

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Best Management Practices for Citrus, Cow/Calf, and Other Land Uses in the Lake Okeechobee Priority Basins (S-191, S-154, S-65 D and E) 5M-3

PURPOSE AND EFFECT: The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs, which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

SUBJECT AREA TO BE ADDRESSED: The purpose of this workshop is to review a draft rule that adopts the document titled *Water Quality/Quantity BMPs for Indian River Area Citrus Groves* and the document titled *Water Quality/Quantity BMPs for Cow/Calf Operations*. The draft rule also purposes to adopt, by reference, *Site Specific Agricultural Nutrient Management Assessments and Plans for Dairies and Cow/Calf operations*. In addition, the draft rule establishes record keeping requirements and procedures for landowners and leaseholders to submit a Notice of Intent to Implement the Best Management Practices (BMPs) and interim measures.

SPECIFIC AUTHORITY: 403.067(7) FS.

LAW IMPLEMENTED: 373.4595(3) FS.

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

TIME AND DATE: 7:00 p.m. – 9:00 p.m., February 26, 2003
 PLACE: Okeechobee County Civic Center, Hwy. 98 North, Okeechobee, FL 34972, (863)763-6469

If an accommodation is needed for a disability in order to participate in this meeting, please notify the Bureau of Personnel management, Department of Agriculture and consumer Services, (850)488-1806, at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: R. Clegg Hooks, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor’s Square Blvd., Suite 200, Tallahassee, Florida 32399-1650, (850)488-6249, fax (850)921-2153

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

DEPARTMENT OF REVENUE

Child Support Enforcement Program

RULE TITLES: RULE NOS.:

Administrative Establishment of Child Support Obligations 12E-1.030

Health Care Coverage and Medical Support 12E-1.031

PURPOSE AND EFFECT: (a) The purpose of proposed Rule 12E-1.030, F.A.C., is to describe procedures for establishing support obligations through an administrative procedure by explaining the information custodial parents, noncustodial parents, and caretaker relatives must provide; providing for the ability to proceed in court rather than through the administrative process; providing the ability to consent to an administrative order; providing a method for requesting an administrative hearing; providing the results of a final administrative support order; and providing methods for terminating, suspending, reinstating, or modifying an administrative support order. The effect of the rule is to provide guidelines to be followed when establishing a support obligation through the administrative procedure. (b) The purpose of proposed Rule 12E-1.031, F.A.C., is to establish procedures for identifying and enforcing uncovered medical expenses and for issuing, enforcing, and protesting the national medical support notice. The effect of the rule is to provide procedures for uncovered medical expenses and use of the national medical support notice to enforce health care and medical coverage.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is to discuss the proposed new rules as described above.

SPECIFIC AUTHORITY: 61.13(1)(b)6., 409.2557(3)(i),(p), 409.2563(16), 409.2576(10) FS.

LAW IMPLEMENTED: 61.13(1)(b), 61.14, 61.30, 88.4011, 120.569, 120.57(1),(2), 409.2561, 409.2563, 409.2567, 409.2569, 409.2576 FS.

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

TIME AND DATE: 9:00 a.m., March 31, 2003
 PLACE: Room 301, 4070 Esplanade Way, Tallahassee, Florida 32399-0350

Copies of the agenda for the rule development workshop may be obtained from: Phil Scruggs, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, (850)922-9558.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Child Support Enforcement Program is asked to advise the Department at least 48 hours before such proceeding by contacting Phil Scruggs, (850)922-9558. If you are hearing or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Phil Scruggs, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, (850)922-9558 (The preliminary text of the proposed rule development is also available on the department website at <http://myflorida.com/dor>)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

CHILD SUPPORT ENFORCEMENT PROGRAM

12E-1.030 Administrative Establishment of Child Support Obligations.

(1) Financial Information.

The following information must be provided by the custodial parent and noncustodial parent:

- (a) Names of parents;
- (b) Sources of income, the amounts, and how often received;
- (c) If unemployed, information concerning last job;
- (d) Legally required or allowable deductions from income, the amount, and frequency;
- (e) Number of exemptions claimed for tax purposes;
- (f) A copy of the most recent pay stub, benefits statement, or other proof of income and deductions;
- (g) Information on assets owned including cash, stocks, bonds, trusts, and real estate;
- (h) Information on liabilities including mortgage or rent payments, student loan payments, and other monthly payments;
- (i) Information on legally ordered child or spousal support that is actually paid;
- (j) Names of persons insured on current health care coverage policies, name and address of insurance company, policy number, and premium paid;
- (k) If health care coverage is not currently provided, whether health care coverage for the children is available through the employer or union and how much it would cost per month;
- (l) Amount of child care expenses being paid;
- (m) Amount and explanation of any special needs or extraordinary expenses required for the children;
- (n) Information concerning other statutory deviation factors claimed by either parent or the caretaker relative; and
- (o) Signature of individual attesting to the form and the date signed.

(2) Parent or Caretaker Relative Information Form.

In addition to the requirements in Section 409.2563(13)(b), Florida Statutes, the following information must be provided by the custodial parent, noncustodial parent, and caretaker relative, if applicable:

- (a) Name, other names known by, Social Security Number, date of birth, address, and driver license number;
 - (b) Employment information;
 - (c) Information on whether the mother and father have ever lived together;
 - (d) Details on any financial support provided while the parents did not live together, including proof of the payments;
 - (e) Information on health care coverage;
 - (f) Information concerning statutory deviation factors claimed by either parent or the caretaker relative;
 - (g) Health care costs paid by the caretaker relative for the children; and
 - (h) Signature of individual attesting to the form and the date signed.
- (3) Waiver of service.
- (a) If a noncustodial parent who is served with a Notice of Proceeding to Establish Administrative Support Order wishes to proceed in circuit court for a determination of support obligations, the noncustodial parent may request that the department file an action in circuit court to determine the noncustodial parent's support obligation. The request must be in writing and contain the name of the noncustodial parent, the address of the noncustodial parent, and the child support enforcement case number. The request must be received by the Deputy Agency Clerk at the address provided in the Notice of Proceeding to Establish Administrative Support Order within 20 days after the date of receipt of the Notice of Proceeding.
 - (b) If the noncustodial parent files a timely request to proceed in circuit court, the department shall initiate an action in the appropriate circuit court to determine the support obligation of the noncustodial parent and shall send the noncustodial parent a notice of commencement of the action and a form for waiving service of process. If the request to proceed in circuit court is not received timely, the department shall notify the noncustodial parent and the custodial parent or caretaker relative that the administrative proceeding will continue and that the department will not file an action in circuit court.
 - (c) If the noncustodial parent signs and returns the waiver of service of process form to the department within 10 days of the date the form was mailed, the department shall terminate the administrative support order proceeding and continue with the circuit court action.
 - (d) If the noncustodial parent signs and returns the waiver of service of process after the 10 day time period, the department shall continue the administrative support proceeding. However, if the waiver of service was not received timely and a proposed order has not been issued, the department shall terminate the administrative support proceeding and continue with the circuit court action.
 - (e) The department will only litigate the support obligation issue in circuit court and will not litigate issues involving custody or parental contact.

(4) Consenting to an administrative support order.

At any time prior to the issuance and rendering of a final order, the noncustodial parent may waive the right to a hearing and consent to the entry of an administrative support order by contacting the department at the address or telephone number provided in the Notice or Proceeding to Establish Administrative Support or by personal visit to a local department Child Support Enforcement Program office.

(5) Request for Administrative Hearing.

(a) To request an administrative hearing, the noncustodial parent must submit a written request to the Deputy Agency Clerk at Florida Department of Revenue, Child Support Enforcement Program, Post Office Box 4972, Orlando, FL 32802-4972. The request must be received no later than 20 days after the date on the document providing the rights to an administrative hearing.

(b) A written request for administrative hearing must:

1. Contain the name, current mailing address, telephone number, and child support enforcement case number of the noncustodial parent;
2. Identify the name and date of the department's document that is in dispute; and
3. State each objection to the department document and the reasons for each objection.

(c) If a request for an administrative hearing is not received within the 20 day time period, the request will be denied.

(6) Final Administrative Support Orders.

Duration. Amounts ordered to be paid for current support are due and payable until:

- (a) The Final Administrative Support Order is modified, suspended, or terminated by the department.
- (b) The Final Administrative Support Order is vacated on appeal by a District Court of Appeal or superseded by a circuit court order.

(c) The current support obligation ends because the youngest child has emancipated; however, if retroactive support or arrears are still owed when the youngest child has emancipated, the collection of the retroactive support or arrears will continue at the same amount as the current support payment until all retroactive support or arrears are fully paid.

(7) Terminating, suspending, reinstating, or modifying administrative support orders.

(a) A noncustodial parent, custodial parent, or caretaker relative may request in writing to the Deputy Agency Clerk at Florida Department of Revenue, Child Support Enforcement Program, Post Office Box 4782, Orlando, FL 32802-4972, that an administrative support order, or part of an administrative support order, be terminated, suspended, reinstated, or modified. An administrative support order may be modified but not terminated or suspended if retroactive support or arrears are owed. A notice of proceeding to terminate, suspend,

reinstate, or modify the administrative support order shall be served on the non-requesting parent or caretaker relative in the manner specified by section 409.2564(4), F.S.

(b) A request for termination, suspension, reinstatement, or modification by the noncustodial parent, custodial parent, or caretaker relative must include the following information, if known:

1. Names and addresses of the noncustodial parent, custodial parent, and caretaker relative, if applicable;
2. Social security numbers of the noncustodial parent and custodial parent;
3. Child support enforcement case number, administrative support order number, or court case number;
4. Names of child or children;
5. Specific reasons for the request to terminate, suspend, reinstate, or modify; and
6. Any written documentation that supports the request.

(c) Termination, suspension, reinstatement, or modification of an administrative support order may be requested and granted for the following reasons:

1. The support order contains errors.
2. The child is emancipated.
3. The child no longer resides with the custodial parent or caretaker relative.
4. The custodial parent, noncustodial parent, caretaker relative, or child is deceased.
5. The custodial parent, noncustodial parent, caretaker relative, or child cannot be located.
6. The noncustodial parent has a medically verified total or permanent disability with no evidence of present or potential future ability to pay support.
7. The noncustodial parent is temporarily incapacitated or unemployed and the custodial parent or caretaker relative has agreed the noncustodial parent should not be responsible for support during this time and has requested that the case be closed or that the support obligation be suspended.
8. The custodial and noncustodial parents have reconciled and are living with the child.
9. The factors that led to the suspension of the order have changed and reinstatement is appropriate.
10. The income, deductions, or expenses of the custodial parent or noncustodial parent have increased or decreased; or the needs of the child have changed; or there has been a substantial change in the circumstances since the previous guideline calculations.
11. Other documented, substantial changes of circumstances for which support order modification is proper under Florida law.

Specific Authority 61.13(1)(b)6., 409.2557(3)(p), 409.2564(16) FS. Law Implemented 61.30, 88.4011, 120.569, 120.57(1),(2), 409.2561, 409.2563, 409.2567, 409.2569 FS. History—New _____.

12E-1.031 Health Care Coverage and Medical Support.

(1) Uncovered medical expenses.

(a) As used in this rule, "uncovered medical expenses" means medical, dental, and prescription medication expenses that are ordered to be paid by a support order and are not reimbursed by health care coverage. This includes health care coverage co-payments that must be paid and are not reimbursed.

(b) The department will request that uncovered medical, dental, and prescription medication expenses of the child be included in the basic support obligation. When the support order has not been calculated with uncovered medical expenses included in the basic support obligation and instead provides that medical expenses are to be paid by the obligee and obligor in an equal amount or a percentage amount, the following will be considered as uncovered medical expenses that must be paid:

1. Physician and dentist office visits and procedures.
2. Hospital visits or stays.
3. Tests ordered by a physician or hospital.
4. Prescriptions ordered by a physician or dentist.

(c) When the obligee requests the department to pursue the obligor for support ordered uncovered medical expenses that have not been paid, the obligee must provide the following to the department:

1. A copy of the initial receipt for the services rendered.
2. A copy of the latest billing of expenses currently due.
3. Copies of any checks, money orders, or receipts received for medical expenses that the obligee has paid.

(d) The department will review the documentation and determine if it is sufficient to pursue payment from the obligor. If it is not sufficient, the department will provide an explanation in writing to the obligee. If the information is sufficient, the department will proceed as follows:

1. The department will proceed with a delinquency action in accordance with Section 409.2564(10)(b), F.S. The obligee must notify the department if payment for the uncovered medical expenses is received from the obligor.

2. If the obligor refuses to pay or does not respond to the obligee or the department within 20 days of receiving notification to pay uncovered medical expenses, the department will proceed in accordance with Section 409.2564(10)(a) and (b), F.S.

3. If the obligor files a petition in circuit court to contest the uncovered medical expenses delinquency action, the department will cease further collection activities.

(2) National medical support notice.

(a) The national medical support notice shall be issued in accordance with Section 61.13, F.S.

(b) Contesting the withholding.

If the obligor wishes to contest the withholding imposed by the national medical support notice, the obligor must provide in writing the following information within 15 business days after the date of receiving written notification of the issuance of the national medical support notice:

1. Obligor's and obligee's names, addresses, telephone numbers, and email addresses.
2. Obligor's and obligee's social security numbers.
3. Name of the child or children for whom the withholding is intended.
4. Name and address of the employer who received the national medical support notice.
5. An explanation of the mistake of fact.

The contest must be mailed to the Deputy Agency Clerk at Florida Department of Revenue, Child Support Enforcement Program, Post Office Box 8030, Tallahassee, FL 32314-8030.

(c) Requesting an administrative hearing.

If an informal conference is held and the dispute involving uncovered medical expenses is not resolved, the obligor may request an administrative hearing in writing by providing the following information within 5 business days after the termination of the informal conference:

1. Obligor's and obligee's names, addresses, telephone numbers, and email addresses.
2. Obligor's and obligee's social security numbers.
3. Name of the child or children for whom the withholding is intended.
4. Name and address of the employer who received the national medical support notice.
5. An explanation of the mistake of fact.
6. Date of the informal conference.
7. Attendees at the informal conference.
8. The matter still in dispute that was not resolved at the informal conference.

The request for administrative hearing must be mailed to the address in paragraph (2)(b).

Specific Authority 61.13(1)(b)6., 409.2557(3)(i), 409.2563(16), 409.2576(10) FS. Law Implemented 61.13(1)(b), 61.30(8), 409.2563(1)(a),(2)(c),(7)(3)6., 409.2576(7) FS. History—New _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Rules of Procedure – Decisions

RULE CHAPTER NO.: 14-6

Affecting Substantial Interests

14-6

RULE TITLE: Final Orders

RULE NO.: 14-6.0011

PURPOSE AND EFFECT: Paragraph 14-6.0011(2)(d), F.A.C.,

is amended to include a website address for reviewing Final Orders issued by the Department of Transportation.

SUBJECT AREA TO BE ADDRESSED: This is an editorial amendment to provide a website address where the Department of Transportation Final Orders can be viewed on the Internet.

SPECIFIC AUTHORITY: 120.53(1), 334.044(2) FS.

LAW IMPLEMENTED: 120.53(2) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-6.0011 Final Orders.

(1) No change.

(2) Public Inspection and Duplication.

(a) through (c) No change.

(d) Final orders required to be indexed under Section 120.53(1)(a)2.c., Florida Statutes, which are entered on or after July 1, 1998, will also be maintained, stored, and indexed on an electronic database. Pursuant to Section 120.53(2)(a), Florida Statutes, the Department hereby designates the Municipal Code Corporation as its official reporter for creating the electronic database and indexing and preserving final orders therein. The electronic database will allow users to research and retrieve the full texts of agency final orders by using commonly used search terms and descriptive information about the orders, including major subject headings. The indexing system for the electronic database shall have fixed fields to ensure common usage of such terms by anyone who uses the system. The Department will maintain the electronic database and make it available for public use. The following website is available to view Final Orders issued by the Department: <http://www.mccimagin.com>. The public may utilize the electronic database by contacting the Clerk of Agency Proceedings at the address provided in subsection (e).

(3) through (6) No change.

Specific Authority 120.53(1), 334.044(2) FS. Law Implemented 120.53(2) FS. History—New 4-6-93, Amended 2-20-96, 11-16-00,_____.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Fresh Fruit Maturity Tests

RULE CHAPTER NO.: 20-34

RULE TITLE: Juice Content in Grapefruit – Sampling and Testing

RULE NO.: 20-34.006

PURPOSE AND EFFECT: Would provide additional sizes to an alternative method of evaluating juice content for establishing fresh grapefruit maturity.

SUBJECT AREA TO BE ADDRESSED: Additional sizes to an alternative method of testing fresh grapefruit maturity.

SPECIFIC AUTHORITY: 601.10(1),(7), 601.18, 601.24, 601.25 FS.

LAW IMPLEMENTED: 601.18, 601.24, 601.25, 601.44 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Containers, Packs, Stamping and Labeling of Fresh Fruit

RULE CHAPTER NO.: 20-39

RULE TITLE: Approved Boxes

RULE NO.: 20-39.003

PURPOSE AND EFFECT: Would provide for a new container to be added to the list of containers approved for use in shipping fresh Florida Citrus.

SUBJECT AREA TO BE ADDRESSED: Approved containers for use in shipping fresh Florida Citrus.

SPECIFIC AUTHORITY: 601.11 FS.

LAW IMPLEMENTED: 601.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

PUBLIC SERVICE COMMISSION

UNDOCKETED

RULE TITLE: Accounting for Asset Retirement Obligations Under SFAS 143

RULE NO.: 25-14.014

PURPOSE AND EFFECT: The rule provides guidance to regulated utilities regarding how to account for Asset Retirement Obligations under SFAS 143 on their books regulated by the Public Service Commission (PSC). The rule

will result in more consistent accounting treatment for SFAS 143 among utilities regulated by the PSC. The rule mandates that SFAS 143 be revenue neutral so that the earnings of the utilities are not altered from what they are now under current accounting requirements.

SUBJECT AREA TO BE ADDRESSED: Accounting for asset retirement obligations under SFAS 143.

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 364.03, 364.035, 366.05(1), 367.121(1)(a) 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: 1:30 p.m. (EST), March 25, 2003

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida

Any person requiring some accommodation at this workshop 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 Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Christine Romig, Division of Economic Regulation, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6447

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-14.014 Accounting for Asset Retirement Obligations Under SFAS 143.

(1) The Financial Accounting Standards Board issued Statement No. 143, Accounting for Asset Retirement Obligations (SFAS 143) in June 2001. The statement applies to legal obligations associated with the retirement of tangible, long-lived assets that result from the acquisition, construction, development or the normal operation of a long-lived asset. For utilities required to implement SFAS 143, it shall be implemented in a manner such that the assets, liabilities and expenses created by SFAS 143 and the application of SFAS 143 shall be revenue neutral in the rate making process.

(2) Definitions. For purposes of this rule, the following definitions apply:

(a) “Accretion Expense.” The concurrent cost that is recorded as an operating item in the statement of income to account for the passage of time and the resulting period-to-period increase in the Asset Retirement Obligation.

(b) “Asset Retirement Cost.” The amount capitalized that increases the carrying amount of the long-lived asset when a liability for an Asset Retirement Obligation is recognized.

(c) “Asset Retirement Obligation.” An obligation associated with the retirement of a tangible long-lived asset.

(3) Pursuant to SFAS 143, each utility shall recognize the fair value of a liability for an Asset Retirement Obligation in the period in which it is incurred if a reasonable estimate of the fair value can be made. If a reasonable estimate of fair value cannot be made in the period the Asset Retirement Obligation is incurred, the liability shall be recognized when the reasonable estimate of fair value can be made. The fair value of the liability for an Asset Retirement Obligation is the amount at which that liability could be settled in a current transaction between willing parties, that is, other than in a forced or liquidation transaction. If quoted market prices are not available, the estimate of fair value shall be based on the best information available in the circumstances including prices for similar liabilities and the result of present value or other valuation techniques. The Asset Retirement Obligations shall be kept by function and recorded in separate subaccounts.

(4) Upon initial recognition of a liability for an Asset Retirement Obligation, the utility shall capitalize an Asset Retirement Cost by increasing the carrying amount of the long-lived assets by the same amount as the liability. The Asset Retirement Cost shall be kept by function and recorded in a separate subaccount as intangible plant. The utility shall subsequently allocate that Asset Retirement Cost to expense over its useful life. The expense shall be recorded in a separate subaccount.

(5) Asset Retirement Costs do not qualify for Allowance for Funds Used During Construction.

(6) Pursuant to SFAS 143, in periods subsequent to the initial measurement, a utility shall recognize period-to-period changes in the liability for an Asset Retirement Obligation resulting from accretion or revisions to either the timing or the amount of the original estimate of undiscounted cash flows.

(a) A utility shall measure the accretion cost in the liability for an Asset Retirement Obligation due to passage of time by applying the interest method of allocation to the amount of the liability at the beginning of the period. This amount shall be recognized as an increase in the carrying amount of the liability.

(b) The accretion expense shall be recorded in a separate subaccount.

(c) Revisions to a previously recorded Asset Retirement Obligation will result from changes in the assumptions used to estimate the cash flows required to settle the Asset Retirement Obligation, including changes in estimated probabilities, amounts, and timing of the settlement of the Asset Retirement Obligation, as well as changes in the legal requirements of an obligation. Upward revisions to the undiscounted estimated cash flows shall be treated as a new liability and discounted at

the current rate. Downward revisions will result in a reduction of the Asset Retirement Obligation. The amount of the liability to be removed shall be discounted at the rate that was used at the time the obligation was originally recorded. The concurrent debit or credit shall be made to the Asset Retirement Cost.

(7) Differences between amounts prescribed by the Commission and those used in the application of SFAS 143 shall be recorded as Regulatory Liabilities or Regulatory Assets in separate subaccounts.

(8) The Regulatory Debit and Regulatory Credit accounts shall be used to record the differences between the Commission prescribed amounts and the amounts which are reported as expense under SFAS 143.

(9) Each utility shall keep records supporting the calculation and the assumptions used in the determination of the Asset Retirement Obligation and the related Asset Retirement Cost and the related Regulatory Assets and Regulatory Liabilities established in accordance with this rule and the implementation of SFAS 143.

(10) If a utility is not required to establish an Asset Retirement Obligation for an asset or group of assets, the cost of removal shall continue to be included in the calculation of the depreciation expense and accumulated depreciation.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.035(5), 366.05(1), 367.121(1)(a) FS. History—New.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Administration of Medication to DS Waiver Beneficiaries

RULE NO.: 59G-8.201

PURPOSE AND EFFECT: The purpose of this rule amendment is to provide to all unlicensed direct care staff who provide DS Waiver services to beneficiary's with developmental disabilities in adult day programs, foster homes, group homes, independent living and supported living arrangements with guidelines regarding: (1) when supervision of self-administration of medication is appropriate; (2) what may and may not be done in supervising the self-administration of medication; (3) when they may not administer medications; (4) when appropriate, how to safely administer oral, patch, inhaled and topical medications, and medication administered through inhalers; and (5) the safe handling of medications. This policy does not apply to family members who administer medication or who assist in self-administering medication for other family members, without compensation. The effect will be to permit the administration of medications to DS Wavier beneficiaries by unlicensed direct care staff that provides DS Waiver services to beneficiaries with developmental disabilities.

SUBJECT AREA TO BE ADDRESSED: Administration of Medication to DS Waiver Beneficiaries.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON 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: 10:00 a.m. – Noon, Tuesday, February 18, 2003

PLACE: AHCA Headquarters, 2727 Mahan Drive, Building #3, Conference Room A, Tallahassee, FL 32317-2600

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Karen Henderson, Medicaid Services, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)414-9756

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AT THE TIME OF THE ABOVE SCHEDULED WORKSHOP.

DEPARTMENT OF MANAGEMENT SERVICES

State Technology Office

RULE TITLE: Requirements for Sworn Invoices Submitted By or on Behalf of Wireless Service Providers

RULE NO.: 60DD-1.001

PURPOSE AND EFFECT: The Board proposes the new rule to implement Section 365.173(2)(b), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The new rule is proposed to address the requirements for sworn invoices submitted by wireless service providers seeking reimbursement for actual costs incurred to provide 911 or E911 service.

SPECIFIC AUTHORITY: 365.172(6)(a)12., 365.173(2)(b) FS. LAW IMPLEMENTED: 365.173(2)(b) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE NEXT AVAILABLE BOARD MEETING.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Winston E. Pierce, Chair, State of Florida Wireless 911 Board, 4030 Esplanade Way, Suite 235M, Tallahassee, Florida 32399-0950 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF MANAGEMENT SERVICES

State Technology Office

RULE TITLE: Rural County Grants

RULE NO.: 60DD-1.002

PURPOSE AND EFFECT: The Board proposes the new rule to implement Section 365.173(2)(c), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The new rule is proposed to address the eligibility and the general conditions of application for rural county grants to assist with the installation and maintenance of an Enhanced 911 system.

SPECIFIC AUTHORITY: 365.172(6)(a)12., 365.173(2)(c) FS.

LAW IMPLEMENTED: 365.173(2)(c) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE NEXT AVAILABLE BOARD MEETING.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Winston E. Pierce, Executive Director, Wireless 911 Board, 4030 Esplanade Way, Suite 235M, Tallahassee, Florida 32399-0950 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Beaches and Shores

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Rules and Procedures for Coastal Construction and Excavation (Permits for Construction Seaward of the Coastal Construction Control Line and Fifty-Foot Setback) 62B-33

The Department of Environmental Protection proposes rule development of Chapter 62B-33, F.A.C., Rules and Procedures For Coastal Construction and Excavation (Permits for Construction Seaward of the Coastal Construction Control Line and Fifty-Foot Setback)

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button entitled “Official Notices.” If you have additional questions please contact Rosaline Beckham, (850)488-3181.

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Public Swimming Pools and Bathing Places 64E-9

PURPOSE AND EFFECT: Revise existing rules for the purpose of clarification, incorporate necessary technical changes and to provide for the protection of public health and safety.

SUBJECT AREA TO BE ADDRESSED: Areas to be discussed include: Operational requirements, design criteria, construction standards, hydraulic requirements, existing system modification standards, permitting requirements, fees, definitions, forms, supervision and safety, bathing places, and pool service technicians requirements.

SPECIFIC AUTHORITY: 381.0011, 381.006, 514.0115, 514.021, 514.033, 514.05, 514.075 FS.

LAW IMPLEMENTED: 381.006, 381.0011, 381.0015, 381.0025, 386.01, 386.02, 386.03, 386.041, 386.051, 514.011, 514.0115, 514.021, 514.025, 514.028, 514.03, 514.031, 514.033, 514.04, 514.05, 514.06, 514.071 FS.

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

TIME AND DATE : 10:00 a.m. – 4:00 p.m., March 11, 2003

PLACE: Conference Room “B”, Hurston South Tower, 400 West Robinson Street, Orlando, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Robert Pryor, Department of Health, Bureau of Water Programs, Bin #C-22, 4052 Bald Cypress Way, Tallahassee, FL 32399-1742, (850)245-4444, Ext. 2369

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES: RULE NOS.:

- Definitions 65A-1.701
- Special Provisions 65A-1.702
- Family-Related Medicaid Coverage Groups 65A-1.703
- SSI-Related Medicaid Coverage Groups 65A-1.710
- SSI-Related Medicaid Income Eligibility Criteria 65A-1.713
- SSI-Related Medicaid Post – Eligibility Treatment of Income 65A-1.714

PURPOSE AND EFFECT: These proposed rule amendments implement a standard income disregard for certain Medically Needy filing unit members and, due to action of the 2002 Legislature, provide that Medicaid will not pay for expenses used to meet the Medically Needy share of cost. Additionally, due to a change in federal policy, the exclusion of either VA aid and attendance or unreimbursed medical expenses, or both, from VA pension income in determining patient responsibility (post-eligibility treatment of income) for institutionalized individuals is changed. Further, these rule amendments implement the Statewide Inpatient Psychiatric Program (SIPP) waiver.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments applicable to the Medically Needy program provide for a \$270 income disregard from the countable income of the filing unit when determining the Medically Needy eligibility of a pregnant woman, a non-relative child under 19, other children under 21, or an aged, blind, or disabled individual. This disregard is applied to the filing unit as a total disregard no matter how many individuals in the filing unit have income. Additionally, in regard to the Medically Needy program, these rule amendments implement 2002 Legislation to provide that Medicaid does not pay bills or

those parts of bills used to meet the share of cost. Once bill tracking for the month is completed to determine the share of cost, any new allowable bills presented and not covered by Medicaid or third party liability will be used to meet the share of cost in a future month and will not be paid by Medicaid.

The proposed amendments applicable to post-eligibility treatment of VA pension income provide that, for certain individuals, the amount of a veteran's pension, including any payment made due to the need for aid and attendance, or for unreimbursed medical expenses, that is in excess of \$90 per month shall be counted in the determining the total income available to meet the individual's patient responsibility to the VA nursing facility. This provision applies only to the following individuals: a veteran who does not have a spouse or child and who resides in a state veterans' home to which the Secretary of Veterans Affairs makes per diem payments for nursing home care; and, a surviving spouse (with no child) of a veteran who is residing in the same living arrangement.

The Statewide Inpatient Psychiatric Program (SIPP) waiver is for certain individuals under age 18 who are at high risk of need for inpatient mental health services. Individuals must be eligible for Medicaid to receive services under this waiver program. AHCA determines eligibility for this waiver program.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.904, 409.906, 409.919 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: 10:00 a.m., February 17, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Audrey Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, (850)488-3090

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE CHAPTER TITLE:	Behavioral Health Services	RULE CHAPTER NO.:	65E-11
RULE TITLES:	Definitions	RULE NOS.:	65E-11.002
	Scope of Behavioral Health Services		65E-11.003

Clinical Guidelines for Referral	65E-11.004
Practice Guidelines for Behavioral Health Services to Ensure Cost-Effective Treatment and to Prevent Unnecessary Expenditures	65E-11.007

PURPOSE AND EFFECT: Notice is hereby given that the following additional changes are being considered to the promulgated Rule 65E-11, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S. This rule was originally published in the Florida Administrative Weekly, Vol. 26, No. 36, September 8, 2000, and in Vol. 26, No. 47, November 22, 2000, as the first Notice of Change. The effective date of this rule was January 17, 2001.

SUBJECT AREA TO BE ADDRESSED: These additional revisions are in response to updates in required forms, program name change, refined program operations since the original rule publication, and technical rule citations changes as a result of these revisions.

SPECIFIC AUTHORITY: 409.8135(6) FS.

LAW IMPLEMENTED: 409.8135 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE AND IS NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Michael Sorrell, Medical/Health Care Program Analyst, 1317 Winewood Blvd., Bldg. 6, Room 297, Tallahassee, Florida 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65E-11.002 Definitions.

Definitions as used in Chapter 65E-11, F.A.C.

(1) through (4) No change.

(5) “Behavioral Health Network” means the statewide network of Providers of Behavioral Health Services who serve non-Medicaid eligible children with mental or substance-related disorders who are determined eligible for the Title XXI part of the KidCare Program. This network includes providers who are managed behavioral health organizations, private and state funded mental health and substance-related disorders providers, and Lead Agencies. The Behavioral Health Network is administered by the Department of Children and Families, Children’s Mental Health State Program Office to provide a comprehensive behavioral health benefits package for children with serious mental or substance-related disorders. ~~“Behavioral Health Specialty Care Network” means the single entity or local alliance of Providers of Behavioral Health Services, who provide behavioral health services to children enrolled in the Behavioral Health Specialty Care Network.~~

(6) “Behavioral Health Services” means those services, contingent on the child’s presenting condition, that are provided to enrolled children in the Behavioral Health Network Behavioral Health Specialty Care Network for the treatment of mental or substance-related disorders.

