

Spivey, Executive Director, Board of Building Code Administrators and Inspectors, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Building Code Administrators and Inspectors

RULE TITLE: Voluntary Certification Categories
 RULE NO.: 61G19-6.016
 PURPOSE AND EFFECT: The Board proposes to review the existing rule to determine if any amendments are necessary.
 SUBJECT AREA TO BE ADDRESSED: Voluntary Certification Categories.
 SPECIFIC AUTHORITY: 468.606, 468.609(10) FS.
 LAW IMPLEMENTED: 468.609(10) FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Anthony Spivey, Executive Director, Board of Building Code Administrators and Inspectors, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Remediable Tasks Delegable to Dental Assistants
 RULE NO.: 64B5-16.005
 PURPOSE AND EFFECT: The Board proposes to update the rule with an additional task that may be delegable to dental assistants.
 SUBJECT AREA TO BE ADDRESSED: The rule amendment would allow dental assistants to make study cast impressions for passive orthodontic retainers.
 SPECIFIC AUTHORITY: 466.004(4), 466.024(3) FS.
 LAW IMPLEMENTED: 466.024 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 FEBRUARY 1, 2003, IN TAMPA, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-16.005 Remediable Tasks Delegable to Dental Assistants.

(1) The following remediable tasks may be performed by a dental assistant who has received formal training and who performs the tasks under direct supervision:

(a) through (s) No change.

(t) Making impressions for study casts which are being made for the purpose of passive orthodontic retainers.

(2) through (5) No change.

Specific Authority 466.004(4), 466.024(3) FS. Law Implemented 466.024 FS. History—New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.005, Amended 3-30-94, Formerly 61F5-16.005, Amended 1-9-95, 9-27-95, 6-12-97, Formerly 59Q-16.005, Amended 1-8-01.

**Section II
 Proposed Rules**

DEPARTMENT OF REVENUE

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Agreements For Scheduling	
Payments of Liabilities	12-17
RULE TITLES:	RULE NOS.:
Scope of Rules	12-17.001
Definitions	12-17.002
Requirements for Considering Entering into	
Stipulated Time Payment Agreements	12-17.003
Delegation of Authority	12-17.004
Factors Considered by the Department	12-17.005
Procedures	12-17.006
Form and Execution of Stipulated	
Time Payment Agreements	12-17.007
Terms of Stipulated Time Payment Agreements	12-17.008
Termination of Agreements	12-17.009
Public Use Forms	12-17.010

PURPOSE AND EFFECT: The purpose of these proposed rule revisions is to update the Department's procedures to reflect recent changes, to clarify the procedures that govern the Department's decision to offer a taxpayer a time payment agreement, and to provide procedures a taxpayer can use to protest the voiding of a time payment agreement. The effect of these proposed rule changes is to ensure taxpayers are fully informed about the Department's time payment agreement procedures.

SUMMARY: A) The proposed amendment to Rule 12-17.001, F.A.C., clarifies that the procedures in the rule chapter implement the provision in the Taxpayer Bill of Rights that guarantees taxpayers the right to procedures that retire an unpaid tax liability through a time payment agreement. B) The proposed changes to Rule 12-17.002, F.A.C., define the terms "closing agreement" and "collection action," which are used in the rule chapter. C) The proposed revisions to Rule 12-17.003, F.A.C., explain that the Department of Revenue (DOR) will not enter into a stipulated time payment (stip) agreement: if the taxpayer owes any outstanding bad checks to DOR; or, if the amount to be covered by the stip agreement is less than the cost of administering the agreement. D) The proposed amendments to Rule 12-17.004, F.A.C., adjust the references to the positions within DOR that are authorized to negotiate and sign a stip agreement on behalf of the Department to reflect organizational changes that have recently occurred. E) The proposed changes to Rule 12-17.005, F.A.C., modify the factors DOR will use to determine if a taxpayer has an existing economic hardship that renders him or her unable to satisfy an unpaid liability with a lump-sum payment, including: whether the taxpayer has implemented business practices to properly collect and remit tax in the future; any recommendation for a stip agreement suggested by a DOR auditor, if the recommendation is based on the auditor's review of the taxpayer's records; or, any written information presented to DOR by the taxpayer. F) The proposed revisions to Rule 12-17.006, F.A.C., enumerate the items of information a taxpayer must provide to DOR (unless DOR already has such information), including: 1. social data; 2. taxpayer identification or account numbers; 3. specific data on outstanding tax returns (amount due, tax type, and tax periods involved); 4. an agreement that the taxpayer owes the outstanding liability to be covered by the stip agreement; 5. an explanation of why the taxpayer cannot pay the liability owed in a lump-sum payment; and, 6. a proposal for the retirement of the liability owed. In addition, these revisions explain to the taxpayer where to file such information and how the Office of Technical Assistance and Dispute Resolution will handle recommended stip agreements arising from a taxpayer protest. Also, these proposed changes authorize DOR to take one or both of the following actions after receiving the taxpayer's required information: issuance of a warrant for the amount of the total liability, based on specific criteria; or, investigation of the taxpayer's financial condition, if the information submitted requires confirmation by DOR.

These proposed amendments notify the taxpayer that the execution of a stip agreement does not prevent DOR from conducting an audit for the taxes and taxable periods covered by the agreement. G) The proposed changes to Rule 12-17.007, F.A.C., explain that a single form (the DR-68) will be used to document a stip agreement, specify the taxpayer social information that must be included on the form, and require that DOR provide a detailed amortization schedule and payment

coupons with every stip agreement that is executed. H) The proposed amendments to Rule 12-17.008, F.A.C., state that every stip agreement must contain the following information: 1. the number of payments to be made; 2. the payment frequency (weekly, monthly); 3. whether a down payment is required, and the down payment amount; 4. whether each payment will be an equal amount, or equal payments with a final, balloon payment; 5. how DOR will distribute each payment to retire tax, penalty, and interest; and, 6. how DOR will handle any unpaid balance at the end of the current stip agreement (will the taxpayer be offered another stip agreement, or will payment in full be due?). Also, these proposed revisions require that every stip agreement notify the taxpayer about the following provisions: interest on the unpaid balance continues to accrue during the stip agreement; DOR will file a lien for the stip agreement amount, unless the employee negotiating the agreement documents the reason(s) for not filing a lien. DOR will void the agreement if the taxpayer fails to comply with the stip agreement terms or fails to submit any other taxes and returns due under Florida's revenue laws; the statutory provisions concerning jeopardy assessments continue to apply; the taxpayer must present cash, a cashier's check, or a money order to DOR within seven days if a stip agreement payment is made with a bad check; and, the protest rights granted to the taxpayer if the stip agreement is voided by DOR. I) The proposed changes to Rule 12-17.009, F.A.C., state that DOR will void the stip agreement if the taxpayer fails to make full payment pursuant to the agreement or fails to remit taxes due after execution of the agreement. These proposed revisions also establish procedures a taxpayer may follow to protest DOR's intent to terminate a stip agreement and explain the methods DOR will use to collect the balance of the unpaid liability; and, J) Proposed new Rule 12-17.010, F.A.C., creates form DR-68 (Stipulated Payment Agreement), which combines previous forms DR-68, DR-68A, and DR-68C into one form. This rule also explains how taxpayers may obtain a copy of the form.

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

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

SPECIFIC AUTHORITY: 20.05(1)(e), 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 213.015(10), 213.21(4) FS.

