

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLE: Actively Engaged in Business; Place Suitably Designated; Accessible to Public
 RULE NO.: 4-221.051

PURPOSE AND EFFECT: The purpose and effect of the rule development is to discuss concerns, raised by the Joint Administrative Procedures Committee, regarding the requirement for a separate entrance and sign in subsection 4-221.051(2), F.A.C., and the 30-day workweek in subparagraph 4-211.051(4)(a)1., F.A.C.

SUBJECT AREA TO BE ADDRESSED: Insuring that Rule 4-221.051, F.A.C., is within the scope of the Department of Financial Services' authority.

SPECIFIC AUTHORITY: 648.26 FS.

LAW IMPLEMENTED: 648.25, 648.34, 648.44 FS.

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

TIME AND DATE: 9:30 a.m., Wednesday, February 26, 2003
 PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Glenda Ostreich, Bail Bond Section, Bureau of Agent and Agency Investigations, Division of Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0320, (850)413-5660

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

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE TITLES: Definitions
 Possession or Movement of Plant Pests and Noxious Weeds Regulated by the Department and the USDA
 Possession or Movement of Arthropods, Plant Pests, or Noxious Weeds Regulated by the Department
 RULE NOS.: 5B-57.001
 5B-57.003
 5B-57.004

Introduction and Release of Biological Control Agents 5B-57.005
 Regulation and Control of Noxious Weeds in Florida 5B-57.006
 Noxious Weed List 5B-57.007
 Noxious Weed Classification Procedures 5B-57.010

PURPOSE AND EFFECT: The purpose of these rule amendments is to change the definition of noxious weed to include language that would address the negative impact on plant species protected under Section 581.185, F.S., add a new definition for Noxious Weed Review Committee, to repeal Rules 5B-57.003 and 5B-57.005, F.A.C., and combine them with Rule 5B-57.004, F.A.C., remove the prohibition time frame for propagation, sale or distribution of Cupaniopsis anacardioides, and adding a new Rule 5B-57.010, F.A.C., Noxious Weed Classification Procedures. The effects of the amendments will be a clarification of the definition for noxious weed, reducing the number of rules that involve permitting procedures, and providing written procedures on how plants will be classified as a noxious weed.

SUBJECT AREA TO BE ADDRESSED: The definitions of a noxious weed and noxious weed committee, the procedures for obtaining permits to possess or move any arthropods, plant pests, or noxious weeds regulated by the Department and the new procedures for classifying a plant as a noxious weed.

SPECIFIC AUTHORITY: 570.07(13),(23) FS.

LAW IMPLEMENTED: 581.031(4),(5),(6), 581.083, 581.091 FS.

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

TIME AND DATE: 1:30 p.m., February 26, 2003
 PLACE: Doyle Conner Building, 1911 S. W. 34 Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32614-7100, (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-57.001 Definitions.

For the purpose of this rule chapter, the following definitions shall apply:

(1) Arthropod. Any segmented invertebrate animal having jointed appendages and an exoskeleton, including insects, spiders, ticks, mites, and scorpions, but excluding crustaceans for the purpose of this rule chapter.

(2) Biological control agent. Any biological agent such as bacteria, fungi, viruses, parasitoids, parasites, nematodes, and predators that adversely affects pest species.

(3) Compliance agreement. A written agreement between the department and any person engaged in growing, handling, or moving articles, plants, plant products, plant pests, noxious weeds, arthropods, or biological control agents regulated under this rule chapter, wherein the person agrees to comply with stipulated requirements.

(4) Department. The Florida Department of Agriculture and Consumer Services.

(5) International movement. Movement into Florida from any country or area outside the United States.

(6) Interstate movement. Movement into Florida from another state or U. S. possession.

(7) Intrastate movement. Movement within the state of Florida.

(8) Nematode. A small unsegmented worm in all of its life stages in the Phylum Nematoda.

(9) Noxious weed. Any living stage, including, but not limited to, seeds and reproductive parts, of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Florida or have a negative impact on the plant species protected under s. 581.185, F.S.

(10) Noxious Weed Review Committee. A committee appointed by the department to review the Noxious Weed List in subsection 5B-57.010(2), F.A.C.

~~(11)~~(10) Permit. An official document issued by the department or the USDA allowing under specific conditions the entry or field release of plant pests, noxious weeds, arthropods, and biological control agents, defining the conditions under which such activities will be allowed, and containing specific instructions for inspection, movement, and containment.

~~(12)~~(11) Plant pest. Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, or viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants, plant parts, or other products of plants.

~~(13)~~(12) USDA. The United States Department of Agriculture.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(5),(6), 581.083, 581.091 FS. History—New 7-27-93, Amended _____.

5B-57.003 Possession or Movement of Plant Pests and Noxious Weeds Regulated by the Department and the USDA.

~~(1) It is unlawful to introduce, possess, move, or release any plant pest or noxious weed regulated by the department and the USDA except under permit issued by the department or the USDA. No permit shall be issued unless the department has determined that procedures exist to adequately contain the~~

~~plant pest or noxious weed or that it will not pose a threat to the agricultural industry or the environment. The department's evaluation of permit applications may rely on findings of the Department of Environmental Protection, The Florida Fish and Wildlife Conservation Commission, the United States Department of Agriculture, or any other agency with expertise in the area. The application procedures for a permit are as follows:~~

~~(2) Complete USDA/APHIS PPQ Form 526, Application For Permit to Move Live Plant Pests and Noxious Weeds. PPQ Form 526, effective October 1988, is incorporated into this rule chapter by reference. Copies of the form may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100 or the USDA, APHIS-PPQ, Biological Assessment and Taxonomic Support, Hyattsville, Maryland 20782. A department Pathogen Informational Form is also required for plant pathogens. Pathogen Informational Form DACS 08214, revised 01/00, is incorporated into this rule chapter by reference. Copies may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100.~~

~~(3) The completed application shall be submitted to the department for evaluation and approval or disapproval.~~

~~(4) Following evaluation by the department, the application shall be forwarded to the USDA/APHIS PPQ Biological Assessment and Taxonomic Support Staff for federal evaluation and determination. The conditions under which introduction, movement, or possession is permitted, and the length of time for which the permit is valid, will be specified on the permit or in a compliance agreement.~~

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(5),(6),(7),(26), 581.083 FS. History—New 7-27-93, Amended 6-20-00, Repealed _____.

5B-57.004 Possession or Movement of Arthropods, Plant Pests, or Noxious Weeds Regulated by the Department.

(1) It is unlawful to introduce, multiply possess, move, or release any arthropod, plant pest, biological control agent or noxious weed regulated by the department or the USDA except under permit issued by the department unless a federal permit, PPQ 526, has been issued by the USDA that has been approved by the Department. No permit shall be issued unless the department has determined that the arthropod, plant pest, biological control agent, or noxious weed can be contained to prevent escape into the environment or that it will not pose a threat to agriculture, beneficial organisms, or the environment or become a public nuisance. In the case of biological control agents, they must be specific to the target pests. ~~In making such determinations the department may rely on the findings of other agencies and groups as listed in 5B-57.003. The Department's evaluation of permit applications may rely on findings of the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the USDA United States Department of Agriculture, the~~

University of Florida, or any other agency with expertise in the areas. In cases where there is inadequate information about the potential environmental impact of importing or releasing an organism, the department will require the applicant to provide evidence that the accidental escape of organisms not intended for release would not be hazardous to Florida or U.S. agriculture, beneficial organisms, the public, or the environment. The application procedures for permits are as follows:

(2) Application for permit shall be made on form DACS-08208 unless a USDA permit 526 has been issued. Application and Permit to Move Organisms Regulated By The State of Florida, DACS-08208, Revised 01/00, is incorporated into this rule chapter by reference. A department Pathogen Information Form is also required for plant pathogens. Pathogen Information Form DACS-08214, revised 01/00 is incorporated into this rule chapter by reference. Copies may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100.

(3) The completed application shall be submitted to the department for evaluation and approval or disapproval.