(7) ~~“Behavioral Health Network Coordinator”~~ ~~“Behavioral Health Specialty Care Coordinator”~~ means the department’s designated representative for overseeing the enrollment and provision of care by a single entity or local alliance of Providers of Behavioral Health services who comprise a behavioral health care network.

(8) ~~“Behavioral Health Specialty Care Network” means the statewide network of Providers of Behavioral Health Services who serve non-Medicare eligible children with mental or substance-related disorders who are determined eligible for the Title XXI part of the KidCare Program that includes providers who are managed behavioral health organizations, private and state funded mental health and substance-related disorders providers, and Lead Agencies. The Behavioral Health Specialty Care Network is administered by the Department of Children and Families, Children’s Mental Health State Program Office to provide a comprehensive behavioral health benefits package for children with serious mental or substance-related disorders.~~

(8)(9) “Benefits Package” means the required benefits and Alternative Services described in Rule 65E-11.003, F.A.C., that are made available to each child upon enrollment into the Behavioral Health Network Behavioral Health Specialty Care Network described in section 65E-11.003.

(9)(10) “Child” means any individual five (5) years of age and not yet (19) years of age who is enrolled in the Behavioral Health Network Behavioral Health Specialty Care Network.

(10)(11) No change.

(11)(12) “Eligible” means a child that has been screened by the behavioral health liaison as meeting the Behavioral Health Network Behavioral Health Specialty Care Network clinical and treatability criteria and by the department for Title XXI financial eligibility criteria but is not yet enrolled in the program to receive Behavioral Health Network Behavioral Health Specialty Care Network services.

(12)(13) No change.

(13)(14) “Enrollment” means a child is eligible for and receiving services in the Behavioral Health Network Behavioral Health Specialty Care Network after an official acceptance into the Behavioral Health Network Behavioral Health Specialty Care Network based on separate determinations of financial eligibility by the department that the child is eligible for the Title XXI component of KidCare and that the child is clinically eligible for enrollment.

(15) through (20) renumbered (14) through (19) No change.

(20)(21) “Reverification” means the redetermination of a child’s eligibility based on the criteria described in Rule 65E-11.004, F.A.C. the clinical eligibility criteria described in Section 65E-11.005, F.A.C.; for the purpose of reverification of eligibility for the Behavioral Health Specialty Care Network.

(22) through (25) renumbered (21) through (24) No change.

(25)(26) “Targeted Outreach” means the planned and coordinated efforts to communicate information about the Behavioral Health Network Behavioral Health Specialty Care Network with an overall intent to increase awareness, participation, and enrollment in the program.

(26)(27) “Treatment Plan” means that identifiable section of the medical record that depicts goals and objectives for the provision of services with specific treatment environments. The treatment plan shall be developed by a team consisting of individuals with experiences and competencies in the provision of behavioral health services to children as described in subsection Section 65E-11.002(10)(17), F.A.C.; including, if deemed appropriate by the family, the child and family or family representatives; and other agencies, providers or other persons.

(27)(28) No change.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—New 1-17-01, Amended.

65E-11.003 Scope of Behavioral Health Services.

(1) through (6) No change.

(a) Alternative Services shall be approved so long as they are related to the child’s treatment services plan. Documentation of approved Alternative Services shall include the name of the district Behavioral Health Network Behavioral Health Specialty Care Coordinator with signature and shall contain the following elements:

1. through (11)(n) No change.

(o) Complete the Behavioral Health Network Screening and Eligibility Tracking form, March 1, 2002, version and the Behavioral Health Network Reverification and Request for Disenrollment form, March 1, 2002, version Behavioral Health Specialty Care Network Screening and Eligibility Tracking form, September 2000 version July 1, 1999 version hereby incorporated by reference as if fully set out here. The Behavioral Health Network Screening and Eligibility Tracking form and the Behavioral Health Network Reverification and Request for Disenrollment Behavioral Health Specialty Care Network Screening and Eligibility Tracking form may be obtained from the district Alcohol, Drug Abuse, and Mental Health Program Office. Upon completion, the Behavioral Health Liaison shall submit a copy of the Behavioral Health Network Screening and Eligibility Tracking form and the Behavioral Health Network Reverification and Request for Disenrollment form(s) Behavioral Health Specialty Care

Network Screening and Eligibility Tracking form to the Children's Medical Services area office and the district Alcohol, Drug Abuse, and Mental Health Program Office.

(12) through (13) No change.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History--New 1-17-01, Amended _____.

65E-11.004 Clinical Guidelines for Referral.

(1) Every child referred to the Behavioral Health Network ~~a Behavioral Health Specialty Care Network~~ shall be screened as a first step in determining the child's ~~clinical~~ eligibility for services. If the screening indicates the child has the potential to meet the Behavioral Health Network ~~Behavioral Health Specialty Care Network~~ ~~clinical~~ eligibility criteria described in this section, ~~and there is available capacity within the network to enroll the child,~~ an assessment shall be conducted.

(2) A child shall be considered eligible for behavioral health services from the Behavioral Health Network ~~Behavioral Health Specialty Care Network~~ when the child is determined to be Title XXI eligible for the Florida KidCare Program, be at least five (5) years of age and not yet nineteen (19) years of age, and

(a) through (e) No change.

1. Criteria Set 1:

1.a. No change.

2.b. A child diagnosed with Attention-Deficit/Hyper Activity Disorder as the primary DSM-IV-R Axis I diagnosis does not qualify for Behavioral Health Network services, and Attention-Deficit and Disruptive Behavior disorders shall be excluded as DSM-IV Axis I mental disorders in determining clinical eligibility for the Behavioral Health Specialty Care Network, and

3.e. The child demonstrates a significant level of functional impairment as measured by the Children's Global Assessment Scale (C-GAS), with a score of fifty or below; or The child is experiencing significant functional impairment as a result of his or her condition, or

2. Criteria Set 2: ~~The child is in a school-based program for children with serious emotional disturbance, or~~

3. Criteria Set 3: ~~The child has been committed for the treatment of substance-related disorders under the Hal S. Marchman Act of 1993, Section 397.01, Florida Statutes, at least once within the last six months.~~

(3) Disenrollment Criteria. A child shall be considered disenrolled from the Behavioral Health Network at midnight of the last day of the current enrollment month if one of the following occurs: ~~Ineligibility Criteria. A child shall be considered ineligible for Title XXI Behavioral Health Specialty Care Network behavioral health services if any one of the following criteria is met:~~

(a) ~~The parent has neglected to pay the premium; The child does not meet the Title XXI eligibility criteria with regard to age, income, premium payment, and other insurance~~

~~coverage or the child does not meet the following Behavioral Health Network criteria: Behavioral Health Specialty Care Network eligibility criteria described in Section 65E-11.004, F.A.C., above;~~

~~(b) The child turns 19 years old; The child is placed in long-term residential care exceeding 30 days;~~

~~(c) The child becomes Medicaid eligible or obtains other insurance coverage; The child moves out of the state of Florida;~~

~~(d) The child moves out of state;~~

~~(e) The child is placed in residential treatment exceeding thirty days;~~

~~(f) The child becomes an inmate of a public institution; or~~

~~(g) The child no longer meets the Behavioral Health Network's treatability or clinical eligibility criteria.~~

~~(4) When determining or reviewing a child's eligibility under the program, the applicant shall be provided with notice of changes in eligibility. When a transition from the Behavioral Health Network to another program is appropriate, the Behavioral Health Liaison shall notify the Children's Medical Services case manager in writing and shall ensure the affected family is afforded a transition which promotes continuity of behavioral health care coverage.~~

~~(5)(4) The department shall be the final authority on all admissions, transfers, and discharges of children into and from the Behavioral Health Network Behavioral Health Specialty Care Network and retains the right to override any decision of a Lead Agency with regard to a child's admission, transfer, and discharge.~~

~~(6)(5) In the case of any dispute between the department and a Lead Agency, an enrolled child shall remain in the Behavioral Health Network Behavioral Health Specialty Care Network and continue to receive care at the expense of the Lead Agency for the duration of the resolution of the dispute.~~

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History--New 1-17-01, Amended _____.

65E-11.007 Practice Guidelines for Behavioral Health Services to Ensure Cost-Effective Treatment and to Prevent Unnecessary Expenditures.

(1) Treatment Plan. A written treatment service plan shall be developed within 10 working days of enrollment into the Behavioral Health Network ~~Behavioral Health Specialty Care Network~~ for each enrolled child. At a minimum, the plan shall include clear time-limited treatment objectives, related interventions, clinical criteria for discharge, and evidence that the child and family, consistent with the statutes and rules of the department for family involvement, have been included in the development of the treatment plan.

(a) A board certified child psychiatrist or a Licensed Practitioner of the Healing Arts with experience treating children who have mental or substance-related disorders shall serve as the authorizing authority for necessary services. The

Lead Agency shall communicate the details of the plan to the local Children’s Medical Services Area Office. The plan shall be reviewed and updated no later than ninety (90) days apart.

(b) Notwithstanding paragraph 65E-11.007(1)(a), F.A.C., above, if the provider can demonstrate that a board certified child psychiatrist or a Licensed Practitioner of the Healing Arts with experience treating children who have mental or substance-related disorders is not available for participation due to the lack of availability, a psychiatrist with experience treating children who have mental disorders or a medical doctor with experience treating children for substance-related disorders shall serve as the authorizing authority for necessary services.

(2) Behavioral health services financed through the Behavioral Health Network Behavioral Health Specialty Care Network shall not begin until after the child’s enrollment as defined in Rule 65E-11.003, F.A.C.

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

(d) Collection of data to review the criteria and process used to evaluate services for medical necessity as described in subsection 65E-11.002(18)(19), F.A.C.

(e) through (8)(b) No change.

1. The claim documents psychiatric admission for the treatment of Emergency Behavioral Health Care as defined in Rule Section 65E-11.002(12)(14), F.A.C., and includes the date of admission, reason for admission, location of the treatment facility, duration of service noted, and any Behavioral Health Services authorized by the referring Lead Agency.

2. through 3. No change.

(9) through (11) No change.

(12) Exceptions to the drive-time provision shall be made by the Behavioral Health Network Behavioral Health Specialty Care Coordinator to address the lack of specialty providers or other service constraints existing in rural areas.

(13) No change.

(a) No change.

(b) Urgent Care as defined in subsection Section 65E-11.002(27)(29), F.A.C., shall be evaluated and delivered within twenty-four (24) hours.

(c) No change.

(14) No change.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History–New 1-17-01, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Programs

RULE TITLE:	RULE NO.:
Integrated Children’s Crisis Stabilization Unit and Addictions Receiving Facility Demonstration Models	65E-12.110

PURPOSE AND EFFECT: Amends Rule 65E-12, F.A.C., Public Mental Health Crisis Stabilization Units and Short-term Residential Treatment Facilities, to create demonstration models for integrated children’s crisis units and standards to run these units.

SUBJECT AREA TO BE ADDRESSED: Licensure and Designation, Unit Operating Policies and Procedures, Staffing Requirements, Case Records, Content of Records, Signatures and Entries, Facility Admissions, Provider Discharge Requirements, and Provider Universal Infection Control.

SPECIFIC AUTHORITY: 394.499 FS.

LAW IMPLEMENTED: 394.499 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE AND IS NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Michael Sorrell, Medical/Health Care Program Analyst, 1317 Winewood Blvd., Bldg. 6, Room 297, Tallahassee, Florida 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65E-12.110 Integrated Children’s Crisis Stabilization Unit and Addictions Receiving Facility Demonstration Models.

(1) All the requirements for licensure and operation as a Crisis Stabilization Unit (CSU) that are otherwise required by Chapter 65E-12, F.A.C., and Chapter 65E-5, F.A.C., shall apply, except as provided for in section 394.499, Florida Statutes, and this rule section. This section applies to integrated children’s crisis stabilization unit (CSU) and addictions receiving facility (ARF) services, hereafter referred to as “CSU/ARF.” The facilities will serve minors under the age of 18 years of age who present with a serious and acute mental illness or substance abuse impairment. These facilities shall provide integrated CSU/ARF services within the same facility, and shall provide services to each person based upon their individual needs. This may include an emphasis on services that are typically provided in either an ARF or a CSU, as determined from the initial screening and assessment.

(2) Licensure and Designation. The facility shall be licensed as a Children’s CSU under Chapter 394, F.S., and Chapter 65E-12, F.A.C., by the Agency for Health Care Administration hereafter referred to as the “Agency.” The facility shall also be designated as a Children’s CSU and an ARF by the department. Proof of ARF designation must be submitted to the agency prior to the CSU receiving substance abuse patients and upon renewal of an ARF designation. The facility shall be in compliance with CSU requirements at all times. Complaints received by the Department of Children and Families or by the Agency shall be jointly investigated whenever possible and passed on to the local Advocacy

Councils within 24 hours of the complaint. Within 26 months from the date of approval by the department, the department shall make a determination to extend or not to extend the demonstration model.

(3) Special Provisions and Requirements.

(a) Unit Operating Policies and Procedures. The facility shall prepare uniform policies and procedures, and forms that provide for the integrated operation of CSU/ARF services. This shall include policies and procedures regarding admission, examination, physical health care, treatment, informed consent, referral, discharge planning, and aftercare that conform with national standards, rules and regulations, and best practices. These procedures shall include provisions that address use of the Baker Act and the Marchman Act in accordance with the person's diagnosis. The unit's operating policies and procedures shall be subject to the approval of the organization's Medical Director and the advisory governing board.

(b) Staff Orientation and Training. Staff shall meet the training requirements of Rule 65E-5.330, F.A.C., and subsection 65D-30.004(32), F.A.C., as a prerequisite to providing services. In addition, staff shall receive training from qualified professionals in substance abuse, as defined in subsection 397.311(25), F.S., that includes the etiology and characteristics of substance abuse, common street drugs and means of use, motivational stages, and principles of recovery and relapse.

(c) Staffing Requirements.

1. The CSU/ARF shall have a Medical Director licensed under Chapter 458 or 459, F.S., who is responsible for overseeing all medical services delivered by the facility. A Medical Director licensed under Chapter 458 or 459, F.S., who has been designated to oversee all medical services of the facility and has been given authority and responsibility for medical services delivered by the facility meets this requirement.

2. A registered nurse shall ensure that emergency medical services are provided immediately in accordance with the medical protocols established by the Medical Director. Such protocols shall include provisions to ensure that new arrivals are promptly assessed for symptoms of substance abuse intoxication, and are given prompt medical care and attention. In addition, protocols shall ensure that monitoring of psychiatric medication is provided, and general health care needs are met.

3. In addition to the requirements of Rule 65E-12.105, F.A.C., minimum staffing for the facility shall include a qualified professional specializing in substance abuse. The qualified professional must be a physician licensed under Chapter 458 or 459, F.S., or a practitioner licensed under Chapter 490 or 491, F.S., or certified through a department

recognized certification process as provided in subsection 397.311(25) and section 397.416, F.S. Individuals who are certified are permitted to serve in the capacity of a qualified professional, but only within the scope of their certification. This person shall be available on-call 24 hours per day, seven days per week. This person shall be on-site daily for at least 15 hours per week within the first six months of operation and at least eight hours per week thereafter. The provider's operating procedures shall include a description of those circumstances requiring the qualified professional to be on-site.

(d) In those cases where a child needs to be transported to other services, the provider shall arrange for such transportation.

(4) Case Records.

(a) Confidential Information. Each CSU/ARF shall ensure that information in case records and any other identifying information for children reflecting a substance abuse diagnosis be maintained in accordance with 42 Code of Federal Regulations, Part 2. The department and the Agency shall have access to confidential records, as needed, to conduct monitoring visits, surveys, complaint investigations, and other required site visits.

(b) Signatures and Entries. In those instances where case records are maintained electronically, a staff identifier code will be acceptable in lieu of a signature. Documentation within case records shall not be deleted. Amendments or marked through changes shall be initialed and dated by the individual making such changes.

(c) Content of Records. The CSU/ARF shall develop a uniform case record system regarding the content and format of case records pursuant to subsection 65D-30.004(13), F.A.C. and paragraph 65E-12.106(5)(c), F.A.C.

(5) Facility Admission. Each child determined to be in need of services shall provide a blood sample for laboratory testing pursuant to Rule 65D-30.004, F.A.C., or in accordance with the medical protocol developed by the medical director. The Medical Director shall develop medical protocols including the circumstances under which a test on blood shall not be performed. In addition, a urine drug screen shall be required for each child determined to need services.

(6) Provider Discharge Requirements.

(a) Development of a discharge and aftercare plan shall commence upon admission. The plan shall include information on the need for continuation of prescribed psychotropic medications, and other prescribed medications, such as methadone or other substance abuse maintenance medications, aftercare appointments for medication and case management, and shall be based upon the individualized needs of the child or adolescent. If the discharge is delayed, the CSU/ARF will notify the aftercare provider. The local Advocacy Council shall

be notified if a child remains in the CSU/ARF beyond seven days. The CSU/ARF shall coordinate with the aftercare service provider and shall document the after care planning.

(b) Prescriptions for psychotropic medications shall be provided to a discharged child’s legal guardian to cover the intervening days until the first scheduled aftercare appointment. Discharge planning shall address the availability of and access to prescription medication in the community.

(7) Provider Universal Infection Control.

(a) A written Universal Infection Control plan shall be developed which shall apply to all staff, volunteers, and children receiving services and shall be reviewed and approved by the Medical Director and medical staff.

(b) The CSU/ARF shall conduct a risk assessment and screening for each child who is determined to be substance abuse impaired, as required by Rule 65D-30.004, F.A.C.

(c) All infection control activities shall be documented.

Specific Authority 394.499 FS. Law Implemented 394.499 FS. History—New

FISH AND WILDLIFE CONSERVATION COMMISSION

Manatees

RULE TITLES:	RULE NOS.:
Scope	68C-22.001
Definitions	68C-22.002
Management Provisions	68C-22.004

PURPOSE AND EFFECT: The purpose of this rule development is to make revisions in response, in part, to enactment of Chapter 2002-264, Laws of Florida, which amended portions of Section 370.12(2), F.S. We also are considering changes to reflect revised definitions adopted in Chapter 68D-23, F.A.C.; and to otherwise improve the rules and remove unnecessary language. The effect of the amendments would be to delete unnecessary rules and ensure consistency between the rules and other authority. Options being considered include amending only those portions of the rules that are in direct conflict with the revised statute, and repealing one or more of the rules in their entirety based on the premise that the rules are not needed because the statute provides sufficient guidance.

SUBJECT AREA TO BE ADDRESSED: Manatee protection procedural rules and definitions.

SPECIFIC AUTHORITY: 370.12(2)(g)-(j),(l)-(o) FS.

LAW IMPLEMENTED: 370.12(2)(d),(g)-(j),(l)-(o) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Mr. Scott Calleson, Fish and Wildlife Conservation Commission, Bureau of Protected Species Management (OES-BPS), 620 South Meridian Street, Tallahassee, Florida 32399, (850)922-4330

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

**Section II
Proposed Rules**

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 purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer’s Certificates of Exemption; Exemption Certificates), is to provide technical changes made necessary with the creation of Rule 12A-1.0015, F.A.C., as proposed.

The purpose of the proposed amendments to Rule 12A-1.039, F.A.C. (Sales for Resale), is to provide technical changes made necessary with the creation of Rule 12A-1.0015, F.A.C., as proposed, and the substantial rewording of Rule 12A-1.064, F.A.C., as proposed.

The purpose of the proposed amendments to Rule 12A-1.059, F.A.C. (Fuels), is to: (1) provide guidelines for the imposition of sales and use tax imposed on fuels; (2) provide guidelines regarding the registration requirements to remit use tax directly to the Department; and (3) provide technical changes made necessary by the substantial rewording of Rule 12A-1.064, F.A.C., as proposed, and the creation of Rule 12A-1.0641, F.A.C., as proposed.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), is to provide that persons desiring to obtain self-accrual authority from the Department, persons seeking authorization to remit sales tax on behalf of their independent dealers, air carriers electing to remit tax under s. 212.0598, F.S., and persons who desire to pay tax based on the partial exemptions in s. 212.08(8) and (9), F.S., directly to the Department are required to register with 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 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 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. (Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors), is to provide guidelines for the self-accrual of sales and use tax, as provided in s. 212.183, F.S., and 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.

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

SUMMARY: The proposed creation of Rule 12A-1.0015, F.A.C.: (1) provides 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) provides 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) provides examples of methods to commit property to the exportation process; (4) provides definitions for the terms "licensed customs broker" and "forwarding agent"; (5) establishes guidelines for documenting tax-exempt sales for export from Florida; (6) provides 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) provides a definition of the term "nonresident dealer," for purposes of the rule; (8) provides the required elements of a nonresident declaration and a suggested format of the declaration; (9) provides 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) provides 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 proposed amendments to Rule 12A-1.038, F.A.C.: (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 proposed amendments to Rule 12A-1.039, F.A.C.: (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 Rule 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 proposed amendments to Rule 12A-1.059, F.A.C.: (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 proposed amendments to Rule 12A-1.060, F.A.C., 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 s. 212.08(8) and (9), F.S., directly to the Department.

The proposed substantial rewording of Rule 12A-1.064, F.A.C.: (1) changes 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) provides guidelines on how the partial exemption applies to motor vehicles, and parts thereof, operated in interstate or foreign commerce; (3) provides that qualifying motor vehicles must be operated by common carriers licensed by the United States Department of Transportation; (4) provides when a motor vehicle is used in interstate or foreign commerce; (5) provides guidelines for those items that do not qualify for the partial exemption; (6) provides guidelines on how the partial exemption applies to railroad rolling stock, and parts thereof, operated in interstate or foreign commerce; (7) provides that qualifying railroad rolling stock must be operated by railroads licensed as common carriers by the federal Surface Transportation Board; (8) provides 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) provides a suggested format of the required certificates; (10) provides guidelines for carriers on how to compute the mileage apportionment factor and tax due under the partial exemption directly to the Department; (11) provides 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) provides 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) provides guidelines for the taxability of damage claims and demurrage charges by carriers; and (14) provides 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.: (1) provides guidelines on how the partial exemption applies to vessels, and parts thereof, operated in interstate or foreign commerce or for commercial fishing purposes; (2) defines the term "commercial fishing vessels" for purposes of the partial exemption; (3) provides guidelines for vessels and other items that do not qualify for the partial exemption; (4) provides 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) provides a suggested format of the required affidavits; (6) provides guidelines for carriers on how to compute the mileage apportionment factor and tax due under the partial exemption directly to the Department; (7) provides 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) provides 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) provides guidelines for the taxability of damage claims and demurrage charges by vessel owners and operators; and (10) provides guidelines for recordkeeping requirements to document sales and purchases of items subject to the partial exemption.

The proposed amendments to Rule 12A-1.071, F.A.C., 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 proposed amendments to Rule 12A-1.0911, F.A.C.: (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 to 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 proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, new forms used by the Department in the administration of the self-accrual authority and the distributor level collection program for sales and use tax.

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

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

SPECIFIC AUTHORITY: 212.07(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),(19),(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 HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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 RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES 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 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 regularly engaged in the business of preparing property for shipment or arranging for its shipment for compensation.

d. Any person 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 by the nonresident dealer for resale and for no other purpose. The statement executed by the nonresident dealer must include the declaration and all of the following information:

- 1. The nonresident dealer's name and address;
- 2. Evidence of authority to do business in the dealer's home state or country, such as the nonresident's business name and address, sales tax registration number, occupational license number, or any other evidence of transacting business in that state or country;
- 3. For nonresident dealers who are not residents of the United States, the dealer's passport or visa number and arrival-departure card number;
- 4. The following provision: "Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief"; and
- 5. The signature of the purchaser executing the statement.

(b) For purposes of this rule, a "nonresident dealer" is any person who does not hold a valid Florida sales tax certificate of registration and who is authorized in another state or country to make sales of tangible personal property in that state or country.

(c) A selling dealer who makes a sale of taxable tangible personal property to a nonresident dealer is required to obtain the required statement or collect the applicable tax on the sale.

(d) The following is a suggested format of the statement to be completed by the purchaser and presented to the selling dealer:

TANGIBLE PERSONAL PROPERTY
FOR RESALE BY A NONRESIDENT DEALER

This is to certify that the tangible personal property described below will be transported outside Florida for resale and for no other purpose.

NAME OF SELLING DEALER: _____
DEALER'S ADDRESS: _____
DEALER'S SALES TAX NO.: _____
NAME OF NONRESIDENT DEALER: _____
ADDRESS OF NONRESIDENT DEALER: _____
HOME STATE'S SALES TAX NO.: _____
PASSPORT OR VISA NO.: _____
ARRIVAL-DEPARTURE CARD NO.: _____
PURCHASER'S EVIDENCE OF AUTHORITY TO DO BUSINESS IN HOME STATE: _____

The tangible personal property purchased in Florida on INVOICE NUMBER(S) _____, or described as follows, is solely for resale outside Florida.

Description of Property: _____

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

Signature of Purchasing Nonresident Dealer Date

(4) SALES TO FOREIGN DIPLOMATS, CONSULAR EMPLOYEES, AND MEMBERS OF THEIR FAMILIES.

(a) Sales to foreign diplomats, consular officers, consular employees, and members of their families are entitled to certain sales tax exemptions or limitations determined by the United States Department of State when the United States Department of State has determined that the foreign nation represented has a treaty with the United States that exempts United States diplomats, consular officers, consular employees, and members of their families from the foreign country's similar state and local sales taxes. Foreign diplomats and consular personnel seeking an exemption from Florida sales tax must personally present to the vendor at the time of purchase a tax exemption card issued to the individual by the United States Department of State. The tax exemption card will set forth the terms of the sales tax exemption to which the individual is entitled and will serve as the seller's authority to allow the specific sales tax exemption as provided on the card to the named person whose photograph appears on the card.

(b) To document qualified tax-exempt sales to foreign diplomats and consular personnel, the selling dealer must maintain:

1. A copy of both sides of the tax exemption card; or
2. The following information as shown on the tax exemption card issued to the purchaser: mission name, name of purchaser, date of sale, amount of sale, stripe color code or other indication of the level of exemption, expiration date, the tax exemption number, and the United States Department of State card number.

(c) Questions regarding the diplomatic exemption should be directed in writing to the Florida Department of Revenue, Tax Information Services, Bonham Building, 1379 Blountstown Highway, Tallahassee, Florida 32304 or by telephone to Taxpayer Services at (800)352-3671.

(5) RECORDKEEPING REQUIREMENTS.

(a) Selling dealers must maintain copies of internal delivery orders and supporting documentation, trip tickets, truck log records, United States Postal Service parcel post receipts, bills of lading, receipts from common carriers, export declarations, customs documents, receipts from licensed customs brokers, statements signed by a customs officer, declarations by nonresident dealers, copies of tax-exemption cards issued by the United States Department of State, exemption certificates, and 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(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) F.S. 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 dealers dealer who are 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 subsection 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 that are purchased by common carriers outside Florida, and put into service in interstate commerce outside Florida prior to entering Florida, as evidenced by the registration of the motor vehicles in another state, 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) 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: _____

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
-------------	-------	----------------

(2) through (6) No change.

<u>(7)(a) DR-16A</u>	<u>Application for Self-Accrual Authority/Direct Pay Permit (N. 01/03)</u>	_____
<u>(b) DR-16P</u>	<u>Sales and Use Tax Direct Pay Permit (N. 01/03)</u>	_____
<u>(c) DR-16R</u>	<u>Renewal Notice and Application for Sales and Use Tax Direct Pay Permit (N. 01/03)</u>	_____
<u>(8) DR-17</u>	<u>Application for Distributor Level Collection Agreement (N. 02/03)</u>	_____

(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,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C., Sales and Use Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5092-5110). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. The Department has made the following changes: (1) technical changes to proposed sub-paragraphs (2)(b)3.a., c., and d. of Rule 12A-1.0015, F.A.C. (Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats), to replace the phrases "person or firms" and "any individual or firm" with "any person"; (2) substantive changes to proposed paragraph (2)(c) of Rule 12A-1.064, F.A.C., to provide that registration of a motor vehicle in another state evidences that a motor vehicle has been put into service in interstate or foreign commerce outside Florida prior to entering Florida; and (3) substantive changes to Rule 12A-1.097, F.A.C. (Public Use Forms), to add forms that will be used by the Department in the administration of the self-accrual authority pursuant to s. 212.183, F.S.

DEPARTMENT OF REVENUE

Sales and Use Tax

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), and to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), is to: (1) implement s. 23, Chapter 2002-218, L.O.F., which requires an application for an enterprise zone job credit against sales tax due to be submitted to the Department within 7 months after an employee is leased; (2) implement s. 25, Chapter 2002-218, L.O.F., which permits the Department to verify credits allowable under the sales and use tax law; and (3) adopt, by reference, changes to forms used by the Department in the administration of the Florida enterprise zone jobs credit program.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, changes to forms DR-15ZC and DR-15ZCN, which are used by the Department in the administration of the Florida enterprise zone jobs credit program and implement the provisions of ss. 23 and 25, Chapter 2002-218, L.O.F.

The proposed amendments to Rule 12A-1.107, F.A.C., require that an application 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.

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

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

SPECIFIC AUTHORITY: 212.08(5)(g)6.,(h),(n)4.,(o),(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 HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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 RULES IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4733

THE FULL TEXT OF THE PROPOSED RULES 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
-------------	-------	----------------

(2) through (6)(j) No change.

(k) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, 2003 <u>2002</u> (<u>R. 01/03 N-01/02</u>)	<u>08/02</u>
-------------	--	--------------

- (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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4733

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C., Sales and Use Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5110-5111). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes to the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), were made by the Department

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Documentary Stamp Tax	12B-4
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: (1) provide current guidelines regarding the payment and the reporting of the documentary stamp tax and discretionary surtax; (2) provide current guidelines on how to obtain a refund of documentary stamp tax or discretionary surtax; and (3) adopt, by reference, the forms used by the Department in the administration of the documentary stamp tax and discretionary surtax.

The purpose of the proposed amendments to Rule 12B-4.001, F.A.C. (Payment of Tax), is to: (1) 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; (2) 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; (3) provide current procedures for Clerks of the Court to utilize when closing out alternate procedure

documentary stamp tax accounts; and (4) remove provisions regarding shortages and overages that are not supported by statutory authority.

The purpose of the proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), are necessary to: (1) remove the unnecessary and obsolete provisions, 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, by reference, changes to forms used by the Department in the administration of the documentary stamp tax.

The purpose of the proposed amendments to Rule 12B-4.004, F.A.C. (Refunds), is to provide current guidelines on how to obtain a refund of documentary stamp tax and surtax from the Department.

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), 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) of Rule 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.

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) of Rule 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.

SUMMARY: PART I – ADMINISTRATION

The proposed amendments to Rule 12B-4.001, F.A.C. (Payment of Tax): (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. (Public Use Forms): (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): (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 provide the requirements for filing such applications; (3) provide that an applicant for a refund of tax must supply documentation that the applicant paid the tax.

PART II – DEEDS – DOCUMENTARY STAMP TAX AND SURTAX

The proposed amendments to Rule 12B-4.013, F.A.C. (Conveyances Subject to Tax), implement the provisions of s. 1, Chapter 2002-8, L.O.F., and provide that the documentary stamp tax is to be based solely on the final bid price received for the property at the foreclosure sale based on an order or final judgment issued in a foreclosure proceeding.

PART IV – ORIGINAL ISSUES OF STOCK

The proposed repeal of Rule 12B-4.031, F.A.C. (Imposition of 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), removes obsolete provisions regarding the taxability of original issues of stock.