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

TIME AND DATE: 9:00 a.m., February 4, 2003

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 hearing is asked to advise the Department at least 48 hours before the hearing by contacting Nancy Purvis, (850)488-0712. If you are hearing 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).

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12-17.001 Scope of Rules.

The rules set forth in this chapter shall be used by the Department in exercising the authority granted by Section 213.21(4), Florida Statutes, s. 213.21(4), F.S., to enter into agreements for scheduling payments of taxes, interest, and penalties. These rules also implement the Taxpayer Bill of Rights statutory provision that guarantees every Florida taxpayer the right to procedures for retiring unpaid tax liabilities through stipulated time payment agreements that are based on the taxpayer's financial position and the best interests of the state.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.015(10), 213.21(4) FS. History--New 10-4-89, Amended _____.

12-17.002 Definitions.

(1) "Department" means the Florida Department of Revenue.

(2) "Taxpayer" means any person, as defined in Section 1.01, Florida Statutes, required to remit tax, interest, or penalty to the Department under any of the tax laws enumerated in Section 72.011(1), Florida Statutes, s. 72.011(1), F.S.

(3) "Stipulated time payment agreement" means a written agreement entered into by the Department and a the taxpayer which schedules payments of a liability for tax, interest, or penalty over a specified period of time.

(4) "Closing agreement" means a written agreement entered into by the Department and a taxpayer pursuant to Rule 12-13.009, F.A.C.

(5) "Collection action" means the issuance of a delinquent notice or billing, a tax warrant, or any other attempt to obtain payment of an unpaid amount. The term "collection action" does not include an attempt by an auditor to collect an assessment arising from the performance of an audit by such auditor.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended _____.

12-17.003 Requirements for Considering Entering into Stipulated Time Payment Agreements.

(1) A taxpayer requesting a stipulated time payment agreement must first:

(a) Acknowledge the taxpayer's admit liability for the total amount of tax, interest, or and penalty finally determined to be due by the Department, and-

(b) Demonstrate

(2) The taxpayer must demonstrate to the satisfaction of the Department that he or she the taxpayer is currently unable to make a single lump sum payment to fully satisfy a liability for tax, interest, or penalty, or that a lump sum payment of the amounts due would impose an undue economic or financial hardship on the taxpayer, and-

(c) Pay all outstanding debts of tax, penalties, and interest not covered by the requested stipulated time payment agreement that are owed to the Department.

(2) Pursuant to Section 213.24, Florida Statutes, the Department will not agree to a stipulated time payment agreement if the amount due from the taxpayer is less than the costs the Department will incur to administer the taxpayer's stipulated time payment agreement.

(3) The taxpayer shall also waive the right to institute administrative or judicial proceedings under s. 72.011, F.S., with respect to the liability.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended 10-5-92, _____.

12-17.004 Delegation of Authority.

(1) In addition to the statutory authority granted by Section 213.21(4), Florida Statutes, s. 213.21(4), F.S., the Executive Director of the Department has authority to enter into agreements with taxpayers for scheduling payments of taxes, interest, and penalties under authority granted by the Governor and Cabinet as the head of the Department. Cross Reference: Rule 12-3.007, F.A.C.

(2) The Executive Director of the Department delegates authority to enter into stipulated time payment agreements under section 213.21(4), Florida Statutes, s. 213.21(4), F.S., to the Deputy Assistant Executive Director, the General Counsel, and the Deputy General Counsel, the Program Director and the Deputy Program Director of the General Tax Administration Program of the Department, and:

(a) In cases where a tax matter is in litigation or in protest pursuant to Rule Chapter 12-6, F.A.C., to:

1. The Assistant General Counsels, General Counsel of the Department;

2. The Director and Revenue Program Administrators in Technical Assistance and Dispute Resolution Deputy General Counsel of the Department;

3. The Process Manager, Regional Managers, Service Center Managers, and Revenue Program Administrators in the Compliance Enforcement, Compliance Support, and Taxpayer Services Processes, and any additional positions designated in writing by the Executive Director or his or her designee, Director and Assistant Director of the Division of Taxpayer Assistance;

4. ~~The Chief of the Bureau of Hearings and Appeals; and~~

5. ~~The Tax Audit Specialist Supervisors III in the Bureau of Hearings and Appeals.~~

(b) In cases involving amounts assessed pursuant to an audit of the taxpayer, to:

1. The Process Manager, Regional Managers, Service Center Managers, Revenue Program Administrators, Tax Audit Supervisors, Senior Revenue Administrators, Revenue Administrators, and Revenue Specialist Supervisors of the Compliance Enforcement Process, and any additional positions designated in writing by the Executive Director or his or her designee; Director and the Assistant Director of the Division of Audits;

2. The Process Manager, Revenue Program Administrators, Tax Specialist Administrators, Tax Law Specialists, Senior Management Analysts II, and Senior Tax Specialists in the Compliance Support Process, and any additional positions designated in writing by the Executive Director or his or her designee. Chief and the Assistant Chief of the Bureau of Central Audit and Selection;

3. ~~The Chiefs and the Assistant Chiefs of the Bureaus of In-State Audit and Multi-State Audit;~~

4. ~~Chief and the Assistant Chief of the Bureau of Audit Standards;~~

5. ~~The Administrator of the Receivables Section, Bureau of Collections;~~

6. ~~The Administrator of the Audit Assistance Section;~~

7. ~~The Tax Audit Specialist Supervisors in the Audit Assistance Section;~~

8. ~~The Tax Audit Specialists in the Audit Assistance Section; and~~

9. ~~The Senior Audit Supervisors in the Division of Audits.~~

(c) In cases involving a billing or assessment issued by the General Tax Administration Program, Division of Collection and Enforcement, to:

1. The Process Manager, Regional Managers, Service Center Managers, Revenue Program Administrators, Tax Audit Supervisors, Senior Revenue Administrators, Revenue Administrators, and Revenue Specialist Supervisors in the Compliance Enforcement Process, and any additional positions designated in writing by the Executive Director or his or her designee; Director and the Assistant Director of the Division of Collection and Enforcement;

2. The Process Manager, Revenue Program Administrators, Revenue Administrators, Revenue Specialist Supervisors, Revenue Specialist IIIs, and Tax Specialist Administrators in the Taxpayer Services Process, or any additional positions designated in writing by the Executive Director or his or her designee; Chief and the Deputy Bureau Chiefs of the Bureau of Collections;

3. ~~The Chief and the Deputy Bureau Chiefs of the Bureau of Enforcement;~~

4. ~~The Chief and the Assistant Chief of the Bureau of Field Services;~~

5. ~~All District Administrators;~~

6. ~~All Area Administrators;~~

7. ~~All Deputy Administrators;~~

8. ~~All Collection Consultants and Collection Supervisors of the Bureau of Field Services;~~

9. ~~The Section Administrators of the Bureau of Collections;~~

10. ~~The Section Administrator of the Special Programs Section and the Section Administrator of the Investigations Section; and~~

11. ~~All Special Programs Supervisors of the Bureau of Collection and Enforcement.~~

(d) The Executive Director ~~has~~ shall have discretionary authority to delegate authority to sign stipulated time payment agreements to specific employees or positions which are not enumerated in these rules. However, a delegation of authority to an employee or position beyond those described herein shall be in writing, signed by the Executive Director, and shall be for a specified time period. Such delegations may be renewed in writing. Copies of any such written delegations of authority shall be maintained on file with the agency clerk in the Office of General Counsel.

