

Section II
Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Comprehensive Management Information System
RULE NO.: 6A-1.0014

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise existing requirements of the statewide comprehensive management information system in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The effect is to maintain compatibility between state and local information systems components. The statewide comprehensive management information system provides the data on which the measurement of school improvement and accountability is based.

SUMMARY: The rule incorporates revisions to selected data elements, procedures and timelines for state reporting, local recordkeeping, and statewide records transfer which are to be implemented by each school district and the Department within the automated statewide comprehensive management information system. The rule contains the security, privacy and retention procedures to be used by the Department for school district, student, staff, and finance records collected and maintained at the state level.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 1001.02(1), 1008.385(3) FS.
LAW IMPLEMENTED: 1001.23, 1002.22(3)(d)3., 1008.385(2) FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005
PLACE: Miami, Florida (For additional information on location, please call: Lynn Abbott, (850)245-9661)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lavan Dukes, Office of Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Room 852, Tallahassee, Florida 32399-0400, (850)245-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0014 Comprehensive Management Information System.

(1) No change.

(2) The data elements, procedures and timelines for state reporting, local recordkeeping and statewide records transfer to be implemented by each school district and the Department within its automated information system component as prescribed in the publications entitled "DOE Information Data Base Requirements: Volume I - Automated Student Information System, 2004 2003", "DOE Information Data Base Requirements: Volume II - Automated Staff Information System, 2004 2003," and "DOE Information Data Base Requirements: Volume III - Automated Finance Information System, 1995." These publications which include the Department procedures for the security, privacy, and retention of school district student and staff records collected and maintained at the state level are hereby incorporated by reference and made a part of this rule. Copies of these publications may be obtained from Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399, at a cost to be established by the Commissioner not to exceed actual cost.

Specific Authority 1001.02(1), 1008.385(3) FS. Law Implemented 1001.23, 1002.22(3)(d)3., 1008.385(2) FS. History--New 2-19-87, Amended 12-21-87, 12-13-88, 3-25-90, 3-24-91, 3-17-92, 12-23-92, 2-16-94, 3-21-95, 7-4-96, 5-19-97, 10-13-98, 10-17-00, 5-19-03, 7-20-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lavan Dukes, Department of Education, Office of Education Information and Accountability Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jay Pfeiffer, Director Accountability, Research and Measurement, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 12, 2004

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation
RULE NO.: 6A-1.09441

PURPOSE AND EFFECT: The purpose of this amendment is to obtain approval of the "Course Code Directory and Instructional Personnel Assignments" for 2005-2006 which provides specific conditions for which students may earn credit toward high school graduation and for which the courses are funded through the Florida Education Finance Program

(FEFP). The changes within the incorporated documents include the addition of courses in art, social sciences, and foreign language, the amendment of certification areas for courses in reading to align with teacher certification requirements, and narrative sections were made to align course requirements with state law and federal regulations. The effect will be a rule which accurately reflects the courses for which districts may receive funding.

SUMMARY: Revisions to the “Course Code Directory and Instructional Personnel Assignments” were made to align courses, teacher certification, and the narrative section to recent changes in teacher certification, state laws, and federal regulations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 1001.02(1), 1011.62(1)(r) FS.

LAW IMPLEMENTED: 1011.62(1) FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Miami, Florida (For additional information on location, please call: Lynn Abbott, (850)245-9661

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Vice Chancellor for Student Achievement, K-12 Public Schools, Department of Education, 325 West Gaines Street, Room 514, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09441 Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation.

For student membership in a program or course to generate funding through the Florida Education Finance Program and for the student to receive elective or required credit toward high school graduation for such a program or course, the following conditions shall be met:

(1) The program in which the student is in membership shall be one of the programs listed in Section 1011.62(1)(c), ~~236.081(1)(e)~~, Florida Statutes.

(2) The course or program in which the student is in membership shall be an educational activity which constitutes a part of the instructional program approved by the district school board.

(3) The student shall be under the supervision of an instructional staff member as defined in Rule 6A-1.0501, F.A.C.

(4) The course or program shall be listed in the “Course Code Directory and Instructional Personnel Assignments” for the year in which the student is in membership.

(5) The “Course Code Directory and Instructional Personnel Assignments 2005-2006 ~~2002-2003~~” is hereby incorporated by reference and made a part of this rule. The Commissioner may publish the document in appropriate and useful formats such as printed copy, electronic database access, or electronic disc. The directory may be obtained from the Division of Public Schools and Community Education, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The Commissioner of Education may approve additional courses for which funding could be generated through the Florida Education Finance Program. Such additional course listings will be made available as approved.

Specific Authority 1001.02(1), 1011.62(1)(r) ~~229.053(1), 236.081~~ FS. Law Implemented 1011.62(1) ~~229.592, 232.246, 236.081, 240.402~~ FS. History—New 12-20-83, Formerly 6A-1.9441, Amended 2-6-86, 12-28-86, 4-4-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 7-13-93, 10-18-94, 8-28-95, 4-18-96, 7-17-97, 8-12-98, 5-3-99, 5-3-01, 10-16-01, 7-30-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Tappen, Vice Chancellor for Student Achievement, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jim Warford, Chancellor K-12 Education, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 21, 2005

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Admissions
 RULE NO.: 12A-1.005

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), is to clarify that, consistent with the decisions rendered in Declaratory Statement DOR 04-1-DS, dated May 7, 2004, issued to Dunedin Country Club, and Department of Revenue v. John’s Island Club, Inc., 680 So.2d 475 (Fla. 1st DCA 1996), capital assessments are not subject to sales tax when they comply with the expenditure requirements contained in subparagraph (4)(a)2. of the rule.

SUMMARY: The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), clarify: (1) that capital assessments are not subject to sales tax when they comply with the expenditure requirements contained in subparagraph (4)(a)2. of the rule; and (2) the definition of the term “capital assessments” for purposes of the rule.

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: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.02(1), 212.04, 212.08(6),(7), 616.260 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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 RULE IS:

12A-1.005 Admissions.

(1) through (3) No change.

(4) DUES AND INITIATION FEES, EQUITY AND NONEQUITY MEMBERSHIPS, CAPITAL CONTRIBUTIONS AND ASSESSMENTS, REFUNDABLE DEPOSITS, AND USER FEES.

(a) No change.

(b) For purposes of this rule:

1. No change.

2. a. The phrases, "capital contributions or additional paid-in capital" and "~~capital assessments~~," mean equity payments that by themselves do not entitle an individual to use the facilities or equipment of an organization and that are intended as an investment to maintain or enhance members' and owners' interests in the organization.

b. The phrase "capital assessments" means payments made by members of an organization that by themselves do not entitle an individual to use the facilities or equipment of an organization and that are used solely for capital expenditures.

for capital improvements to the organization's facilities, or for direct allocation to debt servicing such expenditures and improvements by the organization.

(c) through (f) No change.

(5) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6),(7), 616.260 FS. History--Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), were noticed for a rule development workshop in the Florida Administrative Weekly on July 16, 2004 (Vol. 30, No. 29, p. 2943). A rule development workshop was held on August 2, 2004. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:

RULE NO.:

Public Use Forms

12A-1.097

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of sales and use tax and to remove forms that are no longer required to be adopted by reference.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, changes to forms used by the Department in the administration of sales and use tax and remove forms that are no longer required to be adopted by reference.

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, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4.,(7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2),(7) FS.

LAW IMPLEMENTED: 92.525(1)(b),(3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2),(3),(6),(16),(24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1),(8),(9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1),(4),(5), 212.12(1),(2),(9),(13), 212.13, 212.14(5), 212.17, 212.18(2),(3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1),(3), 443.131, 443.1315, 443.1316, 443.171(2),(7) FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005
 PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.097 Public Use Forms.

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

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (4) No change.

(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. 01/05 01/04)	<u>09/04</u>
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(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. 01/05 01/04)	<u>09/04</u>
(6)(a) DR-15	Sales and Use Tax Return (R. 01/05 01/04)	<u>09/04</u>
(b) DR-15CS	Sales and Use Tax Return (R. 01/05 01/04)	<u>09/04</u>
(c) DR-15CSN	DR-15 Sales and Use Tax Return - Returns Instructions for 2005 2004 (R. 01/05 01/04)	<u>09/04</u>
(d) DR-15EZ	Sales and Use Tax Return (R. 01/05 01/04)	<u>09/04</u>
(e) DR-15EZN	Instructions for 2005 2004 DR-15EZ Sales and Use Tax Returns (R. 01/05 01/04)	<u>09/04</u>
(f) No change.		
(g) DR-15MO	Florida Tax on Purchases Out of State Purchase Return (R. 09/04 06/04)	<u>08/02</u>
(h) DR-15N	Instructions for 2005 2004 DR-15 Sales and Use Tax Returns (R. 01/05 01/04)	<u>09/04</u>
(i) DR-15SA	Sales and Use Tax Return [Semi-Annual] (R. 06/02)	<u>04/03</u>
(j) DR-15SAN	Annual and Semiannual Sales and Use Tax Return Instructions (R. 12/02)	<u>04/03</u>
(k) through (n) renumbered (i) through (l)	No change.	
(7) through (8)	No change.	
(9) DR-18	Application for Amusement Machine Certificate (R. 01/05 06/04)	<u>06/04</u>
(10) through (23)	No change.	

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4.,(7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2),(3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2),(7) FS. Law Implemented 92.525(1)(b),(3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2),(3),(6),(16),(24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1),(8),(9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1),(4),(5), 212.12(1),(2),(9),(13), 212.13, 212.14(5), 212.17, 212.18(2),(3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1),(3), 443.131, 443.1315, 443.1316, 443.171(2),(7) 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, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04,

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-1.097, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, pp. 5188-5189). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department. Changes have been made to remove forms that are no longer required to be certified and to adopt, by reference, revisions to an additional form.

DEPARTMENT OF REVENUE

Sales and Use Tax

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 forms used by the Department in the administration of solid waste fees and the rental car surcharge.

SUMMARY: The proposed amendments to Rule 12A-16.008, F.A.C., adopt, by reference changes to forms used by the Department in the administration of solid waste fees and the rental car surcharge.

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: 212.17(6), 212.18(2), 213.06(1) FS.
 LAW IMPLEMENTED: 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005
 PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-16.008 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the rental car surcharge.

(b) No change.

Form Number	Title	Effective Date
(2) DR-15SW	Solid Waste and Surcharge Return (R. 01/05 R-04/03)	<u> </u> 09/04
(3) DR-15SWN	Instructions for <u>2005 Completing the DR-15SW Solid Waste and Surcharge Returns</u> Return (R. 01/05 R-09/03)	<u> </u> 09/04
(4) DR-15SWS	Schedule of Rental Car Surcharge by County (R. 01/05 N-01/04)	<u> </u> 09/04

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 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, 4-17-03, 9-28-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-16.008, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, p. 5189). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department. Changes have been made to adopt, by reference, revisions to an additional form.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Public Use Forms RULE NO.: 12A-17.005

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms), is to adopt, by reference, changes to the form used by the Department in the administration of the registration renewal of secondhand dealers or secondary metals recyclers.

SUMMARY: The proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms), adopt, by reference, changes to the form used by the Department in the administration of the registration renewal of secondhand dealers or secondary metals recyclers.

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: 212.17(6), 212.18(2), 213.06(1), 538.11 FS.

LAW IMPLEMENTED: 212.17(6), 212.18(2), 213.06(1), 538.09, 538.11, 538.25, 539.002 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-17.005 Public Use Forms.

The following public-use forms and instructions are employed by the Department in its dealings with the public in administering Chapter 538, F.S., and are incorporated by reference in this rule. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or 2) faxing the Distribution Center at (850)922-2208; or 3) visiting any local Department of Revenue Service Center to personally obtain a copy; or 4) calling the Forms Request Line during regular office hours at (800)352-3671 or (850)488-6800; or 5) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(1) No change.		
(2) DR-1SR	Renewal Application for Secondhand Dealer or Secondary Metals Recycler (R. 07/04 06/02)	08/02

Specific Authority 212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 212.17(6), 212.18(2), 213.06(1), 538.09, 538.11, 538.25, 539.002 FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-17-94, 8-1-02, 9-28-04.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-17.005, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, pp. 5189-5190). A rule development

workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES: Tax Due at Time of Sale; Tax Returns and Regulations
 PUBLIC USE FORMS: Public Use Forms
 RULE NOS.: 12A-19.020
 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 move provisions regarding which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months from Rule 12A-19.020, F.A.C., to Rule 12A-19.100, F.A.C. (Public Use Forms), as amended.

The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to: (1) provide which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months; and (2) adopt, by reference, revisions to Form DR-700016.

SUMMARY: The proposed amendments to Rule 12A-19.020, F.A.C., remove provisions regarding which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months. These provisions, as updated, will be provided in Rule 12A-19.100, F.A.C., as amended.

The proposed amendments to Rule 12A-19.100, F.A.C.: (1) provide which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months; and (2) adopt, by reference, revisions to Form DR-700016.

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

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

SPECIFIC AUTHORITY: 202.15, 202.151, 202.16(2), 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), 202.22(6), 202.27, 202.28(1),(2), 202.30(3), 202.33, 202.34(3),(4)(c), 202.35(1),(2) FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert Babin, Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4842

THE FULL TEXT OF THE PROPOSED RULES IS:

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

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

(c) Form DR-700016, Florida Communications Services Tax Return, contains current tax rates for each local taxing jurisdiction. These rates are also contained on the Department’s Internet site at the address shown inside the parentheses (www.myflorida.com/dor/taxes/local_tax_rates.html). The Department’s Internet site and form DR-700016 are revised when the tax rate in any local jurisdiction changes. Versions of Form DR-700016, Florida Communications Services Tax Return, and the applicable reporting periods and service billing dates are provided in Rule 12A-19.100, F.A.C.

~~(d) The following versions of form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:~~

Revision Date	Reporting Periods	Service Billing Dates
06/04	June 2004	June 1, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

(4) through (10) 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 4-17-03, 7-31-03, 10-1-03, 9-28-04, _____.

12A-19.100 Public Use Forms.

(1)(a) 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.

(b) No change.

(2) The following versions of Form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:

Revision Date	Reporting Periods	Service Billing Dates
01/05	January 2005 –	January 1, 2005 –
11/04	November 2004 – December 2004	November 1, 2004 – December 31, 2004
10/04	October 2004	October 1, 2004 – October 31, 2004
06/04	June 2004 – September 2004	June 1, 2004 – September 30, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

Form Number Title Effective Date

(3)(2) No change.

(4)(a) DR-700016 Florida Communications Services Tax Return (R. 01/05) _____

(b) DR-700016 Florida Communications Services Tax Return (R. 11/04) _____

(c) DR-700016 Florida Communications Services Tax Return (R. 10/04) _____

(a) through (m) renumbered (d) through (p) No change.

(4) through (8) renumbered (5) through (9) No change.

Specific Authority 202.15, 202.151, 202.16(2), 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(2),(4), 202.17(6), 202.19(1), 202.22(6), 202.27, 202.28(1),(2), 202.30(3), 202.33, 202.34(3),(4)(c), 202.35(1),(2) FS. History—New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Babin, Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4842

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rules 12A-19.020 and 12A-19.100, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, pp. 5190-5191). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLE: Public Use Forms RULE NO.: 12B-4.003

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), is to: (1) adopt, by reference, changes to forms used by the Department in the administration of the documentary stamp tax; and (2) provide technical changes to guidelines on how to obtain forms from the Department.

SUMMARY: The proposed amendments to Rule 12B-4.003, F.A.C.: (1) adopt, by reference, changes to forms used by the Department in the administration of the documentary stamp tax; and (2) provide technical changes to guidelines on how to obtain forms from the Department.

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

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

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 201.022, 201.133 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing

or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-4.003 Public Use Forms.

(1) The following public-use forms and instructions are employed by the Department of Revenue in its administration of the documentary stamp tax, 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, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) ~~using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4)~~ visiting any local Department of Revenue Service Center to personally obtain a copy; or, ~~45)~~ calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, ~~56)~~ downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2) No change.		
(3) DR-225 DR-225B	Documentary Stamp Tax Return For Registered Taxpayers' Unrecorded Documents (R. 12/04 03/01)	_____ 05/03
(4) DR-228	Documentary Stamp Tax Return For Nonregistered Taxpayers' Unrecorded Documents (R. 12/04 10/02)	_____ 05/03

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.022, 201.133 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, 5-4-03, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-4.003, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, p. 5192). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLE: Public Use Forms
RULE NO.: 12B-7.031

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-7.031, F.A.C. (Public Use Forms), is to adopt, by reference, changes to the form used by the Department in the administration of the Miami-Dade County Lake Belt mitigation fee.

SUMMARY: The proposed amendments to Rule 12B-7.031, F.A.C., adopt, by reference, changes to the form used by the Department in the administration of the Miami-Dade County Lake Belt mitigation fee.

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), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 92.525(1)(b),(2),(3),(4), 212.11(1)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-7.031 Public Use Forms.

(1)(a) The following form and instructions are used by the Department in its dealings with the public in the administration of the Miami-Dade County Lake Belt mitigation fee. This form and instructions are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-146	Miami-Dade County Lake Belt Mitigation Fee Monthly Return (R. 11/04 01/04)	09/04

Specific Authority 213.06(1), 373.41492(4)(b) FS. Law Implemented 92.525(1)(b),(2),(3),(4), 212.11(1)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS. History—New 10-1-03, Amended 9-28-04,

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-7.031, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, pp. 5192-5193). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No

written comments have been received by the Department. A technical change has been made to correct the revision date of the form to be adopted by reference.