PART VI – NOTES AND WRITTEN OBLIGATIONS TO PAY MONEY

The proposed amendments to Rule 12B-4.051, F.A.C. (Imposition of Tax), 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), 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): (1) provide that the tax limitation applies to demand loans, wrap-around notes, and all other notes or written obligations to pay money executed, delivered, or approved and accepted in Florida; (2) remove obsolete provisions requiring tax on the full amount of the indebtedness of out-of-state notes secured by Florida property; (3) provide guidelines on how the tax limitation applies to in-state notes secured by Florida property; and (4) provide other necessary technical changes.

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

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

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

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

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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 RULES IS: Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4724

THE FULL TEXT OF THE PROPOSED RULES IS:

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.

1. 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 the 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 (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.

(5)(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)1. 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-11DS	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 r. 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. 03/01 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. 10/02 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, 219.07 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 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, _____.

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, _____.

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 _____.

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, ~~when 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 is required to 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 the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the other state(s); nor is the mortgage required to state 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:

Value of Florida property/Total value of all property × Indebtedness = 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 × (3) \$1,000,000* = \$100,000*

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

(c) Secured by Florida Mortgage only: ~~When 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 ~~prorata~~ 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 is required to 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 the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the other state(s); nor is the mortgage required to state 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 × (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 × (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 × (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. The mortgage is required to 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 the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the other state(s); nor is the mortgage required to state the percentage of the Florida property in relation to the total property.

(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. The mortgage is required to 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 the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the

other state(s); nor is the mortgage required to state the percentage of the Florida property in relation to the total property.

~~(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 (2) No change.

(3) Wholesale Warehouse Mortgage Agreements: All promissory notes, non-negotiable notes and other written obligations to pay money given pursuant to a wholesale warehouse mortgage agreement as provided under Section 201.21, F.S., shall be exempt from the tax only when the amount of tax due on or in respect to the collateral obligation(s) given as security has been paid. The exemption

does not apply to the amount of the indebtedness evidenced by a note or other written obligation to pay money that is in excess of the amount of the indebtedness evidenced by such collateral obligation(s) given as security. The maximum of tax due on any excess of the indebtedness is \$2450.

(4) 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,

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4724

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-4, F.A.C., Documentary Stamp Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5111-5120). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. Persons appearing requested that written comments submitted to the Department be made a part of the proceeding. In response to those comments, the Department has made changes to proposed paragraphs (31)(b) and (c) and paragraphs (32)(a) and (b) of Rule 12B-4.053, F.A.C. (Taxable Documents). The Department has added proposed amendments to subsection (3) of Rule 12B-4.054, F.A.C. (Exempt Transactions). Technical changes have been made by the Department. These changes are included in the Notice of Proposed Rulemaking.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE CHAPTER TITLE: Tax on Production of Oil and Gas

RULE CHAPTER NO.: 12B-7

RULE TITLES: Public Use Forms

RULE NOS.: 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. (Public Use Forms), of Part I (Tax on Production of Oil and Gas) and Rule 12B-7.026, F.A.C. (Public Use Forms), 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.

SUMMARY: The proposed amendments to Rule 12B-7.008, F.A.C., adopt, by reference, form DR-144ES and changes to forms DR-144, DR-145, and DR-145X, used by the Department in the administration of the tax on the production of oil and gas.

The proposed amendments to Rule 12B-7.026, F.A.C., adopt, by reference, form DR-142ES and changes to form DR-142, used by the Department in the administration of the severance tax.

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

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

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

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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 RULES IS: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4696

THE FULL TEXT OF THE PROPOSED RULES 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
(2)(+) DR-144	Gas and Sulfur Production Quarterly Tax Return (R. 01/00 r. 2/94)	12/94
(3) DR-144ES	Declaration of Estimated Gas and Sulfur Production Tax (R. 02/00)	_____
(4)(2) DR-145	Oil Production Monthly Tax Return (R. 01/03 r. 5/93)	12/94
(5)(3) DR-145X	Amended Florida Oil Production Monthly Amended Tax Return (R. 02/00 r. 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
(2)(+) DR-142	Solid Mineral Producers Severance Tax Return (R. 12/99 r. 12/98)	10/01
(3) DR-142ES	Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. 02/00)	_____

(4)(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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: 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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-7, F.A.C., Tax on Production of Oil and Gas, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5120-5121). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.

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.

SUMMARY: The proposed amendments to Rule 12B-8.003, F.A.C., adopt changes to forms DR-907, DR-907N, DR-908, DR-908N, and DR-350900, used by the Department in the administration of the insurance premium tax.

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

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

SPECIFIC AUTHORITY: 213.06(1) FS.

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

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

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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

THE FULL TEXT OF THE PROPOSED RULE 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 For Calendar Year 2002 - 2001 - Due March 1, 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	2002 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.

NAME OF PERSON ORIGINATING PROPOSED RULE: 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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5121-5122). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.

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	12C-1.022
Forms	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 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.

SUMMARY: The proposed amendments to Rule 12C-1.022, F.A.C.: (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 proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, changes to forms used by the Department in the administration of the Florida corporate income tax and remove form F-1120P, Payment Coupon, which is no longer used by the Department.

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

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

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

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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 RULES IS: Gary Moreland, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4831

THE FULL TEXT OF THE PROPOSED RULES 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) ~~1.~~ "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) ~~1.~~ 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(e) 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. <u>01/03 01/04</u>)	____ 08/02
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/03 01/04</u>)	____ 08/02
(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/03 01/02</u>)	____ 08/02
(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/03 01/02</u>)	____ 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, <u>2002</u> 2004 (R. <u>01/03 01/02</u>)	____ 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, <u>2003</u> 2002 (R. <u>01/03 01/02</u>)	____ 08/02
(8) F-1120P	Payment Coupon (R. 01/02)	08/02
(8)(9) (a) F-1120X	Amended Florida Corporate Income/ Franchise and Emergency Excise Tax Return (R. <u>01/03 01/02</u>)	____ 08/02
(b) F-1120XN	General Instructions for <u>Preparing Filing F-1120X Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return</u> (R. <u>01/03 01/02</u>)	____ 08/02
(9)(10)	No change.	
(10)(11) (a)	No change.	
(b) F-1156ZN	Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax-Effective January 1, 2002 (R. <u>01/03 N-01/02</u>)	____ 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. <u>01/03 01/00</u>)	____ 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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary Moreland, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4831

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-1, F.A.C., Corporate Income Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5122-5125). A rule development workshop was held on

December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes to the proposed amendments to Rule 12C-1.051, F.A.C. (Forms) have been made by the Department.

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 Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), is to: (1) implement 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) adopt, by reference, forms used by the Department in the administration of the intangible personal property tax; (3) provide guidelines on how to obtain a refund of intangible personal property tax from the Department; and (4) remove obsolete or unnecessary provisions.

SUMMARY: 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): (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 proposed amendments to Rule 12C-2.007, F.A.C. (Penalties and Interest), 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 proposed amendments to Rule 12C-2.008, F.A.C. (Information Reports): (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 proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms): (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 proposed amendments to Rule 12C-2.012, F.A.C. (Refunds): (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.

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

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

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

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: 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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

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 ~~department~~ a written notification where applicable of the following:

~~(a)1.~~ 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)2.~~ 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)~~1.~~ 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~~ Forms Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the ~~Forms~~ 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) (R. 01/03 r. 01/02)</u>	<u>___ 10/01</u>

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

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.

(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.

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

(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.

NAME OF PERSON ORIGINATING PROPOSED RULE: 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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-2, F.A.C., Intangible Personal Property Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5125-5130). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made to the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), by the Department.

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 Chapter 12C-3, F.A.C. (Estate Tax), is to: (1) adopt, by reference, changes to forms used by the Department in the administration of the Florida estate tax; and (2) reduce the number of copies of a legal description of property required to be submitted to the Department with form DR-308.

SUMMARY: The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), adopt, by reference, changes to forms DR-301, DR-308, DR-310, DR-312, and F-706, used by the Department in the administration of the Florida estate tax.

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

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

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

SPECIFIC AUTHORITY: 198.08, 213.06(1) FS.

LAW IMPLEMENTED: 198.08, 198.22 FS.

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

TIME AND DATE: 10:00 a.m., February 26, 2003
 PLACE: Room B-12, Carlton Building, 501 S. Calhoun 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 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 RULES IS: Maryellen Clemens, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4712

THE FULL TEXT OF THE PROPOSED RULES 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, 168~~A~~ 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
(2)(+) DR-301	Preliminary Notice and Report (<u>R. 09/01</u> r. 07/98)	_____ 01/22/01
(3)(2) DR-308	Request and Certificate for Waiver and Release of Florida Estate Tax Lien (<u>R. 08/02</u> r. 01/00)	_____ 01/22/01
(4)(3) DR-310	Domicile Statement (<u>R. 09/01</u> r. 11/96)	_____ 01/22/01

(5)(+) DR-312	Affidavit of No Florida Estate Tax Due (for decedents dying on or after January 1, 2000) (<u>R. 08/02</u> r. 01/00)	_____ 01/22/01
(6)(5) F-706	Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (<u>R. 01/03</u> r. 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maryellen Clemens, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4712

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-3, F.A.C., Estate Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5130-5131). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes to the proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), have been made by the Department.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 01-10R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Sovereignty Submerged 18-21
 Lands Management

RULE TITLES: RULE NOS.:

Definitions 18-21.003
 Management Policies, Standards, and Criteria 18-21.004
 Delegation of Authority 18-21.0051
 Applications for Public Easement 18-21.009
 Applications for Private Easement 18-21.010
 Payments and Fees 18-21.011

PURPOSE AND EFFECT: This rulemaking is proposed by the Department of Environmental Protection, as staff to the Board of Trustees, to accomplish two purposes. First, it will establish criteria for the placement of telecommunication lines and conduits on sovereignty submerged lands along the coast of Florida and it will establish application and easement fees for such use. Second, it will clean up and update some other provisions related to all private and public easements on sovereignty submerged lands.

SUMMARY: The proposed amendments regarding telecommunication lines and conduits require a showing of proof of need for a landing; require conduits to be directionally drilled under nearshore resources and punch out where impacts to resources are avoided or minimized; prohibits installation in Miami-Dade County, south of Sunny Isles, and in Monroe County; limits the combined number of cables and conduits to six per landing site, but allows more if certain criteria are met; and establishes new application and easement fees for the cables and conduits. The rule also streamlines the processing of telecommunication lines that are located in special consideration areas. Five special consideration areas are identified in Broward and Palm Beach Counties where gaps exist in the third reef; additional special consideration areas can be adopted into rule in the future. For telecommunication lines located in special consideration areas, the authorization for the project will be delegated to DEP; a sketch may be submitted in lieu of a survey, provided an as-built is submitted later; and two spare conduits per cable are allowed instead of one. DEP is also proposing to assess application fees of \$15,000 for private and public telecommunication lines, and a private easement fee of \$5.06 per linear foot (for a ten-foot wide easement and prorated for wider easements), which will be adjusted annually to changes in the consumer price index.

In addition, the rulemaking will update and correct language in sections 18-21.009 and 18-21.010 related to easements: (1) it will change the noticing of public and private easements to owners within 500 feet of the easement boundary to match statutory requirement, and will allow the applicant to notice the project in lieu of the Board; (2) it will change the requirement to submit payment of the private easement fee at the time the

application is submitted to when the easement is approved; and (3) it will clarify language regarding easement application and renewal fees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A formal SERC has not been prepared. However, this rule will result in the increased application fee from \$200 to \$15,000 for private and public easements for telecommunication lines, including subsequent applications to install lines in existing conduits. This increased application fee is designed to better recover the actual costs to the Department to evaluate and process offshore telecommunication line applications. The easement fee of \$5.06 is fixed and is based on what DEP currently charges; it represents the appraised easement value and the enhanced upland property value.

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

SPECIFIC AUTHORITY: 253.03(7) FS.

LAW IMPLEMENTED: 253.002, 253.03, 253.034, 253.04, 253.115, 253.12, 253.77 FS.

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

TIME AND DATE: Thursday, 6:00 p.m., February 13, 2003

PLACE: DEP Southeast District Office, 400 North Congress Avenue, 2nd Floor Meeting Room, West Palm Beach, Florida
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting the Bureau of Personnel Services, (850)245-2511. If you are hearing or speech impaired, please contact the Florida Relay Service by calling (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Beaches and Wetland Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, telephone (850)245-8486, e-mail: jeanese.mccree@dep.state.fl.us, or facsimile (850)245-8499

THE FULL TEXT OF THE PROPOSED RULES IS:

18-21.003 Definitions.

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) through (52) No change.

(53) “Telecommunication line” means any cable utilized for the purpose of transmitting such things as voice communications, video signals, Internet material, electronic mail, or data.

(53) through (57) renumbered (54) through (58) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.002, 253.02, 253.03, 253.1221, 253.67, 253.77 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 3-20-94, 10-15-98, 8-1-01, 12-11-01,_____.

18-21.004 Management Policies, Standards, and Criteria.

The following management policies, standards, and criteria shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty submerged lands.

- (1) No change.
- (2) Resource Management.
- (a) through (k) No change.

(1) Applications for telecommunication lines received after [effective date of rule] that originate from or extend to locations outside of the state's territorial limits through the territorial sea including the area between mean high and mean low water lines and any associated conduits shall be subject to the following:

1. Installations shall be approved only where the applicant provides satisfactory evidence of a need by providing documentation in the form of:

a. A contract to install telecommunication lines and associated conduits to an upland distribution network and stating the projected date of installation; or

b. A letter of commitment from a company in the business of installing or using telecommunication lines for a line that will be installed and connected to an upland distribution network, functional for transmitting data, and on-line within a specified time frame once a conduit is made available.

2. Installations at individual landing sites are limited to no more than six telecommunication lines and conduits except where the applicant can affirmatively demonstrate that the landing site will support a larger number of such lines and that the routing through the territorial sea will cause no more than minimal individual and cumulative impacts.

3. No more than one empty conduit shall be installed per approved telecommunication line except in special consideration areas identified in this paragraph where two empty conduits may be installed per approved telecommunication line.

4. Installations shall be prohibited south of Sunny Isles in Miami-Dade County and in all of Monroe County.

5. Conduits for telecommunication lines shall be directionally drilled under nearshore benthic resources, including the first reef and any other more inshore reefs off Southeast Florida, to the maximum extent practicable and shall punch out in a location that avoids or minimizes impacts to benthic resources such as seagrasses and live bottom communities including corals and sponges.

6. Special consideration areas are designated for telecommunication lines and associated conduits located within the recognized reef-gaps generally described as follows:

a. Lake Worth Gap (northern Palm Beach County), beginning at the easternmost end at N. Lat. 26 37.659/W. Long. 80 01.341 (south side) and N. Lat. 26 38.481/W. Long. 80 01.258 (north side), and extending perpendicular to shore in a 1,672 yard-wide gap to the mean high water line landward of the second reef terrace;

b. Boynton Beach Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 32.200/W. Long. 80 01.788 to N. Lat. 26 32.245/W. Long. 80 01.791, in a 90-95 yard wide gap to the mean high water line.

c. Delray Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 27.393/W. Long. 80 02.765 (south side) and at N. Lat. 26 27.641/W. Long. 80 02.726 (north side), and extending perpendicular to shore in a 508 yard-wide gap to the mean high water line;

d. Turtle Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 22.672/W. Long. 80 03.224 (south side) and at N. Lat. 26 22.748/W. Long. 80 03.224 (north side), and extending perpendicular to shore in a 154 yard-wide gap to the mean high water line; or

e. South Broward Gap (southern Broward County), beginning at the easternmost end at N. Lat. 25 58.438/W. Long. 80 05.278 and N. Lat. 25 58.821/W. Long. 80 05.271 and extending landward on its southerly limits through the following points: N. Lat. 25 58.977/W. Long. 80 05.733, N. Lat. 25 59.132/W. Long. 80 05.997, and ending at N. Lat. 25 59.138/W. Long. 80 06.366, and landward on its northerly limits through the following points: N. Lat. 25 59.039/W. Long. 80 05.725, N. Lat. 25 59.205/W. Long. 80 06.060, and ending at N. Lat. 25 59.192/W. Long. 80 06.371.

- (1) renumbered (m) No change.
- (3) through (5) No change.

Specific Authority 253.03, 253.73 FS. Law Implemented 253.03, 253.034, 253.04, 253.041, 253.141, 253.51, 253.61, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History—New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 10-15-98, 12-11-01,_____.

18-21.0051 Delegation of Authority.

- (1) No change.

(2) The Secretary of the Department of Environmental Protection and the Governing Boards of the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District are delegated the authority to review and take final agency action on applications to use sovereignty submerged lands when the application involves an activity for which that agency has permitting responsibility, as set forth in the respective operating agreements between the Department and the water management districts identified in subsection 62-113.100(3), F.A.C., unless the proposed activity includes any of the following:

- (a) through (b) No change.

(c) Private easements of more than 5 acres, except for the installation of telecommunication lines and associated conduits in special consideration areas designated in paragraph 18-21.004(2)(1), F.A.C., in which case, prior to taking final agency action for such installations, staff will provide the Board with notice and an opportunity to request that the application be placed on the Trustees agenda;

(d) The establishment of a mitigation bank.

(3) through (4) No change.

Specific Authority 253.002 FS. Law Implemented 253.002 FS. History—New 10-12-95, Amended _____.

18-21.009 Applications for Public Easement.

(1) Applications for easements across sovereignty submerged land for public purposes such as utilities, bridges, and roads, shall include the following:

(a) through (c) No change.

(d) A detailed statement of proposed use and satisfactory evidence of need for installation of telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C. If the applicant is a local governing body, the request shall be by official resolution or minutes;

(e) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. through 6. No change.

7. Including a legal description and acreage of the parcel sought; However, for applications received after [effective date of rule] for telecommunication lines and associated conduits in special consideration areas designated in paragraph 18-21.004(2)(1), F.A.C., a sketch of the location of the installation shall be submitted provided that an as-built survey and legal description are submitted upon completion of construction. Such sketch shall be on NOAA nautical charts using the smallest scale available for the portion of the route shown;

~~(f) When noticing is required, the applicant shall provide a list of names and addresses, verified by the County Property Appraiser's Office, of all current property owners within a 500-foot radius of the proposed easement boundary in mailing label format. In lieu of the Board providing notice of application for easement to adjacent property owners in accordance with s. 253.115, F.S., an applicant may elect to send the notice, provided the notice is sent by certified mail, with the return-receipt card addressed to the Department; Written comments from the Department of Environmental Protection, when applicable, in the form of:~~

1. permit appraisal or biological assessment; and
2. letter of intent, if issued;

(g) A \$200.00 non-refundable processing fee. However, a \$15,000 non-refundable processing fee is required for each application to install telecommunication lines and associated

conduits received after [effective date of rule] that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., at a landing site, including applications to install telecommunication lines in previously authorized empty conduits. The processing fee for telecommunication lines and associated conduits shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. The processing fee may be waived for state agencies established pursuant to Chapter 20, F.S. Florida Statutes, and local governments; and

(h) No change.

(2) Easements are renewable, assignable and transferable, subject to approval by the Board under this rule; compliance with applicable statutes and rules of the Board in effect at the time of easement renewal; payment of a \$200.00 non-refundable processing fee; and payment of all fees assessed under Rule 18-21.011, F.A.C.

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

Specific Authority 253.03(7) FS. Law Implemented 253.03(11), 253.12 FS. History—New 9-26-77, Formerly 16C-12.09, 16Q-17.09, Revised 3-27-82, Formerly 16Q-21.09, 16Q-21.009, Amended 12-11-01, _____.

18-21.010 Applications for Private Easement.

(1) Applications for easements across sovereignty submerged lands for private purposes shall include the following:

(a) through (c) No change.

(d) A detailed statement of proposed use and satisfactory evidence of need for installation of telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C.;

(e) No change.

(f) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. through 6. No change.

7. Including a legal description and acreage of the parcel sought; However, for applications received after [effective date of rule] for telecommunication lines and associated conduits in special consideration areas designated in paragraph 18-21.004(2)(1), F.A.C., a sketch of the location of the installation shall be submitted provided that an as-built survey and legal description are submitted upon completion of construction. Such sketch shall be on NOAA nautical charts using the smallest scale available for the portion of the route shown;

~~(g) Written comments from the Department of Environmental Protection, when applicable, in the form of:~~

1. permit appraisal or biological assessment; and
2. letter of intent, if issued;

~~(g)(h) When noticing is required the applicant shall provide a list of names and addresses, verified by the County Property Appraiser's Office, of all current property owners within a 500-foot radius of the proposed easement boundary in mailing label format. In lieu of the Board providing notice of application for easement to adjacent property owners in accordance with s. 253.115, F.S., an applicant may elect to send the notice, provided the notice is sent by certified mail, with the return-receipt card addressed to the Department: A list of names and addresses of all property owners within a 1,000 foot radius of the proposed easement area, verified by the County Property Appraiser's Office that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the Department, preferably on labels suitable for mailing;~~

~~(h)(i) A \$200.00, non-refundable processing fee; However, a \$15,000 non-refundable processing fee is required for each application to install telecommunication lines and associated conduits received after [effective date of rule] that are subject to the provisions of paragraph 18-21.004(2)(l), F.A.C., at a landing site, including applications to install telecommunication lines in previously authorized empty conduits. The processing fee for telecommunication lines and associated conduits shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase;~~

~~(j) through (k) renumbered (i) through (j) No change.~~

~~(k)(l) Calculation of Payment for the value of the easement pursuant to subsection 18-21.011(2), F.A.C. in the amount stated on an appraisal performed by an independent appraisal firm contracted by the applicant and approved by the department.~~

~~(2) Easements are renewable, assignable and transferable, subject to approval by the Board under this rule; compliance with applicable statutes and rules of the Board in effect at the time of easement renewal; payment of a \$200.00 non-refundable processing fee; and payment of all fees assessed under Rule 18-21.011, F.A.C.~~

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

~~Specific Authority 253.03(7)(a) FS. Law Implemented 253.03(11), 253.12 FS. History--New 12-20-78, Formerly 16C-12.10 and 16Q-17.10, Revised 3-27-82, Formerly 16Q-21.10, 16Q-21.010, Amended 12-11-01,_____.~~

18-21.011 Payments and Fees.

(1) No change.

(2) Private Easements

(a) The fee for private easements, except for telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(l), F.A.C., shall be determined by an appraisal obtained by the applicant.

The appraiser must be selected from the division's approved list of appraisers and the appraisal must be reviewed and approved by the division.

(b) In addition to standard appraisal requirements and procedures, the following factors shall be considered in determining the easement fee:

1. through 2. No change.

(b) The fee for private easements for telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(l), F.A.C., shall be a one-time fee of \$5.06 per linear foot of telecommunication line or conduit as measured along sovereignty submerged lands from the limits of the territorial sea to first landfall on the mainland. This fee represents the easement value and the enhanced value for easements up to 10 feet wide, and shall be increased proportionally for easements of greater widths. This fee shall also be applicable to easement modifications to the extent that such modifications increase the easement area and to easement renewals. The fee shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. This fee shall not be applicable to applications to transfer or assign an easement.

(3) through (5) No change.

~~Specific Authority 253.03(7), 253.73 FS. Law Implemented 253.03, 253.115, 253.71 FS. History--New 3-27-82, Amended 5-18-82, 8-1-83, 9-5-84, 10-20-85, Formerly 16Q-21.11, 16Q-21.011, Amended 1-25-87, 9-6-87, 3-15-90, 10-11-98, 10-15-98,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Stoutamire, Administrator

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT AND SUMMARY PUBLISHED, PURSUANT TO SEC. 120.551, F.S., IN THE DEPARTMENT'S OFFICIAL NOTICE INTERNET SITE AT WWW.DEP.STATE.FL.US UNDER THE LINK TITLED "OFFICIAL NOTICES," AND IN THE FAW: February 16, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLE: Definitions

RULE NO.: 61G6-5.001

PURPOSE AND EFFECT: To amend the rule to include descriptive language to clarify the scope of work a certified electrical contractor is licensed to provide.

SUMMARY: This rule is being amended to further define the parameters on the electrical services a certified electrical contractor can provide.

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: 489.505(2), 489.507(3), 489.511 FS.

LAW IMPLEMENTED: 489.505(10),(12), 489.511(2)(a)3.c. 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: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-5.001 Definitions.

(1) through (4) No change.

(5) "Electrical contractor or unlimited electrical contractor" means a person as defined in Section 489.505(12), Florida Statutes, whose scope of practice is not limited to a specific segment of electrical contracting. An electrical contractor or unlimited electrical contractor shall be either certified or registered. A certified electrical contractor is licensed to design electrical services less than 1000 amps at 600 volts maximum.

(6) through (16) No change.

Specific Authority 489.505(2), 489.507(3), 489.511 FS. Law Implemented 489.505(10), (12), 489.511(2)(a)3.c. FS. History--New 1-2-80, Amended 2-15-82, Formerly 21GG-5.01, Amended 2-23-86, 3-21-88, 11-26-90, 7-8-91, 5-20-92, 11-3-92, Formerly 21GG-5.001, Amended 12-26-93, 3-24-94, 7-13-95, 5-2-96, 5-6-96, 8-27-96, 2-13-97, 8-3-97, 1-4-98, 9-7-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 6, 2002

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 03-04R

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

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

DEP announces proposed amendments increasing NPDES Stormwater fees for construction operations disturbing five (5) or more acres of land and incorporating, within the fee structure, a fee for construction operations disturbing at least one (1) acre of land, but less than five (5) acres, under Phase II of the NPDES stormwater program.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Fred Noble, P.E., NPDES Stormwater Section, Florida Department of Environmental Protection, Mail Station 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: General Requirements
RULE NO.: 64B8-45.001

PURPOSE AND EFFECT: The Board proposes to change the rule to reflect that fifteen (15) rather than the current ten (10) hours of credit shall be accepted per biennium for approved home study courses.

SUMMARY: This rule sets forth the requirements for continuing education in Dietetics and Nutrition practice.

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: 456.013(7),(8), 468.507 FS.

LAW IMPLEMENTED: 456.013(7),(8), 468.514, 468.515 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: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-45.001 General Requirements.

(1) As a condition of biennial licensure renewal, all licensees shall complete a minimum of thirty contact hours of continuing education in dietetics and nutrition practice within the twenty-four (24) month period prior to the expiration date of the license, of which no more than ten hours may be in management, risk management, personal growth, and educational techniques. Up to fifteen (15) ~~ten~~ hours of credit shall be accepted per biennium for approved home study courses. Those persons certified for licensure in the second half of the biennium are exempt from the continuing education requirements for that biennium. One contact hour equals a minimum of fifty minutes.

(2) through (6) No change.

Specific Authority 456.013(7),(8), 468.507 FS. Law Implemented 456.013(7),(8), 468.514, 468.515 FS. History—New 12-5-90, Amended 1-1-92, 9-24-92, 5-6-93, Formerly 21M-51.001, Amended 9-28-93, Formerly 61F6-51.001, Amended 1-2-95, 11-12-95, Formerly 59R-45.001, Amended 9-26-01, 3-4-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dietetics and Nutrition Practice Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2002

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

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

Division of Workers Compensation

RULE NO.: 4L-6.022
RULE TITLE: Confidentiality of Records Produced by the Division

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. 45, November 8, 2002, of the Florida Administrative Weekly. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

Rule 4L-6.022, F.A.C., is changed to read as follows:

4L-6.022 Confidentiality of Records Produced by the Division.

(1) Section 440.185(11), Florida Statutes, provides that any information in a report of injury or illness filed with the Division pursuant to Section 440.185, Florida Statutes that would identify an ill or injured employee is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the Constitution of the State of Florida. Section 440.125, Florida Statutes, provides in part that any information identifying an injured employee in medical bills which are provided to the Division pursuant to Section 440.13, Florida Statutes is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the Constitution of the State of Florida.

(2) For purposes of maintaining the confidentiality of information as required pursuant to Sections 440.125 and 440.185(11), Florida Statutes, the following constitutes information that would identify an ill or injured employee: the ill or injured employee's

- (a) Name or signature;
(b) Social security number;
(c) Business, residence, and mailing addresses; and
(d) Residence and business telephone number.

(3) In the Division's response to a public records request, information that would identify an ill or injured employee will be redacted from any report of injury or illness filed with the Division pursuant to Section 440.185, Florida Statutes, and from any medical bill provided to the Division pursuant to Section 440.13, Florida Statutes.

Specific Authority 440.185(10), 440.591 FS. Law Implemented 440.125, 440.185(11) FS. History—New

DEPARTMENT OF EDUCATION

Commission for Independent Education

Table with 2 columns: RULE NOS. and RULE TITLES. Rows include 6E-2.0041 (Delivery of Programs through Nontraditional Assessments, Modes and Methods), 6E-2.008 (Approval of Modifications), 6E-2.0081 (Change of Ownership or Control), and 6E-2.010 (Agents).

NOTICE OF CHANGE

Notice is hereby given that proposed Rules 6E-2.0041, 6E-2.008, 6E-2.0081, and 6E-2.010, F.A.C., published in Vol. 28, No. 43, October 25, 2002, Florida Administrative Weekly, have been changed to reflect comments received from the Joint Administrative Procedures Committee on November 12, 2002, and during public discussions at several Rules Development Workshops held between July 2002 and January 8, 2003, and a Public Hearing on January 10, 2003. The proposed rules have been changed so that when adopted they will read:

(Substantial rewording of Rule 6E-2.0041 follows. See Florida Administrative Code for present text.)

6E-2.0041 Delivery of Programs through Nontraditional Assessments, Modes and Methods Nontraditional College Programs.

(1) Introduction. In addition to its responsibility for the maintenance of high standards of quality, the Commission also serves to encourage responsible innovation in postsecondary education to meet societal needs for creatively designed programs delivered in nontraditional ways. It is the intention of the Commission that its standards and procedures shall foster the development of quality innovative programs and emerging new fields of study, and shall not unreasonably hinder educational innovation and competition.

(a) Institutions offering nontraditional programs of study shall document that the instructional methods used will lead to the achievement of stated learning objectives, and that all nontraditional instruction shall be consistent with the abilities, educational skills, experience, and needs of the students enrolled in the programs.

(b) Institutions offering nontraditional programs of study that employ innovative delivery systems or innovative methods, or that carry on research and teaching in emerging fields of study, shall demonstrate that they will achieve the intent of each of the standards contained in Rule 6E-2.004, F.A.C., for the appropriate level of licensure and for annual reviews.

(c) In addition to providing to the Commission the documentation required for each standard contained in Rule 6E-2.004, F.A.C., showing how the intent of each standard will be met in the nontraditional program or delivery system, the institution shall also furnish for each course to be offered:

1. An inventory of equipment and materials to be provided to each student;

2. A detailed description of how each program will be conducted, including detailed course outlines or syllabi, procedures for distribution of materials, examination and evaluation of student work, timely response to students' questions and comments, record keeping, appropriate student services, and technical support.

(d) Institutions holding accreditation as defined in Section 1005.02(1), Florida Statutes, by an accrediting agency recognized by the U. S. Department of Education to deliver nontraditional education, may substitute proof of such accreditation, in good standing, for the above requirements.

(2) Awarding of credit.

(a) Units or credits applied toward the award of a credential in nontraditional programs may be derived from a combination of any or all of the following:

1. Units or credits earned at and transferred from other postsecondary institutions, when congruent and applicable to the receiving institution's program and when validated and confirmed by the receiving institution.

2. Successful completion of challenge examinations or standardized tests demonstrating learning at the credential level in specific subject matter areas.

3. Prior learning, as validated, evaluated, and confirmed by qualified instructors at the receiving institution.

(b) Graduation requirements for nontraditional degree programs shall include provisions for general education appropriate to the type of degree, as specified in Rule 6E-2.004, F.A.C. The Doctor of Philosophy degree, commonly abbreviated Ph.D., shall not be offered or awarded through distance or nontraditional learning without appropriate accreditation by an accrediting agency recognized by the U.S. Department of Education.