Specific Authority 20.05(1)(c)~~(5)~~, 213.06(1), 213.21(5) FS. Law Implemented 120.53(4)~~(b)~~; 213.21(4) FS. History—New 10-4-89, Amended 10-5-92, 8-17-94, _____.

12-17.005 Factors ~~Which May Be~~ Considered by the Department.

The ~~factors which~~ the Department will apply one or more of the following factors when consider in determining whether to enter into a stipulated time payment agreement and in determining the existence of undue economic or financial hardship or the ~~current~~ inability of a taxpayer to satisfy a liability for tax, interest, or penalty in a lump sum ~~are~~:

(1) ~~Taxpayer's current and anticipated financial position;~~

(2) ~~Insolvency of taxpayer;~~

(1)(3) ~~The taxpayer's~~ Taxpayer's previous payment record with the Department;

(2)(4) ~~The taxpayer's~~ ability to meet a payment schedule obligation based on projected cash flow;

(3) The payment amount and the length of time required to retire the liability;

(4) The future outlook of the taxpayer's business and the industry;

(5) The financial impact on the taxpayer if required to make a lump sum payment; Length of time required to retire the liability;

(6) Future outlook of the taxpayer's business and the industry involved;

(7) Effect on the taxpayer of making a current lump sum payment;

(6)(8) Whether the taxpayer collected, but did not remit the tax addressed by the agreement; and

(7) Whether the taxpayer institutes business practices to ensure the proper collection and remittance of tax in the future;

(8)(9) Whether the state would eventually receive more of the taxes due by entering into a stipulated time payment agreement than by requiring a current lump sum payment;

(9) Any recommendation submitted by a department auditor based on an examination of the taxpayer's records; and,

(10) Any additional written information the taxpayer presents for the Department's consideration.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended _____.

12-17.006 Procedures.

(1) In instances where the Department does not already have the following information and items, a taxpayer requesting applying for relief under this chapter shall provide file a written request containing the following such information and items to the Department:

(a) Taxpayer's name, address, federal employer employer's identification number or social security number, audit identification number, and all any account identification numbers number issued by the Department;

(b) Any outstanding tax returns identifying any tax due, by tax type, and the taxable period(s) that apply (any penalty and interest that is due will be computed at the time the agreement is completed) The amount of tax, penalty, and interest due, the type of tax, and the taxable period covered by the request;

(c) An acknowledgment of the An admission of liability for the total amount of tax, fees, collection costs, or other amounts assessed, and interest, and penalty determined to be due by either the Department Division of Audits, the Division of Taxpayer Assistance, or the Division of Collection and Enforcement, and an agreement to waive the right a waiver of the taxpayer's rights to institute administrative or judicial proceedings under Section 72.011, Florida Statutes, s. 72.011, F.S., with respect to the acknowledged liability;

(d) An oral or written explanation regarding the The factual basis for the undue hardship or current inability to satisfy the liability in a lump sum and documentary evidence to support the taxpayer's basis for relief; and,

(e) A proposal proposed payment schedule for satisfaction of the liability for tax, interest, and penalty wherein the taxpayer indicates its projected cash flow for the succeeding 12 months; and

(f) Financial statements, in a form acceptable to the Department, demonstrating the taxpayer's inability to satisfy the liability in a lump sum.

(2) Where the tax, interest, or penalty is assessed as a result of an audit of the taxpayer, the taxpayer shall file the written request with the Process Manager, Compliance Support Process, Chief of the Bureau of Audit Standards, Department of Revenue, P. O. Box 5139, Tallahassee, Florida 32314-5139, prior to the date an assessment becomes final. Upon execution of the stipulated agreement, it will be referred to the Taxpayer Services Process Bureau of Collections for administration.

(3) In cases involving notices, billings, jeopardy billing assessments, audit assessments, and tax warrants referred by the Division of Audits for collection, and tax warrants issued by the Department Division of Collection and Enforcement, the taxpayer shall file the information and items required by subsection (1) written request with the office which issued the notice, billing, jeopardy assessment, audit or assessment, or tax warrant and direct it to the attention of the appropriate position within that office.

(a) Written requests regarding first and second notices of billing should be directed to the Deputy Chief, Bureau of Collections, Department of Revenue, 5050 West Tennessee Street, Capital Center Complex, Tallahassee, Florida 32399-0100;

(b) Written requests regarding tax billings which have been referred to a taxpayer service center for collection should be directed to the Area Administrator of the local Collection and Enforcement office for the taxpayer's location; or

(c) Written requests regarding billings or assessments issued by the Special Programs Section should be directed to the Deputy Chief of the Special Programs Section, P. O. Box 6417, Tallahassee, Florida 32314.

(4) In those instances where a protest is referred to the Office of Technical Assistance and Dispute Resolution (the Office) the Division of Taxpayer Assistance by the Compliance Enforcement Process, the Compliance Support Process, or the Taxpayer Services Process, Division of Audits or the Division of Collection and Enforcement, all final assessments will be referred back to the originating process division. If a taxpayer has requested a payment agreement, and the Office agrees that the taxpayer qualifies pursuant to this rule chapter, the Office the Bureau of Hearings and Appeals will include, as part of the closing agreement, the terms of any stipulated payment plan that the Office has determined is appropriate provide a recommendation to the respective division as to whether the Department should exercise its authority to enter into a payment agreement pursuant to Section 213.21(4), Florida Statutes, s. 213.21(4), F.S.

(5) On receipt of the taxpayer's request for a stipulated time payment agreement, the Department will take any of the following may request additional actions information required by the taxpayer's specific circumstances:-

(a) ~~The~~ When it is deemed necessary, the Department will issue a warrant for the total liability for any one or more of the following reasons:-

1. To protect the state's interest in the taxpayer's assets;
2. To establish priority in real or tangible property rights;
3. To establish priority in the event of possible bankruptcy;
4. To prevent the disposal of assets without the state's consent;
5. The taxpayer has failed to respond to previous collection actions by the Department; or.
6. The taxpayer has a previous history of delinquent filings or payments.

(b) The issuance of levy instructions to the Sheriff to execute ~~Execution upon~~ the warrant will be withheld as long as:

1. This a stipulated time payment agreement is in force and the taxpayer has not defaulted under the terms of the agreement; ~~and.~~
2. The taxpayer is in complete compliance with all other requirements of the revenue laws.

(c)~~(b)~~ The Department will may also investigate the financial position of the taxpayer, when the Department determines that the information submitted pursuant to subsection (1) requires confirmation.

(6) After consideration of the taxpayer's request for relief, the Department shall:

- (a) Accept the request by executing a stipulated time payment agreement; may make a counter-proposal; or,
- (b) Reject may reject the request in whole or in part; or,
- (c) Make a counter-proposal or may accept the request by the execution of a stipulated time payment agreement.

(7) Excluding stipulated time payment agreements arising from audit assessments, any stipulated time payment agreement entered into by the Department does not prohibit the Department from conducting a future audit for the periods and taxes covered by the payment agreement.

(8) A request for a stipulated time payment agreement which is not accepted on behalf of the Department shall not be deemed an admission by the Department or the taxpayer and will not prejudice either party's position in administrative or judicial proceedings.