DEPARTMENT OF REVENUE

Miscellaneous Tax

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, by reference, 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, by reference, changes to forms 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: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

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, (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 Insurance Premium Installment Payment (R. 01/05 01/04)	<u>09/04</u>
(b) DR-907N	Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. 01/05 01/04)	<u>09/04</u>
(6)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year 2004 2003 (R. 01/05 01/04)	<u>09/04</u>
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. 01/05 01/04)	<u>09/04</u>
(7) DR-350900	2004 2003 Insurance Premium Tax Information for Schedules XII and XIII, DR-908 (R. 01/05 01/04)	<u>09/04</u>

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, 5-4-03, 9-28-04, _____.

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, (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, (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-8.003, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, p. 5193). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLES: RULE NOS.:

Implementation of the Tax on Gross Receipts on Dry-Cleaning Facilities and Dry Drop-Off Facilities	12B-11.001
Gross Receipts Tax on Dry-Cleaning Facilities and Dry Drop-Off Facilities	12B-11.0011
Definitions	12B-11.002
Registration	12B-11.005

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12B-11, F.A.C. (Tax on Gross Receipts on Dry-Cleaning), is to update the rule chapter to include the provisions of Chapter 98-189, L.O.F., which imposed the tax on the gross receipts received by facilities for the laundering of clothing or other fabrics in Florida on dry drop-off facilities.

SUMMARY: The proposed amendments to Rule 12B-11.001, F.A.C.: (1) change the title to “Implementation of the Tax on Gross Receipts on Dry-Cleaning Facilities and Dry Drop-Off Facilities”; and (2) provide that the rule chapter implements the provisions of Section 376.71, F.S.

The proposed amendments to Rule 12B-11.0011, F.A.C.: (1) change the title to “Gross Receipts Tax on Dry-Cleaning Facilities and Dry Drop-Off Facilities”; (2) provide that a gross receipts tax at the rate of 2 percent is imposed on dry-cleaning and dry drop-off facilities for the laundering of clothing or other fabrics in Florida; (3) reorganize provisions for the implementation of the tax; (4) provide guidelines on how to document tax-exempt sales for the purposes of resale; (5) provide a suggested resale certificate; (6) provide that the guidelines provided for the liability for the tax applies to dry drop-off facilities; (7) correct examples provided as guidelines for when the gross receipts tax is due and when the dealer is required to obtain a resale certificate for tax-exempt sales for the purposes of resale; and (8) remove unnecessary provisions regarding the sale of perchloroethylene to entities exempt from sales and use tax.

The proposed amendments to Rule 12B-11.002, F.A.C. (Definitions), include a definition of the term “dry-cleaning facility” for purposes of the rule chapter.

The proposed amendments to Rule 12B-11.005, F.A.C. (Registration): (1) provide that dry drop-off facilities are required to be registered with the Department; and (2) provide examples of when commercial establishments are required to obtain a single registration with 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: 212.17(6), 212.18(2), 213.06(1), 376.70(5)(b) FS.

LAW IMPLEMENTED: 212.085, 376.301(13),(14),(15),(22), 376.70, 376.71 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-11.001 Implementation of the Tax on Gross Receipts on Dry-Cleaning Facilities and Dry Drop-Off Facilities.

(1) Scope. The purpose of this rule is to implement the provisions of Sections 376.301, and 376.70, and 376.71, F.S. Florida Statutes, which impose a tax on the gross receipts of dry-cleaning facilities, hereafter referred to as the gross receipts tax or tax.

(2) through (3) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.70(5)(b) FS. Law Implemented 376.301(13),(14),(15),(22)(7),(8),(9), 376.70, 376.71 FS. History--New 2-19-95, Amended 6-19-96.

12B-11.0011 Gross Receipts Tax on Dry-Cleaning Facilities and Dry Drop-Off Facilities.

(1) Dry-cleaning facilities:

(1)(a) ~~A~~ The gross receipts tax is levied at a rate of 2 percent on the total receipts received by dry-cleaning facilities, as defined in Section ~~section~~ 376.301(13), F.S. Florida Statutes, and received by dry drop-off facilities, as defined in Section 376.301(15), F.S., for the privilege of engaging in the business of ~~for the~~ dry-cleaning or laundering of clothing or other fabrics in Florida.

(b) The gross receipts tax does not apply to receipts from:

- 1. Coin-operated laundry machines;
- 2. Coin-operated dry cleaning machines, unless operated at an establishment primarily engaged in the business of dry cleaning clothing and other fabrics;
- 3. Laundering done on a wash, dry, and fold basis;

4. Uniform rental companies; or

5. Linen supply companies.

(2) Gross receipts arising from the charges for services subject to the gross receipts tax to any person who imposes charges to others for the same services are exempt. Dry-cleaning and dry drop-off facilities must document exempt sales made for the purposes of resale by obtaining a resale certificate from each dry-cleaning or dry drop-off facility that purchases services for purposes of resale of the same service. The selling facility is only required to obtain one resale certificate from each customer making purchases for the purposes of resale. The following is a suggested format of a resale certificate:

RESALE CERTIFICATE FOR GROSS RECEIPTS TAX ON LAUNDERING AND DRYCLEANING SERVICES

This is to certify that the services purchased on or after _____ (date) from _____ (name) are being purchased for the purposes of resale pursuant to Section 376.70(6), F.S.

NAME OF PURCHASING FACILITY: _____

PURCHASING FACILITY'S ADDRESS: _____

CERTIFICATE OF REGISTRATION NUMBER: _____

EFFECTIVE DATE OF CERTIFICATE: _____

I understand that if I fraudulently issue this certificate to evade the payment of gross receipts tax on dry-cleaning services I will be liable for payment of the tax directly to the Department plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

SIGNATURE OF PURCHASER OR PURCHASER'S AGENT

TITLE

DATE

~~(3)(b)1.~~ Dry-cleaning facilities and dry drop-off facilities that ~~which~~ include in the total retail charge to a customer the cost of the tax shall separately state the tax on the customer's bill. However, the total charged to the customer will be considered a part of the gross receipts upon which the tax is calculated. The dry-cleaning facility or dry drop-off facility remains fully and completely liable for the tax, even if the tax is separately stated as a line item or component of the total bill. ~~When~~ Furthermore, if the tax is separately stated as a line item or component of the customer's bill, the customer's bill is required to contain a statement that the imposition of the tax was requested by the Florida Dry Cleaners Coalition.

(4)(a)1.2.a. Example: ABC dry-cleaning facility's total receipts from a customer are \$100 for dry-cleaning services. The bill received by the customer indicates that the total charge is \$100. The tax rate is 2 percent. ABC dry-cleaning would remit a tax of \$2.00 to the Department, 2 percent of the \$100 charge to the customer.

~~2.b.~~ Example: ABC dry-cleaning facility's total receipts from a customer are \$102.00 for dry-cleaning services. The tax rate is 2 percent. The bill received by the customer indicates a charge of \$100 for dry-cleaning services and a separate line item charge of \$2.00 for the gross receipts tax on dry-cleaning. The total charge to the customer is \$102.00. ABC dry-cleaning would remit a tax of \$2.04 to the Department, 2 percent of the \$102.00 charge to the customer. The customer's bill is required to contain a statement that the imposition of the tax was requested by the Florida Dry Cleaners Coalition.

~~(2) Dry drop-off facilities.~~

~~(a)1. The gross receipts received at dry drop-off facilities owned by dry-cleaning facilities are subject to the tax.~~

~~(b)2.~~ Example: ABC Cleaners operates a dry-cleaning facility that which receives items for dry-cleaning and laundering at the main wet location. It also owns and operates three dry drop-off facilities (satellite locations) which also take in items for dry-cleaning and laundering at the dry-cleaning facility. ABC Cleaners must remit the tax on all the receipts received from its customers, including the receipts from which include the dry-cleaning facility and the three dry drop-off facilities that it owns. The three dry drop-off dry-off facilities are not required to issue a resale certificate to the dry-cleaning facility.

Calculation of the Gross Receipts Tax for ABC's locations:

Dry-cleaning facility (wet plant) receipts	\$5,000
Dry drop-off facility #1 (ABC owned) receipts	\$1,000
Dry drop-off facility #2 (ABC owned) receipts	\$1,200
Dry drop-off facility #3 (ABC owned) receipts	<u>\$1,500</u>
Total Receipts Collected	<u>\$8,700</u>
Tax Rate	<u>× 2.0%</u>
Tax Due <u>From ABC</u>	\$174.00

~~(b)1. The gross receipts received by dry-cleaning facilities from dry drop-off facilities not owned by dry-cleaning facilities are subject to the tax.~~

~~(c)2.~~ Example: XYZ Cleaners operates a dry-cleaning facility that which receives items for dry-cleaning and laundering at the main wet location. It also owns and operates one dry drop-off facility (satellite location) that which also takes in items for dry-cleaning and laundering at the dry-cleaning facility. XYZ Cleaners also dry-cleans and launders items for two independent dry drop-off facilities. XYZ Cleaners must remit the tax on all the receipts received from its customers, including the receipts from which include the dry-cleaning facility and the one dry drop-off facility that it owns. In addition, the receipts collected from the two independent dry drop-off facilities are subject to the tax. The two independent dry drop-off facilities are not required to be registered with the Department of Revenue for the gross receipts tax and Gross Receipts Tax and are not required to issue a resale certificate to XYZ Cleaners the dry-cleaning

facility. XYZ Cleaners must obtain resale certificates from the two independent dry drop-off facilities to exempt the receipts from the two independent dry drop-off facilities.

Calculation of the Gross Receipts Tax for XYZ's locations:

Dry-cleaning facility (wet plant) receipts	\$3,000
Dry drop-off facility #1 (XYZ owned) receipts	\$2,000
Dry drop-off facility #1 (independent) receipts	\$1,700
Dry drop-off facility #2 (independent) receipts	\$1,300
Total Receipts Collected – <u>XYZ Cleaners</u>	<u>\$5,000</u> \$8,000
Tax Rate	<u>× 2.0%</u>
Tax Due <u>From XYZ Cleaners</u>	<u>\$100.00</u> \$160.00
<u>Total Receipts Collected – Independent #1</u>	<u>\$1700</u>
<u>Tax Rate</u>	<u>× 2.0%</u>
<u>Tax Due from Independent #1</u>	<u>\$34.00</u>
<u>Total Receipts Collected – Independent #2</u>	<u>\$1300</u>
<u>Tax Rate</u>	<u>× 2.0%</u>
<u>Tax Due from Independent #2</u>	<u>\$26.00</u>

~~(e)1. The gross receipts received by dry drop-off facilities not owned by dry-cleaning facilities are not subject to tax.~~

~~(d)2.~~ Example: DEF, a dry drop-off facility pays for XYZ, a dry-cleaning facility, to dry-clean and launder clothing for its customers. DEF is required ~~would not have~~ to be registered for the gross receipts tax on dry-cleaning and to Gross Receipts Tax on Dry-cleaning or issue a resale certificate to XYZ. The tax due on the transaction is on the receipts received by ~~XYZ from~~ DEF from its customers.

Calculation of the Gross Receipts Tax for DEF (dry drop-off facility) and XYZ (dry-cleaning facility):

XYZ's receipts received from charges to DEF	\$1,000
Tax Rate	<u>× 2.0%</u>
XYZ's Tax Due (<u>Resale Certificate Received</u>)	<u>\$0</u> \$20.00
DEF's receipts received from customers	\$1,100
Tax Rate	<u>× 2.0%</u>
DEF's Tax Due	<u>\$22.00</u>
No tax is due on the receipts received	\$0.00

~~(3) Tax does not apply to receipts from:~~

- ~~(a) Coin-operated laundry machines;~~
- ~~(b) Laundering done on a wash, dry, and fold basis;~~
- ~~(c) Coin-operated dry-cleaning machines, unless operated at an establishment primarily engaged in the business of dry-cleaning clothing and other fabrics;~~
- ~~(d) Uniform rental companies;~~
- ~~(e) Linen supply companies.~~

~~(4) The tax is imposed upon the dry-cleaning facility for the privilege of engaging in the business of laundering and dry-cleaning clothing and other fabrics in Florida. All gross receipts attributable to sales to the following entities are subject to the tax, even when separately stated on the customer bill or sales invoice:~~

- ~~(a) The United States Government;~~
- ~~(b) The state;~~

- ~~(c) Any county;~~
- ~~(d) Any municipality;~~
- ~~(e) Any other political subdivision of the state; or~~
- ~~(f) Any of the following types of qualifying nonprofit organizations or institutions:~~
 - 1. Religious;
 - 2. Charitable;
 - 3. Educational;
 - 4. Veterans’;
 - 5. Scientific; or
 - 6. Other entity exempt from the tax imposed by Chapter 212, F.S.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.70(5)(b) FS. Law Implemented 212.085, 376.301(13),(14),(15),(22), 376.70, 376.71 FS. History—New 6-19-96, Amended _____.

12B-11.002 Definitions.

For purposes of this rule chapter:

- (1) No change.
- (2) “Dry-cleaning facility” means a commercial establishment that operates or has at some time in the past operated for the primary purpose of dry-cleaning clothing and other fabrics utilizing a process that involves any use of dry-cleaning solvents. The term “dry-cleaning facility” includes laundry facilities that use dry-cleaning solvents as part of their cleaning process. The term does not include a facility that operates or has at some time in the past operated as a uniform rental company or a linen supply company regardless of whether the facility operates as or was previously operated as a dry-cleaning facility.

(2) through (6) renumbered (3) through (7) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.70(5)(b) FS. Law Implemented 376.301(13),(14),(15),(22)(+2), 376.70, 376.71 FS. History—New 2-19-95, Amended 6-19-96, _____.

12B-11.005 Registration.

(1)(a) Every person desiring to engage in or conduct business in this state as a dry-cleaning facility or a dry drop-off facility must register with the Department and obtain a certificate of registration from the Department. Dry-cleaning facilities or dry drop-off facilities operating at more than one location are only required to obtain a single certificate from the Department.

(b)1. Example: A commercial establishment that operates a dry-cleaning facility and five dry drop-off facilities would only be required to have a single registration.

2. Example: A commercial establishment that operates seven dry drop-off facilities would only be required to have a single registration.

(2) through (3) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.70(5)(b) FS. Law Implemented 376.70(2) FS. History—New 2-19-95, Amended 6-19-96, 4-17-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Zych, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-11, F.A.C. (Tax on Gross Receipts on Dry-Cleaning), were noticed for a rule development workshop in the Florida Administrative Weekly on July 16, 2004 (Vol. 30, No. 29, pp. 2947-2948). A rule development workshop was held on August 2, 2004. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLE: Imposition of the Tax

RULE NO.: 12B-12.0031

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-12.0031, F.A.C. (Imposition of the Tax), is to: (1) clarify that, pursuant to Section 376.75(6), F.S., a licensed dealer must obtain a certificate, signed under penalty of perjury, from the transferee of perchloroethylene to demonstrate that the perchloroethylene sold is not for use in a Florida dry-cleaning facility; and (2) remove unnecessary provisions and make necessary technical changes.

SUMMARY: The proposed amendments to Rule 12B-12.0031, F.A.C.: (1) correct the reference to the statutory definition of a “dry-cleaning facility”; (2) clarify that a licensed dealer must obtain a certificate, signed under penalty of perjury, from the transferee of perchloroethylene to demonstrate that the perchloroethylene sold is not for use in a Florida dry-cleaning facility; (3) include a penalty of perjury statement in the suggested certificate; (4) remove unnecessary provisions regarding the sale of perchloroethylene to entities exempt from sales and use tax; and (5) make necessary technical changes.

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: 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS.

LAW IMPLEMENTED: 376.301(13), 376.75 FS.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-12.0031 Imposition of the Tax.

(1) The tax is levied on perc sold to or imported by a dry-cleaning facility, as defined in Section 376.301(13)(10), F.S., located in Florida.

(2)(a) All perc imported, produced, or sold in Florida, even if it is not sole to or imported by a dry-cleaning facility, is presumed to be subject to tax. The person importing, producing, or selling perc is required to register and become licensed with the Department.

(b)1. To demonstrate that the perc is not sold or transferred to a dry-cleaning facility for eventual use in a dry-cleaning facility located in Florida, the licensed dealer must obtain a person may rely on a certificate signed under penalty of perjury by a transferee of perc stating that the transferee does not own or operate a dry-cleaning facility or the transferee will not use the perc in a dry-cleaning facility in Florida.

2. The following is a suggested format of the certificate:

TRANSFER OR SALE OF PERCHLOROETHYLENE CERTIFICATE

This is to certify that the perchloroethylene transferred or sold on or after _____ (month) __ (day) ____ (year) from _____ (name) is not to a dry-cleaning facility.

This certificate is to continue in force until revoked by written notice to the supplier.

Under the penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true.

Purchaser _____

Address _____

By _____

(Signature)

Date _____

(3)(a) Any person selling or importing taxable perc and any other person who sells tax-paid perc, other than a retail dealer, must either:

(a)1- Separately state the amount of such tax paid on any charge ticket, sales slip, invoice, or other tangible evidence of the sale; or

(b)2- Certify on the sales document that the tax has been paid.

(b) All perc sold to or used by a dry-cleaning facility is subject to tax, even if it is sold to, imported by, or caused to be imported by dry-cleaning facilities operated by:

1. The state;

2. Any county;

3. Any municipality;

4. Any other political subdivision of the state;

5. Any of the following qualifying nonprofit organizations or institutions:

a. Religious;

b. Charitable;

c. Educational;

d. Veterans';

e. Scientific; or,

f. Other entity exempt from the tax imposed by Chapter 212, F.S.