(c) At least 20 percent of the units required in a nontraditional degree program shall be given by the institution awarding the degree, and shall not be derived from any combination of transfer, examination, or experiential learning; however, credits earned by active U.S. military members are excluded from this requirement due to the transient nature of the service.

(3) Direct contact instruction. Institutions licensed to operate in Florida and wishing to offer programs or courses through directed individual and group study using direct contact instruction shall describe the teaching-learning methodology to be used, and shall submit illustrative course outlines and competencies and all other documentation as required in Rule 6E-2.004, F.A.C., for the appropriate level of licensure or for subsequent annual reviews.

(4) Indirect contact instruction.

(a) Institutions licensed to operate in Florida and wishing to offer programs or courses through individual and group study mediated and assisted by telecommunications, computer augmented educational services, facsimile transmission, the postal service, or another technological method, shall describe the teaching-learning methodology to be used, and shall submit illustrative course outlines, competencies and all other documentation as required in Rule 6E-2.004, F.A.C., for the appropriate level of licensure or for subsequent annual reviews.

(b) In addition to the other requirements of Rule 6E-2.004, F.A.C., an institution offering instruction by correspondence shall employ a sufficient number of qualified instructors to assure that:

1. The academic content is designed by qualified faculty; and

2. Each student lesson, project, examination, or paper is evaluated by qualified instructors, and the instructor's response to or evaluation of each is sent to the student within a reasonable time as disclosed to the student.

(c) For programs that require the development of a manual or technical skill, such as the use of equipment or tools, the institution must ensure that the student has the opportunity to gain practical hands-on experience appropriate to master the skill. This experience, wherever gained, shall be documented

in the student's file and shall be done under proper supervision and with meaningful evaluation of the competency outcomes. The technical aspects must be designed by qualified technicians.

(5) Credit for prior learning. An institution may grant credit to a student for prior experiential learning only if all of the following apply:

(a) The prior learning is equivalent to the level of learning in which the student is enrolling.

(b) The prior learning is demonstrated to provide a balance between theory and practice, for academic programs; or a verifiable mastery of appropriate skills, for vocational courses or programs. For courses or programs requiring a combination of theory and skills, the prior learning is demonstrated to provide the appropriate combination.

(c) The credit awarded for the prior learning directly relates to the student's course or program and is applied in satisfaction of some of the credential requirements.

(d) College or university level learning for which credit is sought shall be documented by the student in writing, and validated, confirmed, and evaluated by faculty qualified in that specific subject area, who shall ascertain to what college or university level learning the student's prior learning is equivalent, and how many credits toward a degree may be granted for that prior learning. The faculty evaluating the prior learning shall prepare a written report indicating all of the following, which report shall be retained by the college or university for review by visiting Commission representatives upon request:

1. The documents in the student's file on which the faculty relied in determining and confirming the nature of the student's prior learning;

2. The basis for determining that the prior learning is equivalent to college or university level learning, and demonstrates a balance between theory and practice; and

3. The basis for determining to what college or university level the prior learning is equivalent, and the proper number of credits to be awarded toward the degree, based upon that prior learning.

(e) No more than 50 percent of the units required and validated through the institution's internal review process for a degree shall be awarded for prior experiential learning.

(6) Credits earned in a compressed time period. Institutions licensed in Florida and wishing to offer courses or programs in a compressed time period shall show evidence to the Commission that the intent of all standards for licensure, as set forth in Rule 6E-2.004, F.A.C., shall be met.

(7) Instructors. Institutions licensed to operate in Florida and wishing to offer nontraditional programs or courses shall employ or contract with appropriately qualified instructors sufficient in number to provide the instruction, student interaction, and learning outcomes evaluation necessary for the institution to document achievement of its stated purpose, and

for students to achieve the specific learning objectives and competencies required for each program so offered. It shall be the responsibility of the licensed institution to validate each instructor's competence to use the interactive electronic media program or distance learning program effectively, and to provide training in the use of the delivery system if needed.

(8) Library and other learning resources.

(a) Institutions licensed to operate in Florida and wishing to offer nontraditional programs or courses shall document to the Commission how they provide, ensure, and maintain access for all students to the information resources and services appropriate to support each program or course.

(b) Institutions shall document how they provide, ensure, and maintain security of examinations and papers.

(c) Institutions shall collect and use student evaluations of content, delivery, and services.

(9) Laboratory experiences. In the case of courses in the experimental or clinical sciences, or other courses requiring hands-on experience, each licensed institution wishing to offer nontraditional programs shall document to the Commission that arrangements have been made to ensure that the requisite laboratory, field, or equivalent experience is available to and used consistently by every enrolled student. Such experience shall be documented in the student's file, and shall occur under appropriate supervision and meaningful evaluation of the competency outcomes.

(10) Catalog. Each institution licensed in Florida and wishing to offer nontraditional programs or courses shall comply with all requirements of Rules 6E-1.0032 and 6E-2.004, F.A.C., and in addition shall publish information in the catalog, whether printed or electronic, pertaining to each of the following:

(a) The institution's policies and procedures for the award of credit for prior learning, including confirmation and validation, assessment policies and procedures, provisions for appeal of decisions, limitations on the number of credits that may be awarded in this manner, and all fees that a student may be required to pay.

(b) The institution's policies regarding the acceptance of credits earned by the student through successful completion of challenge examinations or standardized tests, acceptable scores for each, whether and how many times examinations may be repeated to achieve an acceptable score, limitations on the number of credits that may be awarded in this manner, and all fees that a student may be required to pay.

(c) If the institution offers instruction by correspondence, schedules for normal progress or completion of the course or program, and all fees that a student may be required to pay.

(11) Student records.

(a) Institutions wishing to offer nontraditional programs or courses shall maintain a file for each student, conforming to the general requirements of Rule 6E-2.004, F.A.C., and contain the following:

1. All documents evidencing a student's prior learning upon which the instructors and the institution base the award of any credit or credential.

2. For directed individual or group contact instruction, copies of the learning agreements or learning contracts signed by the instructors and administrators who evaluated the agreements and contracts.

(b) An academic transcript shall be maintained, kept current, and retained permanently for each student. Institutions offering nontraditional courses and programs shall adopt a policy requiring that credits awarded for prior learning, including internal credit by challenge examination, shall be so identified on the student's academic transcript. Institutions shall adopt a policy regarding the length of time for retention of records documenting evaluation, assessment and awarding of nontraditional credit. Retention time shall be sufficient for reasonable future review and confirmation of student work.

(12) Fair consumer practices, as described in Sections 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C., shall be followed by the institution in all aspects of its operation.

Specific Authority 1005.22(1)(c)1., 1005.31(2), (3) 246.041(1)(c), 246.051(1), 246.074 FS. Law Implemented 1005.31 246.041(2), (4), 246.087(1), 246.095 FS. History—New 10-13-83, Formerly 6E-2.041, Amended 11-27-88, 6-20-95,

(Substantial rewording of Rule 6E-2.008 follows. See Florida Administrative Code for present text.)

6E-2.008 Approval of Modifications Amendments to Applications.

(1) No licensed institution shall add new degrees, programs or majors to its offerings or alter any licensed program by more than 20 percent since its last review, change the title of a program or the credential awarded, or discontinue a program, while under a Provisional License. Modifications contemplated by institutions holding an Annual License shall receive approval from the Commission before implementation. Such approval is contingent upon:

(a) A finding by the Commission that the licensee meets the standards contained in Rule 6E-2.004, F.A.C., and, if applicable, Rule 6E-2.0041 or 6E-2.0042, F.A.C., for each proposed new degree, program or major;

(b) Documentation that the modifications are congruent with the guidelines of state or national professional licensing boards;

(c) The licensee's filing the required documentation; and

(d) The licensee's paying the fee required by rule.

(2) In the event that it is deemed necessary by the Commission, a representative of the Commission or a visiting committee shall visit the institution prior to consideration of the modification and shall provide a written report to the Commission of its findings, to be used as one of the bases upon which the Commission will make a determination regarding the modification.

(3) Any other significant change in the information provided in the initial application for, or last review of, licensure, or in subsequent modifications approved by the Commission, including but not limited to change in corporate charter, purpose, administrative structure, finance, or physical facilities, shall be filed with the Commission at least 30 days prior to implementation.

(4) Additional locations, including auxiliary classroom space, shall not be added while under a Provisional License. Institutions holding an Annual License shall receive prior approval of additional locations by the Commission before implementation. For colleges and universities, if the new additional location is more than 10 miles distant from the main Florida headquarters, the college or university shall submit information to the Commission showing that the requirements of Rule 6E-2.004, F.A.C., are met for the additional location. For nondegree schools, each location except an auxiliary classroom space shall be licensed separately. Licensed institutions shall provide to the Commission prior notification of auxiliary classroom space, as defined in subsection 6E-1.003(5), F.A.C. Such notification shall include the address and description of the facilities. The description shall include information regarding student capacity, the purpose of the facility, the impact on existing students, and the scope of the operation.

(5) The Commission shall be notified in writing of minor modifications of programs, fees, or tuition. The Commission shall not be required to review or approve such modifications.

(6) Institutions Licensed by Means of Accreditation shall file a copy of all correspondence with accrediting agencies regarding modifications.

Specific Authority 1005.33(2) 246.041(1)(c), 246.051(1), 246.071, 246.091(3) FS. Law Implemented 1005.33(2) 246.051, 246.087(1), 246.091(2),(3) FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(2)(c), Readopted 11-11-75, Amended 5-7-79, 10-13-83, Formerly 6E-2.08, Amended 5-13-87, 11-29-89, 10-19-93, 4-2-96, 4-11-00.

6E-2.0081 Change of Ownership or Control.

(1) Pursuant to Section 1005.31(8), Florida Statutes, a licensed institution shall notify the Commission prior to a change of ownership or control. The notification shall be made in writing no less than 30 days prior to the change. The Commission shall review each case and, if the standards for licensure are met, take affirmative action to issue a new license after receipt and evaluation of the appropriate documentation and payment of the required fee. The Commission shall make the final determination as to whether a change of ownership or control has occurred.

(2) Change of ownership means a transfer, assignment, or conveyance of issued or outstanding stock or other instrument of ownership which results in a change in control of the institution.

(a) For a privately held corporation, a change of ownership occurs:

1. When a majority of stock or other instrument of ownership is conveyed; or

2. When an amount of stock or other instrument of ownership sufficient to increase an individual's holdings to 50 percent or above is conveyed; or

3. When the majority of the institution's governing board changes within a calendar year.

(b) For a publicly held corporation, a change of ownership occurs:

1. When there is a change of 50 percent or more of the voting members of the board of directors in any 12-month period; or

2. When there is a change in the number of voting members of the board of directors in any 12-month period that will allow a group of directors to exercise control who could not exercise control before the change; or

3. When there is an acquisition of outstanding voting shares by any entity or group whereby that entity or group owns 50 percent or more of the total outstanding voting shares; or

4. When any other transaction occurs that is deemed by an appropriate governmental agency to constitute a change of control, including but not limited to a transaction that requires the corporation to file a notice of change of ownership with the Securities and Exchange Commission of the United States.

(c) For a not-for-profit corporation, a change of ownership occurs:

1. When there is a change of 50 percent or more of the voting members of the controlling board in any 12-month period; or

2. When there is a change in the number of voting members of the controlling board in any 12-month period that will allow a group of members to exercise control who could not exercise control before the change.

(d) For a limited liability company, a change of ownership occurs:

1. When the transfer of 50 percent or more of the direct or beneficial ownership interest is conveyed from one member or members to another member or members; or

2. When there is a transfer of direct or beneficial ownership interest that results in the holding of 50 percent or more of the total direct or beneficial ownership interest by any member other than any previous member who owned 50 percent or more of the total direct or beneficial ownership interest; or

3. When there is a transfer of direct or beneficial ownership interest whereby a member's direct or beneficial ownership interest decreases from more than 50 percent to less than 50 percent; or

4. When there is any other transaction whereby a member or group of members who previously could not exercise control of the company as described in this rule now can exercise control.

(e) For purposes of determining ownership, married couples shall be considered a single entity, and closely related family groups shall be considered a single entity when all of the present and future relevant stockholders actively participate in the management of the corporation. No change of ownership occurs when stock is transferred to a close family member by operation of law or inheritance upon the death of one of the stockholders.

(3) A change in control means any change in the organization of a institution which affects the authority to establish or modify institutional policies, standards, and procedures. A change in control occurs when a person acquires or loses control of an institution or of the parent corporation that owns the institution, whether by means of the sale of the institution, sale of the assets, transfer of the controlling interest of stock, conversion of the institution from nonprofit to for-profit or vice versa, or similar transaction. A change in control does not occur upon the retirement or death of the owner of an institution, if ownership and control passes to a member of the owner's family or to a person with a pre-existing ownership interest in the institution.

(4) With the written notification provided to the Commission as required in subsection (1) of this rule, the institution shall provide:

(a) A written statement of the anticipated effects of such change upon the name, purpose, programs, personnel, administrative organization, finances, and other standards for licensure, and upon its accredited status, if accredited.

(b) A copy of the institution's last application for licensure, or licensure review, annotated to disclose all changes to the materials previously submitted.

(c) The new owners, in the case of a change of ownership, shall provide a written sworn statement attesting to:

1. The accuracy and completeness of the materials presented to the Commission;

2. A guarantee that the new ownership will comply with the requirements of Chapter 1005, Florida Statutes, and these rules;

3. Confirmation that the new owner(s), chief administrative officers, directors, or registered agents are not ineligible to hold such positions in a licensed institution, pursuant to Section 1005.38(2), (3) and (4), Florida Statutes.

(d) Information and fee required for the criminal justice information investigation authorized by Section 1005.38(4), Florida Statutes.

(5) If a change of ownership or control occurs in the period between regularly scheduled Commission meetings, the materials submitted are complete and in compliance with Commission standards, and if it appears to be in the best interest of the students, interim executive approval of the change and interim Provisional Licensure shall be granted by the Executive Director and reported to the Commission at its next meeting for further action.

(6) The currently licensed institution shall be responsible for arranging and conducting a change in ownership or control in a manner and at a time so that there is no adverse impact on the opportunity of currently enrolled students to complete their training and receive student services. In addition, the institution shall remain responsible for properly completing the training of the enrolled students and for providing the student services, and shall be subject to disciplinary action for any violations of statutes and rules which may occur in that regard during the transition. A change of ownership or control of an institution, or the issuance of a new license, shall not in any manner release the institution from its legal obligations to enrolled students to provide education and services required under the student's enrollment agreement, Chapter 1005, Florida Statutes, or the rules of the Commission. The new licensee shall be under a continuing obligation to fulfill the terms of all contracts with the enrolled students.

Specific Authority 1005.31(8)(b) FS. Law Implemented 1005.31(5),(8) FS. History—New _____.

(Substantial rewording of Rule 6E-2.010 follows. See Florida Administrative Code for present text.)

6E-2.010 Agents; License Required; Procedures for Licensure.

The following provisions shall apply to persons meeting the statutory definition of "agent" found in Section 1005.02(2), Florida Statutes.

(1) No agent shall recruit for an institution required to be licensed under Section 1005.31(1), Florida Statutes, unless the institution is so licensed.

(2) It shall be the responsibility of each institution to require a specific training program for its admissions director, who shall supervise and train all agents and admissions staff employed by the institution. The agent training program shall be submitted to the Commission for review, initially and upon changing the program. Institutions that choose to employ a training provider for their training program may, if the program provided by the contractor has been approved by the commission, provide the program without additional approval. Training of agents shall include information to familiarize agents with the Florida Statutes and applicable rules regarding agents, and with the institution's programs, services, costs, terms of payment, financial aid available for qualified students, refund policy, transferability of credits to other institutions, reasonable employment projections and accurate placement data, status of the institution regarding licensure and accreditation, facts regarding the eligibility of graduates to sit for licensure examinations or fulfill other requirements to practice in Florida the career or profession for which the prospective student wishes to be trained, and other relevant facts. The training program shall reflect the fair consumer practices outlined in Sections 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C. The training program shall be updated as necessary to reflect changes in applicable

laws, rules, and institutional policies; and all agents and admissions staff shall be provided with updated training as necessary.

(3) Each agent applying for initial licensure with an institution shall file with the Commission the required documentation and the appropriate application fee, as well as a fee for the cost of an investigation of criminal justice information as provided in Section 1005.22(1)(h), Florida Statutes, and defined in Section 943.045(3), Florida Statutes. Agents applying for renewal of their existing license with an institution shall submit, with the application for renewal, updated information regarding training taken during the preceding year, contact information, required fees, and a certification signed by the director or chief administrative officer of the institution stating that the information provided is true and correct.

(4) Persons seeking licensure as recruiting agents for institutions shall submit the following materials in conjunction with the application fee:

(a) Confirmation by the chief executive officer or president of the institution that the individual has been appointed as a recruiting agent for the institution;

(b) Documentation that the institution is authorized to operate by the appropriate state or other agency of jurisdiction where the main campus, corporate headquarters, and all other operations of the institution are located, if out of state;

(c) A statement of the institution's status regarding accreditation;

(d) A copy of the institution's current catalog; and

(e) An affirmation signed by the chief executive officer or president of the institution, stating that the agent has received all required training and that the institution shall be responsible for the correct and accurate representation of the institution by the agent in Florida; and that all printed materials, advertisements, and verbal information disseminated in Florida by the agent regarding the institution shall conform to the applicable requirements of Florida law and rules, including: Chapter 501, Florida Statutes; Chapter 1005, Florida Statutes; and Chapters 6E-1 through 6E-4, F.A.C.

(5) Upon receipt of the required materials and results of the criminal justice information investigation required for new applicants by Section 1005.22(1)(h), Florida Statutes, showing that the applicant has not been found in violation of laws or rules governing recruiting practices or other relevant matters, the staff of the Commission shall review the materials and make a recommendation to the Executive Director regarding licensure of the applicant. The staff shall request additional information regarding the applicant or the institution to be represented, if the materials submitted do not contain the information necessary to determine eligibility. If the Executive Director finds that the applicant and the institution to be represented meet the standards set forth in this rule and in Chapter 1005, Florida Statutes, the agent's license shall be

issued or extended for one year. A report of agents issued licenses or extensions shall be provided to the Commission on a quarterly basis. If the criminal background investigation reveals relevant convictions or pleas, the application will be denied.

(6) The criteria for nontransferable licensure of a recruiting agent are:

(a) Evidence of appointment by the institution to be a recruiting agent for the institution;

(b) Evidence that the institution to be represented is authorized to operate by the appropriate state or other agency of jurisdiction where the main campus, corporate headquarters, and all other operations of the institution are located, if out of state;

(c) Evidence that the agent has satisfactorily completed an approved training program and has demonstrated competent knowledge and mastery of the content;

(d) Affirmation that the agent has not had an agent's license or similar authorization revoked in Florida or in another state or other jurisdiction, and has not been found in violation of laws or rules governing recruiting practices; and

(e) Affirmation that the agent will represent the institution correctly and accurately and will comply with all applicable laws and rules.

(7) Each agent's license shall be effective for a period of one year from the date of issuance, and is not transferable to another agent or to another institution to be represented. If an individual recruits students for more than one institution, that individual must receive a separate agent's license and receive and document separate agent's training for each institution represented.

(8) Each initial agent's license shall be issued for a maximum period of one year from the date of issuance. After receiving initial licensure, an agent shall apply annually for licensure by submitting the documentation and fee set forth in this rule.

(9) Each institution employing recruiting agents shall notify the Commission in writing within ten days after the resignation or dismissal of an agent. Agents shall be required to return their agent's license within 10 days of resignation or dismissal.

(10) An agent's license is subject to denial, probation, or revocation for cause as set forth in Section 1005.38, Florida Statutes, and Rule 6E-2.0061, F.A.C. Grounds shall include violation of applicable Florida law; misrepresentation of the institution, its programs, or other pertinent facts; obtaining an agent's license by fraudulent misrepresentation, bribery, or through an error of the Commission; failure to follow fair consumer practices; failure to comply with the provisions of Chapter 1005, Florida Statutes; prior revocation or disciplinary action against the agent for violation of these or similar standards; revocation of the represented institution's license in Florida or of its authorization to operate in the state or other

jurisdiction where the main campus, corporate headquarters, and all other operations of the institution are located; or, in the case of an out-of-state institution not licensed by the Commission, any activity by or on behalf of the institution which would be grounds for denial or revocation of its licensure under the provisions of Rule 6E-2.0061, F.A.C., if it were subject to licensure in Florida. A person whose agent's application has been denied or revoked shall not solicit students, nor shall a person solicit students while his or her agent's license is under probation.

(11) Revocation of an agent's license shall lead to an investigation of the licensed institution to determine whether the institution's license should be placed on probation or revoked for failing to train or supervise its agents adequately, or for allowing or encouraging its agents to violate the provisions of Florida Statutes and rules, if the activities leading to the disciplinary action appear to be related to such circumstances.

(12) All monies collected by an agent from or on behalf of students recruited shall be turned over to the institution represented. All checks received shall be made payable to the institution represented, and receipts for cash shall be given to the student in the name of the institution.

(13) All licensed agents representing an institution shall be called agent, admissions representative, sales representative, or field representative. The terms counselor or advisor, or modifications thereof, shall not be used by agents.

(14) Agents shall not have the authority to accept an applicant for admission on behalf of the institution. If an applicant is determined by the institution not to be eligible for admission, or not to possess the ability to complete the program successfully, all monies paid shall be refunded in accordance with the institution's refund policy.

(15) An agent shall not offer a bonus or discount to the prospective student, and shall not make statements indicating that the prospective student must make a decision immediately or within a short period of time. No reference shall be made, either verbally or in writing, that other inducements, including but not limited to travel, equipment or textbooks, will be provided free to the prospective student for signing up during a specific period of time or for bringing in other new students.

Specific Authority 1005.31(10), 246.041(1)(c), 246.051(1), 246.071, 246.087(2) FS. Law Implemented 1005.04, 1005.22(1)(h), 1005.31(10), 1005.33, 1005.38(1), 1005.39, 246.051, 246.081(4), 246.087(2), 246.095, 246.097(2), 246.111 FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(4), Readopted 11-11-75, Amended 2-6-78, Formerly 6E-2.10, 6E-2.11, Amended 5-13-87, 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-11-00, _____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.:

6E-4.005

RULE TITLE:

Student Protection Fund; Trainout Procedures for Closure

NOTICE OF CHANGE

Notice is hereby given that proposed Rule 6E-4.005, F.A.C., published in Vol. 28, No. 43, October 25, 2002, Florida Administrative Weekly, has been changed to reflect comments received from the Joint Administrative Procedures Committee on November 12, 2002, and during public discussions at several Rules Development Workshops held between July 2002 and January 8, 2003, and a Public Hearing on January 10, 2003.

The proposed rule has been changed so that when adopted it will read:

6E-4.005 Student Protection Fund; Trainout Procedures for Closure.

Subsections (1)-(4), (6)(a), and (6)(b) of this rule shall apply to all licensed nonpublic nondegree schools. Subsections (5) and (6)(c) shall apply to all licensed institutions.

(1) Establishment of Fund. There is hereby established a fund to be known as the Student Protection Fund, pursuant to Section 1005.37, Florida Statutes.

(2) Payment into the Student Protection Fund shall be made by all licensed nonpublic nondegree schools.

(3) Assessment Paid by Licensed Nondegree Schools. Each licensed school shall pay annually to the fund a specified amount equal to .0005 of the annual gross tuition revenue generated in Florida.

(4) Computation and Payment of Assessment.

(a) The Commission shall require each school to make a \$500 payment to the Student Protection Fund before an initial Provisional License is issued. After the second year of operation, the \$500 may be used to offset future payments to the Student Protection Fund.

(b) The counting period shall be the institution's fiscal year.

(c) For programs offered by correspondence or distance education, only income from Florida students shall be counted for purposes of computing the assessment. For purposes of this rule, a Florida student is a student whose mailing address for purposes of receiving distance education lessons and materials from the school is a Florida address.

(d) The full and timely payment of the assessment is a condition of licensure. Failure to make such payment shall be grounds for disciplinary action against the school, or for changing the status of a school which is Licensed by Means of Accreditation to a Provisional License, or for denial of an application for license renewal.

(5) Application for and Granting of Train-out Awards.

(a) Any institution that enrolls a student who was enrolled in a licensed school but who was unable to complete a program at such school because the school ceased operations or terminated the program in which the student was enrolled may

qualify for payments from the Student Protection Fund for training out the student in the program in which the student was previously enrolled.

(b) A licensed institution offering to train out an affected student(s) may apply for an award by letter to the Commission requesting a train-out award and identifying the school which ceased operations; the last known date that the school was open, or the closing date, if known; the program in which the student was enrolled; the date that the student's program was terminated; the student's Social Security number; and the approximate date on which the student began the program. Train-out institutions must provide to the Commission an accurate itemization of actual costs incurred during the training. The institution must also provide to the Commission an accounting of other funds that will be provided for the student. These funds will be considered when the Commission determines the amount of an award. The Commission will base awards on the availability of funds, the actual costs incurred, and the amount of other funds received. The train-out award and the cost of completing the program shall not exceed the actual cost of training out the student, minus other payments made by or on behalf of a student, minus the amount of any remaining accounts receivable. The Commission shall pay the award to the train-out institution within 45 days of the date of approval by the Commission.

(6) Additional Provisions.

(a) Direct expenses for the administration of the fund shall be charged to the fund.

(b) Pursuant to Section 1005.37(3), Florida Statutes, the owners of a school that terminates a program before all students have completed it shall be assessed a fee by the Commission in an amount not to exceed the cost to the Student Protection Fund of implementing the trainout. Failure to pay the fee to the Commission shall be grounds for disciplinary or civil action against the school and its owners. Improper closing of a school without meeting the obligations required by Chapter 1005, Florida Statutes, and these rules, shall result in actions as provided in Sections 1005.36 and 1005.38, Florida Statutes.

(c) Before closing, a licensed institution shall:

1. Notify the Commission in writing at least 30 days prior to closing the institution, pursuant to Section 1005.36, Florida Statutes;

2. Establish and submit to the Commission a written plan for the closure to include the following:

a. The method of training out students, including written agreements with other institutions which may provide part or all of the trainout;

b. The method by which all student academic records to the Commission or the Commission's designee;

c. A time-line showing the steps to be taken for orderly closure of the institution;

d. A list of current mailing addresses and telephone numbers for all active students currently enrolled at the institution;

e. Copies of notices to the students that the institution will provide for the students' trainout or refunds;

f. Evidence of refunds made to students not receiving trainout, repaying all outstanding student loans, or pro-rata refunds to students not having loans;

3. Notify the Commission, and provide documentation of meeting all student obligations, at the conclusion of the trainout.

4. When the Commission is notified that an institution is closing or has closed, the Commission shall:

a. Have a representative of the Commission visit the institution as soon as practicable to review the current status of the institution and to provide a report to the Commission;

b. Review the trainout plan to determine compliance with this rule;

c. Assist in identifying and securing trainout at other institutions;

d. Ensure that students are notified of their rights and responsibilities;

e. Share information regarding the closure with appropriate federal and state agencies and any other appropriate oversight bodies.

5. If the Commission is not notified, or if the institution has not provided for an orderly closing, the Commission shall:

a. Organize a trainout committee composed of staff, Commission members, and other individuals to oversee an orderly trainout;

b. Notify all appropriate agencies to seek assistance in the institutional closure; and

c. Refer the matter to the Department of Legal Affairs or the State Attorney for investigation and prosecution.

Specific Authority 1005.37 FS. Law Implemented 1005.35(4)(g), 1005.36(3), 1005.37 FS. History--New

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
14-57	Railroad Safety and Clearance Standards, and Public Railroad-Highway Grade Crossings
RULE NOS.:	RULE TITLES:
14-57.010	Definitions for Use in Part II
14-57.011	Public Railroad-Highway Grade Crossing Costs
14-57.012	Standards for Opening and Closing of Public Railroad-Highway Grade Crossings

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. 48, November 27, 2002, issue of the Florida Administrative Weekly.

SUMMARY OF CHANGES: The following changes result from a review of comments received from the Joint Administrative Procedures Committee:

1. Rules 14-57.010, 14-57.011, and 14-57.012: Remove Section 335.141, Florida Statutes, from Specific Authority citations.

2. 14-57.010(2): The form reference within the rule is being changed to reflect the actual title of the form, i.e., "Railroad Grade Crossing Application." Also, because the form contained references to a statutory citation and an obsolete rule reference, the form is being revised and the revision date is changed to (01/03) instead of the (10/00) currently shown.

3. 14-57.011(2): The effective date of the Federal Policy Guide is January 31, 2002. This effective date is listed on the document and the reference in the rule is being changed to show this date. The incorporation by reference is to read as follows:

(2) Installation and Modification. The method of determining responsibility for installation or modification costs shall be as follows: At all public railroad-highway grade crossings, the method of determining railroad responsibility will be in accordance with the Federal Highway Administration Federal-Aid Policy Guide, Subchapter B, Part 140, Subpart I, January 31, 2002, Transmittal 30, incorporated herein by reference. To obtain copies of this document, go to www/fjwa/dpt/gpv: link to Legislation and Regulations.

4. 14-57.012(3)(b): The Department's *Design Standards for Design, Construction and Maintenance and Utility Operations on the State Highway System* is effective January 2002. Therefore, the incorporation by reference statement is revised to read as follows:

(b) Minimum Active Grade Crossing Traffic Control Devices. All new public railroad-highway grade crossings shall have, as a minimum, roadside flashing lights and gates on all roadway approaches to the crossing, usually placed on the right of approaching traffic. Lamp units shall be in accordance with the standards recommended by the MUTCD. The location of the roadside flashing lights and gates shall be in accordance with the Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices," January 2002, with the primary emphasis being the visibility of the flashing lights and gates. The Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices," January 2002, is hereby incorporated by this rule and made a part of the rules of

this Department. Copies of this document and any amendments thereto are available at <http://www11.myflorida.com/rddesign/Design%20Standards/designstds.htm>.

5. 14-57.012(3)(g)1.: The title for 14-57.012(g) is changed from "Exceptions" to "Delay of Installation." The proposed 14-57.012(3)(g)1. is deleted in its entirety and the proposed 2. and 3. are changed to 1. and 2.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-24R

RULE CHAPTER NO.: RULE CHAPTER TITLE:

62-730 Hazardous Waste

RULE NO.: RULE TITLE:

62-730.150 General

NOTICE OF CORRECTION

PURPOSE AND EFFECT: Clerical error resulted in an unintended variation between rule language as proposed by the Department of Environmental Protection in its Notice of Proposed Rulemaking published on July 26, 2002 (in the Department's official notice internet site at www.dep.state.fl.us under the link titled "Official Notices," and in the Florida Administrative Weekly) and the rule language as published in the Florida Administrative Code. One subparagraph, 62-730.150(8)(c)2., was affected. Specifically, the word "muffler" was inadvertently omitted from the final rule as published, and a superfluous sentence was accidentally added. Today's notice corrects these errors and conforms the final rule with the proposed rule as noticed on July 26, 2002.

THE PERSON TO BE CONTACTED REGARDING THE CORRECTED RULE IS: Augusta P. Posner; Department of Environmental Protection, Office of General Counsel, Mail Station 35, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000, (850)245-2282

THE FULL TEXT OF THE CORRECTED RULE IS:

62-730.150 General.