Specific Authority 20.05~~(1)(e)(5)~~, 213.06(1), 213.21(5) FS. Law Implemented ~~20.53(1)(b)~~, 213.21(4) FS. History--New 10-4-89, Amended 10-5-92, _____.

12-17.007 Form and Execution of Stipulated Time Payment Agreements.

(1) Every A stipulated time payment agreement executed under this chapter shall specify the name, account identification number, and audit identification number, if applicable, of the taxpayer; the taxpayer's current business address and the current address of the physical location of the business; the type of tax(es) and the taxable period(s) covered; ~~and~~ the date of the proposed assessment or warrant, and the terms of the agreement.

(2) ~~The~~ Except when subsection (3) applies, the Department prescribes form Form DR-68 (Stipulated Time Payment Agreement), Stipulation Agreement, dated October, 1989, as the form to be used by the Department General Tax Administration Program for the purposes of this chapter, and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(3) ~~The~~ Department prescribes Form DR-68B, Stipulated Agreement, dated August 1994, as the form to be used by the General Tax Administration Program for the purposes of this chapter and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(4) ~~The~~ Department prescribes Form DR-68C, Stipulation Agreement, dated October, 1989, as the form to be used by the General Tax Administration Program for the purposes of this chapter and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(3)~~(5)~~ Every A stipulated time payment agreement shall be signed on behalf of the Department by a person with delegated authority to enter into the agreement under Rule 12-17.004, F.A.C.

(4)~~(6)~~ Every A stipulated time payment agreement shall be signed by the taxpayer or the taxpayer's representative with authority to enter into the agreement on behalf of the taxpayer.

(a) In the case of a corporate taxpayer, an officer of the corporation shall sign the agreement ~~and the corporate seal, if any, shall be affixed and attested by the secretary of the corporation~~ unless paragraph (c) of this subsection is applicable.

(b) An officer's or fiduciary's signature on a stipulated time payment agreement made by or for a taxpayer shall be prima facie evidence that such individual was authorized to sign the agreement on behalf of the taxpayer.

(c) A stipulated time payment agreement may be signed by a representative of the taxpayer who files with the Department a power of attorney form (DR-835), which grants the representative authority to execute the agreement on behalf of the taxpayer.

~~(5)(7)~~ A stipulated time payment agreement will become effective when it has been executed by both parties. Upon ~~presentation~~ ~~execution~~ of the agreement, the Department will ~~provide~~ ~~furnish~~ the taxpayer with:

~~(a) A~~ a detailed amortization schedule of payments required for satisfaction of the tax, interest, and penalty referenced in the stipulated time payment agreement, which will be placed on the stipulated time payment agreement above the signature lines; and

~~(b) Payment coupons.~~

~~(8) The Department prescribes Form DR-68S, Amortization Schedule, dated October, 1989, as the form to be used to furnish the schedule of payments required under a stipulated time payment agreement and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.~~

~~(6)(9) Form DR-68 is incorporated by reference in Rule 12-17.010, F.A.C., and can be obtained as discussed in that rule. The forms discussed in this rule chapter may be obtained by writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or faxing the Forms Distribution Center at (850)922-2208; or using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or visiting any local Department of Revenue Service Center to personally obtain a copy; or calling the Forms Request Line during regular office hours at 1(800)352-3671 (in Florida only) or (850)488-6800; or 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 a hearing or speech impairment may call the Department's TDD at 1(800)367-8331.~~

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History—New 10-4-89, Amended 10-5-92, 8-17-94, _____.

12-17.008 Terms of Stipulated Time Payment Agreements.

~~(1) Every stipulated~~ Stipulated time payment agreement ~~agreements~~ will include a discussion and determination of each of the following issues:

~~(a) The number of payments to be made during the term of the agreement (e.g., 6, 12, or 24 payments);~~

~~(b) The frequency of each payment to be made during the term of the agreement (e.g., weekly, bi-weekly, or monthly);~~

~~(c) Whether a down payment is required as part of the terms of the agreement, and the amount of such down payment;~~

~~(d) Whether each payment will be an equal amount (e.g., an equal amount due each payment period, or equal payments with the final payment being a balloon payment);~~

~~(e) How the Department will allocate each payment to reduce the outstanding debt of tax, penalty, or interest as provided by section 213.75, Florida Statutes;~~

~~(f) Whether any portion of the liability will remain unpaid at the end of the current payment agreement, and if so, which of the following actions will be taken by the Department:~~

~~1. The terms and conditions of another payment agreement will be negotiated upon full compliance with the current agreement; or,~~

~~2. The Department will request the taxpayer to pay the unpaid balance in full based on:~~

~~a. The taxpayer's failure to fully comply with the current agreement; or,~~

~~b. An improvement in the taxpayer's financial condition, ordinarily provide for payments to be made over a period of 12 months or less, with all payments being equal amounts except for the final payment of the remaining liability. The period established will be determined by the ability of the taxpayer to make payments.~~

~~(2) The determinations made in paragraphs (1)(a) through (f) of this rule by the Department will be based on the factors contained in Rule 12A-17.005 and subsection 12-17.006(5), F.A.C. A down payment on the total tax, penalty, and interest is normally required of the taxpayer upon execution of the stipulated time payment agreement.~~

~~(a) The Department shall determine the amount of down payment required based on the facts and circumstances of each case as they relate to the factors for consideration in Rule 12-17.005, F.A.C.~~

~~(b) In cases involving amounts assessed pursuant to an audit by the Division of Audits, the taxpayer will normally be required to make a down payment of 25 percent of the total amount of tax, interest, and penalty due for the period covered by the agreement. However, the amount of the down payment required may be reduced or increased based on the factors considered in Rule 12-17.005, F.A.C., and the facts and circumstances of the particular case.~~

~~(3) In cases involving a billing or assessment issued by the Division of Collection and Enforcement, a warrant is normally filed for the total liability covered by the agreement.~~

~~(4) Every agreement~~ In all agreements made pursuant to this chapter, ~~shall include a notification to the taxpayer that:~~

~~(a) Interest~~ interest shall continue to accrue on the unpaid balance of the tax at the rate provided by law; ~~and,;~~

~~(b) The Department will file a lien for the full amount of the unpaid liability, unless the Department representative who negotiates the agreement documents in writing the reason(s) for not filing a lien. Also, the establishment of a stipulated time payment agreement does not invalidate or withdraw a warrant issued with respect to the liability covered by the agreement;~~

~~(c) The current stipulated time payment agreement will be void if the taxpayer fails to:~~

1. Comply with all conditions of the agreement; or,

2. Submit all returns and pay all taxes in full pursuant to the revenue laws of Florida enumerated in Section 213.05, Florida Statutes, that become due during the term of the agreement.

(d) The provisions of the statutes relating to jeopardy assessments will continue to apply to a taxpayer who has entered into a stipulated time payment agreement.

(e) A taxpayer must submit cash, a cashier's check, or a money order to the Department within seven calendar days of being informed that he or she has paid a stipulated time payment with a check that is not valid due to insufficient funds.

(f) Explains the rights granted to each taxpayer by subsection (2) of Rule 12-17.009, F.A.C., to protest the termination of a stipulated time payment agreement.

(5) Upon a showing of good cause, the Department is authorized to renegotiate stipulated agreements for an extended period. In determining whether good cause exists, the Department will consider the taxpayer's payment record during the initial term of the agreement, the current financial ability of the taxpayer to continue to satisfy the liability, and whether the best interest of the state will be served by renegotiating the said agreement.

