencies with which the child has been or will be involved and other support systems that may contribute to the success of treatment.

(7) The provider shall review the treatment plan within 30 days of admission and at least monthly thereafter with input from the child and parent or guardian, guardian ad litem, and other stakeholders (e.g.: Family Safety case manager, other community agencies or organizations) to assess the

appropriateness and suitability of the child's placement in the program, to evaluate the child's progress toward treatment goals and determine if the child is ready to move to a less restrictive program.

(8) The provider shall prepare a written report of findings at a minimum of every 30 days and submit the report, and pending discharge plans, to the department and parent(s) or legal guardian.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New

65E-9.007 Length of Stay.

(1) The provider shall involve the child and the child's parent or guardian to the fullest extent possible at all stages of treatment planning and discharge planning toward the goal of reintegrating the child into the community.

(2) The child's discharge plan shall be reviewed and, if necessary, revised during each review of the treatment plan.

(3) The provider shall design individualized services and treatment for the child to address the child's presenting problems on admission with a goal of discharge to the community or to a step-down program within 120 days of admission for residential treatment centers and 180 days for therapeutic group homes. While it is understood that some children may require longer lengths of stay due to the child's presenting problems, diagnosis, and severity of symptomatology, treatment plans must be developed with the goal of discharge or step-down to a less restrictive placement within the time limits above.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New

65E-9.008 Discharge and Discharge Planning.

(1) The provider shall have and use on an ongoing basis a written procedure on discharge planning and aftercare services that specifies the availability of services and the persons responsible for implementation of the aftercare plan.

(2) Discharge planning shall begin at the time of admission. A discharge plan shall be developed, written and interpreted in collaboration with the child, parent or guardian, foster parents, department, and guardian ad litem, if applicable, within ten days of admission, and a projected date for discharge shall be included in the child's treatment plan. A copy of the discharge plan shall be given to the parent, guardian, or foster parent, the guardian ad litem, and the department.

(3) Discharge planning shall include input from the child, the child's parent or guardian, foster parents, department, and guardian ad litem.

(4) Discharge planning may include a period of transition into the community, such as home visits and meetings with community mental health service providers.

(5) Discharges shall be approved and signed by the treating psychiatrist.

(6) A child may be discharged only to the parent, guardian or placing organization, unless the provider is otherwise ordered by the court.

(7) The provider shall prepare a discharge summary, approved and signed by the administrator. A copy of this discharge summary shall be provided to the parent or guardian, guardian ad litem and department at least 30 days before the proposed discharge date, which, at a minimum, shall include:

(a) The initial formulation and diagnosis;

(b) A summary of treatment and services which have been provided, the outcomes of treatment in relation to the child's presenting problem on admission, and identification of needs for continuing treatment and services in the community following discharge;

(c) Recommendations for the child and parent or guardian following release from care, including referrals for community-based mental health services;

(d) The projected date of discharge and the name, address, telephone number and relationship of the person or organization to whom the child will be discharged; and

(e) A copy of the child's medical, dental, educational, medication and other records for the use of the person or organization who will assume care of the child following discharge.

(8) Aftercare plans shall be developed by the provider staff under the guidance of the clinical director and shall encourage the active participation of the child and parent or guardian and guardian ad litem.

(9) The provider shall have and utilize written procedures for follow-up care, including a written plan for follow-up services and at least one contact with the discharged child and his parent or guardian and guardian ad litem within the first 30 days following discharge.

(10) For adolescents age 17 or older, the provider shall assess their needs for continuing services in the adult mental health service system and assist them in planning for and accessing those services.

(11) Within 10 business days of the physical departure of a child placed from out-of-state, the provider shall complete, date, and sign an ICPC 100B Interstate Compact Report on Child's Placement Status, Form CF 795, Oct 96, which is hereby incorporated by reference, place a copy of the form in the child's record, and mail the original and two copies of the form to: Office of the Interstate Compact on the Placement of Children, Family Safety Program Office, Florida Department of Children & Families, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History--New.

65E-9.009 Rights of Children.

(1) The provider shall protect children's rights under the federal and state constitutions and as specified in s. 394.459 and s. 394.4615, F.S. The provider shall also ensure that:

(a) Children in the program shall be informed of their rights. Children's rights shall be communicated in a language the child and the parent or guardian understands, including American Sign Language or through an interpreter or translator if needed. The provider shall explain and give a copy of resident's rights to the child and the child's parents or guardian and guardian ad litem at admission.

(b) Physical punishment and treatment modalities that place the child at risk of physical injury or pain or death, including electroconvulsive or other convulsive therapy, "cocoon therapy," or other hazardous procedures shall never be used.

(c) Children shall not be subjected to cruel, severe, unusual or unnecessary punishment or assigned excessive exercise or work duties, nor shall they be subjected to physical or mental abuse or corporal punishment.

(d) Children shall be free from restraint or seclusion that is imposed as a means of coercion, discipline, punishment, convenience or retaliation by staff, or as a substitute for treatment or supervision.

(e) Orders for restraint and seclusion shall not be implemented simultaneously.

(f) Children shall not be subjected to hazing, verbal abuse, coercion or remarks that ridicule them, their families or others.

(g) Children shall not be denied food, water, clothing, medical care, prescribed therapeutic activities, or contacts with family, counselors or legal representatives.

(h) Children shall not be exploited or required to make public statements to acknowledge gratitude to the provider program or perform at public gatherings.

(i) Identifiable pictures of children shall not be used without prior written consent of the parent or guardian. The signed consent form for any such usage shall be event-specific, indicate how the pictures will be used, and placed in the child's clinical record; and

(j) The child and the child's family or guardian shall have the right to inspect and request a copy of the child's records. The facility may charge a reasonable cost for copies, not to exceed the cost of copying.

(2) Visits, mail, and telephone. The provider shall have and shall implement on an ongoing basis a written procedure that encourages and supports family visits, mail, telephone calls, and other forms of communication with parents, family, friends or others with whom the child has a significant relationship. A copy of the procedure shall be provided to children, staff, parents and guardians, and to the department.

(3) Discipline and control. The provider shall have written and implement on an ongoing basis procedures regarding methods used for discipline and control of children. The

procedure shall include identification of staff authorized and trained to impose discipline and control, staff training requirements, methodology, monitoring, incident reporting, and quality improvement.

(4) Complaint and grievance. The provider shall have and implement on an ongoing basis a written complaint and grievance procedure that outlines the process available to children and their parents or guardians and guardian ad litem for addressing complaints and grievances. This procedure shall be written in a clear and simple manner and a copy shall be provided and explained to the child and parent or guardian and guardian ad litem upon admission.

(5) Child abuse and neglect.

(a) The provider, as a mandated reporter, shall report to the department all suspected cases of child abuse and neglect in accordance with Chapter 39 and s. 394.459, F.S.

(b) Each child shall have ready access to a telephone in order to report an alleged abuse, neglect or exploitation. The provider shall orally and in writing inform each child of the procedure for reporting abuse. A written copy of that procedure, including telephone number of the abuse hotline and reporting forms, shall be posted in plain view within eighteen inches of the telephone(s) designated for use by the children.

(c) The provider shall establish and implement on an ongoing basis a written procedure for immediate protection of the victim and prevention of a recurrence of the alleged incident pending investigation by the department.

(d) The provider shall require each staff member, upon hiring and every 12 months thereafter, to read and sign a statement summarizing the child abuse and neglect laws and outlining the staff member's responsibility to report all incidents of child abuse and neglect. Such signed statements shall be placed in each employee's personnel file.

(e) Residents' rights posters, including those with the telephone numbers for the Florida Abuse Hotline, Statewide Advocacy Council and the Advocacy Center for Persons with Disabilities, shall be legible, a minimum of 14 point font size, and shall be posted immediately next to telephones which are available for residents' use.

(6) Confidentiality related to HIV-infected children.

(a) The identity of any child upon whom an HIV test is performed and the child's HIV test result shall be disclosed to an employee of the department or child-caring or child-placing organization directly involved in the placement, care or custody of such child only when the employee or organization needs to know such information to provide:

1. Case-specific services, such as assessing needs, determining eligibility, arranging care, monitoring case activities, permanency planning or providing care for the child;

2. Case-specific supervision or monitoring of cases for eligibility or legal compliance or casework services; or

3. Case-specific clerical and vouchering support.

(b) The identity of a child upon whom an HIV test is performed shall be disclosed to a foster family or child-caring or child-placing organization licensed pursuant to Florida Statutes, which is directly involved in the care of such child and has a need to know such information. The identity of the child shall be disclosed only after the following conditions have been met:

1. The department or child-placing or child-caring organization has provided to the foster family or child-caring or child-placing organization all available information, including HIV test results, social information and special needs, in a manner that does not permit identification of the child, and

2. The prospective placement has agreed to accept the child and the decision to place the child in that specific placement has been confirmed.

(c) The child-caring, child-placing organization, foster home or adoptive home that has accepted an HIV-infected child for care shall be given a statement in writing which includes the following language: "This information has been disclosed to you from confidential records. The confidentiality of this record is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law."

(d) The child's record shall contain documentation of the date and time that the written statement was given to the child-caring, child-placing organization or to the foster or adoptive parents.

(e) The case files of HIV-infected children shall not be segregated or flagged in any way that would permit their identification as case files of HIV-infected children or in any way different from the files of non-HIV-infected children.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History—New _____.

65E-9.010 Restraint, Seclusion, and Time-out.

(1) General requirements

(a) Restraint or seclusion shall only be used in an emergency safety situation.

(b) Restraint or seclusion shall not result in harm or injury to the child and shall be used only:

1. To ensure the safety of the child or others during an emergency safety situation; and

2. Until the emergency safety situation has ceased and the child's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired.

(c) Restraint or seclusion shall not be used for purposes of punishment, coercion, discipline, convenience, or retaliation by staff or to compensate for inadequate staffing.

(d) An order for restraint or seclusion shall not be issued as a standing order or on an as-needed basis.

(e) Restraint or seclusion shall be used in a manner that is safe and proportionate to the severity of the behavior and the child's chronological and developmental age; size; gender; physical, medical and psychiatric condition, including current medications; and personal history, including history of physical or sexual abuse.

(f) Only staff who have completed a competency-based training program that prepares them to properly use restraint or seclusion shall apply these procedures to children.

(g) Restraint that impedes respiration (e.g., choke hold or basket hold), places weight on the child's upper torso, neck, chest or back, or restricts blood flow to the head is prohibited.

(h) Ambulatory or walking restraints (e.g., shackles that bind the ankles and waist-wrist shackles) may only be used during transportation under the supervision of trained staff. The use of ambulatory or walking restraints is prohibited except for purposes of off-premise transportation.

(i) The provider's medical director shall be responsible for providing oversight of ongoing monitoring, quality improvement and staff training in the use of restraint and seclusion and in the use of less intrusive interventions.

(2) The standards for restraint or seclusion do not apply to physical escort, brief intervention or time-out.

(3) Provider procedures. The provider's procedures shall address the use of restraint, seclusion and time out. A copy of the procedures shall be provided to children and their parents or guardians, foster parents, and guardian ad litem upon admission, to all staff, and to the agency and department. The procedures shall include provisions for implementing the requirements of this section and the provider's strategies to:

(a) Reduce and strive to eliminate the use of restraint or seclusion;

(b) Prevent situations that might lead to the use of restraint or seclusion;

(c) Use alternative, non-intrusive techniques in the management of behavior;

(d) Train staff on how restraint or seclusion are experienced by children; and

(e) Preserve the child's safety and dignity when restraint or seclusion is used.

(4) Authorization of restraint or seclusion.

(a) Restraint or seclusion shall be used and continued only pursuant to an order by a board certified or board eligible psychiatrist or licensed physician with specialized training and experience in diagnosing and treating mental disorders and who is the child's treatment team physician or, if the child's treatment team physician is unavailable, the physician covering for the treatment team physician who meets these qualifications.

(b) The physician shall order the least restrictive intervention that is most likely to be effective in resolving the emergency safety situation.

(c) If the physician is not available on-site to order the use of restraint or seclusion, the physician's verbal order shall be obtained by, at a minimum, a registered nurse or other licensed staff, such as a licensed practical nurse (LPN), immediately after the initiation of restraint or seclusion. At the time the order is received, the registered nurse or other licensed staff, such as a LPN, shall consult with the physician about the child's physical and psychological condition and the order and consultation shall be documented in the child's case file.

(d) The physician's verbal order shall be followed with the physician's signature verifying the verbal order within 24 hours and the signed verification shall be maintained in the child's case file.

(e) The ordering physician shall be available to staff for consultation, at least by telephone, throughout the period of the intervention.

(f) Each order for restraint or seclusion shall:

1. Be limited to no longer than the duration of the emergency safety situation;

2. Not exceed two hours for children ages nine to 18 or one hour for children under age nine; and

3. Be documented, whether verbal or written, and maintained in the child's case file.

(g) If restraint or seclusion exceeds six hours in a 24-hour period for a child age nine to 18 or three hours for a child under age nine, there must be a written explanation as to why the child was not transferred to a more acute program. In addition, if a child is restrained three times within any 30-day period, or is in seclusion six times in a 30-day period, the provider will obtain the services of a Board Certified Behavior Analyst to assist the provider in conducting a behavior analysis of the child and developing an intervention strategy. The Board Certified Behavior Analyst will conduct training of the staff on implementation of the intervention plan, on monitoring the data the plan requires and will conduct follow up visits to ensure the integrity of the plan remains in place across shifts and locations.

(h) Within one hour of the initiation of restraint or seclusion, the ordering physician or other licensed staff, as permitted by the state and facility, (such as a psychiatric nurse, advanced registered nurse practitioner, physician assistant, or registered nurse) trained in the use of emergency safety interventions, shall conduct a face-to-face assessment of the physical and psychological well being of the child, including:

1. The child's physical and psychological status;

2. The child's current behavior;

3. The appropriateness of the intervention measures; and

4. Any physical or psychological complications resulting from the intervention.

(i) Each order for restraint or seclusion shall include:

1. The ordering physician's name;

2. The date and time the order was obtained; and

3. The emergency safety intervention ordered, including the length of time for which the physician authorized its use, which length of time shall not exceed the time limits set forth in subparagraph 65E-9.010(3)(g)2., F.A.C., above.

(5) Documentation. Staff shall document the intervention in the child's record, with documentation completed by the end of each shift during which the intervention begins and continues. Documentation shall include:

(a) Each order for restraint or seclusion;

(b) The time the emergency safety intervention began and ended;

(c) The specific circumstances of the emergency safety situation, the rationale for the type of intervention selected, and the less intrusive interventions that were considered or tried;

(d) Time-specific assessments of the child's physical and psychological condition;

(e) The name, position, and credentials of all staff involved in or witnessing the emergency safety intervention;

(f) Time and date of notification of the child's family or guardian and guardian ad litem;

(g) The behavioral criteria and assistance provided by staff to help the child meet the criteria for discontinuation of restraint or seclusion;

(h) Summary of debriefing of the child with staff;

(i) Description of any injuries sustained by the child during or as a result of the restraint or emergency safety intervention and treatment received for those injuries;

(j) Review and revision of the child's treatment plan, including a description of procedures designed to prevent the future need for or use of restraint or seclusion; and

(k) Before restraint or seclusion were ordered for the child, the ordering physician assessed whether there were pre-existing medical conditions or physical disabilities, history of sexual or physical abuse, or current use of psychotropic medication that could present a risk to the child and results of such review are documented in the physician's order for restraint or seclusion and the child's record.

(6) Consultation with treatment team physician. If the physician ordering the use of restraint or seclusion is not the child's treatment team physician, the ordering physician or the licensed individual authorized to receive the verbal order shall:

(a) Consult with the child's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the child to be restrained or placed in seclusion; and

(b) Document in the child's record the date and time the team physician was consulted.

(7) Notification.

(a) Notification upon admission. At admission, the provider shall:

1. Explain and provide a written copy to the child and the child's parent, foster parent or guardian, and guardian ad litem of the provider's procedures regarding the use of restraint or seclusion. The provider shall document that the child and the parent, foster parents or guardian, and guardian ad litem were informed of the provider's policies on the use of restraint and seclusion. This documentation shall be filed in the child's record.

2. Communicate the procedures in a language the child and the parent or guardian understand, including American Sign Language or through an interpreter or translator if needed.

3. Include in the procedures contact information, including phone number and mailing address, of the Florida local advocacy council and Advocacy Center for Persons with Disabilities, Inc.

4. Consult with the child's parent or guardian or foster parent and determine if there are any known physical or psychological risks that would rule out the use of such interventions for the child. The results of such interview shall be documented in the child's record.

(b) Notification of use of restraint or seclusion.

1. As soon as possible after the initiation of each emergency safety intervention, the provider shall notify the parent or guardian or foster parent that the child has been restrained or placed in seclusion.

2. The provider shall document in the child's record that the parent or guardian or foster parent was notified, including the date and time of notification and the name of the staff person providing the notification.

(8) Monitoring of the child during and immediately after restraint.

(a) Staff trained in the use of emergency safety interventions shall be physically present and continually visually assessing and monitoring the physical and psychological well-being of the child and the safe use of restraint throughout the duration of the emergency safety intervention.

(b) If the emergency safety situation continues beyond the time limit of the physician's order for the use of restraint, the staff person authorized to receive the verbal order, as identified in paragraph 65E-9.010(4)(c), F.A.C., shall immediately contact the ordering physician to receive further instructions or new orders for the use of restraint and shall document such notification in the child's case file.

(c) A physician, or other licensed staff member as identified in paragraph 65E-9.010(4)(h), F.A.C., trained in the use of emergency safety interventions, shall evaluate and record the child's physical condition and psychological well-being immediately after the restraint is removed.

(9) Monitoring of the child during and immediately after seclusion.

(a) Staff trained in the use of emergency safety interventions and in assessment of suicide risk shall be physically present in or immediately outside the seclusion room, continually visually assessing, monitoring, and evaluating the physical and psychological well-being of the child in seclusion. Video monitoring shall not be used as a substitute for this requirement.

(b) A room used for seclusion shall:

1. Allow staff a full view of the child in all areas of the room; and

2. Be free of conditions that could be hazardous to the child, such as unprotected light fixtures and electrical outlets, or other fixtures, appliances or furnishings that the child could use to injure themselves.

(c) If the emergency safety situation continues beyond the time limit of the physician's order for the use of seclusion, the staff person authorized to receive the verbal order, as identified in paragraph 65E-9.010(4)(c), F.A.C., shall immediately contact the ordering physician to receive further instructions or new orders for the use of seclusion and such notification shall be documented and maintained in the child's case file.

(d) A physician or other licensed staff member, as identified in paragraph 65E-9.010(4)(h), F.A.C., trained in the use of emergency safety interventions, shall evaluate the child's physical condition and psychological well-being immediately after the child is removed from seclusion and documentation of such evaluation shall be maintained in the child's case file.

(e) Staff shall immediately obtain medical treatment from qualified medical personnel for a child injured during or as a result of an emergency safety intervention.

(10) Discontinuation of restraint or seclusion. As early as feasible in the restraint or seclusion process, the child shall be told the rationale for restraint or seclusion and the behavior criteria necessary for its discontinuation. Restraint or seclusion shall be discontinued as soon as the child meets the behavioral criteria.

(11) Post-restraint or seclusion practices.

(a) After the use of restraint or seclusion, staff involved in an emergency safety intervention and the child shall have a face-to-face discussion. Whenever possible, subject to staff scheduling, this discussion shall include all staff involved in the intervention. The child's parent or guardian shall be invited to participate in the discussion. The provider shall conduct the discussion in a language that is understood by the child and the child's parent or guardian. The discussion shall provide both the child and staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff, the child, or others to prevent the need for the future use of restraint or seclusion. The discussion must occur within 24 hours of the emergency intervention, subject to the following exceptions:

1. Allowances may be made to accommodate the schedules of the parent(s) or legal guardian(s) of the child when they request an opportunity to participate in the debriefing and when staff deem their participation appropriate.

2. Allowances may be made to accommodate shift changes, vacation schedules, illnesses, and all applicable federal, state, and local labor laws and regulations.

(b) After the use of restraint or seclusion, the staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, shall conduct a debriefing session that includes a review and discussion of:

1. The emergency safety situation that required the intervention, including a discussion of the factors that caused or preceded the intervention;

2. Alternative, less intrusive techniques that might have prevented the need for use of the restraint or seclusion;

3. The procedures, if any, that staff are to implement in the future to prevent any recurrence of the use of restraint or seclusion; and

4. The outcome of the intervention, including any injuries that resulted from the use of restraint or seclusion and the treatment provided for those injuries.

(c) Staff shall document in the child's record that both debriefing sessions took place and shall include in that documentation the names of staff present for the debriefing, names of staff excused from the debriefing, and any changes to the child's treatment plan or facility procedures that resulted from the debriefings.

(d) The provider shall maintain a record of each emergency safety situation, the interventions used, and their outcomes. These records shall be maintained in a manner that allows for the collection and analysis of data for agency monitoring and provider performance improvement and shall be available for such purposes upon request.

(e) Staff shall document in the child's record all injuries that occur during or as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

(f) Staff involved in an emergency safety intervention that results in an injury to a child or staff shall meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

(g) The provider shall immediately notify the child's parent or guardian of any serious occurrence, including a child's death, a serious injury to a child, or a suicide attempt. The provider shall also report the serious occurrence to the department, the agency, and the state advocacy council the same day or no later than close of business the next business day for a serious occurrence that occurs after 5 p.m. or over a weekend. The report shall include the name of the child involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility.

(12) Time-out.

(a) Time-out shall be used only if included in the child's treatment plan.

(b) The child's parent or guardian shall sign an informed consent form detailing the circumstances under which time-out will be used, consistent with the treatment plan, and a detailed description of how the procedure is to be implemented.

(c) Time-out shall be initiated only by staff who have completed competency-based training in the use of time-out and such training is documented in their personnel record.

(d) Time-out may take place either in or away from the area of activity or other children, such as in the child's room.

(e) The designated area shall be a room or area that is part of the living environment the child normally inhabits or has access to during routinely scheduled activities and from which the child is not physically prevented from leaving.

(f) If the child requires physical contact in order to move to the area or room, staff shall end the contact immediately once the child is in the designated area.

(g) The child shall not be physically prevented from leaving the time-out area.

(h) The criterion for being able to leave without further intervention shall be specified to the child at this time in a neutral manner.

(i) Time-out shall be terminated after the child meets the behavioral criterion for the specified period of time, which shall not exceed 5 minutes; and if the child meets the criterion earlier, staff shall end the procedure immediately.

(j) If the child has not been able to meet the criterion for exiting time-out within 30 minutes, staff shall notify the ranking clinician on duty or on-call, who shall assess how the procedure was implemented, assess the child's condition, and determine whether to end the procedure, reduce the exit criterion, or continue the procedure.

(k) When time-out is imposed, staff shall directly and continuously observe the child.

(l) The frequency and duration of time-out for any child shall be based on the professional judgment of the Board Certified Behavior Analyst or community mental health practitioner upon consideration of the child's age, maturity, health, and other factors.

(m) The child's treatment team shall review each instance of the use of time-out as soon as possible and no later than the next working day. This review shall consist of questioning the function of the behavior that resulted in the use of time-out, the appropriateness of the exit criteria and possible ways to prevent the target behavior. These reviews shall include graphic display of the data covering the period of time the child has been in the program.

(n) For each instance of use of time-out, staff who initiate the procedure shall document in the child's record:

1. The circumstances leading to the use of time-out;

2. The specific behavior criteria which had been explained to the child that would allow for discontinuation of time out;

3. When and how the child was informed of the behavior criteria;

4. The time the procedure started and ended; and

5. Any injuries sustained and treatment provided for those injuries.

(o) A separate time-out log shall be maintained that records:

1. The shift;

2. The staff who initiated the process;

3. The time the procedure started and ended;

4. The date and day of the week of each episode;

5. The age and gender of the child; and

6. Client ID.

(13) Brief Intervention.

(a) Brief Intervention does not require an order by a psychiatrist or licensed physician; however, providers shall meet the following standards when employing brief intervention:

1. Staff shall meet all training and competency requirements in subsection 65E-9.004(5), F.A.C., including crisis prevention and intervention techniques.

2. Providers shall also document each episode of brief intervention which shall include, at a minimum, the same documentation requirements as specified in paragraphs 65E-9.010(11)(n) and (o), F.A.C.

3. The child's treatment team shall review each instance of the use of brief intervention as soon as possible but no later than the following work day. This review shall consist of a discussion of the behavior that resulted in the use of brief intervention, the appropriateness of the intervention used, including the criteria for implementation and discontinuation of the intervention, alternative de-escalation techniques and possible ways to prevent the inappropriate behavior. These reviews shall include graphic display of the data covering the period of time the child has been in the program.

(b) If at any time it is determined that the brief intervention will not meet the desired outcome of brief intervention or if brief intervention is needed beyond 5 minutes, the staff shall immediately implement and follow the standards and procedures for physical restraint.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History--New

65E-9.011 Medication Administration and Use of Psychotropic Medications.

(1) The provider shall develop, implement and maintain written policies and procedures governing the administration of medication and supervision of and assistance with self administration of medication, which shall include but not be limited to management of the medication administration program, training, inventory control, accounting, and disposal

of medications. These policies and procedures shall be consistent with the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C., Chapter 893, F.S., the Drug Abuse and Prevention and Control Act; DEA compliance policy guidelines on disposal of controlled substances, C.F.R. 21, Title 21, Section 1307.21, Disposal of Controlled Substances, and related department rules and regulations.

(2) Children shall never be permitted to have medication in their possession or to take any medication without direct supervision of an authorized person.

(3) Psychotropic medication shall not be used as a substitute for treatment, for the convenience of staff, or in quantities that interfere with the child's treatment progress.

(4) The use of psychotropic medication shall be described in the child's treatment plan and shall include the desired goals and outcomes of the medication.

(5) Informed consent for the administration of psychotropic medication.

(a) Informed consent from the parents or legal guardian, of any child must be obtained by the provider prior to the administration of psychotropic medication. If the parent is unavailable or unwilling to give consent, or if the parent is unknown, or if the parent's parental rights have been terminated, a court order authorizing the administration of psychotropic medication must be obtained by the department when such administration is recommended by the child's physician.

(b) The court order authorizing the administration must be entered prior to the administration of the medication and such order filed in the child's case file.

(6) If the circumstances requiring the administration of the medication constitute an emergency, such administration shall be governed by the provisions of ss. 743.064 or 394.463(2)(f), F.S., as applicable.

(7) There shall be no pro re nata (PRN) orders for psychotropic medications.

(8) There shall be no standing orders for psychotropic medications.

(9) Children receiving antipsychotic medications shall be assessed for abnormal involuntary movements by a physician or registered nurse using a recognized standardized rating scale upon admission and quarterly thereafter.

(10) Refills for medications shall be ordered only by a physician or nurse licensed in the state of Florida.

(11) Administration of Medication by unlicensed staff.

(a) For therapeutic group homes or residential treatment centers with 12 beds or less, where services are rendered in a smaller home-like setting, unlicensed staff employed by the facility, who have satisfactorily completed a competency-based training for administration of unit dose medication, shall administer prescribed prepackaged, pre-measured, oral

medications, prescribed topical, otic, nasal and ophthalmic medications and rectal and vaginal suppository medications in accordance with Section 464.022(1), Florida Statutes.

(b) Medications requiring subcutaneous or intra-muscular administration will be administered, at a minimum, by a Florida licensed nurse.

(c) The medication administration course used to train unlicensed staff shall be eight hours, at a minimum, in length and must meet the following criteria:

1. The course must consist of at least the following topics:

a. Basic knowledge and skills necessary for safe and accurate medication administration and charting.

b. Roles of the physician, nurse, pharmacist, and direct care staff in medication ordering, dispensing, and administration.

c. Procedures for recording/charting medications.

d. Interpretation of common abbreviations used in administration and charting of medications.

e. Knowledge of facility medication system.

f. Safety precautions used in medication administration and charting.

g. Methods and techniques of medication administration.

h. Problems and intervention in the administration of medication.

i. Observation and reporting of medication side effects and adverse effects.

j. Observation and reporting of effects of medications including outcomes of psychotropic medication treatment.

k. Documenting and reporting of medication errors.

l. Appropriate storage of medications.

2. The content must be taught by a Florida licensed physician, consulting pharmacist, physician assistant, advanced registered nurse practitioner, or registered nurse.

3. Training must be competency-based and shall consist of lecture and a clinical practicum. This training shall be documented and such documentation filed in the staff member's personnel file.

4. During the practicum, the trainee must be observed twice administering medications error free during their regularly scheduled medication time. The observation must include error free charting completed by the trainee after the medication(s) has been administered. The practicum observations must be made by a Florida licensed registered nurse.

5. Administration of prescribed topical, otic, nasal and ophthalmic medications and rectal and vaginal suppository medications will only be completed by unlicensed staff authorized to do so following competency-based training and observation of proficiency by a licensed practitioner.

6. Monitoring of medication administration shall be performed, at a minimum, quarterly by the supervising registered nurse for each facility. In addition, a Florida registered nurse must be available to facility staff via telephone or paging device 24 hours per day.

7. At a minimum, four (4) hours of continuing education is required on an annual basis.

8. When a psychotropic medication is initiated, a registered nurse or pharmacist will assure or make provisions for the instruction of the facility staff regarding side effects and adverse effects of the prescribed medication, including when to notify the physician if undesirable side effects or adverse effects are observed.

9. All staff identified to receive training in medication administration must be high school graduates or have passed an equivalency exam (GED).

(12) Self Administration of Medication.

(a) For therapeutic group homes or residential treatment centers with 12 beds or less unlicensed staff employed by the facility, who have satisfactorily completed competency-based training in administering medication and supervising children with self administration of unit dose medication, shall be authorized to supervise with self administration of prescription and over-the-counter medications.

(b) Only children who have been assessed by a physician and determined to be capable of self-administering their medications shall be permitted to do so under the supervision of an authorized person. Documentation of such assessment and determination shall be filed in the child's medical records.

(c) Staff involved with the supervision of and assisting with self-administration of medications shall complete competency-based training of a minimum of four hours annually by a registered nurse or licensed pharmacist. This training shall be documented and filed in the staff member's personnel file.

(d) The course shall consist of at least the following topics:

1. Basic knowledge and skills necessary for providing supervision for self-administration of medication.

2. Understanding a prescription label:

3. Procedures for recording/charting medications in the medication log.

4. Interpretation of common abbreviations used in administration and charting of medications.

5. Observation and reporting of side effects, adverse effects and outcomes of psychotropic medication treatment.

(e) Upon completion of the course, the trainee shall be able to demonstrate the ability to:

1. Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions:

2. Recognize the need to obtain clarification of an "as needed" prescription order:

3. Recognize a medication order which requires judgment or discretion, and advise the child, child's health care provider or facility employer of the inability to assist in the administration of such orders:

4. Complete a medication observation record;

5. Retrieve and store medication; and

6. Recognize the general signs of adverse reactions to medications and report such reactions.

(13) Storage of Medications.

(a) All drugs, including nonprescription stock drugs, shall be stored under double lock (e.g., a locked cabinet within a locked room or in a locked container within a locked cabinet).

(b) External and internal medications and ophthalmic preparations shall be stored separately from each other.

(c) Each child's medications shall be stored separately from each other.

(d) Poisons and other toxic chemicals shall not be stored in a medication storage area.

(e) No medication shall be repackaged by facility staff.

(14) Telephone physician orders for medication may only be accepted by another physician, a licensed practical nurse, a registered nurse, a physician's assistant, ARNP or a licensed pharmacist. Telephone orders shall be immediately recorded in the child's medical record. Faxed physician orders are acceptable with a physician's signature. The original physician's order must be obtained within 72 hours of receipt of the faxed order.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History--New

65E-9.012 Program Standards.

(1) Collocation.

(a) Upon approval of the department, a provider may collocate other programs with programs serving children admitted under Chapter 394 or s. 39.407, F.S.

(b) The collocated programs may share administration and facility services, such as housekeeping, food preparation, and maintenance.

(c) Children admitted to these other programs shall be separated from the other children by staff supervision and shall not commingle or share a common space at the same time.

(2) Treatment.

(a) Treatment shall be individualized, child and family centered, culturally competent, and based on the child's assessed strengths, needs, and presenting problems that required admission to the program.

(b) Treatment shall be in accordance with the child's individualized treatment plan and discharge plan.

(c) The provider shall ensure that all staff caring for or providing treatment or services for the child:

1. Have current information about the child's treatment plan and goals, including the child's permanency goals if admitted pursuant to s. 39.407, F.S.; and

2. Direct all aspects of the child's treatment, services and daily activities toward meeting the child's specific treatment goals.

(d) The provider shall ensure that all staff providing a treatment modality to the child are qualified to provide that treatment modality.

(e) Treatment shall not be aversive or experimental.

(f) Treatment provided shall be consistent with nationally recognized standards.

(g) When multiple modalities of treatment are provided, such as psychotherapy, behavior management, and medication, the treatment shall be coordinated among the treatment professionals.

(h) Treatment progress shall be monitored on a continuous basis and the treatment adjusted as needed to meet the child's individual treatment goals.

(i) Proposed changes to the provider's treatment programs shall be reported in writing to and approved by the department.

(3) Activities.

(a) Basic routines shall be outlined in writing and made available to staff and children on a continuing basis.

(b) The daily program shall be planned to provide a framework for daily living and periodically reviewed and revised as the needs of the individual child or the living group change.

(c) Daily routines shall be adjusted as needed to meet special requirements of the child's treatment plan.

(d) A range of age-appropriate indoor and outdoor recreational and leisure activities shall be provided for children, including activities for evenings and weekends. Such activities shall be based on the group and individual interests and developmental needs of the children in care.

(e) Books, magazines, newspapers, arts and crafts materials, radios and televisions shall be available in accordance with children's recreational, cultural and educational backgrounds and needs.

(f) Provisions shall be made for each child to have daily time for privacy and pursuit of individual interests.

(4) Education. The provider shall arrange for or provide an educational program for children, which complies with the State Board of Education, Chapter 65A-15, F.A.C.

(5) Food and nutrition.

(a) If the provider serves meals to staff members, they shall serve staff and children substantially the same food, except when age or special dietary requirements dictate differences.

(b) The provider shall serve three well-balanced meals a day in the morning, noon, and evening and provide snacks if a child is admitted between meals or will be away from the facility at meal time. When children are attending school or are not present in the facility during mealtime, the provider shall make arrangements for the children's meals.

(c) The provider shall retain menus for a 12-month period, which shall be available for review. Menus shall be posted 24 hours before serving of the meal. Any change shall be noted. Menus shall be evaluated by a consultant dietitian for nutritional adequacy at least monthly. The provider shall maintain records of dietician's reviews.

(d) The provider shall plan and prepare special diets as needed (e.g., diabetic, bland, high calorie). No more than fourteen hours shall elapse between the end of the evening and the beginning of the morning meal where a protein is served. Meals shall meet general requirements for nutrition published by the department or currently found in the Recommended Daily Diet Allowances, Food and Nutrition Board, or National Academy of Sciences.

(6) Health, medical, and emergency medical and psychiatric services.

(a) The provider shall develop and implement on an ongoing basis written procedures for health, medical, and emergency medical and psychiatric services describing how the provider obtains or provides general and specialized medical, surgical, psychiatric, nursing, pharmaceutical and dental services.

(b) The procedure shall clearly specify which staff are available and authorized to provide necessary emergency psychiatric or medical care, or to arrange for referral or transfer to another facility including ambulance arrangements, when necessary. The procedure shall include:

1. Handling and reporting of emergencies. Such procedures shall be reviewed at least yearly by all staff and updated as needed;

2. Obtaining emergency diagnoses and treatment of dental problems;

3. Facilitating emergency hospitalization in a licensed medical facility;

4. Providing emergency medical and psychiatric care; and

5. Notifying and obtaining consent from the parent or legal guardian in emergency situations. This procedure shall be discussed with the child's parent or guardian upon admission.

(c) The provider shall have a staff member on duty at all times who is trained and currently certified to administer first aid and CPR.

(d) The provider shall immediately notify the child's parent or guardian and the placing organization or department of any serious illness, any incident involving serious bodily injury, or any severe psychiatric episode requiring the hospitalization of a child.

(e) The provider shall have available, either within the provider organization or by written agreement with health care providers, a full range of services for treatment of illnesses and maintenance of general health. Agreements shall include provisions for on-site visits, office visits, and hospitalization.

(f) Children who are physically ill shall be cared for in surroundings familiar to them, if medically feasible, as determined by a physician. If medical isolation is necessary, there shall be a sufficient number of qualified staff available to give care and attention within a setting designed for such care.

(g) The provider shall provide for a complete physical examination for each child in its care every 12 months and more frequently if indicated.

(h) Immunization of all children shall be kept current in accordance with the American Academy of Pediatrics guidelines.

(i) Each staff member shall be required to report to the program's physician and note in the child's record any illnesses or marked physical dysfunction of the child.

(j) All staff shall have training in the handling of emergency medical situations.

(k) Emergency medical services shall be available within 45 minutes, 24 hours a day, seven days a week.

(l) The program physician's name and telephone number shall be clearly posted in areas accessible by staff and others within the facility.

(m) There shall be a first aid kit available to staff for each unit for facilities with multiple units and one per facility for single unit facilities. Contents of the first-aid kits shall be selected by the medical staff.

(n) The provider shall have a written agreement with a licensed hospital verifying that routine and emergency hospitalization will be available.

(7) Administration of medication.

(a) Pharmaceutical services, if provided, shall be maintained and delivered as described in the applicable sections of Chapters 465, 893, and 500, F.S., and the Board of Pharmacy rules.

(b) All medicines and drugs shall be kept in a double locked location. Prescription medications shall be prescribed only by a duly licensed physician or an ARNP or physician's assistant working under the direction of a licensed physician. An accurate log shall be kept of the administration of all medication including the following:

1. Name of the child for whom it is prescribed;
2. Physician's name, and reason for medication;
3. Quantity of medication in container when received;
4. Method of administration of medication (i.e., orally, topically, or injected);
5. Amount of medication administered;
6. Time of day and date medication is to be administered or self-administered and time of day and date medication was taken by the child; and
7. Signature of staff member who administered or supervised self-administration of the medication.

(c) The provider shall not permit medication prescribed for one child to be given to another child.

(d) Children capable of self-medication shall be supervised by a staff person who has been trained in medication supervision.

(e) For children not capable of self-medication, only a licensed nurse or unlicensed staff who has received training as required by this rule shall administer medications.

(8) Religious and ethnic heritage. The provider shall offer opportunities for children to participate in religious services and other religious and ethnic activities within the framework of their individual and family interests, treatment modality and provider setting. The option to celebrate holidays in the child's traditional manner shall be provided and encouraged.

(9) Interpreters, translators and language options. The provider shall establish procedures for identifying and assessing the language needs of each child and providing:

(a) A range of oral and written language assistance options, including American Sign Language;

(b) Written materials in languages other than English; and

(c) Oral language interpretation for children identified with limited English proficiency.

(10) Clothing and personal needs.

(a) The provider shall complete a written inventory of personal belongings of each child upon admission and account for all personal belongings upon discharge. This written inventory shall be maintained in the child's case file and a copy given to the parent, guardian, or foster parent at admission and discharge.

(b) The provider shall ensure each child has individual personal hygiene and grooming items readily available and has training in personal care, hygiene, and grooming appropriate to the child's age, gender, race, culture and development.

(c) The provider shall involve the child in the selection, care and maintenance of personal clothing as appropriate to the child's age and ability. Clothing shall be sized to fit the child and suited to the climate and season.

(d) The provider shall allow a child to possess personal belongings. The provider may limit or supervise the use of these items while the child is in care.

(e) When needed, protection from the weather or insects shall be provided, such as rain gear and insect repellent.

(f) The provider shall return all of the child's personal clothing and belongings to the parent or guardian when the child is discharged from the facility.

(11) Child's record.

(a) The provider shall have written procedures regarding children's records, including provisions to ensure that clinical records are maintained in accordance with s. 394.4615, F.S.

(b) The provider shall develop an individualized record for each child. The form and detail of the records may vary but shall, at a minimum, include:

1. Identification and contact information, including the child's name, date of birth, Social Security number, gender, race, school and grade, date of admission, and the parent or guardian's name, address, home and work telephone numbers;

2. Source of referral;

3. Reason for referral, e.g., chief complaint, presenting problem;

4. Record of the complete assessment;

5. DSM diagnosis;

6. Treatment plan;

7. Medication history;

8. Record of medication administered by program staff, including type of medication, dosages, frequency of administration, persons who administered each dose, and method of administration;

9. Documentation of course of treatment and all evaluations and examinations, including those from other facilities, such as emergency rooms or general hospitals;

10. Progress notes;

11. Treatment summaries;

12. Consultation reports;

13. Informed consent forms;

14. A chronological listing of previous placements, including the dates of admission and discharge, and dependency and delinquency actions affecting the minor's legal status;

15. Written individual education plan;

16. The discharge summary, which shall include the initial diagnosis, clinical summary, treatment outcomes, assessment of child's treatment needs at discharge, the name, address and phone number of person to whom the child was discharged and follow-up plans. In the event of death, a summary shall be added to the record and shall include circumstances leading to the death. All discharge summaries shall be signed by the treatment team physician;

17. For out of state children, copies of completed interstate compact ICPC 100A and ICPC 100B forms and a copy of each Interstate Compact Transmittal Memorandum and any attachments thereto that were sent to the Residential Treatment Center by the department's Interstate Compact on the Placement of Children Office;

18. Documentation of any use of restraint, seclusion or time out;

19. A copy of each incident report; and

20. Documentation that all of the various notices and copies required by these rules were properly given.

(c) Records of discharged children shall be completed within 15 business days following discharge.

(d) Recording. Entries in the child's record shall be made by staff having pertinent information regarding the child. Staff shall legibly sign and date each entry. Symbols and

abbreviations shall be used only when there is an explanatory notation. Final diagnosis, both psychiatric and physical, shall be recorded in full without the use of symbols or abbreviations.

(e) Maintenance of records.

1. Each provider shall maintain a master filing system, including a comprehensive record of each child's involvement in the program.

2. Records for children currently receiving services shall be kept in the unit where the child is being treated or be directly and readily accessible to the clinical staff caring for the child.

3. The program shall maintain a system of identification and coding to facilitate prompt location and ongoing updating of the child's clinical records.

4. Records may be removed from the program's jurisdiction and safekeeping only as required by law.

5. The provider shall establish procedures regarding the storage, disposal, or destruction of clinical records, which is compatible with the protection of rights.

6. Records for each child shall be kept for at least five years after discharge.

7. The provider shall maintain a permanent admission and discharge register of all children served, including name of the child, the child's parent or guardian, address, date of admission and discharge, child's date of birth, custody status, and address to which discharged.

(12) Quality assurance program. The provider shall develop and follow a written procedure for a systematic approach to assessing, monitoring and evaluating its quality of care and treatment, improving its performance, ensuring compliance with standards, and disseminating results. The quality assurance program shall address and include:

(a) Appropriateness of service assignment, intensity and duration, appropriateness of resources utilized, and adequacy and clinical soundness of care and treatment given;

(b) Utilization review;

(c) Identification of current and potential problems in service delivery and strategies for addressing the problems;

(d) A written system for quality improvement, approved by the provider's governing board, that includes:

1. A written delineation of responsibilities for key staff;

2. A policy for peer reviews;

3. A confidentiality policy complying with all statutory confidentiality requirements, state and federal;

4. Written, measurable criteria and norms assessing, evaluating, and monitoring quality of care and treatment; and

(e) A description of the methods used for identifying and analyzing problems, determining priorities for investigation, resolving problems, and monitoring to assure desired results are achieved and sustained;

(f) A systematic process to collect and analyze data from reports, including, but not limited to, incident reports, grievance reports, department and agency monitoring reports and self-inspection reports;

(g) A systematic process to collect and analyze data on process outcomes, client outcomes, priority issues chosen for improvement, and satisfaction of clients;

(h) A process to establish the level of performance, priorities for improvement, and actions to improve performance;

(i) A process to incorporate quality assurance activities in existing programs, processes and procedures;

(j) A process for collecting and analyzing data on the use of restraint and seclusion to monitor and improve performance in preventing situations that involve risks to children and staff. The provider shall:

1. Collect and regularly analyze, at least quarterly, restraint and seclusion data to ascertain that restraint and seclusion are used only as emergency interventions, to identify opportunities for improving the rate and safety of restraint and seclusion use, and to identify any need to redesign procedures;

2. Aggregate quarterly restraint and seclusion data by all settings, units or locations, including:

a. Shift;

b. Staff who initiated the procedure;

c. Details of the interactions prior to the event;

d. Details of the interactions during the event;

e. The duration of each episode;

f. Details of the interactions immediately following the event;

g. Date and time each episode was initiated and concluded;

h. Day of the week each episode was initiated;

i. The type of restraint used;

j. Whether injuries were sustained by the child or staff; and

k. Age and gender of each child for which emergency safety interventions had been found necessary.

3. Prepare and submit a report quarterly to the district/region mental health program office, including the aggregate data and:

a. Number and duration of each instance of restraint or seclusion experienced by a child within a 12 hour timeframe;

b. The number of instances of restraint or seclusion experienced by each child;

c. Instances of multiple uses of restraint or seclusion that extended beyond 12 consecutive hours; and

d. Use of psychoactive medications as an alternative for or to enable discontinuation of restraint or seclusion.

(k) Analysis of the use of time-out shall be conducted quarterly by clinical staff in consultation with the Board Certified Behavior Analyst and shall include:

1. Patterns and trends, for example, by shift, staff present, or day of the week;

2. Multiple instances of time-out experienced by a child within a 12 hour timeframe;

3. Number of episodes per child; and

4. Instances of extending time-out beyond 30 minutes.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History--New

65E-9.013 Operating Standards.

(1) Governing body.

(a) Each incorporated provider shall have a governing body that exercises authority over the provider's operation, policies and practices, and compliance with this rule.

(b) For-profit organizations shall maintain advisory boards that review the operational policies and practices, inspect facilities and programs, conduct interviews with children and staff members, and review matters affecting the care of and treatment for children.

(c) The governing body shall meet no less than once per year. Membership of the governing body shall not be fewer than five (5) members. The provider shall maintain a list of its members, which shall be available to the agency and shall:

1. Include the names, address, and terms of membership of each member; and

2. Identify each office and the term of that office.

(d) Responsibilities of the governing body:

1. Ensure organizational policies are in place for the administration and operation of the residential treatment center, including a qualified administrator;

2. Evaluate in writing the administrator's performance annually;

3. Approve the annual budget of anticipated income and expenditures necessary to provide the services described in its statement of purpose and approve the annual financial audit report;

4. Establish and ensure compliance with written personnel practices;

5. Maintain written minutes of all meetings, which shall be open to inspection by the agency and the department, upon request;

6. Develop written policies for selection criteria and rotation of its members; and

7. Develop and follow a written plan for the storage of records, including children's records, in the event of the closing of the program.

(2) Written procedures. The provider shall establish and implement written procedures that ensure compliance with all provisions of this rule.

(3) Organization.

(a) Program. The provider shall have a written description of its philosophy, purpose, objectives, treatment program, services and methods of service delivery. This document shall be available to the agency, the department, referral sources, the parent(s), guardian or foster parent(s) and the public upon request. The program description shall include:

1. A description of the target population including age and gender, types of disorders, and financial requirements;

2. The intake and admission process;

3. The types of treatment the provider can offer, based on a child's individual needs;

4. Methods for involving the parent or guardian in assessment, treatment, discharge, and follow-up care plans; and

5. An organizational chart describing each unit or division and its services, goals, procedures, staffing patterns and relationship to other services and divisions and how these contribute to the goals of the program.

(b) Administration. The provider shall have a written organizational plan, including an organizational chart, for administrative and clinical staff, which clearly explains the responsibilities of staff for services provided by the program. This plan shall include:

1. Lines of authority, accountability and communication; and

2. The names and credentials of the provider's clinical director and all clinical staff assigned responsibility on any shift for supervision of direct care staff. All clinical staff assigned supervisory responsibility shall have training or experience in child care activities and in the handling of medical and psychiatric emergencies.

(c) Funding. When applying for licensing, initial or renewal, the provider shall provide the agency with written documentation that it has sufficient funds to meet all requirements for licensure. Providers beginning operation shall provide evidence of sufficient funding for operation of the program for at least six months.

(d) Budget. The provider shall prepare a written budget annually.

(e) Audit. The provider shall have financial records audited annually.

(f) Fees. For children placed by the department and funded in full or in part by state, Medicaid or local matching funds, a sliding fee schedule shall be developed consistent with the provisions of Section 394.674(4), F.S. If fees are charged, the provider shall have a written policy describing the relationships between fees and services provided and the conditions under which fees are charged or waived. This policy shall be available to any person upon request.

(g) Solicitation of funds. If provider funding is obtained through public solicitation, a charitable permit for such solicitation shall be procured.

(h) Notification of changes. The provider shall provide written notification within 30 days to the department and the agency of changes in the provider's administrator, statement of purpose, program or admission criteria.

(i) Personnel policies, procedures and records.

1. Personnel policies and practices shall be designed, established, followed and maintained to promote the objectives of the provider's program and to ensure there are sufficient staff to support a high quality of care and treatment.

2. The provider shall have and implement written personnel procedures covering the following areas: job classification; pay plan; staff selection; probation or work-test period; tenure of office; dismissal; salary increases; health evaluations; holidays; leave policies; training programs; performance evaluation; employment benefits; and personnel records.

3. Each new employee shall be given a copy of the written personnel procedures when hired and documentation of receipt shall be maintained in the employee's personnel file. A procedure shall be established and implemented on an ongoing basis for notifying employees of changes in established policies and procedures.

4. There shall be clear job descriptions for all staff, including position title, immediate supervisor, responsibilities and authority, which shall be used as a basis for periodic evaluations by the supervisor.

5. Accurate and complete personnel records shall be maintained on each employee. Content shall include:

a. Current background information, including the application, references and documentation to justify initial and continued employment of the individual. Applicants for positions requiring licensure or accreditation shall be employed only after the provider has verified the license or accreditation. Evidence of renewal of license as required by the licensing agent shall be maintained in the employee's personnel record;

b. Current performance evaluation;

c. Records of pre-employment health examinations and subsequent health services rendered to employees necessary to ensure staff are able to perform their duties;

d. Medical reports verifying the absence of active communicable disease in staff; and

e. Record of any continuing education or staff development programs completed.