(8)(c)2. The shop engages in the repair or modification of light truck or automobile engines, brakes, mufflers, or transmissions/transmission axles, unless the shop is excluded in paragraph Rule 62-730.150(8)(d), F.A.C. ~~"Light truck or automobile engines" include fuel delivery systems and engine cooling systems.~~

DEPARTMENT OF HEALTH

Division of Disease Control

RULE NO.: RULE TITLE:

64D-3.018 Partner Notification

NOTICE OF WITHDRAWAL

Notice is hereby given that the above notice of change in Vol. 28, No. 33, August 16, 2002 and the rule, as noticed in Vol. 28, No. 37, September 13, 2002 Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:
65A-1.400 Forms for Client Notice and Contact

NOTICE OF CHANGE

Notice is hereby given that changes have been made to the proposed rules, published in Vol. 28, No. 45 issue of the Florida Administrative Weekly on November 8, 2002, in accordance with subparagraph 120.54(3)(d)1., F.S. These changes are the result of potential objections raised by the Joint Administrative Procedures Committee in a letter dated December 31, 2002. Note that technical changes in regard to form titles and edition dates were also made and are not detailed here.

A listing of the forms that are repealed in this rule, but the functions of which have been incorporated by reference as a form in another rule, is as follows:

- HRS-SES Form 1007, Mar 80, Fair Hearing Request
- CF-ES Form 2064, Jun. 98, Your Rights and Responsibilities
- CF-ES Form 2066, 2066S, 2066H, Jun. 98, Request for Assistance
- HRS-ES Form 2067, Sept. 90, Application for Public Assistance
- HRS-ES Form 2914, Jul. 86, Authorization to Release Medical Information
- HRS-ES Form 3059, May 92, Decision Pending/Request for Verification.

A listing of forms that have been repealed by this action, but either will be incorporated by reference in or are under consideration for incorporation by reference in another rule, is as follows:

- HRS-ES Form 2058, Oct. 88, Declaration of United States Citizenship/Lawful Alien Status
- HRS-ES Form 2065, Nov. 91, Parent Responsibility Contact Letter
- HRS-ES Form 2264, Jan. 89, Notice of Determination of Resource Transfer
- HRS-AA Form 2504, Oct. 89, Assignment of Rights to Support
- HRS-ES Form 2505, Oct. 89, Affidavit for Designated Representative
- CF-ES Form 2601, Jun. 98, Notice of Case Action
- HRS-SES Form 2640, Oct. 79, Child Support Cooperation Notice
- HRS-ES Form 2689B, Feb. 90, Periodic Eligibility and Income Report
- HRS-ES Form 2918, Nov. 90, Medicaid Notice of Case Action

A listing of forms that have been repealed by this action is as follows:

- HRS-MED Form 1006, May 83, Nursing Home Contribution Notice

HRS-ES Form 1027, Dec. 82, Emergency Certification for Medicaid – Request
 HRS Form 1248, Jul. 90, Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program Benefits
 HRS Form 1293A, Jan. 91, Medical Resources Documentation
 HRS Form 1330, April 82, Notice of Ineligibility or Change in Service Status
 HRS-ES Form 2009, Jul. 86, Appointment Notice/Request for Information
 HRS-ES Form 2068, Feb. 92, Signature Page for Application for Public Assistance
 CF-ES 2095, Oct. 98, Jobs and Benefits Work Registration Referral
 CF-ES 2096, Oct. 98, WAGES Overview and Work Activity Referral
 CF-ES 2097, Oct. 98, WAGES Participation and Information Notice
 HRS-ES Form 2233, Oct. 87, Medicaid Notice of Case Action Change/Cancellation
 HRS-ES Form 2235, Jun. 83, Notice of Case Action (OSS/HCE)
 HR-ES Form 2236, Oct. 89, Medicaid Notice of Application Disposition
 HRS-AA Form 2508, Jul. 90, Resource Assessment
 HRS-AA Form 2509, Apr. 90, Alternative Placement Notice
 HRS-ES Form 2636, Jun. 83, Protective Payee Accounting
 HRS-ES Form 2637, Jun. 87, Support Payment Notification Letter
 HRS-ES Form 2647, Dec. 79 Warrant Photocopy Availability Notice
 HRS-ES Form 2692, Oct. 93, Family Support Act Child Care Referral
 HRS-ES Form 2692a, Oct. 93, Family Support Act Child Care Referral Children’s Information
 HRS-ES Form 2693, Oct. 92, Child Care Rights and Responsibilities
 HRS-ES Form 2902, Jan. 89, Medically Needy Billing Authorization Form
 HRS-ES Form 2911, Aug. 90, Disability Report
 HRS-ES Form 2912, Jul. 86, Supplemental Mental Disability Report
 HRS-ES Form 2913, Jul. 86, Vocational Report
 HRS-SES Form 3010, Feb. 92, Food Stamp Authorization
 HRS-ES Form 3012, Jan. 92, Food Stamp ID Card
 HRS-ES Form 3044, Jan. 87, Notice of Expiration of Certification Period
 HRS-ES Form 3050, Dec. 85, Notice of Decision
 HRS-ES Form 3083, May 90, Statement for Food Stamps Work Registrants

HRS Form 4181, Jul. 92, Support Services Notice of Redetermination, Termination or Denial
 HRS-ES Form 4184, Sept. 93, Project Independence Registration and Information Notice

Rule text changes are as follows.

At the end of section (1) insert a new sentence to read:

The edition date on some of these forms is listed with a notation that the edition replaces a previous edition that may be used. This notation is to indicate that the new edition of the form does not implement a policy change and that supplies of the previous edition may be exhausted prior to exclusive use of the new edition.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NOS.:	RULE TITLES:
65A-1.701	Definitions
65A-1.710	SSI-Related Medicaid Coverage Groups
65A-1.711	SSI-Related Medicaid Non-Financial Eligibility Criteria
65A-1.713	SSI-Related Medicaid Income Eligibility Criteria

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules, published in Vol. 28, No. 41 issue of the Florida Administrative Weekly on October 11, 2002, in accordance with subparagraph 120.54(3)(d)1., F.S. These changes are the result of the department’s decision to amend an age eligibility factor for the Traumatic Brain Injury and Spinal Cord Injury Home and Community-Based Services Waiver Program and to delete the Qualified Individuals (QI) 2 program as it has been discontinued. The specific changes are as follows.

Rule 65A-1.701, F.A.C.

Paragraph (36) is amended to read:

(36) Traumatic Brain Injury and Spinal Cord Injury/Home and Community-Based Services: A Home and Community-Based Services (HCBS) waiver program for individuals ages 18 ~~through 64 and older~~ who have a traumatic brain or spinal cord injury and are not enrolled or eligible for the Medically Needy Program.

Rule 65A-1.710, F.A.C.

Paragraph (7) is amended to read:

(7) Traumatic Brain Injury and Spinal Cord Injury Waiver Program. Individuals must be: eligible for SSI, MEDS-AD or Home and Community Based Services; must be age 18 through

~~64 or older~~; must not be enrolled in or eligible for the Medically Needy Program; and, must have a traumatic brain or spinal cord injury.

Rule 65A-1.711, F.A.C.

Paragraph (4)(f) is amended to read:

(f) Be age 18 through 64 ~~or older~~ and disabled in accordance with SSI disability criteria set forth in 42 CFR §§ 435.540 and 435.541, F.S., (both incorporated by reference) with a medical condition of traumatic brain injury or spinal cord injury in accordance with the Centers for Medicare and Medicaid Services approved Medicaid waiver.

Rule 65A-1.713, F.A.C.

Paragraph (1)(k) is deleted:

~~(k) For a Qualified Individual 2 (QI2), income must be greater than 135 percent of the federal poverty level, but equal to or less than 175 percent of the federal poverty level. QI2 is eligible only for one-time annual reimbursement of a portion of the Medicare premium by Medicaid.~~

(1)(l) through (1)(m) renumbered (1)(k) through (1)(m)
No change.

IF REQUESTED WITHIN 10 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME AND DATE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., February 12, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE NOTICE OF CHANGE OR THE HEARING IS: Audrey Mitchell, Program Administrator, Economic Self-Sufficiency Services, Program Support Unit, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, (850)488-3090

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-21.002	Definitions
67-21.003	Application and Selection Process for Loans
67-21.0035	Applicant Administrative Appeal Procedures
67-21.007	Fees
67-21.008	Terms and Conditions of Loans
67-21.014	Credit Underwriting Procedures
67-21.016	Compliance Procedures

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. 51, December 20, 2002, issue of the Florida Administrative Weekly.

67-21.002 Definitions.

(8) “Application” means, ~~with respect to the MMRB Program,~~ the completed forms from the Universal Application Package, together with all exhibits submitted to Florida Housing in accordance with the provisions of this rule chapter in order to apply for the Program.

(31) “Developer Fee” means the fee earned by the Developer. Such fee shall be limited to 18 percent of Total Development Cost excluding land and, for rehabilitation, building acquisition costs. A Developer Fee on the building acquisition cost shall be limited to 4% of the cost of the building(s) exclusive of land cost. Consulting fees, if any, must be paid out of the Developer Fee. Consulting fees include, ~~but are not limited to,~~ payments for Application consultants, construction management or supervision, or local government consultants. Fees of the Applicant’s or Developer’s attorney(s) awarded in conjunction with litigation against Florida Housing with respect to a Development shall also not be included in Total Development Costs. Fees for services provided by architects, accountants, appraisers, engineers or Financial Advisors may be included as part of the Total Development Costs, except that those fees for a Financial Advisor that are in excess of \$18,000 must be paid out of the Developer Fee. In the event of extraordinary circumstances, Applicant may petition the Board for relief from the attorney fee and Financial Advisor caps. For the purpose of the HUD Risk Sharing Program, if there exists an Identity of Interest relationship as defined herein between the Applicant or Developer and the General Contractor, the allowable fees shall in no case exceed the amount allowed for the Developer Fees pursuant to the HUD subsidy layering regulations. Florida Housing shall not authorize fees to be paid for duplicative services or duplicative overhead.

(34) “Difficult Development Area” or “DDA” means any area designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to area median gross income in accordance with section 42(d)(5) of the Code. A list of the 2003 Florida DDAs is adopted and incorporated herein by reference. A copy of such list is available on FHFC’s web site www.floridahousing.org. The United States Department of Housing and Urban Development maintains the official DDA list. The incorporated Florida DDA list is designed to assist the Applicant in the Application process. Applicants are responsible for providing Florida Housing with accurate DDA information.

(56) “Income Certification,” “Tenant Income Certification” or “Form TIC-1” means the form which is adopted and incorporated herein by reference, effective 6/2002, and which shall be used to certify the income of all tenants residing in a Set-Aside unit in a Development. A copy of such form is available on FHFC’s web site at www.floridahousing.org.

(74) "Program Report" or "Form PR-1" means the report format which is required to be completed and submitted to Florida Housing pursuant to this rule chapter, and is adopted and incorporated herein by reference, effective October 2002 on the date of the latest amendment to this rule chapter. A copy of such form is available on FHFC's web site at www.floridahousing.org.

(77) "Qualified Census Tract" or "QCT" means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50% or more of the households at an income which is less than 60% of the area median gross income, or a poverty rate of at least 25%, in accordance with section 42(d)(5)(C) of the Code. A list of the 2003 Florida QCTs is adopted and incorporated herein by reference. A copy of such list is available on FHFC's web site www.floridahousing.org. The United States Department of Housing and Urban Development maintains the official QCT list. The incorporated Florida QCT list is designed to assist the Applicant in the Application process. Applicants are responsible for providing Florida Housing with accurate QCT information.

~~(80) "Recap of Tenant Income Certification Information" or "Form AR-1" means a report format which is required to be completed and submitted to the Corporation pursuant to this rule chapter and is adopted and incorporated by reference, effective on the date of the latest amendment to this rule chapter. A copy of such form is available on FHFC's web site at www.floridahousing.org.~~

(81) through (84) renumbered (80) through (83) No change.

~~(84)(85)~~(b) For Tax-exempt Bonds – 20 percent or more of the residential units in the Development shall be occupied or held available for occupancy by a Family whose Annual Household Income does not exceed 50 percent of the ~~s~~State or county median income whichever is higher, or 40 percent or more of the residential units in the Development shall be occupied by or held available for a Family whose Annual Household Income does not exceed 60 percent of the ~~s~~State or county median income, whichever is higher, or that which is required by the Code at the time of issuance of the Bonds or required by Florida Housing to meet its programmatic purposes.

(86) through (95) renumbered (85) through (94) No change.

~~(95)(96)~~ "Total Development Cost" means the sum total of all costs incurred in the construction of a Development all of which shall be subject to the approval by the Credit Underwriter and shall be approved by Florida Housing as reasonable and necessary. Such costs may include, ~~but not be limited to:~~

~~(96)(97)~~ "Universal Application Package" or "UA1016 Rev. 3-03" means the forms and instructions, obtained from Florida Housing at 227 North Bronough Street, Suite 5000,

Tallahassee, Florida 32301-1329, which shall be completed and submitted to Florida Housing in accordance with this rule chapter in order to apply for the ~~MMRB~~ Program. The Universal Application Package is adopted and incorporated herein by reference, effective on the date of the latest amendment to this rule chapter.

The Application forms have been changed as follows:

Part III.A.11.c., Proximity to closest Development Address or location coordinates identified on the FHFC development Proximity List (the List), has been changed by the addition of a new (2), the renumbering of (2) through (4) as (3) through (5), and revision of the 2.5 mile and 5 mile proximity distance requirements.

Part III.E.2.a., Minimum Number of HOME-Assisted Units Required by HUD, has been changed by the addition of a new (6).

Part III.E.2.b., Commitment to Set-Aside Units Beyond the Minimum, has been changed to clarify when the questions must be answered.

Part III.E.2.c., Summary of HOME-Assisted Units, has been renumbered as d. and a new c., Total Set-Aside Percentage, has been added.

Part V.A.2., HOME Applicant funding request, has been changed to require the Applicant to state the total maximum HOME subsidy allowed.

The Application exhibits have been changed as follows:

Developer or Principal of Developer Certification Form, change to experience requirement

Management Agent or Principal of Management Agent Certification Form, change to experience requirement

General Contractor or Principal of General Contractor Certification Form, change to experience requirement

Architect or Engineer Certification Form, change to experience requirement

Service Provider or Principal of Service Provider Certification Form, change to experience requirement

The Application instructions have been changed as follows:

Part II.A.2.b., replacement of the Applicant entity

Part II.B.1.c., Developer or principal of Developer experience requirements

Part II.B.2.b., Management Agent or principal of Management Agent experience requirements

Part II.B.3.b., General Contractor or principal of General Contractor experience requirements

Part II.B.7.b., Service Provider or principal of Service Provider experience requirements

Part III.A.11.b.(1), Grocery Store definition

Part III.A.11.b.(4), Pharmacy definition

Part III.A.11.c., Proximity to closest Development Address or location coordinates identified on the List, has been changed by the addition of a new (2), the renumbering of (2) through (4) as (3) through (5), and revision of the 2.5 mile and 5 mile proximity distance requirements.

Part III.E.2.a., Minimum Number of HOME-Assisted Units Required by HUD.

Part III.E.2.c., Summary of HOME-Assisted Units, has been renumbered as d. and a new c., Total Set-Aside Percentage, has been added.

Part V.A.4.f., Rural Development Applicants.

Section B.7.a., Ranking and Selection Criteria, a new (4) has been added and (4) through (6) have been renumbered (5) through (7)

Section B.7.e.(5), Ranking and Selection Criteria

Section B.7.e.(7)(c), Ranking and Selection Criteria

Fees, Section 7.d.

~~(97)(98)~~ No change.

67-21.003 Application and Selection Process for Loans.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application must file with the Corporation, within 7 ~~10~~ Calendar Days of the date of receipt of the preliminary scores, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must specify the assigned Application number and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE timely Rreceived.

(6) Within 9 ~~7~~ Calendar Days of receipt of the notice set forth in subsection (5) above, each Applicant shall be allowed to cure its Application by submitting ~~submit~~ additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsections (3) and (5) above that could result in rejection of the Application or a score less than the maximum available. Where specific pages of the Application are revised, changed or added, each new page(s) must be marked as "revised," and submitted. Failure to mark each new page(s) "revised" will result in the Corporation not considering the revisions, changes or additions to that new page. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. The Applicant shall submit an original and three

copies of all additional documentation and revisions. Only revisions, changes and other information received by the deadline set forth herein will be considered. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(10) Based on the order of the ranked Applications after informal appeals and the availability of State Bond Allocation designated by the Board for multifamily housing, the Board shall designate Applications for funding and offer the opportunity to enter Credit Underwriting, and shall designate those that are below the funding line on the MMRB ranked list. Any additional ~~2002~~ allocation designated by the Board for MMRB shall be applied to the next unfunded Application(s) on the ranked list, but only to the extent said Application's request can be fully funded. Any remaining ~~2002~~ allocation designated by the Board for multifamily housing, which as of December 1 of each year, ~~2002~~ is insufficient to fully fund the next ranked Application shall be offered to the next ranked Applicant, continuing down the ranked list until sufficient to fully fund a proposed Development. After December 1, Applicants shall be permitted to downsize their allocation request by up to 15% of the original allocation request for the purpose of becoming fully funded but may not reduce the number of units or the unit sizes in the development. Any unused allocation shall, at the option of the Board, be carried over and applied to the next ~~2003~~ calendar year allocation or applied to single family housing. Florida Housing may, after the cure period and upon a determination that such is necessary to assure timely processing of Applicants, invite Applicants who meet threshold into Credit Underwriting at their own risk. Applicants shall be notified in writing of the opportunity to enter Credit Underwriting. A detailed timeline for submitting required fees and information to the Credit Underwriter shall be included. Failure to meet the deadlines established by such timeline shall result in the immediate termination of Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list. Applicants electing to proceed to Credit Underwriting without designation for funding do so at their own risk, and said opportunity does not ensure that the Application will be funded. Any Applicant that declines invitation to Credit Underwriting, when invited by the Board, shall be removed from the ranked list.

(13)(d) An Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation ~~and/or~~ any agent or assignee of the Corporation.

(14)(j) The total set-aside percentage as stated in the last row of the total set-aside breakdown chart in ~~of~~ the Total Set-Aside Commitment section of the Application; All other items may be submitted as cures pursuant to paragraph (6) above.

(17) ~~With respect to MMRB Program Applications, When two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.~~

(20) ~~Prior to instituting any change resulting in any modification or deviation from the Application or Credit Underwriting Report, Applicant shall notify the Corporation. All changes to the Development plans, resident programs and other specifications which were used to describe the Development in accordance with this rule chapter and the Universal Application Package and represented to the Credit Underwriter and Development servicer are affected by this prior notification requirement. Failure to obtain the Corporation's approval prior to implementing any such changes shall result in the Applicant and any of the Applicant's Affiliates being ineligible to participate in any program administered by the Corporation for a period of two years, which shall begin from the date the Board approves disqualification of the Applicant and its Application.~~

(21) through (28) renumbered (20) through (27) No change.

67-21.0035 Applicant Administrative Appeal Procedures.

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation on or before the 21st Calendar Day after the date Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., ~~as applicable~~, and specify in detail each issue and score sought to be challenged. Submission by facsimile or other electronic means will not be accepted. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board.

67-21.007 Fees.

~~(11) Failure to pay any fee on or before ten Calendar Days after the due date shall cause no further activity by Florida Housing or its agents with respect to the Loan.~~

67-21.008 Terms and Conditions of Loans.

(1)(g) Require the submission to Florida Housing of an annual audited financial statement for the Development, and for the Applicant if revenue from multiple projects is being pledged. An annual financial statement compiled or reviewed by a licensed Certified Public Accountant in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1 may be submitted in lieu of an audited financial statement for the Development prior to the issuance

of a certificate of occupancy for any unit in the Development, provided that the subsequent annual audited financial statement shall include all operations since inception.

67-21.014 Credit Underwriting Procedures.

(2)(h)2. For Principals and Guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1, which is adopted and incorporated herein by reference, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statements compiled or reviewed in accordance with SSARS No. 1 are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter in accordance with the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective January 7, 2002 ~~November 23, 1999~~, which is adopted and incorporated herein by reference, and the two most recent years tax returns.

3. For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

4. For the Applicant and General Partner, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If the entities are newly formed (less than 18 months in existence as of the date that Credit Underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

67-21.016 Compliance Procedures.

(5)(e) Income Certification Form TIC-1 for each tenant. ~~A sample Form TIC-1 can be obtained from Florida Housing.~~

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-48.002	Definitions
67-48.004	Application and Selection Procedures for Developments
67-48.005	Applicant Administrative Appeal Procedures
67-48.006	Compliance and Reporting Requirements
67-48.010	Terms and Conditions of SAIL Loans

- 67-48.012 SAIL Credit Underwriting and Loan Procedures
- 67-48.014 HOME General Program Procedures and Restrictions
- 67-48.021 HOME Credit Underwriting and Loan Procedures

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. 51, December 20, 2002, issue of the Florida Administrative Weekly.

67-48.002 Definitions.

(6) "Annual Owner Compliance Certification Form" or "Form AOC-1" means, with respect to a Housing Credit Development, a report format which is required to be completed and submitted to the Corporation, pursuant to subsection 67-48.006(7), F.A.C., and is adopted and incorporated herein by reference, effective 1/2001 ~~on the date of the latest amendment to this rule chapter~~. A copy of such form is available on FHFC's web site www.floridahousing.org.

(33) "Development Cash Flow" means, with respect to SAIL Developments, ~~actual~~ cash flow of a SAIL Development as calculated in the statement of cash flows prepared in accordance with generally accepted accounting principles and as adjusted for items including but not limited to extraordinary fees and expenses, payments on debt subordinate to the SAIL loan and capital expenditures.

(36) "Difficult Development Area" or "DDA" means any area designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to area median gross income in accordance with Section 42(d)(5), of the Code. A list of the 2003 Florida DDAs is adopted and incorporated herein by reference. A copy of such list is available on FHFC's web site www.floridahousing.org. The United States Department of Housing and Urban Development maintains the official DDA list. The incorporated Florida DDA list is designed to assist the Applicant in the Application process. Applicants are responsible for providing Florida Housing with accurate DDA information.

(47) "Final Cost Certification Application" or "Form FCCA" means, with respect to a Housing Credit Development, that Form FCCA which is adopted and incorporated herein by reference, effective on August 2001 ~~the date of the latest amendment to this rule chapter~~, and which shall be used by an Applicant to itemize all expenses incurred in association with construction or rehabilitation of a Housing Credit Development. Such form will be made available from the Corporation and shall be completed, executed and submitted to the Corporation, as specified in subsections 67-48.023(6)-(7), F.A.C., along with the executed Extended Use Agreement, IRS Forms 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, the

required certified public accountant opinion letter, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in FCCA instructions. The Final Housing Credit Allocation will not be issued until such time as all items in the preceding sentence are received and processed by the Corporation. A copy of Form FCCA is available on FHFC's web site www.floridahousing.org. IRS Form 8821 is adopted and incorporated herein by reference and can be obtained from the Internal Revenue Service by calling 1(800)829-4477.

(74) "Income Certification", "Tenant Income Certification" or "Form TIC-1" means the Form TIC-1, which is adopted and incorporated by reference, effective 6/2002, and which shall be used to certify the income of all residents residing in a set-aside unit in a Development. A copy of such form is available on FHFC's web site www.floridahousing.org.

(88) "Program Report" or "Form PR-1" means the report format which is required to be completed and submitted to the Corporation pursuant to Rule 67-48.006, F.A.C., and is adopted and incorporated herein by reference, effective October 2002 ~~on the date of the latest amendment to this rule chapter~~. A copy of such form is available on FHFC's web site www.floridahousing.org.

(89) "Progress Report" or "Form Q/M Report" means, with respect to a Housing Credit Development, a report format that is required to be completed and submitted to the Corporation pursuant to subsection 67-48.028(4), F.A.C., and is adopted and incorporated herein by reference, effective 08/97 ~~on the date of the latest amendment to this rule chapter~~. A copy of such form is available on FHFC's web site www.floridahousing.org.

(91) "Qualified Allocation Plan" or "QAP" means, with respect to the HC Program, the 2003 Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon ~~on the date of the latest amendment to this rule chapter~~, and which was approval ~~approved~~ by the Governor of the State of Florida, pursuant to Section 42(m)(1)(B) of the Code and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits. The QAP is available on FHFC's web site www.floridahousing.org.

(92) "Qualified Census Tract" or "QCT" means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50% or more of the households at an income which is less than 60% of the area median gross income, or a poverty rate of at least 25 percent, in accordance with Section 42(d)(5)(C), of the Code. A list of the 2003 Florida QCTs is adopted and incorporated herein by reference. A copy of such list is available on FHFC's web site www.floridahousing.org. The United States Department of Housing and Urban Development maintains the official QCT list. The incorporated Florida QCT list is designed to assist the

Applicant in the Application process. Applicants are responsible for providing Florida Housing with accurate OCT information.

(93) ~~“Recap of Tenant Income Certification Information” or “Form AR-1” means, with respect to the HOME and/or HC Program(s), a report format which is required to be completed and submitted to the Corporation pursuant to this rule chapter and is adopted and incorporated herein by reference, effective on the date of the latest amendment to this rule chapter. A copy of such form is available on FHFC’s web site www.floridahousing.org.~~

(94) through (98) renumbered (93) through (97) No change.

(98)(a) The Development received a tentative allocation or tentative funding commitment and the pro forma in the prior Housing Credit or Multifamily Mortgage Revenue Bonds Application submitted for the Development in other programs of the Corporation reflected SAIL funding; and

(100) through (111) renumbered (99) through (110) No change.

(111) “Universal Application Package” or “UA1016 (Rev. 3-03)” – The Application forms have been changed as follows: Part III.A.11.c., Proximity to closest Development Address or location coordinates identified on the FHFC development Proximity List (the List), has been changed by the addition of a new (2), the renumbering of (2) through (4) as (3) through (5), and revision of the 2.5 mile and 5 mile proximity distance requirements.

Part III.E.2.a., Minimum Number of HOME-Assisted Units Required by HUD, has been changed by the addition of a new (6).

Part III.E.2.b., Commitment to Set-Aside Units Beyond the Minimum, has been changed to clarify when the questions must be answered.

Part III.E.2.c., Summary of HOME-Assisted Units, has been renumbered as d. and a new c., Total Set-Aside Percentage, has been added.

Part V.A.2., HOME Applicant funding request, has been changed to require the Applicant to state the total maximum HOME subsidy allowed.

The Application exhibits have been changed as follows:

Developer or Principal of Developer Certification Form, change to experience requirement

Management Agent or Principal of Management Agent Certification Form, change to experience requirement

General Contractor or Principal of General Contractor Certification Form, change to experience requirement

Architect or Engineer Certification Form, change to experience requirement

Service Provider or Principal of Service Provider Certification Form, change to experience requirement

The Application instructions have been changed as follows:

Part II.A.2.b., replacement of the Applicant entity

Part II.B.1.c., Developer or principal of Developer experience requirements

Part II.B.2.b., Management Agent or principal of Management Agent experience requirements

Part II.B.3.b., General Contractor or principal of General Contractor experience requirements

Part II.B.7.b., Service Provider or principal of Service Provider experience requirements

Part III.A.11.b.(1), Grocery Store definition

Part III.A.11.b.(4), Pharmacy definition

Part III.A.11.c., Proximity to closest Development Address or location coordinates identified on the List, has been changed by the addition of a new (2), the renumbering of (2) through (4) as (3) through (5), and revision of the 2.5 mile and 5 mile proximity distance requirements.

Part III.E.2.a., Minimum Number of HOME-Assisted Units Required by HUD

Part III.E.2.c., Summary of HOME-Assisted Units, has been renumbered as d. and a new c., Total Set-Aside Percentage, has been added.

Part V.A.4.f., Rural Development Applicants

Section B.7.a., Ranking and Selection Criteria, a new (4) has been added and (4) through (6) renumbered (5) through (7)

Section B.7.e.(5), Ranking and Selection Criteria

Section B.7.e.(7)(c), Ranking and Selection Criteria

Fees, Section 7.d.

(113) through (114) renumbered (112) through (113) No change.

67-48.004 Application and Selection Procedures for Developments.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant’s Application must file with the Corporation, within 7 ~~10~~ Calendar Days of the date of receipt of the preliminary scores, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must specify the assigned Application number and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application’s score. Any NOPSE that seeks the review of more than one Application’s score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation’s staff will review each written NOPSE timely ~~received~~.

(6) Within 9 ~~7~~ Calendar Days of receipt of the notice set forth in paragraph (5) above, each Applicant shall be allowed to cure its Application by submitting ~~submit~~ additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to paragraphs (3) and (5) above that could result in rejection of the Application or a score less than the maximum

available. Where specific pages of the Application are revised, changed or added, each new page(s) must be marked as "revised," and submitted. Failure to mark each new page(s) "revised" will result in the Corporation not considering the revisions, changes or additions to that new page. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. The Applicant shall submit an original and three copies of all additional documentation and revisions. Only revisions, changes and other information Received by the deadline set forth herein will be considered. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(13)(d) An Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation and/or any agent or assignee of the Corporation. For purposes of the SAIL and/or HOME Program, this rule subsection does not include permissible deferral of SAIL and/or HOME interest.

(14)(j) With regard to the SAIL and HC Programs, (The Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart in of the Total Set-Aside Commitment section of the Application, unless, Wwith regard to the HOME Program, the Total Set-Aside Percentage as stated in the Total Set-Aside Percentage section of the Application, unless the change results from the revision allowed under (1)(m) below;
All other items may be submitted as cures pursuant to paragraph (6) above.

~~(20) Prior to instituting any change resulting in any modification or deviation from the Application or credit underwriting report, Applicant shall notify the Corporation. All changes to the Development plans, resident programs and other specifications which were used to describe the Development in accordance with this rule chapter and UA1016 (Rev. — 03) and represented to the Credit Underwriter and Development servicer are affected by this prior notification requirement. Failure to obtain the Corporation's approval prior to implementing any such changes shall result in the Applicant and any of the Applicant's Affiliates being ineligible to participate in any program administered by the Corporation for~~

~~a period of two years, which shall begin from the date the Board approves disqualification of the Applicant and its Application.~~

67-48.005 Applicant Administrative Appeal Procedures

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation on or before the 21st Calendar Day after the date Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., ~~as applicable~~, and specify in detail each issue and score sought to be challenged. Submission by facsimile or other electronic means will not be accepted. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board.

67-48.006 Compliance and Reporting Requirements.

(6)(e) Income Certification Form TIC-1 for each resident. ~~A copy of such form is available on FHFC's web site www.floridahousing.org.~~

(7)(a) The initial HC Program Report shall be submitted upon request of the compliance monitor or Florida Housing prior to the initial management review and physical inspection, but no later than 120 days following the leasing of any unit. Subsequent Program Reports shall be submitted each year of the Housing Credit Compliance Period and shall be due no later than the dates assigned by the Corporation. The Program Reports shall be accompanied by:

~~1. Recap of Tenant Income Certification Information Form AR-1;~~

~~2. cCopies of Tenant Income Certifications executed since the last Program Report for at least 10% of the Housing Credit Set-Aside units in the Development (to be sent to the monitoring agent only); and~~

3. With respect to the HC Program, the Annual Owner Compliance Certification Form to be signed by the owner of the Development certifying that for the preceding 12 month period the Development met its Housing Credit Set-Aside requirements (to be sent to the Corporation only). Forms PR-1 ~~and~~; AOC-1 ~~and AR-1~~ shall be provided by the Corporation and shall be submitted for all Developments receiving Housing Credit Allocations since January 1, 1987.

(b) The initial HOME Program Report shall be submitted prior to the time of loan closing, if occupied, or, if not occupied, at loan closing upon request of the compliance monitor or Florida Housing prior to the initial management review and physical inspection, but no later than 120 days

following the leasing of any unit. Subsequent Program Reports shall be submitted annually on the dates assigned by the Corporation. The Program Reports shall be accompanied by:

1. ~~Recap of Tenant Income Certification Information Form AR-1; and~~

2. ~~c~~Copies of Tenant Income Certification executed since the last Program Report for at least 10% of the HOME-Assisted Units in the Development (to be sent to the monitoring agent only).