(6) The execution of a stipulated time payment agreement does not invalidate a warrant issued with respect to the liability covered by the agreement.

Specific Authority 20.05(1)(e)(5), 213.06(1), 213.21(5) FS. Law Implemented ~~20.53(1)(b)~~, 213.21(4) FS. History—New 10-4-89, Amended 10-5-92, 6-15-93, _____.

12-17.009 Termination of Agreements.

(1) The Department ~~will~~ ~~may~~ void a stipulated time payment agreement under one or both of the following conditions:

(a) The taxpayer fails to make full payment when due under the terms of the agreement, or

(b) The taxpayer fails to remit in full ~~amounts~~ ~~taxes~~ which become due and payable after the execution of the agreement.

(2) Before voiding a stipulated time payment agreement, the Department will notify the taxpayer in writing of the ~~taxpayer's~~ failure to meet the terms of the agreement and afford the taxpayer the opportunity to present evidence of compliance with the current agreement, unless jeopardy to the revenue has previously been assessed ~~timely remittance of the payment(s) in question.~~

(a) If the taxpayer fails to respond to this notification within 15 consecutive calendar days of the date on the notification from the Department, the agreement is voided.

(b) If the agreement is voided by the Department, the taxpayer shall have an additional 15 consecutive calendar days after the date the Department notifies the taxpayer that the agreement has been voided to request that the Department reconsider voiding the agreement and to submit written proof

that there are "reasonable cause" grounds for not voiding the agreement, pursuant to the "reasonable cause" provisions in section 213.21, Florida Statutes, and Rule 12-13.007, F.A.C.

(c) If the taxpayer does not establish "reasonable cause" within the 15 consecutive calendar day period discussed in paragraph (b) of this subsection, the Department's decision to void the agreement is final.

(3) Should the Department void the agreement, any unpaid balance due under the stipulated time payment agreement ~~is~~ ~~will~~ immediately ~~become~~ due and payable.

(4) If ~~paragraph (a) or (b) of~~ subsection (1) ~~is~~ ~~are~~ applicable or if an agreement has otherwise expired, ~~after notice and demand for payment,~~ the Department will implement one or more of the following steps:

(a) Issue levy instructions to the sheriff to ~~may~~ issue a warrant for the remaining liability ~~or and may~~ execute that warrant or a warrant previously issued with respect to the liability.

(b) Refer the issue to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation for beverage license action;

(c) Implement the garnishment provisions of Section 213.67, Florida Statutes, and Part II of Rule Chapter 12-21, F.A.C.;

(d) Implement the collection referral provisions of Section 213.27, Florida Statutes;

(e) Cancel the sales tax registration certificate of a taxpayer pursuant to section 212.18(3)(b), Florida Statutes.

(5) ~~The provisions of the Florida Statutes relating to jeopardy assessments will continue to apply to a taxpayer who has entered into a stipulated time payment agreement.~~

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History—New 10-4-89, Amended _____.

12-17.010 Public Use Forms.

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

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
(1) DR-68	Stipulated Time Payment Agreement (n. 02/03)	xxxx

Specific Authority 213.06(1) FS. Law Implemented 213.21(4) FS. History—
New _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 24, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT WORKSHOP PUBLISHED IN FAW: November 1, 2002, Vol. 28, No. 44, pp. 4730-4737. A workshop was held on November 21, 2002. No testimony was received during the workshop and no written comments were submitted.

METROPOLITAN PLANNING ORGANIZATION

Orlando Urban Area

RULE CHAPTER TITLE: Procedure
RULE CHAPTER NO.: 35I-1

RULE TITLE: Procedures for Amending the Long Range
RULE NO.: 35I-1.009

Transportation Plan and the Transportation Improvement Program (TIP)

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Rule 35I-1.009, F.A.C., in order to: bring the Municipal Advisory Committee into the review process; and more clearly define what projects should be considered for amendment of the Long Range Transportation Plan and Transportation Improvement Program.

SUMMARY: Amend Rule 35I-1.009, F.A.C., in order to: bring the Municipal Advisory Committee into the review process and more clearly define what projects should be considered for amendment of the Long Range Transportation Plan and Transportation Improvement 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 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: 339.175 FS. (2002)

LAW IMPLEMENTED: 339.175 FS. (2002)

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: Ms. Muffet Robinson, Director of Communications & Public Outreach, METROPLAN ORLANDO, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

35I-1.009 Procedures for Amending the Long Range Transportation Plan and the Transportation Improvement Program (TIP).

(1) The process for amending the adopted Orlando Urbanized Area Long Range Transportation Plan is established as follows:

(a) Amendments to the Long Range Transportation Plan may be requested for consideration by the MPO at any time.

(b) Amendments shall be requested in writing and shall be addressed to the MPO Chairperson with a sufficient number of copies for the following:

1. Metropolitan Planning Organization Board members;
2. Transportation Technical Committee members;
3. Bicycle and Pedestrian Advisory Committee members;
4. Citizens' Advisory Committee members;
5. Municipal Advisory Committee members; and
- ~~6.~~ MPO Staff.

(c) Projects subject to the amendment request and review process:

1. Any transportation project, which involves a major improvement, either widening an existing road or constructing a new transportation facility, and funded either entirely or in part by Federal or State funds, that is proposed to be added to or deleted from the adopted Long Range Transportation Plan shall be subject to the amendment request and review process.

2. Any proposed transportation project that is of a new or prototype technology, and will impact the adopted Long Range Transportation Plan, shall be subject to the amendment request and review process.

3. Any ~~privately or locally funded~~ non-Federal or non-State funded proposed transportation project that has ~~an~~ major impact on the transportation system shall be reported to the MPO for addition into ~~by the person requesting an amendment incorporation in or deletion from~~ the Long Range Transportation Plan.

(d) Who may submit an amendment request:

1. Amendment requests may be initiated by either a government or quasi-government agency such as the State, a city or county or a transportation or expressway authority.

2. Amendment requests originating from the private sector shall be sponsored by the local government of jurisdiction.

(e) Who shall approve an amendment request:

1. The Transportation Technical Committee shall review the requested amendment based upon a technical evaluation of its merit and shall recommend approval or disapproval to the MPO.

2. The Citizens' Advisory Committee shall review the requested amendment and shall recommend approval or disapproval to the MPO.

3. The Bicycle and Pedestrian Advisory Committee shall review the requested amendments that impact existing or proposed bicycle and pedestrian facilities and shall recommend approval or disapproval to the MPO ~~through the Transportation Technical Committee.~~

4. The Municipal Advisory Committee shall review the requested amendment and shall recommend approval or disapproval to the MPO.

~~5.4.~~ The recommendations of either the Citizens' Advisory Committee or the Bicycle and Pedestrian Advisory Committee shall be reported ~~in writing~~ to the Transportation Technical Committee.

~~6.5.~~ The MPO shall consider the recommendations of its subsidiary committees and shall exercise final approval or disapproval of the amendment request.

(f) Action upon submittal of an amendment request.

1. The Plans and Programs Subcommittee of the Transportation Technical Committee shall screen the amendment request to determine if there is a major impact upon the transportation system and if a detailed analysis of the project, as defined in the following paragraphs, is needed.

2. Projects that have a total construction cost of less than \$4 million are to be considered a minor transportation improvement and a detailed analysis will not be required.