(j) Need for service. The provider shall provide a description of the specific services it provides or proposes to provide. Applicants who apply for an initial license shall furnish evidence that the services will be used by referral sources or other documentation of the need for the services, which shall be verified by the department.

(k) Incorporation. Agencies incorporated outside of the State of Florida must be authorized to do business under Florida law and such proof of authorization to do business in

Florida must be maintained in the provider's licensing file. A copy of the Letters of Incorporation in Florida or a current confirmation by the Secretary of State that Florida's corporate sales tax has been paid shall constitute proof of authority to operate in Florida.

(l) Delegation of authority. To protect the health and safety of children served, any delegation of an administrator's authority pursuant to Chapter 394 or these rules shall be documented in writing prior to exercising the delegated authority. This documentation shall be placed in the individual's employee record. Routine delegations of authority shall be incorporated in the provider's written procedures.

(m) Incident notification.

1. The provider shall report to the department's contract manager and the child's parent or guardian any serious occurrence involving a child, such as abduction, abuse, assault, accident, contraband, illness requiring hospitalization, sexual abuse, suicide, death or homicide, or major facility damage that threatens the health or safety of children.

2. The provider shall develop and implement on an ongoing basis a written procedure for incident notification, reflecting the requirements of the department's operating procedure CFOP 215-6, which is incorporated by reference.

(4) Fiscal accountability.

(a) The provider shall maintain separate accounting and fiscal records in the program and permit audits of such records and accounts at any reasonable time by the department and all funding agencies.

1. The provider shall have and follow a schedule of public rates and charges for all services provided and these shall be made available to all referral sources and families.

2. The provider shall have and maintain an insurance coverage that provides comprehensive liability insurance approved by the department with minimum coverage of \$300,000 per claim and \$1,000,000 aggregate.

(b) The department shall be permitted to audit and inspect the records, including all financial records, of all providers receiving state funds to ensure that contracted services are being provided as per their contract and which meet the standards of the department.

(c) Providers shall return to the department any funds paid for services not actually performed or any funds owed the department because of unallowable expenditures, as stipulated in the contract and within the timeframe defined in the contract.

(5) Facility standards.

(a) Buildings, grounds and equipment.

1. If the facility accepts children with physical handicaps, the facility shall be handicap accessible.

2. Grounds shall have space for children's activities, which shall be designed based on the type of activities offered and age appropriateness. The grounds shall be maintained in a safe and reasonably attractive manner and kept free of standing water, debris and other hazardous conditions.

3. Indoor and outdoor recreation areas shall be provided with equipment and safety measures designed for the needs of children according to age, physical and mental ability.

4. Safety regulations shall be established and followed for all hazardous equipment and children shall be prohibited from the use of such equipment.

5. Pools shall meet the requirements of Chapter 514, F.S.

6. The interior and exterior of buildings and the furniture and furnishings shall be reasonably attractive, in good repair and shall function for the purpose for which such building and furniture has been designed.

7. All heating, air conditioning, electrical, mechanical, plumbing and fire protection systems shall function properly.

8. Therapeutic group homes shall meet the requirements of Chapter 419, F.S., Community Residential Homes.

(b) Interior accommodations.

1. The facility's space and furnishings shall enable staff to respect the child's right to privacy and provide adequate supervision.

2. Furnishings shall be safe, attractive, comfortable, easy to maintain, and selected for suitability to the age and development of the children in care.

3. The facility shall have a common area large enough to accommodate group activities for the informal use by children.

4. The facility shall have one or more dining areas large enough to comfortably accommodate the number of persons normally served.

5. The facility shall have indoor recreation space large enough to accommodate the number of children scheduled for indoor activities.

6. Study areas shall have tables, chairs, lamps and bookshelves suitable for children's use.

7. For residential treatment centers, if administrative offices are housed in the facility, they shall be separated from the children's living area. Administrative offices do not include nursing or staff monitoring stations. Therapeutic group homes may have an office space in the facility for administrative purposes, including storage of child records.

8. There shall be space to allow staff and children to talk privately and without interruption.

9. Drinking water shall be readily available and easily accessible to children.

10. Clocks and calendars shall be provided.

11. Bathrooms shall be provided and shall be separated from halls, corridors and other rooms by floor to ceiling walls. Children shall not have to go through another child's bedroom to get to a bathroom. Each bathroom shall have:

a. At least one toilet, washbasin, and tub or shower easily accessible to the bedroom area for each six children;

b. Toilets that provide for individual privacy;

c. Bathrooms with non-slip surfaces in showers or tubs;

d. Toilet paper and holders, individual hand towels or disposable paper towels;

e. Distortion-free mirrors at a height convenient for use by children;

f. A place for toiletry storage; and

g. In a facility that houses children with physical handicaps that limit mobility, grab bars in toilet and bathing areas and doors wide enough to accommodate a wheelchair or walking device.

12. Bedrooms.

a. Children shall not share sleeping areas with adolescents, and children or adolescents shall not share sleeping areas with adults.

b. Separate sleeping areas for boys and girls shall be provided.

c. The provider shall not permit children with physical handicaps that limit mobility to sleep above the first floor.

d. Bedrooms shall have at least 50 square feet of usable floor space per resident.

e. Bedrooms with multiple occupancy shall be limited to 4 occupants.

f. Bedrooms for children shall be separated from halls, corridors, and other rooms by floor to ceiling walls.

g. Children's bedrooms shall be ventilated, well-lighted and located convenient to a bathroom and shall have at least one window.

h. Bedrooms shall open into a corridor or a common use area.

i. Each bedroom shall be furnished with the following equipment for each child: personal storage space, such as a dresser wardrobe; space for hanging clothes; a bed and mattress in good repair, which is at least 36 inches wide and 72 inches long, bedding suited to the seasons and a pillow.

j. Clean sheets, pillow cases, and blankets shall be provided to each child upon arrival. Sheets and pillowcases shall be laundered weekly unless soiling requires they be cleaned with greater frequency.

k. Sleeping areas shall be assigned based on children's individual needs for group support, privacy or independence and shall be appropriate to their ages, developmental levels and clinical needs.

l. Bedroom doors shall not have vision panels except as clinically indicated and documented in the child's treatment plan.

m. Children shall be allowed to keep and display personal belongings and to add personal touches to the decoration of their rooms. The provider shall have and follow written procedures specifying what types of decoration are acceptable.

n. A seclusion room must:

1. Be a single room and shall be constructed to minimize the child's hiding, escape, injury or suicide;

2. Allow staff full view of the resident in all areas of the room;

3. Be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets;

4. Be a minimum of 60 square feet with ceilings a minimum height of 9 feet; and

5. Doors shall open outward.

13. Ventilation and lighting.

a. The facility shall provide outside ventilation by means of windows, louvers, air conditioners, or mechanical ventilation in rooms used by children. Windows and doors used for outside ventilation shall have screens in good repair.

b. All areas of the facility occupied by children shall be temperature-controlled in a manner conducive to comfort, safety and privacy. Unless otherwise mandated by federal or state authorities, a temperature of 72 to 82 degrees F during waking hours and 68 to 82 degrees F during sleeping hours shall be maintained in all areas used by children. Cooling devices shall be placed or adjusted in a manner that minimizes drafts.

c. The facility shall provide sufficient lighting for the comfort and safety of children, including in classrooms, study areas, bathrooms and food service areas.

d. All incandescent bulbs and fluorescent light tubes shall be protected with covers or shields.

e. Hallways to bedrooms and bathrooms shall be illuminated at night.

f. The facility shall provide egress lighting that will operate if there is a power failure.

(6) Health, sanitation and safety.

(a) Before a license is issued, and annually thereafter, the facility shall be inspected by the county health unit to review compliance with state or local ordinances and health codes. Current written approvals or certificates of health and sanitary conditions and inspection reports shall be on file in the facility.

(b) The provider shall have and follow written health, sanitation and safety procedures.

(c) The use of door or window locks or closed sections of the building shall comply with all applicable safety and fire code standards.

(d) The facility shall have telephones, centrally located and readily available for staff and children's use in each living unit of the facility. Emergency numbers such as the fire department, police, hospital, physician, poison control center, ambulance and Florida Abuse Hotline shall be posted by each telephone. There shall be at least one cellular telephone available for use at all times in the event of power and telephone line outages.

(e) Poisons and toxic substances shall be prominently and distinctly marked, labeled as to contents, kept stored under lock and key, kept inaccessible to children, and used in a manner as not to contaminate food or constitute a hazard to children.

(7) Housekeeping.

(a) The facility and its contents shall be kept free from dust, dirt, debris and noxious odors.

(b) All rooms and corridors shall be maintained in a clean, safe, and orderly condition, and shall be properly ventilated to prevent condensation, mold growth, and noxious odors.

(c) All walls and ceilings, including doors, windows, skylights, screens, and similar closures shall be kept clean.

(d) All mattresses, pillows, and other bedding; window coverings, including curtains, blinds, and shades, cubicle curtains and privacy screens; and furniture shall be kept clean.

(e) Floors shall be kept clean and free from spillage, and non-skid wax shall be used on all waxed floors.

(f) Articles in storage shall be elevated from the floor.

(g) Aisles in storage areas shall be kept unobstructed.

(h) All garbage and refuse shall be collected daily, removed from the building and stored in a manner to make it inaccessible to insects and rodents.

(i) Garbage storage rooms and outside area shall be kept clean, vermin-proof, and large enough to store the garbage containers that accumulate. Outside storage of unprotected plastic bags, wet strength paper bags, or baled units containing garbage is prohibited. Garbage containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of non-absorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(j) Garbage shall be removed from storage areas as often as necessary to prevent sanitary nuisance conditions. If garbage is disposed of on the premises, the method of disposal shall not create a sanitary nuisance and shall comply with the provisions of Chapter 62-7, F.A.C.

(k) Laundry facilities shall be located in an area which can be closed off and secured from other areas normally occupied by children. If children are allowed to participate in the laundering of their personal items, space for sorting, drying, and ironing shall be made available. If children are using laundry facilities, they shall be supervised by a staff member at all times.

(8) Fire safety.

(a) Before a license is issued and annually thereafter, the facility shall be inspected by the fire department or persons certified by the Office of the State Fire Marshall in fire prevention and safety. A current report of inspections and approval shall be on file in the facility. Residential treatment centers and therapeutic group homes shall comply with National Fire Protection Association 101, 2000 edition, Chapter 32 for new facilities or Chapter 33 for existing

facilities. Secure (locked) facilities must meet the requirements of Chapter 22 for new facilities or Chapter 23 for existing facilities.

(b) Electrical cords and appliances shall be maintained in a safe condition.

(c) Portable heating devices shall be used only in emergencies as defined in provider procedures.

(d) Flammable liquids or gas cylinders shall be inaccessible to children and shall not be positioned near flame or heat sources nor stored with combustible materials.

(e) Hallways, stairs and exit areas shall be well lighted and kept clear for safe exit.

(f) Fire drills shall be held at least monthly and rotated among all working shifts with written reports of the drills kept on file and available for inspection upon request.

(g) Written fire safety procedures shall include:

1. Staff training, briefing, and drills in prevention and actions to be taken in case of fires in structures and outdoors, including evacuation of buildings, calling emergency numbers, and the use of fire extinguishers; and

2. Regular inspection of fire extinguishers.

(9) Transportation safety.

(a) Vehicles used to transport children shall be maintained in safe operating condition.

(b) The number of persons in a vehicle used to transport children shall not exceed the number of seats and seat belts. Seat belts shall be used when transporting children. Buses without seat belts are exempt from this requirement.

(c) Buses or vans used to transport children shall be equipped with a first aid kit and a five pound fire extinguisher.

(10) Disaster and emergency preparedness.

(a) The provider shall develop and implement on an ongoing basis procedures for fire and other emergencies, including bomb threats, weather emergencies such as tornadoes and hurricanes. Procedures shall include the route of evacuation. Disaster preparedness and evacuation procedures shall address where and how children are transported during disasters, staffing, notification of families and the department, and how the provider shall obtain and provide general and specialized medical, surgical, psychiatric, nursing, pharmaceutical, and dental services.

(b) Evacuation routes shall be posted in conspicuous places and reviewed with staff and children on a semi-annual basis. Evidence of these periodic reviews shall be maintained in the facility's files and available upon request.

(11) Aquatic safety. For facilities that offer aquatic programs, the provider shall have and implement on an ongoing basis procedures that include:

(a) Children shall not participate in an aquatic activity without continuous supervision by staff trained in water rescue and lifesaving procedures.

(b) Before allowing children to participate in an aquatic activity, their swimming ability levels shall be assessed.

(c) The provider shall not permit a child to participate in an aquatic activity requiring higher skills than the child's swimming abilities, except during formal swimming instruction.

(d) A method, such as the buddy system, shall be established and enforced during aquatic activities.

(e) Lifesaving equipment shall be immediately accessible during aquatic activities. Minimum lifesaving equipment shall include:

1. A whistle or other audible signal device;

2. A first aid kit; and

3. A ring buoy, rescue tube, life jacket or other appropriate flotation device with an attached rope of sufficient length for the area.

(f) Life jackets shall be worn during all boating activities.

(g) Before any extended travel in a water craft, drills shall be practiced to approximate "man overboard" and capsizing situations.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History--New _____.

65E-9.014 Administrative Enforcement.

(1) Provider staff shall cooperate with agency personnel during surveys, complaint investigations, monitoring visits, implementation of correction plans, license application and renewal procedures, and other activities necessary to ensure compliance with Chapter 394, F.S., and this rule.

(2) Inspections.

(a) Pursuant to s. 394.90, F.S., the agency shall conduct a survey, investigation, monitoring visit, or appraisal of a facility:

1. Prior to issuing an initial, change of ownership, or renewal license;

2. To monitor accredited facilities as authorized in s. 394.741, F.S.;

3. Upon receipt of an oral or written complaint of practices that threaten the health, safety, or well being of children living in the residential treatment center;

4. If the agency has reason to believe that the provider is violating a provision of Chapter 394, F.S., Part IV, or this rule chapter;

5. To determine if cited deficiencies have been corrected; and

6. To determine if a provider is operating without a license.

(b) The inspection shall consist of full access to and examination of the facility's physical premises, facility records and accounts, staff records, and children's records.

(c) Agency personnel shall have access to interview all staff, children, parents, guardians, and contract providers to determine compliance with the provisions of s. 394, F.S., Part IV and this rule.

(d) Agency personnel shall respect the private possessions of children and staff while conducting inspections.

(2) Statement of deficiencies and plan of correction:

(a) Prior to or in conjunction with a notice of violation issued pursuant to ss. 394.875, 394.903, F.S., and s. 120, F.S., the agency shall issue a statement of deficiencies which are observed by agency personnel during any inspection of a facility. The deficiency statement shall be issued within 10 working days of the agency's inspection and shall include:

1. A description of the deficiency;

2. A citation to the statute or rule violated;

3. A time frame for the correction of the deficiency;

4. A request for a plan of correction which shall include the time frame for correction of the deficiency; and

5. A description of the administrative sanction that may be imposed if the facility fails to correct the deficiency within the established time frame.

(b) The provider's written plan of correction must be received within 10 working days of receipt of the deficiency statement.

(c) Additional time may be granted to correct specific deficiencies if a written request is received by the agency prior to the time frame included in the agency's deficiency statement.

(3) Administrative Sanctions shall be imposed as authorized in s. 394.879(4), F.S., for:

(a) Deficiencies which are not corrected within the time frame set by the agency and for repeat deficiencies.

(b) Exceeding the licensed capacity;

(c) Violating a moratorium on admissions imposed under the provisions of this rule; and

(d) When a check submitted for payment of the license fee or for payment of an administrative fine is returned from the provider's bank for any reason, the agency shall add to the amount due a service fee of \$20 or 5% of the face amount of the check, whichever ever is greater, up to a maximum charge of \$200. Proceeds from this fee shall be deposited into the same account for which the check was written.

(e) Providers shall be notified by the agency of the imposition of sanctions, their right to appeal the sanction, the remedies available, and the time for requesting such remedies as provided under s. 120, F.S.

(f) Failure to submit a renewal application or a change of ownership application timely as required by rule.

(4) Moratorium on admissions.

(a) An immediate moratorium on admissions shall be placed on the facility when it has been determined that any condition in the facility presents an immediate or direct threat

to the health, safety, and well being of children in the facility. The following situations are examples of threats constituting grounds for a moratorium:

1. Inappropriate or excessive use of restraint and seclusion;
2. The presence of children who need more care than can be provided by the facility;
3. Food supply inadequate to provide proper nutrition to children;
4. Lack of sufficient staff who are skilled and competent to provide for or to meet the immediate needs of the children;
5. Notification by the local fire marshal's office or county health department that conditions exist which impose an immediate threat to the children; or

6. Failure to provide medications as prescribed.

(b) Agency personnel shall inform the provider that a moratorium on admissions may be imposed. The appropriate agency field office shall confirm placement of the moratorium by a telephone call to the provider. The effective date of the moratorium shall be the date the agency provides a written notification containing the following information:

1. Confirmation of placement of the moratorium;
2. A detailed explanation of the reasons for placing the moratorium;
3. Criteria the provider will be required to meet before the moratorium will be lifted;
4. Directions to contact the appropriate agency field office when the conditions have been corrected so that an appraisal visit can be conducted; and
5. Advising the provider of their right to request a hearing in accordance with Chapter 120, F.S.

(c) Moratoriums shall not be lifted until the deficiencies have been corrected and the agency has determined through an appraisal visit that there is no danger or threat to the children's health, safety, or well being. The removal of the moratorium shall be conveyed by a telephone call and confirmed by written notification.

(d) During the moratorium, no new children or previously discharged children shall be admitted to the facility. Children for whom the provider is holding a bed may return to the facility only after the child's parent or guardian has been informed that the facility is under a moratorium on admissions and with the prior approval of the local agency field office.

(e) When a moratorium is placed on a facility, the agency notice of the moratorium shall be posted and visible to the public at the facility until the moratorium is lifted.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History--New.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Definitions
 RULE NO.: 68A-1.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to provide definitions for language in rules of the Fish and Wildlife Conservation Commission.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rule include rule language definitions.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETINGS AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., January 22-24, 2003 – Fort Myers, Florida; 8:30 a.m., March 26-28, 2003 – Tallahassee, Florida; 8:30 a.m., May 28-30, 2003 – Kissimmee, Florida; 8:30 a.m., September 3-5, 2003 – Panhandle; and 8:30 a.m., November 19-21, 2003 – Florida Keys

PLACE: Exact locations will be noticed in the next available FAW

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Tim Breault, Division of Wildlife, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PERSON TO BE CONTACTED REGARDING A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Taking Wildlife on Roads and Rights-of-Way Prohibited
 RULE NO.: 68A-4.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish or revise prohibitions associated with taking wildlife on roads and rights-of-way.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rule includes taking wildlife on roads and rights-of-way.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETINGS AT THE TIME, DATES AND PLACE SHOWN BELOW:

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

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

RULE NO.:

68A-5.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish or revise procedures for application, selection, or issuance of quota hunt or special-opportunity hunt permits.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rule includes the application, selection and issuance of Quota Hunt Permits and Special-opportunity Permits.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETINGS AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., January 22-24, 2003 – Fort Myers, Florida; 8:30 a.m., March 26-28, 2003 – Tallahassee, Florida; 8:30 a.m., May 28-30, 2003 – Kissimmee, Florida; 8:30 a.m., September 3-5, 2003 – Panhandle; and 8:30 a.m., November 19-21, 2003 – Florida Keys

PLACE: Exact locations will be noticed in the next available FAW

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES:	RULE NOS.:
Permits for Hunting or Other Recreational Use on Type I Wildlife Management Areas	68A-9.004
Special-use Permits; Short-term Use Permits; Fees; Special-Opportunity Hunting and Fishing	68A-9.007

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development are to establish or revise provisions for administering recreational use permits and related fees on Type I Wildlife Management Areas and to establish provisions for administering special-use permits, short-term use permits, special-opportunity hunting and fishing permits, and any related fees.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rule includes Special-use Permits; Short-term Use Permits; Fees; Special-opportunity Hunting and Fishing; and Recreational Use Permits.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETINGS AT THE TIME, DATES AND PLACE SHOWN BELOW:

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PLACE: Exact locations will be noticed in the next available FAW

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Tim Breault, Division of Wildlife, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PERSON TO BE CONTACTED REGARDING A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Regulations Governing the Operation of Private Hunting Preserves
 RULE NO.: 68A-12.010

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish or revise rule provisions associated with the operation of private hunting preserves.

SUBJECT AREA TO BE ADDRESSED: The subject area covered in the proposed rules will be regulations pertaining to the release of captive-reared ducks on private hunting preserves for shooting purposes.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES:	RULE NOS.:
Open Season for Taking Game; Bag and Possession Limits	68A-13.001
Migratory Birds; Adoption of Federal Statutes and Regulations	68A-13.002
Hunting Regulations for Ducks, Geese, and Coots	68A-13.003
Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits to Private Landowners	68A-13.004
Hunting on National Wildlife Refuges	68A-13.006
Hunting Regulations on Public Small-Game Hunting Areas	68A-13.007
Hunting Regulations for Migratory Birds Other than Ducks and Coots	68A-13.008

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development are to (1) establish open seasons, bag limits and possession limits for taking game; (2) establish hunting regulations for ducks, geese, coots, and other migratory birds; (3) provide for adoption of Federal statutes and regulations pertaining to migratory birds and hunting on National Wildlife Refuges; (4) establish hunting regulations for public small-game hunting areas; and (5) provide for the issuance of antlerless deer permits to private landowners.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include regulations for taking game including waterfowl and other migratory birds, issuance of antlerless deer permits to private landowners, public small-game hunting area regulations, adoption of Federal statutes and regulations, and hunting on National Wildlife Refuges.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Establishment Orders
 RULE NO.: 68A-14.001

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development are to amend the rule pertaining to Commission Establishment Orders, that establish land as Type I or Type II wildlife management areas, wildlife and environmental areas, refuges, bird sanctuaries, restricted hunting areas, critical wildlife areas, fish management areas, miscellaneous areas, or wild hog areas, to: (1) adjust acreage of said lands; and (2) make technical changes to Establishment Orders.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is establishment orders for wildlife management areas, wildlife and environmental areas, refuges, bird sanctuaries, restricted hunting areas, critical wildlife areas, fish management areas, miscellaneous areas, or wild hog areas.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.
 LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES:	RULE NOS.:
General Regulations Relating to Type I Wildlife Management Areas	68A-15.004
Quota Permits; Antlerless Deer Permits	68A-15.005
Regulations Relating to Miscellaneous Areas	68A-15.006
Specific Regulations for Type I Wildlife Management Areas – Southwest Region	68A-15.061
Specific Regulations for Type I Wildlife Management Areas – North Central Region	68A-15.062
Specific Regulations for Type I Wildlife Management Areas – Northwest Region	68A-15.063
Specific Regulations for Type I Wildlife Management Areas – South Region	68A-15.064
Specific Regulations for Type I Wildlife Management Areas – Northeast Region	68A-15.065

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development are to (1) establish or revise general regulations relating to Type I Wildlife Management Areas (WMA); (2) establish or adjust hunter quotas for Type I WMAs; (3) establish or modify specific area regulations for Type I WMAs; and (4) adjust hunting season dates on Type I WMAs to conform with proposed 2003-2004 hunting season dates for the appropriate hunting zone.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include general regulations, quota hunt permits, hunting season dates and specific area regulations pertaining to Type I WMAs.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.
 LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES: RULE NOS.:
 General Regulations Relating to Type II Wildlife Management Areas 68A-16.004
 Specific Regulations on Type II Wildlife Management Areas 68A-16.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to consolidate the Wildlife Management Area system into one Type to reduce and simplify rules. All Type II WMA rules will be proposed for deletion, and current Type II WMAs will be consolidated with Type I WMAs.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include hunting season dates, general regulations and specific area regulations pertaining to Type II WMAs.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES: RULE NOS.:
 General Regulations Relating to Wildlife and Environmental Areas 68A-17.004
 Specific Regulations on Wildlife and Environmental Areas 68A-17.005

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development are to (1) establish general regulations relating to Wildlife and Environmental Areas (WEA); (2) establish or modify specific area regulations for WEAs; and (3) adjust hunting season dates on WEAs to conform with proposed 2003-2004 hunting season dates for the appropriate hunting zone.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include hunting season dates, general regulations and specific area regulations pertaining to WEAs.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:
 Establishment and Protection of Critical Wildlife Areas 68A-19.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish and protect areas critical to wildlife populations.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include the establishment and protection of Critical Wildlife Areas.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Specific Fish Management Area Regulations RULE NO.: 68A-20.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish regulations on specific fish management areas for taking and possessing freshwater fish or other activities such as swimming, use of firearms, or use of boats or other vehicles, that will ensure conservation of freshwater fish populations while providing for realization of their potential aesthetic, recreational, and economic values.

SUBJECT AREA TO BE ADDRESSED: Requirements for taking and possessing freshwater fish.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Darrell L. Scovell, Division of Freshwater Fisheries, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-0331

THE PERSON TO BE CONTACTED REGARDING A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES:	RULE NOS.:
Establishment	68A-21.002
General Regulations Relating to Wild Hog Areas	68A-21.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish or revise rule provisions associated with general regulation of wild hog areas.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include general regulation of wild hog areas.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

General Methods of Taking Freshwater Fish 68A-23.002

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to provide a forum for the public to provide input on proposed changes relating to general methods of taking freshwater fish.

SUBJECT AREA TO BE ADDRESSED: General methods of taking freshwater fish.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Darrell L. Scovell, Division of Freshwater Fisheries, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-0331

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Bag Limits, Length Limits, Open Seasons: 68A-23.005

Freshwater Fish

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish bag limits, length limits, and season dates in order to protect and ensure conservation of freshwater fish populations.

SUBJECT AREA TO BE ADDRESSED: Bag limits, length limits, and season dates for freshwater fish.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Introduction of Non-Native Aquatic Species 68A-23.008
 in the Waters of the State; Provisions for
 Sale and Inspection of Fish for Bait or
 Propagation Purpose; Diseased Fish

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to provide a forum for the public to provide input on proposed changes relating to importation, selling, possession or transporting of live aquatic species or hybrids, including those species that may be classified as prohibited or restricted.

SUBJECT AREA TO BE ADDRESSED: Importation, selling, possession or transporting of live aquatic species or hybrids.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES:	RULE NOS.:
General Provisions for Taking, Possession and Sale of Reptiles	68A-25.002
Taking and Disposal of Nuisance Alligators Statewide	68A-25.003
Regulations Governing the Operation of Alligator Farms	68A-25.004
Regulations Governing Alligator Egg and Hatchling Collections on Lands Not Included in Alligator Management Programs on Private Lands	68A-25.031
Regulations Governing the Establishment of Alligator Management Programs on Private Lands	68A-25.032
Regulations Governing Statewide Alligator Trapping, Permitting, Taking and Sale	68A-25.042
Regulations Governing the Processing of Alligators and the Sale of Alligator Meat and Parts	68A-25.052

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish regulations for taking and possessing alligators that will ensure conservation of alligator populations while providing for realization of their potential aesthetic, recreational, and economic values.

SUBJECT AREA TO BE ADDRESSED: Requirements for taking and possessing alligators and other reptiles.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLES:	RULE NOS.:
Procedures for Listing, Delisting and Reclassifying Endangered, Threatened and Species of Special Concern	68A-27.0012
Designation of Candidate Species; Prohibitions, Permits	68A-27.0021
Designation of Endangered Species; Prohibitions; Permits	68A-27.003
Designation of Threatened Species; Prohibitions, Permits	68A-27.004
Designation of Species of Special Concern; Prohibitions; Permits	68A-27.005

PURPOSE AND EFFECT: The purposes and effects of the proposed rules are to add species to, reclassify species, and/or remove species from the Candidate Species, Endangered Species, Threatened Species and Species of Special Concern lists.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include listing, delisting, and reclassifying species to the Candidate Species, Endangered Species, Threatened Species and Species of Special Concern lists.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Historical Resources

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Main Street Program	1A-36
RULE TITLES:	RULE NOS.:
Purpose	1A-36.001
Definitions	1A-36.002
Program Information	1A-36.003
Program Description	1A-36.004
Eligibility Requirements	1A-36.005
Application Procedures	1A-36.006
Ad Hoc Florida Main Street Advisory Committee	1A-36.007
Application Review	1A-36.008
Program Administration	1A-36.009
Active Local Programs	1A-36.010
Secretary of State’s Florida Main Street Awards Program	1A-36.011

PURPOSE AND EFFECT: The Florida Main Street Program (Program), an established program of the Florida Department of State, Division of Historical Resources, provides training and technical assistance to aid the development of local historic preservation-based downtown revitalization programs. The Division recognizes the need to clarify and formalize the

procedures associated with the various aspects of administration of the Program. The proposed rule will meet that need.

SUMMARY: The proposed rule will clarify and formalize (a) procedures and criteria for selection of local organizations or agencies for participation in the Florida Main Street Program, (b) procedures for administration of the Florida Main Street Program, (c) criteria for achieving and maintaining Active Local Program status, and (d) procedures for conducting the annual Secretary of State’s Florida Main Street Awards Program.

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 regulatory cost, or to provide a proposal for lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 267.031(1) FS.

LAW IMPLEMENTED: 267.031(5)(g) FS.

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

TIME AND DATE: 10:00 a.m., December 17, 2002

PLACE: R. A. Gray Building, 500 S. Bronough Street, Third Floor Conference Room, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David Ferro, Supervisor, Architectural Preservation Services Section, Bureau of Historic Preservation, Division of Historical Resources, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6363, e-mail dferrp@mail.dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

1A-36.001 Purpose.

The purposes of this rule are to provide: (a) procedures and criteria for the selection of local organizations or agencies for participation in the Florida Main Street Program, (b) procedures for administration of the Florida Main Street Program, and (c) procedures for conducting the annual Florida Main Street Awards Program. The Bureau of Historic Preservation, Division of Historical Resources, Florida Department of State, administers the Florida Main Street Program, a technical assistance program for Florida communities, which encourages economic revitalization of traditional downtown commercial districts within the context of historic preservation.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History-New

1A-36.002 Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning:

(1) “Active Local Program” means a local preservation-based downtown revitalization program that has been designated for participation in the Florida Main Street Program pursuant to Rule 1A-36.008, F.A.C., and is conducted in full conformance with the criteria listed in Rule 1A-36.010, F.A.C.

(2) “Advisory Committee” means the ad hoc Florida Main Street Advisory Committee established pursuant to Rule 1A-36.007, F.A.C., to review and make recommendations to the Secretary of State regarding applications for participation in the Florida Main Street Program.

(3) “Applicant” means the entity that (a) makes application for designation to participate in the Florida Main Street Program and (b) that will be responsible for administration of the local Main Street program, should it be designated. Applicants representing previously designated Local Programs are not eligible to reapply for designation of a local Main Street program to be conducted in the same Local Program Area.

(4) “Application” means a formal written request for participation in the Florida Main Street Program that is made on the Florida Main Street Program Application (Form HR4E023R0102, effective _____ 2003), which is incorporated by reference, and copies of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.

(5) “Application Deadline” means the formally announced closing date established annually by the Division of Historical Resources, Florida Department of State, for submission of applications for participation in the Florida Main Street Program.

(6) “Awards Committee” means the ad hoc Florida Main Street Awards Advisory Committee established pursuant to Rule 1A-36.011, F.A.C., to review nominations for awards recognizing achievements relating to the goals of individual Local Programs or of the statewide Florida Main Street Program.

(7) “Bureau” means the Bureau of Historic Preservation of the Division of Historical Resources, Florida Department of State.

(8) “Department” means the Florida Department of State.

(9) “Director” means the Director of the Division of Historical Resources, Florida Department of State.

(10) “Division” means the Division of Historical Resources, Florida Department of State.

(11) “Eligible Application” means an Application that has been (a) submitted by an eligible Applicant as described in Rule 1A-36.005, F.A.C., (b) received prior to the Application Deadline, and (c) determined by the staff of the Bureau of Historic Preservation to be sufficient and complete.

(12) “Florida Main Street Program” means the statewide preservation-based downtown revitalization assistance program conducted by the Division of Historical Resources, Florida Department of State.

(13) “Local Organization” means the entity meeting the eligibility requirements in Rule 1A-36.005, F.A.C., that has made application for designation of a local Main Street program for participation in the Florida Main Street Program.

(14) “Local Program” means a local preservation-based downtown revitalization program that has been designated for participation in the Florida Main Street Program pursuant to Rule 1A-36.008, F.A.C.

(15) “Local Program Area” means the specific geographic area, as delineated in the Application, in which the local Main Street program is or will be conducted.

(16) “Main Street Approach” means the comprehensive process developed by the National Main Street Center of the National Trust for Historic Preservation for encouraging downtown revitalization within the context of historic preservation. The Main Street Approach is described in the document entitled “The Main Street Approach”, National Trust for Historic Preservation, Washington D.C., 1993, which is incorporated by reference, and copies of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.

(17) “Manager” means the professional, full-time employee of the Local Main Street Organization who is responsible for administering the local Main Street program. The Manager also serves as liaison between the local Main Street program and the Florida Main Street Program.

(18) “Program Coordinator” means the employee of the Bureau of Historic Preservation responsible for planning and conducting the statewide Florida Main Street Program.

(19) “Secretary” means the Secretary of State of the State of Florida.

Specific Authority 267.031(1) FS, Law Implemented 267.031(5)(g) FS, History—New _____.

1A-36.003 Program Information.

(1) The Division shall make available to the public a Florida Main Street Program information package. The information package shall include a description of the program, eligibility requirements, application procedures, and the annual application deadline.

(2) Copies of the information package may be obtained by writing to the Bureau of Historic Preservation, 500 South Bronough Street, R.A. Gray Building (Fourth Floor),

Tallahassee, Florida 32399-0250, or by calling (850)245-6333. Bureau office hours are 8:00 A.M. to 5:00 P.M., Monday through Friday.

(3) The Division shall provide technical assistance on request to entities interested in making application for participation in the Florida Main Street Program. At a minimum, such assistance shall include meeting with community representatives, conducting one or more regional pre-application workshops annually, and responding to e-mail, telephone and written inquiries. Depending on availability of resources, such assistance may also include an assessment visit to the proposed Local Program Area by the Program Coordinator.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History—New _____.

1A-36.004 Program Description.

(1) The Florida Main Street Program is based on the program model developed by the National Trust for Historic Preservation in the early 1980s and provides training and technical assistance to designated Active Local Programs to assist development of preservation-based downtown revitalization programs within their Local Program Areas.

(2) Local Programs are designated for participation in the Florida Main Street Program by the competitive process prescribed in this rule.

(3) With the exception of the limited assistance described in subsection 1A-36.003(3), F.A.C., only Active Local Programs are eligible to receive training and technical assistance through the Florida Main Street Program.

(4) The structured training and technical assistance provided to Active Local Programs through the Florida Main Street Program continues for a period of up to three years following designation. After their initial three-years of participation, Active Local Programs shall receive additional training and technical assistance consistent with available resources.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History—New _____.

1A-36.005 Eligibility Requirements.

(1) An Applicant must represent:

(a) A local downtown preservation and revitalization program within an incorporated municipality, or

(b) A regional, countywide or unincorporated community program (with one or more traditional commercial districts, i.e., a group of small communities connected by a waterway or roadway) conducted by or in cooperation with one or more local and county governments.

(2) The Main Street Approach has been shown to be most successful in communities with populations between 5,000 and 50,000. However, in addition to communities within the 5,000 to 50,000 population range, communities with populations less than 5,000 and traditional neighborhood commercial districts

within cities with populations greater than 50,000 are also eligible for participation. For the purpose of application preparation, required population statistics shall be based on the most recent "Florida Estimates of Population" compiled by the Population Program, Bureau of Economic and Business Research, University of Florida.

(3) An Applicant for participation in the Florida Main Street Program must be:

(a) The government of an incorporated municipality;

(b) A county government.

(c) A local non-profit corporation whose articles of incorporation have been filed by the Department of State in accordance with Section 617.0125, F.S.;

(d) A community redevelopment agency which has been established by the governing body of an incorporated municipality and is authorized to carry out community redevelopment in a designated area pursuant to Chapter 163, F.S.; or

(e) A downtown development authority whose primary function and purpose is planning, coordinating and assisting in the implementation, revitalization and redevelopment of a specific downtown area of a jurisdiction pursuant to Chapter 165, F.S.

(4) An Applicant must provide verification of commitment to employ a full-time Manager for a period of at least one year following designation. A three-year commitment is preferred.

(5) An Applicant must provide verification of full first year funding for the Local Program, including: (a) salary and benefits for a full-time Manager, and (b) travel and operating expenses as described in the Application. A three-year Local Program funding commitment is preferred.

(6) Applications must be complete, including all required supporting materials.

(7) Consistent with the provisions of subsection 1A-36.008(1), F.A.C., an application that is determined by the Division not to meet the requirements in (1) through (6) above shall be declared ineligible. All ineligible applications will be returned by "Certified Mail" to the Applicant by the Division with a written explanation of the determination of ineligibility.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History—New _____.

1A-36.006 Application Procedures.

(1) Each year during the month of June, the Division shall publish notification of the annual Florida Main Street application cycle and the Application Deadline in the Florida Administrative Weekly. This notification shall be published at least 60 days prior to the established Application Deadline and shall include a mailing address and telephone number through which Application forms and additional information may be obtained, and shall specify the maximum number of Local

Programs that may be designated for the year. The Division shall provide information regarding the application process at one or more regional pre-application workshops.

(2) Prior to announcement of the annual application cycle, available funding and staffing will be compared with Florida Main Street Program obligations to second year, third year and other Active Local Programs to determine the resources available to provide training and technical assistance to new Local Programs. Based on the results of this assessment, Florida Main Street staff will determine the maximum number of new Local Programs that can be accommodated for the coming year. Only Applicants meeting the requirements set forth in Rules 1A-36.005 and 1A-36.008, F.A.C., will be recommended for designation. If less than the maximum allowable number of Applicants meet the requirements set forth in Rules 1A-36.005 and 1A-36.008, F.A.C., then that lesser number of Applicants will be recommended for designation.

(3) To be considered for designation, Applications must be delivered to the offices of the Bureau of Historic Preservation on or before 5:00 P.M. on the date of the Application Deadline, or must be clearly postmarked on or before that date and mailed by "Certified Mail" with "Return Receipt Requested", or by a suitable express mail or package service. The Bureau's address is indicated in subsection 1A-36.003(2), F.A.C. Applications that are delivered by the Applicant or are postmarked or shipped after the Application Deadline shall be automatically rejected, and shall be returned to the Applicant with all support materials by "Certified Mail".

(4) Applications shall be made on the Florida Main Street Program Application (Form HR4E023R0102, effective 2003).

(5) The Applicant's submission shall include the original and eight copies of the Application and all supporting materials indicated in the instructions in the Application.

(6) The Applicant Certification in the Application shall be signed by the person or persons with legal authority to obligate the Applicant.

(7) The Applicant may withdraw an Application at any time by submission of a written request to the Division. The request for withdrawal of an Application must be signed by the person or persons with legal authority to obligate the Applicant.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History—New

1A-36.007 Ad Hoc Florida Main Street Advisory Committee.

(1) For the purpose of reviewing Applications and making recommendations on such Applications, there is created annually the ad hoc Florida Main Street Advisory Committee. The Advisory Committee shall review and rank all Eligible

Applications and shall recommend Applicants to the Secretary for designation as Local Programs based on the criteria in Rule 1A-36.008, F.A.C.

(2) The Committee shall consist of up to eight members, representing the following public and private sector agencies and organizations:

(a) Division of Historical Resources, Florida Department of State;

(b) National Main Street Center of the National Trust for Historic Preservation;

(c) Florida Department of Community Affairs;

(d) Florida Redevelopment Association;

(e) Florida League of Cities;

(f) 1000 Friends of Florida;

(g) Florida Trust for Historic Preservation; and

(h) The Manager of an Active Local Program.

(3) Annually, the Director shall request the head of each agency and organization listed in paragraphs (2)(b) through (2)(g) above to appoint a representative to serve on the Advisory Committee. The Director shall annually appoint a member from the Division staff and a Manager from an Active Local Program to serve on the Advisory Committee.

(4) With the exception of the Division representative, members of the Advisory Committee shall receive no compensation for their services or reimbursement from the Department for expenses incurred in the performance of said services.

(5) As its first order of business, the Advisory Committee shall elect a chairperson from its membership.

(6) Staff support for the Advisory Committee shall be provided by the Division and shall include, but not be limited to:

(a) Providing notice of Advisory Committee meetings;

(b) Preparing and distributing an agenda of the business to be transacted at each meeting of the Advisory Committee;

(c) Evaluating Applications for completeness and eligibility;

(d) Distributing eligible Applications and related materials to Advisory Committee members for review;

(e) Recording Advisory Committee meetings;

(f) Preparing and distributing a written report of the actions of the Advisory Committee;

(g) Maintaining all records of the Advisory Committee;

(h) Responding to public requests for information on the Advisory Committee and its activities, and

(i) Participating in all Advisory Committee meetings to answer questions and provide such information as the Advisory Committee members may require.

(7) The Advisory Committee shall be convened annually at a place, date and time designated by the Division. Advisory Committee members shall be provided with notice of a scheduled meeting and an agenda at least 30 days in advance of such meeting.

(8) A copy of the agenda of any meeting of the Advisory Committee may be obtained by writing to the Bureau of Historic Preservation or by appearing in person at the offices of the Bureau of Historic Preservation at the address set forth in subsection 1A-36.003(2), F.A.C.

(9) Prior to each Advisory Committee meeting, members shall be provided with guidelines for application review. These guidelines shall include:

(a) A description of the Florida Main Street Program.

(b) An explanation of the Main Street Approach.

(c) An explanation of the eligibility criteria, and other factors to be considered in evaluating and ranking the Applications.

(d) Indication of the maximum number of communities that may be designated for the year.

(10) A public notice of each Advisory Committee meeting shall be published in the Florida Administrative Weekly at least seven days prior to the date of the meeting. The notice shall provide:

(a) The date, time and place of the meeting.

(b) A brief description of the purpose of the meeting.

(c) An address where interested persons may write to obtain a copy of the agenda.

(11) For purposes of transacting business, a simple majority of the membership of the Advisory Committee shall constitute a quorum. All action taken shall be by a majority vote of the members present.

(12) A written report of the actions of the Advisory Committee shall be prepared by the Division within 30 days of each Advisory Committee meeting. Advisory Committee members shall be provided with a copy of the written report, and shall notify the Director of any discrepancies within 30 days of receipt.

(13) All members of the Advisory Committee shall comply with all laws governing conflicts of interest, including Chapter 112, Part III, F.S.

(14) Any communication on a matter relevant to the duties or activities of the Advisory Committee may be directed to the Division at the address set forth in subsection 1A-36.003(2), F.A.C.

Specific Authority 267.031(1) FS, Law Implemented 267.031(5)(g) FS, History—New _____.

1A-36.008 Application Review.

(1) Following the Application Deadline, Division staff shall review all Applications for completeness and eligibility. If Division staff determines that an Application is incomplete, they shall request additional information of the Applicant by

e-mail or facsimile transmittal. Requested additional information must be received by the Division within seven days of the request, otherwise the Application shall be declared ineligible and handled in accordance with subsection 1A-36.005(7), F.A.C.

(2) The Division shall send to each member of the Advisory Committee a copy of each Eligible Application in sufficient time for members to review all Eligible Applications prior to the Advisory Committee convening in a public meeting for the purpose of considering the Applications.

(3) Division staff shall make the Advisory Committee aware of any additional information or clarification requested by it and received from an Applicant prior to final consideration of said Application.

(4) The Advisory Committee shall hold a public meeting to review and evaluate Eligible Applications within 45 days of the Application Deadline. At least seven days before the meeting, the Division shall notify each Applicant of the date, time and place of the meeting, and provide each Applicant with a copy of the meeting agenda.

(5) Applications shall be evaluated and comparatively ranked in the best professional judgment of the Advisory Committee members in consideration of the following criteria:

(a) Criteria related to the characteristics of the community:

1. The history of the community and the proposed Local Program Area;

2. Community demographics, economic base and standard economic indicators;

3. Potential for benefit from the training and technical assistance provided by the Florida Main Street Program;

4. Plans for redevelopment within the proposed Local Program Area and the larger community;

5. Municipal, state and federal development programs and activities within the Local Program Area and the larger community;

6. Encouragement of economic reinvestment within the Local Program Area provided by local government and financial institutions; and

7. Other community organization activities, cultural and recreational events, and facilities that may contribute to revitalization of the Local Program Area.

(b) Criteria related to the readiness of the Applicant:

1. Organizational and financial readiness of the Applicant to manage the proposed Local Program;

2. Broad-based support and understanding of the proposed Local Program and its objectives within both the private and the public sectors;

3. Consistency of the goals of the proposed Local Program with the "Main Street Approach"; and

4. Job description, selection process, compensation, and means of evaluating performance of the Manager.

(c) Criteria related to the characteristics of the Local Program Area:

1. Cohesive and well-defined traditional commercial district with a concentration of historic buildings and sites;

2. Quantity and quality of housing in and around the Local Program Area;

3. Economic base and business mix of the Local Program Area and surrounding areas;

4. Previous downtown revitalization activities by government and private investment.

(d) The supporting documentation, including slides, aerial photographs, maps certifications, resolutions and letters of support required in the Application.

(e) All other factors being equal, the Advisory Committee shall give preference to Applications from areas of the state not currently served by the Florida Main Street Program in order to give all regions of the state an opportunity to benefit from the program. The training and technical assistance provided to Local Programs through the Florida Main Street Program often influence neighboring communities, cultivating interest in historic preservation and downtown revitalization. For this reason, uniform geographic distribution of the limited resources available through the Florida Main Street Program provides optimum benefit to the citizens of the state.

(6) After all Applications have been reviewed and all Applicants have been allowed to make brief presentations and to answer Advisory Committee questions, each Advisory Committee member shall numerically rank each Application relative to the others in order of priority. The individual rankings will be tabulated and averaged by Division staff. If two or more Applications receive the same average, the Advisory Committee shall vote to rank them relative to each other. After completion of the ranking process, the Advisory Committee shall recommend designation of Applicants as Local Programs, beginning with the highest ranked Applicant and progressing consistent with the ranked list of Applicants. The Advisory Committee may recommend any number of Applicants for designation up to the maximum number announced by the Division for the annual application cycle. However, all Applicants recommended for designation must, in the opinion of the Advisory Committee and consistent with the criteria in this section:

(a) Possess the physical attributes and resources required to conduct an effective local Main Street program, including:

1. A cohesive collection of historic commercial properties in the proposed Program Area;

2. An organization consistent with the model described in the Main Street Approach; and

3. A budget and committed funding for at least one year following designation as a Local Program.

(b) Demonstrate community understanding of the Main Street Approach and broad public and private local support for the proposed Local Program through letters and resolutions of support, and pertinent media articles; and

(c) Be ready to begin its participation in the Florida Main Street Program immediately upon selection.

(7) The recommendations of the Advisory Committee shall be submitted in writing by the Division to the Secretary of State (Secretary) for review and approval.

(8) Within 30 days of the Advisory Committee meeting, the Secretary, taking into account the recommendations of the Advisory Committee, shall confer Local Program designation on successful Applicants. Division staff shall notify all Applicants of the designated Local Programs.

Specific Authority 267.031(1) FS, Law Implemented 267.031(5)(g) FS, History--New

1A-36.009 Program Administration.

(1) Upon designation as a Local Program, the successful Applicant shall enter into a formal Florida Main Street Agreement (Form HR3E0310202, effective 2003), which is incorporated by reference. This agreement between the Local Organization and the Division shall set forth the responsibilities of each party relative to Local Program participation in the Florida Main Street Program. The term of the initial agreement shall be one year with provision for two one-year extensions with the mutual agreement of the parties.

(2) During the first year following designation, each Local Program will be eligible to apply for a one-time \$10,000 start-up grant from the Historical Resources Grant-in-Aid Program to assist initial development of the Local Program. All Local Program activities assisted through this grant shall be in accordance with the Main Street Approach. Award and administration of all such grants shall be in accordance with provisions of Chapter 1A-35, F.A.C.

(3) The Division, in cooperation with other agencies and organizations, shall conduct and participate in local, regional, and statewide conferences, training programs, and technical assistance events for Active Local Programs.

(4) In order to encourage and acknowledge activities that advance the Main Street Approach to revitalization and historic preservation, the Division shall conduct an annual awards program in accordance with the provisions of Rule 1A-36.011, F.A.C. Individuals, businesses, organizations and agencies of government may be nominated by any Active Local Program for recognition of exceptional activities in support of individual Active Local Programs or the statewide Florida Main Street Program.

(5) Direct Division involvement in Local Programs shall include professional architectural assistance relating to historic preservation and rehabilitation of historic properties, professional technical assistance in disciplines relating to various aspects of downtown revitalization, Local

Organization development assistance, Manager training, Local Program evaluations, conferences, and the grant-in-aid funding and awards programs described in this section.

(6) The training and technical assistance described in (5) above shall be provided by Division staff, other state agencies, and professional consultants with expertise in a range of disciplines relating to historic preservation and downtown revitalization. Consultant services in support of Florida Main Street training and technical assistance programs are provided by entities other than the State of Florida. These non-state entities include non-profit organizations and for-profit corporations. Such services are funded by private contributions or through state grants awarded through the Historic Preservation Grants Program authorized by s. 267.0617, F.S.

(7) Prior to delivery of consultant services in support of Florida Main Street training and technical assistance programs, regardless of the manner in which the services are to be funded, consultant qualifications and proposals for consultant services shall be reviewed and approved by the Program Coordinator to ensure that all services provided are consistent with:

(a) Needs identified by the Local Program; and

(b) The Main Street Approach.