(c) The initial SAIL Program Report shall be submitted prior to the time of loan closing, if the Development is occupied, or by the 25th of the month following rental of the initial unit in the Development. Subsequent Program Reports shall be submitted each month and are due no later than the 25th of each month thereafter. The Program Reports shall be accompanied by ~~Recap of Tenant Income Certification Information Form AR-1~~ and copies of all Tenant Income Certifications executed since the last Program Report (to be sent to the monitoring agent).

67-48.010 Terms and Conditions of SAIL Loans.

(3)(c) Payment on the loans shall be based upon the ~~actual~~ Development Cash Flow. Interest may be deferred as set forth in subsection 67-48.010(6), F.A.C., without constituting a default on the loan.

(13) The SAIL loan shall be for a period of not more than 15 years, ~~to include the construction/stabilization period.~~ However, if both a SAIL loan and federal housing credits are to be used to assist a Development, the Corporation may set the SAIL loan term for a period commensurate with the investment requirements associated with the Housing Credit syndication. The loan term may also exceed 15 years as required by the Federal National Mortgage Association whenever it is participating in the financing of the Development, or if otherwise approved by the Board.

67-48.012 SAIL Credit Underwriting and Loan Procedures.

(2)(i)2. For Principals and guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1, which is adopted and incorporated herein by reference, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1, are not available, unaudited financial statements prepared within the last 90 days and reviewed by the credit underwriter in accordance with the Fannie Mae Multifamily Delegated Underwriting and

Servicing (DUS) Guide, effective January 7, 2002 ~~November 23, 1999~~, which is adopted and incorporated herein by reference, and the two most recent year's tax returns.

3. For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

4. For the Applicant and general partner, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

67-48.014 HOME General Program Procedures and Restrictions.

(2) The Corporation shall utilize at least 15% of the HOME allocation for CHDOs pursuant to the HUD Regulations, to be divided between the multifamily and single family cycles. In order to apply under the CHDO set-aside, the CHDO must have at least 51% ownership interest in the Development held by the General Partner entity and meet all other CHDO requirements as defined by HUD in 24 CFR 92 and other Corporation requirements identified in the CHDO Checklist. The CHDO Checklist is adopted and incorporated herein by reference, effective 11/02, and is available on FHFC's web site www.floridahousing.org.

(4) The maximum per-unit subsidy amount of HOME funds that the Corporation ~~shall may~~ invest on a per-unit basis in affordable housing ~~shall may~~ not exceed the per-unit dollar limits established by the Corporation as identified in the current Application instructions and included on the HUD Subsidy Limits chart, which is adopted and incorporated by reference, effective 12-31-02. A copy of such chart is available on FHFC's web site www.floridahousing.org pursuant to the HUD Regulations.

67-48.021 HOME Credit Underwriting and Loan Procedures.

(6)(b) For Principals and guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1, which is adopted and incorporated herein by reference, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If

audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1 are not available, unaudited financial statements prepared within the last 90 days and reviewed by the credit underwriter in accordance with the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective January 7, 2002 November 23, 1999, which is adopted and incorporated herein by reference, and the two most recent year's tax returns.

(c) For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(d) For the Applicant and general partner, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 464,
SUPER BLACKJACK

RULE NO.: 53ER03-6

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 464, "SUPER BLACKJACK," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER03-6 Instant Game Number 464, SUPER BLACKJACK.

(1) Name of Game. Instant Game Number 464, "SUPER BLACKJACK."

(2) Price. SUPER BLACKJACK lottery tickets sell for \$2.00 per ticket.

(3) SUPER BLACKJACK lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning SUPER BLACKJACK lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in paragraph 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any SUPER BLACKJACK lottery ticket, or as to the prize amount, the Void If Removed Number under the latex shall prevail over the bar code.

(4) The play symbols and play symbol captions for Hands 1 through 10 will be imaged in either black or red ink and are as follows:

INSERT SYMBOLS

(5) The "DEALER'S HAND" play symbols and play symbol captions will be imaged in black ink only and are as follows:

INSERT SYMBOLS

(6) The prize symbols and prize symbol captions are as follows:

INSERT SYMBOLS

(7) The legends are as follows:

INSERT SYMBOLS

(8) Determination of Prizewinners. There are ten hands on a ticket.

(a) A ticket having two cards (both cards imaged in black ink, or one card imaged in black ink and one card imaged in red ink) in the play area of one hand, the total of which is greater than the total of the two cards in the "DEALER'S HAND" play area shall entitle the claimant to the corresponding prize shown for that hand.

(b) A ticket having two cards imaged in black ink in the play area of one hand, the total of which is 21, shall entitle the claimant to five times the corresponding prize shown for that hand.

(c) A ticket having two cards imaged in red ink in the play area of one hand, the total of which is 21, shall entitle the claimant to ten times the corresponding prize shown for that hand.

(d) The prizes are: TICKET, \$1.00, \$2.00, \$5.00, \$10.00, \$25.00, \$50.00, \$100, \$1,000, and \$21,000. A claimant who is entitled to a prize of a "TICKET" shall be entitled to a prize of a \$2.00 instant ticket or any combination of on-line and instant tickets that totals \$2.00, except as follows. A person who submits by mail a SUPER BLACKJACK lottery ticket which entitles the claimant to a prize of a \$2.00 ticket and whose mailing address is outside the state of Florida will receive a check for \$2.00 in lieu of an actual ticket.

(e) A ticket may have up to ten winning hands.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 464 are as follows:

GAME PLAY	WIN	ODDS OF WINNING		NUMBER OF WINNERS IN 56 POOLS OF TICKETS
		1 IN	PER POOL	
TICKET	\$2 TICKET	18.75	537.600	180,000
\$2	\$2	18.75	537.600	537,600
\$2 x 2	\$4	37.50	268.800	268,800
\$1 (21 IN BLACK = 5 TIMES THE PRIZE)	\$5	37.50	268.800	268,800
\$5	\$5	37.50	268.800	268,800
\$1 x 10	\$10	75.00	134.400	134,400
\$2 (21 IN BLACK = 5 TIMES THE PRIZE)	\$10	150.00	67.200	67,200
\$10	\$10	150.00	67.200	67,200
\$5 (21 IN BLACK = 5 TIMES THE PRIZE)	\$25	105.88	95.200	95,200
\$25	\$25	257.14	39.200	39,200
(\$5 x 2) + (\$10 x 4)	\$50	1,800.00	5.600	5,600
\$5 (21 IN RED = 10 TIMES THE PRIZE)	\$50	450.00	22.400	22,400
\$50	\$50	1,800.00	5.600	5,600
\$10 (21 IN RED = 10 TIMES THE PRIZE)	\$100	16,800.00	600	600
\$10 x 10	\$100	50,400.00	200	200
\$100	\$100	25,200.00	400	400
\$50 (21 IN RED = 10 TIMES THE PRIZE)	\$500	201,600.00	50	50
\$100 x 10	\$1,000	1,008,000.00	10	10
\$1,000	\$1,000	1,008,000.00	10	10
\$21,000	\$21,000	3,360,000.00	3	3

(10) The estimated overall odds of winning some prize in Instant Game Number 464 are 1 in 4.35. Some prizes, including the top prizes, may be sold out at time of ticket purchase.

(11) For reorders of Instant Game Number 464, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) By purchasing a SUPER BLACKJACK lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(13) Payment of prizes for SUPER BLACKJACK lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a),(b),(c), 24.115(1) FS. History—New 1-17-03.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: January 17, 2003

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 03-06R

RULE TITLE:

RULE NO.:

Operation and Maintenance of Public

Water Systems

62ER03-1

(62-555.350)

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY, OR WELFARE: In the aftermath of the events of September 11, 2001, it is evident that public water systems may be targets for sabotage and that all security breaches or suspicious incidents involving public water systems must be treated as possible threats to the public health. Such acts or incidents could include the introduction into drinking water of contaminants that cause an immediate danger to the public health. Thus, it is imperative that actual or suspected sabotage or security breaches, or suspicious incidents, involving public water systems be immediately reported to the proper authorities so appropriate precautionary and investigative measures can be quickly initiated. The Department of Environmental Protection is in the process of permanently amending Chapter 62-555, F.A.C., to require that owners and operators of public water systems call the State Warning Point immediately after discovery of any actual or suspected sabotage or security breach or any suspicious incident (the amendment is being included with other more extensive and complex amendments to Chapter 62-555, F.A.C.), and the Department has advised public water systems by mail or e-mail and by newsletter that they should call the State Warning Point immediately after discovery of any actual or suspected sabotage or security breach or any suspicious incident. However, there continue to be incidents where public water systems fail to call the State Warning Point in a timely manner, and in light of the latest such incident, the Department has determined that it is necessary to adopt this emergency rule to protect the public health until the permanent rule becomes effective.

REASONS FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Under subsection 403.855(1), F.S., as well as subsection 120.54(4), F.S., the Department of Environmental Protection has authority to adopt emergency rules to protect the public health. The Department is taking only that action necessary to protect the public health and has previously advised public water systems by mail or e-mail and by newsletter that they should call the State Warning Point immediately after discovery of any actual or suspected sabotage or security breach, or any suspicious incident, involving a public water system. Furthermore, the Department will mail or e-mail a copy of this emergency rule to all public water systems in Florida.

SUMMARY OF THE RULE: This emergency rule, which is similar to a permanent rule that the Department of Environmental Protection plans to adopt along with other amendments to Chapter 62-555, F.A.C., requires owners and operators of public water systems to call the State Warning Point immediately after discovery of any actual or suspected sabotage or security breach, or any suspicious incident, involving a public water system. This emergency rule also reiterates that failure to abide by a rule requirement subjects the supplier of water to enforcement, including penalties. The permanent rule may be located in a different subsection of Rule 62-555.350, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Van R. Hoofnagle, P.E., Drinking Water Program Administrator, Department of Environmental Protection, 2600 Blair Stone Road, Mail Station 3520, Tallahassee, Florida 32399-2400, telephone (850)245-8631

THE FULL TEXT OF THE EMERGENCY RULE IS:

62ER03-1 (62-555.350) Operation and Maintenance of Public Water Systems Equipment.

(1) through (4) No change.

(5) Suppliers of water shall telephone the State Warning Point at 1(800)320-0519 immediately (i.e., within two hours) after discovery of any actual or suspected sabotage or security breach, or any suspicious incident, involving a public water system. Failure to abide by this requirement subjects the supplier of water to enforcement, including penalties, as set forth in Rule 62-560.310, F.A.C.

Specific Authority 403.855(1), 403.861(9), FS. Law Implemented 403.855(3), 403.861(9), (10), FS. History—New 11-19-87, Formerly 17-22.650, Amended 1-18-89, 1-1-93, Formerly 17-555.350, Amended 1-22-03.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: January 22, 2003

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department of Environmental Protection gives notice of its intent to grant a variance (File No. 0177220-003-EV) to the Florida Inland Navigation District, from paragraph 62-4.244(5)(c), Florida Administrative Code (F.A.C.) to establish a temporary mixing zone greater than 150 meters. The variance is associated with the proposed offloading project at Ponce Inlet (File No. 0177220-001-JC as modified in 0177220-002-JC). The activity is located in Sections 4, 5, 6, 9, 55, 16, 15, 22, Township 17 South, Range 34 East; in Volusia County, within the Intracoastal Waterway adjacent to Ponce de Leon Inlet and within the Atlantic Ocean, Class III waters of the State of Florida.

A person whose substantial interests are affected by the Department's proposed action may petition for an administrative hearing in accordance with sections 120.569 and 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the variance or even a denial of the application. Under subsection 62-110.106(4), Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding judge upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with subsection 28-106.111(2) and subparagraph 62-110.106(3)(a)1., F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

In accordance with Rule 28-106.201, F.A.C., a petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination; (c) A statement of when and how the petitioner received notice of the agency decision; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This intent to grant variance constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a), F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1), F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the final order is filed with the Clerk of the Department.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Bureau of Beaches and Wetland Resources, 5050 West Tennessee Street, Building B, Tallahassee, Florida 32304-9201.

The Department of Environmental Protection has taken action on a petition for variance received from the United States Air Force, Cape Canaveral Air Force Station on October 10, 2002. The petition requested a variance from meeting the ground water standards at their treated wastewater disposal system under subsection 62-520.420(1), F.A.C., so that the proposed revised ground water standards for four specific parameters (total dissolved solids, sodium, chloride and manganese) could be implemented for the effluent disposal system for a complex and problematic discharge from four combined and different wastewater streams. On January 7, 2003, the Department granted a variance to the United States Air Force, Cape Canaveral Air Force Station in a final order, OGC File No.: 02-1799. For a copy of the final order write or call Anil Desai, P.G., Department of Environmental Protection, 3319 Maguire Boulevard, #232, Orlando, Florida 32803-3767, (407)893-3305.

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".

Section VI

Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

The **Historical Museums Grants-in-Aid Program Application Review Panel** announces a public meeting to which all persons are invited.

DATES AND TIME: Monday, March 24, 2003; Tuesday, March 25, 2003, 9:00 a.m.

PLACE: Turlington Building, Room 1703/1707, 325 W. Gaines Street, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review applications submitted to the Bureau of Historical Museums by December 15, 2002, for State grant assistance for historical museums projects, and to recommend priority ranking and funding levels for grant awards.

A copy of the agenda may be obtained by writing: David S. Gregory, Grants Manager, Department of State, Historical Museums Grants-in-Aid, The Old Capitol, Room B-11, Tallahassee, Florida 32301 or call (850)487-1902.

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 for judicial review.

Pursuant to Section 286.26, Florida Statutes, any handicapped person 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 Library and Information Services** announces the Florida Library Network Council Meeting.

DATE AND TIME: Friday, February 21, 2003, 10:00 a.m. – 3:00 p.m.

PLACE: College Center for Library Automation, Board Room C07, 1753 W. Paul Dirac Drive, Tallahassee, FL 32310

GENERAL SUBJECT MATTER TO BE CONSIDERED: The council will review the status of implementation of the Florida Virtual Library; develop an evaluation process for pilot projects, and review a strategic marketing plan.

For additional information contact: Judith Ring, State Librarian, (850)245-6600 or Suncom 205-6600.

Any person requiring special accommodations due to a disability or physical impairment should contact the agency at least five days prior to the meeting in order to request any special assistance by calling (850)245-6600 or TDD (850)922-4085.

DEPARTMENT OF LEGAL AFFAIRS

The Bylaws Committee of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Tuesday, February 11, 2003, 3:00 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 disability in order to participate, please notify FCSW in writing at least five days in advance at Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

The Annual Report Committee of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Wednesday, February 12, 2003, 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 disability in order to participate, please notify FCSW in writing at least five days in advance at Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

The Women's Hall of Fame Committee of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Wednesday, February 12, 2003, 3:00 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 disability in order to participate, please notify FCSW in writing at least five days in advance at Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

The Finance and Budget Committee of the Florida **Commission on the Status of Women** will hold a telephone conference on:

DATE AND TIME: Thursday, February 13, 2003, 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 disability in order to participate, please notify FCSW in writing at least five days in advance at Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Florida **Department of Agriculture and Consumer Services** announces a public meeting of the Pesticide Review Council to which all persons are invited.

DATE AND TIME: February 13, 2003, 9:00 a.m.

PLACE: Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Auditorium, 1911 Southwest 34th Street, Gainesville, Florida 32608-1201

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the Council during which there will be a review of pertinent pesticide issues impacting on human health and environment.

A copy of agenda may be obtained by contacting: Bureau of Pesticides, 3125 Conner Boulevard, Mail Station L-29, Tallahassee, Florida 32399-1650. Please contact Ms. Donna C. Hartsfield, (850)487-0532, if you have any questions.

DEPARTMENT OF EDUCATION

The State of Florida, **Education Standards Commission** announces a public meeting to which all persons are invited.

DATES AND TIMES: Thursday, February 20, 2003, 8:30 a.m. – 5:00 p.m.; Friday, February 21, 2003, 8:30 a.m. – 12:00 Noon

PLACE: Palm Beach County School District, Fulton-Holland Educational Service Center, Board Room, 3300 Forest Hill Boulevard, West Palm Beach, Florida, (561)434-8734

GENERAL SUBJECT MATTER TO BE CONSIDERED: Members of the Florida Education Standards Commission will meet and discuss issues related to the Commission's charge.

To obtain a copy of the agenda, please call or write: Florida Education Standards Commission, 325 West Gaines Street, Room 348, Turlington Building, Tallahassee, Florida 32399, (850)488-1523 or Suncom 278-1523.

SPECIAL ACCOMMODATIONS: Persons with disabilities who require assistance to participate in this meeting are requested to contact Dr. Adeniji Odutola, at the above address or telephone numbers.

The **Florida Center for Advising and Academic Support** (FCAAS) announces a public meeting to which all persons are invited.

DATE AND TIME: February 14, 2003, 10:00 a.m. – 3:00 p.m.

PLACE: Federal Education Center, Turlington Bldg., Suite 1704, 325 W. Gaines Street, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: The quarterly meeting of the FCAAS Board will be held to discuss ongoing development and administration of the FACTS.org project.

A copy of the agenda may be obtained by writing: FCAAS, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

Any persons requiring special accommodations to attend this meeting because of a disability or physical impairment may contact Yvette Hargreaves, FCAAS, (850)201-7363, at least seven days in advance so that their needs can be accommodated.

The **Gulf Coast Community College**, District Board of Trustees will hold its monthly meeting as follows:

DATE AND TIME: February 13, 2003, 10:00 a.m.

PLACE: Gardner Seminar Room

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular monthly meeting.

Contact person for the meeting is: Dr. Robert L. McSpadden, President.

The **Division of Blind Services**, Bureau of Business Enterprises and the State Committee of Vendors announces a meeting to which all persons are invited.

DATES AND TIMES: February 7, 2003, 1:00 p.m.; Continuing February 8, 2003, 8:00 a.m.

PLACE: Embassy Suites, 225 E. Altamonte Drive, Altamonte Springs, Orlando, Florida 32701, (407)834-2400

GENERAL SUBJECT MATTER TO BE CONSIDERED: Topics under discussion will cover: 02-03 Budget Report as of 12-05-02, Overview of the Sunshine and Public Records Laws, Franchises, Organization of the Division, the 2003 Key to the Future Biennial Seminar, and field issues brought to the Round Table by each District's Representative.

A copy of the quarterly minutes can be obtained at: Division of Blind Services Web Site: www.state.fl.us/dbs/ and going to Business Enterprises Program, Minutes.

DEPARTMENT OF COMMUNITY AFFAIRS

The **Department of Community Affairs** announces a public hearing to which all interested parties are invited.

DATE AND TIME: Wednesday, February 19, 2003, 1:00 p.m. – 4:00 p.m.

PLACE: Board of County Commissioners Meeting Room, 201 East Oak Street, Arcadia, Florida 34266

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Department of Community Affairs (DCA) is seeking public or nonprofit entities to administer the Low-Income Home Energy Assistance Program (LIHEAP) in DeSoto County. Entities interested in contracting with DCA to provide these services should be present at this public hearing in order to be informed

of the qualifications and application requirements. In designating a local administrative agency to carry out this program, the DCA will give special consideration to any local public or private nonprofit agency which receives Federal funds under any low-income energy assistance or weatherization program. If there is no such agency that is determined to meet program and fiscal requirements, selection of an entity will be based on the applicant's experience and performance in assisting low-income persons in the area to be served, and their capacity to undertake a timely and effective program. The following qualities will be reviewed: (1) the extent to which the past or current program achieved or is achieving LIHEAP goals in a timely fashion; (2) the number, qualifications, and experience of the staff members of the entity; and (3) the fiscal soundness and accountability of the entity. Since no more than one entity will be funded in the county, the entity must be capable and willing to provide services to all eligible low-income citizens in the geographic area. It is the desire of the DCA to contract with an entity to begin providing LIHEAP services in DeSoto County on April 1, 2004. This contract will be approximately \$74,615 for a period ending March 31, 2004.

ACTIONS TO BE TAKEN: The DCA will review all comments received at the public hearing, evaluate the submitted applications, and make a decision regarding each entity's eligibility to provide LIHEAP services in DeSoto County. Applications will be accepted until 4:30 p.m. (EDT), March 12, 2003. Recommendations will then be prepared by Department of staff for consideration by the Department's Secretary.

ADDITIONAL INFORMATION: Requests for additional information or questions may be addressed to: Letha Miller, Financial Specialist, Florida Department of Community Affairs, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-7541 or Fax (850)488-2488.

APPEALS INFORMATION: If a person decides to appeal any decision of the Department of Community Affairs with respect to any matter considered at this public hearing, he or she will need a formal record of the proceeding, and for such purposes he or she may 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 made.

Anyone who wants a copy of the agenda or additional information on this hearing may write or call: Letha Miller, Financial Specialist, Department of Community Affairs, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-7541 or Fax (850)488-2488.

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Department of Community Affairs, (850)488-7541, at least five (5) calendar days prior to the hearing. 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) and 1(800)955-8771 (TDD).

The **Florida Communities Trust** announces a public meeting of the Governing Body to which all persons are invited.

DATE AND TIME: February 12, 2003, 1:00 p.m. – Until conclusion

PLACE: Kelley Training Center, Sadowski Building, Room 305, 2555 Shumard Oak Boulevard, Tallahassee, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Extend grant contracts for certain funded projects; other business that the governing board deems necessary.

ACTION TO BE TAKEN: Consideration of above-stated business.

To obtain a copy of the agenda, contact: The Trust, (850)922-2207.

If any person desires to appeal any decision with respect to any matter considered at the meeting, such person will need a record of the proceeding and 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.

Persons requiring a special accommodation for a disability or physical impairment should contact Florida Communities Trust, (850)922-2207, Suncom 292-2207, at least five days prior to the meeting. If hearing or speech impaired, contact Florida Communities Trust using the Florida Dual Party Relay System at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF LAW ENFORCEMENT

The **Department of Law Enforcement**, Florida Crime Laboratory Council announces a meeting.

DATE AND TIME: Tuesday, February 11, 2003, 11:00 a.m.

PLACE: Florida Department of Law Enforcement, Tampa Regional Operations Center, 4211 North Lois Blvd., Tampa, Florida 33614, (813)878-7300

GENERAL SUBJECT MATTER TO BE CONSIDERED: Florida Crime Laboratory Council Meeting.

Any person requiring a special accommodation at this meeting because of disability or physical impairment should contact the Crime Laboratory Council Office, (850)410-8395, at least five (5) working days prior to the meeting.

If a person decides to appeal any decision made by the Council with respect to any matter considered during this meeting, such person is responsible for ensuring that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Additional information or a copy of the agenda may be obtained by contacting: Ms. Sue Livingston, Investigations and Forensic Program Office, Post Office Box 1489, Tallahassee, Florida 32302, (850)410-8340.

DEPARTMENT OF TRANSPORTATION

The **Florida Transportation Commission** announces a public meeting to which all persons are invited.

DATE AND TIME: February 17, 2003, 8:00 a.m. – 5:00 p.m.
PLACE: Greater Orlando Aviation Authority, Orlando International Airport, Boardroom, One Airport Boulevard, Orlando, FL 32827

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting of the Florida Transportation Commission.

Information may be obtained by contacting: Florida Transportation Commission, Room 176, M.S. 9, 605 Suwannee Street, Tallahassee, Florida 32399-0450, (850)414-4105.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in these meetings are asked to advise the Commission at least 48 hours before the meetings by contacting Cathy Goodman, (850)414-4105.

FLORIDA PAROLE COMMISSION

The **Florida Parole Commission** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, February 19, 2003, 9:00 a.m.
PLACE: Florida Parole Commission, Bldg. 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, Addiction Recovery 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 its Internal Affairs meeting to which all interested persons are invited.

DATE AND TIME: *February 17, 2003, 9:30 a.m.
PLACE: The Betty Easley Conference Center, Room 140, 4075 Esplanade Way, Tallahassee, Florida
GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss and make decisions on matters which affect the operation of the Commission.

A copy of the agenda of the Internal Affairs meeting may be obtained by contacting: Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870.

Any person requiring some accommodation at this 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 conference. Any person who is hearing or speech impaired should contact the Commission through the Florida Relay Service by using the following numbers: 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

* In the event of a scheduling conflict, this meeting may be moved to February 18, 2003, immediately preceding or immediately following the Commission Conference, in Room 140.

THIS MEETING IS SUBJECT TO CANCELLATION WITHOUT NOTIFICATION.

The Florida **Public Service Commission** announces a prehearing to be held in the following docket, to which all interested persons are invited.

Docket No. 011666-TP – Petition by Global NAPS, Inc. for arbitration pursuant to 47 U.S.C. 252(b) of interconnection rates, terms and conditions with Verizon Florida Inc.

DATE AND TIME: February 17, 2003, 1:30 p.m.
PLACE: The Betty Easley Conference Center, Hearing Room 152, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To consider (1) the simplification of the issues; (2) the identification of the positions of the parties on the issues; (3) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; (4) the identification of the exhibits; (5) the establishment of an order of witnesses; and (6) such other matters as may aid in the disposition of the action.

Any person requiring some accommodation at this prehearing 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 prehearing. 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).

The Florida **Public Service Commission** announces its regularly scheduled conference to which all interested persons are invited.

DATE AND TIME: February 18, 2003, 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 consider those matters ready for decision.

LEGAL AUTHORITY AND JURISDICTION: Chapters 120, 350, 364, 366 and 367, F.S.

Persons who may be affected by Commission action on certain items on this agenda for which a hearing has not been held will be allowed to address the Commission concerning those items when taken up for discussion at this conference.

A copy of the agenda may be obtained by any person who requests a copy, and pays the reasonable cost of the copy. (\$1.00 per copy, Statement of Agency Organization and Operations), by contacting: Division of the Commission Clerk and Administrative Services, (850)413-6770 or writing Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870. The agenda and recommendations are also accessible on the PSC Homepage at <http://www.floridapsc.com> at no charge.

If a person decides to appeal any decisions made by the Commission with respect to any matter considered at this conference, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which appeal is based.

Any person requiring some accommodation at this conference 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 conference. 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).

The Florida **Public Service Commission** announces a hearing to be held in the following docket, to which all interested persons are invited.

Docket No. 020119-TP – Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.

Docket No. 020578-TP – Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs by Florida Competitive Carriers Association.

DATES AND TIME: February 19-20, 2003, 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 expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc., Florida Competitive Carriers Association, 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 December 16, 2003. 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).

REGIONAL PLANNING COUNCILS

The **North Central Florida Regional Planning Council** announces the following meeting to which all persons are invited.

MEETING: North Central Florida, District 3, Local Emergency Planning Committee

DATE AND TIME: February 21, 2003, 10:00 a.m.

PLACE: Buckeye Florida, 1 Buckeye Drive, off of Hwy. 30, Perry, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the North Central Florida Local Emergency Planning Committee.

Any persons deciding to appeal any decision of the Committee with respect to any matter considered at the meeting may need 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.

A copy of the agenda may be obtained by contacting: Charles F. Justice, Executive Director, North Central Florida Regional Planning Council, 2009 N. W. 67th Place, Suite A, Gainesville, FL 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 **North Central Florida Regional Hazardous Materials Response Team** announces a meeting to which all persons are invited.

DATE AND TIME: February 28, 2003, 10:00 a.m.

PLACE: North Central Florida Regional Planning Council Office, 2009 N. W. 67 Place, Gainesville, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Regional Hazardous Materials Response Team Policy Board.

Any persons deciding to appeal any decision of the Team with respect to any matter considered at the meeting, may need 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.

A copy of the agenda may be obtained by contacting: Charles F. Justice, Executive Director, North Central Florida Regional Planning Council, 2009 N. W. 67 Place, Suite A, Gainesville, FL 32653-1603.

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 District Six, Local Emergency Planning Committee (LEPC) for Hazardous Materials at the **East Central Florida Regional Planning Council** announces a public meeting to which all persons are invited, as follows:

DATE AND TIME: Friday February 21, 2003, 10:00 a.m.

PLACE: ECFRPC Offices, Suite 100, 631 North Wymore Road, Maitland, FL 32751

GENERAL SUBJECT MATTER TO BE CONSIDERED: Quarterly Business Meeting of the District Six, Local Emergency Planning Committee (LEPC) for Hazardous Materials.

In the event that a quorum is not present, a workshop will be convened to discuss the business of the Committee.

A copy of the agenda and more information may be obtained by writing: Ms. Teri Hunalp, East Central Florida Regional Planning Council, 631 North Wymore Road, Suite 100, Maitland, FL 32751.

The **Regional Business Alliance** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, February 12, 2003, 3:00 p.m.

PLACE: South Florida Regional Planning Council, Suite 140, 3440 Hollywood Boulevard, Hollywood, Florida 33021

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular monthly meeting to discuss regional issues impacting South Florida including transportation.

A copy of the agenda may be obtained by writing: The Broward Workshop, 2740 East Oakland Park Boulevard, Suite 206, Fort Lauderdale, Florida 33306.

The Regional Business Alliance is comprised of business leaders from Monroe, Miami-Dade, Broward, Palm Beach and Martin Counties, including members of the South Florida Regional Planning Council and Tri-County Commuter Rail Authority.

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 meeting above. 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 **South Florida Regional Planning Council**, Institute for Community Collaboration announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, February 20, 2003, 10:00 a.m. – 3:00 p.m.

PLACE: Montgomery Botanical Center, 11901 Old Cutler Road, Miami, Florida 33156-4242

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the Watershed Plan of Study final scope of services with the Consultant.

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 33021.

Anyone deciding to appeal any decision made by the South Miami-Dade 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 **Treasure Coast Regional Planning Council** announces a public meeting to which all persons are invited.

DATE AND TIME: February 21, 2003, 9:30 a.m.

PLACE: Ramada Inn, 1200 S. Federal Highway, Stuart, FL 34994

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the monthly meeting of the Council.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, 301 E. Ocean Boulevard, Suite 300, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will need a record of proceedings, and that, for such purpose, he or

she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

The **Treasure Coast Regional Planning Council** announces the following meetings of Council's Comprehensive Economic Development Strategy Committee to which all persons are invited.

DATE AND TIME: March 26, 2003, 9:00 a.m.

PLACE: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, FL 34994

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a meeting of the Treasure Coast Regional Planning Council Comprehensive Economic Development Strategy Committee.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, 301 E. Ocean Boulevard, Suite 300, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will need a record of proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

The Florida District X **Local Emergency Planning Committee** announces the following meeting to which all persons are invited.

DATE AND TIME: March 27, 2003, 10:00 a.m.

PLACE: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, FL 34994

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a meeting of the Florida District X Local Emergency Planning Committee.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, 301 E. Ocean Boulevard, Suite 300, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will need a record of proceedings, and that, for such purpose, he or

she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

METROPOLITAN PLANNING ORGANIZATIONS

The **Metropolitan Planning Organization for the Orlando Urban Area** and the Central Florida Regional Transit Authority (Lynx) announces the following joint workshop of their Governing Boards to which all persons are invited.

DATE AND TIME: Wednesday, February 12, 2003, 7:30 a.m. – 2:00 p.m.

PLACE: Harry P. Leu Gardens, 1920 North Forest Avenue, Orlando, FL 32803

GENERAL SUBJECT MATTER TO BE CONSIDERED: Joint Workshop on Regional Transportation Issues.

A copy of the detailed agenda may be obtained by contacting: Mrs. Virginia L. Whittington, Manager of Board Services, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, FL 32801, (407)481-5672, Extension 314 or Ms. Carol Frahn, Executive Assistant, Lynx, 445 West Amelia Avenue, Suite 800, Orlando, FL 32801, (407)841-2279, Ext. 3214.

Section 286.0105, Florida Statutes, states that if a person decides to appeal any decision made by a board, agency or commission with respect to any matter considered at a meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he 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.