(g) If a detailed analysis is required, the aAmendment requests shall describe the project and its location and shall include an analysis of the project impacts, as follows:

1. Traffic.

a. Current year and future year consistent with current adopted Long Range Transportation Plan.

b. Average daily traffic (ADT) and peak-hour.

c. Directional traffic load.

d. Level of Service and roadway capacity.

2. Environmental and social impacts.

a. Minimal, moderate, or major impact on air quality.

b. Minimal, moderate, or major impact on wetlands displaced.

c. Minimal, moderate, or major impact on homes and businesses displaced.

d. Minimal, moderate or major impact on public facilities.

3. Compatibility with all applicable local comprehensive plans and programs.

a. Existing and future land use.

b. Capital Improvement Programs.

c. Traffic Circulation and Transit Elements.

4. Compatibility with MPO adopted Long Range Transportation Plan and ECFRPC Strategic Regional Plan.

5. Financial impact.

a. Project capital cost subdivided according to preliminary engineering and design, right-of-way acquisition, and construction.

b. Identification of the funding source, time period and impact on other projects.

6. Contribution to implementation of multi-modal transportation system.

a. Potential for inclusion of future transit facilities; such as, but not limited to, light rail transit, and exclusive bus lanes.

b. Proximity to existing or proposed transit routes, transit centers and/or multi-modal facilities, and major activity centers.

c. Inclusion of transit passenger amenities.

d. Inclusion of bicycle and pedestrian facilities based on the following criteria:

I. Expected facility usage.

II. Contribution to regional bicycle and pedestrian systems.

III. Accident reduction.

IV. Linkage with other transportation modes.

V. Improvement to school access.

VI. Inclusion in adopted Growth Management Plans.

(g) Process of Evaluation:

1. As used in this rule, the term one month shall constitute the period between regularly scheduled meetings.

2. The following checklist of evaluation criteria developed by the MPO will be utilized to evaluate each amendment request.

a. Have the categories of information required in MPO Rule 351-1.009, F.A.C., been provided in sufficient detail?

I. Traffic.

II. Environmental and Social Impacts.

III. Compatibility with Local Comprehensive Plans.

IV. Compatibility with ECFRPC Strategic Plan and MPO currently adopted Long Range Transportation Plan.

V. Financial Impact.

VI. Contribution to implementation of multi-modal transportation system.

b. Has an adequately-sized impact area been identified which includes the major arterials affected?

c. Has the applicant used officially adopted Levels of Service tables (FDOT) in preparing its report on traffic impacts?

d. Has the applicant assumed various transportation projects which may be of benefit to its project to be funded and constructed in the immediate time period when there may be no commitments for doing so?

e. Has the applicant used an acceptable method for measuring impacts to air quality.

f. Will the applicant prepare a mitigation plan for environmental (wetlands, etc.) impacts?

g. Has the applicant identified not only the project costs, but also the sources of funding?

h. Has the applicant provided evidence of funding commitments, both from itself and other parties if involved?

i. Does the project incorporate mobility improvements that address capacity or concurrency improvements?

j. If it is a transit project, is it compatible with the adopted Transit Development Plan or Regional Systems Plan?

k. Does the project add to the connectivity of the current transportation system, and/or enhance the movement toward a seamless transportation system?

3. Within 30 days of receipt of the amendment request, the Plans and programs Subcommittee of the Transportation Technical Committee shall review the amendment request to determine if a detailed analysis is needed. Concurrently, the MPO staff will review the request to determine if it contains sufficient information upon which to base an analysis of the project.

a. If the MPO staff finds that the amendment request contains insufficient information upon which to rule, the staff shall identify and request in writing from the applicant, prior to the expiration of the 30 day examination period, the additional information needed.

b. If the MPO staff finds that the amendment request contains sufficient information upon which to rule, the staff shall notify the applicant in writing that the amendment request has been accepted for review.

4. Upon determination that the amendment request contains sufficient information upon which to rule, the MPO staff shall distribute the amendment request copies to all members of the MPO Board and its subsidiary committees. The MPO staff shall initiate a justification analysis of the amendment request three months prior to formal action being requested of the Transportation Technical Committee, Citizens' Advisory Committee, ~~and~~ Bicycle and Pedestrian Advisory Committee and Municipal Advisory Committee.

5. The applicant and the MPO staff will present the amendment request and the staff justification analysis findings to the Transportation Technical Committee, Citizens' Advisory Committee, ~~and~~ Bicycle and Pedestrian Advisory Committee and Municipal Advisory Committee, one month prior to the regularly scheduled meeting at which this committee will present its formal recommendations to the MPO. The applicant will be advised in writing by the MPO when the amendment request has been placed on the MPO meeting agenda. The Transportation Technical Committee, Citizens' Advisory Committee, ~~and~~ Bicycle and Pedestrian Advisory Committee and Municipal Advisory Committee shall present their formal

recommendations to the MPO within three months from the date the applicant is notified that the amendment request has been accepted for review.

6. The applicant and the MPO staff also will present the amendment request and the staff justification analysis findings to the MPO, one month prior to the regularly scheduled meeting at which the MPO will take formal action on the amendment request, approving or disapproving the request. The applicant will be advised in writing by the MPO when the amendment request has been placed on the MPO meeting agenda. The MPO shall exercise final approval or disapproval of the amendment request within three months from the date the applicant is notified that the ~~his~~ amendment request has been accepted for review.

7. Upon approval of the requested amendment, MPO staff will initiate appropriate network changes to the Long Range Transportation Plan.

(2) The process for amending the adopted Orlando Urban Area Transportation Improvement Program (TIP) is established as follows:

(a) When amendments may be requested:

1. Amendments involving Federal and/or State funded projects may be accomplished at any time.

2. Projects funded locally are included in the TIP for information purposes and may be amended at any time by the local government or transportation agency.

(b) Amendments requesting additions, deletions or rescheduling must be requested in writing and shall be addressed to the MPO Chairperson with 5 copies to:

1. Transportation Technical Committee Chairperson;

2. Bicycle and Pedestrian Advisory Committee Chairperson;

3. Citizens' Advisory Committee Chairperson; ~~and~~

4. Municipal Advisory Committee; and

5. MPO Staff.

(c) Project Requirements:

1. If the amendment request involves a major improvement, either widening an existing road or constructing a new transportation facility, it must also be included as part of the MPO's adopted Long Range Transportation Plan and an amendment to the Long Range Transportation Plan must be requested in accordance with this rule.

2. If the amendment request involves a Transportation Systems Management (TSM) improvement, it must have had a:

a. Traffic Study completed, if it is a turning lane project, or

b. Signal Warrant completed, if it is a signalization project.

3. Amendment requests must include the project's location, description, the reason for its addition, deletion or rescheduling, source of funds and its impact on other projects.

(d) Process for approval:

1. Upon receipt of an amendment request, the MPO staff shall include the request on the agenda of the next regularly scheduled meeting of the Transportation Technical Committee, Citizens' Advisory Committee, Bicycle and Pedestrian Advisory Committee, Municipal Advisory Committee and the MPO.

2. The Transportation Technical Committee, Citizens' Advisory Committee, ~~and~~ Bicycle and Pedestrian Advisory Committee and Municipal Advisory Committee shall review the requested amendment at their next regularly scheduled meeting and shall recommend approval or disapproval to the MPO.

3. Upon MPO approval of requested amendments involving highway transportation projects, MPO staff will send copies of the MPO action to FDOT for submittal to the Florida Department of Community Affairs (DCA) and the Federal Highway Administration (FHWA).