(4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 376.301(13), 376.75 FS. History--New 3-18-96, Amended 1-5-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-8026

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Zych, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-12.0031, F.A.C. (Imposition of the Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on July 16, 2004 (Vol. 30, No. 29, pp. 2947-2948). A rule development workshop was held on August 2, 2004. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE TITLE: Forms
 RULE NO.: 12C-1.051

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

SUMMARY: The proposed amendments to Rule 12C-1.051, F.A.C., adopt, by reference, changes to the forms used by the Department in the administration of the corporate income tax and franchise 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), 220.51 FS.

LAW IMPLEMENTED: 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, 220.187, 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: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charles Dunning, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4843

THE FULL TEXT OF THE PROPOSED RULE IS:

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
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(2) through (3) No change.

(4)(a) F-1065	Florida Partnership Information Return (R. 01/05 01/03)	<u>06/03</u>
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(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. 01/05 05/03)	<u>06/03</u>
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(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. 01/05 01/04)	<u>09/04</u>
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(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. 01/05 01/04)	<u>09/04</u>
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(b) F-1120N	F-1120 Instructions – Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, 2004 (R. 01/05 01/04)	<u>09/04</u>
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(7) F-1120ES	Declaration/Installation of Florida Estimated Income/Franchise and/or Emergency Excise Tax for Taxable Year Beginning on or after January 1, 2004 (R. 01/05 01/04)	<u>09/04</u>
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(8) through (15) No change.

(16) F-2220	Underpayment of Estimated Tax on Florida Corporate Income/Franchise and Emergency Excise Tax (R. 01/05 01/04)	<u>09/04</u>
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(17) F-7004	Florida Tentative Income/Franchise and/or Emergency Excise Tax Return and Application for Extension of Time to File Return (R. 01/05 01/04)	<u>09/04</u>
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Specific Authority 213.06(1), 220.51 FS. Law Implemented 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, 220.187, 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, 6-19-03, 3-15-04, 9-28-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Charles Dunning, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4843

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 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12C-1.051, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2004 (Vol. 30, No. 51, pp. 5194-5195). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE TITLE: Public Use Forms RULE NO.: 12C-2.0115

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the intangible personal property tax.

SUMMARY: The proposed amendments to Rule 12C-2.0115, F.A.C., adopt, by reference, changes to forms used by the Department in the administration of the intangible personal property 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: 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.

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

TIME AND DATE: 9:00 a.m., March 15, 2005

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

THE FULL TEXT OF THE PROPOSED RULE IS:

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) No change.

Form Number	Title	Effective Date
(2) DR-601-C	<u>2005</u> 2004 Florida Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers as of January 1, <u>2005</u> 2004 (R. <u>01/05</u> 01/04)	<u>09/04</u>
(3) DR-601CN	<u>2005</u> 2004 Instructions for Filing Form DR-601C Intangible Personal Property Tax Return for Corporation, Partnership and Fiduciary Filers (R. <u>01/05</u> 01/04)	<u>09/04</u>
(4) DR-601CS	<u>2005</u> 2004 Schedules B, C, D, and E for use with DR-601C (R. <u>01/05</u> 01/04)	<u>09/04</u>
(5) DR-601-G	Government Leasehold Intangible Personal Property Tax Return <u>for 2005 Tax Year</u> (R. <u>01/05</u> 01/04)	<u>05/03</u>

(6) DR-601-I	2005 2004 Florida Intangible Personal Property Tax Return for Individual and Joint Filers as of January 1, <u>2005</u> 2004 (R. <u>01/05</u> 01/04)	_____ <u>09/04</u>	(15)(16) DR-350620 Stockbroker Information Report (R. <u>01/05</u> 01/03)	_____ <u>05/03</u>
(7) DR-601IN	<u>2005</u> 2004 Instructions for Filing Form DR-601I Intangible Personal Property Tax Return for Individual and Joint Filers (R. <u>01/05</u> 01/04)	_____ <u>09/04</u>	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. History—New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, _____.	NAME OF PERSON ORIGINATING PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4746
(8) DR-601IS	<u>2005</u> 2004 Schedules B, C, D, and E for use with DR-601I (R. <u>01/05</u> 01/04)	_____ <u>09/04</u>	DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005	DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12C-2.0115, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2005 (Vol. 30, No. 41, pp. 5195-5196). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.
(9) DR-602	Intangible Personal Property Tax Application for Extension of Time to File (R. <u>01/05</u> 12/02)	_____ <u>05/03</u>	DATE PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12C-2.0115, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2005 (Vol. 30, No. 41, pp. 5195-5196). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.	DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12C-2.0115, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on December 17, 2005 (Vol. 30, No. 41, pp. 5195-5196). A rule development workshop was held on January 4, 2005. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.
(10) DR-350111	Intangible Tax Self-Audit Worksheet (R. <u>12/04</u> 05/03)	_____ <u>05/03</u>	(11) No change.	BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
(12) DR-350113	Taxpayer Affidavit for Trusts with Intangible Tax Self-Analysis Worksheet for Trusts (R. 01/03)	_____ <u>05/03</u>	Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are 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."	STATE BOARD OF ADMINISTRATION
(12)(13) DR-350617	Application for Exclusion from Filing Stockbroker Position Statement (R. <u>01/05</u> 01/03)	_____ <u>05/03</u>	RULE TITLES:	RULE NOS.:
(13)(14) DR-350618	Stockbroker Instructions and Specifications for Reporting Information on Magnetic Media for Year Ending <u>12/31/04</u> 12/31/01 (R. <u>01/05</u> 01/03)	_____ <u>05/03</u>	Reimbursement Contract	19-8.010
(14)(15) DR-350619	Stockbroker Filing Magnetic Media Transmittal (R. <u>01/05</u> 01/03)	_____ <u>05/03</u>	Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund	19-8.012
			Revenue Bonds Issued Pursuant to Section 215.555(6), Florida Statutes	19-8.013
			Insurer Reporting Requirements	19-8.029
			Insurer Responsibilities	19-8.030
			Hurricane Mitigation	19-8.031
			PURPOSE AND EFFECT: The State Board of Administration, Florida Hurricane Catastrophe Fund, is proposing to repeal Rule 19-8.031, F.A.C. The State Board of Administration, Florida Hurricane Catastrophe Fund is also proposing to	

amend the following rules in order to implement Section 215.555, Florida Statutes, regarding the Florida Hurricane Catastrophe Fund, for the 2005-2006 Contract Year: Rules 19-8.010, 19-8.012, 19-8.013, 19-8.029 and 19-8.030, F.A.C.

SUMMARY: CS/CS/CS/CS 2488 added the language contained in Rule 19-8.031, F.A.C. to the statute in 2004. See Section 215.555(7)(c), F.S. Therefore, this Rule is obsolete and should be repealed. Proposed amended Rule 19-8.010, F.A.C., adopts the reimbursement contract for the Contract Year 2005-2006. The proposed amendments to Rules 19-8.012, 19-8.013, and 19-8.030, F.A.C. are necessitated by the changes to Section 215.555, Florida Statutes, during the 2004 Legislative Session. Proposed amended Rule 19-8.029, F.A.C., adopts forms for insurer reporting to the Florida Hurricane Catastrophe Fund for the 2005-2006 Contract Year and updates incorporated forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has not prepared a statement for those rules proposed for repeal. With respect to the rules proposed for amendment, the Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2),(3),(4),(5),(6),(7),(10) FS.

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

TIME AND DATE: 9:00 a.m. – 12:00 Noon, March 8, 2005

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, FL 32308

Any person requiring special accommodations to participate in this proceeding is asked to advise Patti Elsbernd, P. O. Box 13300, Tallahassee, FL 32317-3300, (850)413-1346, at least five (5) calendar days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jack E. Nicholson, Senior FHCF Officer, State Board of Administration, P. O. Box 13300, Tallahassee, FL 32317-3300, (850)413-1340

THE FULL TEXT OF THE PROPOSED RULES IS:

19-8.010 Reimbursement Contract.

(1) through (10) No change.

(11) The reimbursement contract for the 2005-2006 contract year required by Section 215.555(4), Florida Statutes, which is called Form FHCF-2005K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #() and The State Board of Administration of the State of Florida (“SBA”) which Administers the Florida

Hurricane Catastrophe Fund (“FHCF”), is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2005 through May 31, 2006.

~~(12)(44)~~ Copies of the reimbursement contract may be obtained from the FHCF website, www.sbafla.com/fhcf or by contacting the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, FL 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308 and the telephone number is, (850)413-1346.

Specific Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, _____.

19-8.012 Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund.

(1) Purpose. The purpose of this rule is to establish procedures to determine ineligibility for participation in the Florida Hurricane Catastrophe Fund (“the Fund”) and to establish procedures to determine whether an insurer may be exempted from subsections (4) and (5) of Section 215.555, Florida Statutes, because it has less than \$10 million ~~500,000~~ in aggregate exposure for covered policies.

(2) Procedures to Determine Ineligibility for Participation in the Fund.

(a) An insurer seeking ineligibility from participation in the Fund because it has surrendered its certificate of authority to write insurance in Florida shall submit a written request for ineligibility stating that it will have no covered policies, as that term is defined in Section 215.555(2)(c), Florida Statutes, after May 31 of the year for which the ineligibility is sought and provide a copy of the Office of Insurance Regulation Order, if any, revoking the insurer’s authority to write insurance in Florida. The request shall be sent to the Fund’s Administrator, Paragon Strategic Solutions Inc., at 3600 American Boulevard West, Suite 700, Minneapolis, Minnesota 55431.

(b) An insurer which is not surrendering its certificate to write insurance in Florida but which is seeking ineligibility from participation in the Fund because it does not have any covered policies, as that term is defined in Section 215.555(2)(c), Florida Statutes, shall submit a written request for a determination regarding its ineligibility for participation. The request shall be sent, no later than September 1 of the current contract year, to the Fund’s Administrator, Paragon Strategic Solutions Inc. at 3600 American Boulevard West, Suite 700, Minneapolis, Minnesota 55431, and shall contain the following information:

1. A detailed explanation of any premium appearing on the insurer’s Florida Form 2 of the National Association of Insurance Commissioners annual statement for lines of business which may contain covered policies. These lines are:

Fire, Allied Lines, Homeowners Multiple Peril, Commercial Multiple Peril (non-liability portion), Inland Marine, Farmowners Multiple Peril.

2. A copy of the insurer's Form 2 of the annual statement, required by Section 624.424, Florida Statutes, and any rules adopted thereunder, for the State of Florida for the applicable year.

3. Form FHCF-E1, "Statement related to Covered Policies as defined in Section 215.555(2)(c), Florida Statutes," rev. 5/054, signed by two executive officers attesting to the fact that the insurer writes no covered policies. Form FHCF-E1 is hereby adopted and incorporated by reference. The form may be obtained from the Fund's Administrator at the address stated in this paragraph.

(c) No change.

(3) Procedures to Determine Exemption from the Fund Due to Limited Exposure.

(a) An insurer requesting exemption from participation in the Fund because its exposure for covered policies, as defined in Section 215.555(2)(c), Florida Statutes, and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., is less than \$10 million ~~500,000~~ in the aggregate shall submit a written request for a determination regarding such an exemption no later than June 1 of the upcoming contract year. The request shall be sent to the Fund's Administrator, Paragon Strategic Solutions Inc., at 3600 American Boulevard West, Suite 700, Minneapolis, Minnesota 55431. The insurer shall submit the following information:

1. A detailed explanation of any premium appearing on the insurer's Florida Form 2 of the National Association of Insurance Commissioners annual statement for lines of business which may contain covered policies. These lines are: Fire, Allied Lines, Homeowners Multiple Peril, Commercial Multiple Peril (non-liability portion), Inland Marine, Farmowners Multiple Peril.

2. A copy of the insurer's Form 2 of the annual statement, required by Section 624.424, Florida Statutes and any rules adopted thereunder, for the State of Florida for the applicable year.

3. Form FHCF-E2, "Information regarding FHCF Covered Policies In-force at May 31, _____," rev. 5/054. Form FHCF-E2 is hereby adopted and incorporated by reference. The form may be obtained from the Fund's Administrator at the address stated in this paragraph.

4. Form FHCF-E3, "Statement related to Aggregate Exposure for Covered Policies as defined in Section 215.555(2)(c), Florida Statutes, on behalf of _____," rev. 5/054, signed by two executive officers attesting to the fact that the insurer writes no covered policies with an aggregate exposure of \$10 million ~~500,000~~ or more. Form FHCF-E3 is

hereby adopted and incorporated by reference. The form may be obtained from the Fund's Administrator at the address stated in this paragraph.

(b) Upon receipt of the information required by subsection (3)(a), above, the Fund's Administrator will forward copies to the Board for review.

1. If the Board determines that additional information is needed before a decision can be made, the Fund's Administrator will obtain the information and forward it to the Board.

2. If the Board determines that the insurer has an aggregate exposure of \$10 million ~~500,000~~ or more for covered policies, as defined in Section 215.555(2)(c), Florida Statutes, and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and must therefore participate in the Fund as required by Section 215.555(4)(a), Florida Statutes, because it does not qualify for the exemption permitted by Section 215.555(3), Florida Statutes, the Board will notify the insurer that its request has been denied. All insurers determined to be participants in the Fund will be required to enter into a reimbursement contract with the Board and will be subject to all premium payments and interest thereon, as well as fees for inadequate exposure data.

3. If the Board determines that the insurer has an aggregate exposure of less than \$10 million ~~500,000~~ for covered policies, as defined in Section 215.555(2)(c), Florida Statutes, and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and that granting the exemption will not adversely affect the actuarial soundness of the Fund, the Board will notify the insurer that its request has been approved and note that the insurer must immediately notify the Board if its exposure becomes \$10 million ~~500,000~~ or more in the aggregate. If this occurs, the insurer will be treated as a "new participant company" and will be subject to the provisions of Rule 19-8.028(4)(c)3., F.A.C. if its exposure becomes \$10 million ~~500,000~~ or more during the period from June 1 through November 30 or will be subject to the provisions of Rule 19-8.028(4)(c)4., F.A.C. if its exposure becomes \$10 million ~~500,000~~ or more during the period from December 1 through May 31. The Board will provide the Fund's Administrator with a copy of any approval letter so that the Fund's Administrator can update its information and can refund any overpayment of reimbursement premium.

4. The exemption for minimal exposure permitted by Section 215.555(3), Florida Statutes, is optional for the insurer. An insurer with less than \$10 million ~~500,000~~ in aggregate exposure for covered policies is not required to ask for an exemption from the Fund. Such an insurer may continue to participate in the Fund if it so desires. An insurer which has been granted an exemption from the Fund may request to be reinstated in the Fund as a participating member. However, such a request must be made no later than June 1 of each

contract year. No insurer which has been granted an exemption under this subsection shall be reinstated during the Atlantic Hurricane Season, which begins June 1 and ends November 30 of each year, so long as its aggregate exposure remains below \$10 million 500,000.

5. The exemptions for minimal exposure permitted by Section 215.555(3), Florida Statutes, shall not be granted by the Board if the aggregate number of anticipated exemptions adversely affects the actuarial soundness of the Fund. A decision as to adverse actuarial effect will be made by the Board annually in consultation with the Board's actuarial consultant. To determine whether an exemption adversely affects the actuarial soundness of the Fund, the Board shall take into consideration the following factors: the number of insurers participating in the Fund; the number of insurers which have requested or are requesting exemption from the Fund on the basis of limited exposure; whether the impact of excluding insurers with less than \$10 million 500,000 in exposure will significantly affect premium revenue; the currently available liquid assets of the Fund; the amount and maturity of any outstanding debt; the history of payment of reimbursement premium to the Fund; the history of payment of reimbursable losses by the Fund; the history of payment of assessments under Section 215.555(6), Florida Statutes; the meteorological and actuarial likelihood that the Fund will have to pay loss reimbursements during the current contract year; and the current market condition of the property insurance industry in Florida.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2)(c),(3),(4),(5) FS. History—New 2-17-97, Amended 6-2-02, 5-13-03, 5-19-04,_____.

19-8.013 Revenue Bonds Issued Pursuant to Section 215.555(6), Florida Statutes.

(1) Purpose. This rule establishes the Board's policy regarding the issuance of revenue bonds pursuant to Section 215.555(6), Florida Statutes. The rule provides definitions; interprets certain terms in Section 215.555, Florida Statutes; establishes factors for determining when to issue revenue bonds, the amount of any such revenue bonds, and the source for repayment of any such revenue bonds; and establishes procedures for levying Emergency Assessments pursuant to Section 215.555(6)(b)(a)3., Florida Statutes.

(2) Definitions. The terms defined below will be capitalized in this rule.

(a) Assessable Insurer means Authorized Insurers writing property and casualty business in this state ~~and includes~~ any entity created pursuant to Section 627.351, Florida Statutes and Surplus Lines Insurers regulated under part VIII of Chapter 626, Florida Statutes. Surplus lines insurers are not Assessable Insurers. Reinsurers are not Assessable Insurers.

(b) Assessable Lines are those lines of property and casualty business subject to assessment under Section 215.555(6)(b)(1)(a)3., Florida Statutes, and as more fully described in subsection (5), below.

(c) Authorized Insurer means an insurer as defined in Sections 215.555(2)(c) and 624.09(1), Florida Statutes. For purposes of this rule, Authorized Insurer includes any joint underwriting association or similar entity created pursuant to Section 627.351, Florida Statutes.

(d) Balance of the Fund; ~~and Year End Balance of the Fund, Projected Fund Balance, Projected Balance of the Fund, Projected Year End Fund Balance and Balance of the Fund as of December 31~~ all have the same meaning given to Balance of the Fund as of December 31 in Article V of the Reimbursement Contract adopted by and incorporated into Rule 19-8.010, F.A.C.

(e) Board ~~or SBA~~ means the State Board of Administration of Florida.

(f) Contract Year means the time period that begins June 1 of each calendar year and ends May 31 of the following calendar year.