(8) Consultants delivering services in support of the Florida Main Street Program, regardless of the manner in which the services are funded, shall:

(a) Provide the Program Coordinator and Local Program, as applicable, with a one-page report summarizing the services provided, professional observations regarding the effectiveness of the services, any related problems and opportunities identified, and recommendations for follow-up activities;

(b) Conduct all activities in a thoroughly professional manner. Unprofessional behavior, including violence, fighting, threatening, intimidating or abusive behavior, or use of threatening, profane, abusive or inappropriate language shall be grounds for a formal request by the Division for consultant termination.

(9) Entities providing consultant services in support of the Florida Main Street Program shall be required by the Division to investigate any reported unprofessional behavior to ascertain the accuracy of the report before taking any action relative to consultant termination.

(10) Entities providing consultant services in support of the Florida Main Street Program will be required by the Division to apprise all prospective consultants and all non-state providers of consultant services of the requirements of (8) above before acceptance of any proposal for consultant services.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g), 267.0617(2) FS. History--New

1A-36.010 Active Local Programs.

(1) Active Local Programs shall include (a) Local Programs in the first three years of participation in the Florida Main Street Program and (b) Local Programs that have successfully completed three years of participation in the Florida Main Street Program and are currently conducting a program consistent with the Main Street Approach.

(2) To retain Active Local Program status, Local Programs in both categories in (1) above must conform to the criteria established by the National Main Street Center of the National Trust for Historic Preservation, with the exception noted in (j) below, and must meet the reporting requirements described in subsections 1A-36.010(3) and (4), F.A.C. To conform to the National Main Street Center criteria, Local Programs must:

(a) Have broad-based community support for the commercial district revitalization process, with strong support from both the public and private sectors;

(b) Have developed vision and mission statements relevant to community conditions and to the Local Program's organizational stage;

(c) Have a comprehensive Main Street work plan;

(d) Possess an historic preservation ethic as evidenced by:

1. Having or working towards putting in place an active design assistance program;

2. Encouraging building renovation or rehabilitation consistent with the recommended treatments described in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, National Park Service, U.S. Department of the Interior (revised 1990), incorporated by reference, and a copy of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.;

3. Encouraging public awareness of the historic properties in the Program Area and the importance of their preservation;

4. Working toward putting land use policies in place that encourage development of property in the Program Area; and

5. Encouraging development of financial mechanisms and incentives to attract investment to the program area.

(e) Have an active board of directors and committees;

(f) Have dedicated funding for an annual operating budget sufficient to cover the cost of:

1. Program Manager salary and fringe benefits;

2. Rent and general office expenses;

3. Travel for participation in Florida Main Street Quarterly Meetings and Annual Conference;

4. Program Manager professional development; and

5. Activities and programs conducted by Local Program committees.

(g) Have a full time paid professional program manager;

(h) Conduct a program of on-going training for staff and volunteers; and

(i) Report key statistics.

(j) While not required, Local Programs are encouraged to maintain membership in the National Trust's National Main Street Network program.

(3) Local Programs shall submit a completed FMS Quarterly Report (Form HR3E019R0102, effective 2003) on the schedule indicated on the form. Form HR3E019R0102 is incorporated by reference and copies may be obtained from the Bureau of Historic Preservation.

(4) Local Programs shall submit a completed FMS Annual Report (Form HR3E020R0102, effective 2003), which is incorporated by reference, and copies of which may be obtained from the Bureau of Historic Preservation. The reporting deadline for the Local Program's FMS Annual Report is July 1.

(5) Local Programs not conducted in accordance with the requirements of subsections 1A-36.010(2) through (4), F.A.C., will be notified by the Division in writing of noncompliance and will be allowed 90 days from the date of notification to bring the Local Program back into compliance with the cited requirements. All training and technical assistance to the Local Program to be provided pursuant to the Florida Main Street Agreement and subsection 1A-36.009(5), F.A.C., shall be postponed during this 90-day period or until the Local Program is brought back into compliance with the cited requirements.

(6) If, after the 90-day period allowed in subsection 1A-36.010(5), F.A.C., the Local Program remains in non-compliance with the requirements of subsections 1A-36.010(2) through (4), F.A.C., it will be designated as inactive and will not be eligible to receive on-site training and technical assistance from the Florida Main Street Program until such time as corrective actions are taken by the Local Program and it is once again conducted in accordance with the cited requirements.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History--New.

1A-36.011 Secretary of State's Florida Main Street Awards Program.

(1) The Secretary of State's Florida Main Street Awards Program is intended to acknowledge and encourage activities that advance the revitalization and historic preservation goals of Active Local Programs and of the statewide Florida Main Street Program.

(2) Annually, at least 60 days but no more than 90 days prior to the deadline for award nominations, such nominations shall be solicited by the Division by written notice to all Active Local Programs. The notice shall include the deadline for award nominations and a mailing address and telephone number through which nomination forms and additional information may be obtained.

(3) All award nominations shall be made on a Secretary of State's Florida Main Street Award Nomination Form (Form HR3E018R0102, effective 2003), incorporated by reference, and a copy of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.

(4) Award nomination forms shall be delivered to the offices of the Bureau of Historic Preservation on or before 5:00 P.M., on the date of the annual nomination deadline, or shall be clearly postmarked on or before the nomination deadline and mailed by "Certified Mail" or a suitable express mail or package service to the Bureau offices. All such nominations shall be designated eligible nominations. Award nominations that are postmarked, shipped or personally delivered to the Bureau after the nomination deadline shall be automatically rejected, and shall be returned to the nominator by "Certified Mail".

(5) All eligible nominations and associated support materials shall become the property of the Division and will not be returned to the nominator.

(6) For the purpose of evaluating eligible nominations, an ad hoc Florida Main Street Awards Advisory Committee shall be convened annually. Membership of the five-member Awards Committee shall include the Program Coordinator, the Bureau of Historic Preservation architect assigned to the Florida Main Street Program, and three Managers of Active Local Programs. The Program Coordinator shall select the three Managers.

(7) All members of the Awards Committee shall comply with all laws governing conflicts of interest, including Chapter 112, Part III, F.S.

(8) Division staff shall forward copies of all eligible nominations to the members of the Awards Committee, at least 30 days prior to the date of the meeting called for the purpose of reviewing nominations and formulating recommendations for awards. Awards Committee members are expected to familiarize themselves with the nominations before the meeting.

(9) Division staff shall conduct a review of all eligible nominations to determine if they are technically complete. If it is determined that a nomination is incomplete, the Division staff shall notify the nominator of the missing information or supporting material in writing. Supplemental information and supporting material received by the Division in response to this notification shall be presented to the Awards Committee for consideration in the course of the meeting during which recommendations regarding annual awards are formulated, and prior to final deliberations on nominations.

(10) The Awards Committee shall evaluate the nominations on the basis of information provided in the Secretary of State's Florida Main Street Award Nomination

Form and any additional information received pursuant to subsection 1A-36.011(9), F.A.C. All activities receiving recognition:

(a) Must conform with the principals set forth in the Main Street Approach; and

(b) For rehabilitation or other construction projects, must conform to the recommended approaches to rehabilitation set forth in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(11) Based on its formal review of all eligible nominations, the Awards Committee shall formulate a consensus recommendation to the Secretary of State regarding nominees to receive awards.

(12) Within 30 days following the Awards Committee meeting, the Secretary, taking into account the recommendations of the Awards Committee, shall approve the awards to be conferred for the year. Division staff shall notify all award recipients and make arrangements for formal presentation of the awards.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
David Ferro, R. A., Architect Supervisor, Bureau of Historic Preservation, 500 South Bronough Street, R. A. Gray Building, Tallahassee, Florida 32399-0250

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gerard T. York, Assistant General Counsel, Department of State

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

DEPARTMENT OF LEGAL AFFAIRS

RULE TITLE: Addition of Alphamethyltryptamine (AMT) to Schedule I, Subsection 893.03(1), F.S. RULE NO.: 2-40.006

PURPOSE AND EFFECT: The proposed rule is intended to add Alphamethyltryptamine (AMT), to the list of Schedule I controlled substances.

SUMMARY: The proposed rule adds Alphamethyltryptamine (AMT), to the list of Schedule I controlled substances.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 893.035 FS.

LAW IMPLEMENTED: 893.035 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: Edwin Bayó, Senior Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2-40.006 Addition of Alphamethyltryptamine (AMT) to Schedule I, Subsection 893.03(1), F.S.

(1) Under the authority of Section 893.035 (2)(a), Florida Statutes, the substance Alphamethyltryptamine (AMT), including any of its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters ethers, and salts is possible within the specific chemical designation of Alphamethyltryptamine (AMT), is hereby a controlled substance added to Schedule I, subsection 893.03(1), F.S.

(2) All provisions of Chapter 893, F.S., applicable to controlled substances listed in Schedule I, subsection 893.03(1), F.S., shall be applicable to Alphamethyltryptamine (AMT), including any of its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters ethers, and salts is possible within the specific chemical designation of Alphamethyltryptamine (AMT).

Specific Authority 893.035 FS. Law Implemented 893.035 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Edwin A. Bayó, Senior Assistant Attorney General

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard E. Doran, Attorney General
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 25, 2002

DEPARTMENT OF INSURANCE

RULE TITLES: Rates RULE NOS.: 4-191.054
Actuarial Memorandum and Definitions 4-191.055

PURPOSE, EFFECT AND SUMMARY: The amendments to Rules 4-191:

- Remove the requirements for information that is not needed upon initial review of an HMO filing
- Allow for a streamlined filing of trend for business with less than 1,000 Florida subscribers in force
- Clarify details that are needed in order to adequately review a filing

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: 641.31, 641.36 FS.

LAW IMPLEMENTED: 641.21(1)(e), 641.22(2),(4),(6), 641.31(2),(3), 641.31074, 641.3922(3) FS.

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

TIME AND DATE: 2:00 p.m., December 16, 2002

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE FULL TEXT OF THE PROPOSED RULES IS:

4-191.054 Rates.

(1) Before charging or quoting premiums to subscribers, an HMO shall file for approval the rating methodology by which those premiums were determined with the Department.

(a) No change.

(b) For purposes of this rule, ~~and~~ Rule 4-191.055, F.A.C., and the time periods established in Section 641.31, Florida Statutes, a filing is considered "filed" with the Department upon receipt of the material required in paragraph (2)(a), below. For purposes of this rule and Rule 4-191.055, F.A.C., the term "filed" does not mean "approved".

(2) Filings of rating methodologies shall provide adequate information, so that the Department, in accordance with generally accepted actuarial principles as applied to Health Maintenance Organizations, may verify that the rating methodology does not produce inadequate, excessive, or unfairly discriminatory premiums. All rate classifications should be clearly identified, and the formulas and/or methods of calculating premiums adequately described, as defined in Rule 4-191.055, F.A.C.

(a) The components of HMO rate filings shall consist of one copy of all of the items in subparagraphs 1. through 4. Filings for small group coverage subject to s. 627.6699, F.S. shall additionally comply with the provisions of Part III of Chapter 4-149, F.A.C.

1. A brief letter explaining the type and nature of the filing. The letter shall indicate if the filing is for a new product, a rate revision or a resubmission. If the filing is a resubmission, the letter should indicate when the previous filing was submitted, the Florida filing number, and the date of the disapproval. ~~Letters requiring a reference to a Florida filing number will not be processed without the inclusion of the Florida filing number.~~

2. No change.

3. Rate pages which define all proposed rates, rating factors, and methodologies for determining rates applicable in the state.

4. No change.

(b) through (c) No change.

(3) through (4) No change.

(5) HMOs with fewer than 1,000 Florida subscribers, for all individual forms combined or for all group forms combined, may, at their option, file a streamlined annualized rate increase filing not exceeding medical trend as provided in subsection 4-149.003(7), F.A.C. The filing shall be made in accordance with paragraph 4-191.054(2)(a), F.A.C., with a certification that the filing includes all individual forms or all group forms in lieu of the actuarial memorandum required by Rule 4-191.055, F.A.C. Rate filings shall be signed by a qualified actuary.

(6)(a) Rates for group conversion contracts, issued on a group or on an individual basis are exempt from the loss ratio requirements below. The loss ratio for group conversion contracts shall not be less than 120 percent ~~%~~. The premium for a converted contract may not exceed 200 percent of the standard risk rate, as published in Chapter 4-149, Part X, F.A.C.

(b) Rates for contracts, including riders and endorsements, issued to individual (non-group) ~~s~~ subscribers shall be deemed excessive if anticipated loss ratios for such contracts are less than 70%.

(c) Rates for contracts, including riders and endorsements, issued to group subscribers shall be deemed excessive if target anticipated ~~anticipated~~ loss ratios anticipated over the rating period ~~those indicated in the Loss Ratio Table~~ for such contracts are less than the following: ~~those indicated in the Loss Ratio Table~~ — Group Contracts:

~~1. Loss Ratio Table~~ — Group Contracts

Group Size	Loss Ratio in %
51 to 100	70%
101 to 500	75%
over 500	80%

~~2. No rate shall be deemed excessive if the anticipated loss ratio is greater than or equal to 80%. Loss ratio shall be calculated as 3. divided by 4. where 3. and 4. are calculated as follows:~~

3. The anticipated costs attributable to items (a) through (h) less the anticipated revenues associated with items (i) and (j). Such items shall be determined according to the definitions included in the instructions for the filing of financial reports with the Department.

- a. Physician services;
- b. Other professional services;
- c. Outside referrals;
- d. Emergency room, out-of-area, other;
- e. Occupancy, depreciation and amortization (medical and hospital);
- f. In-patient;
- g. Other medical;
- h. Incentive pool adjustment;
- i. Co-payments;
- j. C.O.B. and subrogation.

4. The anticipated revenues attributable to items (a) through (c). Such items shall be determined according to the definitions included in the instructions for the filing of financial reports with the Department.

- a. Premium;
- b. Fee for services;
- c. Title XVIII — Medicare.

(d) Rates filed for approval that are anticipated to result in an actual to expected ratio over the rating period which is less than 1.0 shall be deemed to be excessive.

(e) Rates for contracts providing home health care coverage pursuant to Section 641.2018, Florida Statutes, shall comply with the provisions of Rules 4-157 and 4-149, F.A.C.

(7) Rates are inadequate if the following condition is not met:

(a) The premiums derived from the rating structure, plus investment income, co-payments, and revenues from coordination of benefits and subrogation, fees-for-service and reinsurance recoveries are not set at a level at least equal to the anticipated cost of medical and hospital benefits, expenses and contingency margin during the period for which the rates are to be effective, and the other expenses which would be incurred if other expenses were at the level for the current or nearest future period during which the HMO is projected to make a profit. For this analysis, investment income shall not exceed 3% of total projected revenues. In order that the Department may determine HMO other expense levels at the time of profitability, HMOs which have never reported a profit for twelve consecutive months shall maintain on file with the Department a financial projection for future periods until the HMO is projected to be profitable for 12 consecutive months.

(b) Individual contracts do not incorporate the projected entire effects of insurance trend.

(c) The premium schedule is determined such that if all assumptions are satisfied, the annual rate increase needed will exceed medical trend.

(8) Premiums as to a risk or group of risks are unfairly discriminatory if:

(a) For individual non-group subscribers, the premiums charged deviate from the filed rating methodology.

(b) For group subscribers not subject to experience rating, the premiums charged are designed to produce total revenue for that group which differs from the revenue requirements for its rating class, as filed with the Department of Insurance. For group subscribers subject to experience rating, the premiums charged deviate from the filed rating methodology.

(c) The effect of changes to the underlying age/gender slope, reduction in the anticipated loss ratio for the form, and change in the durational slope for individual contract forms, results in subscriber impact greater than 50 percent of medical trend, as defined by subsection 4-149.003(7), F.A.C., unless phased-in over a 3 year period. A shorter time period shall be considered on a case-by-case basis based on unique situations and justification by the HMO. The HMO, at its option, may request a new business rate schedule based on the full effect of the new assumptions with the phase-in only applicable to existing subscribers.

(d) When an HMO discontinues offering a particular contract form for health insurance coverage pursuant to Sections 627.6425(3)(a) or 641.31074(3)(a), Florida Statutes, the nonrenewal of coverage shall occur on the contract anniversary, and the offer of new coverage pursuant to Section 627.6425(3)(a)2., or 641.31074(3)(a)2., Florida Statutes, shall be considered a renewal of coverage and shall be renewed on the contract anniversary at the same class basis as the coverage being discontinued. If the forms do not have consistent class definitions, the class shall be determined based on the original application and underwriting status of the individual when the discontinued coverage was first issued.

(9) No change.

(10) Prohibitions. A premium schedule is unfairly discriminatory if it incorporates any of the following:

(a) Select and Ultimate Premium Schedules, as defined in paragraph 4-191.055(4)(j), F.A.C., are prohibited. Select and ultimate premium schedules are premium schedules that have premiums that vary based on the time elapsed since issuance of the contract.

(b) Attained age premium schedules where the slope by age is substantially different from the slope of the ultimate claim cost curve are prohibited. Attained age premium schedules are defined in paragraph 4-191.055(4)(a), F.A.C. An attained-age premium schedule is one in which the subscriber's premium rate is dependent upon his or her age at contract renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, HMOs shall use each available

renewable age. The requirement to use each available renewable age does not apply to any group contract where the final premium charged is an average of the individual members.

(c) Premium structures that provide for retroactive cost determination, or if the subscriber or contract holder participate in the experience under the form.

Specific Authority 641.31, 641.36 FS. Law Implemented 641.21(1)(e), 641.22(2), ~~(4)~~, (6), 641.31(2), (3), 641.31074, 641.3922(3) FS. History—New 2-22-88, Amended 10-25-89, Formerly 4-31.054, Amended 10-8-96, 8-15-02, _____.

4-191.055 Actuarial Memorandum and Definitions.

(1)(a) In order for a rate filing to be reviewed properly by the Department, the actuarial memorandum required by subparagraph 4-191.054(2)(a)2., F.A.C., shall contain the items listed in subsection (2), below, for a new product filing, a rate revision or justification of existing rates.

(b)1. Pricing assumptions shall reflect assumptions based on sound actuarial principles reflecting actual anticipated experience. Pricing assumptions shall be based on the HMO experience to the degree credible, and industry experience where HMO experience is not credible, available or appropriate.

~~2. Assumptions shall reflect what the HMO fully expects to occur, rather than assumptions developed primarily for rate filing purposes, based on sound actuarial principles.~~

~~2.3. All such items shall be adequately justified by supporting data. In reviewing these assumptions, the Department will use, as an initial point of reference, comparisons of the assumptions with those from similar products of the same HMO, similar products of other HMO's and independent studies.~~

3. New forms shall include a rate and benefit comparison to other similar forms of the HMO. The HMO shall demonstrate that the premium rate schedules represent an actuarially sound relationship between the forms and between benefit options within forms.

4. Rate revision filings shall clearly list and justify all rating factors and methods proposed to be changed. Additional information will be required, if, given the particular facts and circumstances of the filing, the Department determines that the additional information is necessary to properly complete its review of the filing to determine if the benefits are reasonable in relation to the premiums charged.

(c) No change.

(2) Note that the numbers preceding the item names refer to the descriptions in subsection (3), below.

(a) through (b) No change.

~~(e) Item 3. Renewability Clause.~~

~~(d) Item 4. Applicability.~~

~~(c)(e) Item 3.5. Morbidity.~~

~~(d)(f) Item 4.6. Retention Expenses.~~

~~(g) Item 7. Marketing Method.~~

~~(h) Item 8. Underwriting.~~

~~(e)(i) Item 5.9. Rate Classes.~~

~~(j) Item 10. Issue Age Range.~~

~~(f)(k) Item 6.11. Area Factors.~~

~~(l) Item 12. Average Monthly Premium.~~

~~(g)(m) Item 7.13. Premium Modalization Rules.~~

~~(n) Item 14. Claim Liability and Reserves.~~

~~(h)(o) Item 8.15. Trend Assumption – Medical and Insurance.~~

~~(i)(p) Item 9.16. Minimum Required Loss Ratio for the Form.~~

~~(j)(q) Item 10.17. Anticipated Loss Ratio for the Form.~~

~~(r) Item 18. Distribution of Business.~~

~~(s) Item 19. Contingency & Risk Margins.~~

~~(k)(t) Item 11.20. Experience on the Contract Form – Past~~

~~(l)(u) Item 12.21. History of Rate Adjustments.~~

~~(m)(v) Item 13.22. Number of Subscribers.~~

~~(n)(w) Item 14.23. Proposed Effective Date.~~

~~(o)(x) Item 15.24. Actuarial Certification.~~

(3) Descriptions.

(a) No change.

(b) The descriptions, by item number, of the terms listed above in subsection (2) follow:

1. through 2. No change.

~~3. Renewability Clause: This section shall identify the renewability classification of the form.~~

~~4. Applicability: This section shall specify whether the HMO anticipates new issues under the form or renewals only.~~

~~3.5. Morbidity: This section shall describe the morbidity basis for the form, including the source or sources used. Any substantive adjustments from either the source or earlier assumptions shall be explained. For new plans or forms, a PMPM (per member per month) development shall be provided. Utilization or claim cost assumption differences from other plans or prior filings shall be explained and justified. The morbidity assumed shall be adequately justified by supporting data.~~

~~4.6. Retention Expenses: This section shall include a brief description of any expense assumptions used. Components of expenses include, where applicable for the type of contract, per contract and percentage of premium expense for acquisition, maintenance, and commissions, contingency, and risk margins. These must be provided separately for each contract year. This section shall provide the reason and basis for any differences in retention between groups issued coverage under the same form.~~

~~7. Marketing Method: This section shall provide a brief description of the market and the marketing method. An example of an acceptable brief description is: "This product is sold to employee-employer groups by a captive agency force." The information requested is not intended to compromise the~~

HMO's proprietary interests but rather to inform the Department's consideration of allocation of expenses and acquisition costs.

8. Underwriting: This section shall provide a brief description of the extent to which this product will be underwritten, if any, and the expected impact by duration and in total, on the claim costs. The HMO shall state separately the effects of different types of underwriting: medical, financial and plan appropriateness. An example of an acceptable brief description is: "This Policy form is subject to limited underwriting with yes/no questions. The expected impact is: Duration 1 = .15; duration 2 = .05; overall = .03 decrease in claim costs." The information requested is not intended to compromise the HMO proprietary interests but rather to permit the Department to evaluate past and prospective loss experience.

5.9. Rate Classes: This section shall state all the attributes upon which the rates vary. Rate classifications may include but not necessarily be limited to age, sex, subscriber type (single, couple or family), industry, effective date, charges or discounts for group size, riders, co-payments, limitations on benefits, retention and any rate guarantees for extended period. This section shall indicate the issue age range of the form.

10. Issue Age Range: This section shall specify the issue age range of the form. A statement shall be made as to whether the premiums are on an issue age, attained age or other basis.

6.11. Area Factors: This section shall include a brief description for any area factors used, and an explanation and justification of any changes since the last filing. The area factors and definitions must also be displayed, including a definition of which counties are included in each area. Area factors shall reflect the relative cost differences between the areas.

12. Average Monthly Premium: This section shall display the average monthly premium by county. If a rate adjustment is proposed, average monthly premiums reflecting the Premium Schedule both before and after the proposed adjustment shall be provided. The average monthly premium per policy for individual coverage or per certificate for group coverage shall be calculated based on the distribution of Florida business considering all criteria having a rate difference. This distribution is the anticipated issue distribution if the filing is a new policy form, and the actual in force distribution if the filing is for a rate revision or rate justification. Premiums for riders, endorsements and amendments must be added to the base plan premiums to yield this average.

7.13. Premium Modalization Rules: This section shall display the modalization factors and fees as applicable. For premium modes other than monthly, the level of the fees and factors shall be adequately justified by supporting data.

14. Claim Liability and Reserves: This section represents the present value of future claim payments on claims incurred prior to the valuation date. This includes both the accrued and

unaccrued portions of the liability and reserve as of the valuation date. A complete description of the development of these reserves shall be presented. A display which compares the reserve held to the actual claim runoff shall be included. For loss ratio purposes, the interest rates used to determine these reserves and liabilities shall be consistent with the HMO's premium determination interest rates, which may be different from rates used for valuation purposes. Claim runoff is a common insurance industry term which means the pattern of claims payout after the establishment of reserves.

8.15. Trend Assumptions: This section must describe the trend assumptions used in pricing. These assumptions must be appropriate for the specific HMO, product design, benefit configuration, and time period. Any and all factors affecting the projection of future claims must be presented. In no case will trend be approved for rating periods in excess of one year. The trend assumptions shall be presented under two categories: Medical and Insurance.

a. through b. No change.

c. In determining medical trend, the HMO shall use credible data and make appropriate adjustments to claims data to isolate the effects of medical trend only. This shall not include the effects of underwriting wearoff, aging, changes to claim costs due to changes in demographics, contract coverages, geographic distribution, or reinsurance.

d. An HMO without fully credible data may, at its option, use an annual medical trend assumption not to exceed the values in subsection 4-149.003(7), F.A.C., for the medical trend assumption without providing explicit trend justification.

9.16. Minimum Required Loss Ratio for the Form: This section shall provide the loss ratio standard for the form as approved in the original or subsequent filing for the form state the minimum required loss ratio for the form as defined in subsection 4-191.054(6), F.A.C.

10.17. Anticipated Loss Ratio for the Form: This loss ratio is defined in paragraph 4-191.054(6)(e), F.A.C.

a. This section shall provide the anticipated loss ratio for the form.

b. For individual contracts, this section shall also include the proposed, if applicable, and the currently approved durational loss ratio tables, i.e., the table of percentages of expected claims divided by expected premiums by contract duration, for the form. For new filings or requests to change the durational table, the actuary shall explain and justify the underwriting impact and the resulting durational loss ratio pattern. Applying pricing persistency and interest assumptions, the durational loss ratio table shall develop the loss ratio standard for the form.

c. The anticipated loss ratio may not be reduced from the loss ratio in the prior approved filing without approval. If the HMO proposes to reduce the anticipated loss ratio for the form from the approved anticipated loss ratio, this section shall

provide justification for such change. This shall include detailed expense information and the areas and reasons for expense increases.

~~18. Distribution of Business: This section shall provide the anticipated issue distribution for new policy forms and the actual in force distribution for rate revisions. All criteria having a rating difference shall be included.~~

~~19. Contingency and Risk Margins: This section shall describe the contingency and risk margins anticipated for the Policy Form at the time of the filing.~~

~~11.20. Experience on the Contract Policy Form.~~

~~a. (Past Experience): This section shall display the actual experience on the form. Experience from inception-to-date (or the last three years for group coverages, with no separation of experience data by issue year required) shall be displayed, although, with proper interest adjustment, the experience for calendar years more than five years in the past may be combined. For each calendar year and, where appropriate, and for individual contracts each contract year ~~or issue year~~, the following information shall be displayed:~~

~~(I)a. Calendar Year,~~

~~(II)b. Earned premium,~~

~~(III)c. Paid claims, including capitation,~~

~~(IV)d. Paid loss ratio $(=III/II) (=c)/(b)$,~~

~~(V)e. Change in claim liability and reserve, updating as actual runoff develops.~~

~~(VI)f. Incurred claims $(=III+V) (=c)+(e)$,~~

~~(VII)g. Incurred loss ratio $(=VI/II) (=f)/(b)$.~~

~~(VIII) Expected claims~~

~~(IX) Expected loss ratio $(=VIII/II)$~~

~~(X) Actual to expected ratio $(=VI/VIII$ or $=VII/IX)$~~

~~For periods where the actual claim runoff is complete, that data shall be displayed to replace (f).~~

~~b. Future periods:~~

~~(I) This section shall be the basis and demonstration that the proposed rate change is in compliance with the standards of this rule.~~

~~(II) This section shall provide the anticipated experience over the rating period, and shall provide the method, formulas and assumptions used in determining the projected values from the experience period used.~~

~~(III) The experience period shall be the most current available 12-month period. The experience period data used shall be the earned premium restated to the current manual rate basis for the entire experience period, i.e., removing the impact of adjustments to the actual earned premium due to the impact of rate limits, experience rating or retention differences from the target loss ratio and indifferent of the anniversary dates of the underlying contracts. The HMO shall also provide the actual experience over the rating period.~~

(IV) The HMO shall indicate how the experience period data has been adjusted for large nonrecurring claims, reinsurance recoveries, coordination of benefits and subrogation, benefit changes or other actuarial consideration that affect the determination of anticipated claims.

(V) Alternatively, the HMO may choose to develop the proposed rate without the use of premiums by basing its analysis on projected claim PMPM divided by the target loss ratio.

~~12.21. History of Rate Adjustments: This section shall list the approval dates and average percentage rate adjustments in Florida by county or rating region, from inception.~~

~~13.22. Number of Subscribers: This section shall report the number of Florida subscribers/~~certificateholders~~ who will be affected by the proposed rate revision.~~

~~14.23. Proposed Effective Date: This section shall state the proposed effective date and method of the proposed rate revision implementation. Rate changes may occur only on contract renewal.~~

~~15.24. Actuarial Certification: A signed cCertification by a qualified actuary that to the best of the actuary's knowledge and judgment:~~

~~a. The rates are neither inadequate nor excessive nor unfairly discriminatory,~~

~~b. The rates are appropriate for the classes of risks for which they have been computed,~~

~~c. The entire rate filing is in compliance with the applicable laws of the State of Florida and with the rules of the Department of Insurance, and complies with Actuarial Standard of Practice No. 8 "Regulatory Filings for Rates and Financial Projections for Health Plans," as adopted by the Actuarial Standards Board, January, 1989, and Actuarial Standard of Practice No. 16 "Actuarial Practice concerning Health Maintenance Organizations and Other Managed-Care Health Plans," as adopted by the Actuarial Standards Board, July, 1990, which standards are ~~is~~ hereby adopted and incorporated by reference. A copy of the standard may be obtained from the Bureau of Life & Health Forms and Rates, Division of Insurer Services, Department of Insurance, Larson Building, Tallahassee, FL 32399-0328.~~

~~d. If the actuary is unable to provide such an opinion, a detailed explanation and reason for any qualification shall be provided as part of the certification.~~

~~e. In providing the actuarial opinion and certification, the actuary shall consider actuarial standards of practice and the qualification standards for prescribed statements of actuarial opinion.~~

~~(4) Definitions.~~

~~(a) Actual to expected ratio:~~

~~1. This is the ratio of actual incurred claims divided by expected claims. This is equivalent to the actual loss ratio divided by the expected loss ratio.~~

2. For projected periods, the actual to expected ratio is the ratio of the projected claims divided by the expected claims. Attained Age Premium Schedule: An attained age premium schedule is one in which the subscriber's premium rate is dependent upon his or her age at contract renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, HMOs shall use each available renewable age. These requirements do not apply to any group contract where the final premium charged is an average of the individual members.

(b) Anticipated loss ratio: The present value of future benefits divided by the present value of future premiums computed over the entire future lifetime of the contract form. For group insurance, this is over the rating period and alternatively referred to as "target loss ratio."

(c)(b) Credible Data:

1. If a contract form has 2,000 or more subscribers in force, then full (100%) credibility is given to the experience; if fewer than 500 subscribers are in force, then zero (0%) credibility is given. Linear interpolation is used for in force amounts between 500 and 2,000.

2. For group contract forms, the numbers in this definition refer to group subscribers.

3. Medical trend shall be used for the non-credible portion of the analysis. A combination of Florida and industry data shall be used only if Florida only data is not fully credible.

(d) Earned premiums: The portion of the total premium paid which is attributable to the period of coverage elapsed. This includes all modal loadings, fees, or charges that are required to be paid for coverage under a contract.

(e) Expected claims:

1. The actual earned premium, or for projected periods the projected premium, times the applicable contract durational loss ratio from the approved durational loss ratio table which was in effect for the time period covered by the premiums. For group contract, the durational loss ratio is the target loss ratio.

2. For group policies, this reflects the aggregation of the actual target loss ratio for the group; i.e., reflecting actual different retention loads by group, and not the assumed aggregate target loss ratio for the form.

(f) Expected loss ratio: This is the ratio of expected claims divided by earned premium.

(g)(e) Group HMO Contract Policy Form: This means any insurance provided by a group master contract issued to any entity.

(h)(d) Group Size: For Group HMO Contract Policy Forms, the group size is the average number of subscribers per employer.

(i) Incurred claims: Incurred claims are claims occurring within a fixed period, whether or not paid during the same period, under the terms of the contract form.

1. Claims include scheduled benefit payments, capitation payments, reimbursement benefit payments, or services provided by a provider or through a provider network for medical, dental, vision, disability, and similar health benefits.

2. Claims do not include state assessments, taxes, HMO expenses, or any expense incurred by the HMO for the cost of adjusting and settling a claim, including the review, qualification, oversight, management or monitoring of a claim or incentives or compensation to providers for other than the provision of health care services.

3. An HMO may, at its discretion, include costs that are demonstrated to reduce claims, such as a fraud intervention program or case management costs, which are identified in each filing, and are demonstrated to reduce claims costs and do not result in increasing the experience period loss ratio by more than 5 percent.

(e) through (h) renumbered (j) through (m) No change.

(i) Renewal Clauses: ~~Guaranteed Renewable means that renewal cannot be declined by the HMO for any reason other than those detailed in Sections 641.31074, and 627.6425, Florida Statutes, but the HMO can revise rates on a class basis.~~

(n) Renewal: This is the date 12 months after the original effective date of the contract and each subsequent anniversary period. This does not prevent a group contract purchaser to request a specific rating period or change the anniversary date of the contract.

(j) Select and Ultimate Premium Schedule: This is any premium schedule which has premiums that vary based on the time elapsed since issuance of the contract.

(o)(k) No change.

Specific Authority 641.31, 641.36 FS. Law Implemented 641.22(2), 641.31(2),(3) FS. History—New 10-8-96, Amended 4-20-98, 8-15-02,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Frank Dino, Actuary, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Robleto, Bureau Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

- ~~60.61~~: *Canella winterana* (wild cinnamon).
~~61.62~~: *Carex chapmanii* (Chapman's sedge).
~~62.63~~: *Carex microdonta* (little-tooth sedge).
~~63.64~~: *Cassia keyensis* (= ~~*Chamaecrista lineata*~~ var. *keyensis*) (Key cassia).
~~64.65~~: *Catesbaea parviflora* (dune lily-thorn).
~~65.66~~: *Catopsis beteroniana* (airplant).
~~66.67~~: *Catopsis floribunda* (many-flowered airplant).
~~67.68~~: *Catopsis nutans* (nodding catopsis).
~~68.69~~: *Celosia nitida* (West Indian cock's-comb).
~~69.70~~: *Celtis iguanaea* (Iguana hackberry).
~~70.71~~: *Celtis pallida* (spiny hackberry).
~~71.72~~: *Centrosema arenicola* (sand butterfly pea).
~~72.73~~: *Cereus robinii* (tree cactus).
~~73.74~~: *Chamaesyce cumulicola* (sand dune spurge).
~~74.75~~: *Chamaesyce deltoidea* (= ~~*Euphorbia deltoidea*~~) (rockland spurge).
~~75.76~~: *Chamaesyce garberi* (Garber's spurge).
~~76.77~~: *Chamaesyce porteriana* (Porter's spurge).
~~77.78~~: *Cheilanthes microphylla* (southern lip fern).
~~78.79~~: *Chionanthus pygmaeus* (pygmy fringe-tree).
~~79.80~~: *Chrysopsis cruiseana* (Cruise's golden-aster).
~~80.81~~: *Chrysopsis floridana* (Florida's golden-aster).
~~81.82~~: *Chrysopsis godfreyi* (Godfrey's golden-aster).
~~82.83~~: *Cienfuegosia yucatanensis* (= ~~*Cienfuegosia heterophylla*~~) (yellow-hibiscus).
~~83.84~~: *Cissampelos pareira* (pareira brava) Presumed Extirpated.
~~84.85~~: *Cladonia perforata* (Florida perforate cladonia).
~~85.86~~: *Clitoria fragrans* (pigeon wings).
~~86.87~~: *Colubrina arborescens* (greenheart).
~~87.88~~: *Colubrina cubensis* (colubrina).
~~88.89~~: *Colubrina elliptica* (soldierwood).
~~89.90~~: *Conradina brevifolia* (short-leaved rosemary).
~~90.91~~: *Conradina etonia* (etonia rosemary).
~~91.92~~: *Conradina glabra* (Apalachicola rosemary).
~~92.93~~: *Corallorhiza odontorhiza* (autumn coralroot).
~~93.94~~: *Cordia globosa* (Curacao bush).
~~94.95~~: *Coreopsis integrifolia* (dye-flower).
~~95.96~~: *Cornus alternifolia* (pagoda dogwood).
~~96.97~~: *Cranichis muscosa* (moss orchid).
~~97.98~~: *Crataegus phaenopyrum* (Washington thorn).
~~98.99~~: *Croomia pauciflora* (croomia).
~~99.100~~: *Crotalaria avonensis* (Avon Park harebells).
~~100.101~~: *Croton humilis* (pepperbush).
~~101.102~~: *Cryptotaenia canadensis* (honestwort).
~~102.103~~: *Ctenitis sloanei* (Florida tree fern/red-hair comb fern).
~~103.104~~: *Ctenitis submarginalis* (brown-hair comb fern).
~~104.105~~: *Ctenium floridanum* (Florida toothache grass).
~~105.106~~: *Cucurbita okeechobeensis* (Okeechobee gourd).
~~106.107~~: *Cupania glabra* (cupania).
~~107.108~~: *Cuphea aspera* (tropical waxweed).
~~108.109~~: *Cynoglossum virginianum* (wild comfrey).
~~109.110~~: *Cyperus floridanus* (Florida flatsedge).
~~110.111~~: *Cyperus fuliginosus* (limestone flatsedge).
~~111.112~~: *Cyrtopodium punctatum* (cowhorn or cigar orchid).
~~112.113~~: *Dalbergia brownii* (Brown's Indian rosewood).
~~113.114~~: *Dalea carthagenensis* (Florida prairie clover).
~~114.115~~: *Deeringothamnus pulchellus* (white squirrel-banana).
~~115.116~~: *Deeringothamnus rugelii* (yellow squirrel-banana).
~~116.117~~: *Delphinium carolinianum* (Carolina larkspur).
~~117.118~~: *Dennstaedtia bipinnata* (cuplet fern).
~~118.119~~: *Desmodium ochroleucum* (trailing tick-trefoil).
~~119.120~~: *Dicerandra christmanii* (Christmann's mint).
~~120.121~~: *Dicerandra cornutissima* (Robin's mint).
~~121.122~~: *Dicerandra frutescens* (Lloyd's mint).
~~122.123~~: *Dicerandra immaculata* (Olga's mint).
123. *Dicerandra thinicola* (Titusville balm).
124. *Digitaria pauciflora* (Florida pineland crabgrass).
125. *Dirca palustris* (leatherwood).
126. *Dodecatheon meadia* (shooting-star).
127. *Dodonaea elaeagnoides* (Keys hopbush).
128. *Drosera filiformis* (dew-thread).
129. *Drypetes diversifolia* (milkbark).
130. *Echinacea purpurea* (purple coneflower).
131. *Eleocharis rostellata* (beaked spikerush).
132. *Eltroplectris calcarata* (= ~~*Centrogenium setaceum*~~) (~~spurred neottia~~).
133. *Encyclia boothiana* (*Epidendrum boothianum*) (dollar orchid).
134. *Encyclia cochleata* (Florida clamshell orchid).
135. *Encyclia pygmaea* (dwarf epidendrum).
136. *Epidendrum acunae* (Acuna's epidendrum).
137. *Epidendrum anceps* (dingy-flowered epidendrum).
138. *Epidendrum difforme* (umbelled epidendrum).
139. *Epidendrum nocturnum* (night-scented epidendrum).
140. *Epidendrum rigidum* (rigid epidendrum).
141. *Epidendrum strobiliferum* (matted epidendrum).
142. *Epigaea repens* (trailing arbutus).
143. *Eragrostis tracyi* (Sanibel lovegrass).
144. *Eriocaulon nigrobacteatum* (dark-headed hatpins).
145. *Eriogonum floridanum* (= ~~*Eriogonum longifolium*~~ var. ~~*gnaphalifolium*~~) (scrub buckwheat).
146. *Ernodea cokeri* (one-nerved ernodea).
147. *Eryngium cuneifolium* (scrub eryngium).
148. *Erythronium umbilicatum* (dimpled dogtooth-violet).

149. *Eugenia confusa* (redberry eugenia).
 150. *Eugenia rhombea* (red stopper).
 151. *Euonymus atropurpurea* (burning bush).
 152. *Eupatorium frustratum* (Cape Sable thoroughwort).
 153. *Eupatorium villosum* (Keys thoroughwort).
 154. *Euphorbia commutata* (wood spurge).
 155. *Euphorbia telephioides* (spurge).
 156. *Evolvulus convolvuloides* (dwarf bindweed).
 157. *Evolvulus grisebachii* (Grisebach's bindweed).
 158. *Exostema caribaeum* (Caribbean princewood).
 159. *Forestiera godfreyi* (Godfrey's swamp privet).
 160. *Fothergilla gardenii* (dwarf witch-alder).
 161. *Galactia smallii* (Small's milkpea).
 162. *Galeandra beyrichii* (helmet orchid).
 163. *Gentiana pennelliana* (wiregrass gentian).
 164. *Goodyera pubescens* (downy rattlesnake orchid).
 165. *Gossypium hirsutum* (wild cotton).
 166. *Govenia utriculata* (Gowen's orchid).
 167. *Guaiacum sanctum* (lignum vitae).
 168. *Guzmania monostachia* (Fuch's bromeliad).
 169. *Gyminda latifolia* (West Indian falsebox).
 170. *Habenaria distans* (distans habenaria).
 171. *Harperocallis flava* (Harper's beauty).
 172. *Harrisia eriophora* (Indian River prickly-apple).
 173. *Harrisia gracilis* (West coast prickly-apple).
 174. *Hasteola robertorum* (Gulf hammock indian-plantain).
 175. *Helianthus carnosus* (flatwoods sunflower).
 176. *Heliotropium fruticosum* (Key West heliotrope)
 Presumed Extirpated.
 177. *Hepatica nobilis* (= *Hepatica americana*) (liverleaf).
 178. *Hexalectris spicata* (crested coral-root).
 179. *Hibiscus poeppigii* (Poeppig's rosemallow).
 180. *Hippomane mancinella* (manchineel).
 181. *Hybanthus concolor* (green violet).
 182. *Hydrangea arborescens* (wild hydrangea).
 183. *Hymenocallis godfreyi* (Godfrey's spiderlily).
 184. *Hymenocallis henryae* (Mrs. Henry's spiderlily).
 185. *Hypelate trifoliata* (inkwood).
 186. *Hypericum cumulicola* (Highlands scrub hypericum).
 187. *Hypericum edisonianum* (Edison ascyrum).
 188. *Hypericum lissophloeus* (smooth-barked St. Johns-wort).
 189. *Illicium parviflorum* (star anise).
 190. *Indigofera keyensis* (Keys' indigo).
 191. *Ionopsis utricularioides* (delicate ionopsis orchid).
 192. *Ipomoea microdactyla* (wild-potato morning-glory).
 193. *Ipomoea tenuissima* (rocklands morning-glory).
 194. *Isoetes engelmannii* (Engelmann's quillwort).
 195. *Isopyrum biternatum* (false rue-anemone).
 196. *Isotria verticillata* (whorled pogonia).
 197. *Jacquemontia havanensis* (Havana clustervine).
 198. *Jacquemontia pentantha* (skyblue clustervine).
 199. *Jacquemontia reclinata* (beach jacquemontia).
 200. *Juncus gymnocarpus* (Coville's rush).
 201. *Justicia cooleyi* (Cooley's justicia).
 202. *Justicia crassifolia* (thick-leaved water-willow).
 203. *Kosteletzkya depressa* (white fen).
 204. *Lantana canescens* (hammock shrub verbena).
 205. *Lantana depressa* (pineland lantana).
 206. *Lechea divaricata* (spreading pinweed).
 207. *Lechea lakelae* (Lakela's pinweed).
 208. *Leiphaimos parasitica* (parasitic ghostplant).
 209. *Leochilus labiatus* (lipped orchid).
 210. *Lepanthopsis melanantha* (tiny orchid).
 211. *Lepuropetalon spathulatum* (little-people).
 212. *Liatris ohlingerae* (scrub blazing-star).
 213. *Liatris provincialis* (Godfrey's blazing-star).
 214. *Licaria triandra* (licaria).
 215. *Lilium iridollae* (panhandle lily).
 216. *Lilium michauxii* (Carolina lily).
 217. *Lilium superbum* (Turk's-cap lily).
 218. *Lindera melissifolia* (pondberry) Presumed Extirpated.
 219. *Lindera subcoriacea* (bog spicebush).
 220. *Linum arenicola* (sand flax).
 221. *Linum carteri* (Everglades flax).
 222. *Linum westii* (West's flax).
 223. *Liparis nervosa* (tall twayblade).
 224. *Litsea aestivalis* (pond-spice).
 225. *Lobelia boykinii* (Boykin's lobelia).
 226. ~~225.~~ *Lomariopsis kunzeana* (climbing holly-fern).
 227. ~~226.~~ *Lupinus aridorum* (= *Lupinus westianus* var. *aridorum*) (McFarlin's lupine).
 228. ~~227.~~ *Lycopodium dichotomum* (hanging clubmoss).
 229. ~~228.~~ *Lythrum curtissii* (Curtis' loosestrife).
 230. ~~229.~~ *Lythrum flagellare* (lowland loosestrife).
 231. ~~230.~~ *Macbridea alba* (white birds-in-a-nest).
 232. ~~231.~~ *Macradenia lutescens* (Trinidad macradenia).
 233. ~~232.~~ *Macranthera flammea* (hummingbird-flower).
 234. ~~233.~~ *Magnolia acuminata* (cucumber-tree).
 235. ~~234.~~ *Magnolia ashei* (Ashe's magnolia).
 236. ~~235.~~ *Magnolia pyramidata* (pyramid magnolia).
 237. ~~236.~~ *Magnolia tripetala* (umbrella magnolia).
 238. ~~237.~~ *Malaxis unifolia* (green adder's-mouth orchid).
 239. ~~238.~~ *Marshallia obovata* (Barbara's buttons).
 240. ~~239.~~ *Marshallia ramosa* (Barbara's buttons).
 241. ~~240.~~ *Matelea alabamensis* (Alabama spiny pod).
 242. ~~241.~~ *Matelea baldwyniana* (Baldwin's spiny pod).
 243. ~~242.~~ *Matelea flavidula* (yellow-flowered spiny pod).

- 244.243: *Matelea floridana* (Florida spiny pod).
245.244: *Matelea publiflora* (sandhill spiny pod).
246.245: *Maxillaria crassifolia* (hidden orchid).
247.246: *Maxillaria parviflora* (minnie-max).
248.247: *Medeola virginiana* (Indian cucumber).
249.248: *Microgramma heterophylla* (climbing vine fern).
250.249: *Minuartia godfreyi* (Godfrey's sandwort).
251.250: *Monotropa hypopithys* (pine-sap).
252.251: *Monotropis reynoldsiae* (pygmy-pipes).
253.252: *Nemastylis floridana* (celestial lily).
254.253: *Neurodium lanceolatum* (ribbon fern).
255.254: *Nolina brittoniana* (Britton's bear-grass).
256.255: *Nymphaea jamesoniana* (Jameson's water lily).
257.256: *Ocimum campechianum* (ocimum).
258.257: *Okenia hypogaea* (burrowing four-o'clock).
259.258: *Oncidium bahamense* (dancing-lady orchid).
260.259: *Oncidium floridanum* (Florida oncidium).
261.260: *Oncidium luridum* (mule-ear orchid).
262.261: *Ophioglossum palmatum* (hand fern).
263.262: *Opuntia corallicola* (semaphore cactus).
264.263: *Opuntia triacantha* (Keys Joe-jumper).
265.264: *Oxypolis greenmanii* (giant water-dropwort).
266.265: *Pachysandra procumbens* (Allegheny-spurge).
267.266: *Panicum abscissum* (cut-throat grass).
268.267: *Parnassia caroliniana* (Carolina grass-of-Parnassus).
269.268: *Parnassia grandifolia* (grass-of-Parnassus).
270.269: *Paronychia chartacea* (papery whitlow-wort).
271.270: *Passiflora multiflora* (white-flowered passionvine).
272.271: *Passiflora pallens* (pineland passionvine).
273.272: *Passiflora sexflora* (goat's foot leaf).
274.273: *Pavonia paludicola* (swampbush).
275.274: *Pellaea atropurpurea* (hairy cliff-brake fern).
276.275: *Peperomia amplexicaulis* (clasping peperomia).
277.276: *Peperomia glabella* (cypress peperomia).
278.277: *Peperomia humilis* (peperomia).
279.278: *Peperomia magnoliifolia* (spathulate peperomia).
280.279: *Peperomia obtusifolia* (Florida peperomia).
281: *Peperomia rotundifolia* (round peperomia).
282.280: *Pharus glaber* (creeping leafstalk grass).
283.281: *Phoradendron rubrum* (mahogany mistletoe).
284.282: *Phyla stoeadifolia* (southern matchsticks).
285.283: *Phyllanthus leibmannianus* (pine woods dainties).
286.284: *Physocarpus opulifolius* (ninebark).
287.285: *Picramnia pentrandra* (Florida bitterbush).
288.286: *Pilosocereus bahamensis* (Bahamian treecactus).
289.287: *Pinguicula ionantha* (Panhandle butterwort).
290.288: *Pinguicula primuliflora* (primrose-flowered butterwort).
291.289: *Pisonia rotundata* (devil's smooth claws).
292.290: *Pityopsis flexuosa* (Florida golden-aster).
293.291: *Platanthera clavellata* (green rein orchid).
294.292: *Platanthera integra* (orange rein orchid).
295.293: *Pleopeltis astrolepis* (star-scaled fern).
296.294: *Pleurothallis gelida* (frosted orchid).
297.295: *Podophyllum peltatum* (mayapple).
298.296: *Poinsettia pinetorum* (= ~~*Euphorbia pinetorum*~~) (Everglades poinsettia).
299.297: *Polygala lewtonii* (Lewton's polygala).
300.298: *Polygala smallii* (tiny polygala).
301.299: *Polygonella basiramia* (tufted wireweed).
302.300: *Polygonella myriophylla* (sandlace).
303.301: *Polygonum meisnerianum* (Mexican tear-thumb).
304.302: *Polymnia laevigata* (Tennessee leaf-cup).
305.303: *Polypodium dispersum* (widespread polypody).
306.304: *Polypodium plumula* (plume polypody).
307.305: *Polypodium ptilodon* (swamp plume polypody).
308.306: *Polypodium lindenii* (ghost orchid).
309.307: *Polystachya concreta* (pale-flowered polystachya).
310.308: *Ponthieva brittoniae* (Mrs. Britton's shadow witch).
311.309: *Potamogeton floridanus* (Florida pondweed).
312.310: *Prescottia oligantha* (small-flowered orchid).
313.311: *Prunus geniculata* (scrub plum).
314.312: *Pseudophoenix sargentii* (Sargent's cherry palm).
315.313: *Psychotria ligustrifolia* (Bahama wildcoffee).
316.314: *Remirea maritima* (beach-star).
317.315: *Rhexia parviflora* (Apalachicola meadow-beauty).
318.316: *Rhipsalis baccifera* (mistletoe cactus).
319.317: *Rhododendron alabamense* (Alabama azalea).
320.318: *Rhododendron austrinum* (Florida flame azalea).
321.319: *Rhododendron chapmanii* (Chapman's rhododendron).
322.320: *Rhus michauxii* (Michaux's sumac) Presumed Extirpated.
323.321: *Rhynchosia swartzii* (Swartz' snoutbean).
324.322: *Rhynchospora crinipes* (hairy peduncled beakrush).
325: *Rhynchospora megaplumosa* (hairy spikelet beakrush).
326.323: *Ribes echinellum* (Miccosukee gooseberry).
327.324: *Roystonea elata* (Florida royal palm).
328.325: *Rudbeckia nitida* (St. John's-Susan).
329.326: *Rudbeckia triloba* (a browneyed Susan).