(4) Following approval by the department, a permit shall be issued. The conditions under which movement, introduction, possession, or release is permitted, and the length of time for which the permit is valid, will be specified on the permit or in a compliance agreement.

(5) Any permit which has been issued shall be withdrawn by the Director of the Division of Plant Industry if it is determined that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the director within 10 days after receiving the written notification of the withdrawal. The appeal shall state all the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The director shall grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(6),(7), 581.083, 581.091, 581.101 FS. History—New 7-27-93, Amended 6-20-00, _____.

5B-57.005 Introduction and Release of Biological Control Agents.

~~It is unlawful to introduce any biological control agent into the state or release any non-indigenous biological control agent except under permit issued by the department. No permit shall be issued unless the department has determined the biological control agent is specific to the target organism or that it will not pose a threat to agriculture, beneficial organisms, or the environment, or become a public nuisance. In making such determinations the department may rely on findings of other~~

~~agencies and groups as listed in Rule 5B-57.003, F.A.C. The application procedures for permits are the same as those listed in Rule 5B-57.004, F.A.C.~~

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(6),(7), 581.083, 581.091 FS. History—New 7-27-93, Repealed _____.

5B-57.006 Regulation and Control of Noxious Weeds in Florida.

The department, in addition to regulating the movement of the noxious weeds contained in Rule 5B-57.007, F.A.C., shall cooperate with the USDA, the Florida Department of Environmental Protection Natural Resources, and other appropriate parties to eradicate or control noxious weeds that are established in the State and are determined by the department to be a nuisance or threat due to undesirable characteristics such as poisonous properties, or invasive or rapid reproductive tendencies. The eradication and control strategies shall be determined through the use of risk assessment. Eradication and control strategies include the use of biological control agents, integrated pest management, chemical control, and mechanical removal. The department's involvement in eradication and control programs for noxious weeds will be carried out within the scope of statutory authority and available resources.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(6),(7),(16),(17), 581.083, 581.091, 581.101 FS. History—New 7-27-93, Amended _____.

5B-57.007 Noxious Weed List.

(1) Parasitic Weeds.

(a) Aeginetia spp. (Aeginetia).

(b) Alecra spp. (Alecra).

(c) Cuscuta spp. Only the native Florida species are excluded from this list. These include:

1. C. americana.

2. C. compacta.

3. C. exaltata.

4. C. gronovii.

5. C. indecora.

6. C. obtusiflora.

7. C. pentagona.

8. C. umbellata.

(d) Orobanche spp. (broomrapes), with the exception of:

1. O. uniflora (oneflowered broomrape).

(2) Terrestrial Weeds.

(a) Ageratina adenophora (crofton weed).

(b) Alternanthera sessilis (sessile joyweed).

(c) Asphodelus fistulosus (onionweed).

(d) Avena sterilis (including Avena budoviciana) (animated oat, wild oat).

(e) Borreria alata (broadleaf buttonweed).

(f) Carthamus oxyacantha (wild safflower).

(g) Chrysopogon aciculatus (pilipiliula).

- (h) *Commelina benghalensis* (Benghal dayflower).
- (i) *Crupina vulgaris* (common crupina).
- (j) *Cupaniopsis anacardioides* (carrotwood). ~~Propagation prohibited effective 7/1/99; sale or distribution prohibited 1/1/2001.~~
- (k) *Digitaria scalarum* (African couchgrass, fingergrass).
- (l) *Digitaria velutina* (Velvet fingergrass, annual conchgrass).
- (m) *Dioscorea alata* (white yam).
- (n) *Dioscorea bulbifera* (air potato).
- (o) *Drymaria arenarioides* (lightning weed).
- (p) *Emex australis* (three-cornered jack).
- (q) *Emex spinosa* (devil's thorn).
- (r) *Euphorbia prunifolia* (painted euphorbia).
- (s) *Galega officinalis* (goat's rue).
- (t) *Heracleum mantegazzianum* (giant hogweed).
- (u) *Imperata brasiliensis* (Brazilian satintail).
- (v) *Imperata cylindrica* (cogongrass).
- (w) *Ipomoea triloba* (little bell, Aiea morning glory).
- (x) *Ischaemum rugosum* (murainograss).
- (y) *Leptochloa chinensis* (Asian sprangletop).
- (z) *Lycium ferocissimum* (African boxthorn).
- (aa) *Lygodium japonicum* (Japanese climbing fern).
- (bb) *Lygodium microphyllum* (small-leaved climbing fern).
- (cc) *Melaleuca quinquenervia* (melaleuca).¹
- (dd) *Melastoma malabathricum* (Indian rhododendron).
- (ee) *Mikania cordata* (mile-a-minute).
- (ff) *Mikania micrantha* (climbing hempweed).
- (gg) *Mimosa invisa* (giant sensitive plant).
- (hh) *Mimosa pigra* (catclaw mimosa).¹
- (ii) *Nassella trichotoma* (serrated tussock).
- (jj) *Neyraudia reynaudiana* (Burma reed).
- (kk) *Opuntia aurantiaca* (jointed prickly pear).
- (ll) *Oryza longistaminata* (red rice).
- (mm) *Oryza punctata* (red rice).
- (nn) *Oryza rufipogon* (wild red rice).
- (oo) *Paederia cruddasiana* (sewer-vine).
- (pp) *Paederia foetida* (skunk-vine).
- (qq) *Paspalum scrobiculatum* (Kodomillet).
- (rr) *Pennisetum clandestinum* (Kikuyu grass).
- (ss) *Pennisetum macrourum* (African feathergrass).
- (tt) *Pennisetum pedicellatum* (Kyasuma grass).
- (uu) *Pennisetum polystachyon* (missiongrass, thin napierglass).
- (vv) *Prosopis* spp.
- (ww) *Pueraria montana* (kudzu).
- (xx) *Rhodomyrtus tomentosa* (downy myrtle).
- (yy) *Rottboellia cochinchinensis* (itchgrass).
- (zz) *Rubus fruticosus* (bramble blackberry).

- (aaa) *Rubus moluccanus* (wild raspberry).
- (bbb) *Saccharum spontaneum* (wild sugarcane).
- (ccc) *Salsola vermiculata* (wormleaf salsola).
- (ddd) *Sapium sebiferum* (Chinese tallow tree).
- (eee) *Schinus terebinthifolius* (Brazilian pepper-tree).¹
- (fff) *Setaria pallidifusca* (cattail grass).
- (ggg) *Solanum tampicense* (wetland nightshade).
- (hhh) *Solanum torvum* (turkeyberry).
- (iii) *Solanum viarum* (tropical soda apple).
- (jjj) *Tridax procumbens* (coat buttons).
- (kkk) *Urochloa panicoides* (liverseed grass).

¹Department of Environmental Protection permit required for these species.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(5),(6), 581.083, 581.091 FS. History—New 7-27-93, Amended 2-28-94, 6-30-96, 7-6-99, _____.

5B-57.010 Noxious Weed Classification Procedures.

(1) The Department will propose the classification of a plant as a noxious weed and its inclusion on the Noxious Weed List, Rule 5B-57.007, F.A.C., if the plant is determined to be a serious agricultural threat in Florida or have a negative impact on the plant species protected under s. 581.185, F.S. In making these determinations, the department will utilize information provided by the Institute of Food and Agricultural Sciences at the University of Florida or other experts that biologically justify the classification of a plant as a noxious weed. Individuals or groups seeking to have plants included in Rule 5B-57.007, F.A.C., may make application to the department on form DACS-08215. To add a weed to the list of noxious weeds the following information is required to assist in the development of the weed risk assessment: identification including scientific name and author, common synonyms, botanical classification, common names; summary of life history; native and world distribution; distribution in Florida or the United States if any; description of control efforts, if established in Florida or the United States; identification of regulation at the state level; consequences of introduction/spread; habitat suitability in Florida (predicted ecological range); dispersal potential (biological characteristics associated with invasiveness); potential economic impacts; potential environmental impacts; likelihood of introduction/spread; potential pathways into and within Florida; likelihood of survival and spread within each pathway; and supporting documentation (list of references). To remove a weed from the list the following information is required: evidence that the species is distributed throughout its potential range or has spread too far to implement effective control; evidence that control has been unsuccessful and further efforts are not supported locally; or there is evidence that the weed is no longer a problem due to biological controls or other methods. For cultivars of a listed weed to be exempted, the following information is required: scientific evidence of

sterility and inability to cross pollinate with wild types, or scientific evidence that the cultivar has narrower habitat suitability, less dispersal potential, less potential negative impact on the economy and/or environment of Florida.