(g) Corporation means the Florida Hurricane Catastrophe Fund Finance Corporation created by Section 215.555(6)(d)(e), Florida Statutes.

(h) "Covered Event" means a hurricane as defined in Section 215.555(2)(b), Florida Statutes, and in Article V of the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010, F.A.C.

(i) Covered Policies means an insurance policy covering residential property, as defined in Section 215.555(2)(c), Florida Statutes, and in Article V of the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010, F.A.C.

(j) Department means the Florida Department of Financial Services, which was created pursuant to Section 20.121, Florida Statutes and which is charged with regulating the Florida insurance market and administering the Florida Insurance Code.

(k) Emergency Assessment means the assessment levied by the Office of Insurance Regulation ~~(as defined below)~~ at the direction of the Board on direct written premiums for all Assessable Lines property and casualty business in this state, pursuant to and subject to the exceptions in Section 215.555(6)(b)(a)3., Florida Statutes, and as more fully described in subsection (5) of this rule.

(l) Fund means the Florida Hurricane Catastrophe Fund.

~~(m) Office of Insurance Regulation means that office within the Department of Financial Services and which was created in Section 20.121(3), Florida Statutes.~~

~~(n) Participating Insurer means an insurer which writes Covered Policies in this state and which has entered into a Reimbursement Contract with the Board, pursuant to Section 215.555(4)(a), Florida Statutes.~~

~~(o)(n)~~ Reimbursement Contract means the annual contract ~~statutorily required pursuant to Section 215.555 (4)(a), Florida Statutes, annual contract~~ which provides coverage, ~~within the limits described in paragraph (3) below,~~ to Participating Insurers for losses to covered property during a Covered Event.

~~(p)(e)~~ Reimbursement Premium means the premium determined by multiplying each \$1,000 of insured value reported by the Participating Insurer Company in accordance with Section 215.555(5), Florida Statutes, by the rate as derived from the premium formula as described in Rule 19-8.028, F.A.C.

(3) Limitations on the Fund's Liability. The ~~Florida Hurricane Catastrophe Fund's (Fund or FHCF)~~ liability under the Reimbursement Contracts for Covered Events in a Contract Year entered into, pursuant to Section 215.555(4)(a), Florida Statutes, with Participating Insurers writing Covered Policies, is limited to the lesser of (a) the amount determined pursuant to Section 215.555 (4)(c)1., Florida Statutes, or (b) the Balance of the Fund for the Contract Year in which the Covered Events have occurred, any reinsurance purchased by the Fund FHCF, plus the amount the Board has raised through the issuance of revenue bonds for losses from Covered Events in the Contract Year and the additional amount the Board determines it or is able to raise through the issuance of revenue bonds for losses from Covered Events in the Contract Year pursuant to the provisions of Section 215.555(6), Florida Statutes.

~~(a) The Board notes the requirement in Section 215.555(4)(e)2., Florida Statutes to publish estimates of the Fund's anticipated borrowing capacity in May and October of each year and states that, although the Board will in good faith attempt to sell revenue bonds up to the amounts estimated, the Fund's liability is nevertheless limited to the Balance of the Fund as of December 31, any reinsurance purchased by the FHCF and the amount which the Board is able to raise through the issuance of revenue bonds, not the amount which the Board estimates it is able to raise through such issuance. Therefore, the Board's obligations to Participating Insurers for Covered Events in any one Contract Year are limited to the Balance of the Fund as of December 31, any reinsurance purchased by the FHCF, plus the amount the Board is able to raise through the issuance of revenue bonds, making good faith efforts to sell revenue bonds following a Covered Event.~~

~~(b) Regardless of its assets, ability to raise funds or the amount of covered losses, the obligation of the Fund with respect to all Reimbursement Contracts covering a particular Contract Year shall not exceed the limits set forth in Section 215.555(4)(c)1., Florida Statutes.~~

(4) Determinations Regarding Bond Issuance.

(a) No change.

(b) Quality of Bonds to be Issued. The Board finds that in order to fulfill its fiduciary responsibilities to maintain and enhance the on-going viability and credibility of the Fund and to operate in the most cost-efficient manner, all revenue bonds

issued to pay reimbursable losses shall be investment grade bonds, except to the extent that revenue bonds other than investment grade are needed to pay a small amount of legitimate but unexpected reimbursable losses. Upon the occurrence of such an exception, any revenue bonds issued will be issued only after a determination by the Board that the issuance of such bonds is ~~are~~ fiscally responsible, in light of the Board's fiduciary responsibilities ~~under the Reimbursement Contracts entered into with Participating Insurers pursuant to Section 215.555(4), Florida Statutes.~~

~~(c) Emergency Assessments Moneys in the Fund are Insufficient.~~

1. If the Board determines that the amount of revenue produced under Section 215.555(5), Florida Statutes, is insufficient to fund the obligations, costs, and expenses of the Fund and the Corporation, including repayment of revenue bonds and that portion of debt service coverage not met by Reimbursement Premiums, and the Balance of the Fund is likely to be exhausted, the Board shall direct the Office of Insurance Regulation to levy an Emergency Assessment on direct written premiums for all Assessable Lines each insurer writing property and casualty business in this state. The Balance of the Fund "is likely to be exhausted" if the Board reasonably determines, based on the data and information available at the time of the determination, that loss reimbursements to Participating Insurers will exceed 95% of the Balance of the Fund as of December 31 of the Contract Year. The Board shall consider the following factors in its In making this determination, the Board may consider of: the likelihood of exceeding 95% of the projected Balance of the Fund, as of December 31; anticipated additional Fund revenues; the meteorological severity and of the Covered Event; the geographical area impacted by each the Covered Event; estimates of losses from the insurance industry, from individual insurers, from federal, state, and local emergency response entities, from loss reports submitted to the Board by Participating Insurers, from reviews of loss reports by the Fund's Administrator, and from information provided by modeling companies; from claims development patterns derived from known historical events; from an analysis of market shares of Participating Insurers in the impacted area; and any other credible sources of loss information; and any other information determined by the Board to be relevant.

2. Except as required by Section 215.555(7)(c), Florida Statutes, or as described in the following sentence, Reimbursement Premiums, together with earnings thereon, received in a given Contract Year will be used only to pay for losses attributable to Covered Events occurring in that Contract Year or for losses attributable to Covered Events in subsequent Contract Years and will not be used to pay for past losses or for debt service on revenue bonds. Pursuant to Section 215.555(6)(a)1., Florida Statutes, Reimbursement Premiums, or earnings thereon, may be used for payments relating to

revenue bonds in the event Emergency Assessments are insufficient. If Reimbursement Premiums are used for debt service, then the amount of the Reimbursement Premiums so used shall be returned, without interest, to the Fund when Emergency Assessments remain available after making payments relating to the revenue bonds and any other purposes for which Emergency Assessments were levied.

~~If Reimbursement Premiums received under Section 215.555(5), Florida Statutes, or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the monies derived from Emergency Assessments. If a Covered Event occurs which exhausts the Balance of the Fund as of December 31 of the Contract Year in which the Covered Event occurs and if Emergency Assessments are levied to provide revenues to pay debt service on revenue bonds issued to pay reimbursable losses related to such Covered Event, then Reimbursement Premiums collected in Contract Years following the Contract Year in which the Covered Event occurred are expected to be used to pay debt service only if the amounts raised through Emergency Assessments are not sufficient to make the required debt service payments on the revenue bonds issued for the Covered Event. If Reimbursement Premiums are used for debt service in the event of a temporary shortfall in the collection of Emergency Assessments, then the amount of the Reimbursement Premiums so used shall be returned, without interest, to the Fund when Emergency Assessments are received.~~

(d) Specific Procedures Regarding Issuance of Bonds on a Pre-Event Basis. ~~Pursuant to Section 215.555(6)(a), Florida Statutes, the Board is authorized to enter into contracts for the issuance of revenue bonds in the absence of a Covered Event “upon a determination that such action would maximize the ability of the fund to meet future obligations.”~~ In making a determination to authorize the issuance of revenue bonds on a Pre-event basis (“in the absence of a hurricane”), pursuant to Section 215.555(6)(a), Florida Statutes, the Board shall consider the following factors: the ~~p~~Projected Fund Balance; reserves for mitigation appropriations; estimated amounts needed for administration of the Fund FHCF; projected amounts of future Reimbursement Premiums; projected amounts of earnings on collected Reimbursement Premiums; the projected frequency and magnitude of future Covered Events; current and projected interest rates on revenue bonds; current and projected market conditions for the sale of revenue bonds; projected credit ratings for the Fund and for revenue bonds issued on behalf of the Fund; current and projected availability of bond insurance or other credit enhancement for revenue bonds; the costs of issuance of revenue bonds; the debt service requirements of the revenue bonds; the estimated value, both monetary and non-monetary, of the issuance of Pre-event bonds on the costs of Post-event bonds in terms of benchmark pricing, secondary market trading, investor education, being a first-time issuer Post-event, confidence of insurers and

reinsurers in the Fund’s ability to issue revenue bonds Post-event, market education, and document preparation; and any other factors relevant to the determination at the time such determination is made.

(e) Specific Procedures for Issuance of Revenue Bonds on a Post-Covered Event Basis. ~~Upon The Board will take the following steps upon~~ the occurrence of a Covered Event for which the Board determines that moneys in the Fund are or will be insufficient the Balance of the Fund is likely to be exhausted to pay reimbursement at the levels promised in the Reimbursement Contracts reimbursable losses:-

1. ~~The~~ Upon the occurrence of a Covered Event, the Board will determine, pursuant to Section 215.555, Florida Statutes, ~~and all rules adopted thereunder,~~ the projected reimbursable losses of Participating Insurers. ~~The Board will then determine, based on the then Projected Balance of the Fund,~~ whether or not the Fund has or will have sufficient funds ~~on hand~~ to reimburse Participating Insurers for their reimbursable losses. ~~and If the Board determines that the funds on hand are or will be insufficient, then the Board will estimate the total reimbursable losses payable by the Fund. The Board will then determine the estimated~~ shortfall which shall be covered by the issuance of revenue bonds or through incurrence of other indebtedness, as appropriate.

2. Based on the amount of the shortfall determined in accordance with subparagraph 1., above, the Board will determine the percentage of direct premium written for Assessable Lines (~~see subsection (5), below~~), if any, which may be necessary ~~to service the outstanding revenue bonds.~~ The Emergency Assessment assessment percentage will be determined as follows:

a. ~~The Board will review the incurred losses and projected losses from the Covered Event, taking into account the Covered Event’s size, intensity, forward speed, area of impact, and any other factors applicable to that specific Covered Event.~~

~~a.b.~~ The Board will review ~~all~~ available information, ~~both~~ from the Office of Insurance Regulation, the Florida Surplus Lines Service Office and ~~from~~ the National Association of Insurance Commissioners, regarding direct premiums written for Assessable Lines in Florida, reportable pursuant to Section 624.424, Florida Statutes or pursuant to part VIII of Chapter 626, Florida Statutes.

~~b.e.~~ The Board will review and assess existing market conditions regarding the issuance and sale of bonds or the incurrence of other indebtedness to determine the amount of revenues which will be required to pay debt service on any bonds debt issued or other indebtedness incurred.

~~c.d.~~ Based on the specific information described above and on any other information determined by the Board to be relevant applicable and pertinent to the specific Covered Event and ~~the then current market conditions,~~ the Board will determine the Emergency Assessment assessment percentage necessary to fund the obligations, costs, and expenses of the

Fund and the Corporation including repayment of revenue bonds and that portion of the debt service coverage not met by Reimbursement Premiums, and shall adopt pay debt service.

3. After the assessment percentage has been determined, the Trustees of the Board will consider formal approval of the assessment percentage at a meeting of the Trustees. After approval of the assessment percentage, the Trustees will, at the same meeting, consider formal approval of a resolution directing the Office of Insurance Regulation to levy the Emergency Assessment assessment on all Assessable Insurers for all Assessable Lines.

3. The Board may adopt subsequent resolutions directing the Office of Insurance Regulation to adjust the level of Emergency Assessments based on factors which may include, but are not limited to, changes in the amount needed for the payment of debt service and changes in the level of anticipated receipts from the Emergency Assessments.

4. ~~As soon as possible after the meeting at which the Trustees have approved the assessment percentage and directed the Office of Insurance Regulation to levy the assessment, the Executive Director of the Board will provide written instructions to the Office of Insurance Regulation of all pertinent details regarding the Emergency Assessment, including the name and address of the Master Trustee or Custodian designated to receive the Emergency Assessment payments.~~

(5) Procedures regarding Levying Emergency Assessments Pursuant to Section 215.555(6)(b)(a)3., Florida Statutes.

(a) If the Board directs the Office of Insurance Regulation to levy Emergency Assessments, then the Office of Insurance Regulation shall issue Orders to the Florida Surplus Lines Service Office and to each Assessable Insurer levying an Emergency Assessment for the Assessable Lines of business set out in paragraph (c)(e), below.

(b) Pursuant to the Order issued by the Office of Insurance Regulation levying the Emergency Assessment, each Assessable Insurer shall remit pay directly to the entity identified in the Order, ~~by July 1 of each year~~, an amount equal to the required percentage of its direct written premium for the prior calendar year from all Assessable Lines property and casualty business in this state except for workers' compensation and accident and health. Medical malpractice is an Assessable Line of business but only as to covered events occurring after June 1, 2007. In addition, pursuant to the doctrine of federal pre-emption, policies issued as part of the National Flood Insurance Program are not subject to the Emergency Assessment. The required percentage will be ~~no more than 4 percent for any one Contract Year and no more than 6 percent in the aggregate and will be determined in accordance with Section 215.555(6)(b)(a)3., Florida Statutes,~~

and the procedures set out in subsection (4) of this rule. The lines of business which will be subject to assessment are set out in subsection (e), below:

~~(e) Pursuant to Section 215.555(6), Florida Statutes, the annual Emergency Assessments shall continue until the revenue bonds issued with respect to which the assessment was imposed have been retired, unless adequate provision has been made for the full payment of such bonds pursuant to the documents authorizing the issuance of such revenue bonds.~~

~~(d) Pursuant to Section 215.555(6)(a)3., Florida Statutes, an Assessable Insurer shall not in any calendar year be subject to assessments in excess of 4 percent for any one Contract Year and no more than 6 percent in the aggregate, under Section 215.555(6), Florida Statutes, and this rule.~~

~~(c)(e) Lines of Business Subject to Assessment.~~

1. The lines of business described in subparagraph 2., below, are the lines of business subject to the Emergency Assessment under Section 215.555(6)(b)(1)(a)3., Florida Statutes. For ease of reference, the lines of business are written and listed as they appear on Form 2, Exhibit of Premiums and Losses in the property and casualty annual statement of the National Association of Insurance Commissioners required to be filed by authorized insurers pursuant to Section 624.424, Florida Statutes.

2. Assessable Lines. Note that the numbers below preceding the names of the lines of business do not correspond to the line numbers of the property and casualty annual statement referenced in subparagraph 1., immediately above.

- a. Fire.
- b. Allied Lines.
- c. Multiple Peril Crop.
- d. Farmowners Multiple Peril.
- e. Homeowners Multiple Peril.
- f. Commercial Multiple Peril (non-liability).
- g. Commercial Multiple Peril (liability).
- h. Mortgage Guaranty.
- i. Ocean Marine.
- j. Inland Marine.
- k. Financial Guaranty.

l. Medical Malpractice (Medical Malpractice insurance premiums are not subject to Emergency Assessments attributable to covered events occurring prior to the Contract Year that begins on June 1, 2007).

- m. Earthquake.
- n. Other Liability.
- o. Products Liability.
- p. Private Passenger Auto No-Fault.
- q. Other Private Passenger Auto Liability.
- r. Commercial Auto No-Fault.
- s. Other Commercial Auto Liability.
- t. Private Passenger Auto Physical Damage.
- u. Commercial Auto Physical Damage.

- v. Aircraft (all perils).
- w. Fidelity.
- x. Surety.
- y. Burglary and Theft.
- z. Boiler and Machinery.
- aa. Credit.
- bb. Aggregate Write Ins.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2),(3),(4),(5),(6),(7) FS. History--New 9-18-97, Amended 12-3-98, 9-12-00, 6-1-03, 5-19-04, _____.

19-8.029 Insurer Reporting Requirements.

(1) Purpose. The purpose of this rule is to incorporate and adopt the annual reporting of insured values and the Loss Reporting Forms, to provide the time and place for submission of this required information and to address confidentiality of information provided to the Florida Hurricane Catastrophe Fund (FHCF or Fund).

(2) Definitions. The terms defined below will be capitalized in this rule.

(a) Citizens Property Insurance Corporation or "Citizens" means the entity formed under Section 627.351(6), Florida Statutes, and includes both the High Risk Account (formerly the Florida Windstorm Underwriting Association) and the Personal Lines and Commercial Lines Accounts (formerly the Florida Residential Property and Casualty Joint Underwriting Association).

(b) through (h) No change.

(3) Reporting of Insurer Exposure Data.

(a) No change.

(b) Confidentiality of reports containing insured values under Covered Policies. Section 215.557, Florida Statutes, enacted for the express purpose of protecting trade secret and proprietary information submitted to the FHCF by participating insurers, protects the confidentiality of information of the type submitted in the Data Call (FHCF D1A), examination audit workpapers, examination audit reports, or loss reports (FHCF-L1A, FHCF-L1B) and such information is not subject to the provisions of Section 119.07(1), Florida Statutes or Section 24(a), Article I of the Florida State Constitution.

(c) through (d) No change.

(4)(a) through (f) No change.