- ~~330.327.~~ *Ruellia noctiflora* (night-flowering wild-petunia).
- ~~331.328.~~ *Salix eriocephala* (heart-leaved willow).
- ~~332.329.~~ *Salix floridana* (Florida willow).
- ~~333.330.~~ *Salvia urticifolia* (nettle-leaved sage).
- ~~334.331.~~ *Sarracenia leucophylla* (white-top pitcher-plant).
- ~~335.332.~~ *Savia bahamensis* (Bahama maidenbush).
- ~~336.333.~~ *Schaefferia frutescens* (Florida boxwood).
- ~~337.334.~~ *Schisandra coccinea* (bay star vine).
- ~~338.335.~~ *Schizachyrium niveum* (scrub bluestem).
- ~~339.336.~~ *Schizachyrium sericatum* (silky bluestem).
- ~~340.337.~~ *Schizaea germanii* (ray fern).
- ~~341.338.~~ *Schwalbea americana* (chaff-seed).
- ~~342.339.~~ *Scleria lithosperma* (Keys' nutrush).
- ~~343.340.~~ *Scutellaria floridana* (Florida skullcap).
- ~~344.341.~~ *Scutellaria havanensis* (Havana skullcap).
- ~~345.342.~~ *Selaginella eatonii* (pygmy spikemoss).
- ~~346.343.~~ *Setaria chapmanii* (coral panic grass).
- ~~347.~~ *Sideroxylon alachuense* Anderson (Clark's buckthorn).
- ~~348.~~ *Sideroxylon lycioides* (gopherwood buckthorn).
- ~~349.~~ *Sideroxylon thornei* (Thorne's buckthorn).
- ~~350.344.~~ *Silene polypetal* (fringed pink).
- ~~351.345.~~ *Silene virginica* (fire pink).
- ~~352.346.~~ *Sphenomeris clavata* (wedgelet fern).
- ~~353.347.~~ *Sphenostigma coelestinum* (Bartram's ixia).
- ~~354.348.~~ *Spigelia gentianoides* (gentian pinkroot).
- ~~355.349.~~ *Spigelia loganioides* (Levy pinkroot).
- ~~356.350.~~ *Spiranthes adnata* (pelexia).
- ~~357.351.~~ *Spiranthes brevilabris* (small ladies'-tresses).
- ~~358.352.~~ *Spiranthes costaricensis* (Costa Rican ladies'-tresses).
- ~~359.353.~~ *Spiranthes elata* (tall neottia).
- ~~360.354.~~ *Spiranthes ovalis* (lesser ladies'-tresses).
- ~~361.355.~~ *Spiranthes polyantha* (Ft. George ladies'-tresses).
- ~~362.356.~~ *Spiranthes torta* (southern ladies'-tresses).
- ~~363.357.~~ *Stachydeoma graveolens* (~~=*Hedeoma graveolens*~~) (mock pennyroyal).
- ~~364.358.~~ *Stachys crenata* (shade betony).
- ~~365.359.~~ *Stachys tenuifolia* (narrow-leaved betony).
- ~~366.360.~~ *Staphylea trifolia* (bladder nut).
- ~~367.361.~~ *Stewartia malacodendron* (silky camellia).
- ~~368.362.~~ *Strumpfia maritima* (pride-of-Big-Pine).
- ~~369.363.~~ *Stylisma abdita* (hidden stylisma).
- ~~370.364.~~ *Stylosanthes calcicola* (Everglades pencilflower).
- ~~371.365.~~ *Taxus floridana* (Florida yew).
- ~~372.366.~~ *Tectaria fimbriata* (least halberd fern).
- ~~373.367.~~ *Tephrosia angustissima* (hoary pea).
- ~~374.368.~~ *Thalictrum cooleyi* (Cooley's meadow rue).
- ~~375.369.~~ *Thalictrum thalictroides* (~~=*Anemone thalictroides*~~) (Rue-anemone).
- ~~376.370.~~ *Thelypteris grandis* (Collier County maiden fern).
- ~~377.371.~~ *Thelypteris patens* (grid-scale maiden fern).
- ~~378.372.~~ *Thelypteris reptans* (creeping star-hair fern).
- ~~379.373.~~ *Thelypteris reticulata* (lattice-vein fern, cypress fern).
- ~~380.374.~~ *Thelypteris sclerophylla* (stiff star-hair fern).
- ~~381.375.~~ *Thelypteris serrata* (dentate lattice-vein fern).
- ~~382.376.~~ *Thrinax morrisii* (~~=*T. microcarpa*~~) (brittle thatch palm).
- ~~383.377.~~ *Thrinax radiata* (~~=*T. floridana*~~) (Florida thatch palm).
- ~~384.378.~~ *Tillandsia fasciculata* (common or stiff-leaved wild-pine).
- ~~385.379.~~ *Tillandsia pruinosa* (fuzzy-wuzzy or hoary air-plant).
- ~~386.380.~~ *Tillandsia utriculata* (giant wild-pine).
- ~~381.~~ *Tithymalus telephioides* (spurge)
- ~~387.382.~~ *Torreya taxifolia* (Florida torreya).
- ~~388.383.~~ *Tournefortia hirsutissima* (chiggery grapes).
- ~~389.384.~~ *Trema lamarckianum* (Lamarck's trema).
- ~~390.385.~~ *Trichomanes holopterum* (entire-winged bristle fern).
- ~~391.386.~~ *Trichomanes krausii* (Kraus's bristle fern).
- ~~392.387.~~ *Trichomanes lineolatum* (lined bristle fern).
- ~~393.388.~~ *Trichomanes punctatum* (Florida bristle fern).
- ~~394.389.~~ *Trichostigma octandrum* (hoop vine) ~~Presumed Extirpated.~~
- ~~395.390.~~ *Trillium lancifolium* (lance-leaved wake-robin).
- ~~396.391.~~ *Triphora craigheadii* (Craigheads's orchid).
- ~~397.392.~~ *Triphora latifolia* (wide-leaved triphora).
- ~~398.393.~~ *Tropidia polystachya* (young-palm orchid).
- ~~399.394.~~ *Uvularia floridana* (Florida merrybells).
- ~~400.395.~~ *Vallesia antillana* (tear shrub).
- ~~401.396.~~ *Vanilla barbellata* (worm-vine orchid).
- ~~402.397.~~ *Vanilla dilloniana* (Dillon's vanilla).
- ~~403.398.~~ *Vanilla mexicana* (unscented vanilla).
- ~~404.399.~~ *Vanilla phaeantha* (leafy vanilla).
- ~~405.400.~~ *Veratrum woodii* (false hellebore).
- ~~406.401.~~ *Verbena maritima* (coastal vervain).
- ~~407.402.~~ *Verbena tampensis* (Tampa vervain).
- ~~408.403.~~ *Vicia ocalensis* (Ocala vetch).
- ~~409.404.~~ *Viola tripartita* (yellow violet).
- ~~410.405.~~ *Warea amplexifolia* (clasping warea).
- ~~411.406.~~ *Warea carteri* (Carter's mustard).
- ~~412.407.~~ *Xanthorhiza simplicissima* (yellow-root).
- ~~413.408.~~ *Xyris chapmanii* (Chapman's yellow-eyed-grass).

- ~~414.~~~~409.~~ *Xyris isoetifolia* (quillwort yellow-eyed-grass).
~~415.~~~~410.~~ *Xyris longisepala* (Karst pond yellow-eyed-grass).
 416. *Yucca gloriosa* (moundlily yucca).
~~417.~~~~411.~~ *Zanthoxylum americanum* (prickly-ash).
~~418.~~~~412.~~ *Zanthoxylum coriaceum* (leathery prickly-ash).
~~419.~~~~413.~~ *Zanthoxylum flavum* (yellowheart).
~~420.~~~~414.~~ *Zigadenus leimanthoides* (coastal death camas).
~~421.~~~~415.~~ *Ziziphus celata* (scrub ziziphus).

(b) Threatened Plant List. The following plants shall be included in the Threatened Plant List:

1. *Acanthocereus pentagonus* (barbed-wire cactus).
2. *Acoelorrhaphe wrightii* (Everglades palm).
3. *Acrostichum aureum* (golden leather fern).
4. *Andropogon arctatus* (pine-woods bluestem).
5. *Angadenia berteroi* (pineland golden trumpet).
6. *Arnoglossum diversifolium* (Indian-plantain).
7. *Asclepias viridula* (green milkweed).
8. *Athyrium filix-femina* (southern lady fern).
9. *Baptisia hirsuta* (hairy wild-indigo).
10. *Baptisia simplicifolia* (scare-weed).
11. *Bletia purpurea* (pine-pink orchid).
12. *Byrsonima lucida* (locust berry).
13. *Calamintha ashei* (Ashe's calamintha).
14. *Calamintha dentata* (toothed savory).
15. *Calamovilfa curtissii* (Curtis' sandgrass).
16. *Calyptanthes pallens* (pale lidflower).
17. *Carex baltzellii* (Baltzell's sedge).
18. *Chamaesyce pergamena* (rocklands spurge).
19. *Chaptalia albicans* (white sunbonnets).
20. *Chrysophyllum oliviforme* (satin leaf).
21. *Cleistes divaricata* (spreading pogonia).
22. *Coccothrinax argentata* (silver palm).
23. *Coelorachis tuberculosa* (piedmont joint grass).
24. *Conradina grandiflora* (large-flowered rosemary).
25. *Crossopetalum ilicifolium* (Christmas berry).
26. *Crossopetalum rhacoma* (rhacoma).
27. *Cynanchum blodgettii* (Blodgett's swallowwort).
28. *Digitaria dolichophylla* (Caribbean crabgrass).
29. *Drosera intermedia* (water sundew).
30. *Drypetes lateriflora* (Guiana plum).
31. *Erithralis fruticosa* (blacktorch).
32. *Eulophia ecristata* (non-crested eulophia).
33. *Garberia heterophylla* (garberia).
34. *Harrisella filiformis* (threadroot orchid).
35. *Hartwrightia floridana* (hartwrightia).
36. *Hexastylis arifolia* (heartleaf wild ginger).
37. *Ilex amelanchar* (serviceberry holly).
38. *Ilex krugiana* (Krug's holly).
39. *Jacquemontia curtissii* (pineland jacquemontia).
40. *Jacquinia keyensis* (joewood).
41. *Kalmia latifolia* (mountain laurel).
42. *Lachnocaulon digynum* (Panhandle bogbuttons).
43. *Lechea cernua* (scrub pinweed).
44. *Leitneria floridana* (corkwood).
45. *Lilium catesbaei* (Catesby lily).
46. *Listera australis* (southern twayblade).
47. *Lobelia cardinalis* (cardinal flower).
48. *Lupinus westianus* (Gulfcoast lupine).
49. *Malus angustifolia* (crabapple).
50. *Manilkara jaimiqui* (wild dilly).
51. *Matelea gonocarpos* (angle pod).
52. *Maytenus phyllanthoides* (Florida mayten).
53. *Melanthera parvifolia* (small-leaved melanthera).
54. *Myrcianthes fragrans* (~~(=Eugenia simpsonii)~~) (Simpson's stopper).
55. *Najas filifolia* (slender naiad).
56. *Nephrolepis biserrata* (giant sword fern).
57. *Nolina atopocarpa* (Florida beargrass).
58. *Opuntia stricta* (shell mound prickly-pear).
59. *Panicum nudicaule* (naked-stemmed panic grass).
60. *Phoebanthus tenuifolius* (pineland false sunflower).
61. *Physostegia godfreyi* (Apalachicola dragonhead).
62. *Pinckneya bracteata* (fever-tree).
63. *Pinguicula caerulea* (blue-flowered butterwort).
64. *Pinguicula lutea* (yellow-flowered butterwort).
65. *Pinguicula planifolia* (swamp butterwort).
66. *Pithecellobium keyense* (Keys' blackbead).
67. *Platanthera blephariglottis* (white-fringed orchid).
68. *Platanthera ciliaris* (yellow-fringed orchid).
69. *Platanthera cristata* (crested fringed orchid).
70. *Platanthera flava* (gypsy-spikes).
71. *Platanthera nivea* (snowy orchid).
72. *Pogonia ophioglossoides* (rose pogonia).
73. *Polygonella macrophylla* (large-leaved jointweed).
74. *Prunus myrtifolia* (West Indian cherry).
75. *Psidium longipes* (mangrove berry).
76. *Pteris bahamensis* (Bahama ladder brake fern).
77. *Pycnanthemum floridanum* (Florida mountain-mint).
78. *Quercus arkansana* (Arkansas oak).
79. *Reynosia septentrionalis* (Darling plum).
80. *Rhexia salicifolia* (Panhandle meadow beauty).
81. *Rhynchosia parvifolia* (small-leaf snoutbean).
82. *Rhynchospora stenophylla* (narrow-leaf beakrush).
83. *Sachsia bahamensis* (Bahama sachsia).
84. *Sarracenia minor* (hooded pitcher plant).
85. *Sarracenia psittacina* (parrot pitcher plant).
86. *Sarracenia purpurea* (decumbent pitcher plant).
87. *Sarracenia rubra* (red-flowered pitcher plant).
88. *Scaevola plumieri* (inkberry).

- 89. *Senna mexicana* (Chapman's sensitive plant).
- 90. *Smilax havanensis* (Everglades greenbrier).
- 91. *Solanum donianum* (mullein nightshade).
- 92. *Spermacoce terminalis* (false buttonweed).
- 93. *Spiranthes laciniata* (lace-lip ladies' tresses).
- 94. *Spiranthes longilabris* (long-lip ladies' tresses).
- 95. *Spiranthes tuberosa* (little pearl-twist).
- 96. *Stenorrhynchos lanceolatum*s (leafless beaked orchid).
- 97. *Swietenia mahagoni* (mahogany).
- 98. *Tectaria heracleifolia* (broad halberd fern).
- 99. *Tephrosia mohrii* (pineland hoary-pea).
- 100. *Tetrazygia bicolor* (tetrazygia).
- 101. *Thelypteris augescens* (abrupt-tipped maiden fern).
- 102. *Tillandsia balbisiana* (inflated & reflexed wildpine).
- 103. *Tillandsia flexuosa* (twisted or banded air plant).
- 104. *Tillandsia valenzuelana* (soft-leaved wildpine).
- 105. *Tipularia discolor* (crane-fly orchid).
- 106. *Tragia saxicola* (rocklands noseburn).
- 107. *Triphora trianthophora* (three-birds orchid).
- 108. *Tripsacum floridanum* (Florida tripsacum).
- 109. *Verbesina chapmanii* (Chapman's crownbeard).
- 110. *Xyris scabrifolia* (Harper's yellow-eyed grass).
- 111. *Zephyranthes atamasco* (rainlily).
- 112. *Zephyranthes simpsonii* (Simpson's zephyr-lily).
- 113. *Zephyranthes treatiae* (Treat's zephyr-lily).

(c) No change.

(2) No change.

Specific Authority 570.07(23), 581.185 FS. Law Implemented 570.07(13), 581.185 FS. History--New 12-3-91, Amended 9-20-93, 5-21-96, 12-10-96, 1-7-98, 9-20-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Richard Gaskalla, Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner of Agricultural Services

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

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Outdoor Advertising Sign Regulation and Highway Beautification Program	14-10
RULE TITLE:	RULE NO.:
Comprehensively Enacted Zoning and Zoning Enacted Primarily to Permit Signs	14-10.0052

PURPOSE AND EFFECT: This new rule is to clarify the use of commercial or industrial zoning for signs. The previous Rule 15-10.051, F.A.C., relating to Zoned and Unzoned Commercial and Industrial Areas along Interstate and Federal-Aid Primary Highways, was repealed.

SUMMARY: A new rule is being adopted pertaining to comprehensively enacted zoning, and zoning enacted primarily to permit signs. The proposed rule includes revisions resulting from a rule development workshop, which was conducted in Tallahassee on May 20, 2002.

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 479.07(10) FS.

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

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

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

TIME AND DATE: 10:00 a.m., December 18, 2002

PLACE: Department of Transportation, Haydon Burns Building, 605 Suwannee Street, Fourth Floor Conference Room (Room 479), Tallahassee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-10.0052 Comprehensively Enacted Zoning and Zoning Enacted Primarily to Permit Signs.

(1) Commercial or industrial zoning which is not comprehensively enacted, or which is enacted primarily to permit signs, shall not be considered commercial or industrial zoning, and sign permits shall not be issued in such areas.

(2) "Commercial or Industrial Zoning" for purposes of this Rule, only includes property on which commercial or industrial uses are currently permitted under "comprehensively enacted zoning" (as defined below), and does not include any property on which commercial or industrial uses have been allowed primarily to permit the erection or maintenance of signs.

(3) "Comprehensively Enacted Zoning" means ordinances or other laws of general application, properly adopted by the county or municipal government with authority over the development and use of the affected property, that designate or

control the currently allowable uses of the affected property, pursuant to and consistent with a comprehensive plan enacted in accordance with Chapter 163, Florida Statutes.

(4) The Department shall consider the following criteria when determining whether commercial or industrial zoning applicable to a proposed sign site was adopted primarily to permit the erection or maintenance of signs:

(a) The language of the applicable zoning ordinance or law.

(b) Whether the applicable zoning ordinance or law allows commercial or industrial uses on the property as a matter of right, or whether such uses are only allowed by variance, special exception, conditional use permit, special use permit, or the equivalent.

(c) Whether the applicable zoning ordinance or law allows commercial or industrial uses on the property other than the following uses that are not recognized as commercial or industrial use for the purposes of this rule:

1. Agricultural, forestry, ranching, grazing, farming, or related activities, including wayside fresh produce stands.
2. Transient or temporary activities.
3. Railroad tracks and minor sidings.
4. Communication towers.
5. Electric transmission, telephone, telegraph, or other communications services lines.
6. Ditches, sewers; water, heat, or gas lines.
7. Pipelines, tanks, or pumps.
8. Fences.
9. Drainage ponds or water retention facilities.
10. Canals.
11. Roads.
12. Signs.

(d) The applicable county or municipal government building and development code requirements for commercial or industrial activities on the property, including setback requirements, parcel size and dimension requirements, and access and parking requirements.

(e) The size of the property on which the sign is proposed to be located.

(f) The location of the property in relation to other properties zoned for commercial or industrial uses.

(g) Access to the property.

(h) Utilities available to the property.

(i) Existing or approved commercial or industrial uses on the property.

(j) Existing or approved commercial or industrial uses on adjacent properties within 1,600 feet of the property.

(k) Any uses currently approved for the property.

(l) Any activities currently conducted on the property.

(m) Historic uses of the property.

(n) Efforts by the owner, or lessee with the right to current possession of the property, to actually conduct commercial or industrial uses.

(o) The location and orientation of the property in relation to any part of the State Highway System, the Interstate System, or the Federal-aid Primary System.

(p) Any statements or material presented to the county or municipal government in connection with any zoning decision on the property.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 479.07(10) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kenneth Towcimak, Director, Office of Right of Way
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 12, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: April 5, 2002

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Toll Enforcement	14-100
RULE TITLE:	RULE NO.:
Training and Qualification Standards for Toll Enforcement Officers	14-100.001

PURPOSE AND EFFECT: This amendment is needed to clarify the background investigation requirements for Toll Enforcement Officers. The term “good moral character” and all references to the Florida Department of Law Enforcement definition of that term and specific investigation requirements relating to that term are removed and replaced with a basic requirement for a background investigation as required by Section 110.1127, Florida Statutes.

SUMMARY: This is a proposed amendment to subsection 14-100.001(4), F.A.C., as it relates to background investigations for toll enforcement officers.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 316.1001, 316.640(1) FS.

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.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-100.001 Training and Qualification Standards for Toll Enforcement Officers.

(1) Application and Scope. The purpose of this rule is to establish minimum training and qualification standards for toll enforcement officers. These standards shall be the minimum requirements necessary for eligibility to be a toll enforcement officer for the Department of Transportation (hereinafter Department). Toll enforcement officers are authorized to issue uniform traffic citations for failure to pay tolls on a toll facility owned or operated by a governmental entity, as defined in Section 334.03(12), Florida Statutes. This rule should not be construed to preclude a governmental entity operating a toll facility from establishing more stringent requirements for its toll enforcement officers.

(2) Compliance. Compliance with the rule standards shall be the responsibility of the respective governmental entity which operates the toll facility.

(3) Minimum Training. Toll enforcement officers shall successfully complete the following:

(a) A training course with the Department of Highway Safety and Motor Vehicles on the procedures for issuance of uniform traffic citations.

(b) A minimum of 40 hours of technical instruction on how to access, operate, and maintain the violation enforcement system. The components of the training shall include, at a minimum, equipment configuration and operation.

(4) Minimum Qualifications. The following minimum qualifications shall be applicable to toll enforcement officers:

(a) Toll enforcement officers shall, through their education and work experience, demonstrate to the satisfaction of the hiring governmental entity that they possess the following:

1. The ability to collect and evaluate data related to a violation enforcement system; and
2. The ability to understand and apply applicable agency, evidentiary, and violation enforcement system rules, regulations, policies, and procedures.

(b) Toll enforcement officers shall have visual acuity correctable to 20/20.

(c) Toll enforcement officers shall be subject to a security background check as a condition of employment pursuant to Section 110.1127, Florida Statutes, ~~must:~~

~~1. Be certified pursuant to Section 943.13, Florida Statutes, and Chapter 11B-27, F.A.C.; or~~

~~2. Meet the requirements of Sections 943.13(1)-(4), Florida Statutes; and~~

~~3. Have good moral character, as described in Section 943.13(7), Florida Statutes, and Rule 11B-27.0011(2), (4)(a), (b), and (c)1-6., and (d), F.A.C. (Amended 1-2-97), as determined by a background investigation meeting the requirements of Rule 11B-27.0022(1) and (2), F.A.C. (Amended 1-2-97). The foregoing rules are incorporated herein by reference.~~

Specific Authority 334.044(2) FS. Law Implemented 316.1001, 316.640(1) FS. History-New 10-21-97, Amended 8-13-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Leigh Anne Yarbrough, Florida Turnpike Enterprise, Toll Services Group

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

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

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Interstate Agreement on Detainers
 RULE NO.: 33-601.402

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to delete a rule which is unnecessary as it merely reiterates statutory language.

SUMMARY: The rule is being repealed because it is duplicative of language found in Chapter 941, F.S.

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, 945.21 FS.

LAW IMPLEMENTED: 941.45, 941.46, 941.47, 941.49 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:

33-601.402 Interstate Agreement on Detainers.

Specific Authority 944.09, 945.21 FS. Law Implemented 941.45, 941.46, 941.47, 941.49 FS. History-New 7-7-81, Formerly 33-21.02, Formerly 33-21.002, Formerly 33-301.102, Repealed _____.

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

DEPARTMENT OF CORRECTIONS

RULE TITLES: ADMINISTRATIVE CONFINEMENT
 Administrative Confinement 33-602.220
 Protective Management 33-602.221

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify terms used in conjunction with administrative confinement; revise the process for recording data for administrative confinement and protective management inmates; clarify the process for the operation of confinement units; and provide for the use of new forms and the deletion of obsolete forms.

SUMMARY: The proposed rules clarify terms used in conjunction with administrative confinement; revise the process for recording data for administrative confinement and protective management inmates; clarify the process for the operation of confinement units; and provide for the use of new forms and the deletion of obsolete forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: 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 RULES IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a) through (m) No change.

(n) Offender Based Information System (OBIS) – refers to an electronic data system used by the Department of Corrections to record and retrieve offender information.

(2) Procedures for Placement in Administrative Confinement.

(a) No change.

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The

inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in subsection (11) of this rule. When an official places an inmate in administrative confinement, this action shall be documented in the electronic classification contact log in OBIS. This entry shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement and a summary of the inmate's comments. The reason must correspond with one of the criteria for placement provided in subsection (3) of this rule. This electronic entry shall be completed the same day the inmate is placed into confinement, and will establish the ICT 72-hour review appointment on a Report of Administrative Confinement, Form DC6-233a, including the reasons for the action and a summary of the inmate's comments. Form DC6-233a is incorporated by reference in (11) of this rule. The heading and Section I shall be completed by the official who placed the inmate in administrative confinement. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in (11) of this rule. This section shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement. The reason shall correspond with one of the reasons for placement stated in subsection (3) of this rule. Once Section I has been completed, the official who placed the inmate in administrative confinement shall sign Section I and forward the report to classification prior to the end of his or her shift or workday. Any written statements provided by the inmate shall be forwarded to the ICT for their consideration during the forthcoming 72-hour review attached to the form.

(c) The Institutional Classification Team shall review inmates in administrative confinement within 72 hours. The ICT's findings and decision shall be documented in the electronic classification contact log in OBIS. The only exception to being reviewed within 72 hours is when the ICT cannot complete its review within the allotted timeframe due to a holiday. If the review cannot be completed within 72 hours, the action of the senior correctional officer shall be reviewed within 72 hours by the duty warden, documented on the DC6-229, Daily Record of Segregation, and evaluated within 5 days by the ICT. Inmates placed into administrative confinement shall not be released from this status until approved by the ICT. The classification supervisor shall be

responsible for ensuring that the ICT docket is prepared. The ICT Chairperson is responsible for scheduling the ICT hearing date and time. ~~All Reports of Administrative Confinement, DC6-233a, shall be completed the same day an inmate is placed into confinement and forwarded to the institutional classification unit to be placed on the docket.~~ The ICT shall review inmates for release. During this review the ICT shall consider pending disciplinary hearings and other pending issues or actions. If an inmate has been held in administrative confinement pending a disciplinary hearing and the decision is not to impose disciplinary confinement as a part of the disciplinary action, the disciplinary team or hearing officer shall notify the confinement supervisor who shall coordinate the release of the inmate from administrative confinement. If the confinement supervisor discovers other pending issues or actions, the ICT shall be required to immediately review the case. In the event it is necessary to release an inmate from administrative confinement during weekends or holidays the duty warden is authorized to approve the release immediately.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

(a) through (b) No change.

(c) Inmates shall be placed in administrative confinement pending review of the inmate's request for protection from other inmates, (Rule 33-602.221, F.A.C.). The inmate shall be placed in administrative confinement by a senior correctional officer when the inmate presents a signed written statement alleging that the inmate fears for his safety from other inmates, and that the inmate feels there is no other reasonable alternative open to him. A senior correctional officer shall place an inmate in administrative confinement, pending review for protective management, based on evidence that such a review is necessary and the senior correctional officer determines that no other reasonable alternative is available. The inmate shall be encouraged to provide information and otherwise cooperate with the investigation of the matter. The protective management process, including the ICT's action, shall be completed within 15 working days from the initial confinement of the inmate.

1. ~~The Institutional Classification Team (ICT) shall complete an OBIS electronic classification contact log entry approving the inmate's continuation in confinement. This entry will initiate an appointment for an investigation to be conducted gather information. A member of the ICT shall complete the heading and section IA of the DC6-234, Report of Protective Management. Form DC6-234 is incorporated by reference in (11) of this rule. The committee member shall utilize the documentation in the DC6-233a, Report of Administrative Confinement, for the information necessary to complete this portion of the report. The report shall then be forwarded to the investigative official assigned to investigate the reasons for protection. The investigator shall enter the~~

results of the investigation in the electronic classification contact log in OBIS; this entry will automatically schedule an complete Section IB of the report and return it to the ICT review appointment.

2. If the inmate submits a request for release in writing at any time during the ICT review or investigation process, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in subsection (11) of this rule. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request.

3. Once the investigation is complete, the ICT shall interview the inmate to determine whether the inmate has a legitimate, verifiable need for protection. The ICT shall review all documentation available concerning the need for protection to include any written statements submitted by the inmate. The inmate's written request for release and the DC6-203 will also be reviewed. ~~The ICT shall document its findings and recommendations on the Report of Protective Management, Form DC6-234.~~ The following elements shall be considered in determining whether protective management is necessary:

a. through g. No change.

4. The ICT shall make recommendations concerning protective management based on the facts within 15 working days from the date of initial confinement. The ICT's findings and recommendations shall be entered in the electronic classification contact log in OBIS; this entry will automatically schedule an SCO review appointment. Whether the ICT recommends protective management or not, the inmate shall remain in administrative confinement at that facility pending review by the SCO. All non-electronic related documentation shall be made available to the SCO by the ICT. The DC6-234 shall be forwarded to the State Classification Office along with team findings, recommendations and all other related documentation. The State Classification Office shall approve, disapprove or return for additional information the recommendation of the Institutional Classification Team.

5. The State Classification Office (SCO) shall determine within five working days whether protection is necessary based upon the investigation and any follow-up ~~they he~~ deems appropriate. The SCO shall approve or disapprove placement of the inmate in protective management. The SCO's decision shall ~~also~~ be documented ~~in on~~ the electronic classification contact log in OBIS Report of Protective Management, Form DC6-234, and this report shall be returned to the institution. If the SCO determines that a need for protection exists, ~~they he~~ shall direct indicate in the Report of Protective Management that the inmate shall be placed in a protective management unit or transferred to resolve the inmate's need for protection. If a decision is made to transfer the inmate for housing in a protective management unit or to resolve the inmate's need for protection at the inmate's current location, the inmate shall be

kept in administrative confinement until the transfer is completed. Transfers for protection needs shall be effected within five working days. SCO members are authorized to approve transfers. If the SCO determines that protective management is not necessary, the inmate may appeal this decision directly to the Office of the Secretary pursuant to Rules 33-103.007 and 33-103.011, F.A.C. The inmate shall be notified of the SCO's decision by the ICT ~~and this notification shall be documented on the Report of Protective Management, DC6-234.~~ At the time of notification, the inmate shall be asked if he wants to appeal the decision. The inmate's acknowledgement of being informed of the SCO denial and the inmate's decision on whether or not to appeal shall be documented on the electronically produced Notification of Protective Management Disapproval, Form DC6-137, and the electronic contact log DC6-203, Protection Waiver/Appeal Decision Form, Form DC6-137 is incorporated by reference in subsection (11) of this rule. The inmate shall remain in administrative confinement until the appeal process is complete.

6. Within three working days after an inmate has been either received at a protective management facility for the purpose of protective management or after an inmate already housed at a facility with a protective management unit has been approved for protective management by the SCO, a determination shall be made by the ICT as to appropriate housing. The ICT shall ensure that the housing supervisor assesses the inmate being placed into the protective management unit for his potential for risk to or from other inmates in the protective management unit. The inmate shall remain in administrative confinement until this assessment decision is made.

(d) through (f) No change.

(4) Administrative Confinement Facilities.

(a) The number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director and the emergency action center in central office shall be advised of the emergency. If the emergency situation exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director to continue to house inmates beyond the 24 hour period. Prior to placing inmates in the same cell, the inmates will be interviewed by the housing supervisor to ensure a determination shall be made that none of the inmates constitute a threat to any of the others.

(b) No change.

(c) Prior to placement of an individual in an administrative confinement cell, it shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221, Cell Inspection, shall be used for this purpose. Form

DC6-221 is incorporated by reference in subsection (11) of this rule. Routine searches of each cell may be conducted at any time, but will be conducted, at a minimum, each time an inmate is removed from the cell for a shower. All searches shall be documented on Form DC6-229, Daily Record of Segregation. All inmates will be searched prior to entering the confinement unit and upon departure. All items entering the confinement unit will be thoroughly searched, to include at a minimum, food cart and trays, laundry and linens and inmate property.

(d) The administrative confinement cells shall be physically separate from other confinement cells and the cell doors will feature remotely controlled locking devices, whenever possible given the physical design of the facility, and the number of inmates housed in administrative confinement shall not exceed the number of bunks in the cell. Whenever such location is not possible, physical barriers shall preclude the cross association of those in administrative confinement with those in other status confinement. Administrative confinement cells shall be built to permit verbal communication and unobstructed observation by the staff. The officers assigned will exercise care to maintain the noise within the unit to a reasonable level. Visual inspections shall be conducted of each cell, to include at a minimum, observations for clothes lines, pictures attached to the walls and lockers, windows or light fixtures covered with paper, clothes or towels, and air and heater vents that have been obstructed. When sufficient natural light is unavailable, interior cell lights shall be left on during day and evening hours.

(5) Conditions and Privileges.

(a) through (j) No change.

(k) Legal Access – Legal materials shall be as accessible to inmates in administrative confinement as to inmates in general population as long as security concerns permit. An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps shall be taken to ensure the inmate is not denied needed access while in confinement. Although the inmate may not be represented by an attorney at any administrative hearing, access shall be granted for legal visits at any reasonable time during normal business hours to the inmate's attorney or aide to that attorney. Indigent inmates shall be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent shall be allowed to purchase paper, security pens and envelopes for this purpose through a canteen order. Typewriters or typing services are not considered required items and shall not be permitted in confinement cells. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is

provided an auxiliary aid shall also be allowed access to a certified research aide law clerk for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in administrative confinement shall possess only a security pen. Other types of pens and pencils shall be confiscated and stored until the inmate is released from administrative confinement status. Inmates who are in possession of working pens or pencils when placed in administrative confinement will be issued a security pen. Inmates who are not indigent must purchase additional pens when needed from the canteen. If a security pen ~~is~~ unavailable, the inmate shall be allowed to sign out a regular pen from the confinement housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of reading or preparing correspondence.

(n) through (o) No change.

(p) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. Medical restrictions can also place limitations on the exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate’s limitations. Recreational equipment may be available for the exercise period provided such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Daily Record of Segregation, Form DC6-229.

(q) If items of clothing, bedding or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or~~ to prevent destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(6) Restraint and Escort Requirements.

(a) through (f) No change.

(g) Inmates utilized as house-men or orderlies shall be confined to their assigned cells when not working.

(7) through (8) No change.

(9) Administrative Confinement Records.

~~(a) A Report of Administrative Confinement, Form DC6-233a, shall be kept for each inmate placed in administrative confinement. A photocopy of the DC6-233a, with section I completed, shall be kept in administrative confinement with the other confinement records for each inmate. Upon completion of the DC6-233a, the white copy of the form shall be mailed to central office to be filed in the central office inmate record and the yellow copy shall be filed in the institutional inmate record.~~

~~(a)(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as the inmate is in administrative confinement in the housing area for 30 days, then forwarded to the ICT for review, and then forwarded to classification for filing in the institutional inmate record.~~ The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift officer-in-charge or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The supervising officer shall make a notation of any unusual occurrences or changes in the inmate’s behavior and any action taken. Changes in housing location or any other special action shall also be noted. The DC6-229 shall be maintained in the housing area for 30 days ~~one week~~, at which time the form

shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(b)(e) No change.

(10) Staffing Issues.

(a) Officers assigned to a confinement unit shall be reviewed at least every 18 months ~~by the chief of security to determine whether a rotation is necessary. The shift supervisor or confinement lieutenant shall initiate the review by having the officer complete section I of the Special Housing Unit Rotation Review, Form DC6-295. Form DC6-295 is incorporated by reference in subsection (11) of this rule. The required supervisor shall conduct an interview with the officer and complete section II of the DC6-295 and forward the form to the chief of security.~~ The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; interview the officer and officers' supervisors for the period of review; ~~when necessary and shall make a recommendation to the warden as to the necessity of a rotation. The chief of security shall, upon completion of his or her review, complete section III of Form DC6-295 and forward the recommendation to the warden.~~ The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. ~~The warden's decision will be documented in section VI of the DC6-295 and returned to the chief of security for action. The chief of security shall maintain the completed DC6-295.~~ Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC4-650, Observation Checklist, and effective date ~~_____ 2-12-01.~~

(b) Form DC6-203, Protection Waiver/~~Appeal Decision~~ Form, effective date ~~_____ 2-12-01.~~

(c) through (d) No change.

~~(e) Form DC6-233a, Report of Administrative Confinement, effective date 2-12-01.~~

~~(f) Form DC6-234, Report of Protective Management, effective date 2-12-01.~~

(e)(g) No change.

(f) Form DC6-295, Special Housing Unit Rotation Review, effective _____.

(g) Form DC6-137, Notification of PM Disapproval, effective _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, _____.

33-602.221 Protective Management.

(1) No change.

(2) Procedures for placement in Protective Management.

(a) No change.

(b) Inmates on death row, in close management or disciplinary confinement are not eligible for placement in protective management. However, if an inmate in one of these statuses requests protection, procedures outlined in Rule 33-602.220, F.A.C., shall ~~be completed~~ begin.

(c) If it is determined that an inmate on death row, close management or disciplinary confinement needs protection, the inmate will be afforded such protection in his or her current status. Upon completion of that special status, the institutional classification team (ICT) shall review the inmate's need for protection and make recommendations to the state classification office (SCO), who shall determine the appropriate action to resolve the inmate's protection needs.

(d) ~~When Once the ICT and SCO determines have determined~~ that protective management is appropriate for an inmate, the inmate shall be interviewed by the housing supervisor and a review shall be initiated to assess the inmate's potential risk to or from ~~determine if any of the inmates in the protective management unit are a threat to the inmate being placed or if the inmate being placed is a threat to~~ other inmates in the unit. The completion of this review will be documented on Form DC6-235, Record of Protective Management. Form DC6-235 is incorporated by reference in subsection (10) of this rule. If the inmate can not be placed for ~~this these~~ reasons the housing supervisor shall place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case shall be immediately forwarded to the ICT for review. The ICT shall review the case and interview the inmate and forward recommendations to the SCO. The SCO shall review the case and may interview the inmate and make a final decision to resolve protection.

(3) Protective Management Facilities.

(a) The number of inmates housed in protective management housing units shall not exceed the number of beds in the cell. Exceptions may be made during an emergency situation as approved by the warden or duty warden, but such exceptions shall not continue for more than 24 hours without the specific written authorization of the regional director. Prior to placing inmates in the same cell, a determination shall be made by the housing supervisor that none of the inmates constitute a threat to any of the others and document such on Form DC6-235, Record of Protective Management.

(b) No change.

(c) Prior to placement of an individual in a protective management cell, the cell shall be thoroughly inspected to ensure that the cell is in proper order. The officer conducting the inspection will complete and sign the Cell Inspection, DC6-221, attesting to the conditions of the cell. The inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221 is incorporated by reference in subsection 33-602.220(11)(40), F.A.C.

(d) No change.

(4) Conditions and Privileges.

(a) Clothing – Inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the clothing for inmates in protective management shall be the same as that issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases the exceptions shall be documented on Form DC6-235, Record of Protective Management, and approved by the chief of security. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or~~ to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be noted on Form DC6-235, Record of Protective Management, stating the reasons for such denial. Under no circumstances will an inmate be left without a means to cover himself or herself. ~~Form DC6-235 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 2-12-01.~~

(b) through (g) No change.

(h) Counseling Interviews – Counseling shall be provided to protective management inmates in-cell or out of cell when deemed necessary by mental health staff. ~~The ICT will determine whether an inmate in protective management may be removed from his or her cell to attend interviews and counseling sessions when they determine that it is safe to do so, or whether counseling must take place in-cell.~~

(i) No change.

(j) Telephone – Inmates in protective management shall be allowed to make one call per week of at least 15 ~~40~~ minutes. However, if telephones are available in the dayroom, protective management inmates shall be allowed to make calls in the same manner as general population inmates.

(k) Legal Access – inmates in protective management shall have access to the law library during evening or other hours when general population inmates are not present. If security reasons prevent a visit, access shall be provided

through correspondence or visits from the inmate research aide ~~law clerk~~. All steps shall be taken to ensure the inmate is not denied needed legal access while in protective management. Inmates shall be provided paper and writing utensils in order to prepare legal papers. Typewriters or typing services are not considered required items and will not be permitted in protective management housing units. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer reader). An inmate who is provided an auxiliary aid will be allowed access to a certified research aide ~~law clerk~~ for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in protective management shall be allowed to possess pens and pencils of the same type and number as those in general population. If it is determined that there is a safety, security or sanitation risk these items shall be confiscated and stored until the inmate is released from protective management status. The inmate shall be issued a security pen; if a security pen is unavailable the inmate shall be allowed to sign out a regular pen from the housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail documents or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of preparing correspondence.

(n) through (o) No change.

(p) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the ~~Daily~~ Record of Protective Management Segregation, Form DC6-235 ~~DC6-229~~. Form DC6-235 ~~DC6-229~~ is incorporated by reference in subsection 33-602.220(10) ~~of this rule~~. Medical restrictions may also place limitations on exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for

him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Similar recreational equipment shall be available as is available for general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Report of Protective Management, Form DC6-235.

(q) through (s) No change.

(t) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-235, Record of Protective Management, and reported to the ICT. The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order or effective management of the institution. The ICT's decision for continuing restriction shall be documented on Form DC6-235, Record of Protective Management.

(5) Work assignments.

(a) Within 10 days of the protective management determination, work opportunities consistent with medical grades shall be available to inmates in protective management during the day, evening or night hours. All inmates shall be provided the opportunity for work assignments regardless of medical grade except when precluded by doctor's orders for medical reasons. Work shall be cancelled for an individual inmate or a work squad when staff concludes the work or work assignment would subject the inmate to danger or if adequate staff protection is not available. Each occurrence of work cancellation will be documented with reasons for the action on Form DC6-210, Incident Report, and shall be reviewed by the warden or ICT the ~~next working~~ following day. Form DC6-210 is incorporated by reference in subsection 33-602.210(9), F.A.C. Refusal of a work assignment shall result in disciplinary action pursuant to Rules 33-601.301-601.314, F.A.C. Inmates who refuse work assignments will not be allowed other housing unit activities. Those who accept work assignments shall be subject to awards of gain time pursuant to Rule 33-601.101, F.A.C., in the same manner as general population.

(b) No change.

~~(e) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-234, Report of Protective Management, and reported to the ICT. Form DC6-234 is incorporated by reference in rule 33-602.220(10). The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order, or effective management~~

~~of the institution. The ICT's decision for continuing restriction shall also be documented on Form DC6-235, Record of Protective Management.~~

(6) No change.

(7) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the protective management unit. All visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. The staff member shall also document his or her visit on the ~~Daily~~ Record of Protective Management Segregation, Form DC6-235 ~~DC6-229~~, if, during the visit by staff, any discussion of significance, action or behavior of the inmate occurs or any information is obtained which may have an effect on the status of protective management. These visits shall be conducted at a minimum of:

1. At least every 30 minutes ~~hour~~ by a correctional officer, but on an irregular schedule.

2. through 9. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Segregation, and followed with an Incident Report, Form DC6-210. Forms DC4-650 is incorporated by reference in subsection 33-602.220(11)(10), F.A.C.

(8) Review of Protective management.

(a) through (d) No change.

(e) If the inmate submits a request for release in writing at any time after being placed in protective management, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/~~Appeal Decision~~ Form. Form DC6-203 is incorporated by reference in subsection 33-602.220(11)(10), F.A.C. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request. The ICT shall docket and review the inmate's request, and interview the inmate. The ICT shall submit their recommendation along with the DC6-203 and any other documentation to the SCO for final consideration. The SCO review and decision shall be conducted during the next routine on-site visit.

(9) Protective Management Records.

(a) A printed copy of the electronic Report of Protective Management, Form DC6-234 shall be kept for each inmate placed in protective management.

(b) An Inspection of Special Housing Record, Form DC6-228 shall be maintained in each protective management area. Form DC6-228 is incorporated by reference in subsection (11)(10) of Rule 33-602.220, F.A.C. Each staff person shall sign the record when entering and leaving the protective management area. Prior to leaving the protective management area, each staff member will indicate any specific problems including any inmate who requires medical attention.

(c) No change.

(10) Form DC6-235, Record of Protective Management, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the form is _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History--New 6-23-83, Formerly 33-3.082, Amended 3-12-84, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Dugger
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental Resource Permits
RULE CHAPTER NO.: 40D-4
RULE TITLE: Formal Determination of Wetlands and Other Surface Waters
RULE NO.: 40D-4.042

PURPOSE AND EFFECT: This proposed rulemaking will make the administrative process for noticing petitions for formal wetland determinations consistent with the District's processes for noticing water use and environmental resource permit applications.

SUMMARY: This proposed rulemaking will amend Rule 40D-4.042, Florida Administrative Code (F.A.C.), to provide that a petitioner requesting a formal determination of wetlands and other surface waters may publish notice of the intended agency action in accordance with Rule 40D-1.1010, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-4.042,

F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.113, 373.421(2) FS.

LAW IMPLEMENTED: 373.421(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.042 Formal Determination of Wetlands and Other Surface Waters.

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

(3)(a) Within 30 days of receipt of a petition for a formal determination, the District shall notify the petitioner of any additional information which may be necessary to complete review of the petition. The District shall complete the determination and shall issue a notice of intended agency action within 90 days after the petition is deemed complete. The petitioner may District shall publish the notice of intended agency action on the petition in a newspaper of general circulation in the county or counties where the property is located in accordance with Rule 40D-1.1010, F.A.C.

(b) The provisions of sections 120.57 and 120.569, F.S., apply to formal determinations made pursuant to this section. Any person whose substantial interests will be affected by the District's proposed action on the petition may request an administrative hearing on the proposed action. ~~If no request for an administrative hearing is filed, the District will then take final action on the petition for the formal determination.~~

(4) through (8) No change.

Specific Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History--New 10-3-95, Amended 7-2-98, 2-14-00, 5-28-00, 7-29-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2002

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
 RULE CHAPTER NO.: 40D-4

Resource Permits 40D-4

RULE TITLE: Content of Application
 RULE NO.: 40D-4.101

PURPOSE AND EFFECT: Subsection 40D-4.101(6), Florida Administrative Code (F.A.C.), provides that the District will send notice of Environmental Resource Permit (ERP) applications involving activities located in, on or over wetlands or other surface waters to the Department of Environmental Protection (DEP) if the proposed activities have a potential to impact listed species. The Bureau of Protected Species, which is the unit that actually receives the notice and provides comments, has been transferred from the DEP to the Florida Fish and Wildlife Conservation Commission (FWCC). Subsection 40D-4.101(6), F.A.C., already provides that the FWCC will receive notice of all such applications.

SUMMARY: This proposed remaking will amend subsection 40D-4.101(6), F.A.C., to delete the DEP as an agency to receive notice of ERP applications involving activities that have a potential to impact listed species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-4.101, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.413 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: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.101 Content of Application.

(1) through (6)(c) No change.

~~(d) the Department of Environmental Protection, if the proposed activities have a potential to impact marine listed species.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.413 FS. History-Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(1),(2), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 12-16-97.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jack R. Pepper, Senior Attorney, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2002

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Year-Round Water Conservation
 RULE CHAPTER NO.: 40D-22

Measures 40D-22

RULE TITLES: Policy and Purpose 40D-22.011

Definitions 40D-22.101

Year-Round Water Conservation Measures 40D-22.201

Goal-Based Alternative Community

Conservation Program 40D-22.302

Variance and Waivers 40D-22.303

Enforcement 40D-22.401

PURPOSE AND EFFECT: Update the District's year-round water conservation rule chapter which was first adopted in 1992, including incorporation of existing measures required by Board Orders Nos. 92-12, 92-21, 92-60, 93-105, and 01-83.

SUMMARY: The District's Year-Round Water Conservation Measures Rule (Chapter 40D-22, F.A.C.) contains the mandatory measures that apply when no water shortage event is declared. These baseline measures were first adopted by Rule in 1992 and, as originally written, consist primarily of a daytime ban on lawn watering. The proposed amendments update the Rule to incorporate measures included in Board Orders Nos. 92-12, 92-21, 92-60, 93-105, and 01-83. The proposed amendments also 1) update definitions, 2) streamline language for specific measures, 3) recognize the water-conserving features of Water Use Permits and published Best Management Practices, 4) create a local Alternative Community Conservation Program option, 5) provide for grandfathering of existing variances for a limited period of time, and 6) clarify the District's expectations regarding reclaimed water blends and local enforcement assistance.

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: 120.542, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 120.542, 120.69, 373.119, 373.171, 373.223, 373.246(7), 373.609 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lois Sorensen, Water Shortage Coordinator, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4335

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-22.011 Policy and Purpose.

(1) This Chapter comprises the Southwest Florida Water Management District's (District) Year-Round Conservation Measures. It is the policy of the District to promote and require water conservation during times of average and above average rainfall as well as during declared water shortages. To that end, the purpose of this Chapter is ~~These measures are intended to increase water use efficiency through regulatory means for all water irrigation uses. The measures contained in this Chapter are intended to reduce wasteful practices and encourage lawn and landscape drought conditioning. These means are in addition to Chapter 40D-2, F.A.C., provisions and non-regulatory means, such as education and incentive programs that are also used by the District to promote water conservation. The measures prevent irrigation during periods of the day when water loss is highest.~~

(2) This Chapter applies to all water users and sources, including those not subject to permitting pursuant to Chapter 40D-2, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New 3-24-92, Amended.