(2) The noxious weed list contained in Rule 5B-57.007, F.A.C., shall be subject to review, at least biennially, by the department in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida. The Noxious Weed Review Committee appointed by the department will conduct the review. The Vice President for Agricultural and Natural Resources with the University of Florida will recommend two faculty members, one specializing in research on production agriculture and the other on natural resources, to the department to serve on the committee. A representative from the Director's Office, the Bureau of Plant and Apiary Inspection, and the Office of Botany shall represent the department. The Noxious Weed Review Committee will make recommendations to the department to add or remove plants from Rule 5B-57.007, F.A.C., based on the biological justification as described in (1).

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(5),(6), 581.083, 581.091 FS. History—New

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Manufactured Buildings	9B-1
RULE TITLES:	RULE NOS.:
Definitions	9B-1.002
Administration and Department Responsibilities	9B-1.003
Adoption of Model Codes	9B-1.004
Certification of Third Party Agencies	9B-1.006
Manufacturer Certification	9B-1.007
Inspections	9B-1.0085
Design Plan and Systems Approval	9B-1.009
Component System	9B-1.0095
Alterations	9B-1.011
Department Insignia	9B-1.016
Insignia Application and Issuance	9B-1.017
Change in Manufacturer's Status	9B-1.0211
Factory-Built Schools, Plan Review	9B-1.027
Factory-Built Schools, Inspections and Work Progress Reports	9B-1.028
Factory-Built Schools, Insignia and Data Plate	9B-1.029
PURPOSE AND EFFECT: The purpose and effect of the rule to be developed is to amend the rules regulating the manufactured buildings program to reflect the adoption and implementation of the Florida Building Code.	
SUBJECT AREA TO BE ADDRESSED: Application of the Florida Building Code to the Manufactured Buildings Program.	

SPECIFIC AUTHORITY: 553.37, 553.73 FS.

LAW IMPLEMENTED: 553.37, 553.73 FS.

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

TIME AND DATE: 9:20 a.m., February 25, 2003

PLACE: TradeWinds Island Grand Resort Hotel, 5500 Gulf Boulevard, St. Petersburg Beach, Florida 33706

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Mo Madani, Manager, Codes and Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824

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

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Building Commission Operational Procedures	9B-3
RULE TITLE:	RULE NO.:
Non-Binding Advisory Opinions	9B-3.054
PURPOSE AND EFFECT: The purpose and effect of the rule to be developed is to codify the procedure for rendering non-binding interpretations of the Florida Building Code.	
SUBJECT AREA TO BE ADDRESSED: Interpretation of the Florida Building Code.	
SPECIFIC AUTHORITY: 553.77(7) FS.	
LAW IMPLEMENTED: 553.77(7) FS.	
A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:	
TIME AND DATE: 9:30 a.m., February 25, 2003	
PLACE: TradeWinds Island Grand Resort Hotel, 5500 Gulf Boulevard, St. Petersburg Beach, Florida 33706	
Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Mo Madani, Manager, Codes and Standards, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of	

Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Mo Madani, Manager, Codes and Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824

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

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sales and Use Tax	12A-1
RULE TITLES:	RULE NOS.:
Consumer's Certificates of Exemption;	
Exemption Certificates	12A-1.038
Revocation of Sales Tax Exemption Certificates	12A-1.095
Revocation of Sales Tax Certificates of Registration	12A-1.0955

PURPOSE AND EFFECT: Sections 120.569, 120.57, and 120.60, F.S., govern all agency action regarding licensure, including the issuance of certificates of registration, consumer's certificates of exemption, and other licenses issued by the Department. Rule 28-107.004, F.A.C., provides guidelines to agencies for the suspension, revocation, annulment, or withdrawal of a license and requires the agency to issue an administrative complaint in the manner provided in s. 120.60(5), F.S. Rule 28-106.104, F.A.C., provides guidelines to applicants and to license holders on how to file a pleading with an agency clerk. No further guidance in an administrative rule issued by the Department of Revenue is necessary.

The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Public Use Forms), is to remove unnecessary provisions for the Department's intended denial of a consumer's certificate of exemption to an applicant and provisions for how the applicant must challenge the Department's proposed denial. The purpose of the proposed repeal of Rule 12A-1.095, F.A.C., is to remove unnecessary provisions regarding the revocation of a consumer's certificate of exemption that are provided in s. 212.084, F.S.

The purpose of the proposed repeal of Rule 12A-1.0955, F.A.C. (Revocation of Sales Tax Certificates of Registration), is to remove unnecessary provisions regarding the revocation of a sales tax certificate of registration that are provided in s. 212.18(3)(d), F.S.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the removal of provisions from the administrative code regarding: (1) the intended denial of a consumer's certificate of exemption to an applicant; (2) the revocation of a consumer's certificate of exemption; and (3) the revocation of a sales and use tax certificate of registration.

SPECIFIC AUTHORITY: 72.011, 212.17(6), 212.18(2), 213.06(1), 213.21 FS.

LAW IMPLEMENTED: 72.011, 95.091(3), 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.02(14)(c), 212.05(1)(j), 212.06(1)(c), 212.07(1), 212.08(6),(7), 212.084, 212.085, 212.18(2),(3), 213.06, 212.21(2) FS.

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

TIME AND DATE: 9:30 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 RULE DEVELOPMENT IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) No change.

(2) HOW TO OBTAIN A CONSUMER'S CERTIFICATE OF EXEMPTION.

(a) through (b) No change.

~~(c) Pursuant to the requirements of s. 120.60(3), F.S., the Department will notify an applicant when it intends to deny the applicant a Consumer's Certificate of Exemption by issuing the applicant a Notice of Intent to Deny. The Notice of Intent to Deny notifies the applicant of the Department's intended action and the facts and legal authority which supports the intended action.~~

~~(d) In order to challenge the denial of an application for a Consumer's Certificate of Exemption, the applicant receiving a Notice of Intent to Deny must request an administrative hearing under the provisions of s. 120.57, F.S., pursuant to Rule Chapter 28-106, F.A.C. The Request for Hearing must be delivered to:~~

~~Office of the General Counsel
Department of Revenue
501 South Calhoun Street
Carlton Building
Post Office Box 6668
Tallahassee, Florida 32314-6668.~~

~~(e) The Request for Hearing must contain the information provided in Rule Chapter 28-104, F.A.C.~~

~~(3) through (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-1.095 Revocation of Sales Tax Exemption Certificates.

~~Specific Authority 212.17(6), 212.18(2), 213.06(1), 213.21(1) FS. Law Implemented 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.084, 212.18(3), 213.06, 213.21(1) FS. History—New 7-8-82, Amended 11-6-85, Formerly 12A-1.95, Amended 8-10-92, 12-8-92, 12-13-94, 10-4-01, Repealed _____.~~

12A-1.0955 Revocation of Sales Tax Certificates of Registration.

~~Specific Authority 72.011, 212.17(6), 212.18(2), 213.06(1), 213.21 FS. Law Implemented 72.011, 120.569, 120.57(1),(2), 120.60(5), 120.80(14), 212.18(3) FS. History—New 12-8-92, Amended 6-19-01, Repealed _____.~~

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE: Rental Car Surcharge
RULE CHAPTER NO.: 12A-16

RULE TITLE: Public Use Forms
RULE NO.: 12A-16.008

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), is to adopt, by reference, changes to form DR-15SWN, Instructions for Completing the DR-15SW Solid Waste and Surcharge Return.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed adoption, by reference, of changes to form DR-15SWN.