(g) For the 2005/2006 Contract Year, the reporting shall be in accordance with the following: Form FHCF-D1A, "Florida Hurricane Catastrophe Fund 2005 Data Call," rev. 5/05 and UNICEDE®/PX Data Exchange Format, Version 4.0.0." The two forms identified in the immediately preceding sentence are hereby adopted and incorporated by reference. The forms may be obtained from the Fund's Administrator at the address stated in subsection (6) below. A new participant writing covered

policies after June 1 but prior to December 1, shall report its actual exposure as of December 31 of the Contract Year on or before March 1 of the Contract Year, to the Administrator.

(5) Loss Reimbursement Reporting Requirements.

(a) As directed by the Board, after a covered event occurs, insurers shall report all their estimated ultimate net losses (as defined in the Reimbursement Contract, adopted and incorporated into Rule 19-8.010, F.A.C.) for Covered Policies on Form FHCF-L1A, "Florida Hurricane Catastrophe Fund Interim Loss Report," rev. 5/05, which is hereby adopted and incorporated by reference. Prompt reporting in the format requested will aid the Board in determining whether to seek additional sources of funds to pay for reimbursable losses. The losses reported on Form FHCF-L1A are expected to result from a good faith effort on the part of the insurer to report as accurately as possible. Preliminary reports will not be binding. Reimbursements by the Fund will be made on the basis of Form FHCF-L1B, adopted below, and on the basis of quarterly adjustments thereafter. After the initial report of losses on Form FHCF-L1A, only insurers expecting to exceed their retentions for covered losses are required to comply with paragraph (b), below.

(b) If an insurer expects covered losses to exceed its retention, it shall report its paid and outstanding covered losses for each occurrence as of month-end by the fifteenth of the following month in accordance with the table below:

Submit Form FHCF-L1A Monthly

For Losses as of	By
06/30/XX	07/15/XX
07/31/XX	08/15/XX
08/31/XX	09/15/XX
09/30/XX	10/15/XX
10/31/XX	11/15/XX
11/30/XX	12/15/XX

For Losses under Covered Events prior to:	File by:
June 30/XXXX	July 15/XXXX, and on the 15th of each month through November
July 31/XXXX	August 15/XXXX, and on the 15th of each month through November
August 31/XXXX	September 15/XXXX, and on the 15th of each month through November
September 30/XXXX	October 15/XXXX and November 15/XXXX
October 31/XXXX	November 15/XXXX

(c) Insurers shall report their ultimate net losses ~~for each occurrence on or before December 31 of the Contract Year during which the covered event occurs and quarterly thereafter on the date the quarter ends~~ on Form FHCF-L1B, "Florida Hurricane Catastrophe Fund Proof of Loss Report," rev. 5/11/05~~4~~, which is hereby adopted and incorporated by reference. To qualify for reimbursement, the Proof of Loss Report must have the original signatures of two executive officers authorized by the Company to sign the report. While a Company may submit a Proof of Loss Report requesting reimbursement at any time following a Loss Occurrence, all Companies shall submit a mandatory Proof of Loss Report for each Loss Occurrence no earlier than December 15 and no later than December 31 of the Contract Year during which the Covered Event(s) occurs using the most current data available, regardless of the amount of Ultimate Net Loss or the amount of loss reimbursements or advances already received. Reports may be faxed only if the Company does not qualify for a reimbursement. Annually, all Companies shall submit a mandatory year-end Proof of Loss Report for each Loss Occurrence, as applicable, using the most current data available. This Proof of Loss Report shall be filed no earlier than December 15 and no later than December 31 of each year and shall continue until the earlier of the expiration of the commutation period or until all claims and losses resulting from the Loss Occurrence are fully discharged including any adjustments to such losses due to salvage or other recoveries. "Commutation" shall mean that period of time which is not less than 36 months or more than 60 months after the end of the Contract Year during which the Loss Occurrence took place.

In reporting losses, deductibles or attachment points shall be applied first to the coverages provided by the FHCF. For the quarterly report due on 3/31, any insurer whose losses reach or exceed 50% of its FHCF retention shall report its losses on Form FHCF-L1B. For the quarterly report due on 6/30, any insurer whose losses reach or exceed 75% of its FHCF retention shall report its losses on Form FHCF-L1B. For the quarterly reports due on 9/30 and thereafter, any insurer which anticipates that its losses will reach 100% or more of its FHCF retention shall report its losses on Form FHCF-L1B until all its losses are paid to its policyholders and the insurer has received reimbursement from the Fund. For purposes of this rule, quarterly Loss Reports shall be those reports submitted at each quarter end date after December 31 of the Contract Year in which the covered event occurs and continuing until all claims and losses resulting from loss occurrences commencing during the Contract Year are fully discharged in accordance with the reporting requirements in this paragraph. "Fully Discharged" means the earlier of the date on which the insurer has paid its policyholders in full or the commutation clause, in Article X of the Reimbursement Contract, adopted in Rule 19-8.010, F.A.C., takes effect.

(d) As a result of reports submitted on Form FHCF-L1B, reimbursements to insurers shall be adjusted in accordance with Section 215.555(4)(d)1., Florida Statutes, which requires the Fund to pay additional amounts to insurers and insurers to return overpayments to the Fund, based on the most recent calculation of losses.

(6) All the forms adopted and incorporated by reference in this rule may be obtained from: Administrator, Florida Hurricane Catastrophe Fund, Paragon Strategic Solutions Inc., 3600 American Boulevard West, Suite 700, Minneapolis, Minnesota 55431.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2),(3),(4),(5),(6),(7),(15) FS. History--New 5-17-99, Amended 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, _____.

19-8.030 Insurer Responsibilities.

(1) No change.

(2) Purpose_ The purpose of this rule is to clearly establish certain deadlines and other requirements for insurers required to participate in the Florida Hurricane Catastrophe Fund (Fund or FHCF). It is not the intent or purpose of this rule to address every requirement of Participating Insurers which could result in a referral to the Florida Department of Financial Services.

(3) No change.

(4) Reimbursement Contract.

(a) through (c) No change.

(5) Exposure Reporting Requirements_

(a) Quota Share Primary Insurance. Citizens and Authorized Insurers may enter into Quota Share Primary Insurance Arrangements with respect to the High Risk Account policies. The statute also provides, in Section 627.351(6)(c)2.a.(II), Florida Statutes, that Citizens shall be responsible for the annual reporting of insured values to the FHCF for both Citizens and the Insurer participating with Citizens in the Quota Share Arrangement. Citizens shall report the insured values covered by the Quota Share Primary Insurance Arrangements in the same manner that all other current participants, as described in paragraph (b) below, report their insured values. Please note that both Citizens and the Quota Share Primary Insurer must keep complete and accurate records, including copies of policy declaration pages and supporting claims documents, for the purpose of exposure and loss reimbursement examinations ~~audits~~ by the FHCF.

(b) through (c) No change.

(d) Resubmissions of Data: With one exception noted below, any Insurer which submits a Data Call, Form FHCF-D1A, with incorrect data, incomplete data, or data in the wrong format and is required to resubmit will be given 30 days from the date on the letter from the FHCF notifying the Insurer of the need to resubmit. An extension of 30 days will be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the participant. Exception: If the Insurer, at the time it receives notice of the need to resubmit, has already been issued a notice

of examinations audits, the usual 30 day time limitation (measured from the date of the letter giving notice of the need to resubmit) does not apply. In this situation, the time period in which the Insurer must resubmit is measured by counting backwards 30 days from the date that the examinations audit is scheduled to begin as reflected on the notice of examinations audit letter. The FHCF needs the information prior to the examinations audit; thus, no extensions can be granted.

(6) Premiums.

(a) through (d) No change.

(7) Examination Audit Requirements. A Company is required to prepare and retain an exam audit file in accordance with the specifications outlined in the Data Call instructions. Such records must be retained until the FHCF has completed its examination audit of a Company's exposure submission and any loss reports applicable to the Data Call Contract Year. The records provided for examination audit must be from the exam audit file as originally prepared unless a subsequent resubmission was sent to the FHCF. ~~Please Note~~ that both Citizens and Insurers participating in Quota Share Primary Insurance Arrangements must keep complete and accurate records, including copies of policy declaration pages and supporting claims documents, for the purpose of exposure and loss reimbursement examinations audit by the FHCF.

(a) Advance Examination Audit Record Requirements: Within 30 days from the date on the letter from the FHCF, Companies are required to provide the FHCF with the records indicated in Form FHCF-AP1, "Advance Preparation Instructions." An extension of 30 days may be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the participant. This form is hereby adopted and incorporated by reference into this rule.

(b) On-site Examination Audit Record Requirements: The FHCF-AP1, "Advance Preparation Instructions" form contains a list of the information that the Companies must have available, on-site, on the date the examination audit is to begin. These records must be made available to the FHCF examiner auditor upon request.

(c) Response to the FHCF Examination Audit Report: Within 30 days from the date of the letter accompanying the examination audit report, a Company must provide a written response to the FHCF. The response must indicate whether the Company agrees with the recommendation of the examination audit report. If the Company disagrees with the examination audit findings, the reason for the disagreement will be outlined in the response and the Company will provide supporting information to support its objection.

(d) Resubmissions as a Result of a Completed Examination Audit: A Company required to resubmit as a result of the examination audit must do so within 30 days of the date on the letter from the FHCF notifying the Company of the

need to resubmit. An extension of 30 days will be granted if the Company can show that the need for additional time is due to circumstances beyond the reasonable control of the Company.

(7)(e) No change.

(8) Loss Reporting. Participating Insurers are required to file the following two types of loss reports at the times prescribed in Rule 19-8.029, F.A.C. Form FHCF-L1A, "Florida Hurricane Catastrophe Fund Interim Loss Report," rev. 5/054 and Form FHCF-L1B, "Florida Hurricane Catastrophe Fund Proof of Loss Report," rev. 5/11/054. Both of these forms are hereby adopted and incorporated by reference into this rule.

(9) Penalties and Additional Charges. The Participating Insurers' responsibilities outlined in this rule are not an exhaustive list and Section 215.555, F.S. and other rules promulgated under that section may outline additional responsibilities or deadlines. The failure by a Participating Insurer to meet any of the deadlines or responsibilities outlined in this rule, Section 215.555, F.S. or any other Rule applicable to the FHCF constitute a violation of the Florida Insurance Code. In the event of a violation, in addition to the consequences outlined below, the FHCF may notify the Office of Insurance Regulation of the violation. The Office of Insurance Regulation may take whatever action it deems appropriate in addressing the violation.

(a) through (b) No change.

(c) Consequences for Failure to meet the requirements contained in the FHCF-AP1, "Advance Preparation Instructions" Advance Audit Preparation Record Requirements or the ~~o~~On-site examination Audit Record Requirements in a timely manner: In addition to other penalties or consequences, the FHCF has the authority, pursuant to Section 215.555(4)(f), F.S., to require that the Insurer pay for the following services under the circumstances outlined below:

1. If an examination audit is delayed, cannot be conducted as scheduled or cannot be completed and the insurer is responsible for such, the Insurer shall be required to reimburse the FHCF for all the usual and customary expenses connected to such delay, cancellation or incompleteness. Such expenses shall include but not be limited to the examiner's auditor's fees, travel expenses, lodging, and food.

2. If the FHCF finds any Insurer's records or other necessary information to be inadequate or inadequately posted, recorded, or maintained, the FHCF may employ experts to reconstruct, rewrite, record, post, or maintain such records or information, at the expense of the Insurer being examined audited.

3. An Insurer required to reimburse the FHCF for costs as outlined in paragraphs 1. and 2. immediately above, will owe interest ~~at the market rate~~ on the amount owed to the FHCF from the date the FHCF pays such expenses until the date payment from the Insurer is received. The applicable interest rate will be the average rate earned by the SBA for the FHCF

for the first five months of the current Contract Year plus 5%. Also, the payment of reimbursements or refunds by the FHCF to any Insurer will be offset by any amounts owed by that Insurer to the FHCF.

(10) No change.

Specific Authority 215.555(3) FS. Law Implemented 215.555 FS. History--New 5-13-03, Amended, 5-19-04,_____.

19-8.031 Hurricane Mitigation.

Specific Authority 215.555(7) FS. Law Implemented 215.555 FS. History--New 5-13-03, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, Senior FHCF Officer, Florida Hurricane Catastrophe Fund, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 2004, Vol. 30, No. 51

STATE BOARD OF ADMINISTRATION

RULE TITLE: Investment Policy Statement RULE NO.: 19-9.001

PURPOSE AND EFFECT: This rule is promulgated to implement Section 121.4501(14), regarding the Public Employee Optional Retirement Program.

SUMMARY: Proposed amended Rule 19-9.001, F.A.C., adopts revisions to the Investment Policy Statement required by Section 121.4501(14), F.S., and approved by the Trustees of the State Board of Administration on February 1, 2005. The Investment Policy Statement is incorporated by reference in the rule. The dates of approval will no longer be shown in the body of the rule but instead will be shown on the document incorporated by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 121.4501(8)(a), 215.52 FS.

LAW IMPLEMENTED: 121.4501(1),(2),(3),(4),(5),(6),(7),(8),(9),(10),(11),(12),(13),(14),(15) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m. - 4:00 p.m., Thursday, March 10, 2005

PLACE: Emerald Coast Room, 6th Floor, 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300, (850)413-1199

THE FULL TEXT OF THE PROPOSED RULE IS:

19-9.001 Investment Policy Statement.

The Florida Retirement System Public Employee Optional Retirement Program Investment Policy Statement, as approved by the Trustees of the State Board of Administration, is hereby adopted and incorporated by reference.

Specific Authority 121.4501(8)(a), 215.52 FS. Law Implemented 121.4501(1),(2),(3),(4),(5),(6),(7),(8),(9),(10),(11),(12),(13),(14),(15) FS. History--New 7-29-01, Amended 7-23-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kevin SigRist, Senior Investment Officer-Defined Contribution Programs, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2004

DEPARTMENT OF CORRECTIONS

RULE TITLE: Medical Consultations by Non-Department Providers RULE NO.: 33-401.601

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide a process for handling requests to have inmates examined by non-department medical providers.

SUMMARY: The proposed rule sets forth the circumstances under which requests to have inmates examined by non-department medical providers should be submitted, and describes the process for review and approval of the requests.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 945.091 FS.

LAW IMPLEMENTED: 944.09, 945.091 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-401.601 Medical Consultations by Non-Department Providers.

(1) This rule is applicable only to non-department provider consultations that are requested, initiated or scheduled by inmates, attorneys or other inmate representatives. Such medical consultations shall be allowed only under the conditions set forth in this rule.

(2) Requests for non-department provider consultations related to the services being provided to the inmate by the department will not be approved. Consideration shall be limited to those requests for the following purposes:

(a) Evaluations for parole consideration;

(b) Evaluations for court proceedings;

(c) Evaluations associated with an application for benefits or services from another agency or entity such as: workers' compensation, veteran's benefits, or social security benefits; or

(d) Evaluations associated with medical procedures that are not provided by the department, and that do not present current or future operational, security, or financial concerns for the department.

(3) All non-department provider consultation and evaluation costs, including security and transport costs and costs resulting from the evaluation or preparation for the evaluation, shall be made at the expense of the inmate and at no expense whatsoever to the Department of Corrections.

(4) Process for Submission of Requests.

(a) Requests for medical consultations or evaluations by non-department providers shall be submitted to the warden at the institution where the inmate is incarcerated.

(b) If the request involves having the inmate taken to the non-department consultant rather than having the consultation take place at the institution, the requestor shall provide with the request a statement verifying that he has contacted the Sheriff of the county in which the consultation is to occur and, at his expense, arranged with the Sheriff to secure the custody and transportation of the inmate.

(5) Consultations at the Institution.

(a) The warden shall forward the request to the Assistant Secretary for Health Services or his designee for review to determine whether the consultation would be reasonably likely to endanger the life or physical safety of the inmate or another person (for example, the inmate is in suicide observation status, or is assigned to a crisis stabilization unit or transitional care unit).

(b) If the Office of Health Services has no objection to the request, the request shall be approved by that office and forwarded to the warden. The warden shall provide final approval or disapproval based upon whether allowing the consultation would be detrimental to the security or order of the institution.

(c) If the request is approved, the warden shall notify the person making the request of any additional restrictions related to scheduling or security at the institution. The consultant and any persons accompanying the consultant will be subject to a background check and security review the same as any other inmate visitor.

(6) Requests for Consultations outside the Institution.

(a) The Assistant Secretary for Health Services, subsequent to his review for medical issues, shall forward the request to the Assistant Secretary for Institutions to review for security concerns. The Assistant Secretary for Institutions shall forward the results of the medical and security reviews to the Secretary or his designee.

(b) After reaching agreement with the representative of the inmate, the Sheriff should contact the Secretary or his designee to make the necessary transport arrangements. The Secretary or his designee shall confirm that the Sheriff has determined to his satisfaction that the request is valid and the date and place the consultation is to be held. The Sheriff must agree to secure the inmate, keep him in custody at all times, and return him to the institution from which he obtained custody at no expense to the Department of Corrections.

(c) The Secretary or his designee shall have the discretion of determining whether the inmate may be safely released for such purposes after giving due regard to the custody requirements of the inmate. If the Secretary or his designee is satisfied that the inmate meets these requirements, he will authorize the Sheriff to take custody and advise him of the location of the inmate. The Secretary or his designee shall establish the date the inmate is to be returned to the custody of the Department of Corrections and any conditions of the transfer of custody. If the inmate is to be transported out of state, the inmate must sign a waiver of extradition agreeing to the transfer to the other state for the purpose stated and his subsequent return to the Department of Corrections. The warden or Officer-in-Charge of the institution where such inmate is located shall obtain such waiver as a condition of the inmate's release to out-of-state authorities.

(d) The warden or the Officer-in-Charge of the institution having custody of such inmate shall be notified of the authorization to the Sheriff to take custody and the conditions of such authorization.