(Substantial rewording of Rule 40D-22.101 follows. See Florida Administrative Code for present text.)

40D-22.101 Definitions.

When used in this Chapter:

(1) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address.

(2) "Aesthetic Use" means the use of water, primarily for fountains, waterfalls, and landscape lakes and ponds where such uses are ornamental and decorative and are not required for environmental mitigation, water treatment or other necessary use.

(3) "Agriculture" means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, zoological and botanical specimen exhibits, viticulture, forestry, dairy, livestock, pasture, poultry, bees, and any and all forms of farm products and farm production. Turfgrass production ("sod farming") is agriculture; however, the care of new or existing lawns, non-edible landscapes, and Athletic Play Areas are not classified as agriculture for the purpose of this Chapter.

(4) "Athletic play area" means all golf course fairways, tees, and greens, and other athletic play surfaces; for example, football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo, equestrian and livestock arenas.

(5) "Augmentation" means the transfer of water from one water source to another for the purpose of maintaining or raising the water level of a surface water body.

(6) "Best Management Practices" "BMPs" is a document describing a practice or combination of practices developed and approved by either the Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural Sciences or similar accredited educational institution, a professional association applicable to the practice(s) in question, or the District and are deemed to be most effective and practicable methods to conserve water and prevent or reduce the discharge of pollutants into waters.

(7) "Cemeteries" means a place dedicated to and used or intended to be used for the permanent interment of human or pet remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or to intended to be used for the interment or disposition of cremated human or pet remains; or any combination of one or more of such structures or places.

(8) "Center-pivot" means an irrigation system consisting of a pipe lateral or lateral move system, both of which are typically self-propelled and consist of a lateral pipe, elevated on wheels, that rotates on a fixed point as it applies water to the land from sprinklers located along its length.

(9) "Community" means, for purposes of a Goal-Based Alternative Community Conservation Program (ACCP and see Rule 40D-22.302, F.A.C.), a group of water users within the jurisdiction of a local government or community development district. Self-supplied users served by a separate District WUP are specifically excluded from this definition. For example, an entity within city limits that irrigates its fields, trees or other plants with water regulated by a separate WUP would continue

to comply with water-conserving conditions of its own WUP and would not be addressed in the local government or community development district's ACCP. Self-supplied Agricultural, Industrial, and Recreational water users that are exempt from the WUP program may also be excluded from this definition if they demonstrate compliance with applicable Best Management Practices.

(10) "Consumptive Use Permit (CUP)" means a permit issued pursuant to Chapter 40D-2, F.A.C., authorizing the consumptive use of water (see Water Use Permit).

(11) "Domestic and Other Sanitary Uses" means the use of water for the individual personal household purposes of drinking, bathing, cooking, or sanitation, and sanitary use occurring elsewhere, as well as within the household. Other uses often associated with domestic activities, such as lawn irrigation and non-commercial car washing, are classified elsewhere in this Chapter within appropriate use classes.

(12) "Driving Range" is the turfgrass at a practice or instructional facility that provides a simulated golf fairway, simulated golf tee and simulated golf green. The simulated golf green associated with a simulated golf fairway is primarily a visual target instead of a regulated play surface, and so does not receive the foot traffic and related turfgrass damage normally associated with an actual golf green.

(13) "Essential Service Use" means the general use of water to satisfy federal, state, or local health and safety requirements.

(14) "Even Numbered Address" means an Address, ending in the numbers 0, 2, 4, 6, 8 or the letters A-M.

(15) "Fire Fighting, Health, and Medical Use" means the use of water for fire fighting purposes, or health and medical purposes; for example, controlled burns for forest fire suppression, rehabilitative therapy and kidney dialysis.

(16) "Frost/Freeze or Heat Stress" means the symptoms caused to plants or crops by extreme cold or hot weather unless an irrigation event occurs; for example, permanent wilt damage, yield reductions and/or plant death.

(17) "Golf Course" means an area of land laid out for the express purpose of playing golf, including all greens, tees, fairways, and roughs.

(18) "Hand Watering" means watering plants or crops with one hand held hose, fitted with a self-canceling or automatic shutoff nozzle, or a watering can or pail.

(19) "Industrial and Commercial Use" means the use of water integral to the production of goods or services. For example, such use includes phosphate mining and beneficiation; chemical manufacturing; power generation; limestone, sand and gravel mining; cement, concrete, and concrete products manufacturing; perishable foods processing and packing; airports, business parks, and amusement parks; schools other than athletic play areas, government buildings and other institutional facilities.

(20) "Irrigation" means the application of water to plants for the purpose of sustaining plant life, promoting plant growth or to facilitate crop production.

(21) "Landscape" means a section of ground adorned or improved by flowering plants, shrubs, palms, trees, and groundcover other than Lawn.

(22) "Landscape Use" means the application of water to Lawns and associated Landscape surrounding homes, commercial or industrial buildings, government or other non-commercial buildings, parks, recreational areas, non-play areas of golf courses, public and private right-of-ways and medians but excluding Athletic Play Areas and Cemeteries. Lawns and Landscape are further classified as follows:

(a) "Existing" means any Lawn or Landscape, or portion thereof, which has been in existence in the same location for a period of 60 days or more;

(b) "New Plant Material" means any Lawn or Landscape, or portion thereof, which has been in existence in the same location for less than 60 days.

(23) "Lawn" means a plot of turfgrass, usually tended or mowed, surrounding homes, commercial or industrial buildings, government or other non-commercial buildings, parks, and recreational areas, public or private rights-of-way and medians, but excludes Athletic Play Areas and Cemeteries.

(24) "Livestock" means animals raised and maintained for sale, research, personal consumption, breeding, slaughter, or other commercial purposes; for example, dairy and beef cattle, horses, hogs, poultry, and fish and other aquaculture. Horses, other riding animals, and zoological specimen animals are also considered to be livestock. Water use associated with livestock includes hydration ("watering"), washing, and maintenance of the animals and also includes the maintenance of facilities for the protection of livestock health and safety.

(25) "Low-Volume Irrigation" means the use of Hand Watering, Micro-irrigation or other equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and designed to allow that water to be placed with a high degree of efficiency within the root zone of the plant.

(26) "Low-Volume Mobile Equipment Washing" means washing a vehicle or other Mobile Equipment with a hand carried water bucket or a hose with a self-canceling or automatic shutoff nozzle, or both.

(27) "Low-Volume Pressure Cleaning" means pressure cleaning by means of equipment which is specifically designed to reduce the inflow volume by applying water at a pressure of 1000 pounds per square inch (p.s.i.) or greater and at a volumetric rate of 5 gallons per minute (g.p.m.) or less.

(28) "Micro-irrigation" means any Irrigation device that distributes water near or within the root zone through low flow rate and emitters. Examples of Micro-irrigation devices include drip, line source, microspray, microsprinkler, bubbler and

similar types of systems. The term specifically includes propagation mist heads, capillary mats and soaker hoses. The term also includes water use in Mist Houses and similar establishments for plant propagation and production, but excludes any form of turf irrigation other than in a sod production ("turf farming") setting.

(29) "Mist Houses" mean all enclosed Agriculture Irrigation areas, whether enclosed by glass, shade cloth, plastic, wooden slates, or other materials that reduce evaporation.

(30) "Mobile Equipment" means any public, private or commercial automobile, truck, trailer, railroad car, camper, boat, or any other type of similar equipment.

(31) "Odd Numbered Address" means the Address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

(32) "Overhead Irrigation" means a pressurized system where water is distributed through pipes and then applied through a variety of outlet sprinkler heads or nozzles. Pressure is used to spread the water droplets above the plant's canopy to simulate rainfall. Low-Volume Irrigation, Traveling Gun Systems and Center Pivot Systems are specifically excluded from this definition.

(33) "Power Generation" means the use of water for such purposes as boiler make-up, cooling, meeting environmental standards, and other uses associated with the production of electricity or other forms of power.

(34) "Reclaimed Water" means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

(35) "Recycled Water" means water that has been recovered after use for Irrigation, industrial or other beneficial purposes.

(36) "Reuse" means the deliberate application of Reclaimed Water, in compliance with Department of Environmental Protection rules and District rules for a reasonable-beneficial use.

(37) "Source Class" means the classification given below to a source of water supply:

(a) Groundwater sources

1. Water table aquifers;
2. Confined and semi-confined aquifers.

(b) Surface Water sources

1. Streams or other watercourses;
2. Lakes or other impoundments;
3. Sinkholes.

(38) "Spot Treatment" is the Hand Watering of isolated areas of turfgrass or other plant material, such as golf course greens, in order to efficiently deliver water needed to provide uniform moisture content. This practice is a water-conserving means of compensating for differences in sun exposure, sprinkler coverage, and other site-specific factors.

(39) "Sprigged turf area" means a turf area being established vegetatively by placing Sprigs in furrows or small holes.

(40) "Sprigs" are a means of vegetative propagation that is sometimes used to produce golf course greens, golf course fairways, other Athletic Play Areas, and Lawns. Bermuda grass is the most common type of turfgrass propagated in this manner. A Sprig is an individual stem of grass with one to four nodes (joints) from which roots can develop. Sprigs may also be called runners, rhizomes, or stolons.

(41) "Surface Irrigation" means a process by which irrigation water is applied to the soil surface in order to transport water by gravity to a plant. This term includes seepage, sub-irrigation, semi and fully enclosed irrigation systems.

(42) "Syringing" is the watering of turfgrass or other plant material in order to lower the air temperature around the leaf surfaces. This generally involves the use of Hand Watering or "fogging" irrigation equipment. The purpose of the special watering technique is to cool-off the leaf tissue, not to wet the soil.

(43) "Traveling Volume Gun System" means irrigation equipment consisting of a wheeled cart with a large sprinkler, commonly called a "gun" or "big gun", the main traveler machine with a hose reel, and an irrigation hose. The wheeled cart, called a "gun cart", is pulled either by a cable or a hand irrigation hose during operation. The gun travels while irrigating, hence the term "traveling gun."

(44) "User" means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including but not limited to uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40D-2, F.A.C., or uses from individual wells or pumps for Domestic and Other Sanitary Uses or individual home use.

(45) "Vertical Mowing" means a form of thatch removal involving the use of special equipment that makes multiple vertical cuts into the Lawn or other turfgrass. Vertical Mowing may also be referred to as verticutting.

(46) "Water Based Recreation" means the use of water within recreational areas where water-based activities occur; for example, public or private swimming and wading pools, and water slides. Expressly not included are pools specifically maintained to provide habitat for zoological specimens or aquatic life.

(47) “Water resource” means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, excluding seawater.

(48) “Water shortage or water shortage emergency” means that situation within all or part of the District when the Governing Board or Executive Director has declared a water shortage pursuant to Chapter 40D-21, F.A.C.

(49) “Water Use Permit” (WUP) means a permit issued pursuant to Chapter 40D-2, F.A.C., authorizing the use of water (See Consumptive Use Permit).

(50) “Water Utility Use” means the water used by a public or private supply system to replace line losses, flush lines, and otherwise maintain and operate the system. Water Utility Use does not include the water sold or otherwise distributed to customers by the system.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New 3-24-92, Amended _____.

(Substantial rewording of Rule 40D-22.201 follows. See Florida Administrative Code for present text.)

40D-22.201 Year-Round Water Conservation Measures.

(1) General Requirements – The year-round water conservation measures contained in this section are applicable to all water Users, whether end Users or self-supplied Users. End Users specifically include all public or private water system customers. Users whose own end use requires and are authorized by a WUP have been evaluated by the District and are required to maintain compliance with all WUP conditions and terms, including those designed to require the utilization of water conserving practices, and are, therefore, subject only to paragraphs 40D-22.201(1)(a), (b), and (e) through (k), F.A.C. The water conservation measures contained herein shall be effective throughout all geographical areas within the District. Any restrictions or other measures declared pursuant to Chapter 40D-21, F.A.C., or any related Board or Executive Director orders that is more restrictive than a water conservation measure contained within this Chapter shall supersede the water conservation measure for the duration of the applicable water shortage declaration.

(a) It shall be the duty of each water user to keep informed as to the water conservation measures presented within this Chapter, which affect each particular water use.

(b) In addition to the specific restrictions enumerated below, all wasteful and unnecessary water use is prohibited. The following are examples of wasteful and unnecessary water use:

1. Allowing water to be dispersed without any practical purpose to the water use; for example, leaving an unattended hose on a driveway with water flowing, watering a lawn when

it is raining or sufficient rainfall has occurred to make watering unnecessary, or watering more than is necessary to maintain normal plant vitality based on the season of the year.

2. Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; and,

3. Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be readily accomplished through alternative methods without water use; for example, hosing down a driveway instead of using a broom to remove grass clippings.

(c) Users shall reduce water use by employing water-conserving practices and should install water-conserving devices, except as may otherwise be specified in this rule.

(d) Users having access to more than one source class shall maximize the lesser or least limited source class. For example, if a User has access to two sources, but the ability to use one source is further limited by water shortage restrictions, the remaining source is the “lesser” limited source.

(e) Mobile Equipment Washing, including car washing conducted by charitable (not-for-profit) organizations, is allowed using Low-Volume Mobile Equipment Washing methods, without regard to the day of the week or time of day.

(f) Aesthetic Use is allowed. In order to maintain compliance with paragraph 40D-22.201(1)(b), F.A.C., any aesthetic-only augmentation of a water body or water feature is subject to the following requirements:

1. Augmentation equipment shall be properly maintained and operated, including compliance with any applicable permit;

2. Water Body or water feature shall be properly maintained, including prompt repair of lining leaks; and

3. Water shall be recycled, except for evaporative loss, and of the lowest acceptable quality that is available.

(g) All Irrigation Uses – The following requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to all Irrigation; for example: Lawns, Landscapes, Agriculture, Golf Courses, other Athletic Play Areas, and Cemeteries.

1. Irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

2. Irrigation systems may be operated during restricted days and/or times for cleaning and maintenance purposes with an attendant on site in the area being tested. Lawn and/or Landscape Irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 5 minutes.

3. Irrigation for the purpose of watering in insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted, with two exceptions: such watering-in shall be limited to one application of one-quarter inches in the absence of specific alternative instructions from the manufacturer and,

when associated with a Lawn and/or Landscape, such watering-in shall be accomplished during normally allowable watering days and times unless a professional applicator has posted a temporary pesticide sign containing the date of application and the date(s) of needed watering-in activity.

4. Low-Volume Irrigation methods shall not be restricted to certain days or times, with two exceptions: all such activity must be conducted in accordance with paragraph 40D-22.201(1)(b), F.A.C., and this exemption does not apply to Lawns. When such methods are used to irrigate Lawns, Irrigation is restricted to the specified days and times.

5. Any plant material may be Spot Treated or Syringed without regard to the normally allowable watering days or times, with two exceptions: Syringing of established Lawns shall be done by manual means and all Spot Treating or Syringing activity must be conducted in accordance with paragraph 40D-22.201(1)(b), F.A.C.

6. In order to promote necessary ryzomal repair, extra watering of turfgrass may occur on any day of the week for a 14-day period after Vertical Mowing has occurred. An entire zone of an irrigation system may only be used for extra ryzomal repair watering if the zone in question is for an area that contains at least 50% turfgrass recovering from Vertical Mowing. Zones containing less than 50% turfgrass recovering from Vertically Mowing, may only receive establishment period watering by Hand Watering or some other means that only delivers extra water to the effected turfgrass. All such extra watering must be conducted in accordance with paragraph 40D-22.201(1)(b), F.A.C.

7. New Plant Material, other than that associated with Agricultural Uses, shall only be irrigated as follows:

a. Any New Plant Material may be irrigated on any day of the week as needed, for the purpose of maintaining plant health and encouraging root grow-in, during a 60-day establishment period. Turfgrass typically does not need daily watering beyond 30 days after installation.

b. This establishment period begins the day the New Plant Material is installed, and is limited to areas containing New Plant Materials only. An entire zone of an irrigation system may only be used for establishment period watering if the zone in question is for an area that contains at least 50% New Plant Material. Zones containing less than 50% New Plant Material, including situations in which New Plant Material is dispersed within a zone, may only receive establishment period watering by Hand watering or some other means that only delivers extra water to the New Plant Material.

c. On the day any New Plant Material is installed, it may be irrigated once without regard to the normally allowable watering times. Irrigation of the soil immediately prior to the installation of New Plant Material is also allowable without regard to the normally allowable watering times.

d. Irrigation of sprigged turfgrass areas is allowable without regard to the normally allowable watering times for the entire 60-day establishment period.

e. Irrigation of new turfgrass areas or other New Plant Material associated with a public road construction project, when and where conducted using tanker trucks or other vehicles, is allowable without regard to the normally allowable watering times for the entire 60 day establishment period.

f. Plant material other than turfgrass may continue to be irrigated without regard to the normally allowable watering days or times after the establishment period ends if Micro-Irrigation, Hand watering, or other Low-Volume Irrigation technology is used in accordance with subparagraph 40D-22.201(1)(g)4., F.A.C. This existing standard exemption is an efficient means to accommodate the longer root grown-in processes and unique watering needs of many trees, shrubs and other non-turfgrass plant materials.

g. Except as otherwise provided herein, all other such "establishment period" watering shall occur during normally allowable watering times.

8. Irrigation using Reclaimed Water shall not be restricted, except in accordance with paragraph 40D-22.201(1)(b), F.A.C., and as further restricted by a local government or other Reclaimed Water provider as necessary to promote conservation of this alternative water source. However, all properties should voluntarily conserve Reclaimed Water by only irrigating during the hours of 12:01 a.m. to 10 a.m. or 4 p.m. to 11:59 p.m. and by limiting Lawn and other turfgrass applications to no more than ¾ inch of water in each zone. In addition, if a Lawn or Landscape is irrigated with a source that contains a blend of Reclaimed Water and potable water, ground water, pond water or some other supply (with the exception of incidental stormwater runoff or District-authorized withdrawals from an unaugmented stormwater system), the use of this blended water shall be subject to the restrictions that apply to that other supply unless the applicable Reclaimed Water provider is implementing either:

a. A District-authorized variance from provisions of paragraph 40D-22.201(1)(g), F.A.C.; or

b. A District-authorized Goal-Based Alternative Community Conservation Program (pursuant to Rule 40D-22.302, F.A.C.), which addresses the use of this Reclaimed Water blend.

9. The operation of an Irrigation system for the discharge of water from a water-to-air air conditioning unit or other water-dependent cooling system shall not be subject to the provisions of this Rule, except in accordance with paragraph 40D-22.201(1)(b), F.A.C.

(h) Landscape Use – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to the Irrigation of Existing Lawns and Landscape.

1. Except as otherwise specified in this Chapter, Even Addresses may accomplish necessary Lawn and Landscape Irrigation on only Tuesday and/or Saturday.

2. Except as otherwise specified in this Chapter, Odd Addresses and rights-of-way or other locations without an Address may accomplish necessary Lawn and Landscape Irrigation on only Wednesday and/or Sunday.

3. Except as otherwise specified in this Chapter, Lawn watering shall be limited to no more than 3/4 inch of water on each allowable watering day. Typically, only one application per allowable watering day is necessary to achieve this amount.

(i) Water-Based Recreation Users shall minimize water consumption and, when practicable, recycle the water for the same use or other beneficial purpose.

(j) Washing or cleaning streets, driveways, sidewalks or other impervious areas shall be accomplished without the use of water when practicable. When water is used for this purpose, the User shall utilize Low-Volume Methods, such as Low-Volume Pressure Washing.

(k) Washing or cleaning of roofs, windows, and other portions of buildings and other structures shall be accomplished without the use of water when practicable. When water is used for this purpose, the User shall utilize appropriate Low-Volume Methods.

(2) Industrial and Commercial – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Industrial and Commercial uses, as appropriate:

(a) Compliance with all WUP conditions and terms by an individual User shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(2), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(2)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(2)(a), F.A.C., and in the absence of applicable Best Management Practices, all individual Users and groups of Users shall, at a minimum:

1. Minimize off-site water discharge to the greatest extent practicable.

2. Minimize water use for cleaning to the greatest extent practicable, given the nature of the operation. For example, any water use activity needed to maintain employee safety, protect the efficiency of the operation, maintain compliance with dust suppression regulations, or prevent damage to equipment is allowable so long as it is conducted in accordance with subsection 40D-22.201(1), F.A.C.

3. Minimize Mobile Equipment washing to the greatest extent practicable, given the nature of the operation. For example, continually clean vehicles are a necessary feature of a car dealership and school bus operation.

4. Minimize non-essential water uses to the greatest extent practicable. For example, if an open-loop (once-through) water-based cooling system can be replaced with an alternative that have a payback period equal to or less than that used by the operation to make equipment replacement decisions, use of that cooling system on an ongoing basis would not be considered essential.

5. Maximize the use of recycled water on site. For example, water consumption related to car washing may be minimized by the use of recycling wash facilities.

6. Electric utilities should encourage customers to reduce power consumption, so that they may reduce power production consumption and in turn reduce water consumption.

(3) Agriculture – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Agriculture Irrigation and Livestock uses as appropriate:

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(3), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(3)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(3)(a), F.A.C., in the absence of applicable Best Management Practices, all individual Users and groups of Users shall, at a minimum, follow the following measures:

1. Overhead Irrigation shall be limited to the times specified in subparagraph 40D-22.201(1)(g)1., F.A.C., except as otherwise specified in this rule.

2. Irrigation involving the use of Micro-Irrigation, other Low-Volume Irrigation, Traveling Volume Gun, Center Pivot, and Surface irrigation technology shall not be limited to the times specified in subparagraph 40D-22.201(1)(g)1., F.A.C., but shall still be limited by subsection 40D-22.201(1)(b), F.A.C.:

3. Operation of an Irrigation system for establishment of new crops or products shall not be subject to the provisions of this Chapter, except in accordance with subsection 40D-22.201(1)(b), F.A.C.:

4. Water use for plant protection, including Frost/Freeze or Heat Stress prevention shall not be restricted, except as may be conditioned by the water User's Water Use Permit and/or by subsection 40D-22.201(1), F.A.C. Plant protection specifically includes watering of nursery plant material and turfgrass pallets in preparation for shipment.

5. Necessary water use for Livestock Use is allowable, except as may be conditioned by the User's Water Use Permit and by subsection 40D-22.201(1), F.A.C.

6. Minimize surface runoff resulting from Irrigation or other water to the extent practicable.

(4) Golf Courses – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Golf Course Irrigation as appropriate:

(a) Users whose uses require and are authorized by a WUP have been evaluated by the District and required to maintain compliance with all WUP conditions and terms, including those designed to require the utilization of water conserving practices. Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(5), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(4)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity. Specific to Golf Courses, Best Management Practices include those documented in the portions of “Best Management Practices for Florida Golf Courses” (SP 141, produced by the Department of Environmental Horticulture at the University of Florida’s Institute of Food and Agricultural Sciences) found acceptable to the District.

(c) Except as excluded by paragraph 40D-22.201(4)(a), F.A.C., in the absence of applicable Best Management Practices, the following measures shall apply:

1. Irrigation shall be limited to the times specified in subparagraph 40D-22.201(1)(g)1., F.A.C., except as otherwise specified in this subsection.

2. Fairways, roughs and driving ranges, shall be watered no more than two times per week, except as otherwise specified in this subsection.

3. Tees and greens shall be watered no more than three times per week, except as otherwise specified in this subsection.

4. The Irrigation of tees and green shall not be restricted when such Irrigation is for plant protection, including Frost/Freeze or Heat Stress, except as may be conditioned by the water user’s permit and by paragraph 40D-22.201(1)(b), F.A.C.

5. Spot Treatment and Syringing are not restricted.

6. Irrigation related to overseeding that is a component of a fall transition program shall not be restricted to a certain number of applications each week.

(5) Other Athletic Play Area Irrigation – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply the play areas of athletic fields including football, baseball, soccer, polo, tennis, and lawn bowling fields.

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(4), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(5)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(5)(a), in the absence of applicable Best Management Practices, the following measures shall apply:

1. Operation of an Irrigation system for plant protection of Athletic Play Areas turfgrass fields, including Frost/Freeze or Heat Stress prevention, shall not be restricted, except in accordance with paragraph 40D-22.201(1)(b), F.A.C.:

2. The wetting of clay tennis courts, baseball/softball infields, Livestock or rodeo areas and other non-turf Athletic Play Areas immediately prior to play is allowable to ensure athlete/animal safety, comply with sport standards and control dust.

3. Baseball, softball, football, soccer, polo and other similar turfgrass playing field surfaces may receive one extra Irrigation application immediately after heavy league play if necessary to encourage turf repair needed to maintain safe play conditions.

4. One half of Athletic Play Areas may be irrigated on Mondays and/or Thursdays; the other half may be irrigated on Tuesdays and/or Fridays for the purpose of meeting normal supplemental Irrigation needs. If a specific property is unable to comply with this schedule, the variance process may be used to register an alternative schedule acceptable to the District.

(6) Cemeteries – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Cemetery irrigation, as appropriate:

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(6), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(6)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(6)(a), F.A.C., in the absence of applicable Best Management Practices, the following measures shall apply:

1. One half of Cemeteries may be irrigated on Mondays and/or Thursdays; the other half may be irrigated on Tuesdays and/or Fridays.

2. If a specific property is unable to comply with this schedule, the variance process may be used to register an alternative schedule acceptable to the District.

(7) Essential Service Use – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to all Essential Service Use, as appropriate:

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection.

(b) Except as excluded by paragraph 40D-22.201(7)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

activity. American Water Works Associations (“AWWA”) manuals are a preferred source of Best Management Practices documentation for public supply systems.

(c) Except as excluded by paragraph 40D-22.201(7)(a), F.A.C., in the absence of applicable Best Management Practices, the following measures shall apply:

1. Fire hydrant and other potable line flushing shall be undertaken only as required for the protection of human health, safety and welfare.

2. Sanitary sewer, Reclaimed Water and other non-potable line flushing and testing shall be undertaken only as required for the protection of human health, safety and welfare.

3. Maintenance of facilities and equipment related to Water Utility Use, fire fighting, health and medical use or other uses necessary for the protection of public health not restricted, except in accordance with paragraph 40D-22.201(1)(b), F.A.C.

4. Water and wastewater systems should institute system level conservation measures (leak detection, repair programs, calibrating meters) in accordance with AWWA standards and recommendations.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New 3-24-92, Amended _____.

40D-22.302 Goal-Based Alternative Community Conservation Program.

(1) A local government or community development district (CDD) may choose to implement a Goal-Based Alternative Community Conservation Program (ACCP) in lieu of mandating and enforcing the provisions of paragraph 40D-22.201(1)(f) and subparagraph 40D-22.201(1)(g)2, through subsection 40D-22.201(7), F.A.C., within its community. Any local government or CDD interested in pursuing this optional alternative shall request authorization from the District to follow its ACCP. This ACCP shall include:

(a) Achieving and maintaining the applicable water conservation goal – The local government or CDD shall agree in writing to achieve and then maintain a water conservation goal that is at or below the lower of:

1. The applicable required per capita water use rate for that local government or CDD, if a required per capita water use rate has been established pursuant to Rule 40D-2.091, F.A.C., and Basis of Review incorporated therein; and

2. The actual per capita water use rate calculated for that local government or CDD, for the 1999 calendar year, subject to future review and revision.

3. For the purposes of this subparagraph, “per capita water use” shall be equal to withdrawals, plus imports, minus exports, minus treatment loss, minus significant use, and minus environmental mitigation, if required as a District permit condition, with that resultant divided by the functional population. These terms shall be used as set forth in the Basis of Review incorporated by reference in Rule 40D-2.091, F.A.C.

4. For the purposes of this subparagraph, “maintaining the applicable water conservation goal” shall be monitored for compliance purposes using a moving average of the two most recent annual calculated “per capita water use values”.

(b) Implementation and maintenance of a water conservation plan – The local government or CDD shall submit to the District, and agree in writing to implement, a community-level water conservation plan. The plan shall promote conservation of potable and reclaimed water sources as needed to achieve and maintain the applicable water conservation goal (as described above) through a combination of education, incentives, regulations, or operational measures. The proposed water conservation plan for a CDD shall be subject to approval by the applicable local governments.

(c) Regular reporting – The local government or CDD shall submit regular ACCP progress reports to the District. Such reports shall typically be due according to an annual schedule based on the anniversary of the effective date of the ACCP, and are subject to District approval. Each report shall include:

1. The applicable water conservation goal, historical and current actual per capita water use rates, verifiable data and a list of any references used to calculate the current actual per capita water use rate, quantified status information regarding implementation of the measures specified in the ACCP, and any update to the combination of measures being used or proposed for the water conservation plan. The local government or CDD may provide more frequent updates or complete progress reports if desired. The District reserves the right to require more frequent reporting related to any specific measure as needed to ensure adequate water resource protection.

2. The local government or CDD shall specify the effective date for the ACCP. This effective date shall be no later than 1 year after the District authorizes the local government or CDD to follow its ACCP.

3. After the effective date of the ACCP, noncompliance with the ACCP shall be a violation of this Chapter 40D-22. Upon receipt of notice of noncompliance from the District to the local government or CDD, Users within the local government’s or CDD’s jurisdiction shall revert to being subject to the provisions of paragraph 40D-22.201(1)(f) and subparagraph 40D-22.201(1)(g)2, through subsection 40D-22.201(7), F.A.C. Upon receipt of this notice of noncompliance, the local government or CDD shall notify the affected Users, through direct communication to its utility customers and publishing a notice in a local newspaper of general circulation. Upon receipt of this notice of noncompliance, the local government or CDD shall also enforce all provisions of this Chapter 40D-22, F.A.C., as specified.

4. The District reserves the right to allow a probationary period, with extra reporting requirements and not to exceed 24 months in duration, if a local government or CDD demonstrates a good faith effort to return to full compliance with its ACCP.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New

40D-22.303 Variances and Waivers.

(1) In the absence of an applicable Goal-Based Alternative Community Conservation Program pursuant to Rule 40D-22.302, F.A.C., which would negate the need for a District variance, Users may request relief from the provisions of this Chapter 40D-22, F.A.C., by filing a petition for variance or waiver pursuant to Section 120.542, Florida Statutes and Chapter 28-104, F.A.C. Examples of circumstances, which, subject to the above referenced statute and Rule and the provisions below, may be candidates for the issuance of a variance or waiver are:

(a) Properties with Irrigation systems that water both Odd and Even Addresses at the same time.

(b) Two or more properties which share a common source of water.

(c) Properties with five or more irrigable acres.

(d) A local government or other reclaimed water provider that desires to sponsor a District-approved goal-based alternative to subparagraph 40D-22.201(1)(g)8., F.A.C., that both provides a net environmental benefit and encourages efficient use of the reclaimed water supply.

(e) A public or private water system experiencing, or anticipating, pressure problems associated with paragraph 40D-22.201(1)(g), F.A.C.

(2) A variance is invalid if it has expired or if the property owner or agent violates terms of the variance.

(3) Users requiring relief from measures in a local government's District-approved Goal-Based Alternative Community Conservation Plan must petition that local government for relief.

(4) Variances and plans issued in accordance with Board Orders 92-12, 92-21, 92-60, 93-105, SWF 01-83 and Executive Director Order 00-18 are hereby ratified and affirmed, unless specifically overridden or negated by a District-approved Goal-Based Alternative Community Conservation Plan, and shall remain in full force and effect except that they shall expire 10 years after the original issuance, or one (1) year from [effective date of rule], whichever is later, unless an earlier date is specified in the letter granting the original variance or plan. These variances and plans are also subject to the following provisions:

(a) Any property with a valid District variance issued after March 2, 1992 but prior to April 26, 2000 may use both of the two watering days specified for each section of the property.

(b) Any property with a valid District variance issued after April 26, 2000 but prior to October 30, 2001, which contained provisions for a second water day for each section of property may also use the second watering day.

(c) Any property with a valid District variance issued after April 26, 2000 that did not specify a second watering day for each section of the property is modified as follows: each section of the property may also be irrigated on the day of the week that occurs three days following the originally specified day. (For example, if an alternative Irrigation plan stipulates that a certain section of property can be watered on Fridays, it may now also be watered on Mondays).

Specific Authority 120.542, 373.044, 373.113, 373.171 FS. Law Implemented 120.542, 373.119, 373.171, 373.175(4), 373.246(7), 373.609 FS. History—New

40D-22.401 Enforcement.

(1) This Chapter shall be effective year round. Provided, however, that in the event of conflict, the measures, provisions and restrictions imposed when a water shortage has been declared pursuant to Chapter 40D-21, F.A.C., or related Board or Executive Director orders, shall supersede the water conservation measures contained in this Chapter 40D-22, F.A.C. The provisions of this Chapter shall be temporarily superseded by any water shortage or water shortage emergency orders imposed by the Governing Board or Executive Director with the concurrence of the Board.

(2) As required by Section 373.609, F.S., but only upon specific request by the District, each county and city commission, state and county attorney, sheriff, police officer and other appropriate local government official shall respond to address-specific or location-specific complaints made to the District regarding violations of this Chapter 40D-22, F.A.C. Local governments may voluntarily elect to provide additional local enforcement assistance, such as a violation reporting telephone number for citizens' use or a system of proactive enforcement patrols. It is the policy of the District to seek the cooperation and assistance of state, county, and municipal governmental officials, law enforcement officials, and police officers in the enforcement of the Year-Round Water Conservation Measures contained within this Chapter.

(3) Irrigation of established lawns and landscapes landscaping, as described established above, may be further restricted by local governments in response to a local water supply system concern. In the event any county or city within the District adopts or implements such local measures, the measures contained therein shall be at least as restrictive as those imposed by this Chapter and the county or city shall promptly notify the District of all local measures imposed and the effective date(s). In addition, the allowed watering days and hours under such local ordinance shall coincide with the District's measures as contained in this Chapter.

2. Certified residential: Experience shall consist of a minimum of 150 supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry. No more than 10% shall be restricted appraisal reports.

3. Certified general: Experience shall consist of a minimum of 23 narrative appraisal reports; or 12 narrative appraisal reports and 135 non-narrative supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry, or other proportional combination. In the event the nonresidential appraisal reports are form appraisal reports, 4 form appraisal reports will be equivalent to 1 narrative appraisal report. The nonresidential form appraisal report must meet the criteria of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, and 135 non-narrative supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry.

(b) Ad valorem tax appraisals:

1. Experience credit shall be credited when it is demonstrated that the applicant:

- a. Used techniques to value properties similar to those used by appraisers; and
- b. Effectively used the appraisal process.

2. Components of the mass appraisal process on which credit will be given are:

- a. Highest and best use analysis;
- b. Model specification (developing the model); and
- c. Model calibration (developing adjustments to the model). All other components of the mass appraisal process are not eligible for experience credit.

3. Mass appraisals must be as set forth in Standard Rule 6 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes.

4. Experience will be granted for appraisals of individual parcels of real estate.

5. Experience will be verified by affidavit from the county property appraiser for whom the applicant works. In the case of the county property appraiser making application for licensure or certification, an affidavit as to experience from the applicant will suffice.

(c) Review Appraiser:

1. Licensed residential: Experience shall consist of a minimum of 240 appraisal review reports.

2. Certified residential: Experience shall consist of a minimum of 300 appraisal review reports.

3. Certified general: Experience shall consist of a minimum of 150 appraisal review reports of narrative appraisal reports. At least 50% (1500 hours) of the experience must be in nonresidential appraisal work as defined in paragraph (3) above.

a. Review appraisal experience shall be granted only when the applicant has performed review(s) of appraisals prepared either by employees, associates, or others, provided the appraisal report was not signed by the review appraiser.

b. Review appraisal experience may be claimed only when reviews are as set forth in Standard Rule 3 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes.

(d) Appraisal analysis, real estate counseling and highest and best use analysis:

1. Experience shall consist of a minimum of 150 narrative reports.

2. Experience may be claimed only when performed as set forth in Standard Rules 4 and 5 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, as applicable.

(e) Feasibility analysis/study:

1. Experience shall consist of a minimum of 150 narrative reports.

2. Experience may be claimed only when the analysis/study is prepared as set forth in Standard Rules 1 and 2 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, and the applicant can demonstrate that he is using similar techniques as appraisers to value properties and effectively utilize the appraisal process.

(6) The Board may require an applicant to document experience by producing appraisal reports, file memoranda, or other documentation to support the experience claimed.

(7) An applicant for licensure or certification who is employed by state or local government in Florida or by the federal government may have the experience requirement verified by an official statement when the applicant, due to statutory restrictions on the release of appraisal related work product, is unable to verify experience in the required format on forms 501.3 and 501.4. The experience for such an applicant must be verified by an official statement from a licensed or certified real estate appraiser who is in an appraisal supervisory capacity to the applicant. The filing of an official statement is enforceable pursuant to s. 837.06, Florida Statutes.

Specific Authority 475.614 FS. Law Implemented 475.617 FS. History—New 10-15-91, Formerly 21VV-6.001, Amended 9-22-93, 9-6-94, 2-19-98, 9-6-98, 12-12-99, 10-1-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: RULE NO.:

Display and Disclosure of Registration, License 61J1-7.001
 or Certification Designation

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the language relating to appraiser abbreviations or designations.

SUMMARY: The proposed rule change affects rule provisions relating to abbreviations or designations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614 FS.

LAW IMPLEMENTED: 475.622 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-7.001 Display and Disclosure of Registration, License or Certification Designation.

(1) All appraisers registered, licensed or certified pursuant to Part II, Chapter 475, Florida Statutes, shall disclose and display the appropriate designation in writing in all appraisal reports which are signed by the appraiser. Disclosure of the appropriate designation is required even if the appraisal performed is outside of the scope of registration, licensure, or certification as an appraiser.

(2) The following designations or abbreviations shall be used:

(a) "State-registered assistant real estate appraiser", "~~registered assistant~~" or "~~trainee.~~" "~~state-registered assistant r.e. appraiser~~", "~~state reg. assist. r.e. appraiser~~", "~~state reg. assist. r.e. appr.~~" or "~~St. Reg. Assist. REA.~~"

(b) "State-licensed real estate appraiser", "state-licensed r.e. appraiser", "state-lic. r.e. appraiser", "state-lic. r.e. appr." or "St. Lic. REA"

(c) "State-certified residential real estate appraiser", "state-certified residential r.e. appraiser", "state-certified residential appraiser", "state-certified res. appraiser", "state-cert. res. appraiser", "state-cert. res. appr." or "St. Cert. Res. REA"

(d) "State-certified general real estate appraiser", "state-certified general r.e. appraiser", "state-certified general appraiser", "state-certified gen. appraiser", "state-cert. gen.appr." or "St. Cert.Gen.REA"

No other designation or abbreviation thereof shall be used. The above designations and abbreviations may be used without regard to capitalization or punctuation.

Specific Authority 475.614 FS. Law Implemented 475.622 FS. History—New 10-15-91, Formerly 21VV-7.001, Amended 10-29-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

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

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES: RULE NOS.:

Notice of Noncompliance 64B8-8.011

Citation Authority 64B8-8.017

PURPOSE AND EFFECT: The proposed rule amendments are intended to address various violations with regard to responsibilities of medical directors of clinics.

SUMMARY: The proposed rule amendments specify the violations which are appropriate for notices of non-compliance or citations with regard to the responsibilities of medical directors.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.073(3), 456.077, 458.309 FS.

LAW IMPLEMENTED: 456.073(3), 456.072(2)(d), 456.077 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-8.011 Notice of Noncompliance.

(1) through (2) No change.

(3) The following violations are those for which the board authorizes the Department Agency to issue a notice of noncompliance.

(a) No change.

(b) Failure to perform one of the following statutory or legal obligations:

1. through 4. No change.

5. Dispensing medication without proper labeling labelling, contrary to the provisions of Section 893.05(2), Florida Statutes, and Rule 64B16-28.108, Florida Administrative Code. This applies to dispensing practitioners only.

6. For a physician who is not required to register as a dispensing practitioner, failing to dispense drugs in the manufacturer's labeled labeled package with the practitioner's name, patient's name, and the date dispensed or, if such drugs are not dispensed in the manufacturer's labeled package, failing to dispense the medication in a container which bears the following information: practitioner's name; patient's name; date dispensed; name and strength of the drug; and directions for use, contrary to Section 465.0276, Florida Statutes.

7. through 8. No change.

9. Failing to have proper labeling labelling on all stock medications, contrary to Section 499.007(2), Florida Statutes.

10. through 17. No change.

(c) No change.

(d) Violation of the following medical director clinic responsibilities, as set forth in Section 458.0375(2) and (3), Florida Statutes:

1. Failure to file or renew clinic registration form.

2. Failure to display clinic registration certificate.

3. Failure to post signs identifying medical/clinical director in a conspicuous location.

4. Failure to ensure compliance with adverse incident reporting requirements.

Specific Authority 456.073(3), 458.309 FS. Law Implemented 456.073(3) FS. History—New 11-15-90, Formerly 21M-20.011, 61F6-20.011, 59R-8.011, Amended 1-27-00, 1-8-02, _____.

64B8-8.017 Citation Authority.

(1) through (2) No change.

(3) The following violations with accompanying penalty may be disposed of by citation with the specified penalty:

VIOLATIONS

PENALTY

(a) through (l) No change.

(m) Failure to display a clinic registration certificate (after failure to comply with issuance of a notice of non-compliance.)	\$500 fine.
(n) Failure to post signs identifying medical/clinical director of clinic in conspicuous location (after failure to comply with issuance of a notice of non-compliance.)	\$500 fine.

(4) through (7) No change.

Specific Authority 456.077, 458.309 FS. Law Implemented 456.072(2)(d), 456.077 FS. History—New 12-30-91, Formerly 21M-20.017, Amended 11-4-93, Formerly 61F6-20.017, Amended 8-23-95, Formerly 59R-8.017, Amended 4-7-99, 1-27-00, 1-31-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Medical Fraud Committee, Board of Medicine

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 25, 2002

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: _____ RULE NO.:

Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 64B9-8.006

PURPOSE AND EFFECT: The Board proposes to amend to add offences and sanctions to the disciplinary guidelines.

SUMMARY: This rule includes sanctions for performing the wrong treatment or treating the wrong patient, as well as adding penalties for leaving foreign objects inside a surgical patient.

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

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

SPECIFIC AUTHORITY: 456.072, 456.079 FS.

LAW IMPLEMENTED: 456.072, 456.079, 464.018 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: Dan Coble, Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (3)(ww) No change.

(xx) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that it medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine	\$500 fine and suspension to be followed by probation
SECOND OFFENSE	\$500 fine and probation	\$750 fine and suspension to be followed by probation
THIRD OFFENSE	\$750 fine and suspension to be followed by probation	\$1000 fine and revocation

(yy) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine	\$500 fine and suspension to be followed by probation
SECOND OFFENSE	\$500 fine and probation	\$750 fine and suspension to be followed by probation
THIRD OFFENSE	\$750 fine and suspension to be followed by probation	\$1000 fine and revocation

(zz) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine and compliance with rule or statute	\$500 fine and suspension until compliance with rule or statute
SECOND OFFENSE	\$500 fine and suspension until compliance with rule or statute	\$750 fine and suspension until compliance with rule or statute plus probation
THIRD OFFENSE	\$750 fine and suspension until compliance with rule or statute plus probation	\$1000 fine and revocation

(4) through (6) No change.

Specific Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 464.018 FS. History--New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00, 5-8-00, 5-2-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2002

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

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: _____ RULE NO.:

Demonstrating Knowledge of Laws and Rules for Licensure 64B12-9.0016

PURPOSE AND EFFECT: The Board proposes to create a new rule that will require applicants for licensure to demonstrate knowledge of laws and rules associated with the profession of opticianry.

SUMMARY: The applicant is required to take a 2-hour course that includes certain laws and rules and integrates the subject materials with the field of practice. A completion certificate is required, the course qualifies for continuing education credit, and the length of a course hour is defined.

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

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

SPECIFIC AUTHORITY: 484.005, 484.002(6) FS.

LAW IMPLEMENTED: 456.017(6) 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:

64B12-9.0016 Demonstrating Knowledge of Laws and Rules for Licensure.

An applicant for licensure as an optician shall demonstrate knowledge of the laws and rules for licensure in the following manner:

(1) An applicant shall complete an approved course consisting of a minimum of two hours which shall include the following subject areas:

- (a) Chapter 484, Part I, F.S.
- (b) Chapter 64B12, F.A.C.
- (c) Chapter 456, F.S.

(2) The laws and rules course must provide integration of the above subject areas into the competencies required for the practice of opticianry and interactive discussion of examples applying the laws and rules that govern opticianry.

(3) Upon completion of the course, the applicant shall receive a certificate of completion and submit the original certificate of completion to the Board.

(4) A laws and rules course offered by a Board approved laws and rules course provider shall qualify for continuing education credit even if the provider is not an approved continuing education provider pursuant to Rule 64B12-15.004, F.A.C.

(5) For purposes of this rule, an hour is defined as a 60-minute clock hour in which there is no less than 50 minutes of uninterrupted instruction.

Specific Authority 484.005, 484.002(6) FS. Law Implemented 456.017(6) FS. History—New

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: October 25, 2002

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: Enforcement

RULE NO.: 64B12-16.008

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

SUMMARY: Apprentices in training must see to it that their sponsors provide a form documenting the training within 6 months of completion. Credit hours will be denied or a complaint filed if the information shows noncompliance with the law.

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

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

SPECIFIC AUTHORITY 484.005, 484.007(1) FS.

LAW IMPLEMENTED 484.007(1)(d)4. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: 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:

64B12-16.008 Enforcement.

(1) through (2) No change.

~~(3)(a) For apprentices registered prior to November 1, 1996, sponsors and apprentices must file a complete report with the Board each twelve (12) months ending October 30 during which an apprentice has been supervised, which states that the training in each subject pursuant to Rule 64B12-16.003(6) has been provided in the preceding twelve (12) months. Reports must be received in the board office no later than 30 days after the reporting period ends. Failure to timely file a report will result in no credit being granted for the reporting period.~~

(b) For apprentices registered after November 1, 1996, sponsors and apprentices must file a complete report with the Board each twelve (12) month period ending on the anniversary of the date on which the apprentice became registered with the Department, during which an apprentice has been supervised, which states that the training in each subject pursuant to Rule 64B12-16.003(6), F.A.C., has been provided in the preceding twelve (12) months. Reports must be received in the board office no later than 30 days after the reporting period ends. Failure to timely file a report will result in no credit being granted for the reporting period.

~~(3)~~(4) The sponsor and the apprentice shall supply to the Board all information requested as set forth in Rule 64B12-16.009, F.A.C., which reasonably relates to the apprenticeship program and the Board's duty to properly monitor the program for compliance with program standards. The completed Apprenticeship Sponsor Attestation form must be provided within six months of the apprentice's completion of the program or After six months of failure to submit reports, credits will not be counted.

(4)~~(5)~~ If an Apprenticeship Sponsor Attestation Form a report is not in compliance with this Chapter, the rules of the Department and the Board and Chapters 456 and 484, F.S., the Board shall deny credit for hours of apprenticeship claimed and/or the Board, the Apprentice Review Committee or Board staff shall initiate a complaint against the licensee who appears to be in violation.

Specific Authority 484.005, 484.007(1) FS. Law Implemented 484.007(1)(d)4. FS. History--New 10-12-80, Formerly 21P-16.08, Amended 3-5-87, 5-13-90, 9-30-92, Formerly 21P-16.008, Amended 5-2-94, Formerly 61G13-16.008, Amended 2-21-96, 4-10-97, Formerly 59U-16.008, Amended _____.

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: November 7, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 2, 2002

DEPARTMENT OF HEALTH
Board of Osteopathic Medicine

RULE TITLE: Applications for Licensure
PURPOSE AND EFFECT: The Board proposes to amend the rule to update the educational courses required for initial licensure applicants.
SUMMARY: The rule addresses the required educational courses for initial licensure applicants on HIV/AIDS, domestic violence and prevention of medical errors.
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 regulatory cost alternative must do so in writing within 21 days of this notice.
SPECIFIC AUTHORITY: 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS.
LAW IMPLEMENTED: 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 7, 2002 IN ORLANDO, FLORIDA, OR THE NEXT MEETING THEREAFTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-12.003 Applications for Licensure.

(1) No change.

(2) Applicants for licensure examination must have their application forms and fees submitted and received by the Board office and all information and documentation complete at least 30 days before the scheduled Board meeting in order to be considered by the Board. Applicants making initial application for licensure shall complete educational courses acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome, domestic violence, and prevention of medical errors. Any applicant who has not completed any such courses at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(3) No change.

Specific Authority 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS. Law Implemented 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS. History--New 6-4-91, Formerly 21R-12.003, 61F9-12.003, Amended 10-15-95, Formerly 59W-12.003, Amended 9-26-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 22, 2002

DEPARTMENT OF HEALTH
Board of Osteopathic Medicine

RULE TITLE: Citations
PURPOSE AND EFFECT: The Board proposes to update the rule to add practice violations that may be disposed of by citations consistent with Section 456.077, F.S.
SUMMARY: Practice violations that may be disposed of by citation.
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 regulatory cost alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.073, 456.077 FS.

LAW IMPLEMENTED: 456.073, 456.077 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 7, 2002 IN ORLANDO, FLORIDA, OR THE NEXT MEETING THEREAFTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.007 Citations.

(1) As used in this rule, "citation" means an instrument which meets the requirements set forth in Section 456.077, 455-621, F.S., and which is served upon a licensee or certificateholder for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, 455-225, F.S., the Agency is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject for a complaint that is the basis for the citation, within six months after the filing of the complaint that is the basis for the citation. If a violation for which a citation may be issued is discovered during the course of an investigation for an unrelated violation, the citation must be issued within 6 months from the discovery of the violation and filing of the uniform complaint form by the investigator.

(3) The following violations with accompanying fines may be disposed of by citation.

(a) through (c) No change.