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

LAW IMPLEMENTED: 212.0606, 212.12(2), 213.235, 213.755, 376.70, 403.717, 403.718, 403.7185 FS.

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

TIME AND DATE: 9:30 a.m., February 26, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the

Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis, (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 at: www.myflorida.com/dor/rules.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Gary L. Gray, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-16.008 Public Use Forms.

(1)(a) In addition to the forms prescribed in Chapter 12A-1, F.A.C., the following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surcharge.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system, (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 show inside the parentheses (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) No change.		
(3) DR-15SWN	Instructions for Completing the <u>DR-15SW</u> Solid Waste and Surcharge Return (<u>R. 02/03 07/02</u>)	<u>01/02</u>

~~Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 213.755, 376.70, 403.717, 403.718, 403.7185, FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, _____.~~

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE: Registration as a Secondhand Dealer
RULE CHAPTER NO.: 12A-17

RULE TITLE: Denial, Suspension, or Revocation
RULE NO.: 12A-17.004

of Registration

PURPOSE AND EFFECT: Sections 120.569, 120.57, and 120.60, F.S., govern all agency action regarding licensure, including the issuance of certificates of registration issued by the Department. Rule 28-107.004, F.A.C., provides guidelines to agencies for the suspension, revocation, annulment, or withdrawal of a license and requires the agency to issue an administrative complaint in the manner provided in s. 120.60(5), F.S. Rule 28-106.104, F.A.C., provides guidelines to applicants and to license holders on how to file a pleading with an agency clerk. No further guidance in an administrative rule issued by the Department of Revenue is necessary.

The purpose of the proposed repeal of Rule 12A-17.004, F.A.C. (Denial, Suspension, or Revocation of Registration), is to remove unnecessary provisions regarding the denial of an application for registration as a secondhand dealer or as a secondary metals recycler, or the revocation, restriction, or suspension of any such registration granted by the Department that are provided in ss. 538.09 and 538.25, F.S.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the removal of provisions from the administrative code regarding: (1) the denial of an application for registration as a secondhand dealer or as a secondary metals recycler; and (2) the revocation, restriction, or suspension of a certificate of registration as a secondhand dealer or as a secondary metals recycler.

SPECIFIC AUTHORITY: 120.53(1)(b), 212.17(6), 212.18(2), 213.06(1), 538.11 FS.

LAW IMPLEMENTED: 538.09, 538.25 FS.

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

TIME AND DATE: 9:30 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 RULE DEVELOPMENT IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-17.004 Denial, Suspension, or Revocation of Registration.

Specific Authority 120.53(1)(b), 212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 538.09, 538.25 FS. History--New 3-15-90, Amended 11-14-91, 4-18-93, 3-20-96, 8-1-02, Repealed.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Communications Services Tax	12A-19
RULE TITLES:	RULE NOS.:
Tax Due at Time of Sale; Tax Returns and Regulations	12A-19.020
Public Use Forms	12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), is to: (1) implement the provisions of s. 2, Chapter 2002-48, L.O.F., which created s. 202.151, F.S., imposing a communications services use tax; and (2) provide guidelines on reporting and paying the communications services use tax to the Department.

The purpose of proposed Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, form DR-700019, Communications Services Use Tax Return. A Notice of Proposed Rulemaking was published in the Florida Administrative Weekly on November 15, 2002 (Vol. 28, No. 46, pp. 4982-4989) proposing the creation of Rule 12A-19.100, F.A.C. The proposed new rule section has not become effective.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed guidelines for remitting communications services use tax directly to the Department.

SPECIFIC AUTHORITY: 202.15, 202.151, 202.16(2), 202.21, 202.26(3)(a),(c),(d) FS.

LAW IMPLEMENTED: 202.11(4),(11),(12), 202.12(1), 202.13(2), 202.15, 202.151, 202.16, 202.17(6), 202.19(1), 202.21, 202.22(6), 202.27, 202.28(1),(2), 202.30, 202.33(2), 202.34(3),(4)(c), 202.35(1) FS.

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

TIME AND DATE: 9:30 a.m., February 26, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis, (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 RULE DEVELOPMENT IS: Gary Gray, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-19.020 Tax Due at Time of Sale; Tax Returns and Regulations.

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

~~4. For purposes of this rule, when the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day that is not a Saturday, Sunday, or legal holiday.~~

~~5. 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 s. 7503 of the Internal Revenue Code. A "legal holiday pursuant to s. 7503 of the Internal Revenue Code 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) through (3) No change.

(4)(a) A communications services tax is due on purchases of communications services subject to the state communications services taxes imposed under ss. 202.12 and 203.01(1)(a)2., F.S., and the local communications services tax imposed under s. 202.19, F.S., when the communications services are purchased from a seller located in Florida or in another state, territory, the District of Columbia, or foreign county who is not a registered Florida dealer.

(b) Any person who purchases communications services at retail from a Florida dealer is liable for the state communications services tax imposed under ss. 202.12 and 203.01(1)(a)2., F.S., and the local communications services taxes imposed under s. 202.19, F.S. Proof of payment of the tax to a Florida dealer is sufficient to relieve the purchaser from liability for the tax. Any person engaged in the business of providing taxable communications services in Florida who is required to be a registered Florida dealer remains liable for the communications services taxes until paid to the Department.

(b) Any person who purchases taxable communications services within Florida, or outside Florida, without payment of the applicable communications services tax is required to remit use tax to the Department based on the cost of the communications services. Persons who are not registered with the Department are required to pay use tax with form DR-700019, Communications Services Tax Return (incorporated by reference in Rule 12A-19.100, F.A.C.), on a

semi-annual basis. To avoid penalty and interest for late filing, the payment and return for the period ending June 30 must be received by the Department or be postmarked on or before July 20th, and the return for the period ending December 31 must be received by the Department or be postmarked on or before January 20th.

(5) For purposes of this rule, when the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day that 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 s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(6)(4) Users of a substitute communications system, and purchasers paying communications services use tax directly to the Department, who file a timely tax return are not allowed to deduct a collection allowance as compensation for the prescribed record keeping accounting for, and timely remittance of taxes imposed by and administered under Chapter 202, F.S.

(5) through (9) renumbered (7) through (11) No change.

Specific Authority 202.15, 202.151, 202.26(3)(a) FS. Law Implemented 202.12(1), 202.15, 202.151, 202.16, 202.19(1), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33(2), 202.35(1) FS. History--New 1-31-02, Amended

12A-19.100 Public Use Forms.

(1) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax. These forms are hereby incorporated by reference in this rule. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32399-0100; or 2) faxing the Distribution Center at (850)922-2208; or 3) using a fax machine telephone handset to call the Department's automated FAX on Demand system at (850)922-3676; or 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or 6) downloading the form from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
(2) DR-700019	Communications Services Use Tax Return (N. 12/02)	_____

Specific Authority 202.151, 202.16(2), 202.26(3)(c),(d) FS. Law Implemented 202.11(4),(11),(12), 202.13(2), 202.151, 202.16(2),(4), 202.17(6), 202.34(3), (4)(c) FS. History—New _____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLE: _____ RULE NO.: _____

State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount 12B-8.006

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.006, F.A.C. (State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount), is to update the percentages used to determine the premium applicable to the peril of fire for the state fire marshal regulatory assessment. These amendments will provide new percentages that will be used to compute the state fire marshal regulatory assessment beginning with the 2003 Insurance Premium Tax Return (form DR-908).

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

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 213.05, 624.509, 624.510, 624.511, 624.515, 624.516 FS.

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

TIME AND DATE: 9:30 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 RULE DEVELOPMENT IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4715

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-8.006 State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount.

(1) through (2) No change.