In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation at this meeting because of a disability or physical impairment should contact Metroplan Orlando, (407)481-5672, at least 48 hours before the meeting.

WATER MANAGEMENT DISTRICTS

The **St. Johns River Water Management District** announces the following Projects and Land Committee Lake Apopka Project Overview:

DATE AND TIME: Thursday, February 6, 2003, 6:00 p.m.

PLACE: Lakeside Inn, Alexander Room, 100 N. Alexander Street, Mt. Dora, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: An Overview of Lake Apopka projects will be presented.

An agenda can be obtained by writing: St. Johns River Water Management District, P. O. Box 1429, Palatka, FL 32178-1429 or by calling Sonia Kuecker, Water Resources Department, (386)312-2330.

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 (386)329-4162. If you are hearing or speech impaired, please contact the agency by calling (386)329-4450 (TDD).

The **St. Johns River Water Management District** announces the following Projects and Land Committee meeting.

DATE AND TIME: Friday, February 7, 2003, 8:00 a.m.

PLACE: Lakeside Inn, Alexander Room, 100 N. Alexander Street, Mt. Dora, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Projects and Land Committee District business for discussion and recommendation to the full Governing Board. A tour of Apopka projects will follow the meeting.

An agenda can be obtained by writing: St. Johns River Water Management District, P. O. Box 1429, Palatka, FL 32178-1429 or by calling Sonia Kuecker, Water Resources Department, (386)312-2330.

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 (386)329-4162. If you are hearing or speech impaired, please contact the agency by calling (386)329-4450 (TDD).

The **Southwest Florida Water Management District** (SWFWMD) announces the following public meetings to which all interested persons are invited.

NORTHWEST HILLSBOROUGH BASIN BOARD MEETING

DATE AND TIME: Tuesday, February 11, 2003, 1:30 p.m. (Note: This is a change of time from the originally published schedule.)

PLACE: SWFWMD, Tampa Service Office, 7601 U.S. Highway 301, North, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Consideration of Basin business.

PINELLAS-ANCLOTE RIVER BASIN BOARD MEETING

DATE AND TIME: Wednesday, February 12, 2003, 9:00 a.m.

PLACE: West Pasco Government Center, 7530 Little Road, New Port Richey, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Consideration of Basin business.

HILLSBOROUGH RIVER BASIN BOARD MEETING

DATE AND TIME: Thursday, February 13, 2003, 9:00 a.m.

PLACE: SWFWMD, Tampa Service Office, 7601 U.S. Highway 301, North, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Consideration of Basin business.

PEACE RIVER BASIN BOARD MEETING

DATE AND TIME: Friday, February 14, 2003, 9:30 a.m.

PLACE: SWFWMD, Bartow Service Office, 170 Century Boulevard, Bartow, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Consideration of Basin business.

ALTERNATIVE WATER SUPPLIES GRANTS ADVISORY COMMITTEE MEETING

DATE AND TIME: Friday, February 14, 2003, 10:00 a.m.

PLACE: SWFWMD, Tampa Service Office, 7601 U.S. Highway 301, North, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discuss and rank alternative water supply proposals submitted for funding.

NORTHWEST HILLSBOROUGH BASIN BOARD LAKE TOUR

DATE AND TIME: Monday, February 17, 2003, 1:30 p.m.

PLACE: Keystone Civic Center, Parking Lot, 17938 Gunn Highway, Odessa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Tour of Northwest Hillsborough lakes that have been or may be part of the District's augmentation project.

These are public meetings and agendas are available by writing: Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL.

The District does not discriminate based on disability. Anyone requiring reasonable accommodation under the ADA should contact 1(800)423-1476 (Florida only), Extension 4604, TDD only 1(800)231-6103 (Florida only), Fax (352)754-6874.

The **South Florida Water Management District** announces a private closed door attorney-client session.

DATE AND TIME: Wednesday, February 12, 2003, at or after 9:00 a.m.

PLACE: South Florida Water Management District, Governing Board Chambers, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Closed door attorney-client session pursuant to Section 286.011(8)(2001), Florida Statutes, to discuss strategy related to litigation expenditures in *Aumen v. South Florida Water Management District*, U.S. District Court, Southern District of Florida, Case No. 01-8485 CIV-RYSKAMP, and *Aumen v. South Florida Water Management District*, U.S. Court of Appeals, Eleventh Circuit, Case No. 01-16480-J.

ATTENDEES: Governing Board Members T. Williams, P. Brooks-Thomas, M. Collins, H. English, G. Fernandez, P. Gleason, N. Gutiérrez, L. Lindahl, H. Thornton; Executive Director H. Dean; District attorneys J. Fumero, S. Wood, S. Glazier, G. Miller, J. Nutt and E. Coates.

The subject matter shall be confined to the pending litigation. Pursuant to Florida Law, the entire attorney-client session shall be recorded by a certified court reporter. No portion of the session shall be off the record. A copy of the transcript will be made part of the public record at the conclusion of the litigation. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of governing board members.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

The **South Florida Water Management District** announces a private closed door attorney-client session in the event this subject matter is not reached as noticed for February 12, 2003, in the Friday, January 31, 2003, issue of the Florida Administrative Weekly.

DATE AND TIME: Thursday, February 13, 2003, at or after 8:30 a.m.

PLACE: South Florida Water Management District, Governing Board Chambers, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Closed door attorney-client session pursuant to Section 286.011(8)(2001), Florida Statutes, to discuss strategy related to litigation expenditures in *Aumen v. South Florida Water Management District*, U.S. District Court, Southern District of Florida, Case No. 01-8485 CIV-RYSKAMP, and *Aumen v. South Florida Water Management District*, U.S. Court of Appeals, Eleventh Circuit, Case No. 01-16480-J.

ATTENDEES: Governing Board Members T. Williams, P. Brooks-Thomas, M. Collins, H. English, G. Fernandez, P. Gleason, N. Gutiérrez, L. Lindahl, H. Thornton; Executive Director H. Dean; District attorneys J. Fumero, S. Wood, S. Glazier, G. Miller, J. Nutt and E. Coates.

The subject matter shall be confined to the pending litigation. Pursuant to Florida Law, the entire attorney-client session shall be recorded by a certified court reporter. No portion of the session shall be off the record. A copy of the transcript will be made part of the public record at the conclusion of the litigation. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of governing board members.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

The **South Florida Water Management District** announces a private closed door attorney-client session.

DATE AND TIME: Wednesday, February 12, 2003, at or after 9:00 a.m.

PLACE: South Florida Water Management District Governing Board Chambers, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Closed door attorney-client session pursuant to Section 286.011(8)(2001), Florida Statutes, to discuss strategy related to litigation expenditures in *City National Bank of Florida v. South Florida Water Management District*, Circuit Court, Miami-Dade County, Florida, Case No. 00-5524 CA 32.

ATTENDEES: Governing Board Members T. Williams, P. Brooks-Thomas, M. Collins, H. English, G. Fernandez, P. Gleason, N. Gutiérrez, L. Lindahl, H. Thornton; Executive Director H. Dean; District attorneys J. Fumero, S. Wood, S. Glazier, B. Brattebo, R. Alfert, Jr., and D. Freedman.

The subject matter shall be confined to the pending litigation. Pursuant to Florida Law, the entire attorney-client session shall be recorded by a certified court reporter. No portion of the session shall be off the record. A copy of the transcript will be made part of the public record at the conclusion of the litigation. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of governing board members.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

The **South Florida Water Management District** announces a private closed door attorney-client session.

DATE AND TIME: Wednesday, February 12, 2003, at or after 9:00 a.m.

PLACE: South Florida Water Management District, Governing Board Chambers, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Closed door attorney-client session pursuant to Section 286.011(8)(2001), Florida Statutes, to discuss strategy related to litigation expenditures in *Miccosukee Tribe of Indians of Florida, v. South Florida Water Management District and Sam Poole, and Friends of Everglades v. South Florida Water Management District*, United States Court of Appeals Eleventh Circuit, Case No. 00-15703; *South Florida Water Management*

District v. Miccosukee Tribe of Indians, et al., United States Supreme Court, Case 02-626; Friends of the Everglades Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 02-80309-CIV-Middlebrooks; and Florida Wildlife Federation v. South Florida Water Management District, United States District Court, Middle District of Florida, Ft. Myers Division, Case No. 2:02-cv-340-FtM-29DNF.

ATTENDEES: Governing Board Members T. Williams, P. Brooks-Thomas, M. Collins, H. English, G. Fernandez, P. Gleason, N. Gutiérrez, L. Lindahl, H. Thornton; Executive Director H. Dean; District attorneys J. Fumero, S. Wood, S. Glazier, D. MacLaughlin, J. Nutt and K. Burns.

The subject matter shall be confined to the pending litigation. Pursuant to Florida Law, the entire attorney-client session shall be recorded by a certified court reporter. No portion of the session shall be off the record. A copy of the transcript will be made part of the public record at the conclusion of the litigation. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of governing board members.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

The **South Florida Water Management District** announces a private closed door attorney-client session in the event this subject matter is not reached as noticed for February 12, 2003, in the Friday, January 31, 2003, issue of the Florida Administrative Weekly.

DATE AND TIME: Thursday, February 13, 2003, at or after 8:30 a.m.

PLACE: South Florida Water Management District, Governing Board Chambers, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Closed door attorney-client session pursuant to Section 286.011(8)(2001), Florida Statutes, to discuss strategy related to litigation expenditures in City National Bank of Florida v. South Florida Water Management District, Circuit Court, Miami-Dade County, Florida, Case No. 00-5524 CA 32.

ATTENDEES: Governing Board Members T. Williams, P. Brooks-Thomas, M. Collins, H. English, G. Fernandez, P. Gleason, N. Gutiérrez, L. Lindahl, H. Thornton; Executive Director H. Dean; District attorneys J. Fumero, S. Wood, S. Glazier, B. Brattebo, R. Alfert, Jr., and D. Freedman.

The subject matter shall be confined to the pending litigation. Pursuant to Florida Law, the entire attorney-client session shall be recorded by a certified court reporter. No portion of the session shall be off the record. A copy of the transcript will be

made part of the public record at the conclusion of the litigation. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of governing board members.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

The **South Florida Water Management District** announces a private closed door attorney-client session in the event this subject matter is not reached as noticed for February 12, 2003, in the Friday, January 31, 2003, issue of the Florida Administrative Weekly.

DATE AND TIME: Thursday, February 13, 2003, at or after 8:30 a.m.

PLACE: South Florida Water Management District, Governing Board Chambers, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Closed door attorney-client session pursuant to Section 286.011(8)(2001), Florida Statutes, to discuss strategy related to litigation expenditures in Miccosukee Tribe of Indians of Florida, v. South Florida Water Management District and Sam Poole, and Friends of Everglades v. South Florida Water Management District, United States Court of Appeals, Eleventh Circuit, Case No. 00-15703; South Florida Water Management District v. Miccosukee Tribe of Indians, et al., United States Supreme Court, Case 02-626; Friends of the Everglades Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 02-80309-CIV-Middlebrooks; and Florida Wildlife Federation v. South Florida Water Management District, United States District Court, Middle District of Florida, Ft. Myers Division, Case No. 2:02-cv-340-FtM-29DNF.

ATTENDEES: Governing Board Members T. Williams, P. Brooks-Thomas, M. Collins, H. English, G. Fernandez, P. Gleason, N. Gutiérrez, L. Lindahl, H. Thornton; Executive Director H. Dean; District attorneys J. Fumero, S. Wood, S. Glazier, D. MacLaughlin, J. Nutt and K. Burns.

The subject matter shall be confined to the pending litigation. Pursuant to Florida Law, the entire attorney-client session shall be recorded by a certified court reporter. No portion of the session shall be off the record. A copy of the transcript will be made part of the public record at the conclusion of the litigation. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of governing board members.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

The **South Florida Water Management District** announces a public meeting to which all interested parties are invited.

DATE AND TIME: February 12, 2003, 2:00 p.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: Human Resources issues of the District.

A copy of the agenda may be obtained: (1) District Website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the 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 District Clerk, (561)686-8800, at least two business days in advance of the meeting to make appropriate arrangements.

Those who want more information, please contact: Sandra Close Turnquest, Human Resources Department Director, District Headquarters, 3301 Gun Club Road, Mail Stop Code 6510, West Palm Beach, FL 33406, (561)682-6365.

Governing Board member, Harkley Thornton, HR Chairman, will be conducting the meeting.

The **South Florida Water Management District** announces a public meeting which may be conducted by means of or in conjunction with communications media technology, specifically by telephonic conference to which all interested parties are invited.

DATE AND TIME: February 19, 2003, 10:00 a.m. – 12:00 Noon

PLACE: South Florida Water Management District, Headquarters, Building B-1, Room 3B, 3301 Gun Club Road, West Palm Beach, Florida 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: Budget and Finance Advisory Commission meeting to discuss SFWMD Budget and finance-related matters.

A copy of the agenda may be obtained by writing: South Florida Water Management District, Mail Stop 6260, P. O. Box 24680, West Palm Beach, Florida 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 desire more information or wishing to submit written or physical evidence may contact Marcie Daniel, Budget Department, (561)682-6469, District Headquarters, 3301 Gun Club Road, West Palm Beach, Florida 33406.

COMMISSION FOR THE TRANSPORTATION DISADVANTAGED

The Florida **Commission for the Transportation Disadvantaged** announces a meeting via conference call, of the Rate Review Committee to which all persons are invited.

DATE AND TIME: Friday, February 14, 2002, 10:00 a.m. – Until completion

PLACE: Call: (850)921-6623 or Suncom 291-6623, Rhyne Building, Room 308, 2740 Centerview Drive, Tallahassee, Florida, (850)410-5700

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review and act upon pending rate increases for community transportation coordinators.

In accordance with the Americans with Disabilities Act, persons in need of special accommodation to participate in the meeting or an agenda should contact Tiffany McNabb at the following address and telephone number: Commission for the Transportation Disadvantaged, 605 Suwannee Street, MS-49, Tallahassee, FL 32399-0450, (850)410-5700 or 1(800)983-2435 or 1(800)648-6084 (TDD only).

The meeting is subject to change upon chairperson's request.

The Florida **Commission for the Transportation Disadvantaged** announces a meeting of the Finance, Auditing and Program Performance (FAPP) Committee to which all persons are invited to participate.

DATE AND TIME: Tuesday, February 25, 2003, 9:30 a.m. – Until completion

PLACE: Call: (850)921-6623, Suncom 291-6623, Rhyne Building, Room 330, 2740 Centerview Drive, Tallahassee, Florida, (850)410-5700

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct regular committee business.

In accordance with the Americans with Disabilities Act, persons in need of special accommodation to participate in the meeting or an agenda should contact Tiffany McNabb at the

following address and telephone number: Commission for the Transportation Disadvantaged, 605 Suwannee Street, MS-49, Tallahassee, FL 32399-0450, (850)410-5700 or 1(800)983-2435 or 1(800)648-6084 (TDD only).

The meeting is subject to change upon chairperson's request.

AGENCY FOR HEALTH CARE ADMINISTRATION

The **Agency for Health Care Administration** would like to announce a teleconference meeting of the Family Practice Physician Recruitment and Retention Advisory Committee.

DATE AND TIME: Friday, February 7, 2003, 7:30 a.m.

PLACE: Call: (850)488-5776 or Suncom 278-5776

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of this meeting is to review the draft of the annual report for the Legislature. Authority for this Committee granted by Section 395.807, Florida Statutes.

For additional information please contact: Dennis Halfhill, (850)921-5505 or by e-mail at halfhild@fdhc.state.fl.us.

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: February 10, 2003, 10:30 a.m.

PLACE: Conference Call: (850)410-0960, Suncom 210-0960

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

NOTICE IS HEREBY GIVEN that the **Digital Divide Council** will hold a one-day meeting to which all persons are invited.

DATE AND TIME: Monday, February 10, 2003, 10:00 a.m. – 12:00 Noon

PLACE: Senate Office Building, Room 110, 404 South Monroe Street, Tallahassee, Florida 32399. Conference call capability will be available. The dial up number is (850)921-6623.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The primary purpose of the meeting will be to continue work on the statutory mandates set for the Council in Section 445.049, Florida Statutes.

Any additional information as to this meeting will be provided on the Digital Divide website at www.digitaldividecouncil.com or www.digitaldividescouncil.org or contact: Stacey McMillian, State Technology Office, Building 4030 Esplanade Way, Suite 180, Tallahassee, Florida 32399, (850)410-4777.

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 Council at least 48 hours before the meeting by contacting Stacey McMillian at the above stated number.

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: Thursday, February 20, 2003, 9:00 a.m.

PLACE: Commission on Human Relations, Suite 100, 2009 Apalachee Parkway, Tallahassee, Florida 32301. The meet-me telephone number is (850)921-2530 or Suncom 291-2530

GENERAL SUBJECT MATTER TO BE CONSIDERED: This 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.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE OF CHANGE – The **Florida Board of Funeral Directors and Embalmers** announces a change to the following meeting to which all parties are invited to attend.

DATE AND TIME: February 11, 2003, 1:00 p.m.

PLACE: Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)487-8304

GENERAL SUBJECT MATTER TO BE CONSIDERED: Finance Committee meeting, Rules Committee meeting and Probable Cause Panel meeting, portions which are closed to the public.

To obtain a copy of the agenda, further information or submit written or other physical evidence, contact in writing: Board of Funeral Directors and Embalmers, 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)487-1395, 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 Probable Cause Panel of the **Florida Real Estate Appraisal Board** announces a meeting to which all interested persons are invited.

DATE AND TIME: March 3, 2003, 9:00 a.m. or the soonest thereafter

PLACE: North Tower, Ninth Floor, 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).

DEPARTMENT OF HEALTH

The **Department of Health** and the **Board of Occupational Therapy Practice** announces a General Board Meeting to which all persons are invited.

DATE AND TIME: February 7, 2003, 9:00 a.m. or soon thereafter

PLACE: Nonsuncom (850)488-8295, Suncom 278-8295

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting and Conference Call.

A copy of the agenda may be obtained by writing: Department of Health, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255 or by calling the Council Office, (850)245-4373.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the department at least 48 hours before the workshop/hearing/meeting by contacting the Council Office, (850)245-4373. If you are hearing or speech impaired, please contact the department by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Please note that if a person decides to appeal any decision made by the council with respect to any matter considered at the above-cited meeting or hearing, 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 to be based.

The **Diabetes Advisory Council** meeting and the **Diabetes Implementation Work Group** meeting will be held:

DATE AND TIMES: January 31, 2003, Diabetes Advisory Council, 9:00 a.m. – 1:00 p.m.; Implementation Workgroup, 2:00 p.m. – 5:00 p.m.

PLACE: Marriott Tampa International Airport, Tampa, Florida. Signs will be posted at the hotel to direct you to the meeting room.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

The Shared Services Alliance of Okeechobee and the Treasure Coast of the **Department of Children and Family Services**, District 15 announces the following public meeting to which all persons are invited.

EXECUTIVE COMMITTEE

DATES AND TIME: February 5, 12, 19, 26, 2003, 8:00 a.m. – 5:00 p.m.

PLACE: St. Lucie County Health Department, 5250 S. W. Milner Dr., Port St. Lucie, FL 34983

For more information, please contact: Betty Robinson, CBC Liaison, 337 North 4th Street, Room 327, Fort Pierce, Florida 34950, (561)467-4174.

SPECIAL ACCOMMODATION: Any person requiring special accommodation for this meeting because of a disability or physical impairment should contact, Pearlie Clark, ADA Coordinator, (561)467-4184, at least five days prior to the meeting. If you are hearing or speech impaired, please contact the Agency using the Florida Dual Party Relay System 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Shared Services Alliance of Okeechobee and the Treasure Coast of the **Department of Children and Family Services**, District 15 announces the following public meeting to which all persons are invited.

ALLIANCE MEETING

DATE AND TIME: February 21, 2003, 8:30 a.m. – 10:00 a.m.
PLACE: Workforce Development Board, Village Green Retail Center, 9350 South U.S. 1, Port St. Lucie, FL

For more information, please contact: Betty Robinson, CBC Liaison, 337 North 4th Street, Room 327, Fort Pierce, Florida 34950, (561)467-4174.

SPECIAL ACCOMMODATION: Any person requiring special accommodation for this meeting because of a disability or physical impairment should contact, Pearlie Clark, ADA Coordinator, (561)467-4184, at least five days prior to the meeting. If you are hearing or speech impaired, please contact the Agency using the Florida Dual Party Relay System 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Department of Children and Family Services**, District 14, Health and Human Services Board announces the following meeting to which all persons are invited.

CEO Roundtable of Central Florida

DATE AND TIME: Wednesday, February 26, 2003, 9:30 a.m.
PLACE: Polk County Board of County Commissioners, 4th Floor, Board Members Conference Room 413, 330 West Church Street, Bartow, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the CEO Roundtable of Central Florida.

For copies of the agenda, further information or persons needing accommodation to participate in this meeting please contact: Patty Harrison, (863)619-4157, 1(800)342-0825 or TDD (863)648-3337.

The **Council on Homelessness** announces a conference call meeting of its Health Care Committee to which all persons are invited.

DATE AND TIME: Friday, February 14, 2003, 9:00 a.m. – 10:30 a.m.

PLACE: Call: (850)488-5776 or Suncom 278-5776

GENERAL SUBJECT MATTER TO BE CONSIDERED: These conference calls will address the committees' continued development of policy recommendations to accessing supportive services for homeless persons.

A copy of the agenda may be obtained by contacting: Tom Pierce, State Office on Homelessness, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, (850)922-9850, Tom_Pierce@dcf.state.fl.us.

Pursuant to Section 286.26, Florida Statutes, any disabled person wishing to access this meeting who may be in need of special assistance should contact the Office on Homelessness (850)922-4691, at least 48 hours in advance of the meeting.

The **Council on Homelessness** announces the following meeting to which all persons are invited.

DATE AND TIME: Tuesday, February 25, 2003, 9:00 a.m. – 1:00 p.m.

PLACE: Department of Children and Family Services, Suncoast Regional Office, Suite 1100, 9393 North Florida Avenue, Tampa, Florida 33612-7907. Conference Call: (850)921-5230 or Suncom 291-5230

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Council shall receive reports and recommended actions from its committees to continue to develop its Strategic Plan. The Office on Homelessness will update the Council on the results of the federal policy academy to address improving access to mainstream resources for long-term homeless with disabilities. The Council also invites public comments from any interested party on the needs of the homeless and ideas to reduce homelessness.

A copy of the agenda may be obtained by contacting: Tom Pierce, State Office on Homelessness, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, (850)922-9850, Tom_Pierce@dcf.state.fl.us.

Pursuant to Section 286.26, Florida Statutes, any disabled person wishing to attend this meeting in order to request any needed special assistance should contact the office at least 48 hours in advance of the meeting.

FISH AND WILDLIFE CONSERVATION COMMISSION

The **Florida Marine Turtle Grant Program** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, March 10, 2003, 9:00 a.m. – 3:00 p.m.

PLACE: Florida Fish and Wildlife Conservation Commission, Florida Marine Research Institute, 3rd Floor, Large Conference Room, 100 8th Avenue, S. E., St. Petersburg, Florida 33701

GENERAL SUBJECT MATTER TO BE CONSIDERED: Meeting of the Marine Turtle Grants Committee to consider and choose grants recipients from applications submitted by eligible entities. Grant applications were submitted for conservation, education, or research projects that add to the conservation of marine turtles; that accomplish tasks included in the current recovery plan for marine turtles; and that are consistent with Section 370.12 (1)(c), Florida Statutes.

A copy of the agenda for the public meeting may be obtained from the agency contact: Rose Dalaly, Management Analyst, Florida Fish and Wildlife Conservation Commission, Florida

Marine Research Institute, 100 8th Avenue, S. E., St. Petersburg, Florida 33701-5095, Mail Station J2N-Huf, Telephone (727)896-8626, email rose.dalaly@fwc.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please notify the Personnel Services Specialist, (850)245-2511 or 1(800)955-8771 (TDD), at least 7 calendar days prior to the event.

The **Fish and Wildlife Conservation Commission** announces public workshops concerning the spiny lobster fishery to which all interested persons are invited.

DATE AND TIME: Monday, February 17, 2003, 6:00 p.m. – 8:00 p.m.

PLACE: Pinellas County Courthouse, 5th Floor, B.C.C. Assembly Room, 315 Court Street, Clearwater, Florida

DATE AND TIME: Tuesday, February 18, 2003, 6:00 p.m. – 8:00 p.m.

PLACE: Marathon Government Center, 2nd Floor, 2793 Overseas Hwy, Marathon, Florida

DATE AND TIME: Wednesday, February 19, 2003, 6:00 p.m. – 8:00 p.m.

PLACE: Harvey Government Center, 1200 Truman Avenue, Key West, Florida

DATE AND TIME: Thursday, February 20, 2003, 6:00 p.m. – 8:00 p.m.

PLACE: The Crowne Plaza Hotel, Royal Palm Meeting Room Sections 2 and 3, 950 N. W. LeJune Road, Miami, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Fish and Wildlife Conservation Commission (FWC) has scheduled a series of public workshops regarding allocation issues in the spiny lobster fishery. The FWC is interested in receiving public comment on: changing language in subsection 68B-24.004(1), Florida Administrative Code, that allows for a recreational bag limit of 6 lobsters per person or 24 lobsters per boat whichever is greater per day, to 6 lobsters per person per day; reducing the recreational bag limit during the Special Two-Day Sport Season in Biscayne National Park from 12 to 6 spiny lobster per person per day; reducing the Special Recreational License bag limit to some level less than 50 lobsters per day; prohibiting the use of artificial materials (casitas) to commercially harvest lobster; establishing a commercial diver permit, a moratorium on issuing commercial dive permits, and a diver trip limit; setting the opening day for the commercial dive harvest at some date after the regular season opening.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

For further information, contact: Mr. Bill Teehan, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554.

SENATE-JUDICIARY COMMITTEE

The **Study Committee on Public Records** will hold the following public meeting to which all persons are invited.

DATE AND TIME: Monday, February 10, 2003, 10:00 a.m. – 4:00 p.m.

PLACE: Florida Legislature, 116 Knott Building, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To hear public testimony, to complete unfinished business from January 17, 2003, including a final vote on conceptual recommendations, and to vote on draft of final report regarding the right of privacy and the right of public access to information in court records, official records and public records as maintained by the clerks of the court.

For more information or to obtain a copy of the agenda, please contact: Maria I. Matthews, Florida Senate-Judiciary Committee, 515 Knott Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100, (850)487-5198 or via e-mail matthews.maria@flsenate.gov. or Tom Tedcastle-Florida House of Representatives, Bill Drafting, (850)488-5644 or via e-mail tedcastle.tom@myfloridahouse.com.

Any person requiring special accommodations due to a disability should contact the agency at least five days prior to the meeting in order to request any special assistance by calling (850)487-5224.

COUNCIL FOR EDUCATION POLICY, RESEARCH AND IMPROVEMENT

The **Council for Education Policy, Research and Improvement** announces a public meeting.

DATE AND TIME: Tuesday, February 11, 2003, 7:00 p.m. – 9:00 p.m.

PLACE: Florida Gulf Coast University, Ft. Myers, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of recommendations related to career education and development for inclusion in the Master Plan by Career Education and Development Committee.

For further information contact: The Council office, (850)488-7894.

The **Council for Education Policy, Research and Improvement** announces a public meeting.

DATE: Wednesday, February 12, 2003, 8:30 a.m. – 5:00 p.m.

PLACE: Florida Gulf Coast University, Ft. Myers, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To take action on recommendations related to the teaching profession for inclusion in the Master Plan. The Council will

also discuss career and workforce development issues being considered by the Committee on Career Education and Development and other ongoing assignments.

Meeting material may be accessed at the Council website <http://www.cepri.state.fl.us>.

A telephone conference call will be scheduled one week after the meeting to review any unfinished business.

For further information contact: The Council office, (850)488-7894.

NORTHWEST FLORIDA AGEA AGENCY ON AGING

The Northwest Florida Area Agency on Aging, Inc., Board of Directors announces its bi-monthly meetings for the year 2003. The public is invited to attend.

DATES AND TIME: February 12, 2003; April 9, 2003; June 11, 2003; August 13, 2003; October 8, 2003; December 10, 2003, 6:00 p.m.

PLACE: Meetings for February through October will be held in the Plaza Building Conference Room, 1st Floor, 3300 N. Pace Blvd., Pensacola, FL 32505. The December meeting will be held at the Ramada Beach Resort, 1500 Miracle Strip Parkway, S.E., Ft. Walton Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss policy/activities/service provision/funding and/or other information pertinent to the activities of the agency.

A copy of the agenda may be obtained by writing: Northwest Florida Area Agency on Aging, Inc., 3300 N. Pace Blvd., Suite 200, Pensacola, FL 32505 (Attn: Dottie Peoples).

Section VII

Notices of Petitions and Dispositions Regarding Declaratory Statements

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a request for Declaratory Statement on January 8, 2003, from Alex Schultz, with regards to the responsibility of a building official and effect on an issued certificate of occupancy of post-inspection damage to insulation and subsequent repair absent an amended compliance form pursuant to Sections 553.907-.908, Florida Statutes. It has been assigned the number DCA03-DEC-011.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on January 7, 2002 from Pest Shield, Inc. It was assigned the number DCA02-DEC-017. An Order dismissing the petition

for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001, 28-105.002(4) and 28-105.002(5), was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on February 11, 2002 from Vak Pak, Inc. It was assigned the number DCA02-DEC-036. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on February 21, 2002 from Triodyne Safety Systems, L.L.C. It was assigned the number DCA02-DEC-060. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 and 28-105.002(5), was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on March 8, 2002 from Triodyne Safety Systems, L.L.C. It was assigned the number DCA02-DEC-061. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001, 28-105.002(4) and 28-105.002(5), was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on February 20, 2002 from Airtemp Air Conditioning Contractors. It was assigned the number DCA02-DEC-062. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 and 28-105.002(5), was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on February 20, 2002 from DASMA International. It was assigned the number DCA02-DEC-063. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on May 1, 2002 from Leisure Bay Industries, Inc. It was assigned the number DCA02-DEC-071. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on March 5, 2002 from George S. Pellington, P.E. It was assigned the number DCA02-DEC-077. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on April 16, 2002 from Miami-Dade Water and Sewer Department. It was assigned the number DCA02-DEC-124. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on April 18, 2002 from Mike Morello, Inc. It was assigned the number DCA02-DEC-127. An Order dismissing the petition

for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on April 19, 2002 from Dr. Jack Reinhardt, Inc. It was assigned the number DCA02-DEC-130. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on April 25, 2002 from Icyne, Inc. It was assigned the number DCA02-DEC-132. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on April 22, 2002 from Affordable Fence & Screen, Inc. It was assigned the number DCA02-DEC-133. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on June 7, 2002 from The Evans Group. It was assigned the number DCA02-DEC-174. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on June 7, 2002 from Florida Power & Light Company. It was assigned the number DCA02-DEC-174. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on June 28, 2002 from Charles M. Purvis, Architect. It was assigned the number DCA02-DEC-206. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission received a Petition for Declaratory Statement on June 28, 2002 from the City of New Port Richey. It was assigned the number DCA02-DEC-208. An Order dismissing the petition for failure to meet the requirements of the Uniform Rules in Administrative Code Rule 28-105.001 and 28-105.002(5) was entered by the Clerk on January 15, 2003.

A copy of the Order may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from Kevin Connelly, Sunguard Shade Structures, Inc., on July 19, 2002. It was assigned the number DCA02-DEC-213. The Commission found that the shade structures identified in the petition are subject to the Florida Building Code, including the requirements of Chapter 16 of the Building Volume; and identified the Building Official's authority to approve equivalents.