(d) First time failure of the licensee to satisfy continuing education hours. The fine shall be \$150 for each hour not completed or completed late. In addition, \$2,000 and for each hour of continuing education not completed or completed late, the licensee shall make up all hours not completed, and shall be required to take 1 additional hour of continuing education for each hour not completed or completed late. All missing CEUs shall be made up within four (4) months of the date the citation becomes a Final Order. Respondent must submit certified documentation of completion of all CEU requirements for the period for which the citation was issued prior to renewing the license for the next biennium. Respondent must document compliance with the CEU requirements for the relevant period.

(e) Failure to report to the Board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. The fine shall be \$800 \$500.

(f) through (g) No change.

(h) Failure to conspicuously list the name of the osteopathic physician in an advertisement as required in Rule paragraph 64B15-14.001(2)(k), F.A.C. The fine shall be \$500.

(i) Advertising or holding oneself out as a board-certified specialist, if not qualified under Section 459.0152, F.S. The fine shall be \$1,500.

(j) Failure to include the disclosure statement in an advertisement as required in Section 456.062, F.S. The fine shall be \$750.

(k) Failure to timely provide medical records of only one patient. The fine shall be \$500.

(l) Excessively charging copying fees for patient records as specified in Rule 64B15-15.003, F.A.C. The fine shall be \$750.

(m) Failure to update physician profile as required in Sections 456.039(3) and 459.008, F.S. The fine shall be \$50 per day not in compliance not to exceed \$5,000.

(n) Failure to comply with Section 381.0261, F.S., by failing to inform patients of the address and telephone number of the agency responsible for responding to patient complaints or failure to make available a summary of rights to patients as required in Sections 459.015(1)(g) and 456.072(1)(k), F.S.; Section 381.0261(b), F.S. The fine shall be \$100 non-willful and \$500 willful.

(o) First time failure to pay fine or costs. The fine shall be 10% of the fine and/or costs imposed plus the fine and costs. Failure to pay citation shall result in an administrative complaint.

(4) through (7) No change.

Specific Authority 456.073, 456.077 FS. Law Implemented 456.073, 456.077 FS. History--New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, 11-12-00,

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 4, 2002

DEPARTMENT OF HEALTH
Division of Family Health Services

RULE CHAPTER TITLE: Antiepileptic Drug Program
RULE CHAPTER NO.: 64F-19
RULE TITLES: Definitions
RULE NOS.: 64F-19.001
Procedure
64F-19.002

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise eligibility criteria for the Antiepileptic Drug Program.

SUMMARY: The rule establishes eligibility requirements and a form for the distribution of antiepileptic medication to Florida residents who could not otherwise obtain medication for the control of their seizures.

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

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.54, must do so in writing within 21 days after publication of the notice.

SPECIFIC AUTHORITY: 385.207 FS.

LAW IMPLEMENTED: 385.207 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., December 19, 2002

PLACE: Florida Department of Health, 4025 Esplanade Way, Room 301A&B, Tallahassee, FL 32399-1744

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sarah Cawthon, Bureau of Chronic Disease Prevention, HSFCD, 4052 Bald Cypress Way, Bin #A18, Tallahassee, FL 32399-1744

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-19.001 Definitions.

(1) “Bona fide resident” means a person living in Florida with the intent to remain as evidenced by self-declaration. This definition does not exclude migrant farm workers as defined in Section 381.008(4), F.S., from participation in the Antiepileptic Drug Program.

(2) “Client” refers to a person who has been determined eligible for the Antiepileptic Drug Program and is receiving medications to control seizures through the program.

(3) “Epilepsy Services Program provider” is an agency that under contract with the Department of Health provides services to persons with epilepsy as outlined in s. 385.207, F.S.

(4) “Poverty guidelines” mean the guidelines defined by subsection 64F-16.001(7) F.A.C.

(5) “Self declaration” means a statement regarding assets, income, family size, medical diagnosis, or residency made by a person applying for services. Self-declaration does not require any documentation other than the signature of the person making the statement.

(6) “Valid prescription” means a prescription written by a licensed health care practitioner who is authorized by law to prescribe medicine and is presented within 12 months of the

date the prescription was written, except for controlled substances which must be presented within six months of the date written.

Specific Authority 385.204 FS. Law Implemented 385.204 FS. History—New

64F-19.002 Procedure.

(1) A person wishing to participate in the Antiepileptic Drug Program may apply at any county health department. The applicant will submit to the county health department a valid prescription or a completed Epilepsy Medication Request DH2007 (dated 6/01), incorporated herein by reference. An Epilepsy Medication Request may be obtained from any county health department or Epilepsy Services Program provider. In accordance to the eligibility criteria set forth in this rule, form DH2007 must be completed in its entirety prior to the Department’s acceptance of the applicant into the program.

(2) Clients of Children’s Medical Services who are diagnosed as having epilepsy are automatically eligible for the program.

(3) Additionally, the county health department will accept into the program persons who meet all the following eligibility criteria:

(a) Have a diagnosis of epilepsy;

(b) Are a bona fide Florida resident;

(c) Have no coverage for medication through Medicaid or other health insurance;

(d) Have a gross family income at or below 110 percent of the current federal poverty level guidelines, as defined in subsection 64F-16.001(7), F.A.C.; and

(e) Have no more than \$2,500 per family in private funds, bank accounts or liquid assets not including their homestead or personal vehicle.

(4) The department may establish a limited access program to provide antiepileptic medications not available through the Antiepileptic Drug Program. Persons who are eligible for the Antiepileptic Drug Program and who have a valid prescription may apply to participate in this program as provided in paragraph one. Antiepileptic medications available through this limited access program may vary and are determined by the Department’s Deputy State Health Officer or designee. A list of available medications are available through the limited access program is available from the DOH Central Pharmacy. Availability of these medications is limited and is based on need as evidenced by a valid prescription, and the availability of funds of the Department for this program.

(5) A person who does not meet the eligibility criteria as defined above who is temporarily without financial resources to purchase antiepileptic medication may receive a one month supply of medication once annually.

(6) Every 12 months a client must be determined eligible for the program.

(7) If at any time the client experiences a change in status which could affect his or her eligibility, the client must report this change to the county health department within 30 days.

(8) If a client is determined ineligible for the Antiepileptic Drug Program, the county health department will continue to provide medication through the Antiepileptic Drug Program to the client for up to six months after the determination of ineligibility unless another source for medication is found.

Specific Authority 385.207 FS. Law Implemented 385.207 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Cawthon
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennie A. Hefelfinger, Chief, Bureau of Chronic Disease Prevention
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 31, 2002

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Amount and Duration of Cash Payment
PURPOSE AND EFFECT: This rule amendment makes technical changes in terminology and simplifies references to eligibility standards.

RULE NO.: 65A-4.220

SUMMARY: This rule amendment changes "WAGES" to "temporary cash assistance", etc., and changes reference to the eligibility and consolidated need standards to a percentage of federal poverty levels.

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: 414.45 FS.

LAW IMPLEMENTED: 414.095 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 16, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

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

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.220 Amount and Duration of Cash Payment.

(1) The amount of cash assistance payment that a person receives is determined by using the applicable payment standard minus the total net available income. A resulting deficit must be rounded down to the nearest \$1.00 in determining for the benefit grant amount. The minimum grant is \$10. Persons entitled to benefits grants of under \$10 do not receive temporary cash direct assistance but are considered temporary cash assistance recipients for other purposes, including Medicaid and Food Stamp coverage.

(2) The temporary cash assistance WAGES program utilizes consolidated standards of basic needs, which include food, clothing, household incidentals and shelter. The applicable standards for the assistance group are selected based on the size of the assistance group and the assistance group's verified shelter obligation.

The three shelter payment standards shown in a chart in s. 414.095(11), F.S., are referred to in this rule as Tiers Charts I, II, and III. They may also be referred to as payment standards. The chart applying to an individual with a shelter obligation of more than \$50, the shelter standard for the homeless and a teen parent incurring a shelter obligation in alternate living arrangements is Tier Chart I. Chart I is also used as the shelter standard for the homeless. The chart applying to an individual with a shelter obligation greater than \$0 and less than or equal to \$50 is Tier Chart II. The chart applying to an individual with a zero shelter obligation and a teen parent living in the home of a parent, other adult relative, or legal guardian regardless of any shelter obligation is Tier Chart III. Tier Chart I and II standards are used for assistance groups who have a purchased shelter obligation such as a mortgage payment, rent, room and board payment, purchase contract, etc. In order for Tier Chart I or Tier Chart II to be budgeted, the recipient must verify a shelter obligation must be verified by the recipient. A shelter obligation exists when the recipient has the responsibility to pay for the cost of their housing. When the parent or relative payee's needs are included in the benefit amount, the shelter obligation must be verified. When the parent or stepparent payee's needs are not included, they must indicate that the child(ren) is required to share their shelter cost and verify their shelter obligation. When a relative payee's needs are not included, their statement that the child(ren) is required to share their shelter cost is accepted. Assistance group members added at one-half the benefit increase for an additional member are added at \$31 for Tier Chart I, \$26 for Tier Chart II and \$24 for Tier Chart III.

- (b) No change.
- (3) No change.

(4) The Consolidated Need Standard is based on 100 per cent of the current federal poverty standard. The Eligibility Standard is based on 185 per cent of the current federal poverty standard. Consolidated Need Standards and Eligibility Standards are as follows:

(a) ~~The Consolidated Need Standard (CNS) and Eligibility Standard (ES) are as follows:~~

Family Size	CNS	ES
1	\$671	1242
2	905	1673
3	1138	2105
4	1371	2537
5	1605	2968
6	1838	3400
7	2071	3832
8	2305	4263
9	2538	4695
10	2771	5127
11	3005	5558
12	3238	5990
13	3471	6422
Add Each Additional Person	\$234	432

(b) No change.

(5) No change.

~~(6) If the temporary cash assistance child is deprived of parental support due to the incapacity or incarceration of their parent then extensions of up to three months of cash assistance are granted when the incapacity or incarceration of a parent ends. If the parent returns to employment or assumes the usual child care or housekeeping duties, the extension is terminated. Assistance can be continued for only one month following the month of departure when the recipient moves out of the state and requests the extension.~~

Specific Authority 414.45 FS. Law Implemented 414.095 F.S. History—New 1-31-94, Amended 10-9-96, Formerly 10C-1.504, Amended 11-30-98, Formerly 65A-1.504, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Rodney McInnis, Operations Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy, (850)488-3090

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: November 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: September 20, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NOS.:

4-154.102

4-154.112

RULE TITLES:

Applicability and Scope

Guaranteed Availability of

Individual Health Coverage to

Eligible Individuals

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 43, October 25, 2002, of the Florida Administrative Weekly. These changes are being made due to concerns expressed in written comments regarding the Notice of Hearing.

1) Subsection (2) of Rule 4.154-102, F.A.C., is changed to read:

(2) Rules 4-154.110 through 4-154.112 and Rules 4-154.114 through 4-154.116, F.A.C., shall also apply to insurance coverage subject to the provisions of Section 627.6487, Florida Statutes. Notwithstanding the foregoing, nothing in this rule chapter shall be construed to establish that the Department has rate approval authority over any rate applicable to a group policy issued to an association outside this state, where that authority is not separately conferred by statute.

2) Subsection (6) of Rule 4-154.112, F.A.C., is changed to read:

(6) Each issuer offering health insurance coverage in the individual market must disclose, in writing, to all applicants at the time of application the availability of guarantee issue coverage for eligible individuals. Each issuer offering health insurance coverage in the individual market is responsible for informing the applicant at the time of application of the information necessary to determine ~~determining~~ whether an applicant for coverage is an eligible individual as defined in Section 627.6487(3), Florida Statutes as follows:

(a) through (c) No change.

(7) through (8) No change.

The remainder of the proposed rule will read as previously published.

DEPARTMENT OF INSURANCE

RULE NOS.:

4-157.023

4-157.103

4-157.104

4-157.107

4-157.108

RULE TITLES:

Reporting

Definitions

Policy Practices and Provisions

Required Disclosure of Rating

Practices to Consumers

Initial Filing Requirements

- 4-157.110 Requirements for Application Forms and Replacement Coverage
- 4-157.111 Reporting Requirements
- 4-157.113 Premium Rate Schedule Increases
- 4-157.114 Filing Requirement – Out of State Groups
- 4-157.121 Requirement to Deliver Shopper’s Guide
- 4-157.122 Penalties

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 36, September 6, 2002, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing and by the Joint Administrative Procedures Committee.

(1) Rule 4-157.023(2) is changed by adding after Appendix J: “Replacement and Lapse Reporting Form” (10/02).

(2) Rule 4-157.023(6) is changed to add after “state” to read, in the format as prescribed in Appendix E: “Claims Denial Reporting Form” (10/02) and Rule 4-157.023(8) is changed to add after Appendix A: “Rescission Reporting Form” (10/02), and Rule 4-157.023(9) is changed to add before “shall”: “are available from and”.

(3) Rule 4-157.103(2) is changed to read: (2) “Assisted living facility” shall be defined in the policy and shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services.

(4) Rule 4-157.103(3)(c) is changed to read: (c) If the insurer is unable to provide justification that the reason for the rate increase meets the definition of “exceptional increase”, the Department shall contract a review by an independent actuary or a professional actuarial body, at the expense of the insurer making the filing, of the basis for a request that an increase be considered an exceptional increase. If the review does not determine the basis to be an exceptional increase or if the company does not agree to the contract proposed by the Department, the filing shall be considered as not meeting the definition of exceptional increase.

(5) Reference to Section 400.021(11) in Rule 4-157.103(11) is changed to 400.021(13).

(6) Rule 4-157.104(4)(c)1.a. is changed to read: No long-term care policy shall provide significantly more coverage for care in a nursing home than coverage for lower levels of care. In furtherance of this requirement, benefits for all lower levels of care in the aggregate as determined by the insured for each policy, shall provide a level of benefits equivalent to at least 50 percent of the benefits provided for

nursing home coverage; i.e., if the nursing home benefit amount is \$100 per day then the required lower level of care benefits amount shall be at least \$50 per day.

(7) Subparagraph 8. of Rule 4-157.104(4)(d) is deleted and the words “Unless the policy is provided to the certificateholder” are deleted from Rule 4-157.104(5)(c).

(8) Rule 4-157.104(10) is changed to read:

(a) Except for premium rate increases pursuant to Rule 4-157.113, F.A.C., or due to benefit changes elected by the insured, the premium rate schedule shall be based on the issue age of the insured. Pursuant to section 627.410(6)(d), F.S., a company is prohibited from using any rate schedule or rating practice which use select and ultimate rating or where the rate varies based on an insured’s year of issue or duration that the coverage has been in effect based on the benefits contracted at the issuance of the coverage. Except for differences in rates attributed to differences in modal payment, any discount provided at issue may not be removed once issued.

(b)1. The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under Rule 4-157.118(3)(c), F.A.C., the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium. 2. A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under Rule 4-157.118(3)(c), F.A.C., the initial annual premium shall be based on the reduced benefits.

(9) Rule 4-157.107(3) is changed to read: (3) An Insurer shall use the content and format of Appendices B, “Long Term Care Personal Worksheet” (10/02) and F, “Potential Rate Increase Disclosure Form” (10/02), which are incorporated herein by reference, to comply with the requirements of Rules 4-157.107(1), F.A.C. All Appendices adopted and incorporated by reference in this rule chapter are available from the Bureau of Life and Health Forms and Rates, 200 E. Gaines Street, Tallahassee, Florida 32399-0328.

(10) The first sentence in Rule 4-157.108(2) is changed to read: (2) If the filed material is inadequate to substantiate the reasonableness of the premiums, the Department shall request an actuarial demonstration that benefits are reasonable in relation to premiums.

(11) Rule 4-157.110(3)(c) is changed to add after “G”, “Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long Term Care Insurance” (10/02) and 4-157.110(4)(b) is changed to add after “H”, “Notice to Applicant Regarding Replacement of Accident and Sickness or Long Term Care Insurance” (10/02).

(12) In Rule 4-157.111 the titles and revision dates for the Appendices referenced are added.

(13) Rule 4-157.113(1)(d)1. is changed to read:

(d) An actuarial memorandum justifying the rate schedule change request that includes:

1. Lifetime projections of earned premiums and incurred claims based on both the current rate schedule and the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including a summary and the reason for any assumptions that deviate from those used for pricing other forms currently available for sale;

a. Pursuant to S. 627.410, (6)(e)3., F.S. and as is provided in Rule 4-149, F.A.C., the experience of all similar policy forms as defined in Rule 4-157.103(17), F.A.C., shall be combined for all rating purposes. However, forms providing only non-institutional benefits may utilize different experience pools based upon similar benefits consistent with Rule Chapter 4-149, F.A.C.

b. The projections shall include the development of the lifetime loss ratio, including calendar year values for the complete history of the experience of the business and projections of the remaining future lifetime of the business, unless the rate increase is an exceptional increase;

c. The projections shall demonstrate compliance with Rule 4-157.113(2), F.A.C., if the form is subject to Part II of these rules, or compliance with Rule 4-149, if the form is subject to Part I of these rules; and

d. For exceptional increases;

(I) The projected experience shall be limited to the increases in claims payments attributable to the approved reasons for the exceptional increase; and

(II) In the event the Department determines as provided in Rule 4-157.103(4)(d), F.A.C., that offsets may exist, the insurer shall use appropriate net projected experience.

(14) Paragraph (c) of 4-157.113(11) is deleted.

(15) Rule 4-157.113 is changed by revising subsection (6)(a) to read: (a) A plan for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. Such plan shall be approved by the Department, unless the Department finds that the plan does not meet the above conditions. If the plan is not approved, the Department shall impose the condition in subsection 4-157.113(7), F.A.C.; and subsection (8)(a) is changed to read: (8) If the Department determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Department shall, in addition to the provisions of subsection 4-157.113(7), F.A.C., prohibit the insurer from:

a. Filing and marketing comparable coverage for a period of up to 5 years; and

b. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

In subsection (9) change the reference from 4-157.103(8) to 4-157.103(7).

(16) Several Appendices referenced throughout the rules are specified by title and provided revision dates.

(17) Paragraph 4-157.114(2)(i) is changed to delete 627.94072 and insert 627.94073.

(18) Rule 4-157.121 is changed to delete the words “or approved” after “developed”, and to incorporate the National Association of Insurance Commissioners Shopper’s Guide by reference.

(19) Rule 4-157.122 is changed to add at the end of the last sentence:, however, such penalty shall not exceed the amounts specified in Sections 624.4211 or 626.9521(2), F.S.

The remainder of the reads as previously published.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-4.004	Registration
5J-4.005	Exemption
5J-4.007	Reduction of Security

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amended rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 41, which is the October 11, 2002 issue of the Florida Administrative Weekly. The changes are in response to comments received from staff at the Joint Administrative Procedures Committee.

The changes are as follows:

1) In Rule 5J-4.004, F.A.C., the first sentence is amended to read: “Any person who intends to open or operate as a health studio shall, prior to engaging in such activities, register with the Department using ~~f~~Form DACS 10300, Health Studio Registration, Revised 7-10-94 and 7-01-01, hereby incorporated by reference.”

Specific Authority 501.014(2)(~~+~~) FS. Law Implemented 501.015(1),(2),(4), 501.017 FS. History–New 2-9-93, Amended 7-10-94, 5-24-95, _____.

2) In Rule 4.005(1), F.A.C., the first sentence is amended to read: “Any person claiming an exemption pursuant to the provisions of Section 501.013, Florida Statutes, from the health studio laws shall, prior to engaging in health studio activities, file with the Department ~~the executed an affidavit on Form 40301~~, Affidavit of Exemption, which is included in fForm DACS 10300, revised 7-10-94 and 7-01-01, hereby incorporated by reference.”

Specific Authority 501.014(2)(~~+~~) FS. Law Implemented 501.013, ~~50.016(6),(7)~~ FS. History–New 2-9-93, Amended 7-10-94, 5-24-95, _____.

3) Rule 5J-4.007 Specific Authority change.

Specific Authority 501.014(2)(~~+~~) FS. Law Implemented 501.016(4) FS. History–New 2-9-93, Amended 7-10-94, 5-24-95, Repealed _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-6.005	Licensing Requirement, Commercial Telephone Seller, Salesperson
5J-6.013	Exemption
5J-6.014	Denials

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amended rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 41, which is the October 11, 2002 issue of the Florida Administrative Weekly. The changes are in response to comments received from staff at the Joint Administrative Procedures Committee.

The changes are as follows:

1) In subsection 5J-6.005(1), F.A.C., the second sentence is amended to read: "All applications for a license shall be in writing, on a form DACS 10001, effective 5-3-02, hereby incorporated by reference and provided as herein by the Department, verified by the applicant, and accompanied by the required fee."

2) In paragraph 5J-6.005(2)(4)(a), F.A.C., the paragraph is amended to read:

(2)(4)(a) In the event a licensed commercial telephone seller hires an employee to function as a salesperson, but the employee does not possess a current commercial telephone salesperson license, the licensed commercial telephone seller may obtain interim operating authority for the unlicensed salesperson from the Department by submitting the Application for license as a Commercial Telephone Salesperson and the Statement of Verification, which are included in Form DACS 10001, effective 5-3-02, hereby incorporated by reference, and a written request that the applicant be granted interim operating authority. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.

3) In subsection 5J-6.013(1), F.A.C., the first sentence is amended to read: "Any business entity claiming an exemption pursuant to Section 501.608(1)(b), Florida Statutes, shall file the Affidavit of Exemption included in Form DACS 10001

~~10005 entitled Affidavit of Exemption, Florida Telemarketing Act, effective 5-3-02 6-26-04,~~ hereby incorporated by reference.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-12.002	Registration

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amended rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 41, which is the October 11, 2002 issue of the Florida Administrative Weekly. The changes are in response to comments received from staff at the Joint Administrative Procedures Committee.

The changes are as follows:

1) In paragraph 5J-12.002(1)(a), F.A.C., the first sentence is amended to read as follows:

Any person who intends to operate a motor vehicle repair shop shall, before engaging in such activities, annually apply for and obtain a registration certificate from the Department using Form DACS 10900, Registration Application Form, Motor Vehicle Repair Act, effective 1-18-95, revised 9-13-01, hereby incorporated by reference.

2) Specific Authority is amended to read as follows:

Specific Authority 570.07(23), 559.2201 FS. Law Implemented 559.904, 559.916 FS. History--New 1-18-95, Amended 5-24-95, 2-11-98, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

DEPARTMENT OF REVENUE

AMENDED NOTICE OF CABINET HEARING

The Department of Revenue announces a revised agenda for the public hearing that was noticed in the November 15, 2002 edition of the Florida Administrative Weekly:

DATE AND TIME: November 26, 2002, during a regular meeting of the Governor and Cabinet, which begins at 9:00 a.m.

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

SUBJECT MATTER TO BE CONSIDERED: Approval of adoption of amendments to Rules 12D-7.003, 12D-7.0143, 12D-8.006, 12D-8.008, 12D-8.011, 12D-13.009, 12D-13.011, 12D-13.024, 12D-13.052, 12D-16.002, excluding paragraphs (25)(a) and (b), and new Rule 12D-51.003, Florida Administrative Code, and Florida Real Property Appraisal Guidelines. The revision to the agenda originally published on November 15, 2002 is that the proposed amendments to Rule 12D-10.004, Florida Administrative Code, will not be considered, and the proposed amendments to Rule 12D-16.002, Florida Administrative Code, do not include proposed changes to paragraphs (25)(a) and (b) of the rule. Notice of this proposed adoption was published in the Florida Administrative Weekly of October 4, 2002, Vol. 28, No. 40, pp. 4212-4223. A notice of change to Rules 12D-13.009 and 12D-16.002, Florida Administrative Code, was published in the Florida Administrative Weekly of November 15, 2002, Vol. 28, No. 46.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
14-15	Incorporation by Reference
RULE NO.:	RULE TITLE:
14-15.0081	Toll Facilities Description and Toll Rate Schedule

NOTICE OF WITHDRAWAL

The original notice of rulemaking for the State Road 710 interchange as published in Vol. 28, No. 34, Florida Administrative Weekly, dated August 23, 2002. A change notice was published in Vol. 28, No. 45, Florida Administrative Weekly, dated November 8, 2002. A design public hearing was supposed to have been published in that same November 8, 2002, issue. Unfortunately, the original notice of rulemaking was inadvertently sent electronically and was published in Section II of that issue (pages 4852 and 4853). This withdrawal notice is intended to withdraw the November 8, 2002, republished notice of rulemaking and will have no effect upon the notice which was published on August 23, 2002.

NOTE: The design public hearing, which was supposed to have been published in the November 8, 2002, issue was published in the November 15, 2002, issue.

PUBLIC SERVICE COMMISSION

DOCKET NO. 001574-EQ

RULE NO.:	RULE TITLE:
25-17.0832	Firm Capacity and Energy Contracts Notice of Hearing Date

NOTICE OF CHANGE

The Public Service Commission notifies all interested persons that a hearing has been scheduled. The proposed rule changes were published in the October 25, 2002 Florida Administrative Weekly, Vol. 28, No. 43.

The hearing will be held at the following time and place:
 TIME AND DATE: 9:30 a.m. – 5:00 p.m., March 19, 2003
 PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL 32399-0862
 PERSON TO BE CONTACTED: Richard C. Bellak, Appeals, Rules & Mediation Section of the Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0852, (850)413-6098

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-208.101	Employee Grooming, Uniform and Clothing Requirements

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 Vol. 28, No. 35, (August 30, 2002), issue of the Florida Administrative Weekly:

33-208.101 Employee Grooming, Uniform and Clothing Requirements.

- (1) through (8) No change.
- (9) Correctional Probation Officer Badges.
 - (a) Circuit administrators shall maintain control and inventory of correctional probation officer badges within each circuit.

- 1. The circuit administrator shall issue badges to officers after certification is received.
- 2. The circuit administrator or designee shall conduct quarterly circuit badge inventories and submit the circuit badge inventory to the regional director. The quarterly circuit badge inventory shall include the following information:
 - a. Badge number,
 - b. Name of officer, in the last-name-first-first-name-last format (or blank if not issued),
 - c. Circuit and office location,
 - d. Status (including issued, not issued, ~~stolen~~, lost, or retired), and
 - e. Total counts for each status, including the total number of badges issued, the total number of badges not issued, ~~the total number of badges stolen~~, the total number of badges lost, and the total number of badges retired.

3. The regional director or designee shall compile the circuit inventories to complete quarterly regional badge inventories and submit the regional badge inventories to the Director of Community Corrections.

(b) Only badges issued by the department shall be used to conduct officially designated duties. The badge shall be 2-1/4" by 1-5/16" in size and silver colored metal for correctional probation officers and correctional probation senior officers and gold color for correctional probation specialists, correctional probation supervisors, correctional probation senior supervisors, correctional probation administrators, and

fugitive apprehension coordination team correctional services consultants. Badges shall be pre-numbered with black lettering. The badges shall be carried in badge cases which shall be issued by the department.

(c) Use of the issued badge as a credential for personal purpose is prohibited.

(d) Badges shall be readily accessible in order for the correctional probation officer to properly identify himself or herself to the public.

(e) Loss ~~or theft~~ of a badge shall be reported to the officer's immediate supervisor within 72 hours of the officer becoming aware that the badge was ~~stolen or~~ lost. ~~Theft or~~ Loss of a badge shall be reported by the officer on the Community Corrections Incident Report, Form DC3-225, followed by a MINS report by the circuit administrator. Form DC3-225 is incorporated by reference in Rule 33-302.104, F.A.C. The officer shall be responsible for reimbursing the department for any issued badge which is lost ~~or stolen~~.

(f) Correctional probation officers shall maintain their original badge issued if transferred to another circuit or region. The circuit administrator or designee in both circuits shall update their badge inventories accordingly. Once the officer has transferred to another circuit, the sending circuit administrator or designee shall remove the badge information from the circuit's inventory and the receiving circuit administrator or designee shall add the badge information to his or her circuit's inventory.

(g) Correctional probation officers who leave the department shall return their badges to the circuit administrator prior to departing.

(h) Correctional probation officers promoted to a position outside the class series or who retire from the department under honorable conditions and who are eligible to retire under the State of Florida retirement system, including retirement under medical disability, who desire to retain their issued badges, shall make a request to the regional director.

(i) Regional directors shall review requests submitted by employees to maintain their badges and forward recommendations to the Director of Community Corrections for final approval. Officers who retire shall be allowed to retain their issued badges. Officers who are promoted shall be allowed to keep their badges upon reimbursement of the department of the cost of a replacement badge. The badge of a correctional probation officer who is killed in the line of duty shall be presented to the employee's next of kin.

(10) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 2-27-85, Amended 6-19-85, Formerly 33-4.07, Amended 3-6-88, 8-15-89, 2-12-91, 10-13-91, 4-19-98, 12-7-98, Formerly 33-4.007, Amended 10-5-99, 3-21-00, 12-18-00, 4-30-02,_____.

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-601.100 Inmate Orientation

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 Vol. 28, No. 42, October 18, 2002, issue of the Florida Administrative Weekly:

33-601.100 Inmate Orientation.

Upon initial arrival in the Department of Corrections, ~~as well as upon transfer within the department,~~ each inmate shall be provided with orientation at which time the rules and procedures of the Department of Corrections, ~~as well as information particular to the local institution~~ shall be explained ~~to the inmate.~~ Upon transfer within the Department, each inmate shall be provided with orientation that is specific to the local institution. The warden shall review and approve the contents of the orientation to ensure that the security of the institution is not compromised. The reception centers shall provide a more in-depth orientation of overall department rules, while the receiving institutions which serve as the inmates' permanent locations shall emphasize the local operating procedures in their orientation. As inmates are received into the department, reception centers shall provide each inmate with a printed copy of Rules 33-601.301-314, F.A.C., Inmate Discipline. Translations or translation assistance shall be provided as needed. Copies of the rules and procedures shall be available to inmates upon request to read or review (not for retention). In cases where the inmate is unable to read or comprehend English, translation shall be made available. Copies of the rules and procedures shall also be available for inmate inspection in the institutional library.

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-601.100 Inmate Orientation
NOTICE OF WITHDRAWAL

Notice is hereby given that the notice of proposed rulemaking for the above rule, as noticed in Vol. 28, No. 44, November 1, 2002, Florida Administrative Weekly has been withdrawn. The notice of proposed rulemaking had already been published on October 18, 2002 and was inadvertently re-published on November 1, 2002.

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-602.205 Inmate Telephone Use
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing on the above referenced proposed rule, as noticed in the Florida Administrative Weekly, Vol. 28, No. 42, October 18, 2002, will be held as follows:

TIME AND DATE: 10:00 a.m., Thursday, December 5, 2002
PLACE: Department of Corrections, Central Office, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE NO.: 61G7-10.0014
 RULE TITLE: Requirements for Evidence of Workers' Compensation Coverage

NOTICE OF WITHDRAWAL

Notice is hereby given that a Notice of Change for the above rule was filed in error for publication in Vol. 28, No. 45, November 8, 2002, Florida Administrative Weekly and that Notice of Change is being withdrawn. The rule was noticed in Vol. 28, No. 40, October 4, 2002, Florida Administrative Weekly.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-6.005
 RULE TITLE: Standards for Approval of Continuing Education Credit

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 Vol. 28, No. 39, September 27, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (1) of the rule shall now read as follows:

(1) A continuing education program must contribute to the advancement, extension or enhancement of the licensee's skills and knowledge related to the practice of acupuncture and oriental medicine. Programs should concern the history and theory of acupuncture, acupuncture diagnosis and treatment techniques, techniques of adjunctive therapies, acupuncturist-patient communication and professional ethics. All continuing education courses are subject to evaluation and approval by the Board to determine that the continuing education course meets the criteria established by the Board which has final determination as to the number of hours of acceptable credit that will be awarded for each program.

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

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-7.001
 RULE TITLE: Biennial Renewal of License

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 Vol. 28, No. 39, September

27, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (2) of the rule shall now read as follows:

(2) The application for renewal constitutes certification by the licensee that the licensee meets all the eligibility requirements for renewal, including the continuing education requirements of Rule 64B1-7.0015, F.A.C. Each licensee certifies by renewal, completion of a two (2) hour HIV/AIDS program or two (2) hour course on end-of-life care and palliative health care, as authorized by Rule 64B1-7.0015, F.A.C., a two (2) hour board approved course on the prevention of medical errors as described in s. 456.013(7), Florida Statutes, and a program on Chapters 456 and 457, Florida Statutes, and Chapter 64B1, F.A.C.

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

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-14.007
 RULE TITLE: Standard of Care for Office Surgery

NOTICE OF PUBLIC HEARING

The Board of Osteopathic Medicine, pursuant to the Notice of Proposed Rulemaking published in Vol. 28, No. 41, of the October 11, 2002 Florida Administrative Weekly, announces the scheduling of a public hearing at 1:00 p.m. on December 7, 2002, at the Adam's Mark Hotel, 1500 Sand Lake Road, Orlando, Florida 32809, (407)859-1500.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-3.001
 RULE TITLE: Licensure as a Physical Therapist by Examination

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. 36, September 6, 2002, issue of the Florida Administrative

Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee and from the public hearing held by the Board on November 2, 2002. The rule shall now read as follows:

64B17-3.001 Licensure as a Physical Therapist by Examination.

Every physical therapist who applies for licensure by examination shall satisfy and demonstrate to the Board that the applicant:

- (1) Is eighteen years old.
- (2) Possesses a good moral character.
- (3) Has received a degree in physical therapy from an institution that has been approved for the training of physical therapists by the Commission on Accreditation for Physical Therapy Education (CAPTE), at the time of graduation.
- (4) For foreign graduates, has received a determination that the credentials are equivalent to education required for licensure as a physical therapist in the United States. Educational credentials equivalent to those required for the education and preparation of physical therapists in this country shall be determined by the Federation of State Boards of Physical Therapy (FSBPT) or any other Board approved credentialing agency that meets at least the following criteria:
 - (a) Has a comprehensive, standardized orientation and training program for all reviewers who must be experienced and knowledgeable in the area of physical therapy education.
 - (b) Has an audit and quality assurance or review committee that regularly meets to monitor the evaluation process and to provide random audits of the credentials reviews.
 - (c) Uses the Foreign Credentialing Commission on Physical Therapy (FCCPT) coursework evaluation tool.
 - (d) Employs full time staff support including an international expert in General Education credential equivalency and analysis.
 - (e) Has an updated, current, and comprehensive resource document library available for reference.
 - (f) Is recognized to perform visa screening by the Immigration and Naturalization Service of the federal government.
 - (g) Uses two independent physical therapists to perform the professional education component of the credentials reviews.
 - (h) Uses original documentation from the institution with institutional seals and signatures and does not permit notarized copies of transcripts or course descriptions for credentials reviews.
- (5) Has attained and submitted to the Board the following:
 - (a) A minimum of 75 professional education credits.
 - (b) A minimum of 60 general education credits.

(c) Evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum score of 220 on the computer based test or 560 on the paper test version of the Test of English as a Foreign Language (TOEFL) and 4.5 on the test of written English (TWE) and 50 on the test of spoken English (TSE).

(d) A report from the credentialing agency, in which the educational expert or physical therapist evaluator is not affiliated with the institutions or individuals under review, interpreting the foreign credentials in terms of educational equivalency in the United States.

(e) At a minimum, the report shall contain the following information:

- 1. A clear and definitive statement as to whether the education is equivalent to a CAPTE-accredited physical therapy educational program.
- 2. Whether the institution is accredited by any governmental agency and, if so, which agency.
- 3. A list of courses in general education and professional education with the United States post-secondary equivalent course indicated.
- 4. All opinions contained in the report shall be substantiated by reference to the source materials which form the basis for the opinion.

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

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-4.001 RULE TITLE: Licensure as a Physical Therapist Assistant by Examination

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. 36, September 6, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee and from the public hearing held by the Board on November 2, 2002.

The rule shall now read as follows:

64B17-4.001 Licensure as a Physical Therapist Assistant by Examination.

Every physical therapist assistant who applies for licensure by examination shall satisfy and demonstrate to the Board that the applicant:

- (1) Is eighteen years old.
- (2) Possesses a good moral character.

(3) Has received a degree as a physical therapist assistant from an institution that has been approved for the training of physical therapist assistants by the Commission on Accreditation for Physical Therapy Education (CAPTE), at the time of graduation.

(4) For foreign graduates, has received a determination that the credentials are equivalent to education required for licensure as a physical therapist assistant in the United States.

(5) Has attained and submitted to the Board the following:

(a) Evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum score of 220 on the computer based test or 560 on the paper test version of the Test of English as a Foreign Language (TOEFL) and 4.5 on the test of written English (TWE) and 50 on the test of spoken English (TSE).

(b) A report from a Board approved credentialing agency, in which the educational expert or physical therapist evaluator is not affiliated with the institutions or individuals under review, interpreting the foreign credentials in terms of educational equivalency in the United States.

(c) At a minimum, the report shall contain the following information:

1. A clear and definitive statement as to whether the education is equivalent to a CAPTE-accredited physical therapist assistant educational program.

2. Whether the institution is accredited by any governmental agency and, if so, which agency.

3. A list of courses in general education and professional education with the United States post-secondary equivalent course indicated.

4. All opinions contained in the report shall be substantiated by reference to the source materials which form the basis for the opinion.

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

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NO.: 64E-19.003
 RULE TITLE: Forms

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 in the proposed rule published in Vol. 28, No. 41, October 11, 2002, of the Florida Administrative Weekly.

The changes were made to allow correct identification of the forms referenced below.

Paragraph 64E-19.003(1)(a), F.A.C., has been changed so that when adopted it will read: "DH Form 4124, 11/02, Body Piercing Salon Inspection Report."

Paragraph 64E-19.003(1)(c), F.A.C., has been changed so that when adopted it will read: "DH Form 4121, 11/02, Body Piercing Salon Citation of Violation."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edward J. Golding, Environmental Specialist III, Bureau of Facility Programs, 4052 Bald Cypress Way, Bin A08, Tallahassee, FL 32399-1710

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
64E-23	Nursing Student Loan Forgiveness Program
RULE NOS.:	RULE TITLES:
64E-23.001	Application
64E-23.003	Payment

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to proposed Chapter 64E-23, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Florida Administrative Weekly, Vol. 28, No. 41 on October 11, 2002. The changes reflect comments received from the department and Joint Administrative Procedures Committee. The changes area as follows:

Subsection 64E-23.001(1), F.A.C., Replace "principal" with "principle."

Paragraphs 64E-23.003(1)(a),(b), F.A.C., Replace "principal" with "principle" throughout.

NURSING STUDENT LOAN FORGIVENESS PROGRAM APPLICATION PACKAGE – Page 3 PAYMENT: First paragraph, first sentence: Insert "Principle" after "Loan."

First paragraph, second sentence: Insert "Principle" after "Loan."

Replace "principal" with "principle" throughout.

Page 3, DESIGNATED/ELIGIBLE FULL-PAY SITES: Replace "Federally sponsored community/migrant health centers;" with "Federally qualified health centers (Community Health Centers, Tribal Health Clinics, Migrant Health Services and Health Centers for the Homeless);"

Page 3, ELIGIBLE MATCH SITE FACILITIES: Replace "principal" with "principle."

Page 7, ATTACHMENT 2, NURSING STUDENT LOAN FORGIVENESS PROGRAM LOAN PRINCIPAL CERTIFICATION, DH 1936, 06/02: Replace "principal" with "principle" throughout.

Page 8, Section II: Replace "principal" with "principle."

NURSING STUDENT LOAN FORGIVENESS PROGRAM LOAN PRINCIPAL REPAYMENT INVOICE, DH 1934 06/02: Replace "principal" with "principle" throughout.

Replace "NOTE: The Loan Repayment Invoice must be returned by: _____." with "NOTE: The Loan Principle Repayment Invoice must be returned by: _____." Add: "Approved _____"; and "Date _____".

P.O. B01880

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE NOS.:	RULE TITLES:
64F-19.001	Definitions
64F-19.002	Procedure

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules which were published in the November 8, 2002, Vol. 28, No. 45, issue of the Florida Administrative Weekly, have been withdrawn.

**Section IV
Emergency Rules**

NONE

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN that on November 7, 2002, South Florida Water Management District (District) received a petition for waiver from Countryside Manors, LLLP, Application No. 02-1107-2, for utilization of Works or Lands of the District known as the C-1W Canal, Miami-Dade County, for a proposed linear park. The petition seeks relief from subsections 40E-6.011(4),(6) and (7), and paragraph 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in subsection 40E-6.091(1), Fla. Admin. Code, which requires that a 40 foot wide strip of right of way, measured from the top of the bank landward, be unencumbered by permanent and/or semi-permanent above ground structures to enable the District to perform the required routine and emergency operations and maintenance activities necessary to insure flood protection to the entire community.

A copy of the petition may be obtained from Jan Sluth, (561)682-6299 or e-mail: jsluth@sfwmd.gov.

The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Jan Sluth, Office of Counsel.

DEPARTMENT OF HEALTH

The Board of Medicine hereby gives notice that it has received a petition for waiver filed on November 7, 2002, by F. Leigh Phillips, M.D., seeking a waiver from sub-subparagraph 64B8-9.009(6)(b)1.a., F.A.C., with regard to utilizing the services of a certified nurse anesthetist (CRNA) in the administration of Level III office anesthesia under the direct supervision of the operating surgeon. Comments on this petition should be filed with Board of Medicine, MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253, within 14 days of publication of this notice.

For a copy of the petition, contact: Larry G. McPherson, Jr., Executive Director, Board of Medicine, at above address or telephone (850)245-4131.

The Board of Nursing hereby gives notice that on September 30, 2002, it received a petition from Amy Freund, seeking a waiver from Rule 64B9-6.002, F.A.C., which addresses the biennial renewal of inactive status.

This matter will be addressed at the Practice Committee meeting during the regularly scheduled board meeting on December 11, 2002, 6:00 p.m., or shortly thereafter, at the Sheraton Suites Cypress Creek, 555 N. W. 62nd Street, Ft. Lauderdale, Florida 33309, (954)772-5400.

Comments on this petition should be filed with the Board of Nursing, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3255.

A copy of the Petition for Declaratory Statement may be obtained by writing: Dan Coble, Executive Director, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252.

The Board of Nursing hereby gives notice that on September 23, 2002, it received a petition from Joe Delatorre, seeking a waiver from Rule 64B9-12.004, F.A.C., which addresses the authority for a licensed practical nurse to administer limited forms of intravenous therapy.

This matter will be addressed at the Practice Committee meeting during the regularly scheduled board meeting on December 11, 2002, 6:00 p.m., or shortly thereafter, at the Sheraton Suites Cypress Creek, 555 N. W. 62nd Street, Ft. Lauderdale, Florida 33309, (954)772-5400.

Comments on this petition should be filed with the Board of Nursing, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3255.

A copy of the Petition for Declaratory Statement may be obtained by writing: Dan Coble, Executive Director, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252.

Section VI Notices of Meetings, Workshops and Public Hearings

The following state governmental agencies, boards and commissions announce a public meeting to which all persons are invited:

State Board of Administration
 Department of Veterans' Affairs
 Department of Highway Safety and Motor Vehicles
 Department of Law Enforcement
 Department of Revenue
 Department of Education
 Administration Commission
 Florida Land and Water Adjudicatory Commission
 Board of Trustees of the Internal Improvement Trust Fund
 Department of Environmental Protection

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

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

PURPOSE: Regular scheduled meeting of the Governor and Cabinet

The State Board of Administration will take action on matters duly presented on its agenda, which may include such matters as Executive Director's reports; approval of fiscal sufficiency of state bond issues; approval of sale of local bonds at an interest rate in excess of statutory interest rate limitation; report on investment performance; designation of banks as depositories for state funds; adoption of rules and regulations; investment of state funds pursuant to Chapter 215, F.S.; and consideration of other matters within its authority pursuant to Chapters 215 and 344, F.S., and Section 16 of Article IX of the Florida Constitution of 1885, as continued by subsection 9(c) of Article XII of the Florida Constitution of 1968. The Division of Bond Finance of the State Board of Administration will take action on matters duly presented on its agenda, which will deal with the issuance of State bonds, arbitrage compliance and related matters.

The Department of Veterans' Affairs will take action on matters duly presented on its agenda which may include the administration of the Department as well as actions taken to further the Department's mission of providing assistance to veterans and their dependents, pursuant to Section 292.05, F.S. The Information Resource Commission will take action on matters duly presented on its agenda, which may include administrative procedures matters, adoption of rules, approval of agency plans for the use of information technology

resources, adoption of policies for the use of such resources, and other matters under the commission's authority pursuant to law.

The Department of Highway Safety and Motor Vehicles will take action on matters duly presented on its agenda, which may include such matters as approval of agency policies, taking agency action with regard to administrative procedure matters, and considering other matters within its authority pursuant to Florida Statutes.

The Department of Law Enforcement will take action on matters duly presented on its agenda which may include but not be limited to such matters as transfer of agency funds or positions, formulation of Departmental Rules, administrative procedure matters, submittal of reports as required, enter into contracts as authorized and to consider other matters within its authority pursuant to Chapters 20, 23, 120 and 943, F.S.

The Department of Revenue will act on matters duly presented on its agenda which may include approval of rules, legislative concept proposals, contracts over \$100,000, Departmental budgets, taking final action on formal and informal hearings under Chapter 120, F.S., and consideration of other matters within its authority.

The Department of Education will finalize agency action on the business of the Florida Department of Education.

The Administration Commission will take action on matters duly presented on its agenda which may include such matters as to create or transfer agency funds or positions, approve Career Service rules, administrative procedure matters, environmental matters arising under Chapter 380, F.S., comprehensive planning issues pursuant to Section 163.3184, F.S., determine sheriffs' budget matters, and consider other matters within its authority pursuant to Chapters 110, 215 and 216, F.S.

The Florida Land and Water Adjudicatory Commission will take action on matters duly presented on its agenda including appeals of local government development orders in areas of critical state concern or of developments of regional impact under Section 380.07, F.S.; and review of water management matters under Chapter 373, F.S. The Commission will also review Department of Environmental Protection's rules and orders which, prior to July 1, 1993, the Governor and Cabinet, sitting as the head of the Department of Natural Resources, had authority to issue or promulgate.

The Board of Trustees of the Internal Improvement Trust Fund will take action on matters duly presented on its agenda which may include such matters as mineral leases or sales, state or sovereign land leases, sales, exchanges, dedications, and easements, Conservation And Recreation Lands (CARL) and other land purchases; land planning matters and other matters within its authority. Additionally, the Board will take action on matters presented by the Marine Fisheries Commission as set forth in Sections 370.025, 370.026 and 370.027, F.S., and matters pertaining to the Office of Greenways Management,

the Office responsible for the management of lands which formerly fell within the Cross Florida Barge Canal project corridor.

The Department of Environmental Protection, while not a Cabinet agency, will present for consideration on its agenda those matters required by law to be reviewed by the Governor and Cabinet and those pertaining to the siting of power plants, electric and natural gas transmission lines and hazardous waste facilities; coastal zone management consistency and standards adopted by the Environmental Regulation Commission.

A copy of any of the above agendas (when applicable) may be obtained by contacting each agency.

Accommodations can be made for persons with disabilities provided several days' notification is received. Please notify the Governor's Cabinet Office, (850)488-5152.

The Governor and Cabinet will proceed through each agenda, item by item, in the order given above.

CABINET AIDES BRIEFING: On the Wednesday of the week prior to the above meeting, there will be a meeting of the aides to the Governor and Cabinet Members at 9:00 a.m., Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida. The purpose of this briefing is to review and gather information regarding each agenda to be considered by the Governor and Cabinet.

DEPARTMENT OF STATE

The **Florida Folklife Council** announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, December 13, 2002, 10:00 a.m. – 4:00 p.m.

PLACE: University of Central Florida, College of Arts and Sciences, Room 192, Orlando, Florida 32816

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is the quarterly meeting to conduct business.

A copy of the agenda may be obtained by writing: Florida Folklife Council, Bureau of Historic Preservation, Division of Historical Resources, 500 South Bronough Street, Tallahassee, Florida 32399-0250 or calling (850)245-6333.

Should any person wish to appeal any decision made with respect to the above referenced meeting, he or she may need to ensure verbatim recording of the proceedings in order to provide a record of judicial review.

Pursuant to Section 286.26, Florida Statutes, people with disabilities wishing to attend this meeting should contact the agency at least 48 hours prior to the meeting in order to request any special assistance.

The **Department of State, Division of Elections** announces a public meeting to which all persons are invited.

DATE AND TIME: December 19, 2002, 9:00 a.m. – 12:00 Noon

PLACE: The Collins Building, Room 102, 107 West Gaines Street, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of the statewide voter registration system pursuant to federal bill H.R. 3295, "Help America Vote Act of 2002".

For additional information contact: Paul Craft, Division of Elections, (850)245-6220.

Any person requiring special accommodations due to disability or physical impairment should contact the agency at least 2 days prior to the meeting in order to request any special assistance by calling Paul Craft, (850)245-6220.

DEPARTMENT OF LEGAL AFFAIRS

The Ad Hoc Committee to Review State Commissions on the Status of Women of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Tuesday, December 3, 2002, 10:00 a.m.

PLACE: Please call (850)414-3300 for instructions on participation

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general issues.

If you need an accommodation because of a disability in order to participate, please notify FCSW in writing at least five days in advance at the Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

The Research Committee of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Wednesday, December 4, 2002, 10:00 a.m.

PLACE: Please call (850)414-3300 for instructions on participation

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general issues.

If you need an accommodation because of a disability in order to participate, please notify FCSW in writing at least five days in advance at the Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

The Legislative Advocacy Committee of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Friday, December 6, 2002, 2:00 p.m.

PLACE: Please call (850)414-3300 for instructions on participation

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general issues.

If you need an accommodation because of a disability in order to participate, please notify FCSW in writing at least five days in advance at the Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

DEPARTMENT OF INSURANCE

The **Department of Insurance** announces a meeting to which all persons are invited.

DATE AND TIME: Thursday, December 5, 2002, 9:00 a.m.

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

GENERAL SUBJECT MATTER TO BE CONSIDERED: Business First Insurance Company's application to form a Florida domestic stock insurer.

A copy of the agenda may be obtained by contacting: Ernie Domondon, Financial Specialist, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0333, (850)413-2518.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

The **Florida Workers Compensation Appeals Board** announces a meeting to which all persons are invited.