(3) For purposes of the regulatory assessment, every insurer issuing policies of insurance covering the peril of fire on properties located in this State shall determine the gross amount of premium applicable to the peril of fire by multiplying the premium amounts reported on the “Exhibit of Premiums and Losses,” ~~page 14, of the Annual Statement annual statement, submitted by the insurer~~ as follows:

(a) Fire, Line 1 – ~~90~~ 100 percent.

(b) through (c) No change.

(d) Farmowners multiple peril, Line 3 – ~~20~~ 35 percent.

(e) Homeowners multiple peril, Line 4 – ~~30~~ 35 percent.

(f) Commercial multiple peril, Lines 5.1 and 5.2 – ~~20~~ 25 percent.

(g) No change.

(h) Inland Marine, Line 9 – ~~15~~ 20 percent.

(i) through (5) No change.

Specific Authority 213.06(1) FS. Law Implemented 213.05, 624.509, 624.510, 624.511, 624.515, 624.516 FS. History—New 2-3-80, Formerly 12B-8.06, Amended 4-10-91, 2-18-93, 12-9-97, _____.

PUBLIC SERVICE COMMISSION

DOCKET NO: Undocketed

RULE TITLE: _____ RULE NO.: _____

Customer Billing for Local Exchange Telecommunications Companies 25-4.110

PURPOSE AND EFFECT: To amend the rule to remove references to obsolete taxation methods that resulted from the implementation of Chapter 202, F.S., and to remove implementation deadlines that are no longer relevant.

SUBJECT AREA TO BE ADDRESSED: Taxation requirements on customer bills resulting from the implementation of Chapter 202, F.S.

SPECIFIC AUTHORITY: 350.127, 364.604(5) FS.

LAW IMPLEMENTED: 364.17, 350.113, 364.03, 364.04, 364.05, 364.52, 364.19, 364.602, 364.604 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 WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING TO: Samantha Cibula, Office of the General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850

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: Dale Buys, Division of Competitive Markets and Enforcement, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6536

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-4.110 Customer Billing for Local Exchange Telecommunications Companies.

(1) No change.

(2) ~~Each Six months after the effective date of this rule, each~~ billing party shall set forth on the bill all charges, fees, and taxes which are due and payable.

(a) through (c) No change.

(d)1. Taxes, fees, and surcharges related to an originating party heading shall be shown immediately below the charges described under that heading. The terminology for Federal Regulated Service Taxes, Fees, and Surcharges must be consistent with all FCC required terminology.

2. The billing party shall either:

a. Identify Florida taxes and fees applicable to charges on the customer's bill ~~as (including but not limited to) "Florida gross receipts tax," "Franchise fees," "Municipal utility tax," and "Sales tax,"~~ and identify the assessment base and rate for each percentage based tax, fee, and surcharge, or

b.(i) through (3)(b) No change.

(4) The annual itemized bill shall be accompanied by a bill stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill stuffer shall be submitted to the Commission's Division of Competitive Markets and Enforcement Telecommunications for prior approval. The itemized bill provided to residential customers and to business customers with less than ten access lines per service location shall be in easily understood language. The itemized bill provided to business customers with ten or more access lines per service location may be stated in service order code, provided that it contains a statement that, upon request, an easily understood translation is available in written form without charge. An itemized bill shall include, but not be limited to the following information, separately stated:

(a) through (9) No change.

(10) Where any undercharge in billing of a customer is the result of a company mistake, the company may not backbill in excess of 12 months. Nor may the company recover in a ratemaking proceeding; any lost revenue which inures to the company's detriment on account of this provision.

(11) ~~Local Communications Services Tax Franchise fees and municipal telecommunications taxes.~~

(a) ~~The Local Communications Services Tax includes, but is not limited to, the discretionary communications services tax levied by the governing authority of each municipality and county authorized by Chapter 202, Florida Statutes.~~

~~(b)(a) When a municipality or county levies a company any franchise fee, or municipal telecommunications a local communications services tax authorized by Chapter 202 Section 166.231, Florida Statutes, the local exchange company may collect that tax fee only from its subscribers receiving service within that municipality or county. When a county charges a company any franchise fee, the company may collect that fee only from its subscribers receiving service within that county.~~

~~(c)(b) A local exchange company may not incorporate any portion of the local communications services franchise fee or municipal telecommunications tax into its other rates for service.~~

~~(e) This subsection shall not be construed as granting a municipality or county the authority to charge a franchise fee or municipal telecommunications tax. This subsection only specifies the method of collection of a franchise fee, if a municipality or county, having authority to do so, charges a franchise fee or municipal telecommunications tax.~~

(12) State Communications Services Tax.

~~(a) The State Communications Services Tax includes, but is not limited to, When a company elects to add the Gross Receipts Tax imposed by Chapter 203, Florida Statutes, the communications services sales tax imposed by Chapter 202, Florida Statutes, and any local option sales tax, onto the customer's bill as a separately stated component of that bill, the company must first remove from the tariffed rates any embedded provisions for the Gross Receipts Tax.~~

~~(b) A local exchange company may not incorporate any portion of the state communications services tax into its other rates for service. If the tariffed rates in effect have a provision for gross receipts tax, the rates must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida Statutes, thereby rendering the customer's bill unaffected by the election to add the Gross Receipts Tax as a separately stated tax.~~

~~(c) This subsection shall not be construed as a mandate to elect to separately state the Gross Receipts Tax. This subsection only specifies the method of applying such an election.~~

~~(d) All services sold to another telecommunications vendor, provided that the applicable rules of the Department of Revenue are satisfied, must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida Statutes, unless those services have been adjusted by some other Commission action.~~

~~(e) When a nonrate base regulated telecommunications company exercises the option of adding the gross receipts tax as a separately stated component on the customer's bill then that company must file a tariff indicating such.~~

(13) through (15)(g) No change.

(16) Companies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC Freeze is available. Existing "subscribers" or "end users" ~~customers~~ must be notified annually that a PC Freeze is available.

(17) through (18)(b) No change.

(19)(a) ~~Upon~~ Within one year of the effective date of this rule and upon request from any customer, a billing party must restrict charges in its bills to only:

1. through (20) No change.

Specific Authority 350.127, 364.604(5) FS. Law Implemented 364.17, 350.113, 364.03, 364.04, 364.05, 364.052, 364.19, 364.602, 364.604 FS. History--New 12-1-68, Amended 3-31-76, 12-31-78, 1-17-79, 7-28-81, 9-8-81, 5-3-82, 11-21-82, 4-13-86, 10-30-86, 11-28-89, 3-31-91, 11-11-91, 3-10-96, 7-20-97, 12-28-98, 7-5-00, _____.

PUBLIC SERVICE COMMISSION

DOCKET NO: Undocketed

RULE TITLES: Customer Relations; Rules Incorporated
RULE NOS.: 25-24.490

Rules Incorporated 25-24.585
Customer Relations; Rules Incorporated 25-24.845

PURPOSE AND EFFECT: To add subsections (11) and (12) of Rule 25-4.110 to Rules 25-24.490, 25-24.585, and 25-24.845, so that these rules apply to interexchange, shared tenant service, and alternative local exchange companies. These amendments will apply the requirements implemented by Chapter 202, F.S., to these companies.

SUBJECT AREA TO BE ADDRESSED: Taxation requirements on customer bills resulting from the implementation of Chapter 202, F.S.

SPECIFIC AUTHORITY: 350.127(2), 364.604(5), 427.704(8), 364.337(2) FS.

LAW IMPLEMENTED: 350.113, 364.03, 364.14, 364.15, 364.016, 364.17, 364.18, 364.183, 364.185, 364.339, 364.603, 364.19, 364.337, 364.602, 364.604 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 WORKSHOP REQUEST MUST BE SUBMITTED, IN WRITING TO: Samantha Cibula, Office of the General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

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: Dale Buys, Division of Competitive Markets and Enforcement, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6536

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-24.490 Customer Relations; Rules Incorporated.

(1) The following rules are incorporated herein by reference and apply to IXC's.