4. Upon MPO approval of requested amendments involving mass transit projects, MPO staff will send copies of the MPO action directly to the Federal Transit Administration (FTA).

5. Upon MPO approval of requested amendments involving mass transit projects, MPO will send copies of the MPO action directly to all private providers of transportation in the Central Florida area who have requested to be placed on the mailing list for such copies.

Specific Authority 163.01 FS. Law Implemented 339.175 FS. History--New 10-16-78, Amended 2-18-79, Formerly 351-1.09, Amended 9-2-90, 4-14-92, 1-23-95, 1-5-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Harry Barley, Executive Director, METROPLAN ORLANDO, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Harry Barley, Executive Director, METROPLAN ORLANDO, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

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

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

WATER MANAGEMENT DISTRICTS
South Florida Water Management District

RULE TITLES:	RULE NOS.:
Purpose and General Provisions	40E-8.011
Definitions	40E-8.021
Minimum Flows and Levels Surface Waters	40E-8.221
Prevention and Recovery Strategies	40E-8.421

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish minimum flows and levels for the Loxahatchee River, in accordance with Chapter 373, Florida Statutes.

SUMMARY: The proposed rule establishes minimum flows and levels ("MFLs") for the Northwest Fork of the Loxahatchee River identifying when salinity levels and minimum flows would cause significant harm to the water resources and ecology of the area. The MFLs are established using best available information. The Technical Documentation to Support Development of Minimum Flows and Levels for the Loxahatchee River is available on the District's website at www.sfwmd.gov/org/wsd/mfl/index.html.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None 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: §§9, 10 P.L 83-353, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS.

LAW IMPLEMENTED: 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS.

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

TIME AND DATE: 8:30 a.m., February 13, 2003

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

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 RULES IS: For technical issues contact, Dave Swift (internet: dswift@sfwmd.gov), at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045. For procedural issues contact: Julie Jennison (internet: jjenniso@sfwmd.gov), at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, extension 6294 or (561)682-6294

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-8.011 Purpose and General Provisions.

(1) through (4) No change.

(5) In concert with establishment of the MFL for the Northwest Fork of the Loxahatchee River in subsection 40E-8.221(5), F.A.C., the District commits to the following

activities that are described in greater detail in the Recovery and Prevention Strategy section, subsection 40E-8.421(6), F.A.C.:

(a) Restore freshwater flows to the Northwest Fork of the Loxahatchee River beyond the MFL by developing programs and projects that will provide surface water flows as identified in a practical restoration goal and plan, to be developed with the Florida Department of Environmental Protection.

(b) Implement the restoration plan through structural and non-structural projects associated with the Comprehensive Everglades Restoration Plan and the regional water supply plan;

(c) Establish water reservations to deliver and protect water supplies for restoration of the Loxahatchee River; and

(d) Revise the MFL and the associated recovery and prevention strategy, as necessary, to be consistent with established restoration goals and future water reservations.

(e) Establish Minimum Flows and levels for other tributaries to the Northwest Fork of the Loxahatchee River including Loxahatchee Slough, Cypress Creek, Kitching Creek and Hobe Grove Ditch as committed to in the District's Priority Water Body List, as updated.

Specific Authority §§9.10 P.L. 83-358, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS. History—New 9-10-01, Amended

40E-8.021 Definitions.

The terms set forth herein shall have the meanings ascribed to them, unless the context clearly indicates otherwise, and such meanings shall apply throughout the rules contained in this Chapter. The terms defined in Rule 40E-8.021, F.A.C., shall apply throughout the District's consumptive use permit rules. In the event of a conflict or difference between the definitions contained in Rule 40E-8.021, F.A.C., and the definitions set forth in other District rules, the definitions in this Rule 40E-8.021, F.A.C., shall control for purposes of this chapter.

(1) through (18) No change.

(19) Northwest Fork of the Loxahatchee River: Means those areas defined below (see Map 1, incorporated herein):

INSERT MAP

(a) Northwest Fork of the Loxahatchee River that has been federally designated as Wild, Scenic and Recreational uses (as defined in the Loxahatchee River Wild and Scenic River Management Plan 2000), including the river channel that extends from river mile 6.0 (latitude 26.9856, longitude 80.1426) located near the eastern edge of Jonathan Dickinson State Park and continues upstream to the G-92 structure (latitude 26.91014, longitude 80.17578), including the C-14 Canal. The river channel includes the physical water flow courses and adjacent floodplain up to the limits of the floodplain swamp and wetlands within Riverbend Park, as determined by state wetland delineation criteria;

(b) Cypress Creek which extends westward from river mile 10.6 to the intersection of Gulf Stream Citrus Road (latitude 26.96484, longitude 80.1855) located approximately one mile west of the Florida Turnpike and includes its natural river channels and contiguous floodplain as determined by state wetland delineation criteria;

(c) Kitching Creek which extends from river mile 8.1 (latitude 26.9908, longitude 80.1540) northward through Jonathan Dickinson State Park to north of Bridge Road (longitude 27.05513, latitude 80.17580), including its natural river channels and contiguous floodplain as determined by state wetland delineation criteria, and;

(d) Hobe Grove Ditch which extends west from river mile 9.1 (latitude 26.9854, longitude 80.1594) westward to the Hobe-St. Lucie Conservancy District pump station outfall (latitude 26.5908, longitude 80.1031) including its natural river channels and contiguous floodplain as determined by state wetland delineation criteria.

(20)(19) Operations – means activities taken by the District for the movement of surface water through works of the District pursuant to Chapter 373, F.S.

(21)(20) Prevention Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently not violated, but are projected to be violated within twenty (20) years of the establishment of the minimum flow or level, if said prevention strategies are not implemented.

(22)(21) Recovery Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently violated.

(23)(22) Regional Water Supply Plan – means a plan approved by the District pursuant to Section 373.0361, F.S.

(24)(23) St. Lucie River North Fork – means the surface waters that extend from the Gordy Road Bridge structure (state plane coordinates, x851212.831, y1116105.7470), combined with tributary contributions below Gordy Road and collectively flow south to the confluence with the C-24 canal (state plane coordinates, x873,712.20, y1064,390.41).

(25)(24) St. Lucie River South Fork – means the surface waters that extend from the culverts located at state plane coordinates x902,512.67, y1,001,799.91, north to the confluence of the river and the St. Lucie Canal (C-44).

(26)(25) St. Lucie Estuary – means the surface water body south of the confluence of the St. Lucie River North Fork and C-24, north of the confluence of the St. Lucie River South Fork and C-44, and west of the western boundary of the Intracoastal Waterway, exclusive of canals.

(27)(26) Serious Harm – means the long-term loss of water resource functions, as addressed in Chapters 40E-21 and 40E-22, F.A.C., resulting from a change in surface or ground water hydrology.

(28)(27) Significant Harm – means the temporary loss of water resource functions, which result from a change in surface or ground water hydrology, that takes more than two years to recover, but which is considered less severe than serious harm. The specific water resource functions addressed by a MFL and the duration of the recovery period associated with significant harm are defined for each priority water body based on the MFL technical support document.

Specific Authority §§9, 10 P.L. 83-358, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History—New 9-10-01, Amended 11-6-02, _____.

40E-8.221 Minimum Flows and Levels Surface Waters.