A copy of the Declaratory Statement may be obtained by writing: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from Robert B. Worman for Gene and Janet Rodriguez, on August 8, 2002. It was assigned the number DCA02-DEC-226. The Commission determined that

the 1/2" drywall sheet installed between the attic and the living space below the attic serves as the thermal barrier required by the 1997 Standard Building Code.

A copy of the request may be obtained by writing: P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from Ward Gould, Go-Bolt, Inc., on August 15, 2002. It was assigned the number DCA02-DEC-233. The Commission referred the Petitioner to the declaratory statement entered in Case No. DCA02-DEC-075 filed by the same Petitioner seeking clarification of the same issue.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from James E. Agen, Wilson Window Glass & Mirror on August 16, 2002. It was assigned the number DCA02-DEC-235. The Commission found that the structural design of the porch to be enclosed as described in the Petition is required to be designed in accordance with Chapter 16, Florida Building Code, Building Volume.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from FRCC Products on September 10, 2002. It was assigned the number DCA02-DEC-250. The Commission found that the approval of the use of the pad proposed by the Petitioner is within the discretion of the local building official, subject to the local appeals process.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from SAMCO Plumbing, Inc. on September 16, 2002. It was assigned the number DCA02-DEC-252. The Commission made various determinations regarding the installation and sleeving requirements for CPVC pipe.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from William T. LeMaster, Okaloosa County Inspection Division, on September 16, 2002. It was assigned the number DCA02-DEC-254. The Commission found that a wall facing a zero lot line cannot assume any easement and must meet specified fire resistance criteria.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from Juliana H. Salas, Deputy Director, Miami-Dade County Building Department, on September 17, 2002. It was assigned the number DCA02-DEC-255. The Commission found that a garage is habitable space and must comply with the ventilation requirements of sections 402.1 and 402.2 of the Florida Building Code.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from the City of Oviedo on September 18, 2002. It was assigned the number DCA02-DEC-256. The Commission found that, based on the manufacturer's recommendation, the fastening of pool motors and equipment is not required by Section 424.2.22 of the Code.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from Centex Homes, on September 26, 2002. It was assigned the number DCA02-DEC-259. The Commission found that certain evaluation reports may be considered, but authority for use of the product is within the discretion of the local building official.

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.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued a Declaratory Statement in response to the request received from Herminio Enrique, Miami-Dade County, General Services Administration, on October 2, 2002. It was assigned the number DCA02-DEC-265. The Commission found that, under the local amendment process outlined in Section 553.79(4), Florida Statutes, a local government may incorporate additional occupancies into its annual facilities permitting program, provided it is more stringent than the Florida Building Code.

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 MANAGEMENT SERVICES

NOTICE IS HEREBY GIVEN THAT the Public Employees Relations Commission has issued an order disposing of the petition for Declaratory Statement filed by the United Faculty of Florida on October 1, 2002. The following is a summary of the Agency's disposition of the petition: Case No.: DS-2002-002.

The petition was denied as premature in view of the recent passage of Amendment 11 to the Florida Constitution. The answers to the questions posed by the petition will depend upon who will become the public employer of State University System employees after January 7, 2003, and whether the Commission's successorship doctrine is applicable to the new employer. The question raised in paragraph (j), of the petition was inappropriately posed because it concerns the rights of entities other than the petitioner.

A copy of the order may be obtained by writing: Clerk, Public Employees Relations Commission, 4050 Esplanade Way, Tallahassee, Florida 32399-0950.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT the Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, has received a petition for a declaratory statement from Superior Liquors, Inc. The petition sees the agency's opinion as to whether Section 561.57, F.S., prohibits the licensed vendors from delivering alcoholic beverages to consumers by common carrier, as the United States Court of Appeals for the Eleventh Circuit recently held in an action to which the Division is a party.

A copy of the petition may be obtained by contacting: Ralf Michels, Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, Office of General Counsel, 1940 North Monroe Street, Tallahassee, Florida 32399.

**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

**NOTIFICATION OF INTENT TO OPERATE THE SUMMER
FOOD SERVICE PROGRAM FOR CHILDREN**

In accordance with Title 7 Code of Federal Regulations, Part 225, it is the intent of the Florida Department of Education, Food and Nutrition Management Section, to continue to administer the Summer Food Service Program for the Fiscal Year 2003.

The primary purpose of the program is to provide food service to children from needy areas during periods when area schools are closed for vacation.

Eligible children are those 18 years of age and under, and persons over 18 years of age who are determined by the State educational agency or a local public educational agency of the State to be mentally or physically handicapped and who participate in a public or nonprofit private school program established for the mentally or physically handicapped.

The program will be made available throughout Florida by State approved sponsors. Sponsors for the program may be a public or nonprofit private school, nonprofit private organization, residential or non-residential camp, government organization, or a Nation Youth Sports Program.

For more information please contact: Food and Nutrition Management, Summer Food Service Program for Children, 1(800)504-6609.

Putnam County School Readiness Coalition, Inc. announces the following Request for Proposal to which all persons are invited to bid:

TIME: RFP available February 3, 2003

PLACE: Putnam County

PURPOSE: The Putnam County School Readiness Coalition will be soliciting proposals to contract with an organization or organizations to provide community childcare and school readiness coordinating services for the 2003-2004 Fiscal Year. Services will be funded through federal, state, and local allocations. Providers must meet state and federal criteria for subsidized child care, Project Safety Net and other support services. School Readiness Legislation requires specific services including Eligibility/Enrollment and Provider Payments, Parent and Child Services, Provider Recruitment and Development.

All multi-agency collaboration with a lead agency or single agencies are encouraged to submit a proposal. Please contact: Putnam County School Readiness Coalition, c/o PWD Solutions, Inc., 140 South Beach Street, Suite 202, Daytona Beach, FL 32114, cmiles@pwdinc.org or (386)267-0511 (Fax) for more information. The Request for Proposal will be available for distribution by February 3, 2003, with the successful bidder's contract to begin July 1, 2003. Include the RFP number in your request as follows: PUT-03/04-001CA.

Putnam County School Readiness Coalition, Inc. announces the following Request for Proposal to which all persons are invited to bid:

TIME: RFP available February 3, 2003

PLACE: Putnam County

PURPOSE: The Putnam County School Readiness Coalition will be soliciting proposals for Fiscal Agent services, consisting primarily of administration and monitoring disbursement of approximately \$4.5 million dollars. The

bidder will disburse funds in accordance with the approved Coalition plan and based on billing and disbursement procedures approved by the Florida Partnership for School Readiness. The bidder must provide all fiscal controls related to issuance of checks and receipt of funds, and must ensure compliance with all applicable federal and state rules and regulations.

Please contact the Putnam County School Readiness Coalition, c/o PWD Solutions, Inc., 140 South Beach Street, Suite 202, Daytona Beach, FL 32114, cmiles@pwdinc.org or (386)267-0511 (Fax) for more information. The Request for Proposal will be available for distribution by February 3, 2003, with the successful bidder's contract to begin July 1, 2003. Include the RFP number in all correspondence as follows: PUT-03/04-002FA.

Dixie, Gilchrist, Levy County School Readiness Coalition, Inc. announces the following Request for Proposal to which all persons are invited to bid:

TIME: RFP available February 3, 2003

PLACE: Dixie/Gilchrist/Levy County Counties

PURPOSE: The Dixie/Gilchrist/Levy County School Readiness Coalition will be soliciting proposals to contract with an organization or organizations to provide community childcare and school readiness coordinating services for the 2003-2004 Fiscal Year. Services will be funded through federal, state, and local allocations. Providers must meet state and federal criteria for subsidized child care, Project Safety Net and other support services. School Readiness Legislation requires specific services including Eligibility/Enrollment and Provider Payments, Parent and Child Services, Provider Recruitment and Development.

All multi-agency collaboration with a lead agency or single agencies are encouraged to submit a proposal. Please contact: Dixie/Gilchrist/Levy County School Readiness Coalition, c/o PWD Solutions, Inc., 140 South Beach Street, Suite 202, Daytona Beach, FL 32114, cmiles@pwdinc.org or (386)267-0511 (Fax) for more information. The Request for Proposal will be available for distribution by February 3, 2003, with the successful bidder's contract to begin July 1, 2003.

Letters of Intent to Submit are due to the Coalition by February 17, 2003. Deadline for all proposals will be on March 28, 2003. Results will be posted on or before May 1, 2003.

Include the RFP number in all correspondence as follows: TRI-03/04-003CA.

Dixie/Gilchrist/Levy County School Readiness Coalition, Inc. announces the following Request for Proposal to which all persons are invited to bid:

TIME: RFP available February 3, 2003

PLACE: Dixie/Gilchrist/Levy Counties

PURPOSE: The Dixie/Gilchrist/Levy County School Readiness Coalition will be soliciting proposals for Fiscal Agent services, consisting primarily of administration and monitoring disbursement of approximately \$3.5 million dollars. The bidder will disburse funds in accordance with the approved Coalition plan and based on billing and disbursement procedures approved by the Florida Partnership for School Readiness. The bidder must provide all fiscal controls related to issuance of checks and receipt of funds, and must ensure compliance with all applicable federal and state rules and regulations. Please contact the Dixie/Gilchrist/Levy County School Readiness Coalition, c/o PWD Solutions, Inc., 140 South Beach Street, Suite 202, Daytona Beach, FL 32114, cmiles@pwdinc.org or (386)267-0511 (Fax) for more information. The Request for Proposal will be available for distribution by February 3, 2003, with the successful bidder's contract to begin July 1, 2003. Letters of Intent to Submit are due to the Coalition by February 17, 2003. Deadline for all proposals will be on March 28, 2003. Results will be posted on or before May 1, 2003. Include the RFP number in all correspondence as follows: TRI-03/04-004FA.

Invitation To Bid (ITB)

For a General Contractor/Building Contractor

Sealed bids will be received by Duval County Public Schools, Division of Facilities Services, Room 535, 1701 Prudential Drive, Jacksonville, FL 32207, until the time and date(s) recorded below and immediately thereafter publicly opened and recorded in the Duval County Public Schools, School Board Building, located at 1701 Prudential Drive, Jacksonville, Florida, 5th Floor, Room 513 D.

BIDS ARE DUE ON OR BEFORE March 4, 2003

AND WILL BE ACCEPTED UNTIL 2:00 P.M.

PROJECT TITLE: Repair and Replace Gymnasium Floor in Various Schools District Wide

DCPS PROJECT NO: M-88460

SCOPE OF WORK: Replace Gymnasium Floor at Alfred I. Dupont Middle School No. 66.

Budgeted not to Exceed \$120,000

All contractors that are interested in bidding are required to attend a mandatory pre-bid conference to be held on February 26, 2003, 3:00 p.m., at Alfred I. Dupont Middle School No. 66, 2710 Dupont Ave., Jacksonville, FL 32217. Failure to attend the pre-bid conference shall result in disqualification of that firm's proposal. Attendees will be required to sign an attendance register.

All bidders and subcontractors shall be licensed Contractors and registered corporations as required by the laws of the State of Florida.

Contract documents for bidding may be obtained for a refundable fee of \$25.00 at the office of:

VRL Architects, Inc., 6501 Arlington Expressway, Building A, Suite 101, Jacksonville, FL 32211.

DCSB Point of Contact: Erika Harding, (904)858-6310

Contract documents for bidding may be examined at:

F. W. Dodge McGraw Hill Construction Bulletin
Plan Room National Association
Construction Marker Data, Inc. of Minority Contractors
MBE Participation Goal: 10% Overall

The Bid Award Recommendation will be posted on the First Floor, Bulletin Board, Duval County School Board Building, 1701 Prudential Drive, Jacksonville, Florida 32207-8182.

NOTICE REGARDING ELECTRONIC POSTING

Pursuant to Section 287.042(3)(b)2., Florida Statutes, the DeSoto County School District 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://desotoschools.com/purchasing.htm>.

EXPRESSWAY AUTHORITIES

PROFESSIONAL ENGINEERING CONSULTANTS

The Orlando-Orange County Expressway Authority requires the services of a Professional Engineering Consultant in connection with the Final Design for widening, resurfacing and safety improvements of S.R. 408 (East-West Expressway) from Conway Road to Oxalis Drive. The project also includes design of one mainline open road tolling split toll plaza, two 2-lane ramp plazas and demolition of existing mainline and ramp toll plazas. Shortlist consideration will be given to only those firms who are qualified pursuant to law, and as determined by the Authority based on information provided by the firms, and who have been prequalified by FDOT to perform the indicated Types of Work.

TYPES OF WORK: Group 3.3, Complex Highway Design; Group 4.2, Major Bridge Design; and Group 14, Architect.

ADDITIONAL TYPES OF WORK THAT MAY BE REQUIRED: Group 7, Traffic Operations Design; Group 8, Surveys; Group 9, Soil Exploration, Material Testing and Foundations; and Group 12, Right of Way Surveying and Mapping.

DESCRIPTION: The project consists of final design, preparation of construction drawings and specifications for roadway and bridge widening from six to eight basic lanes, auxiliary lanes, and resurfacing of S.R. 408 (East West Expressway) from Conway Road to Oxalis Drive, a distance of approximately 1.8 miles. This also includes the modification of the ramps at the Semoran Boulevard (SR 436) interchange and new interchange with Andes Avenue for traffic to/from the west.

The work will involve widening of bridges at Andes Avenue, Mercado Avenue, SR 436, Yucatan Drive, and Oxalis Drive. This work also includes new ramp bridges over Andes Avenue.

Toll plaza work will include the design and preparation of construction documents for one mainline open road tolling split toll plaza, one 2-lane ramp plaza for eastbound exit to Andes Avenue and SR 436 and one 2-lane ramp plaza for the westbound exit to SR 436. Demolition and maintenance of traffic plans will be required for the demolition of the existing mainline toll plaza and ramp plaza for the westbound exit to SR 436.

LETTERS OF INTEREST SUBMITTAL REQUIREMENTS: Consultants wishing to be considered shall submit six (6) sets of a Letter of Interest package. The letter shall be a maximum of ten (10) pages exclusive of attachments and resumes. The packages shall include the following:

- A. Experience – Details of specific experience for at least three (3) projects, similar to that described above that involve design of limited access highway reconstruction and toll plaza design, completed by the consultant's Project Manager and other key project team members including the name of client contact person, telephone number, and physical address;
- B. Personnel Experience – Resumes of the consultant's proposed Project Manager and other key personnel presently employed by the consultant who will be assigned to the project. The Project Manager shall have a minimum of five (5) years of specific experience in complex highway design projects (toll plaza design experience is plus) and managed the design of at least two (2) limited access highway reconstruction projects;
- C. Project Team – Anticipated subconsultants shall be identified and the roles that each will play in providing the required services. Resumes should be provided for subconsultants that may be involved in key roles;
- D. Prequalification Documentation – A copy of the Notice of Qualification issued by the FDOT showing current qualification in the Types of Work specified above;
- E. Office Location – The office assigned responsibility and its physical address shall be identified. It is required that the consultant have an office and key staff located within the Orlando area.

Failure to submit any of the above required information may be cause for rejection of the package as non-responsive.

SELECTION/NEGOTIATIONS: The Authority may shortlist up to five (5) firms based on its evaluation of the Letters of Interest and qualifications information received. Shortlisted firms will proceed to the next step in the process which includes preparation and submittal of a Technical Proposal and an oral presentation or interview. The Authority will provide the shortlisted firms with a comprehensive outline of the Scope of Services for use in preparing the Technical Proposal. Each firm will be evaluated and ranked by the Authority's Consultant Recommendation Committee based on the Technical Proposal and oral presentations/interview. As part of its evaluation process, the Committee will also consider the

consultant's willingness to meet time requirements, consultant's projected workload, and consultant's use of Minority/Women Owned Businesses.

EQUAL OPPORTUNITY STATEMENT: The Orlando-Orange County Expressway Authority, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, hereby notifies all firms and individuals that it will require affirmative efforts be made to ensure participation by minorities.

MINORITY / WOMEN / DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION:

Minority/Women/Disadvantaged Business Enterprises will not be discriminated against on the basis of race, color, sex or national origin in consideration for qualification or an award by the Authority.

NON-SOLICITATION PROVISION: From the first date of publication of this notice, no person may contact any Authority Board Member, Officer or Employee or any selection committee member, with respect to this notice or the services to be provided, except as related to the Submittal Requirements detailed above. Reference is made to the lobbying guidelines of the Authority for further information regarding this Non-Solicitation Provision.

LETTER OF RESPONSE DEADLINE:

March 3, 2003, 3:00 p.m., Orlando Local Time

AUTHORITY CONTACT PERSON:

Mr. Joseph A. Berenis, P.E.
Deputy Executive Director
Telephone: (407)316-3800

LETTER OF RESPONSE ADDRESS:

Orlando-Orange County Expressway Authority
525 S. Magnolia Avenue
Orlando, FL 32801
Re: SR 408 Widening
Project No. 253C

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

Harold W. Worrall, P.E.
Executive Director

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.

HILLSBOROUGH COUNTY AVIATION AUTHORITY

NOTICE TO PROFESSIONAL CONSULTANTS

The Hillsborough County Aviation Authority hereby requests, pursuant to the Consultants Competitive Negotiation Act, Section 287.055, Florida Statutes, Letters of Interest from Architectural, Engineering firms or individuals desiring to render Professional Services for the following project at Tampa International Airport, Tampa, Florida:

**AIRPORT SUPPORT FACILITIES AND RELATED WORK
TAMPA INTERNATIONAL AIRPORT
HCAA PROJECT NO. 4430**

Services to be furnished shall include, but not be limited to, all architectural design and all engineering related to civil, utilities, roadways, structural, mechanical/HVAC, plumbing, fire protection, electrical, electronic information technology system and fiber optics, related surveys, testing and geotechnical engineering; assistance during advertising, bid and award phase; and basic architectural/engineering services during construction. A more detailed Scope of Services will be included in the formal Request for Proposals.

Qualified Consultants desiring consideration for this Project must give written notification in the form of a Letter of Interest to: William J. Connors, Jr., Senior Director of Planning and Development, Hillsborough County Aviation Authority, Post Office Box 22287, Tampa, Florida 33622. Interested parties may inquire as to project description, details, and required data submissions, to William J. Connors, Jr., Senior Director of Planning and Development, (813)870-8704.

The Letters of Interest only must be received at or before 5:00 p.m. (Local Time), Thursday, February 20, 2003. Subsequent to receiving Letters of Interest, a Request for Proposal will be sent to all respondents and adequate response time set forth in that package.

HILLSBOROUGH COUNTY AVIATION AUTHORITY

By: /s/ Louis E. Miller
Louis E. Miller, Executive Director

**Section XII
Miscellaneous**

DEPARTMENT OF INSURANCE

NOTICE IS HEREBY GIVEN that the following carrier, pursuant to Section 627.6475(5), F.S., has elected to become "risk assuming": Humana Insurance Company of Florida, Inc. Public comments will be received until February 21, 2003. Comments may be addressed to: Larry Daniels, Bureau of Life and Health Forms and Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)922-3152, Ext. 5026.

DEPARTMENT OF COMMUNITY AFFAIRS**PROGRAM ECONOMIC DEVELOPMENT CATEGORY
NOTICE OF FUND AVAILABILITY**

The Department of Community Affairs announces anticipated funding availability under the Florida Small Cities Community Development Block Grant (CDBG) Program for non-Entitlement cities, with a population under 50,000, and counties, with a population under 100,000, for Economic Development job creation/retention activities. Subject to the receipt of funding from the U.S. Department of Housing and Community Development (HUD), the Department will allocate approximately \$9.5 million of Federal Fiscal Year 2003 Small Cities CDBG funds for job creating economic development activities with an initial application deadline of 5:00 p.m., Monday, March 31, 2003. Pursuant to paragraph 9B-43.006(2)(b), Florida Administrative Code, Federal Fiscal Year 2003, applications for the initial application deadline may be submitted at any time after the publication of this notice.

The federal Fiscal Year 2002 Economic Development application cycle will be considered closed on Friday, March 28, 2003, 5:00 p.m.

Should funds remain available after the initial application deadline, applications for economic development funding will continue to be accepted until the funds are depleted. Funds for applications received after March 31, 2003, will be reserved on a first come, first eligible basis pursuant to subsection 9B-43.006(10), Florida Administrative Code.

Fifty-one percent (51%) of the created or retained jobs must be held by, taken by, or made available to low and moderate income persons, and at least seventy percent (70%) of the requested funds must benefit low and moderate income persons. Funding is only available to eligible cities and counties and is not available for grants for the sole purpose of planning, designing, or administering economic development activities.

Applications may be obtained by calling the Department of Community Affairs, (850)487-3644 or may be accessed by the Internet <http://www.dca.state.fl.us/fhcd/programs/cdbgp/index.htm>.

The Department cannot execute contracts for the applications until state Fiscal Year 2003-04 budgetary authority is effective on July 1, 2003. Further, timing of the execution of contracts by the Department is subject to completion and acceptance of the federal Fiscal Year 2003 Annual Action Plan by HUD and the execution by HUD of the contract under which the funding will be made available to the state.

Applications must be submitted on forms required by and in the format specified in Rule Chapter 9B-43, Florida Administrative Code, and should be either hand delivered or sent by U.S. Mail or other licensed carrier. Applications must be received in the Community Development Section, Department of Community Affairs, The Sadowski Building,

Room 260, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Please call (850)487-3644, if you need more information.

**NOTICE OF APPROVAL
FOR FLORIDA FOREVER FUNDS**

The Florida Communities Trust ("Trust") reviewed and approved project plans for land acquisition projects submitted under the Florida Forever Program, Series FF1 funding cycle. The project plan listed below was 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 site and all other documents necessary to close the project and that funds be released as follows:

Project: 01-043-FF1/Deering Estate – Cutler Glade Rehydration Addition

Grantee: Miami-Dade County

Amount of Approved Funds: the lesser of 40.00% of the final total project costs or \$566,366.80

Project: 01-067-FF1/Sheraton Plaza Preserve

Grantee: St. Lucie County

Amount of Approved Funds: the lesser of 50.00% of the final total project costs or \$606,000.00

Project: 01-069-FF1/Indrio Scrub Preserve

Grantee: St. Lucie County

Amount of Approved Funds: the lesser of 50.00% of the final total project costs or \$471,500.00

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 General Motors Corporation, intends to allow the relocation of Nimnicht Pontiac GMC, Inc., d/b/a Nimnicht Pontiac, as a dealership for the sale of Pontiac vehicles, from its present location at 3919 Philips Hwy., Jacksonville, FL 32207, to a proposed location at 11503 Philips Hwy., Jacksonville (Duval County), Florida 32256, on or after January 21, 2003.

The name and address of the dealer operator(s) and principal investor(s) of Nimnicht Pontiac GMC, Inc. d/b/a Nimnicht Pontiac are dealer operator(s): Billie N. Nimnicht, 3919 Philips Hwy., Jacksonville, FL 32207; principal investor(s): Lee A. Nimnicht, 3919 Philips Hwy., Jacksonville, FL 32207.

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 U.S. Mail to: Douglas J. Chandler, Dealer Contractual Manager, General Motors Corporation, 100 Renaissance Center, Detroit, MI 48265-1000.

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 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 General Motors Corporation, intends to allow the relocation of Nimnicht Pontiac GMC, Inc., d/b/a Nimnicht GMC d/b/a Nimnicht Hummer, as a dealership for the sale of GMC and Hummer vehicles, from its present location at 5024 Park St., Jacksonville, FL 32210, to a proposed location at 11503 Philips Hwy., Jacksonville (Duval County), Florida 32256, on or after September 27, 2004.

The name and address of the dealer operator(s) and principal investor(s) of Nimnicht Pontiac GMC, Inc. d/b/a Nimnicht GMC, Inc. d/b/a Nimnicht GMC d/b/a Nimnicht Hummer are dealer operator(s): Billie N. Nimnicht, 5024 Park St., Jacksonville, FL 32210; principal investor(s): Lee A. Nimnicht, 5024 Park St., Jacksonville, FL 32210.

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 U.S. Mail to: Douglas J. Chandler, Dealer Contractual Manager, General Motors Corporation, 100 Renaissance Center, Detroit, MI 48265-1000.

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 Less
than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Whizzer Motorbike Co., Inc., intends to allow the establishment of Jawfi Distributions, Inc. d/b/a Gulf Coast Whizzers & More, as a dealership for the sale of Whizzer motorbikes, at 675 Tamiami Trail Crown Royal Plaza, Unit 2, Pt. Charlotte (Charlotte County), Florida 33954 on or after January 21, 2003.

The name and address of the dealer operator(s) and principal investor(s) of Jawfi Distributions, Inc. d/b/a Gulf Coast Whizzers & More are dealer operator(s) and principal investor(s): Stephen Johnson, 675 Tamiami Trail, Crown Royal Plaza, Unit 2, Pt. Charlotte, FL 33954.

The notice indicates intent to establish the new point location in a county of less 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 U.S. Mail to: Debra La Lone, Office Manager, Whizzer Motorbike Co., Inc., 4751 Glenn Curtiss, Addison, TX 75001.

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 January 17, 2003, 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)
- NA Approval/CON exemption, hospice services, Palm Beach County, Vitas Healthcare Corporation of Florida, (PRH) Hospice of Palm Beach County, Inc.
- 9596 Approval, establish a 30 bed long term care hospital, Bay County, SemperCare Hospital of Panama City, Inc., (PRH) Healthsouth LTAC of Bay County, Inc.
- 9597 Denial, establish a 40 bed freestanding long term care hospital, Bay County, Healthsouth LTAC of Bay County, Inc., (PRH) same as applicant.
- 9599 Denial, establish a 16 bed comprehensive medical rehabilitation unit through the conversion/delicensure of 8 acute care beds and 8 adult psychiatric beds, Citrus County, Tenet Healthsystem Hospitals, Inc., d/b/a Seven Rivers Community Hospital, (PRH) same as applicant.
- 9604 Denial, establish a 43 bed long term care hospital, Volusia County, SemperCare Hospital of Volusia, Inc., (PRH) same as applicant.
- 9604 Supports Denial, establish a 43 bed long term care hospital, Volusia County, SemperCare Hospital of Volusia, Inc., (PRH) Healthsouth LTAC of Jacksonville, Inc.
- 9605 Approval, addition of 20 long term acute care hospital beds to its existing 60 bed long term care hospital, Clay County, Kindred Hospitals East, LLC d/b/a Kindred Hospital North Florida, (PRH) Healthsouth LTAC of Jacksonville, Inc.
- 9605 Approval, addition of 20 long term acute care hospital beds to its existing 60 bed long term care hospital, Clay County, Kindred Hospitals East, LLC d/b/a Kindred Hospital North Florida, (PRH) SemperCare Hospital of Volusia, Inc.
- 9606 Denial, establish a 40 bed freestanding long term care hospital, Volusia County, Healthsouth LTAC of Jacksonville, Inc., (PRH) same as applicant.

- 9606 Supports Denial, establish a 40 bed freestanding long term care hospital, Volusia County, Healthsouth LTAC of Jacksonville, Inc., (PRH) SemperCare Hospital of Volusia, Inc.
- 9608 Denial, establish a 20 bed comprehensive medical rehabilitation unit, Pinellas County, Palms of Pasadena Hospital, L. P. d/b/a Palms of Pasadena Hospital, (PRH) same as applicant.
- 9610 Approval, establish a 76 bed acute care satellite hospital, Hillsborough County, St. Joseph's Hospital, Inc. d/b/a St. Joseph's Hospital, (PRH) Town and Country Hospital, L. P. d/b/a Town and Country Hospital.
- 9610 Approval, establish a 76 bed acute care satellite hospital, Hillsborough County, St. Joseph's Hospital, Inc. d/b/a St. Joseph's Hospital, (PRH) University Community Hospital, Inc. d/b/a University Community Hospital and University Community Hospital, Inc. d/b/a University Community Hospital at Carrollwood.
- 9610 Approval, establish a 76 bed acute care satellite hospital, Hillsborough County, St. Joseph's Hospital, Inc., d/b/a St. Joseph's Hospital, (PRH) Florida Health Sciences Center, Inc. d/b/a Tampa General Hospital.
- 9612 Denial, establish a 40 bed freestanding LTAC Hospital, Hillsborough County, Healthsouth LTAC of Tampa, Inc., (PRH) same as applicant.
- 9617 Approval, addition of 36 acute care beds to its existing hospital, Palm Beach County, Columbia JFK Medical Center, L.P. d/b/a JFK Medical Center, (PRH) Boca Raton Community Hospital, Inc.
- 9623 Denial, establish a 6 bed Level II neonatal intensive care unit, Dade County, South Miami Hospital, Inc., (PRH) same as applicant.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

FLORIDA CATEGORICAL EXCLUSION NOTIFICATION

The Florida Department of Environmental Protection has determined that the proposed Dania Beach wastewater and stormwater facilities will not have a significant adverse affect on 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 Finding of No Significant Impact, please contact: Troy M. Mullis, (850)245-8358.

FLORIDA CATEGORICAL EXCLUSION NOTIFICATION

The Florida Department of Environmental Protection has determined that the proposed East County Water Control District Stormwater Management Improvements will not have a significant adverse affect on 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 Florida Categorical Exclusion Notification, please contact: Troy M. Mullis, (850)245-8358.

FLORIDA FINDING OF NO SIGNIFICANT IMPACT

The Florida Department of Environmental Protection has determined that the proposed City of Perry's wastewater facilities will not have a significant adverse affect on 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 Florida Finding of No Significant Impact, please contact: Troy M. Mullis, (850)245-8358.

STATEWIDE NOMINATING COMMISSION FOR JUDGES OF COMPENSATION CLAIMS

The Statewide Nominating Commission for Judges of Compensation Claims announces that it is accepting applications for a Judge of Compensation Claims vacancy in District C (Jacksonville). This vacancy has been created by the resignation of Judge Wilbur W. Anderson.

Qualified applicants must submit the original completed application and one copy to the chairperson and one additional copy must be submitted to each Commission member by 5:00 p.m., February 14, 2003. Applications and the list of Commission members may be obtained from the Commission chairperson.

Any questions concerning the upcoming Commission public hearing should be directed to: G. Bart Billbrough, Commission chairperson, 2600 Douglas Road, Suite 902, Coral Gables, FL 33134, (305)442-2701, Fax (305)442-2801.

Section XIII
Index to Rules Filed During Preceding Week

RULES FILED BETWEEN January 13, 2003
and January 17, 2003

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
----------	-----------	----------------	-------------------	------------------

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

5E-1.023	1/15/03	2/4/03	28/48	
----------	---------	--------	-------	--

DEPARTMENT OF EDUCATION

University of Florida

6C1-1.008	1/14/03	2/3/03	Newspaper	
6C1-1.018	1/16/03	2/5/03	Newspaper	
6C1-3.020	1/16/03	2/5/03	Newspaper	
6C1-3.047	1/14/03	2/3/03	Newspaper	
6C1-4.002	1/16/03	2/5/03	Newspaper	
6C1-4.004	1/16/03	2/5/03	Newspaper	
6C1-4.006	1/16/03	2/5/03	Newspaper	
6C1-4.016	1/16/03	2/5/03	Newspaper	
6C1-4.017	1/16/03	2/5/03	Newspaper	
6C1-7.051	1/16/03	2/5/03	Newspaper	
6C1-7.0561	1/16/03	2/5/03	Newspaper	

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
----------	-----------	----------------	-------------------	------------------

DEPARTMENT OF CORRECTIONS

33-602.205	1/15/03	2/4/03	28/42	
------------	---------	--------	-------	--

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

61G4-12.009	1/17/03	2/6/03	28/51	
61G4-15.001	1/17/03	2/6/03	28/51	
61G4-16.009	1/17/03	2/6/03	28/51	

DEPARTMENT OF HEALTH

Division of Children's Medical Services

64C-4.001	1/13/03	2/2/03	28/40	28/50
64C-4.002	1/13/03	2/2/03	28/40	28/50