SECTION	TITLE	PORTIONS APPLICABLE
25-4.110	Customer Billing	Subsections, (11),(12),(14), (15),(17),(18) and (20)
25-4.111	Customer Complaint and Service Requests	All except subsection (2)
25-4.112	Termination of Service by Customer	All
25-4.113	Refusal or Discontinuance of Service by Company	All
25-4.114	Refunds	All
25-4.117	800 Service	All
25-4.118	Local, Local Toll, or Toll Provider Selection	All

(2) through (3)(f) No change.

Specific Authority 350.127(2), 364.604(5) FS. Law Implemented 364.03, 364.14, 364.15, 364.603, 364.19, 364.337 364.602, 364.604 FS. History--New 2-23-87, Amended 10-31-89, 3-5-90, 3-4-92, 3-13-96, 7-20-98, 12-28-98, 7-5-00, _____.

25-24.585 Rules Incorporated.

(1) The following rules are incorporated herein by reference and apply to shared tenant service companies:

SECTION	TITLE	PORTIONS APPLICABLE
25-4.019	Records and Reports in General	All
25-4.020	Location and Preservation of Records	All except (1) and (3)
25-4.043	Response to Commission Staff Inquiries	All
25-4.0161	Regulatory Assessment Fees; Telecommunication Companies	All
25-4.110	Customer Billing	(11) and (12)
25-4.160	Operation of Telecommunications Relay Service	All

(2) No change.

Specific Authority 350.127(2), 427.704(8) FS. Law Implemented 350.113, 364.016, 364.17, 364.18, 364.183, 364.185, 364.339 FS. History--New 1-28-91, Amended 12-29-91, 11-13-95, 7-29-97, 4-8-98, _____.

25-24.845 Customer Relations; Rules Incorporated.

The following rules are incorporated herein by reference and apply to ALECs. In the following rules, the acronym 'LEC' should be omitted or interpreted as 'ALEC'.

SECTION	TITLE	PORTIONS APPLICABLE
25-4.110	Customer Billing	Subsections (11),(12),(14), (15),(16),(17),(18) and (20)
24-4.118	Local, Local Toll, or Toll Provider Selection	All

Specific Authority 350.127(2), 364.337(2), 364.604(5) FS. Law Implemented 364.337(2), 364.602, 364.604 FS. History—New 7-20-98, Amended 12-28-98, 7-5-00, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Routine Mail
 RULE NO.: 33-210.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to ensure the protection of the public and the maintenance of order in the institution by prohibiting inmates from placing advertisements soliciting funds, goods or services; by prohibiting inmates from entering contests or sweepstakes; and by clarifying the prohibition against conducting a business while incarcerated.

SUBJECT AREA TO BE ADDRESSED: Routine mail.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-210.101 Routine Mail.

(1) through (2) No change.

(3) No other items may be received through incoming routine mail. If an impermissible item is found (other than items of an illegal nature, the entire correspondence will be returned to the sender pursuant to subsection ~~(13)~~(14) of this rule. For example, the following items are not permissible for inclusion in or attachment to routine mail:

(a) through (e) No change.

(4) through (7) No change.

(8) Inmates shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods or services. For the purposes of this rule this includes advertising for pen-pals; inmates are not prohibited from corresponding with pen pals, but shall not place ads soliciting pen pals. Inmates are prohibited from receiving correspondence or materials from persons or groups marketing advertising services, or from subscribing to advertising services. Inmates who post ads or have ads posted with the assistance of another person shall be subject to disciplinary action.

(8) through (9) renumbered (9) through (10) No change.

~~(11)(10)~~ No inmate shall engage in ~~may establish or~~ conduct a business or profession through the mail during his period of incarceration. For the purpose of this rule, a business is defined as any revenue generating or profit making activity or any activity having the potential to generate revenue or profit. An inmate who is engaged in a business or profession prior to commitment to the department shall assign authority for the operation of such business or profession to a person in the community within 90 days of commitment. Inmate incoming or outgoing mail relating to the direction of an inmate's business or profession shall be rejected. This does not, however, prohibit mail necessary to enable an inmate to protect property and funds that were legitimately the inmate's at the time of commitment.

(12) Inmates shall be prohibited from entering contests or sweepstakes through the mail while incarcerated.

(11) through (16) renumbered (13) through (18) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Use of Committed Name
 RULE NO.: 33-603.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the process for determining the name that will be used as an inmate's official identification throughout his or her incarceration.

SUBJECT AREA TO BE ADDRESSED: Use of inmate committed name.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-603.101 Use of Committed Name.

(1)(a) In order to avoid conflicts in mailing and visiting privileges, as well as to assist inmates in making bank and canteen transactions and ensure timely delivery of legal documents, and to provide staff with a consistent means of inmate identification for security and daily institutional operation purposes, each inmate shall be recognized by the

department under the name on the initial commitment under which the inmate was received. The committed name shall be obtained from the information or indictment page of the commitment package, not from the uniform commitment to custody cover sheet. For multiple cases imposed on the same date, the committed name is the name listed on the earliest chronological case. This name shall be the inmate's official identification throughout the continuous incarceration of the inmate on that sentence or combined sentences and must be included on any official document sent or received by the inmate except as provided in (3) below.

(b) through (4) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History--New 9-30-93, Formerly 33-6.0012, Amended 4-29-02, _____.

DEPARTMENT OF THE LOTTERY

RULE TITLE: Administrative Leave
 PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to provide for administrative leave for the protection of the Lottery's best interests.

RULE NO.: 53-16.009

SUBJECT AREA TO BE ADDRESSED: Administrative leave.

SPECIFIC AUTHORITY: 24.105(9)(j) FS.

LAW IMPLEMENTED: 24.105(19)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Diane D. Schmidt, Office of the General Counsel, Florida Lottery, 250 Marriott Drive, Tallahassee, FL 32301, (850)487-7724

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE: Membership
 RULE CHAPTER NO.: 60S-1
 RULE TITLES: Statements of Policy
 Participation
 Renewed Membership in the Regular Class and the Senior Management Service Class
 Special Risk Class; Legislative Intent and Procedures
 Criteria for Special Risk Membership – Firefighters
 RULE NOS.: 60S-1.002
 60S-1.004
 60S-1.0045
 60S-1.005
 60S-1.0052

Criteria for Special Risk Membership – Correctional Officers 60S-1.0053

Criteria for Special Risk Membership – Emergency Medical Technicians and Paramedics 60S-1.00535

Special Risk Administrative Support Class 60S-1.0054

Elected Officers' Class 60S-1.0055

Senior Management Service Class 60S-1.0057

PURPOSE AND EFFECT: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUBJECT AREA TO BE ADDRESSED: Florida Retirement System Membership.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.021, 121.051, 121.0515, 121.055 FS.

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

TIME AND DATE: 10:00 a.m., March 5, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julia P. Forrester, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, forresj@dms.state.fl.us

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE: Creditable Service
 RULE CHAPTER NO.: 60S-2
 RULE TITLES: Statements of Policy
 Credit for Prior Service
 Credit Toward Special Risk Normal Retirement Date
 Credit for Military Service
 Credit for Leaves of Absence Under the Florida Retirement System
 Credit for Out-of-State and In-State Service
 Creditable Service upon the Death of a Member
 Credit for Upgraded Previous Service
 Value of Each Year of Creditable Service
 PURPOSE AND EFFECT: To revise the rules to reflect current law legislative mandates, delete obsolete language and language that is without statutory authority.
 RULE NOS.: 60S-2.002
 60S-2.004
 60S-2.0041
 60S-2.005
 60S-2.006
 60S-2.007
 60S-2.010
 60S-2.013
 60S-2.015

SUBJECT AREA TO BE ADDRESSED: Creditable Service under the Florida Retirement System.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.021, 121.081, 121.0515, 121.091, 121.111, 121.1115, 121.1122 FS.