The MFLs contained in this Part identify the point at which further withdrawals would cause significant harm to the water resources, or ecology, of the area as applicable, pursuant to Sections 373.042 and 373.0421, F.S. It is the District's intent to correct or prevent the violation of these MFLs through management of the water resources and implementation of a recovery strategy.

(1) through (3) No change.

(4) Northwest Fork of the Loxahatchee River.

(a) An enhanced freshwater regime is necessary to prevent significant harm to the water resources and ecology of the Northwest Fork of the Loxahatchee River, pursuant to Sections 373.042 and 373.0421, F.S. By establishing the MFL set forth in subsections (b) and (c), along with implementation of the associated recovery strategy, it is the interim goal of the District to provide sufficient freshwater flows to create at River Mile 9.2 the freshwater regime found at River Mile 10.2.

(b) A MFL violation occurs within the Northwest fork of the Loxahatchee River when an exceedance, as defined in subsection (c), occurs more than once in a six year period.

(c) A MFL exceedance occurs within the Northwest Fork of the Loxahatchee River when:

1. Flows over Lainhart Dam decline below 35 cfs for more than 20 consecutive days; or

2. The average daily salinity concentration expressed as a 20-day rolling average exceeds two parts per thousand. The average daily salinity will be representative of mid-depth in the

water column (average of salinities measured at 0.5 meters below the surface and 0.5 meters above the bottom) at river mile 9.2 (latitude 26.9839, longitude 80.1609)

(d) In addition to this MFL, which is intended to achieve partial enhancement of the Northwest Fork of the Loxahatchee River to prevent significant harm, restoration of the Loxahatchee River beyond the MFL will be addressed pursuant to subsection 40E-8.421(6), F.A.C., and other applicable provisions of state law. This MFL will be reviewed within two years of adoption and revised, if necessary, to ensure consistency with the restoration goal and plan identified pursuant to Rule 40E-8.421, F.A.C., or other applicable provisions of state law.

Specific Authority §§9, 10 P.L. 83-358, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History—New 9-10-01, Amended 11-6-02, _____.

40E-8.421 Prevention and Recovery Strategies.

(1) through (6) No change.

(7) Northwest Fork of the Loxahatchee River Recovery Strategy: Purpose and Intent.

(a) The Northwest Fork of the Loxahatchee River is currently not meeting the MFL and requires implementation of a recovery strategy to achieve the MFL as soon as practicable, consistent with Section 373.0421, F.S. The recovery strategy consists of projects contained within the following approved plans: the Lower East Coast Regional Water Supply Plan (LEC Plan), the Comprehensive Everglades Restoration Plan (CERP), and the Northern Palm Beach County Comprehensive Water Management Plan (NPBCCWMP). Four phases of recovery are identified in the Technical Documentation to Support Development of Minimum Flows and Levels for the Northwest Fork of the Loxahatchee River, November 2002, which are projected to increase flows to meet the MFL for the Northwest Fork of the Loxahatchee River. As part of the recovery strategy, as provided in this rule, the consumptive use permitting and water shortage requirements in this Chapter and Chapters 40E-2 and 40E-21, F.A.C., shall apply to consumptive use direct and indirect withdrawals from surface and groundwater sources from the Northwest Fork of the Loxahatchee River and those areas directly tributary to the Northwest Fork.

(b) In addition to implementation of this MFL recovery strategy, the District commits to restore freshwater flows to the Northwest Fork of the Loxahatchee River above the MFL through Chapter 373, F.S., and the Comprehensive Everglades Restoration Plan and its associated authorities. The District will continue to partner with the Florida Department of Environmental Protection in establishing a practical restoration goal and plan for the Loxahatchee River watershed. Recognizing that natural seasonal fluctuations in water flows are necessary to ensure that the functions of the Loxahatchee River are protected, this restoration goal and plan will include

a more complete set of seasonally managed flow criteria for the river that are driven primarily by natural rainfall and runoff patterns within the watershed.

(c) The District shall continue to operate the G-92 structure and associated structures to provide approximately 50 cfs or more over Lainhart Dam to the Northwest Fork of the Loxahatchee River, when the District determines that water supplies are available.

(d) Additionally, it is the intent of the District to continue the current operational protocols of the G-92 structure so as not to reduce the historical high, average and low flows as estimated over the 30 year period of rainfall record used as the basis for the MFL for the Northwest Fork of the Loxahatchee River.

(e) It is the District's intent to implement, along with other partners, projects to meet the practical restoration goal developed according to subsection (b). Projects contained in the Comprehensive Everglades Restoration Plan, the LEC Plan and the NPBCCWMP will provide increased storage and conveyance within the basin with a goal of providing more water for restoration of the Northwest Fork of the Loxahatchee River.

(f) To protect water made available for the recovery and restoration of the Loxahatchee River through implementation of these associated projects, the District intends to adopt water reservations for the Loxahatchee River, pursuant to Section 373.223(4), F.S., on a project by project basis over the next 20 years. In addition, the SFWMD intends to adopt an initial reservation to protect existing water used for protection of fish and wildlife, consistent with the practical restoration goal identified for the Loxahatchee River, by 2004. Future reservations related to the Loxahatchee River will be consistent with the reservations being developed for restoration of the Everglades under CERP, and will reflect the needs of the natural system through a range of hydrologic conditions. These water reservations are intended to prevent the future allocation to consumptive uses the freshwater intended for restoration of the Loxahatchee River. The reservations will be implemented through the consumptive use permit program, operational protocols, water shortage rules, and other appropriate provisions in Chapter 373, F.S.

(g) As reservations are adopted to restore the Loxahatchee River beyond that to be achieved by the MFL, the District shall revise the minimum flow and level and associated prevention and recovery strategy, as appropriate, under Sections 373.042 and 373.0421, F.S., to be consistent with the reservation.

Specific Authority §§9, 10 P.L. 83-358, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History—New 9-10-01, Amended 11-6-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kenneth G. Ammon, Director, Water Supply Division

For more information, contact: Michael D. LeRoy, PE, 2600 Blair Stone Road, MS 3520, Tallahassee, Florida 32399-2400, (850)245-8632.

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 the rule amendments to address the conditions for the release of patient medical records, and also to update the law implemented citation.

SUMMARY: The proposed rule amendments address the requirements and the timeliness for release of patient medical records, and also deletes an incorrect law implemented 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: 456.057, 459.005 FS.

LAW IMPLEMENTED: 456.057, 455.242 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 FEBRUARY 22, 2003 IN FT. LAUDERDALE, FLORIDA.

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:

64B15-15.003 Patient Records; Costs of Reproduction; Timely Release ~~Reproducing Medical Records~~

(1) Any Osteopathic Physician ~~person licensed pursuant to Chapter 459, F.S., who makes an examination of or administers treatment to any person shall upon request of such person or his/her legal representative 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 _____.

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: December 7, 2002

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

**Section III
Notices of Changes, Corrections and
Withdrawals**

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER NO.: 9B-3
RULE CHAPTER TITLE: Florida Building Commission – Operational Procedures

RULE NO.: 9B-3.047
RULE TITLE: State Building Code Adopted

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. 46, November 15, 2002, issue of the Florida Administrative Weekly.

9B-3.047 State Building Code Adopted.

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

NOTE: The following sections of the Florida Building Code were changed as a result of public comments received at the Rulemaking Hearing of December 10, 2002. The text of the proposed amendments may be viewed on-line at www.floridabuilding.org.

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