(e) The warden or the Officer-in-Charge having custody of the inmate shall verify the identity and authority of the agent arriving at the institution to take custody and shall secure a receipt of the temporary transfer of custody.

(f) It shall be the responsibility of the Sheriff at all times to retain custody of the inmate and to return him to the institution from which custody was obtained at the time set by the Secretary. Upon the return of the inmate to the institution a receipt shall be provided to the Sheriff.

(7) A certified true copy of the inmate’s medical record will be available to the outside consultant only when the inmate has completed a department release specifically authorizing the department to release a copy of the medical record to the outside consultant.

(8) Any court orders received directing that a medical consultation take place or directing the department to transport an inmate or allow an inmate to be transported to a medical consultation shall be immediately forwarded to the Office of the General Counsel for review.

Specific Authority 20.315, 944.09, 945.091 FS. Law Implemented 944.09, 945.091 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick H. Brown, M.D.
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14, 2005

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLES:	RULE NOS.:
Definitions	59A-8.002
Licensure Requirements	59A-8.003
Licensure Procedure	59A-8.004
Scope of Services	59A-8.008
Denial, Suspension, Revocation of License and Imposition of Fines	59A-8.0086
Personnel	59A-8.0095
Personnel Policies	59A-8.0185
Acceptance of Patients or Clients	59A-8.020
Clinical Records	59A-8.022
Advance Directives	59A-8.0245

PURPOSE AND EFFECT: The purpose and effect of the proposed rules are to reduce and clarify requirements for the licensing, operation and record keeping of home health agencies. Separate applications for initial, renewal and change of ownership licenses are referenced with less information required for renewal of licenses, replacing the single longer application. Language is added regarding Do Not Resuscitate Orders as required in Section 400.487(7), Florida Statutes.

SUMMARY: The proposed amendment to Rule 59A-8.002, F.A.C., removes the restriction to washing and drying only bed bound patients. The proposed amendments to Rule 59A-8.003, F.A.C., expand the 12 month survey cycle to 9 to 15 months,

the same as the federal survey cycle; remove the requirement to send copies of complaints of accredited home health agencies to accrediting organizations; add language to clarify that a drop off site is merely a staff work station and not a home health agency office; decrease the amount of advance notice required for relocation of home health agency offices and explain emergency relocation; eliminate the requirement for fire safety reports of home health agency offices since patients are not served in these offices; establish a time period for access to records and listings of patients when inspected; require the return of licenses when a license fee check is returned by the financial institution due to insufficient funds and when a license is revoked, suspended or terminated. The proposed amendments to Rule 59A-8.004, F.A.C., notice revised license application forms and an updated affidavit of good moral character due to changes to Chapter 435, Florida Statutes; add the web site address and update the mailing address; and require compliance with screening requirements in Section 400.215(7), F.S., when staffing is provided to nursing homes. The proposed amendments to Rule 59A-8.008, F.A.C., remove the limitation of contracted therapy to independent contractors and clarify that home health agencies must provide at least one service directly. The proposed amendments to Rule 59A-8.0086, F.A.C., add falsification of records and failure to provide at least one service directly to the reasons for administrative action and add a fine for operating without a license. Language is added to Rule 59A-8.0095, F.A.C., to reference the Department of Health rule on biomedical waste and clarify that the responsibilities of the home health aide and certified nursing assistants include performance of assigned activities. Amendments are proposed to Rule 59A-8.0185, F.A.C., reducing the requirements for tuberculin testing as recommended by the Department of Health and adding chiropractors to the health professionals that can provide health statements for staff. Training on HIV and AIDS is updated to comply with Section 381.0035, Florida Statutes, thus only requiring training biennially. An amendment proposed to Rule 59A-8.020, F.A.C., adds that when a patient is accepted for services, agency staff should be able to communicate with the patient, another person designated by the patient, or through technology that translates so that services can be safely provided. The proposed amendment to Rule 59A-8.022, F.A.C., adds the use of rubber stamp signatures by physicians, as permitted by federal policy. The Advance Directives rule at Rule 59A-8.0245, F.A.C., is updated to reference a new version of the patient information document currently in rule and add that home health agencies may honor Do Not Resuscitate Orders as specified in Section 400.487(7), Florida Statutes.

SUMMARY OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared. It is anticipated that costs will be less for home health agencies as a result of the reduction in requirements in these amendments.

Any person who wishes to provide information regarding the statement of 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: 400.487(7), 400.497 FS.

LAW IMPLEMENTED: 400.471, 400.484, 400.487, 400.497, 400.512 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anne Menard, Home Care Unit, Bureau of Health Facility Regulation, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308, e-mail: menarda@fdhc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-8.002 Definitions.

(1) through (2) No change.

(3) "Assistance with activities of daily living" means a certified nursing assistant or a home health aide provides to the patient individual assistance with activities of daily living, including the following:

(a) Ambulation. Providing physical support to enable the patient to move about within or outside of the patient's place of residence. Physical support includes holding the patient's hand, elbow, under the arm, or holding on to a support belt worn by the patient to assist in providing stability or direction while the patient ambulates.

(b) Bathing. Helping the patient in and out of the bathtub or shower being available while the patient is bathing. Can also include washing and drying the patient ~~who is bed-bound~~.

(c) Dressing. Helping patients, who require assistance in dressing themselves, put on and remove clothing.

(d) Eating. Helping with feeding patients who require assistance in feeding themselves.

(4) through (18) No change.

Specific Authority 400.497 FS. Law Implemented 400.462, 400.487 FS. History—New 4-19-76, Formerly 10D-68.02, Amended 4-30-86, 8-10-88, 5-30-90, 5-27-92, Formerly 10D-68.002, Amended 10-27-94, 1-17-00, 7-18-01, _____.

59A-8.003 Licensure Requirements.

(1) No change.

(2) An application for renewal of license must be submitted to AHCA at least 90 days prior to the date of expiration of the license, pursuant to Section 400.471(6), F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license. Home health agencies that apply for renewal of their licenses will be surveyed on a variable survey cycle, pursuant to Section 400.484, F.S., based

on the extent of compliance on previous surveys with these rules and state laws. After two consecutive full surveys, home health agencies that had no class I, class II, or class III deficiencies, as defined in Section 400.484(2)(a)-(c), F.S., as a result of the surveys or a complaint survey, will be surveyed on an unannounced basis no later than every 36 months. Home health agencies that had no class I or class II deficiencies as defined in Section 400.484(2)(a) and (b), F.S., as a result of the previous survey or a complaint survey will be surveyed on an unannounced basis no later than a range of 12 to 36 months. Home health agencies that had a change of ownership since the previous survey, a complaint survey or other survey with a class I or class II deficiency citation, as defined in Section 400.484(2)(a)-(b), F.S., will receive an unannounced survey no later than every 9 to 15 ~~±~~ months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis, prior to the next full survey cycle. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the survey.

(3) No change.

(4) AHCA will conduct investigations of complaints regarding licensure violations. Complaint investigations will be unannounced. An entrance conference will be conducted to inform the administrator of the nature of the complaint. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the investigation. ~~For complaints involving accredited home health agencies, a copy of the report will be sent to the appropriate accrediting organization. Patient names will be redacted prior to mailing.~~

(5) through (7) No change.

(8) A licensed home health agency may operate a drop-off site in any county within the geographic service area specified on the license of the main office. A drop-off site may be used for pick-up or drop-off of supplies or records, for agency staff to use to complete paperwork or to communicate with the main office, existing or prospective agency staff, or the agency's existing patients. Prospective patients cannot be contacted and billing cannot be done from this location. The drop-off site is not a home health agency office, but merely a work station for direct care staff in large areas where the distance is too great for staff to drive back frequently to the home health agency office. A drop-off site shall not require a license. No other business shall be conducted at these locations, including housing of records. The agency name cannot appear at the location, unless required by law or by the rental contract, nor can the location appear on agency letterhead or in advertising.

(9) If a change of address is to occur, or if an agency intends to open a satellite office, the home health agency must provide 14 ~~30~~ days advance notice in writing to the AHCA Home Care Unit in Tallahassee and the AHCA area office. The home health agency must submit to the AHCA Home Care

Unit a certificate of occupancy, certificate of use, or evidence that the location is zoned for a home health agency business fire and zoning reports for the new address. Failure to notify AHCA within the time frame will result in a \$500 fine, pursuant to Section 400.474(1), F.S. Emergency relocations must be reported within seven days, with the reason for the relocation documented, to avoid a penalty assessment. An emergency relocation can be due to any of the following situations: 1) an eviction notice; 2) environmental conditions on or near the site which are not conducive to the health and well being of staff and clients, including a fire or flooding; 3) an element near the site which would make the premises harmful or dangerous; 4) circumstances arising from or caused by weather conditions and/or a natural disaster; or 5) a change in property zoning that requires the home health agency to move.

(10) A home health agency has the following responsibility in terms of hours of operation:

(a) The home health agency administrator and director of nursing, or their alternates, must be available to the public for any eight consecutive hours between 7 a.m. and 6 p.m., Monday through Friday of each week, excluding legal and religious holidays. Available to the public means being readily available on the premises or by telecommunications.

(b) When the administrator and the director of nursing are not on the premises during designated business hours, a staff person must be available to answer the phone and the door and must be able to contact the administrator and the director of nursing by telecommunications. This individual can be a clerical staff person.

(c) If an AHCA surveyor arrives on the premises to conduct an unannounced survey and the administrator, the director of nursing, or a person authorized to give access to patient records, are not available on the premises they, or the designated alternate, must be available on the premises within an hour of the arrival of the surveyor during the course of the survey. A list of current patients must be provided to the surveyor within two hours of arrival if requested.

(d) The home health agency shall have written policies and procedures governing 24 hour availability to licensed professional nursing staff by active patients of the home health agency receiving skilled care. These procedures shall describe an on-call system whereby designated nursing staff will be available to directly communicate with the patient. For agencies which provide only home health aide and homemaker, companion and sitter services and who provide no skilled care, written policies and procedures shall address the availability of a supervisor during hours of patient service.

(e) Failure to be available or to respond, as defined in subsections (a) through (c) above, will result in a \$500 fine, pursuant to Section 400.474(1), F.S. A second incident will be grounds for denial or revocation of the agency license.

(11) No change.

(12) If licensure application fee checks are returned by the financial institution due to insufficient funds, the license is not valid and shall be returned to the AHCA Home Care Unit by the home health agency.

(13) Upon revocation, suspension, voluntary or involuntary termination of a license, the home health agency shall return its license to AHCA. If the provider voluntarily chooses to terminate the license, the provider must notify AHCA by submitting a letter, to the address: AHCA Home Care Unit, 2727 Mahan Drive – Mail Stop 34, Tallahassee, FL 32308, officially declaring the closure date of the home health agency.

Specific Authority 400.497 FS. Law Implemented 400.464, 400.741, 400.497, 400.471, 400.484 FS. History—New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 10-27-94, 2-1-97, 1-17-00, 7-18-01, _____.

59A-8.004 Licensure Procedure.

(1) An application for licensure, initial, change of ownership, or renewal, shall be made on a form, prescribed by the AHCA; Home Health Agency Application for Initial Licensure, form number, AHCA 3110-1001, Revised December 2004; Application for Renewal of Licensure, form number, AHCA 3110-1011, December 2004; and Application for Change of Ownership, form number AHCA3110-1012, December 2004, all incorporated by reference. These forms ~~The form~~ may be obtained at the AHCA web site, www.fdhc.state.fl.us, in the Home Care Unit pages. If the requestor is unable to obtain the documents from the web site, the forms may be obtained from the AHCA Home Care Unit by contacting (850)414-6010 and sending a check or money order to cover the Agency's costs for the copying and mailing through the Agency for Health Care Administration—Health Facility Regulation, Home Care Unit, 2727 Mahan Drive, Building 1, Room 200, Mail Stop 34, Tallahassee, Florida 32308.

(2) through (4) No change.

(5) For initial applications, including changes of ownership, the applicant must submit proof of financial ability to operate, pursuant to s. 400.471(3), F.S. The compliance is demonstrated by completion of AHCA Form 3110-1013, December 2004, schedules 1 through 7 of the home health agency application, as referenced in subsection (1) above.

(6) An applicant for renewal of licenses shall not be required to provide proof of financial ability to operate, unless the applicant has demonstrated financial inability to operate, as defined in subsection 59A-8.002(16), F.A.C. If an agency has shown signs of financial instability AHCA shall require the applicant for renewal of license to provide proof of financial ability to operate, by submitting schedules 3 through 7 of AHCA Form 3110-1013, December 2004, described in subsection (5) above.

(7) No change.

(8) New employees may work on probationary status, once they have submitted the documents described in subsections (9) or (10) below, including a signed and notarized copy of the Affidavit of Good Moral Character, AHCA 3110-0001, December 2004, pending a determination of compliance with minimum standards set forth in Chapter 435, F.S.

(9) Screening for good moral character for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in Section 400.471(4), F.S. The fingerprint card for level 2 screening for the administrator and the financial officer can be obtained from the Agency for Health Care Administration, Home Care Unit, by calling (850)414-6010 or sending a request by fax to (850)922-5374. The completed fingerprint card, and should be submitted with a check or money order to cover the cost of the screening to; the Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, ~~Building 1, Room 200~~, Mail Stop 34, Tallahassee, Florida 32308.

(10) Level 1 Screening for good moral character for all personnel, including contractors, who enter the home shall consist of:

Submission of the Request for Level 1 Criminal History Check, AHCA form 3110-0002, Revised January 2003 ~~June 1998~~, incorporated by reference. The FDLE form can be submitted either through AHCA's Background Screening Unit, directly to FDLE, or through a third party vendor. The address for submission to AHCA's Background Screening Unit is AHCA Background Screening Unit, Mail Stop 40, 2727 Mahan Drive, Tallahassee, FL 32308. The address for submission through FDLE is FDLE, Crime Information Bureau, Post Office Box 1489, Tallahassee, Florida 32302. The form may be obtained at the Agency for Health Care Administration web site, <http://www.fdhc.state.fl.us>, at the Background Screening page through the Agency for Health Care Administration—Health Facility Regulation, Home Care Unit, 2727 Mahan Drive, Building 1, Room 200, Mail Stop 34, Tallahassee, Florida 32308. The cost of processing the screening request must be paid by the home health agency or the employee being screened. The check must accompany the screening request and be made payable to the FDLE or to the home health agency's agent, if one is used for FDLE screening.

(11) No change.

(12) If the home health agency provides staffing to nursing homes, any staff who have not lived in Florida for the past five years must have level 2 screening as required by Section 400.215(7), F.S.

Specific Authority 400.497 FS. Law Implemented 400.471, 400.512 FS. History—New 4-19-76, Formerly 10D-68.04, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, 10-6-91, Formerly 10D-68.004, Amended 10-27-94, 2-1-97, 1-17-00, 7-18-01, _____.

59A-8.008 Scope of Services.

(1) No change.

(2) In cases of patients receiving only physical, speech, respiratory or occupational therapy services, or in cases of patients receiving only one or more of these therapy services and home health aide services, case management shall be provided by the licensed therapist, who is a direct employee of the agency or ~~a an independent~~ contractor.

(3) No change.

(4) The agency's application for licensure objectives shall state explicitly what services will be provided directly by agency employees or by contracted personnel, if services are provided by contract. The home health agency shall provide at least one service directly to patients.

(5) through (6) No change.

Specific Authority 400.487, 400.497, 400.509 FS. Law Implemented 400.497 FS. History—New 10-27-94, Formerly 10D-68.08, Amended 4-30-86, 8-10-88, 5-30-90, Formerly 10D-68.008, Amended 10-27-94, 1-17-00, 7-18-01, _____.

59A-8.0086 Denial, Suspension, Revocation of License and Imposition of Fines.

(1) The AHCA shall deny, suspend or revoke an application for license, or impose a fine.

(a) If the applicant fails to submit all information required in the application within 30 days of being notified by AHCA Home Care Unit of the omissions in the application, the application shall be denied within time frames specified in Chapter 120, F.S.

(b) No change.

(c) If the applicant fails to provide at least one service directly to patients for a period of six consecutive months and to carry out its responsibilities for the care of patients as described in Section 400.487(5), F.S.

(d) through (e) No change.

(f) If AHCA finds evidence of any falsification of home health agency patient or personnel records, that are attributable to the home health agency's staff and of which the owners, managers or supervisors were aware or should have been aware, AHCA may deny or revoke the license.

(2) through (4) No change.

(5) A fine of \$2,500 shall be assessed against providers determined by AHCA to be operating without a valid license that fail to cease operating until licensed by AHCA as required in Section 400.474, F.S.

Specific Authority 400.497 FS. Law Implemented 120.59, 400.474, 400.484 FS. History—New 10-27-94, Amended 1-17-00, 7-18-01, _____.

59A-8.0095 Personnel.

- (1) No change.
- (2) Director of Nursing.
 - (a) No change.

(b) If the administrator is not a physician or registered nurse, the director of nursing shall:

1. Establish service policies and procedures in compliance with subsections 64E-16.001(4),(5), F.A.C., and state health statutes and administrative rules; pursuant to Section 381.0011(4), F.S., which generally conform to recommended Centers for Disease Control (CDC) and Occupational Safety and Health Agency (OSHA) guidelines for safety, universal precautions and infection control procedures;

2. through 4. No change.

(c) through (e) No change.

(3) through (4) No change.

(5) Home Health Aide and Certified Nursing Assistant

(a) through (l) No change.

(m) Responsibilities of the home health aide and CNA shall include:

1. The performance of all personal care activities contained in a written assignment by a licensed health professional employee or contractor of the home health agency and which include assisting the patient or client with personal hygiene, ambulation, eating, dressing, shaving, and physical transfer, and other duties as assigned.