DATE AND TIME: December 3, 2002, 9:00 a.m. – 12:00 Noon

PLACE: To be determined. Please contact Michelle Baker at the number below for information.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide a mechanism by which aggrieved parties may obtain a review of the application of the rules of the workers compensation system to their individual workers compensation policies.

Contact: Michelle Baker, National Council on Compensation Insurance, Inc., 901 Peninsula Corporate Circle, Boca Raton, Florida 33487, (561)893-3195, email michelle_baker@ncci.com.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Florida **Department of Agriculture and Consumer Services, Division of Dairy Industry** announces a public meeting of the Dairy Industry Technical Council to which all persons are invited.

DATE AND TIME: Monday, December 16, 2002, 1:00 p.m.

PLACE: Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the council to review changes adopted by the Interstate Milk Shippers Conference and other technical matters involving the Florida dairy industry.

A copy of the agenda may be obtained by contacting: Dr. Hines Boyd, Director, Division of Dairy Industry, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building B-29, Tallahassee, Florida 32399-1650, (850)487-1450.

DEPARTMENT OF EDUCATION

The Board of Trustees of the **Florida School for the Deaf and the Blind** announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, December 13, 2002, 1:00 p.m.

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

GENERAL SUBJECT MATTER TO BE CONSIDERED: Workshop relating to matters pertaining to the Florida School for the Deaf and the Blind.

A copy of the agenda may be obtained by writing: Elmer L. Dillingham, President, Florida School for the Deaf and the Blind, 207 North San Marco Avenue, St. Augustine, Florida 32084-2799 or by calling (904)823-4000.

Should any person wish to appeal any decision made with respect to any matter considered at the above referenced meeting, he may need to ensure that a verbatim record of the proceedings be made, which record includes the testimony and evidence upon which the appeal is to be based.

Special accommodations for persons with disabling conditions should be requested in writing at least 48 hours in advance from the aforementioned address.

The **Education Commissioner Charlie Crist** announces the fall adoption meetings of the State Instructional Materials Committees. The Committees will evaluate instructional materials that were submitted for consideration by publishers in June of 2002 and will recommend titles to be placed on the state-adopted list of instructional materials for use by public schools beginning with the 2003-2004 school year.

DATES AND TIME: December 3-4, 2002, 8:30 a.m., Literature, 6-12

PLACE: Embassy Suites, Lake Buena Vista, 8100 Lake Avenue, Orlando, Florida

The meetings are open to the public. Copies of the agenda and committee rosters, and further information about the meeting may be obtained by contacting the Department of Education, Instructional Materials Office, (850)487-8791.

DEPARTMENT OF COMMUNITY AFFAIRS

The **Florida Communities Trust** ("Trust") announces acquisition technical assistance workshops to which all interested persons are invited. No registration fee is required to attend these workshops.

FIRST WORKSHOP

DATE AND TIME: December 10, 2002, 10:00 a.m. – 12:00 Noon

PLACE: Manatee County Convention Center, Terra Ceia Room, 1 Haben Boulevard, Palmetto, Florida

SECOND WORKSHOP

DATE AND TIME: December 11, 2002, 10:00 a.m. – 12:00 Noon

PLACE: St. Lucie County Commission Chambers, Third Floor, 2300 Virginia Street, Fort Pierce, Florida

THIRD WORKSHOP

DATE AND TIME: December 12, 2002, 10:00 a.m. – 12:00 Noon

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

FOURTH WORKSHOP

DATE AND TIME: December 18, 2002, 10:00 a.m. – 12:00 Noon

PLACE: Department of Community Affairs, Sadowski Building, Third Floor, Kelley Training Room, 2555 Shumard Oak Boulevard, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of these workshops is to provide information and technical assistance to local governments and non profit environmental organizations to assist in the preparation of appraisals, contracts, project plans, and closing documents for land acquisition grants under the Florida Communities Trust, Florida Forever Program.

ACTION TO BE TAKEN: Information will be presented to assist grant recipients in completing the Florida Communities Trust, Florida Forever acquisition procedures.

The Agenda for the workshops will be as follows:

1. Call to order.
2. Explanation by representatives of the "Trust" as to the purpose of the Florida Forever Program and the Florida Communities Trust acquisition procedures.
3. Public questions.
4. Adjournment.

WHERE TO OBTAIN COPIES: A copy of rule Chapter 9K-8, F.A.C., the rule governing the Florida Forever Program of the Florida Communities Trust, will be available at the workshops or may be obtained by calling (850)922-2207, Suncom 292-2207 or by writing: Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. An electronic version of the rule is also available on our website at the following address: http://www.dca.state.fl.us/fct/Rule_9K-8.pdf.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Communities Trust, (850)922-2207, Suncom 292-2207, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Florida

Communities Trust using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF TRANSPORTATION

The Florida **Department of Transportation**, District 6 announces public hearings to which all interested persons are invited.

DATE AND TIME: December 3, 2002, 6:00 p.m. – 8:00 p.m. (Copies of the District Six, Work Program documents will be available for review between those hours.)

PLACE: Don Shula Hotel Ballroom, 6842 Main Street, Miami Lakes, Florida

DATE AND TIME: December 4, 2002, 6:00 p.m. – 8:00 p.m. (Copies of the District Six, Work Program documents will be available for review between those hours.)

PLACE: South Dade Regional Public Library, Auditorium, 10750 S. W. 211 Street, Miami, Florida

DATE AND TIME: December 11, 2002, 6:00 p.m. – 8:00 p.m. (Copies of the District Six, Work Program documents will be available for review between those hours.)

PLACE: Marathon Airport Departure Lounge, 9000 Overseas Highway (Mile Marker 51.5), Marathon, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: These hearings are being held in accordance with Section 339.135, Florida Statutes, and to offer the public the opportunity to comment on projects for the State Highway System, public transportation or any other project in the Sixth District's Tentative Five Year Transportation Plan. This hearing will also include consideration of proposed projects for Florida's Turnpike System. The Sixth District comprises Miami-Dade and Monroe Counties. The Plan covers the period from July 1, 2003 to June 30, 2008.

All interested persons are invited to attend and be heard. The proposed improvements have been developed in accordance with the Civil Rights Act of 1964 and the Civil Rights Act of 1968. Under Title VI and Title VIII of the United States Civil Rights Acts any person or beneficiary who believes he or she has been subjected to discrimination because of race, color, religion, sex, age, national origin, disability or familial status may file a written complaint with the Florida Department of Transportation's Equal Opportunity Office in Tallahassee or contact Jeffrey Dodge, District Six's Title VI and Title VIII Coordinator.

Central Office: Florida Department of Transportation, Equal Opportunity Office, 605 Suwannee Street, M.S. #65, Tallahassee, Florida 32399-0450.

District Six: Jeffrey Dodge, Title VI and Title VIII Coordinator, Florida Department of Transportation, 1000 Northwest 111 Avenue, Room 6134, Miami, Florida 33172.

Assistance for persons who require transcriptions in Braille may be arranged by contacting the Public Information Office, (305)470-5349, seven days prior to the public hearings to allow time for the documents to be transcribed. Assistance for other disabled person may be arranged by contacting the Public Information Office.

The Florida **Department of Transportation**, District Six announces a public hearing to which all interested persons are invited.

DATE AND TIMES: December 17, 2002, 5:00 p.m. – 6:00 p.m., Open House; 6:00 p.m., Public Hearing

PLACE: Florida City City Hall, 404 West Palm Drive, Florida City, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: This hearing is being held to afford interested persons the opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of Financial Project Numbers 4055751 and 2496141, Federal-Aid Project Number 4031020, otherwise known as State Road 997/Krome Avenue/S. W. 177th Avenue. The limits of the project corridor are from US 1 to Avocado Drive (S. W. 296th Street) in Miami-Dade County, Florida.

Anyone needing project or public hearing information or special accommodations under the Americans with Disabilities Act of 1990 should write to the address given below or call (305)470-5201. Special accommodation requests under the Americans with Disabilities Act of 1990 should be made at least seven days prior to the public hearing.

A copy of the agenda may be obtained by writing: Mr. Javier Rodriguez, Project Manager, Florida Department of Transportation, 1000 N. W. 111th Avenue, Room 6103, Miami, Florida 33172.

The **Department of Transportation**, District 1 announces a public hearing to which all persons are invited.

DATE AND TIME: Tuesday, December 17, 2002, 7:00 p.m.

PLACE: Lake Placid High School, 202 Green Dragon Drive, Lake Placid, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: This hearing is being held to afford interested persons the opportunity to express their views concerning the location, conceptual design, social, economic, and environmental effects of the proposed construction of Weigh-in-Motion Stations on US 27 between SR 29 in Glades County and SR 70 in Highlands County. Financial Project Identification Number 406740 1 22 01, Federal Project Identification Number 3991 055 P.

Anyone needing project or public hearing information or special accommodations under the Americans with Disabilities Act of 1990 should call Ben Walker, 1(800)292-3368. Special

accommodation requests under the Americans with Disabilities Act should be made at least seven days prior to the public hearing.

A copy of the hearing agenda may be obtained by writing: Dick Combs, District Planning and Environmental Manager, Florida Department of Transportation, District 1, Post Office Box 1249, Bartow, Florida 33831.

The **Florida High Speed Rail Authority** announces a public meeting to which all persons are invited.

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

PLACE: Orange County Board of County Commissioners Chambers, 201 South Rosalind Avenue (Corner of Church Street and Rosalind Avenue), Orlando, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct Florida High Speed Rail Authority business.

Information may be obtained by contacting: Nazih Haddad, 605 Suwannee Street, Tallahassee, Florida 32399-0450, (850)414-4500.

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in these meetings is asked to advise the Authority at least 48 hours before the meetings by contacting Betty Sizemore, (850)414-5244.

DEPARTMENT OF CITRUS

The **Department of Citrus** announces a public meeting of the Fresh Orange and Specialty Advisory Council to which all persons are invited.

DATE AND TIME: Tuesday, December 3, 2002, 1:00 p.m.

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

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Committee will give an update on current, approved programs, discuss next steps and details of new program opportunities and other business that might come before the council for consideration.

In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone at (863)499-2510.

NOTICE OF CANCELLATION – The **Department of Citrus** announces a public meeting of the Fresh Grapefruit Advisory Council of December 4, 2002, 10:00 a.m. has been canceled. The meeting was to be held at Indian River Citrus League, 7925 20th Street, Vero Beach, Florida. The Committee was

meeting to finalize the program elements for the Peak Season Grapefruit test and any other business that might come before the Council for consideration.

The **Department of Citrus** announces a public meeting of the Citrus Abscission Registration Committee to which all persons are invited.

DATE AND TIME: Tuesday, December 10, 2002, 8:30 a.m.
 PLACE: Florida Department of Citrus, 1115 East Memorial Blvd., Lakeland, Florida
 GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will have its monthly meeting to discuss natural abscission compounds, economics of abscission and public relations, recommended research development plans, and other business that might come before the council for consideration. In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone at (863)499-2510.

The **Department of Citrus** announces a public meeting of the Citrus Harvesting Research Advisory Council to which all persons are invited.

DATE AND TIME: Tuesday, December 10, 2002, 10:00 a.m.
 PLACE: Florida Department of Citrus, 1115 East Memorial Blvd., Lakeland, Florida
 GENERAL SUBJECT MATTER TO BE CONSIDERED: The Committee will have its monthly meeting to update scorecard issues, abscission registration chemicals, harvesting labor, recommend research development plans and budget for 2002-2003, and other business that might come before the council for consideration. In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone at (863)499-2510.

FLORIDA PAROLE COMMISSION

The **Florida Parole Commission** announces a public meeting to which all persons are invited.
 DATE AND TIME: Wednesday, December 11, 2002, 9:00 a.m.
 PLACE: Florida Parole Commission, Building C, Third Floor, 2601 Blairstone Road, Tallahassee, Florida
 GENERAL SUBJECT MATTER TO BE CONSIDERED: Regularly scheduled meeting for all Parole, Conditional Release, Conditional Medical Release and Control Release Matters.

Any person who decides to appeal a decision of the Florida Parole Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made, Chapter 80-150, Laws of Florida (1980). A copy of the agenda may be obtained by writing: Florida Parole Commission, Building C, 2601 Blairstone Road, Tallahassee, Florida 32399-2450.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the agency sending the notice not later than five working days prior to the proceeding at the address given on the notice. Telephone (850)488-3417.

PUBLIC SERVICE COMMISSION

The Florida **Public Service Commission** announces a customer meeting in the following docket to which all persons are invited.

Docket No.: 020409-SU – Application for Rate Increase in Charlotte County by Utilities Inc. of Sandalhaven
 DATE AND TIME: Tuesday, December 10, 2002, 6:00 p.m. – 9:00 p.m.
 PLACE: Tringali Recreation Center, 3460 Mccall Road, South, Englewood, FL 34224

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of the customer meeting is to provide information on the proposed rate increase, by Utilities Inc. of Sandalhaven, to the customers. One or more commissioners may attend this meeting.

Any person requiring some accommodation at this customer meeting because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the meeting. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

The Florida **Public Service Commission** announces a hearing to be held in the following docket, to which all interested persons are invited.

Docket No.: 020384-GU – Petition for rate increase by Peoples Gas System
 DATE AND TIME: December 13, 2002, 9:30 a.m.
 PLACE: The Betty Easley Conference Center, Commission Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida
 GENERAL SUBJECT MATTER TO BE CONSIDERED: To permit parties to present testimony and exhibits relative to the petition for rate increase by Peoples Gas System, and for such other purposes as the Commission may deem appropriate. All witnesses shall be subject to cross-examination at the conclusion of their testimony on the issues identified by the

parties at the prehearing conference held on November 22, 2002. The proceedings will be governed by the provisions of Chapter 120, F.S., and Chapter 25-28, F.A.C.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

EXECUTIVE OFFICE OF THE GOVERNOR

The Florida **Commission on Tourism** announces a public meeting of the Visit Florida, Board of Directors and the Florida Commission on Tourism as follows:

MEETING: Visitor Services Advisory Committee

DATE AND TIME: Wednesday, December 11, 2002, 8:00 a.m. – 9:45 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Committee will hear updates on the Florida Welcome Centers and other business as necessary.

MEETING: Cultural, Heritage and Nature Tourism Development Committee

DATE AND TIME: Wednesday, December 11, 2002, 9:00 a.m. – 12:00 Noon

GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will hear regional updates and other business as necessary.

MEETING: Finance Committee

DATE AND TIME: Wednesday, December 11, 2002, 10:00 a.m. – 11:45 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will review quarterly budgets and financial statements, and other business as necessary.

MEETING: Multicultural Subcommittee

DATE AND TIME: Wednesday, December 11, 2002, 10:00 a.m. – 11:45 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The subcommittee will review and discuss business as necessary.

MEETING: Partner Development Committee

DATE AND TIME: Wednesday, December 11, 2002, 1:00 p.m. – 3:00 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will discuss old business, strategies for recruiting new Partners, and other business as necessary.

MEETING: Marketing Committee

DATE AND TIME: Wednesday, December 11, 2002, 3:00 p.m. – 5:00 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will discuss and review marketing strategies and other business as necessary.

MEETING: Visit Florida, Board of Directors Meeting

DATE AND TIME: Thursday, December 12, 2002, 9:00 a.m. – Until adjournment

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Board of Directors will discuss committee reports, on-going and developing issues and other matters.

MEETING: Florida Commission on Tourism

DATE AND TIME: Thursday, December 12, 2002, Upon adjournment of the Board of Directors meeting

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Commission will ratify actions of the Board of Directors and discuss other matters as necessary.

PLACE: The Westin Beach Resort, 97000 South Overseas Highway, Key Largo, FL, 1(800)539-5274

For further information contact: Elizabeth Bassett, Visit Florida, P. O. Box 1100, Tallahassee, Florida 32302-1100 or (850)488-5607, Ext. 322.

Any person requiring special accommodations at this meeting because of a disability should contact Visit Florida, at least five business days prior to the meeting. Persons who are hearing or speech impaired can contact Visit Florida by using the Florida Relay Service at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

The **Governor's Select Task Force on Healthcare Professional Liability Insurance** announces telephone conference meetings to which all persons are invited. The calls will be on an as needed basis. Please call for verification that the Task Force is meeting.

DATE AND TIME: Monday, November 25, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

DATE AND TIME: Wednesday, November 27, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

DATE AND TIME: Friday, November 29, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

DATE AND TIME: Monday, December 2, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

DATE AND TIME: Wednesday, December 4, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(800)416-4254, Suncom 292-2903, Tallahassee only 922-2903

DATE AND TIME: Friday, December 6, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

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

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

DATE AND TIME: Wednesday, December 11, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(800)416-4254, Suncom 292-2903, Tallahassee only 922-2903

DATE AND TIME: Friday, December 13, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, Suncom 291-5230, Tallahassee only 921-5230

GENERAL SUBJECT MATTER TO BE CONSIDERED: Task Force issues.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact Mary Pater or Faith Schneider, Florida Department of Health, General Counsel's Office, (850)245-4444, at least five (5) calendar days prior to the hearing. If you are hearing or speech impaired, please contact Ms. Pater or Ms. Schneider using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Governor's Select Task Force on Healthcare Professional Liability Insurance** announces a Conference to which all persons are invited.

DATE AND TIME: Tuesday, December 3, 2002, 9:00 a.m. – Conclusion of business

PLACE: Knott Building, Room 412, 111 St. Augustine Road, Tallahassee, Florida 32399. (Note: Attendees must enter through the new Capitol Building, Plaza Level, either through the Monroe Street or Duval Street entrance. Parking available at Kleman Plaza Parking Garage, 300 block of South Duval Street.)

GENERAL SUBJECT MATTER TO BE CONSIDERED: The work of the Governor's Select Task Force will make recommendations to protect Floridians' access to high-quality and affordable healthcare. The Governor's Select Task Force shall study the relevant issues and make written recommendations and/or propose legislation. The work product of the Governor's Select Task Force should include, but need not be limited to, the following: (1) findings from an examination of the Florida healthcare liability insurance market, pertinent tort laws, claims and premium data compared to other states of similar size and diversity; (2) an assessment of the impact of the cost, accessibility and availability of healthcare liability insurance on the cost, accessibility and availability of high quality healthcare in this state; and (3) specific strategies to ease the healthcare liability insurance

crisis faced by physicians, hospitals and other healthcare providers in the state. A report of such recommendations and/or proposed legislation shall be submitted by January 31, 2003, to the Governor, the President of the Florida Senate and the Speaker of the House of Representatives.

To aid its study of the issues and the development of its recommendations, the Governor's Select Task Force shall take public testimony from experts and stakeholders. In addition, the Governor's Select Task Force is encouraged to take whatever other steps are necessary to gain a full understanding of the medical, legal, insurance and other issues involved.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact Mary Pater or Faith Schneider, Florida Department of Health, General Counsel's Office, (850)245-4444, at least five (5) calendar days prior to the hearing. If you are hearing or speech impaired, please contact Ms. Pater or Ms. Schneider using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Office of Film and Entertainment** and the Florida Film Advisory Council will convene in a meeting of the Council. This is a public meeting to which all persons are invited.

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

PLACE: Universal Studios Orlando, Pat O'Brien 6000 Universal Studios Boulevard, Orlando, FL 32819, (407)224-2106

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review projects, discuss committee tasks legislative issues and related general administrative matters of the Council.

A copy of the agenda may be obtained by writing: Mrs. Rebecca Dirden-Mattingly, Commissioner, Office of the Film Commissioner, State of Florida, Executive Office of the Governor, Suite 2002, The Capitol, Tallahassee, Florida 32399-0001 or calling (850)410-4765.

Should any person wish to appeal any decision made with respect to the above referenced meeting, he may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review. Pursuant to Section 286.26, Florida Statutes, any handicapped person wishing to attend this meeting should contact the Commission at least 48 hours prior to the meeting in order to request any special assistance.

REGIONAL PLANNING COUNCILS

The **North Central Florida Regional Planning Council** announces the following meetings to which all persons are invited.

MEETING: Executive Committee

DATE AND TIME: December 5, 2002, 6:00 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Executive Committee.

MEETING: Clearinghouse Committee

DATE AND TIME: December 5, 2002, 6:30 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Clearinghouse Committee.

MEETING: North Central Florida Regional Planning Council

DATE AND TIME: December 5, 2002, 8:00 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the North Central Florida Regional Planning Council.

PLACE: Holiday Inn Restaurant, I-75 and U.S. 90, Lake City, Florida

Any person deciding to appeal decisions of the Council or its committees with respect to any matter considered at the meeting, may need to make a verbatim record of the proceedings.

A copy of any of these agendas may be obtained by emailing ncfrpc@ncfrpc.org or writing: NCFRPC, 2009 N. W. 67th Place, Suite A, Gainesville, Florida 32653.

Persons with disabilities who need assistance may contact us at (352)955-2200, at least two business days in advance to make appropriate arrangements.

The **Northeast Florida Regional Planning Council**, Local Emergency Preparedness Committee announces the following public meeting to which all persons are invited.

DATE AND TIME: Wednesday, November 20, 2002, 10:00 a.m.

PLACE: Northeast Florida Regional Planning Council, Board Room, 6850 Belfort Oaks Place, Jacksonville, Florida 32216

GENERAL SUBJECT MATTER TO BE CONSIDERED: Board Meeting.

A copy of the agenda may be obtained by contacting: Northeast Florida Regional Planning Council, 6850 Belfort Oaks Place, Jacksonville, FL 32216.

If a person decides to appeal any decision made by the Council with respect to any matter considered at this meeting, he/she will have to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.

Individuals needing materials in alternate format, sign language interpreter or other meeting information, call Jeanie Palmer, (904)279-0880, Ext. 146, at least three working days prior to the meeting. Hearing-impaired callers use Florida Relay Service, 1(800)955-8771.

Notice is also given that two or more members of Boards of County Commissioners, City/Town Councils/Commissions and other entities covered under Chapter 286, Florida Statutes, may attend and speak at the meeting.

The **East Central Florida Regional Planning Council** announces a public meeting to which all persons are invited.

DATE AND TIMES: Wednesday, December 11, 2002, 9:00 a.m., Finance Committee; 9:30 a.m., Executive Committee

PLACE: Suite 100, 631 North Wymore Road, Maitland, Florida 32751 (Please call (407)623-1075, Ext. 304, to confirm date, time and place)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the Executive and Finance Committees.

A copy of the agenda may be obtained by writing: Ms. Sandra Glenn, Executive Director, East Central Florida Regional Planning Council, 631 North Wymore Road, Suite 100, Maitland, Florida 32751.

The **East Central Florida Regional Planning Council** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, December 11, 2002, 10:00 a.m.

PLACE: Suite 100, 631 North Wymore Road, Maitland, Florida 32751 (Please call (407)623-1075, Ext. 304, to confirm date, time and place)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting of the East Central Florida Regional Planning Council.

A copy of the agenda may be obtained by writing: Ms. Sandra Glenn, Executive Director, East Central Florida Regional Planning Council, 631 North Wymore Road, Suite 100, Maitland, Florida 32751.

The **Central Florida Regional Planning Council** will hold its public meeting and the Council's Executive Committee meeting to which all persons are invited.

DATE AND TIME: Wednesday, December 4, 2002, 10:00 a.m.

PLACE: Bob Crawford Agriculture Center, Suite 106, 605 East Main Street, Bartow, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Monthly Meeting of the Council and its Executive Committee.

A copy of the agenda may be obtained by writing: Central Florida Regional Planning Council, P. O. Box 2089, Bartow, Florida 33831.

If any person desires to appeal any decision with respect to any matter considered at the above cited meeting, such persons will need a record of the proceeding. For such purpose, he may need to ensure that a verbatim record of the proceeding is made to include the testimony and evidence upon which the appeal is to be based.

The **South Florida Regional Planning Council**, Institute for Community Collaboration announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, December 5, 2002, 10:00 a.m. – 3:00 p.m.

PLACE: Florida City City Hall, Commission Chambers, 404 West Palm Drive, Florida City, Florida 33034

GENERAL SUBJECT MATTER TO BE CONSIDERED: New member orientation meeting of the South Miami-Date Watershed Study Advisory Committee (10:00 a.m. – 11:30 a.m.) followed by a general meeting (1:00 p.m. – 3:00 p.m.).

A copy of the agenda may be obtained by writing: South Florida Regional Planning Council, Institute for Community Collaboration, 3440 Hollywood Boulevard, Suite 140, Hollywood, Florida 32021.

Anyone deciding to appeal any decision made by the South Miami-Date watershed Study Advisory Committee with respect to any matter considered at this meeting, will need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

If you are hearing or speech impaired, please contact the South Florida Regional Planning Council, (954)967-4152, Ext. 40 (TDD), if you require additional information regarding the above meeting. If you require special accommodations because of a disability or physical impairment, please contact the Council, (954)985-4416, at least five calendar days prior to the meeting.

The **Charlotte Harbor National Estuary Program** announces a scheduled Policy Committee meeting to which all persons are invited.

DATE AND TIME: Friday, December 6, 2002, 9:30 a.m.

PLACE: Department of Agriculture, Bob Crawford Building, 605 East Main Street, Bartow, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting of the CHNEP Policy Committee.

Please note that if a person decides to appeal any decision made by the Charlotte Harbor National Estuary Program Policy Committee with respect to any matter considered at the above cited workshop, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

A copy of the agenda may be obtained by writing: CHNEP, 4980 Bayline Dr., N. Ft. Myers, FL 33917 or by calling Ms. Darcy Bowen, (239)995-1777, Ext. 234.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations due to disability or physical impairment should contact Ms. Darcy Bowen, (239)955-1777, Ext. 234, at least five calendar days prior to the meeting. Persons who are hearing impaired should contact Mr. David Burr using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

WATER MANAGEMENT DISTRICTS

The **St. Johns River Water Management District** announces a Public Hearing to which all persons are invited.

MEETING: Public Hearing to approve the District's 2003 updated, Florida Forever Five-Year Work Plan

DATE AND TIME: Tuesday, December 10, 2002, 1:00 p.m.

PLACE: District Headquarters, 4049 Reid Street, Palatka, Florida 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: To receive public testimony concerning the District's 2003 updated Florida Forever Five-Year Work Plan for the acquisition and management of lands funded by the Florida Forever Trust Fund, pursuant to Section 373.139(3) and 373.199(7), Florida Statutes.

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

If, due to disability, you require a special accommodation to participate in this public meeting, contact Linda Lorenzen, (386)329-4262 or (386)329-4450 (TDD), at least five work days before the date of the meeting.

The **South Florida Water Management District** announces the following public meetings and hearings, which may be conducted by means of or in conjunction with communications technology, to which all persons are invited.

DATE AND TIME: Wednesday, December 4, 2002, 8:30 a.m. – Until completed

PLACE: South Florida Water Management District, Headquarters, Building B-1, Auditorium, 3301 Gun Club Road, West Palm Beach, Florida 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Governing Board Workshop/Meeting to discuss and consider District Procurement matters.

NOTE: Except for public hearings, any item which appears on the agenda for any of the Governing Board meetings that appear in this notice may be discussed and considered at any of the Governing Board Meetings that appear in this notice. The order of items appearing on the agendas is subject to change during the meetings.

A copy of the agenda may be obtained by writing: South Florida Water Management District, P. O. Box 24680, West Palm Beach, Florida 33416-4680 or may be acquired via the SFWMD Web Site at <http://www.sfwmd.gov/agenda.html>.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary

for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance may contact Paula Moree, Deputy District Clerk, (561)682-6447, at least two business days in advance to make appropriate arrangements.

NOTE: All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board Members.

The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the Chair(s) and Governing Board(s). Except for Governing Board hearings that involve the issuance of final orders based on recommended orders received from the Florida Division of Administrative Hearings, public comment will be taken after each presentation and before any Governing Board action(s).

The **South Florida Water Management District** announces a public meeting to which all interested parties are invited.

DATE AND TIME: December 12, 2002, 9:00 a.m.

PLACE: The South Florida Water Management, Headquarters, Building B-1, Auditorium, 3301 Gun Club Road, West Palm Beach, Florida 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: To adopt a resolution advising the Department of Environmental Protection of the Land Management adopted budget needs for Fiscal Year 2003, utilizing funds from the Water Management Lands Trust Fund.

A copy of the agenda may be obtained at the (1) District Website <http://www.sfwmd.gov/agenda.html> or (2) by writing: South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, FL 33416-4680.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance may contact the Deputy District Clerk, (561)682-6447, at least two business days in advance of the meeting to make appropriate arrangements.

Those who want more information, please contact: Fred Davis, Land Management and Operations Department, (561)682-6636, District Headquarters, 3301 Gun Club Road, Mail Stop Code 5720, West Palm Beach, FL 33406.

DEPARTMENT OF ELDER AFFAIRS

The Florida **Department of Elder Affairs** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, December 2, 2002, 9:00 a.m. – 4:00 p.m.

PLACE: Holiday Inn Airport, I-95 at Airport Road, Jacksonville, FL 32229, (904)741-1234

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Destination Florida Commission will convene for its sixth meeting to discuss and evaluate Florida's competitive position in attracting retirees and to make recommendations for the future that would make Florida more retiree friendly.

A copy of the agenda may be obtained by writing: Mrs. Eloise Williams, Department of Elder Affairs, 4040 Esplanade Way, Suite 270D, Tallahassee, Florida 32399-7000 or by calling Mrs. Williams, (850)414-2080.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mrs. Eloise Williams, (850)414-2080. If you are hearing or speech impaired, please contact the Department by calling (850)414-2001.

AGENCY FOR HEALTH CARE ADMINISTRATION

The **Agency for Health Care Administration** announces a public meeting of the task force for the regular Disproportionate Share Program to which all persons are invited.

DATE AND TIME: December 5, 2002, 1:15 p.m.

PLACE: Conference Call: (850)921-2470, Suncom 291-2470

GENERAL SUBJECT MATTER TO BE CONSIDERED: In accordance with House Bill 27E, General Appropriations Act for FY 2002-03, Specific Appropriation 199, The Medicaid Disproportionate Share Task Force created in Specific Appropriation 196 of the FY 2000-01 General Appropriations Act, has been authorized to continue to convene in FY 2002-03 for the purpose of monitoring the implementation of enhanced Medicaid funding through the Special Medicaid Payment program. The task force will review the federal status of the upper payment limit funding option and recommend how this option may be further used to promote local primary care networks to uninsured citizens in the state, to increase the accessibility of trauma centers to Floridians and to ensure the financial viability of the state's graduate medical education programs and other health care policies determined by the task force to be state health care priorities.

The agenda has not been set. Contact Edwin Stephens, (850)413-8067 or Suncom 294-8067, with any questions or to obtain an agenda when it is set.

DEPARTMENT OF MANAGEMENT SERVICES

The Florida **Commission on Human Relations** announces a public meeting to which all persons are invited. The meeting is being conducted by communications media technology (CMT), i.e., by utilizing a telephone conference hookup.

DATE AND TIME: Tuesday, December 17, 2002, 9:00 a.m.

PLACE: Commission on Human Relations, Suite 100, 2009 Apalachee Parkway, Tallahassee, Florida. The Meet-me telephone number is 1(800)921-2470 or Suncom 291-2470

GENERAL SUBJECT MATTER TO BE CONSIDERED: The meeting will be held to deliberate cases that have come before the Commission for determination.

A copy of the agenda may be obtained by contacting: Ms. Denise Crawford, Clerk of the Commission, Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida 32301, (850)488-7082, Ext. 1032.

VERBATIM RECORD OF MEETING: If any person decided to appeal any decision made during the meeting, he or she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

ADA NOTICE: Any person requiring special accommodation at this meeting because of a disability or physical impairment should contact the Clerk of the Commission, (850)488-7082, Ext. 1032, at least five working days prior to the meeting.

The Florida **Black Business Investment Board**, Inc. (FBBIB) announces a meeting of its Board of Directors to which all interested persons are invited.

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

PLACE: BAC Funding Consortium, 6600 N. W. 27th Avenue, Miami, FL 33147

GENERAL SUBJECT MATTER TO BE CONSIDERED: To further discuss the Board's operations, to identify areas for future Board priorities, loan, audit and development committees, discussion/review/approval of related issues, and approve actions taken by the Chairman and/or President under delegated authority.

A copy of the agenda may be obtained by contacting: The Florida Black Business Investment Board, 1711 South Gadsden Street, Tallahassee, FL 32301, (850)487-4850.

If a person decides to take an appeal with respect to any matter considered at these meetings, he/she will need a record of the proceedings and, for such purpose, he/she may need to ensure that verbatim record of the proceedings is made, which record should include the testimony and evidence upon which the appeal is to be based.

If an accommodation is needed for a disability in order to attend this meeting, please notify the FBBIB Office, (850)487-4850, at least seven (7) days prior to the meeting.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

The Florida **Pilotage Rate Review Board** announces the following telephone conference call meeting to which all parties are invited to participate.

DATE AND TIME: December 3, 2002, 12:00 Noon

PLACE: Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida. The Meet-me telephone number is (850)488-5776 or Suncom 278-5776

To obtain a copy of the agenda, further information or submit written or other physical evidence, contact in writing: Pilotage Rate Review, 1940 North Monroe Street, Tallahassee, Florida 32399-0773.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board Office, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Board Office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Florida **Board of Landscape Architecture** announces the following meeting to be held by telephone conference call, to which all persons are invited to attend.

DATE AND TIME: December 3, 2002, 9:00 a.m.

PLACE: Call: (850)488-5778 or Suncom 278-5778

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board and Business meeting.

To obtain a copy of the agenda, further information or submit written or other physical evidence, contact in writing: Board of Landscape Architecture, 1940 N. Monroe St., Tallahassee, Florida 32399.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board Office, (850)487-8304, at least five calendar days prior to the meeting. If you are hearing or speech impaired,

please contact the Board Office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Florida Real Estate Appraisal Board** announces a meeting of its Probable Cause Panel.

DATE AND TIME: Monday, December 2, 2002, 9:00 a.m.

PLACE: Department of Business and Professional Regulation, Division of Real Estate, North Tower, Ninth Floor, Room 901, 400 West Robinson Street, Orlando, Florida 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED: Official business of the Florida Real Estate Appraisal Board Probable Cause. Portions of the Probable Cause Panel Meeting are not open to the public.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Real Estate Appraisal Board, Division of Real Estate, (407)245-0800, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Florida Real Estate Appraisal Board, Division of Real Estate using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

The **Florida Real Estate Appraisal Board** announces a meeting to which everyone is invited.

DATE AND TIME: Tuesday, December 3, 2002, 8:30 a.m.

PLACE: Department of Business and Professional Regulation, Division of Real Estate, North Tower, Ninth Floor, Room 901, 400 West Robinson Street, Orlando, Florida 32801, (407)245-0800

GENERAL SUBJECT MATTER TO BE CONSIDERED: Official business of the Appraisal Board – including but not limited to: Rule/statute amendments, and Disciplinary actions.

Any person who decides to appeal a decision made by the Board with respect to any matter considered at this meeting or hearing will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes testimony and evidence upon which the appeal is based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Real Estate Appraisal Board, (407)245-0800, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Real Estate Appraisal Board using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained by writing: Deputy Clerk, Florida Real Estate Appraisal Board, 400 West Robinson Street, Orlando, Florida 32801.

The Probable Cause Panel of the **Florida Real Estate Commission** announces a meeting to which all interested persons are invited.

DATE AND TIME: December 17, 2002, 1:30 p.m. or the soonest thereafter

PLACE: Zora Neale Hurston Building, North Tower, Suite 901, 400 West Robinson Street, Orlando, Florida

Portions of the probable cause proceedings are not open to the public.

Any person who desires a special accommodation at this meeting because of a disability or physical impairment should contact the Division of Real Estate, (407)481-5632 (between the hours of 9:00 a.m. – 4:00 p.m.), at least five calendar days prior to the meeting. If you are hearing or speech impaired, please call the Real Estate Division using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Florida Real Estate Commission** (FREC) announces a meeting to which all persons are invited.

DATE AND TIME: December 18, 2002, 8:30 a.m.

PLACE: Division of Real Estate, North Tower, Commission Meeting Room 901, 400 West Robinson Street, Orlando, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Official business of Commission – among topics included, but not limited to, are proposed legislation affecting Chapter 475, Part I, F.S., rule development workshops, Florida Administrative Code 61J2 rule amendments, budget discussions, escrow disbursement requests, Recovery Fund Claims, education issues, petitions for declaratory statement, and disciplinary actions.

If a person decides to appeal a decision made by the Commission, with respect to any matter considered at this meeting or hearing, a record of the proceedings for such purpose, upon which the appeal is based, may be required.

A copy of the agenda may be obtained by writing: Deputy Clerk, Florida Real Estate Commission, 400 W. Robinson Street, Suite 802, Orlando, Florida 32801-1772.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Department of Business and Professional Regulation, (407)481-5632, at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please call the Division of Real Estate using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Florida State Boxing Commission** announces a rule development workshop to which all interested persons are invited.

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

PLACE: Autonation Tower, Suite 1970, 110 Southeast 6th Street, Ft. Lauderdale, FL 33301, (954)761-7201. Access to the meeting may be obtained by attending in person at the remote location or by calling at least forty-eight (48) hours prior to the meeting (850)488-8500 or Suncom 278-8500

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a rule development workshop relative to boxing, kickboxing and mixed marital arts.

A copy of the agenda may be obtained by writing: Florida State Boxing Commission, ATTN: Jason Penley, Assistant Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399-1016.

Any person requiring special accommodation at this meeting because of a disability or physical impairment should contact Kelly Harris, Administrative Assistant, (850)488-8500, at least forty-eight (48) hours prior to the meeting. If you are hearing or speech impaired, please contact the Commission Office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Florida **Department of Environmental Protection** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, December 2, 2002, 9:30 a.m.

PLACE: Howard F. Curren Advanced Wastewater Treatment Plant, 2700 Maritime Boulevard, Tampa, Florida 33605

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is a public meeting of the Street Sweepings Focus Group, at which the Department will seek input from the regulated community as well as other regulatory agencies concerning the appropriate management and disposal practices for street sweepings and storm water sediments.

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."

The **Department of Environmental Protection** (DEP) announces a public meeting of the Environmental Regulation Commission on December 3-4, 2002, which will continue the rule adoption proceeding on Section 62-302.540, F.A.C., proposed phosphorus criterion for the Everglades Protection Area.

For more information contact: Jacqueline McGorty, email: jackie.mcgorty@dep.state.fl.us or phone (850)245-2231.

The full text of this notice, which includes specific information about meeting time, location and anticipated subject matter to be covered, 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."

The Florida **Department of Environmental Protection** (Northwest District) announces the initial meeting of the Smallest Circle for the Panama City-Bay County International Airport relocation Ecosystem Team Permitting (ETP) process. DATE AND TIME: Thursday, December 5, 2002, 5:00 p.m. (CST)

PLACE: Gulf Coast Community College, Student Union Building, 5230 West Highway 98, Panama City, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: This ETP meeting is the first in a series to address the environmental permits that are required for the relocation of the Panama City-Bay County International Airport to a 4,000 acre tract in north-central Bay County, Florida.

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."

For more information please contact: Larry O'Donnell, Environmental Manager, FDEP Northwest District Offices, 160 Government Center, Pensacola, FL 32501-5794 or by calling (850)595-8300, Ext. 1129, e-mailing larry.odonnell@dep.state.fl.us.

The Florida **Department of Environmental Protection** (Northwest District) announces an Ecosystem Team Permitting (ETP) Joint Circles meeting for the Panama City-Bay County International Airport relocation.

DATE AND TIME: Thursday, December 5, 2002, 6:00 p.m. (CST) – Not later than 9:00 p.m. (CST)

PLACE: Gulf Coast Community College, Student Union Building, 5230 West Highway 98, Panama City, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: This ETP meeting is the first in a series to address the environmental permits that are required for the relocation of the Panama City-Bay County International Airport to a 4,000 acre tract in north-central Bay County, Florida.

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."

For more information please contact: Larry O'Donnell, Environmental Manager, FDEP Northwest District Offices, 160 Government Center, Pensacola, FL 32501-5794 or call (850)595-8300, Ext. 1129 or by e-mailing larry.odonnell@dep.state.fl.us.

The **Department of Environmental Protection** announces a public workshop to which all persons are invited.

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

PLACE: Carr Building, Room 170, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss proposed rule amendments which are intended to update Chapter 62-730, F.A.C., to implement federal regulations already adopted by reference; implement statutory requirements for a clean closure plan; clarify criteria and procedures for postclosure permitting and remedial activities; incorporate hazardous waste closure and corrective action flexibilities, including Remedial Action Plans (RAP) under 40 Code of Federal Regulations (CFR) Part 270 Subpart H; modify the fee schedule to address specific authorizations issued by the department; clarify time periods and documentation requirements; add and reorganize definitions; and remove or amend inconsistent, confusing, outdated, unnecessary or incorrect terminology.

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."

The **Department of Environmental Protection** announces that the Technical Advisory Group established to assist in revising Chapter 62-552, F.A.C., State Revolving Fund Program for Drinking Water Facilities will meet on December 3, 2002, to consider rule issues including pre-construction and construction grants for financially disadvantaged communities; construction loans for rate based community water systems; interest rate determination; project list information; priority determination; ranking projects for project list; project list management; planning, design, construction and post-construction requirements; and audits required.

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."

For more information, call: Venkata Panchakarla, (850)245-8366.

The **Department of Environmental Protection** announces a public workshop to which all persons are invited.

DATE AND TIME: Tuesday, December 10, 2002, 1:30 p.m.

PLACE: DEP Southwest District Office, The Phosphate Management Conference Room, Suite 214, 8407 Laurel Fair Circle, Tampa, Florida 33610-7355

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Department proposes to submit to the United States Environmental Protection Agency, as a proposed revision to the State Implementation Plan, a variance from Rule 62-212.600(2)(c), Florida Administrative Code, to Martin Gas Sales, Inc. The proposed SIP revision would allow Martin Gas Sales, Inc. to forgo the postconstruction air quality and deposition monitoring for sulfur particulate emissions from the facility.

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."

The **Fisheating Creek Settlement Agreement Advisory Board** announces a meeting of the Board.

DATE AND TIME: Wednesday, December 11, 2002, 10:00 a.m. – 4:00 p.m.

PLACE: Fisheating Creek Campground, 7555 North U.S. Highway 27, N. W., Palmdale, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct business of the Fisheating Creek Settlement Agreement Advisory Board relating to the management of the expanded Fisheating Creek corridor pursuant to a settlement agreement rendered by the Circuit Court, 20th Judicial District, Glades County, Florida (Case No. CA93-136).

To obtain additional information, please contact: Dr. Harris Friedman, 1255 Tom Coker Road, S. W., LaBelle, Florida 33935 or phone him at (863)675-4138 or by email Harrisfriedman@aol.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting the Bureau of Personnel Services, (850)488-2996. If you are hearing or speech impaired, please contact the Florida Relay Service by calling 1(800)955-8771 (TDD).

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 button titled "Official Notices."

DEPARTMENT OF HEALTH

The **Board of Chiropractic Medicine** will hold a duly noticed meeting and telephone conference call, to which all persons are invited to attend.

DATE AND TIME: Friday, December 6, 2002, 8:30 a.m.

PLACE: Crown Plaza, 5555 Hazeltine National Drive, Orlando, FL 32816, (407)856-0100

GENERAL SUBJECT MATTER TO BE CONSIDERED: General board business.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the Board, (850)245-4355, at least 48 hours prior to the meeting. If you are a hearing or speech impaired, please contact the Board office using the Dual Party Relay System at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

A copy of the agenda item may be obtained by writing: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, BIN #C07, Tallahassee, FL 32399-3257.

The **Department of Health** announces the following meetings of the Variance Review and Advisory Committee for Onsite Sewage Treatment and Disposal Systems to examine variance applications received by the 15th of the previous month.

- DATE AND TIME: Thursday, January 9, 2003, 10:00 a.m.
 PLACE: Volusia County Health Department, Conference Room 516B, 1845 Holsonback Drive, Daytona Beach, Florida
- DATE AND TIME: Thursday, February 6, 2003, 10:00 a.m.
 PLACE: Polk County Health Department, Conference Room, 2090 East Clower Street, Bartow, Florida
- DATE AND TIME: Thursday, March 6, 2003, 10:00 a.m.
 PLACE: Osceola County Administration Building, Suite 4100, 1 Courthouse Square, Kissimmee, Florida
- DATE AND TIME: Thursday, April 3, 2003, 10:00 a.m.
 PLACE: Betty Easley Conference Center, Conference Room 182, 4075 Esplanade Way, Tallahassee, Florida
- DATE AND TIME: Thursday, May 1, 2003, 10:00 a.m.
 PLACE: Osceola County Administration Building, Suite 4100, 1 Courthouse Square, Kissimmee, Florida
- DATE AND TIME: Thursday, June 5, 2003, 10:00 a.m.
 PLACE: Bay County Health Department, Conference Room 207/208, 597 West 11th Street, Panama City, Florida
- DATE AND TIME: Thursday, July 3, 2003, 10:00 a.m.
 PLACE: Betty Easley Conference Center, Conference Room 182, 4075 Esplanade Way, Tallahassee, Florida
- DATE AND TIME: Thursday, August 7, 2003, 10:00 a.m.
 PLACE: Osceola County Administration Building, Suite 4100, 1 Courthouse Square, Kissimmee, Florida
- DATE AND TIME: Thursday, September 4, 2003, 10:00 a.m.
 PLACE: Volusia County Health Department, Conference Room 516B, 1845 Holsonback Drive, Daytona Beach, Florida
- DATE AND TIME: Thursday, October 2, 2003, 10:00 a.m.
 PLACE: Osceola County Administration Building, Suite 4100, 1 Courthouse Square, Kissimmee, Florida
- DATE AND TIME: Thursday, November 6, 2003, 10:00 a.m.
 PLACE: Marion County Health Department, Auditorium, 1801 S. E. 32nd Avenue, Ocala, Florida
- DATE AND TIME: Thursday, December 4, 2003, 10:00 a.m.
 PLACE: Betty Easley Conference Center, Conference Room 182, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To examine applications for variance from the requirements of Chapter 64E-6, Florida Administrative Code, entitled "Standards for Onsite Sewage Treatment and Disposal Systems" pursuant to Section 381.0065(3)(d), Florida Statutes. A copy of the agenda may be obtained ten days prior to each meeting date by writing: Gerald R. Briggs, Chief, Bureau of Onsite Sewage Programs, Department of Health, 4052 Bald Cypress Way, BIN #A08, Tallahassee, Florida 32399-1713.

Any person requiring a special accommodation at one of these meetings because of disability or physical impairment should contact Shirley Kugler, (850)245-4070, at least two weeks prior to the meeting.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

The **Department of Children and Family Services**, District 12, Community Alliance CBC Workgroup announces the following public meetings to which all persons are invited.

- DATE AND TIME: Tuesday, November 26, 2002, 2:00 p.m.
 PLACE: United Way, 3747 West International Speedway Boulevard, Daytona Beach, Florida
- DATE AND TIME: Friday, December 6, 2002, 2:30 p.m.
 PLACE: Room 2, 125 East Orange Avenue, Daytona Beach, Florida
- DATE AND TIME: Wednesday, December 11, 2002, 2:00 p.m.
 PLACE: Department of Children and Family Services, Suite 440E, 210 North Palmetto Avenue, Daytona Beach, Florida
- A copy of the agendas may be obtained by writing: Department of Children and Family Services, 210 North Palmetto Avenue, Daytona Beach, Florida 32114-3284 (Attn: Denise Kelly).
- If you need special accommodations (i.e. assisted listening devices, sign language interpreter, etc.) please notify Denise Kelly, (904)238-4648, at least 48 hours in advance of the meeting. If you are hearing or speech impaired, please use Florida Relay Service for TDD or TTY at 1(800)955-8771.

FLORIDA HOUSING FINANCE CORPORATION

The **Florida Housing Finance Corporation** announces the following Review Committee meeting to which all persons are invited to attend.

- DATE AND TIME: Monday, December 2, 2002, 2:00 p.m.
 PLACE: Florida Housing Finance Corporation, 6th Floor, Rick Seltzer Conference Room, 227 North Bronough Street, Tallahassee, FL 32301-1329

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the evaluation of responses submitted for Florida Housing Finance Corporation's Request for Proposals #2002/08 for Printing services.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Laurie Camp, Human Resources Administrator, Florida Housing Finance Corporation, (850)488-4197, at least five (5) calendar days prior to the meeting. If you are hearing impaired, please contact Florida Housing Finance Corporation using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by Florida Housing Finance Corporation with respect to any matter considered at this meeting, he or she will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings be made, which record shall include the testimony and evidence upon which the appeal is to be based.

The **Florida Housing Finance Corporation** (Florida Housing) will host a workshop on financing permanent housing for homeless people.

DATE AND TIME: Thursday, December 12, 2002, 9:00 a.m. – 5:00 p.m.

PLACE: Holiday Inn, Universal Orlando, 5905 South Kirkman Road, Orlando, FL 32819

GENERAL SUBJECT MATTER TO BE CONSIDERED: Special attention will be given to Florida Housing's application process and its programs of interest to organizations and local governments with an interest in serving homeless people. Of immediate interest is Florida Housing's \$5.2 million in low-interest loans, available in 2003, to develop housing for homeless people. The workshop will also provide an overview of other available federal and state funding sources for housing, such as Shelter Plus Care and the Homeless Housing Assistance Grants. After completing the workshop, novices and experts both will have a better understanding of how various funding sources must work together to successfully finance housing for low-income Floridians.

The workshop will be given free of charge. All participants are responsible for their own travel, meals, and accommodations. Space is limited. Please register by Monday, December 2, 2002, by contacting Diane Standaert, (850)488-4197.

Any person requiring a special accommodation at the workshop because of a disability or physical impairment should contact Diane Standaert, (850)488-4197. If you are hearing or speech impaired, please contact Florida Housing using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

STUDY COMMITTEE ON PUBLIC RECORDS

The **Study Committee on Public Records** will hold the following public meeting to which all persons are invited.

DATE AND TIME: Monday, December 2, 2002, 10:00 a.m. – 4:00 p.m.

PLACE: Hyatt Regency, Orlando International Airport, Orlando, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To complete unfinished business of the November 22, 2002 meeting, to hear presentations, to hold discussions regarding privacy and public access to information in court records, official records and public records maintained by the Clerks of the Court, to convene the Advisory Member Subcommittee, and to hear public testimony.