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

TIME AND DATE: 10:00 a.m., March 5, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julia P. Forrester, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, forresj@dms.state.fl.us

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Contributions	60S-3
RULE TITLES:	RULE NOS.:
Statements of Policy	60S-3.002
Retirement Contributions for Regular, Special Risk, Elected Officer, Special Risk Administrative Support and Senior Management Service Classes; Contributions for the Retiree Health Insurance Subsidy; and the Deferred Retirement Option Program	60S-3.003
Interest Rate on Payments for Creditable Service	60S-3.0035
Retirement Contributions for Military Service Credit	60S-3.006
Retirement Contributions for Out-of-State and In-State Service Credit	60S-3.008
Payment of Contributions	60S-3.011
Retirement Contributions for Creditable Service upon the Death of a Member	60S-3.012
Retirement Contributions for Upgraded Previous Service Credit	60S-3.013

PURPOSE AND EFFECT: To revise the rules to reflect current law legislative mandates, delete obsolete language and language that is without statutory authority.

SUBJECT AREA TO BE ADDRESSED: Contributions under the Florida Retirement System.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.052, 121.055, 121.071, 121.091, 121.111 FS.

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

TIME AND DATE: 10:00 a.m., March 5, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julia P. Forrester, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, forresj@dms.state.fl.us

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Benefits	60S-4
RULE TITLES:	RULE NOS.:
Statements of Policy	60S-4.002
Minimum Benefits	60S-4.0025
Retirement Eligibility	60S-4.003
Retirement Application and Effective Retirement Date	60S-4.0035
Benefits Payable upon Normal Retirement	60S-4.004
Benefits Payable Upon Early Retirement	60S-4.005
Benefits Based on Dual Retirement Ages	60S-4.006
Benefits Payable for Disability Retirement	60S-4.007
Benefits Payable upon Death	60S-4.008
Retirement Benefit Payment Options	60S-4.010
Designation of Beneficiary	60S-4.011
Employment After Retirement	60S-4.012

PURPOSE AND EFFECT: To revise the rules to reflect current law legislative mandates, delete obsolete language and language that is without statutory authority.

SUBJECT AREA TO BE ADDRESSED: Benefits under the Florida Retirement System.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 17.076, 112.18, 112.181, 121.021, 121.052, 121.055, 121.091 FS.

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

TIME AND DATE: 10:00 a.m., March 5, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Julia P. Forrester, Assistant General Counsel, Department of

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

TIME AND DATE: 10:00 a.m., March 5, 2003

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julia P. Forrester, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, forresj@dms.state.fl.us

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of the Secretary

DOCKET NO.: 02-37R

RULE CHAPTER TITLE: Florida Greenways and Trails Program

RULE CHAPTER NO.: 62S-3

RULE TITLE: Determination and Applicability of Fines

RULE NO.: 62S-3.003

PURPOSE AND EFFECT: The Office of Greenways and Trails (OGT) is proposing to amend the Rules of Chapter 62S-3, Florida Administrative Code, to provide a schedule of fines and process for payment of fines for any infraction of the rules. The existing rule is not sufficient to put the public on notice of the fine amounts and the process for a non-criminal infraction is incorrect.

SUBJECT AREA TO BE ADDRESSED: The OGT is proposing to revise the subject rule to: clarify fine amounts and correct the process for payment of any fine incurred.

SPECIFIC AUTHORITY: 260.016 FS.

LAW IMPLEMENTED: 253.7821, 260.016 FS.

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: List of Approved Forms; Incorporation

RULE NO.: 64B8-1.007

PURPOSE AND EFFECT: The Board proposes a rule amendment to incorporate a revised application into the rule.

SUBJECT AREA TO BE ADDRESSED: Revised medical doctor application form.

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.312(4), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.351 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

(1) DH-MQA 1000, entitled "Board of Medicine Application For Licensure By Examination and Endorsement (Medical Doctor)," (12/02) (~~12/01~~).

(2) through (22) No change.

Specific Authority 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.351 FS. History--New 4-17-01, Amended 11-20-01, 8-13-02, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Licensure Denial

RULE NO.: 64B8-4.022

PURPOSE AND EFFECT: The proposed rule amendment is intended to delete subsection (1) from the rule in response to the Hason case.

SUBJECT AREA TO BE ADDRESSED: The deletion of subsection (1) of the rule.

SPECIFIC AUTHORITY: 458.309, 458.310, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

LAW IMPLEMENTED: 458.311, 458.313, 458.331 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-4.022 Licensure Denial.

In most cases the Board evaluates applicants on a case-by-case basis; however, in the following circumstances the Board, as a matter of policy, shall deny the application for licensure in Florida:

~~(1) When the applicant has had action taken against a medical license or the authority to practice medicine by the licensing authority of another jurisdiction and the applicant does not demonstrate that the applicant has a license in the jurisdiction which took action and that license is in good standing and unencumbered.~~

~~(2) When the applicant has been convicted of, been found guilty of, or entered a plea of nolo contendere to a crime and the applicant does not demonstrate that all criminal sanctions imposed by the court have been satisfied.~~

Specific Authority 458.309, 458.310, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS. Law Implemented 458.311, 458.313, 458.331 FS. History--New 11-4-93, Formerly 61F6-22.022, 59R-4.022, Amended _____.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE:

RULE NO.:

Citations

64B15-19.007

PURPOSE AND EFFECT: The Board proposes to delete certain continuing education penalties no longer necessary due to a recent rule amendment.

SUBJECT AREA TO BE ADDRESSED: The rule amendment deletes the penalties for non-compliance of the HIV/AIDS and domestic violence continuing education requirements.

SPECIFIC AUTHORITY: 456.073, 456.077 FS.

LAW IMPLEMENTED: 456.073, 456.077 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON FEBRUARY 22, 2003 IN FT. LAUDERDALE, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-19.007 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation.

(a) through (e) No change.

~~(f) The fine for falsely certifying compliance with or failing to satisfy the HIV/AIDS course requirement shall be \$2,000.~~

~~(g) The fine for falsely certifying compliance with or failing to satisfy the domestic violence course requirement shall be \$2,000.~~

(h) through (o) renumbered (f) through (m) No change.

(4) through (7) No change.

Specific Authority 456.073, 456.077 FS. Law Implemented 456.073, 456.077 FS. History--New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, 11-12-00, _____.

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE TITLES:

RULE NOS.:

General Regulations; Definitions

64F-12.001

Records of Drugs, Cosmetic, and Devices

64F-12.012

Prescription Drugs; Receipt,

Storage and Security

64F-12.013

Administrative Enforcement

64F-12.024

PURPOSE AND EFFECT: To refine a definition and define a new term that facilitate recordkeeping requirements related to the wholesale distribution of prescription drugs; to impose recordkeeping requirements on prescription drug wholesalers that are intended to assist certain purchasers of prescription drugs to determine a drug's distribution history; to require prescription drug wholesalers to review for completeness and accuracy the distribution history and other required records prior to the purchase of a prescription drug; and to provide guidelines for purposes of assessing an administrative fine for a violation of these new requirements. Inasmuch as the department is proceeding with rule development expeditiously and in good faith, and the public health threat that exists because of the recurrence of counterfeit and diverted prescription drugs in the marketplace in Florida, the department intends to enforce the provisions set forth in this notice beginning March 1, 2003. The department may exercise enforcement discretion in implementing this policy, including

possible changes resulting from the rule promulgation process, consistent with standards related to minimizing prescription drug fraud and the risk to public health and safety.

SUBJECT AREA TO BE ADDRESSED: The definition of “ongoing relationship” is being revised. This term is used with respect to an authorized distributor of record in s. 499.0121(6)(d), F.S. The definition of “affiliated group” is being added since this term will be used in the new recordkeeping requirement provisions. Additional recordkeeping and verification requirements will be imposed on prescription drug wholesalers and repackagers. Finally, guidelines are provided which the department will apply when assessing an administrative fine for a violation of these new requirements.

SPECIFIC AUTHORITY: 499.0121, 499.05 FS.

LAW IMPLEMENTED: 499.0121(6), 499.066 FS.