2. through 3. No change.

(n) through (s) No change.

(6) through (12) No change.

Specific Authority 400.497 FS. Law Implemented 400.462, 400.471, 400.487, 400.488, 400.497 FS. History—New 2-1-97, Amended 1-17-00, 7-18-01, _____.

59A-8.0185 Personnel Policies.

(1) No change.

(2) Personnel policies ~~for available to~~ all full and part-time employees shall include the following:

(a) Requirement that, prior to contact with patients the ~~new~~ employee must submit ~~the results of a Mantoux method tuberculin skin test (TST) performed within the last six months, pursuant to Section 381.0011(4), F.S. The employee must also submit~~ a statement from a health care professional licensed under Chapter 458, ~~or 459 or 460~~, F.S., a physician's assistant, or an advanced registered nurse practitioner (ARNP) or a registered nurse licensed under Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician, based on an exam within the last six months, that the employee is in reasonably reasonable good health and appears to be free from apparent signs or symptoms of a communicable disease including tuberculosis, pursuant to Section 381.0011(4), F.S. does not appear to be at risk of transmitting communicable diseases. It is the responsibility of the agency to ensure that

~~employees staff~~ continue to appear to be in good health and that patients are not placed at risk by employees with positive tuberculin skin test TST (10 or more MM's). If any employee is later found to have, or is suspected of having, a communicable disease, he shall be removed from duties until the administrator determines that such condition no longer exists. Positive test reactors shall submit a statement from health care professional licensed under Chapter 458 or 459, F.S., that the employee does not constitute a risk of communicating tuberculosis. A new employee, who has been an employee of another licensed home health agency, may provide a copy of his health care statement from the files of the former employer provided that the statement was not issued more than 2 years prior and that the employee has not had a break in service of more than 90 days. Upon the specific written request of an individual staff member, copies of the most recent tuberculosis test result and above mentioned health statement may be released by one employer and provided to another employer within 2 years of the initial date of the test results and statement. Medical information is confidential and must not be disclosed without the specific consent of the person to whom it pertains. The written request to release medical information ~~the physical examination~~ must be kept on file.

(b) Requirement that records are maintained of training for non-licensed direct care personnel which demonstrates that they have received a continuing educational course biennially on HIV and AIDS minimum of 2 hours of initial training and 1 hour biennially of in service training in HIV and AIDS, pursuant to Section 381.0035, F.S. ~~The training should include universal precautions and infection control procedures to ensure proper practices are followed.~~

(c) through (e) No change.

(3) The agency shall maintain a file for all employees which shall include name and address of employee, name and address of next of kin or guardian, evidence of qualifications, licensure or registration if applicable, a signed and notarized Affidavit of Good Moral Character, AHCA Form 3110-0001, December 2004, for any newly hired employee working in a probationary status pending the results of the background screening, results of background screening, and dates of employment and separation from the agency. Evidence of continuing education, ~~and in-service training, and the training required in (2), for home health aides~~ shall be on file and this information shall be kept in the personnel files or in a separate filing system maintained for this purpose and shall be available for inspection within three hours of request.

(4) No change.

Specific Authority 400.497 FS. Law Implemented 400.471, 400.497 FS. History—New 10-27-94, Amended 1-17-00, 7-18-01, _____.

59A-8.020 Acceptance of Patients or Clients.

(1) When a home health agency accepts a patient or client for service, there shall be a reasonable expectation that the services can be provided safely to the patient or client in his place of residence. This includes being able to communicate with the patient, or with another person designated by the patient, either through a staff person or interpreter that speaks the same language, or through technology that translates so that the services can be provided. The responsibility of the agency is also to assure that the patient or client receives services as defined in a specific plan of care, for those patients receiving care under a physician's treatment orders, or in a written agreement, as described in subsection (3) below, for clients receiving care without a physician's orders. This responsibility includes assuring the patient receives all assigned visits.

(2) through (4) No change.

Specific Authority 400.497 FS. Law Implemented 400.487 FS. History--New 4-19-76, Formerly 10D-68.20, Amended 4-30-86, 8-10-88, Formerly 10D-68.020, Amended 10-27-94, 1-17-00, 7-18-01, _____.

59A-8.022 Clinical Records.

(1) through (4) No change.

(5) Clinical records must contain the following:

(a) No change.

(b) Physician's verbal orders initiated by the physician prior to start of care and signed by the physician within 30 days after the ~~of~~ start of care;

(c) through (l) No change.

(6) No change.

(a) No change.

(b) Alternative Signatures.

1. Home health agencies that maintain patient records by computer rather than hard copy may use electronic signatures. However, all such entries must be appropriately authenticated and dated. Authentication must include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has reviewed and approved the entry. The home health agency must have safeguards to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system breakdown.

2. Home health agencies may accept a physician's rubber stamp signature. The individual whose signature the stamp represents must place in the administrative offices of the home health agency a signed statement attesting that he/she is the only one who has the stamp and uses it.

Specific Authority 400.497 FS. Law Implemented 400.491, 400.494, 400.497 FS. History--New 4-19-76, Amended 2-2-77, Formerly 10D-68.22, Amended 4-30-86, 8-10-88, Formerly 10D-68.022, Amended 10-27-94, 1-17-00, 7-18-01, _____.

59A-8.0245 Advance Directives.

(1) No change.

(2) The home health agency's policy shall include:

(a) Providing each adult patient, in advance of receiving services, with a copy of "Health Care Advance Directives - The Patients' Right to Decide", as prepared by the Agency for Health Care Administration, ~~2727 Mahan Drive, Tallahassee, FL 32308,~~ revised February, 2004 and available at http://www.fdhc.state.fl.us/MCHO/Health_Facility_Regulation/HC_Advance_Directives ~~December, 1997,~~ which is hereby incorporated by reference, or with a copy of a document drafted by a person or organization other than AHCA which is a written description of Florida's state law regarding advance directives;

(b) Providing each adult patient, in advance of receiving services, with written information concerning the home health agency's policies respecting advance directives; and

(c) The requirement that documentation of whether or not the patient has executed an advance directive shall be contained in the patient's medical record and not kept solely at another location in the agency. If an advanced directive has been executed, a copy of that document shall be made a part of the patient's medical record and a copy shall be kept in the patient's home. If the home health agency does not receive a copy of the advanced directive for a patient, the agency must document that it has requested a copy in the patient's record.

(d) No change.

(3) Pursuant to Section 400.487(7), F.S., a home health agency may honor a DNRO as follows:

(a) Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid Do Not Resuscitate Order (DNRO) is present, executed pursuant to Section 401.45, F.S.

(b) Home health personnel and agencies shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a Do Not Resuscitate Order (DNRO) and rules adopted by the agency, pursuant to Section 400.487(7), F.S. Any licensed professional home health agency personnel, who, in good faith, obeys the directives of an existing DNRO, executed pursuant to Section 401.45 F.S., will not be subject to prosecution or civil liability for his/her performance regarding patient care.

Specific Authority 400.487, 765.110 FS. Law Implemented 400.487, 400.497, 765.110 FS. History--New 1-11-93, Amended 1-17-00, 7-18-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anne Menard, Home Care Unit, Bureau of Health Facility Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeffrey N. Gregg, Chief, Bureau of Health Facility Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Acute Care Bed Need
 RULE NO.: 59C-1.038

PURPOSE AND EFFECT: The agency is repealing Rule 59C-1.038, F.A.C., which sets forth Certificate of Need review criteria for acute care beds. Section 6 of Chapter 2004-383, Laws of Florida, revised Chapter 408, F.S., necessitating repeal of the rule.

SUMMARY: Rule 59C-1.038, F.A.C., is being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 408.15(8), 408.034(3),(5), 408.039(4)(a) FS.

LAW IMPLEMENTED: 408.034(3), 408.035, 408.036(1)(a), (b),(e),(h), 408.039(4)(a) FS.

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

TIME AND DATE: 2:00 p.m. (EST), March 8, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, MS 28, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.038 Acute Care Bed Need.

Specific Authority 408.15(8), 408.034(3),(5), 408.039(4)(a) FS. Law Implemented 408.034(3), 408.035, 408.036(1)(a),(b),(e),(h), 408.039(4)(a) FS. History—New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5.11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(m), 10-5.038, Amended 8-24-93, 7-1-96, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rommel Bain, Health Services and Facilities Consultant

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Rivera, Consultant Supervisor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2005

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

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

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2005. The effect will be to incorporate by reference in the rule the current Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2005.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2005. The coverage and limitations handbook revisions include global HIPAA language and modifications in procedure code and claim form combinations due to HIPAA.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908, 409.9081 FS.

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

TIME AND DATE: 10:00 a.m., March 7, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jason Ottinger, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, MS 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.210 Optometric Services.

(1) No change.

(2) All optometric practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2005 ~~March 2003~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 ~~and Child~~

~~Health Check-Up 221~~, which is incorporated by reference in Rule 59G-4.0015-020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908, 409.9081 FS. History—New 4-13-93, Amended 7-1-93, Formerly 10C-7.069, Amended 12-21-97, 10-13-98, 5-24-99, 4-23-00, 7-5-01, 2-20-03, 8-5-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jason Ottinger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Aged and Disabled Adult Waiver Services

RULE NO.: 59G-13.030

PURPOSE AND EFFECT: The purpose of this rule is to incorporate by reference the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook, March 2004. This handbook includes the provider requirements, covered services, service limitations, procedure codes, and fees for the Florida Medicaid Aged and Disabled Adult Waiver Services Program. The handbook also includes changes required by the Health Insurance Portability and Accountability Act (HIPAA). The effect will be to incorporate by reference in the rule the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook.

In the Notice of Rule Development, we proposed incorporating the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook in Rule 59G-8.610, F.A.C. For administrative purposes, we decided to incorporate the handbooks under new rule Chapter 59G-13, F.A.C., Medicaid Waiver Programs. Rule 59G-8, F.A.C., pertains to Managed Care, so we promulgated a new rule chapter that pertains to Medicaid waiver programs.

SUMMARY: The purpose of this rule is to incorporate by reference the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook, March 2004. The handbook includes provider requirements, covered services, service limitations, procedure codes, and fees.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.912 FS.

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

DATE AND TIME: 10:00 a.m., March 7, 2005

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carol Schultz, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7349

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.030 Aged and Disabled Adult Waiver Services.

(1) This rule applies to all aged and disabled adult waiver services providers enrolled in the Medicaid program.

(2) All aged and disabled adult waiver services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook, March 2004, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, Non-Institutional 081 which is incorporated by reference in Rule 59G-13.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) The following forms that are included in the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook are incorporated by reference: Appendix B contains the AS Screening for Consideration for Community-Based Programs, CF-AA Form 1022, PDF 08/2004, four pages; Appendix C contains the Florida Department of Children and Families and Florida Department of Elder Affairs, CF-MED 3008, Oct 96, two pages; Appendix D contains the Notification of Level of Care, DOEA-CARES Form 603 (Revised March 2003), one page; Appendix E contains the Notice of Hospice Election Waiver, AHCA Form 5000-29, March 2004, one page, and the Cooperative Agreement for a Hospice and Medicaid Waiver Enrolled Recipient, AHCA Form 5000-30, March 2004, two pages. Appendix B also contains the Department of Elder Affairs Assessment Instrument, DOEA Form 701B, which is incorporated by reference in Rule 58A-1.010, F.A.C. The Department of Children and Families (DCF) forms are available from DCF. The Department of Elder Affairs (DOEA) forms are available from DOEA. The Agency for Health Care Administration (AHCA) forms are available by photocopying the forms in this handbook.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.912 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carol Schultz
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 14, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 26, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLES: Florida Homeowners' Construction Recovery Fund
RULE NOS.: 61G4-21.001
Definitions 61G4-21.002
Filing Claims 61G4-21.003
Claims Review 61G4-21.004
Payment of Claims 61G4-21.005

PURPOSE AND EFFECT: To provide procedures for processing claims to the Florida Homeowners' Construction Recovery Fund.

SUMMARY: Florida Homeowners' Recovery Fund procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 489.108 FS.

LAW IMPLEMENTED: 489.140-.143 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING WHICH WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tim Vaccaro, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G4-21.001 Florida Homeowners' Construction Recovery Fund Construction Industries Recovery Fund.

The purpose of this rule is to provide procedures for processing claims to the Florida Homeowners' Construction Recovery Fund Construction Industries Recovery Fund.

Specific Authority 489.108 FS. Law Implemented 489.140-.143 FS. History--New 7-11-95, Amended_____.

61G4-21.002 Definitions.

(1) "All reasonable searches and inquiries," as provided in Section 489.141(1)(a)3., F.S., shall mean that exhaustive efforts have been made to determine whether the contractor licensee possesses any property or assets with which to satisfy the underlying civil judgment, order of restitution, or award in arbitration, in whole or in part, and that no such property or assets has been identified or located. Reasonable searches and inquiries shall constitute the following: if applicable: documentation showing that exhaustive efforts have been taken:

(a) To locate the contractor;

(b) To discover if the contractor has assets from which to collect the judgment, including but not limited to accounts and real or personal property and equipment;

(c) To determine whether or not the contractor is insured and if insured, that claimant has filed a claim with the contractor's insurance carrier;

(d) To file a valid lien against the contractor;

(e) To collect against any applicable bond issued with the contractor as the principal; and

(f) To file a garnishment against the contractor.

Such documentation shall include, but is not limited to, proof from the claimant that the claimant has conducted a property records search in the licensee's state(s) county(ies) of residence and principal place of business, and has made inquiries with the Department of Highway Safety and Motor Vehicles, Bureau of Titling and Registration, the Federal Aviation Administration, and the Department of State, Uniform Commercial Code filings section and such other proof as the Construction Industry Licensing Board may from time to time require in particular instances. A claimant shall not be excused from making all reasonable searches and inquires because the contractor has filed for protection under the bankruptcy code.

(2) "Diligent attempt," as provided in Section 489.141(4)(b), F.S., shall have the same meaning as "all reasonable searches and inquiries" in paragraph (1)(a) above.

(3) "Notice," as used in Section 489.141(1), F.S., and for purposes of this rule, means written notice that the claimant is seeking recovery from the Recovery Fund intends to file a claim against the Construction Industries.

(4) No change.

(5) "Recovery Fund" as used in these rules shall mean the Florida Homeowners' Construction Recovery Fund.

(6) "Contractor" as used in these rules shall mean any licensee, operating individually or as a business entity, licensed under Chapter 489, Part I, Florida Statutes, when a claim is filed prior to July 1, 2007, and the contract was executed and the violation occurred on or before January 1, 2005. When the contract was executed and the violation occurred after January 1, 2005, "Contractor" as used in these rules shall mean a Division I contractor performing services described in Section 489.105(3)(a)-(c), Florida Statutes.

(7) “Actual Damages” as used in Section 489.143(2), Florida Statutes, shall mean the general measure of damages for failing to perform a construction contract, which is the difference between the contract price, together with the change orders, and the cost of construction completion by another builder, where the cost of completion is for the same scope of work and materials set out in the original contract.

(8) “Natural Person” as used in Section 489.140, Florida Statutes, shall mean the same as that in Art. I, Sections 2.21, Fla. Const.: female and male alike, and not firms, associations, joint ventures, partnerships, estates, trusts, syndicates, fiduciaries, corporations, or any other groups or combinations.

Specific Authority 489.108 FS. Law Implemented 489.141, 489.143 FS. History—New 7-11-95, Amended 11-13-97, 3-10-03, _____.

61G4-21.003 Filing Claims.

(1) A claim against the ~~Construction Industries Recovery Fund~~ shall be made on Form DPR/CILB/022, “Florida Homeowners’ Construction Recovery Fund Claim Form, Construction Industries Recovery Fund” as provided in Rule 61G4-12.006, F.A.C.

(2) Completed claim forms shall be forwarded to the Board, together with a copy of the complaint that initiated action against the contractor, Claimant shall complete the claim form and forward with documentation attached to the board: a certified copy of the underlying Civil Judgment, order of restitution, or award in arbitration, together with the judgment, or Final Order of the Construction Industry Licensing Board; a copy of any contract between the claimant and the contractor, including change orders; proof of payment to the contractor and/or subcontractors; copies of any liens and releases filed against the property, together with the Notice of Claim and Notice to Owner; copies of applicable bonds, sureties, guarantees, warranties, letters of credit and/or policies of insurance; certified copies of levy and execution documents, and proof of all efforts and inability to collect the judgment or restitution order, and other documentation as may be required by the Board in support of the claim.

(3) Where the final judgment or order of restitution is not expressly based on Section 489.129(1)(g),(j) or (k), Florida Statutes, claimant must present to the board sufficient evidence to show that the contractor engaged in activity that is described in those subsections.

(4) In the event that the contractor filed for protection under the bankruptcy code, claimant must show that a diligent attempt was made to participate in the distribution of assets, if any.

(5) Claims made between October 1, 1998 and July 1, 2004, shall be considered timely if the Construction Industry Licensing Board received a claim form at any time prior to or within one year after the conclusion of any civil, criminal, or administrative action or award in arbitration based on the act which gave rise to the claim.

Specific Authority 489.108 FS. Law Implemented 489.141 FS. History—New 7-11-95, Amended 7-1-96, _____.

61G4-21.004 Claims Review.

(1) No claims will be processed until 45 days after the date indicated on the Civil Judgment or Final Restitution Order, or award in arbitration.

(a) A claim number shall not be assigned until a completed and signed ~~construction industries recovery~~ fund claim form, as incorporated in Rule 61G4-12.006, F.A.C., is received.

(b) Upon receipt of the completed claim form as set out below a “Notice of Claim,” as incorporated in Rule 61G4-12.006, F.A.C. above, notice will be given to the contractor(s) and the licensee determined to be the qualifier(s) of the business entity involved in the contract. Notice shall be given to the mailing address as it appears in the Department records.