For more information or to obtain a copy of the agenda, please contact: Maria I. Matthews, Senate Judiciary Committee, 515 Knott Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100, (850)487-5198 or via e-mail at matthews.maria@leg.state.fl.us.

Any person requiring special accommodations due to a disability should contact the Committee at least five days prior to the meeting in order to request any special assistance by calling (850)487-5224.

NORTHEAST FLORIDA CRIMINAL JUSTICE TRAINING AND EDUCATION CENTER

The **Region V Training Council** will hold its Bi-Annual Advisory Meeting:

DATE AND TIME: December 4, 2002, 2:00 p.m.

PLACE: Northeast Florida Criminal Justice Center, Conference Room, 4501 Capper Road, Jacksonville, FL

For an advance copy of the agenda contact: Jack Heinze, Northeast Florida Criminal Justice Training and Education Center, (904)713-4828, Fax (904)713-4900.

FLORIDA SELF-INSURERS GUARANTY ASSOCIATION

The Board of Directors of the **Florida Self-Insurers Guaranty Association, Inc.** will hold a meeting on:

DATE AND TIME: Tuesday, December 3, 2002, 10:00 a.m.

PLACE: Florida Hotel and Motel Association Building, 200 W. College Avenue, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the revised Plan of Operation for the Florida Self-Insurers Guaranty Association.

WORKFORCE FLORIDA

The **Workforce Florida** will hold its next Board of Directors and related meetings on:

DATE AND TIME: Thursday, December 5, 2002, 9:30 a.m. – 3:30 p.m.

PLACE: Embassy Suites Hotel, 191 E. Pine Street, Orlando, FL

Please contact: Beth Lee, WFI Meeting Planner, if you have questions (850)921-1119.

POLK COMMUNITY COLLEGE

The **Criminal Justice Training Standards and Training Commission**, Region VIII Training Council announces a public meeting to which all persons are invited.

DATE AND TIME: December 5, 2002, 2:00 p.m.

PLACE: Polk Community College, Criminal Justice Training Center, 999 Avenue H, Northeast, Winter Haven, FL 33881

GENERAL SUBJECT MATTER TO BE CONSIDERED:

- 1) Old Business.
- 2) New Business.
 - A. Region VIII Course Offerings.
January 2003 – June 2003 (Anti-Terrorist Training Initiative).
 - B. 2002/2003 Trust Fund Budget Update.
 - C. 2003/2004 budget approval.
- 3) Contracted Courses.
- 4) Training Issues.
- 5) Other Items from Members.

A copy of the agenda may be obtained by writing: Captain Paul Hinman, Chairman, Highlands County Sheriff's Office, P. O. Box 71, 434 Fernleaf Avenue, Sebring, Florida 33871.

FLORIDA SURPLUS LINES SERVICE OFFICE

The **Florida Surplus Lines Service Office**, Board of Governors' announces a public meeting to which all interested parties are invited.

BOARD OF GOVERNORS' QUARTERLY MEETING

DATE AND TIME: Wednesday, January 22, 2003, 9:00 a.m.

PLACE: Florida Surplus Lines Service Office, 114 S. Duval Street, Tallahassee, FL 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Matters.

A copy of the agenda may be obtained by sending a faxed request to: Georgie Barrett, (850)513-9624.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this meeting should contact Georgie a week prior to the meeting, (850)224-7676, Ext. 19.

Section VII
Notices of Petitions and Dispositions
Regarding Declaratory Statements

DEPARTMENT OF INSURANCE

NOTICE IS HEREBY GIVEN THAT the Department of Insurance has received a petition for a declaratory statement from ADP Integrated Medical Solutions, Inc. The petition seeks the agency's opinion as to the applicability of Sections 627.736(10) and 624.4412, F.S., to the Petitioner and whether such sections prohibit the ability of Florida automobile insurers to enter into contractual agreements with providers for services at contracted rates.

A copy of the petition may be obtained by contacting: Stephen C. Fredrickson, Esquire, Division of Legal Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0333, (850)413-4144.

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT the Petition for Declaratory Statement received on October 7, 2002, from Carlos Hermida was withdrawn on November 12, 2002. Notice of receipt of this petition, which was assigned the number DCA02-DEC-270, appeared in the November 1, 2002, edition of the Florida Administrative Weekly.

A copy of the withdrawal may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a request for Declaratory Statement on November 8, 2002, from Fawley Bryant Architects, Inc., with regards to Table 704.2.4, Florida Building Code, Building Volume, and whether it requires fire-rated exit access corridor walls in a public school building that is protected throughout by an approved, automatic sprinkler system. It has been assigned the number DCA02-DEC-352.

A copy of the request may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN THAT the Board of Nursing has received a Petition for Declaratory Statement with regard to Section 464.003(3)(a)1., 2., 3., Florida Statutes, which was filed July 29, 2002, by Patricia Edwards, RN, MN. Petitioner requests a declaratory statement from the Board in regard to whether a nurse may perform the procedure of amniotomy. This matter will be addressed at the Practice Committee

meeting during the regularly scheduled board meeting on December 11, 2002, 6:00 p.m., or shortly thereafter, at the Sheraton Suites Cypress Creek, 555 N. W. 62nd Street, Ft. Lauderdale, Florida 33309, (954)772-5400.

A copy of the Petition for Declaratory Statement may be obtained by writing: Dan Coble, Executive Director, 4052 Bald Cypress Way, BIN #C02, Tallahassee, Florida 32399-3252.

NOTICE IS HEREBY GIVEN THAT the Board of Nursing has received a Petition for Declaratory Statement with regard to Section 464.003(3)(a)1., 2., 3., Florida Statutes, which was filed September 9, 2002 by Barbara Mashour-Smith, RN. Petitioner requests a declaratory statement from the Board in regard to whether a registered nurse, who is not a CRNA, may administer Diprivan or monitor an intubated patient that has received Diprivan. This matter will be addressed at the Practice Committee meeting during the regularly scheduled board meeting on December 11, 2002, 6:00 p.m., or shortly thereafter, at the Sheraton Suites Cypress Creek, 555 N. W. 62nd Street, Ft. Lauderdale, Florida 33309, (954)772-5400.

A copy of the Petition for Declaratory Statement may be obtained by writing: Dan Coble, Executive Director, 4052 Bald Cypress Way, BIN #C02, Tallahassee, Florida 32399-3252.

NOTICE IS HEREBY GIVEN THAT the Board of Physical Therapy Practice has GRANTED a petition for declaratory statement received from Jerry L. Smith on August 23, 2002. The final order was filed on November 8, 2002 and was given the number DOH-02-1684-DS-MQA. No public comments were received.

Petitioner requested the declaratory statement with regard to subsection 486.021(11), Florida Statutes. The Board determined that Petitioner may not refer to himself as a physical therapist when working with animals as a veterinarian aide.

A copy of the Petition for Declaratory Statement and Final Order may be obtained by writing: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255.

NOTICE IS HEREBY GIVEN THAT the Board of Physical Therapy Practice has GRANTED a petition for declaratory statement received from All Children's Hospital on October 3, 2002. The final order was filed on November 8, 2002 and was given the number DOH-02-1678-DS-MQA. No public comments were received.

Petitioner requested the declaratory statement with regard to subsection 486.021(11), Florida Statutes, and with regard to the circumstances when Petitioner may allow its therapists to accept referrals from physician assistants and advanced registered nurse practitioners.

A copy of the Petition for Declaratory Statement and Final Order may be obtained by writing: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255.

**Section VIII
Notices of Petitions and Dispositions
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:

NONE

**Section IX
Notices of Petitions and Dispositions
Regarding Non-rule Policy Challenges**

NONE

**Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee**

NONE

**Section XI
Notices Regarding Bids, Proposals and
Purchasing**

DEPARTMENT OF EDUCATION

NOTICE TO GENERAL CONTRACTORS

The Florida International University Board of Trustees announces that a Contractor's Qualification Statement will be required for the project listed below:

Project Name and Number: Parking Garage Three and Public Safety (BR-863) and Parking Garage Four (BR-891)

Project Location: This facility will be located at Florida International University, University Park.

Any contractor wishing to submit a bid for the project under two separate single-prime construction contracts must (1) furnish a Contractor's Qualification Statement and (2) be approved by Florida International University prior to bidding. Florida International University will evaluate each Contractor's Qualification Statement and determine whether the applicant is qualified to bid on the project. Contractors who submit Contractor's Qualification Statement will be notified of their eligibility prior to the project being released for bid.

The project description, pre qualification procedures, evaluation criteria, and application, excluding AIA Document A305, may be obtained (1) by mail addressed to: Mr. Alberto Delgado, Sr. Project Manager, Facilities Planning and Construction, Campus Support Complex Room 236, University Park, Miami, Florida 33199 or (2) by Faxing a request to (305)348-4010 or (3) logon to <http://facilities.fiu.edu/fpc.htm> (find project under Facilities Construction Project Information) and download document in electronic format. Telephone or e-mail requests will not be accepted.

Firms desiring to be pre qualified for bidding on this project shall submit the required documentation. Submittals, which do not comply with the requirements or do not include the requested data, will not be considered. No submittal material will be returned.

All applicants must be licensed to practice as general contractors in the State of Florida at the time of application. Corporations must be registered to operate in the State of Florida by the Department of State, Division of Corporations, at the time of application. As required by Section 287.133, Florida Statutes, a general contractor may not submit a Contractor's Qualification Statement for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected general contractors must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Florida International University reserves the right to reject any or all Contractor's Qualification Statements and/or to waive informalities and minor irregularities.

Contractor's Qualification Statement shall be submitted to: Mr. Alberto Delgado, Sr. Project Manager, Facilities Planning and Construction, Florida International University, University Park, CSC 236, Miami, Florida 33199.

Submittals must be received no later than 2:00 p.m. (Local Time), Friday, December 27, 2002. Facsimile (FAX) or electronic document submittals are not acceptable and will not be considered.

CONSTRUCTION MANAGEMENT SERVICES

PROJECT NUMBER: FSDB 20030002

PROJECT NAME: Walker Hall Renovation

PROJECT LOCATION: The Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

The Florida School for the Deaf and the Blind (FSDB) requests qualifications from construction management firms to provide Construction Management at Risk Services for the renovation of a two-story, 38,895 SF masonry academic building. This facility is to be renovated during the School's 2003 three month summer break period. The construction budget for this project is \$3,250,000.

Applicant must be a licensed general contractor in the State of Florida at the time of application. Further, if a corporation, the applicant must be registered by the Department of State, Division of Corporations, to operate in the State of Florida at the time of application.

The selection will be made in accordance with Section 255.29(3), F.S. and the procedures and criteria established by the Division of Building Construction.

Firms interested in being considered for this project must submit four (4) copies of their application with a table of contents and tabbed sections in the following order:

1. A letter of interest detailing the firm's qualifications to meet the above referenced selection criteria.
2. A current Experience Questionnaire and Contractor's Financial Statement, form DBC5085.
3. Resumes of proposed staff and staff organization.
4. Any examples of project reporting manuals, schedules, past experience and examples of similar projects completed by the firm.
5. A description of the applicant's plan for Minority Business Enterprise and Women-Owned Business Enterprise.
6. References from prior clients received within the last five years.

Submit four (4) copies of application to the: The Florida School for the Deaf and the Blind, Attn. Wally Dennis, Project Manager, Facilities Department, 207 North San Marco Avenue, Building 27, St. Augustine, FL 32084-2799.

For further information, contact: Wally Dennis, Project Manager, (904)827-2363.

Response Due Date: December 23, 2002, no later than 3:00 p.m.

Firms will be short-listed on December 30, 2002. Following the short-list selection, a Pre-interview workshop will be held on January 14, 2003, 9:00 a.m., for all short-listed firms. Interviews will be conducted on January 28, 2003. A final selection will be made after the interviews have taken place.

The results of the short-list and final selection will be posted at FSDB, 207 N. San Marco Ave., Building 27, St. Augustine, FL and can be viewed during regular working days between the

hours of 7:00 a.m. through 4:00 p.m. beginning 24 hours after each selection. Any protest of the selections must be made within 72 hours of the postings. Failure to file a protest within 72 hours (not including Saturday, Sunday or a legal holiday) after posting shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. Final selection results will also be posted in the Florida Administrative Weekly.

INVITATION TO NEGOTIATE

Construction and Operation of Participant Housing Facility at the Pat Thomas Law Enforcement Academy

The purpose of this Invitation to Negotiate (“ITN”) is to seek replies for financing, construction and operation assistance for a participant housing facility at the Pat Thomas Law Enforcement Academy. The ITN will be available at:

Public Safety Academy Housing, Inc.
 c/o Tallahassee Community College
 Office of the Purchasing Manager
 Administration Building, Room 113
 444 Appleyard Drive
 Tallahassee, Florida 32304-2895

Interested persons may also obtain a copy of the ITN by calling (850)201-8520.

Please direct all questions to:

Charles R. Riley
 Phone: (850)201-8520
 Fax: (850)201-8506
 Email: rileyc@tcc.fl.edu

A non-mandatory pre-reply conference will be held at 2:00 p.m., Tuesday, November 26, 2002, at the Pat Thomas Law Enforcement Academy which is located on Highway 90, West between Quincy and Tallahassee. The pre-reply conference will include a property tour.

Sealed replies will be received at the office of the Purchasing Manager, Room 113, Administration Bldg., 444 Appleyard Dr., Tallahassee, FL. until 3:00 p.m., EST, Wednesday, January 8, 2003. Replies received after this time will not be considered. The sealed replies will be publicly opened at 3:01 p.m., Wednesday, January 8, 2003, Room 115, Administration Bldg., 444 Appleyard Dr., Tallahassee, FL.

Public Safety Academy Housing, Inc. reserves the right to reject any and all replies or waive minor irregularities in the best interest of Public Safety Academy Housing, Inc.

Minority Business Enterprises are encouraged to participate in the ITN process.

Any person with a qualified disability requiring special accommodations at the pre-reply conference and/or reply opening shall contact the Purchasing Manager at the phone number above at least five (5) working days prior to the event.

If you are hearing or speech impaired, please contact this office by using the Florida Relay Services which can be reached at 1(800)955-8771 (TDD).

REGIONAL PLANNING COUNCILS

REQUEST FOR LETTERS OF INTEREST

The South Florida Regional Planning Council (SFRPC) requests Letters of Interests from professional Education Management firms with experience in managing private schools from grades pre-kindergarten to eighth grade. Services will include the daily operations and financial oversight of the school, which is located in Homestead, Florida.

SOLICITATION NUMBER: RLF-1202
SOLICITATION NAME: South Florida Regional Planning Council Revolving Loan Program
DEADLINE FOR SUBMISSION: Letter of Interest must be received by mail or facsimile no later than 3:00 p.m. Eastern Time, December 9, 2002

Interested firms, individually or in partnership, are requested to indicate their interest in this project by submitting their Letter of Interest with the following information:

1. Statement of Qualifications and Experience.
2. Cost of Services.
3. Resumes of proposed staff and organizational chart.
4. Examples of similar projects completed by the firm.
5. References from prior clients received within the last three years.

Please provide this information in a sealed package marked “Letter of Interest-SFRPC-RLF”, addressed to South Florida Regional Planning Council, 3440 Hollywood Boulevard, Suite 140, Hollywood, Florida 33021. Fax (954)985-4417, e-mail address: cherylc@sfrpc.com.

Interested firms may contact: Cheryl Cook, Economic Development Specialist, (954)985-4416, to obtain a description and details of this project.

The SFRPC reserves the right to reject any and all Letters of Interest, to waive any and all information or irregularities, and to accept or reject all or any part of the Letters of Interest as they may deem to be in the best interest of the citizens of the South Florida region and as they may affect this project.

EXPRESSWAY AUTHORITIES**NOTICE TO PROJECT DEVELOPMENT &
ENVIRONMENTAL (PD&E) FIRMS
REQUEST FOR STATEMENT OF QUALIFICATIONS
(RSOQ) – MDX PROJECT NO. CPK-001**

The Miami-Dade Expressway Authority (MDX) is seeking the services of a qualified firm (the "Firm") to perform a State Environmental Impact Report (SEIR) in accordance with the Florida Department of Transportation's Project Development and Environment (PD&E) Manual for a new 8-mile limited access roadway facility that would connect SR 836 (East-West Expressway), SR 112 (Airport Expressway) and SR 924 (Gratigny Parkway) in North-Central Miami Dade County, Florida (the "Project"). MDX, in its Work Program, has named the proposed roadway facility the Central Parkway.

FEDERAL AND STATE DEBARMENT: By signing and submitting a Statement of Qualifications (SOQ), the Firm certifies that no principal (which includes shareholders, partners, officers, directors, or executives) is presently suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal, state or local department or agency.

SYSTEM: The Miami-Dade Expressway System is comprised of State Road (SR) 112, SR 836, SR 874, SR 878 and SR 924.

DESCRIPTION OF WORK: The selected Firm will be required to provide services to develop and complete a State Environmental Impact Report (SEIR) for a new 8-mile limited access roadway facility that would connect SR 836 (East-West Expressway), SR 112 (Airport Expressway) and SR 924 (Gratigny Parkway) in North-Central Miami-Dade County, Florida. The Project will be financed through non-federal funding sources. Therefore, the Firm shall be required to develop and complete the SEIR, pursuant to the Florida Department of Transportation's Project Development and Environment (PD&E) Manual. MDX has developed a Project Concept Report for the Central Parkway and will be available on MDX's website after September 30, 2002, www.mdx-way.com.

SELECTION PROCEDURE: A minimum of three firms will be shortlisted using the Evaluation Criteria detailed below. The shortlisted Firms will be requested to provide a written Technical Proposal based on the information and criteria requirements contained in the Request for Proposals ("RFP") to be issued by MDX. Oral interviews with the shortlisted Firms will be required. **FIRMS THAT DO NOT PROVIDE THE INFORMATION AND/OR DOCUMENTATION NECESSARY TO ADDRESS THE PREREQUISITE CRITERIA DESCRIBED BELOW SHALL BE DEEMED NON-RESPONSIVE.**

RESPONSE PROCEDURE: Qualified firms are encouraged to submit an SOQ package to MDX. One (1) original (unbound) SOQ, and nine (9) copies (ten (10) in total), **MUST** be received by the Miami-Dade Expressway Authority, 3790 N. W. 21st

Street, Miami, Florida 33142, Attn: Ms. Helen M. Cordero, MDX Procurement Officer, by, Monday, December 16, 2002 by 12:00 Noon, Eastern Time (the "Deadline Date"). SOQs submitted past the Deadline Date and time will be deemed non-responsive.

After reviewing the documentation submitted, evaluating the SOQs using the Evaluation Criteria shown herein, and ranking the Firms, MDX will notify all Firms in writing if they have been shortlisted, and will distribute one (1) copy of the RFP package to each shortlisted Firm.

The deadline to submit questions in reference to this Request for Statements of Qualifications (RSOQ) is Friday, November 22, 2002, by 5:00 p.m. Questions should be submitted in compliance with the Communication Provision below. The responses to questions received will be posted on MDX's website www.mdx-way.com as an extension of this advertisement, or may be obtained by contacting MDX's Procurement Officer pursuant to the Communication Provision below. It is the Firm's responsibility to check the website or with MDX's Procurement Officer for these responses.

RESPONSIVENESS OF SOQ'S AND CONDITIONS CAUSING DISQUALIFICATIONS OF FIRMS: A responsive SOQ is one that conforms, in all material respects, to the requirements and instructions of the RSOQ.

SOQs will be rejected if found to be irregular, conditional or not in conformance with the requirements and instructions contained herein.

An SOQ will be found to be irregular or non-responsive for reasons including, but not limited to, violation of the Cone of Silence (as defined below), failure to strictly comply with and satisfactorily address the Prerequisite Criteria, failure to submit the information needed to evaluate the SOQ based on the Evaluation Criteria, incomplete SOQs, failure to provide or complete required forms, improper signatures, submittal of more than one SOQ by the same Firm, evidence of collusion among Firms or evidence that a Firm has a financial interest in another Firm submitting an SOQ for this engagement.

SOQs will be rejected if more than one SOQ is received from an individual, firm, partnership, or corporation, or combination thereof (furnished as the prime proposer), under the same or different names. Such duplicate interest will cause the rejection of all SOQs in which such Firm has participated. A Firm or any of the entities comprising the Firm shall not appear as a Proposer in any other SOQ for the Projects.

MDX, at its sole and absolute discretion, reserves the right to reject any and all SOQs or part of any and all SOQs, re-advertise the RSOQ, postpone or cancel, at any time, this procurement process for the Project, waive irregularities in the SOQs or to withdraw the RSOQ, if it is in the best interest of MDX. All expenses involved with the preparation and submission of an SOQ to MDX, or any work performed in connection therewith, shall be solely the Firm's responsibility.

SUBMITTAL OF STATEMENT OF QUALIFICATIONS: The SOQ shall be in writing, submitted on the Firm's letterhead. The SOQ must not exceed twenty (20) pages. Resumes, MDX forms, and certificates/licenses are not included in the 20-page limit. The SOQ MUST include at a minimum, the documentation and/or information required in the Prerequisite Criteria and Evaluation Criteria.

PREREQUISITE CRITERIA: SOQs will not be considered from Firms that do not satisfy, at a minimum, the following Prerequisite Criteria. All requested documentation and/or information must be provided in the SOQ to confirm that the Firm has satisfied all Prerequisite Criteria.

1. Firm shall have a minimum of five (5) years specific experience in providing Project Development & Environment (PD&E) services as described herein.
2. As required by Section 287.133, Florida Statutes, a firm may not submit a proposal for the Project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. At a minimum, an affirmative statement shall be made by the Firm confirming that it is not on such list.
3. Firm must have a full service operational office located in Miami-Dade, Broward or Palm Beach County. Information must also be provided as to the location of the Firm's office(s) in any of these counties. If the Firm does not have an office in any of these counties, an affirmative statement shall be made by the Firm confirming that, if selected, it will establish such an office in one of these counties.
4. Firms must submit documentation acceptable to MDX (including FDOT "L. Odom" letters) that the Firm is pre-qualified under Rule 14-75 of the Florida Administrative Code in the following types of work: Group 2, Project Development and Environmental (PD&E) Studies; Group 3.3, Complex Highway Design; Group 4.2 Major Bridge Design; Group 6.1 Traffic Engineering Studies; Group 6.3, Intelligent Transportation Systems Analysis, Design and Implementation; Group 8.1, Control Surveying Group 9.1, Soil Exploration. The Firm shall be pre-qualified in all Groups at time of submission of SOQ. If the Firm shall subcontract for some of the types of work, the Firm shall identify those types of work that will be subcontracted and provide acceptable documentation that the subcontractor(s) are pre-qualified.
5. Certificates of Good Standing evidencing that the Firm is qualified to do business in the State of Florida. Certificates must be current to be deemed acceptable by MDX.
6. Execution of a Commitment Letter (a copy of this form may be obtained from MDX's website) stating that the Firm shall satisfy the 10% Small Business Participation Goal for the Project, in compliance with MDX's Small Business Participation Policy (a copy of this Policy may be obtained

from MDX's website). Further documentation addressing this requirement shall be required of the shortlisted Firms, pursuant to requirements in the RFP.

REQUIRED INFORMATION: The SOQ shall contain the following Required Information:

1. Project Name and number.
2. Firm's name and address.
3. Name of contact person, phone number, fax number and Internet e-mail address. Please only identify one contact person per Firm. MDX will only send communications to the identified contact person. It is the Firm's responsibility to keep all members of its team informed.
4. An executed Vendor's Certificate (a copy of this form may be obtained from MDX's website).

EVALUATION CRITERIA: The SOQ will be reviewed, evaluated and ranked by the MDX Technical Evaluation Committee using the following Evaluation Criteria:

- Qualifications and experience of the Firm as it relates to the required services. Depth and breadth of the Firm's experience as a whole in the performance of similar engagements. A total of 45 points.
- Proposed key personnel of the Firm, their qualifications, experience and their roles in similar projects (including resumes). A total of 30 points.
- An estimate of the Firm's current workload and available resources. The Firm should specifically address this criterion with respect to the proposed key personnel for this engagement. A total of 20 points.
- A list of similar engagements, in particular, representation of governmental entities, completed NOT EARLIER THAN January 1, 1997, with references and phone numbers, including a general description of the role of the Firm and the services provided. A total of 5 points.

COMMUNICATION: Communications between any respondent and any MDX Board member, MDX consultants and/or staff is strictly prohibited from the date of publication of the RSOQ through the date of final MDX action with respect to the selection of the successful Firm for this engagement (this communication prohibition is also referred to herein as the Cone of Silence). The only exceptions to this are communications at a pre-proposal conference, oral interview, or a publicly noticed meeting of MDX and/or its Operations Committee, and written communications regarding questions about the RSOQ. Such written communication should be directed to: Helen M. Cordero, MDX Procurement Officer, via e-mail: hcordero@mdx-way.com or facsimile (305)637-3298. Any violation of the requirements set forth in this paragraph shall constitute grounds for immediate and permanent disqualification of the offending respondent.

PROTEST RIGHTS:

1. Any Firm must file a written protest with the Secretary of the MDX Board after the MDX Operations Committee's decision on the shortlist for the Project, if the protest is directed towards any part of the procurement process that has occurred as of the time of that decision.

It is intended that this provision be utilized to address any issues concerning the manner or process by which Firms are identified as qualified to receive the Request for Proposal for the Project. Should issues arise after the time period for filing a protest has passed pursuant to this provision, which issues are determined by MDX to be covered by this provision, the protesting party shall be deemed to have waived any right to protest same.

2. A protest bond in the amount of \$20,000.00 will be required for any protest.
3. After the MDX Operations Committee renders its decision regarding the firms to be shortlisted, a copy of the final shortlist of firms invited to submit proposals in response to the Request for Proposals ("Final Shortlist") shall be sent to all firms who submitted a Statement of Qualifications for the Project by MDX's Chief Purchasing Officer or his designee. To be considered, a protest must be in writing and filed with the Secretary of the MDX Board within seventy-two (72) hours, excluding Saturdays, Sunday and legal holidays, after receipt of the Final Shortlist.
4. Within five (5) calendar days from the date of filing of the protest, the protesting party shall provide MDX with the grounds for its protest.
5. Upon receipt of a timely filed written protest, MDX and the protesting party shall attempt to resolve the protest by mutual agreement within ten (10) business days from the date of filing of the protest.
6. If the protest is not resolved by mutual agreement within ten (10) business days from the date of filing, MDX and the protesting party shall select a mutually agreed-upon mediator and participate in mediation within thirty (30) calendar days after the failure to reach a mutual agreement. All costs of mediation shall be borne by the protesting party, unless otherwise agreed upon by MDX. No court proceedings regarding any protest may be filed until the parties have first participated in mediation.
7. In the event mediation is unsuccessful, the party filing a protest pursuant to this provision shall file and serve the requisite legal action within fifteen (15) calendar days of the date of mediation.
8. In the event that a party serving a protest in accordance with this provision fails to: (1) resolve the protest by mutual agreement within ten (10) business days from the date of filing of the protest; (2) work with MDX to select an agreed-upon mediator and participate in mediation within thirty (30) calendar days after the failure to reach a mutual agreement; or (3) file and serve the requisite legal

proceeding within fifteen (15) calendar days after the termination of an unsuccessful mediation, the protest shall be deemed withdrawn and have no further force and effect. Any waiver of this provision must be in writing and signed by MDX's Executive Director.

9. Failure to file a protest in accordance with the requirements set forth herein with respect to any decisions made prior to the issuance of the Final Shortlist in accordance with this provision shall constitute a waiver of any right to initiate any protest proceedings regarding those decisions.

EQUAL EMPLOYMENT OPPORTUNITIES AND SMALL BUSINESS ENTERPRISES PROGRAM: MDX, in accordance with the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §200c et seq., the Florida Civil Rights Act of 1992, as amended, §760.10 et. seq., Fla. Stat. (1996) and other federal and state discrimination statutes, prohibits discrimination on the basis of race, color, sex, age, national origin, religion and disability or handicap. MDX notifies all bidders and individuals that it requires and encourages equal employment opportunities for minorities and women as employees in the work force.

MDX strongly encourages small, minority and women-owned business to have full opportunity to submit bids and proposals in response to solicitation documents issued by MDX, and commits that bidders and proposers will not be discriminated against on the basis of sex, race, color, national origin, religion or disability, or other protected status. The overall goal of MDX is to obtain an M/WBE participation of twenty-five percent (25%) for the aggregate of its projects. However, compliance with MDX's overall goal is not a pre-requisite for bidders or proposers on MDX projects. Please be advised that MDX has adopted a Small Business Enterprise Policy, and a 10% Small Business Goal shall be required for the Project (see Prerequisite Criteria above.)

MDX RESERVES THE RIGHT TO REJECT ANY OR ALL STATEMENTS OF QUALIFICATIONS RECEIVED.

DEPARTMENT OF MANAGEMENT SERVICES
NOTICE REGARDING ELECTRONIC POSTING

Pursuant to Section 287.042(3)(b)2., Florida Statutes, the Department of Management Services hereby provides notice of the following URL for the centralized website that will be used for electronically posting solicitations, decisions or intended decisions, and other matters relating to procurement: http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu.

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY
REQUEST FOR PROPOSALS

Statement of Work: The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) is requested proposals for two separate Best

Financial Management Practices Reviews to be conducted as described in the Sharpening the Pencil Act (Chapter 2001-86, Laws of Florida) passed by the 2001 Florida Legislature. These two reviews will occur during the same time period in the Collier County School District and the Volusia County School District. Interested private firms may submit proposals to conduct one or both reviews, but a separate proposal must be submitted for each school district.

The purpose of Best Financial Management Practices Reviews is to improve Florida school district management and use of resources and to identify cost savings. Each review must: 1) determine whether the district is using the best practices adopted by the Florida Commissioner of Education; 2) identify opportunities for the district to save funds, improve management, and increase efficiency and effectiveness; and, 3) develop recommendations and detailed action plans to improve district operations within two years.

PROPOSALS: Proposals for each review must be submitted in accordance with the content set forth in the "Request for Proposals for a Best Financial Management Practices Review of the Collier County School District," and the "Request for Proposals for a Best Financial Management Practices Review of the Volusia County School District," dated November 22, 2002. Copies of these documents are available from the contact person.

Firms that have already registered with OPPAGA to receive the RFPs for each Best Financial Management Practices Review will receive the document without an additional request. Firms that have not registered with OPPAGA may do so on-line at the following Internet address: http://www.oppaga.state.fl.us/school_districts/contractorlist.html.

CONTACT PERSON: Ms. Melissa Crawford, Office of Program Policy Analysis and Government Accountability, 111 West Madison Street, Suite 312, Tallahassee, Florida 32399-1475, (850)488-0021.

DATES: For each school district review, all interested consultants are required to submit a mandatory but non-binding letter of intent to propose, which must be received by OPPAGA no later than 3:30 p.m. (Eastern Time), December 9, 2002. OPPAGA will have further communications after that date on each project only with those persons who indicate their initial intent to submit a proposal. The closing date and time to receive proposals is 3:30 p.m. (Eastern Time), January 6, 2003. The contact person must receive the written proposal prior to the closing date and time. Proposals that for any reason are not so received will not be considered. OPPAGA reserves the right to reject any and all proposals. Unless all proposals are requested, it is anticipated the contract will be awarded in January 2003.

SARASOTA MEMORIAL HEALTH CARE SYSTEM

REQUEST FOR QUALIFICATIONS FOR GENERAL CONTRACTING WORK FOR A NEW CAFÉ/RESTAURANT FOR THE SARASOTA COUNTY PUBLIC HOSPITAL BOARD SARASOTA MEMORIAL HOSPITAL

The Sarasota County Public Hospital, Board of Sarasota County, Florida, is accepting bids from General Contractors firms for construction of an on-site Café/Restaurant that will serve the Visitors and Staff. Work includes a 1600 square foot addition to the hospital's East Tower Building as well as renovation of 2345 square feet of existing space on the First Floor. The scope also involves 579 square feet of mechanical space on the Second Floor.

The scope of work may include Pre-Construction phase services such as cost estimating, value engineering, critical path method scheduling, constructability reviews and cost control, in addition to construction phase services. Firms interested in being considered as candidates are required to submit five bound submittals of qualifications that include at least the following data, to be organized in the following order:

1. A copy of Florida Professional and Corporate Registration certificates.
2. Completed AIA Document A305 Contractor's Qualification Statement 1986 Edition.
3. Proof of General and Professional Liability Insurability.
4. A separate statement as to whether the firm is a certified small/or Minority Business Enterprise as defined by the Florida Small Business Assistance Act of 1985.
5. A list of at least five client references consisting of name title, address, telephone number and project name(s) for each reference of projects.
6. A list of ten (10) examples of completed Agency for Healthcare Administration related Hospital Projects.
7. Resumes of key personnel that would be used on the project and their past experience in projects of similar size and scope.
8. Any additional information to be included at the discretion of the submitting firm.

COMMENTS:

1. No less than three (3) firms will be short-listed from those submitting statements of qualifications. These candidates may be asked to make presentations to the selection committee.
2. The basis for selecting short-list candidates includes, but is not limited to, consideration of related project experience and qualifications of proposed team members and prior AHCA experience.
3. Five copies of the submittals are due no later than 3:00 p.m., Thursday, December 12, 2002. Submit proposals to: Mr. William A. Shevlin, Manager of Construction,

Facilities/Ambulatory Development, Sarasota Memorial Hospital, 1700 South Tamiami Trail, Sarasota, Florida 34239.

Proposals received after this deadline will be returned unopened. Interested parties should contact Bill Shevlin, Construction Manager, (941)917-1899 with questions.

4. Information packets are available free of charge for pick-up. Information packets are available from the Construction Department, (941)917-1804.

Section XII Miscellaneous

DEPARTMENT OF BANKING AND FINANCE

NOTICE OF FILINGS

Notice is hereby given that the Department of Banking and Finance, Division of Banking, has received the following application. Comments may be submitted to the Director, Division of Banking, 101 East Gaines Street, Suite 636, Fletcher Building, Tallahassee, Florida 32399-0350, for inclusion in the official record without requesting a hearing; however, any person may request a public hearing by filing a petition with the Clerk, Legal Division, Department of Banking and Finance, 101 East Gaines Street, Suite 526, Fletcher Building, Tallahassee, Florida 32399-0350, pursuant to provisions specified in Rule 3C-105.100, Florida Administrative Code. Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., December 13, 2002):

APPLICATION TO ACQUIRE CONTROL

Financial Institution to be Acquired: Schroder & Co. Trust Bank, 200 S. Biscayne Boulevard, Suite 2650, Miami, Florida 33131-2371

Proposed Purchaser: Bank Audi (USA), 19 East 54th Street, New York, New York 10022

Received: November 8, 2002

The Department of Banking and Finance has received a request by a credit union to expand its field of membership. Specific information regarding the expansion can be found at <http://www.dbf.state.fl.us/banking.html>.

Name and Address of Applicant: OMNI Community Credit Union, Post Office Box 23045, Jacksonville, Florida 32241

Expansion Includes: Geographical area located in Duval and Clay Counties.

Received: November 6, 2002

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE OF APPROVAL FOR FLORIDA FOREVER FUNDS

The Florida Communities Trust (Trust) reviewed and approved project plans for land acquisition projects submitted under the Trust Florida Forever Program, Series FF1 funding cycle. The project plans listed below were approved by the Executive Director under authority delegated from the governing body. The Executive Director is authorized to execute the agreements for acquisition of the project sites and all other documents necessary to close the project and that funds be released as follows:

Project: 01-013-FF1/Palm Coast Greenways

Grantee: City of Palm Coast

Amount of Approved Funds: the lesser of 60.00% of the final total project costs or \$4,992,608.34

Project: 01-023-FF1/Westmoreland River Park

Grantee: St. Lucie County and the City of Port St. Lucie

Amount of Approved Funds: the lesser of 75.00% of the final total project costs or \$2,055,825.00

Project: 01-031-FF1/Caloosahatchee Creeks Preserve

Grantee: Lee County

Amount of Approved Funds: the lesser of 50.00% of the final total project costs or \$3,243,132.50

Project: 01-071-FF1/Doris Leeper Spruce Creek Preserve

Grantee: Volusia County

Amount of Approved Funds: the lesser of 50.00% of the final total project costs or \$825,550.00

Project: 01-081-FF1/The Bonair Beach (Gomez Tract)

Grantee: Town of Jupiter Island

Amount of Approved Funds: the lesser of 50.00% of the final total project costs or \$4,000,000.00

Project: 01-153-FF1/Coral Bean Addition Under the Oaks Park

Grantee: City of Parker

Amount of Approved Funds: the lesser of 100.00% of the final total project costs or \$1,213,275.00

NOTICE OF ADMINISTRATIVE HEARING RIGHTS

Any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust has a right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if the person does not dispute issues of material fact raised by this decision. If an informal proceeding is held, the petitioner will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Trust action, or to present a written statement challenging the legal grounds upon which the Trust is justifying its actions.

Alternatively, any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust has a right to a formal administrative hearing

pursuant to Section 120.57(1), F.S., if the person disputes any issues of material fact stated in this decision. At a formal hearing the petitioner may be represented by counsel, and will have the opportunity to present evidence and argument on all the issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

If a person with a substantial interest desires either an informal proceeding or a formal hearing, the person must file with the Trust Clerk a written response or pleading entitled "Petition for Administrative Proceedings" within 21 calendar days of the publication date of this notice of final agency action. The petition must be in the form required by Rule 18-106.201, F.A.C. A petition is filed when it is received by the Trust Clerk, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100. A petition must specifically request an informal proceeding or a formal hearing, it must admit or deny each material fact contained in this decision, and it must state any defenses upon which the petitioner relies. If the petitioner lacks knowledge of a particular allegation of fact, it must so state and that statement will operate as a denial.

Any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust waives the right to an informal proceeding or a formal hearing if a Petition for Administrative Proceeding is not filed with the Trust Clerk within 21 days of the date of publication of the notice of final agency action.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Notice of Publication for the Relocation of a Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Saab Cars USA, Inc., intends to allow the relocation of Kirland Motors, Inc. d/b/a Autohaus Saab of Pompano, as a dealership for the sale of Saab motor vehicles, from its present location at 500 N. Federal Highway, Pompano Beach, FL 33062, to a proposed location at 300 W. Copans Road, Pompano Beach (Broward County), Florida 33064, on or after November 13, 2002.

The name and address of the dealer operator(s) and principal investor(s) of Kirland Motors, Inc. d/b/a Autohaus Saab of Pompano are dealer operator(s): Robert A. Kirland, 2350 N. W. 41st Street, Boca Raton, FL 33431; principal investor(s): Robert A. Kirland and Rowena J. Kirland, 2350 Northwest 41st Street, Boca Raton, FL 33431.

The notice indicates intent to relocate the franchise in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, as amended by Chapter 88-395, Laws of Florida, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Brenda Martin, Market Representation Coordinator, Saab Cars USA, Inc., 4405-A International Blvd., Norcross, GA 30093.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the relocation of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, Volkswagen of America, Inc., intends to allow the establishment of S. Woods Enterprises, Inc., as a dealership for the sales and service of Volkswagen motor vehicles, at 9815 Curie Davis Drive, Tampa (Hillsborough County), Florida 33619, on or after December 30, 2002.

The name and address of the dealer operator(s) and principal investor(s) of S. Woods Enterprises, Inc. are dealer operator(s) and principal investor(s): Sandford L. Woods, 15303 Burlsey Court, Tampa, FL 33647.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: James G. Wolter, Regional Team Leader, Volkswagen of America, Inc., 1200 N. Federal Highway, Suite 209, Boca Raton, FL 33432.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE OF LITIGATION

The Agency for Health Care Administration has received the following petitions for administrative hearings as of the close of business on November 12, 2002, concerning certificate of need decisions. A brief description of these projects is listed below. Resolution of these requests for hearings by way of a grant or denial of their certificate of need at issue will determine substantial interest of person. Those persons whose substantial interest may be determined by these proceedings including settlements, grants and denials are advised to govern themselves accordingly and may wish to exercise rights including intervention. See Chapter 120, F.S., as well as Section 28-5.111 and 28-5.207, F.A.C. In deference to rights of substantially affected person, AHCA will not settle or otherwise reach a final resolution of these matters for a period of 30 days from the date of the publication.

CON#	INITIAL DECISION, PROJECT, CTY, APPLICANT, PARTY REQUEST HEARING (PRH)
9583	Supports denial, establish an adult open heart surgery program, Palm Beach County, Bethesda Healthcare System, Inc., (PRH) Indian River Memorial Hospital, Inc. d/b/a Indian River Memorial Hospital
9584	Supports Approval, establish an adult open heart surgery program, Indian River County, Indian River Memorial Hospital, (PRH) same as applicant
9584	Supports Approval, establish an adult open heart surgery program, Indian River County, Indian River Memorial Hospital, (PRH) same as applicant
9584	Supports Approval, establish an adult open heart surgery program, Indian River County, Indian River Memorial Hospital, (PRH) same as applicant

9585	Supports denial, establish an adult open heart surgery program, Martin County, Martin Memorial Medical Center, Inc., (PRH) Indian River Memorial Hospital, Inc. d/b/a Indian River Memorial Hospital
9586	Supports denial, establish an adult open heart surgery program, Palm Beach County, Boca Raton Community Hospital, Inc., (PRH) Indian River Memorial Hospital, Inc. d/b/a Indian River Memorial Hospital
9593	Denial, develop Jackson Memorial Hospital Liver Transplant Program at Broward General Medical Center, Planning Area 4, Public Health Trust d/b/a Jackson Memorial Hospital and North Broward Hospital District d/b/a Broward General Medical Center, (PRH) same as applicant

The Florida Agency for Health Care Administration (the Agency), Bureau of Medicaid Program Analysis provides the following public notice regarding reimbursement for nursing home facilities participating in the Florida Medicaid Program.

PURPOSE: To comply with federal public notice requirements in Section 1902(a)(13)(A) of the Social Security Act in changing reimbursement for nursing home facilities, the Agency is publishing the proposed rates, the methodologies underlying the establishment of such rates, and justifications for the proposed rates. The Agency is in the process of amending its Title XIX Long-Term Care Reimbursement Plan (The Plan) to incorporate changes to the reimbursement methodology.

PROPOSED RATES: Effective January 1, 2003, the proposed rates for Medicaid nursing home reimbursement will be rates resulting from the current methodology used to calculate per diems rates in the Long-Term care Reimbursement Plan except for the following:

The agency is amending the Long-Term Care Reimbursement Plan to provide for an increase in the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing increase to 2.6 hours of direct care per resident per day beginning January 1, 2003.

METHODOLOGIES: The methodology underlying the establishment of the proposed rates for Medicaid nursing facilities will be rates resulting from the current methodology used to calculate per diems in the Long-Term Care Reimbursement Plan. The agency is amending the Long-Term Care Reimbursement Plan to provide for an increase in the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing of 2.6 hours of direct care per resident per day beginning January 1, 2003.

JUSTIFICATION: The justification for the proposed rate change is based on the legislative direction provided in Senate Bill 1202, 2001-02 Florida Legislature.

The Agency is proposing the above rates and changes in methodology, effective January 1, 2003. Providers, beneficiaries and their representatives, and other concerned state residents may provide written comment on the proposed rates, methodologies and justification underlying the establishment of such rates. Written comments may be submitted to: James Estes, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 21, Tallahassee, Florida 32308. Written comments should be submitted no later than December 6, 2002.

Copies of the proposed reimbursement plan incorporating the above changes are not available at this time. Please contact the person listed above for a copy of the Plan when available.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF PUBLIC MEETING

“Contaminated Soils Forum”

On December 17, 2002, the Contaminated Soils Forum will convene from 10:00 a.m. – 4:30 p.m., at the offices of the Department of Environmental Protection located at 3900 Commonwealth Boulevard (Douglas Building), Tallahassee,

Florida. The forum will discuss the ongoing rule development for Chapter 62-777, F.A.C. including an arsenic bio-availability adjustment factor.

The full text of this notice will be published on December 6, 2002, 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.”

FLORIDA CATEGORICAL EXCLUSION NOTIFICATION

The Florida Department of Environmental Protection has determined that the proposed project involving Phillippi Creek Septic System Replacement project will not adversely affect the environment.

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.”

For more information regarding the Categorical Exclusion Notification, please call Troy Mullis, (850)245-8358.

NOTICE OF FLORIDA COASTAL MANAGEMENT PROGRAM – ROUTINE PROGRAM CHANGE

A routine request to update the Approved Florida Coastal Program has been approved by the federal Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration. The Department of Environmental Protection has determined that the proposed program changes are a routine program change as defined by 15 CFR 923.84.

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 JUVENILE JUSTICE

The Florida Department of Juvenile Justice has posted the following policies for review and comment on MyFlorida.com at:

<http://www.djj.state.fl.us/reference/policiesandprocedures/policyreview.html>.

The department-wide policy (Type B) addresses the following issue: Protective Action Response – The second draft of the revised policy establishes a statewide framework to implement procedures governing the use of verbal and physical intervention techniques and mechanical restraints. This is the second of two - 20 working day review and comment periods.

The second department-wide policy (type A) addresses the following issue: Work-related Injuries/Workers' Compensation – revises existing policy as it relates to establishment of safety measures to assist in preventing accidents and to encourage medical treatment in the event that any employee does sustain a work-related injury. This policy is posted for a single 20 working day review and comment period.

Please submit comments to the contact persons identified on the above Website. The closure date for submission of comments on both policies is December 10, 2002. Responses

to comments received will be posted during the review period to the extent possible, but no later than 10 working days after the end of a review period on the above Website.

DEPARTMENT OF HEALTH

On November 5, 2002, John O. Agwunobi, M.D. Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Robert J. Angelilli, LPN license number PN 1337101. Robert J. Angelilli's last known address is 4940 Vortez Ave., New Port Richey, Florida 34652. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

Section XIII
Index to Rules Filed During Preceding Week

RULES FILED BETWEEN November 4, 2002
 and November 8, 2002

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

5C-26.001	11/7/02	11/27/02	28/33	28/40
5C-26.002	11/7/02	11/27/02	28/33	28/40
5C-26.003	11/7/02	11/27/02	28/33	28/40
5C-26.004	11/7/02	11/27/02	28/33	28/40
5C-26.005	11/7/02	11/27/02	28/33	28/40
5C-26.006	11/7/02	11/27/02	28/33	28/40
5C-26.007	11/7/02	11/27/02	28/33	28/40
5C-26.008	11/7/02	11/27/02	28/33	28/40
5C-26.009	11/7/02	11/27/02	28/33	28/40

DEPARTMENT OF EDUCATION

State Board of Education

6A-1.044	11/6/02	11/26/02	28/38	
6A-4.014	11/6/02	11/26/02	28/38	
6A-4.015	11/6/02	11/26/02	28/38	
6A-4.0171	11/6/02	11/26/02	28/38	
6A-4.0173	11/6/02	11/26/02	28/38	
6A-4.0174	11/6/02	11/26/02	28/38	
6A-4.0175	11/6/02	11/26/02	28/38	
6A-4.0177	11/6/02	11/26/02	28/38	

Florida State University

6C2-5.001	11/7/02	11/27/02	Newspaper	
6C2-5.087	11/7/02	11/27/02	Newspaper	

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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Florida A and M University

6C3-3.004	11/8/02	11/28/02	Newspaper	
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State Board of Nonpublic Career Education

6F-2.006	11/6/02	11/26/02	28/34	28/39
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DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

9J-11.001	11/4/02	11/24/02	28/30	
9J-11.004	11/4/02	11/24/02	28/30	
9J-11.006	11/4/02	11/24/02	28/30	28/39
9J-11.009	11/4/02	11/24/02	28/30	28/39
9J-11.010	11/4/02	11/24/02	28/30	
9J-11.011	11/4/02	11/24/02	28/30	
9J-11.012	11/4/02	11/24/02	28/30	
9J-11.0131	11/4/02	11/24/02	28/30	
9J-11.018	11/4/02	11/24/02	28/30	
9J-11.019	11/4/02	11/24/02	28/30	28/39
9J-11.020	11/4/02	11/24/02	28/30	
9J-11.022	11/4/02	11/24/02	28/30	

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

19B-4.001	11/7/02	11/27/02	28/39	
19B-4.003	11/7/02	11/27/02	28/39	
19B-4.005	11/7/02	11/27/02	28/39	
19B-5.004	11/7/02	11/27/02	28/39	
19B-6.001	11/7/02	11/27/02	28/39	
19B-7.001	11/7/02	11/27/02	28/39	
19B-16.001	11/7/02	11/27/02	28/39	
19B-16.002	11/7/02	11/27/02	28/40	
19B-16.003	11/7/02	11/27/02	28/40	
19B-16.004	11/7/02	11/27/02	28/40	
19B-16.005	11/7/02	11/27/02	28/39	
19B-16.008	11/7/02	11/27/02	28/40	
19B-16.010	11/7/02	11/27/02	28/39	
19B-16.012	11/7/02	11/27/02	28/39	

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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COMMISSION ON ETHICS

34-7.010	11/6/02	1/1/03	28/38	
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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

61G3-16.0010	11/7/02	11/27/02	28/40	
61G3-16.007	11/7/02	11/27/02	28/40	

Board of Employee Leasing Companies

61G7-10.0014	11/5/02	11/25/02	28/40	28/45
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Board of Funeral Directors and Embalmers

61G8-28.001	11/6/02	11/26/02	28/40	
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DEPARTMENT OF HEALTH

Board of Acupuncture

64B1-7.0015	11/4/02	11/24/02	28/13	28/39
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Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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Board of Massage

64B7-28.009	11/8/02	11/28/02	28/22	28/40
64B7-30.008	11/8/02	11/28/02	28/22	28/40

Board of Opticianry

64B12-9.0015	11/8/02	11/28/02	28/36	
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Division of Environmental Health and Statewide Program

64E-2.015	11/4/02	11/24/02	28/35	28/41
64E-2.016	11/4/02	11/24/02	28/35	28/41
64E-2.019	11/4/02	11/24/02	28/35	28/41
64E-2.020	11/4/02	11/24/02	28/35	28/41
64E-2.021	11/4/02	11/24/02	28/35	28/41
64E-2.037	11/4/02	11/24/02	28/35	28/41