A RULE DEVELOPMENT WORKSHOP WILL NOT BE HELD. THE AGENCY HEAD HAS DETERMINED THAT A RULE DEVELOPMENT WORKSHOP IS UNNECESSARY DUE TO THE EXTENSIVE INPUT THE DEPARTMENT RECEIVED ON THE SUBJECTS ADDRESSED IN THESE RULE AMENDMENTS OVER A PERIOD OF SEVEN MONTHS AS PART OF THE AD HOC COMMITTEE ON PEDIGREE PAPERS, TO WHICH THE PUBLIC WAS NOTICED. IN ADDITION, THESE RULES ADDRESS AN URGENT NEED TO HELP DETECT AND DETER COUNTERFEIT AND DIVERTED PRESCRIPTION DRUGS IN THE FLORIDA MARKETPLACE THAT POSE A SIGNIFICANT HEALTH RISK TO PERSONS IN FLORIDA. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Stovall, Compliance Officer, 2818-A Mahan Drive, Tallahassee, Florida 32308 (850)487-1257, Ext. 210, sandra_stovall@doh.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64F-12.001 General Regulations; Definitions.

(1) No change.

(2) In addition to definitions contained in sections 499.003, 499.012(1), 499.0122(1), 499.028(1), and 499.61, F.S., the following definitions apply to Rule Chapter 64F-12, F.A.C.:

(a) No change.

(b) “Affiliated group” – means the definition set forth in sec. 1504 of the Internal Revenue Code, which is incorporated by reference.

(b) through (h) renumbered (c) through (i) No change.

(j)(+) “Ongoing relationship” means an association that exists between a manufacturer and prescription drug wholesaler that is currently occurring such that a specific unit of a prescription drug is purchased directly from the

manufacturer by the prescription drug wholesaler. When a manufacturer and a distributor enter into a written agreement under which the distributor is authorized to distribute the manufacturer’s product(s) for a period of time or for a number of shipments, at least one sale is made under that agreement, and the name of the authorized distributor of record is entered on the manufacturer’s list of authorized distributors of record or equivalent list. An ongoing relationship may also be documented by at least three purchases of a manufacturer’s product(s) directly from that manufacturer within a six month period from the date for which the authorized distributor of record relationship is claimed and the distributor’s name is entered on the manufacturer’s list of authorized distributors of record or equivalent list.

(j) through (v) renumbered (k) through (w) No change.

Specific Authority 499.05, 499.61, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.0054, 499.0057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.66, 499.67, 499.71, 499.75 FS. History—New 1-1-77. Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-26-99, 4-18-01,

64F-12.012 Records of Drugs, Cosmetics and Devices.

(1) through (2) No change.

(3) Any person who distributes a prescription drug that it did not manufacture must provide to each purchaser and recipient that is a wholesale distributor either:

(a) upon the wholesale distribution, a statement on the invoice or transfer document as follows:

1. If the establishment is not a member of an affiliated group: “This establishment purchased the specific unit(s) of the prescription drug(s) represented on this document directly from the manufacturer as an authorized distributor of record.”

or

2. If the establishment is a member of an affiliated group: “This establishment or a member of our affiliated group that is licensed or permitted as a drug wholesaler purchased the specific unit(s) of the prescription drug(s) represented on this document directly from the manufacturer as an authorized distributor of record.”

or

(b) before the wholesale distribution, a written statement (“pedigree paper”) identifying each previous wholesale distribution of that unit of the drug back to the manufacturer.

(c)(3) The pedigree papers required by s. 499.0121(6)(d) must include either the proprietary name or the generic name with the name of the manufacturer (manufacturer, distributor or relabeler) or distributor reflected on the label of the product; dosage form; strength; container size; quantity by lot number; the name and address of each prior owner of the prescription drug, consistent with (a) or (b) above; the name and address of each location from which it was shipped if different from the owner’s; and the transaction dates for all

distributions subsequent to the distribution by the wholesaler, or its affiliated group member that purchased that unit of the prescription drug from the manufacturer. The pedigree paper must clearly identify the invoice to which it relates. A copy of the pedigree paper must be maintained by each recipient.

(d) For purposes of subsection (3), a repackager that purchased a specific unit of prescription drug that it repackages directly from the manufacturer must comply with paragraph (3)(a). For purposes of subsection (3), a repackager that does not obtain a specific unit of a prescription drug that it repackages directly from the manufacturer must comply with paragraph (3)(b).

(4) through (15) No change.

Specific Authority 499.05, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS. Law Implemented 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.05, 499.051, 499.052 FS. History—New 1-1-77, Amended 12-12-82, 7-8-84, 1-30-85, Formerly 10D-45.53, Amended 11-26-86, 2-7-93, 7-1-96, Formerly 10D-45.053, Amended 1-26-99, 4-18-01,_____.

64F-12.013 Prescription Drugs; Receipt, Storage and Security.

(1) through (4) No change.

(5) Examination of Prescription Drugs.

(a) Every person receiving prescription drugs other than the consumer receiving dispensed prescription drugs pursuant to Chapter 465, F.S., has a duty to examine the product to prevent acceptance of prescription drugs that are unfit for distribution or use. The extent of the examination should be predicated on the conditions surrounding the transaction, including but not limited to any previous sales of the product, i.e., purchase and delivery is not direct from the manufacturer; the conditions of transport; and environmental conditions to which the product may have been subjected. Upon receipt a prescription drug wholesaler must review the records required to be provided by Rule 64F-12.012(3), F.A.C., related to the purchase of prescription drugs for accuracy and completeness.

(b) through (c) No change.

Specific Authority 499.0121(1), 499.05 FS. Law Implemented 499.004, 499.006, 499.007, 499.0121, 499.052 FS. History—New 7-8-84, Amended 1-30-85, Formerly 10D-45.535, Amended 11-26-86, 7-1-96, Formerly 10D-45.0535, Amended 1-26-99, 4-18-01,_____.

64F-12.024 Administrative Enforcement.

(1) through (3) No change.

(4) The following codes outline department policy under s. 499.066(3)(a), F.S., and are used to designate the general severity in terms of the threat to the public health for violation and the range of action which the department will initiate.

3 = Warning Letter, Letter of Violation with no fine or Notice of Violation or Administrative Complaint with a fine ranging from \$250* to \$1,000 per violation per day.

(*) If medical oxygen is the prescription drug involved, the range of the fine is \$50 to \$1,000.

2 = Notice of Violation or Administrative Complaint with a fine ranging from \$500 to \$2,500 per violation per day.

1 = Notice of Violation or Administrative Complaint with a fine ranging from \$1,000-\$5,000 per violation per day; Suspension of the permit with a fine; or Revocation of the permit with a fine.

CITE	VIOLATION	GENERAL SEVERITY
499 refers to Chapter 499, F.S. 12 refers to Rule 64F-12 FACILITY, STORAGE: No change.		
MISCELLANEOUS: No change.		
OPERATING: No change.		
RECORDKEEPING: 499.005(18); 499.0121(6); 499.028; 499.052; 499.66; 499.67; 12.012 & 12.022(3)	Failing to maintain records, inventories	3 - 1
499.66; 499.67; & 12.012 499.0121(6)	Failing to make records available Absence of or not providing pedigree papers	3 - 1 2
12.012(1)	Not maintaining a complete audit trail	3
12.012(12)	Separate records, multiple businesses	3
12.007(2)	No written procedures for medical oxygen	3
12.012(3)	<u>Failing to obtain or pass on statement</u>	1
12.013(5)	<u>Failing to examine the transaction documentation and failing to determine their accuracy</u>	1

SAMPLES:

No change.

ADULTERATED & MISBRANDED:

No change.

COUNTERFEIT:

No change.

FALSE & MISLEADING:

No change.

UNAUTHORIZED SOURCE OR RECIPIENT:

No change.

POSSESSION:

No change.

(5) No change.

Specific Authority 499.05 FS. Law Implemented 499.066 FS. History—New 7-1-96, Formerly 10D-45.0595, Amended 1-26-99, 4-18-01,_____.