(2) No change.

(3) The Board hereby delegates to the Department authority to issue a closing order for any claim when:

(a) The Claimant is licensee who acted as the contractor, qualifying agent or Qualified Business in the transaction which is the subject of the claim;

(b) The claimant is the spouse of the judgment debtor or licensee or a personal representative of such spouse;

(c) The claim is based upon a construction contract in which the licensee was acting with respect to the property owned or controlled by the licensee;

(d) The claim is based upon a construction contract in which the contractor did not hold a valid and current license at the time of the construction contract;

(e) The Claimant was associated in a business relationship with the licensee other than the contract at issue;

(f) The claimant has failed to provide documentation in support of the claims required by rule; or

(g) Where the licensee has reached the aggregate limit. For the purpose of oversight by the Board, the Recovery Fund’s legal staff shall, on a monthly basis, provide the Chairperson, or the Chairperson’s delegate with copies of all closing orders filed in the preceding period.

(4)(3) No change.

(5)(4) The Board shall give notice to the claimant, the contractor and the licensee of the time and place where the committee will review the claim and the Board will take action on the claim. Claim cases will not be set on the committee agenda for review unless all the major elements of the claim are present. These are: a completed and signed claim form, a judgment, judgment or final order of restitution, or award in arbitration, evidence of a Section 489.129(1)(g), (j), or (k), Florida Statutes, violation, all reasonable searches and inquiries a diligent effort at collection, and an asset search where appropriate.

(6) Claims shall be set for review in claim number order.

~~(7)(5)~~ The Board shall either authorize payment of the claim in full or in part, or deny the claim in full ~~or in part~~, by entry of a Final Order in accordance with Section 489.143, F.S. Action by the Board shall be considered final agency action.

~~(8)(6)~~ No change.

~~(9)(7)~~ No change.

Specific Authority 489.108 FS. Law Implemented 489.141, 489.143 FS. History—New 7-11-95, Amended 4-27-99, _____.

61G4-21.005 Payment of Claims.

(1) If the Board authorizes payment of any claim in full or in part, then it shall forward the final agency action with respect to the claim to the Secretary of the Department for payment.

(2) Procedures for disbursements of funds shall not commence until 45 days after the filing of the Final Order of the Board approving payment of any claim from the recovery fund.

(3) No claimant eligible for, or currently receiving, restitution under a civil or criminal restitution order or other repayment plan shall be eligible to recover from the Fund until two or more payments have been missed. Prior to receiving any payments, such a claimant shall provide the Board with a written affirmation of amount received to date under such an order, the date and amount of the last payment, and how much is still due and owing under such an order.

Specific Authority 489.108 FS. Law Implemented 489.141, 489.143 FS. History—New 7-11-95, Amended 4-27-99, 6-19-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tim Vaccaro, Executive Director, Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLE: Continuing Education for Reactivation
RULE NO.: 61G6-9.001

PURPOSE AND EFFECT: The proposed rule amendment sets forth the number of hours of continuing education and subject matters required for reactivation.

SUMMARY: The proposed rule amendment specifies the specific subject matters and distribution of the twelve classroom hours required annually for licensure reactivation.

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: 489.507(3), 489.519 FS.

LAW IMPLEMENTED: 489.519 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: John Knap, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-9.001 Continuing Education for Reactivation.

As a condition to the reactivation of an inactive license, a licensee must submit proof of the completion of twelve (12) classroom hours of continuing education which meets the criteria set forth in Rule 61G6-9.002, F.A.C. for each year of inactive status, not to exceed 48 hours. Of the twelve (12) classroom hours required per year, at least seven (7) hours must be on technical subjects, one (1) hour on workers' compensation, one (1) hour on workplace safety, one (1) hour on business practices and, for alarm system contractors and electrical contractors engaged in alarm system contracting, one (1) hour on false alarm prevention. The continuing education credits needed for reactivation must be completed within the four (4) years preceding reactivation.

Specific Authority 489.507(3), 489.519 FS. Law Implemented 489.519 FS. History—New 1-2-80, Amended 10-13-80, Formerly 21GG-9.01, Amended 12-24-97, 12-27-00, 10-1-03, _____.

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: January 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 30, 2004

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are 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 CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE TITLE: Need
 RULE NO.: 65A-4.208

PURPOSE AND EFFECT: The proposed rule amendment aligns the definition of “in a setting approved by the department” under Section 414.095(2)(a)4., F.S., with the federal Temporary Assistance for Needy Families (TANF) program requirements for purposes of minor children’s eligibility for temporary cash assistance TCA/TANF benefits and/or services. TANF laws and regulations do not authorize the expenditure of TCA/TANF funds to serve children placed with adult non-relatives unless they are a “minor parent” who has not attained 18 years of age, is not married (never married), and is caring for her dependent child(ren). The minor parent and dependent child must reside in the household of a parent, legal guardian, other adult relative, or in an adult-supervised supportive living arrangement pursuant to 45 CFR 233.107.

SUMMARY: The proposed rule amendment provides that, for the purpose of determining TCA/TANF eligibility, a minor child must reside with a parent(s), or a relative caretaker relative(s) who is within a specified degree of relationship unless a minor unwed parent with a dependent child. An unwed minor parent is required to live with a parent(s), legal guardian(s), other adult caretaker relative(s), or in an adult-supervised supportive living arrangement pursuant to 45 CFR 233.107. The term “in a setting approved by the department” under Section 414.095(2)(a)4., F.S., means a department-approved adult-supervised supportive living arrangement as required for unwed minor children and their dependent children pursuant to 45 CFR 233.107.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.095(19), 414.45 FS.

LAW IMPLEMENTED: 414.095(2)(a),(b),(5),(15) FS.

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

TIME AND DATE: 10:30 a.m., March 9, 2005

PLACE: 1317 Winewood Boulevard, Building 3, Room 439, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Lange, Chief, Program Policy, Economic Self-Sufficiency, 1317 Winewood Boulevard, Building 3, Room 414, Tallahassee, Florida 32399-0700, (850)921-0253

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.208 Need.

(1) No change.

(2) For temporary cash assistance (TCA), the following individuals are included in the assistance group:

(a) The minor child for whom assistance is requested, ~~must provided the child~~ meets all non-financial state and federal Temporary Assistance to Needy Families (TANF)/TCA ~~temporary cash assistance~~ eligibility criteria pursuant to Public Law 104-193, section 401(a)(1) and section 408(a)(1)(A)(i), 45 CFR 233.10, 45 CFR 233.90(c)(v)(A), 45 CFR 233.107, and s. 414.095(2) and (15), F.S. The term “in a setting approved by the department” set forth in Section 414.095(2)(a)4., F.S., means a department-approved adult-supervised supportive living arrangement for an unwed minor child and their dependent child(ren) pursuant to 45 CFR 233.107 and Section 414.095(15), F.S.

(b) through (c) No change.

(3)(a) No change.

(b) A 16-18 year old who is not in school and who refuses to participate in the ~~TCA temporary cash assistance~~ employment and training program unless good cause exists for non-participation in the employment and training program or school prescribed in Rule ~~65A-4.2131~~ ~~65A-1.521~~, F.A.C.; ~~dated August 1997.~~

(4) through (9) No change.

Specific Authority 414.095(19), 414.45 FS. Law Implemented 414.095(2)(a),(b),(5),(15) FS. History–New 1-11-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lonna Cichon, Government Operations Consultant II

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Lange

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2004

DEPARTMENT OF FINANCIAL SERVICES

Office of Insurance Regulation

RULE TITLE: Use of Credit Reports and Credit Scores by Insurers
 RULE NO.: 690-125.005

PURPOSE, EFFECT AND SUMMARY: The proposed rule implements the provisions of Section 626.9741, F.S. created by Senate Bill 40-A, which address compliance; statistical detail standards to ensure that rates or premiums associated with credit reports or scores are not unfairly discriminatory; and standards for review of models, methods, programs, or other processes that produce credit scores to determine that they are not unfairly discriminatory. The rule establishes standards and requirements for the use of credit reports or scores by insurers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1), 626.9741(8) FS.

LAW IMPLEMENTED: 624.307(2), 626.9741 FS.

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

TIME AND DATE: 10:00 a.m., March 9, 2005

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Milnes, Senior Management Analyst/Supervisor, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0330, e-mail: michael.milnes@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-125.005 Use of Credit Reports and Credit Scores by Insurers.

(1) For the purpose of this rule, the following definitions apply:

(a) "Applicant", for purposes of Section 626.9741, F.S., means an individual whose credit report or score is requested for underwriting or rating purposes relating to personal lines motor vehicle or personal lines residential insurance and shall not include individuals who have merely requested a quote.

(b) "Credit scoring methodology" means any methodology that uses credit reports or credit scores, in whole or in part, for underwriting or rating purposes.

(c) "Data cleansing" means the correction or enhancement of presumed incomplete, incorrect, missing, or improperly formatted information.

(d) "Personal lines motor vehicle" insurance means insurance against loss or damage to any motorized land vehicle or any loss, liability, or expense resulting from or incidental to ownership, maintenance or use of such vehicle if the contract of insurance shows one or more natural persons as named insureds.

1. The following are not included in this definition:

a. Vehicles used as public livery or conveyance;

b. Vehicles rented to others;

c. Vehicles with more than four wheels;

d. Vehicles used primarily for commercial purposes; and

e. Vehicles with a net vehicle weight of more than 5,000 pounds designed or used for the carriage of goods (other than the personal effects of passengers) or drawing a trailer designed or used for the carriage of such goods.

2. The following are specifically included, inter alia, in this definition:

a. Motorcycles;

b. Motor homes;

c. Antique or classic automobiles; and

d. Recreational vehicles.

(e) "Unfairly discriminatory" means that adverse decisions resulting from the use of a credit scoring methodology disproportionately affects persons belonging to any of the classes set forth in Section 626.9741(8)(c), F.S.

(2) Insurers may not use any credit scoring methodology that is unfairly discriminatory. The burden of demonstrating that the credit scoring methodology is not unfairly discriminatory is upon the insurer.

(3) An insurer may not request or use a credit report or credit score in its underwriting or rating method unless it maintains and adheres to established written procedures that reflect the restrictions set forth in the federal Fair Credit Reporting Act, Section 626.9741, F.S., and these rules.

(4) Upon initial use or any change in that use, insurers using credit reports or credit scores for underwriting or rating personal lines residential or personal lines motor vehicle insurance shall include the following information in filings submitted pursuant to Section 627.062 or 627.0651, F.S.

(a) A listing of the types of individuals whose credit reports or scores the company will use or attempt to use to underwrite or rate a given policy. For example:

1. Person signing application;

2. Named insured or spouse; and

3. All listed operators.

(b) How those individual reports or scores will be combined if more than one is used. For example:

1. Average score used;

2. Highest score used.

(c) The name(s) of the consumer reporting agencies or any other third party vendors from which the company will obtain or attempt to obtain credit reports or scores.

(d) Precise identifying information specifying or describing the credit scoring methodology, if any, the company will use including:

1. Common or trade name;

2. Version, subtype, or intended segment of business the system was designed for; and

3. Any other information needed to distinguish a particular credit scoring methodology from other similar ones, whether developed by the company or by a third party vendor.

(e) The effect of particular scores or ranges of scores (or, for companies not using scores, the effect of particular items appearing on a credit report) on any of the following as applicable:

1. Rate or premium charged for a policy of insurance;
2. Placement of an insured or applicant in a rating tier;
3. Placement of an applicant or insured in a company within an affiliated group of insurance companies;
4. Decision to refuse to issue or renew a policy of insurance or to issue a policy with exclusions or restrictions or limitations in payment plans.

(f) The effect of the absence or insufficiency of credit history (as referenced in Section 626.9741(4)(c)1., F.S.) on any items listed in paragraph (e) above.

(g) The manner in which collection accounts identified with a medical industry code (as referenced in Section 626.9741(4)(c)2., F.S.) on a consumer's credit report will be treated in the underwriting or rating process or within any credit scoring methodology used.

(h) The manner in which collection accounts that are not identified with a medical industry code, but which an applicant or insured demonstrates are the direct result of significant and extraordinary medical expenses, will be treated in the underwriting or rating process or within any credit scoring methodology used.

(i) The manner in which the following will be treated in the underwriting or rating process, or within any credit scoring methodology used:

1. Credit inquiries not initiated by the consumer;
2. Requests by the consumer for the consumer's own credit information;
3. Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry or the home mortgage industry and made within 30 days of one another;
4. Multiple lender inquiries that are not coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry or the home mortgage industry and made within 30 days of one another, but that an applicant or insured demonstrates are the direct result of such inquiries;

5. Inquiries relating to insurance coverage, if so identified on a consumer's credit report; and

6. Inquiries relating to insurance coverage that are not so identified on a consumer's credit report, but which an applicant or insured demonstrates are the direct result of such inquiries.

(j) The list of all clear and specific primary reasons that may be cited to the consumer as the basis or explanation for an adverse decision under Section 626.9741(3), F.S. and the criteria determining when each of those reasons will be so cited.

(k) A description of the process that the insurer will use to correct any error in premium charged the insured, or in underwriting decision made concerning the insured, if the basis of the premium charged or the decision made is a disputed item that is later removed from the credit report or corrected, provided that the insured first notifies the insurer that the item has been removed or corrected.

(l) A certification that no use of credit reports or scores in rating insurance will apply to any component of a rate or premium attributed to hurricane coverage for residential properties as separately identified in accordance with Section 627.0629, F.S.

(5) Insurers desiring to make adverse decisions for personal lines motor vehicle policies or personal lines residential policies based on the absence or insufficiency of credit history shall either:

(a) Treat such consumers or applicants as otherwise approved by the Office of Insurance Regulation if the insurer presents information that such an absence or inability is related to the risk for the insurer and does not result in a disparate impact on persons belonging to any of the classes set forth in Section 626.9741(8)(c), F.S. This information will be held as confidential if properly so identified by the insurer and eligible under Section 626.9711, F.S. The information shall include:

1. Data comparing experience for each category of those with absent or insufficient credit history to each category of insureds separately treated with respect to credit and having sufficient credit history;

2. A statistically credible method of analysis that concludes that the relationship between absence or insufficiency and the risk assumed is not due to chance;

3. A statistically credible method of analysis that concludes that absence or insufficiency of credit history does not disparately impact persons belonging to any of the classes set forth in Section 626.9741(8)(c), F.S.;

4. A statistically credible method of analysis that confirms that the treatment proposed by the insurer is quantitatively appropriate; and

5. Statistical tests establishing that the treatment proposed by the insurer is warranted for the total of all consumers with absence or insufficiency of credit history and for at least two subsets of such consumers;

(b) Treat such consumers as if the applicant or insured had neutral credit information, as defined by the insurer. Should an insurer fail to specify a definition, neutral is defined as the average score that a stratified random sample of consumers or applicants having sufficient credit history would attain using the insurer's credit scoring methodology; or

(c) Exclude credit as a factor and use other criteria. These other criteria must be specified by the insurer and must not result in average treatment for the totality of consumers with an

absence of or insufficiency of credit history any less favorable than the treatment of average consumers or applicants having sufficient credit history.

(6) Insurers desiring to make adverse decisions for personal lines motor vehicle or personal lines residential insurance based on information contained in a credit report or score shall file with the Office information establishing that the results of such decisions do not correlate so closely with the zip code of residence of the insured as to constitute a decision based on place of residence of the insured in violation of Section 626.9741(4)(c)3., F.S.

(7)(a) Insurers using credit reports or credit scores for underwriting or rating personal lines residential or personal lines motor vehicle insurance shall develop, maintain, and adhere to written procedures consistent with Section 626.9741(4)(e), F.S. providing appeals for applicants or insureds whose credit reports or scores are unduly influenced by dissolution of marriage, death of a spouse, or temporary loss of employment.

(b) These procedures shall be subject to examination by the Office at any time.

(8)(a)1. Insurers using credit reports or credit scoring in rating personal lines motor vehicle or personal lines residential insurance shall develop, maintain, and adhere to written procedures to review the credit history of an insured who was adversely affected by such use at initial rating of the policy or subsequent renewal thereof.

2. These procedures shall be subject to examination by the Office at any time.

3. The procedures shall comply with the following:

a. A review shall be conducted:

(I) No later than 2 years following the date of any adverse decision, or

(II) Any time, at the request of the insured, but no more than once per policy period without insurer assent.

b. The insurer shall notify the named insureds annually of their right to request the review in (II) above. Renewal notices issued 120 days or less after the effective date of this rule are not included in this requirement.

c. The insurer shall adjust the premium to reflect any improvement in credit history no later than the first renewal date that follows a review of credit history. The renewal premium shall be subject to other rating factors lawfully used by the insurer.

d. The review shall not be used by the insurer to cancel, refuse to renew, or require a change in the method of payment or payment plan based on credit history.

(b)1. As an alternative to the requirements in paragraph (8)(a), insurers using credit reports or scores at the inception of a policy but not for re-underwriting shall develop, maintain, and adhere to written procedures.

2. These procedures shall be subject to examination by the Office at any time.

3. The procedures shall comply with the following:

a. Insureds shall be reevaluated no later than 3 years following policy inception based on allowable underwriting or rating factors, excluding credit information.

b. The rate or premium charged to an insured shall not be greater, solely as a result of the reevaluation, than the rate or premium charged for the immediately preceding policy term. This shall not be construed to prohibit an insurer from applying regular underwriting criteria (which may result in a greater premium) or general rate increases to the premium charged.

c. For insureds that received an adverse decision notification at policy inception, no residual effects of that adverse decision shall survive the reevaluation. This means that the reevaluation must be complete enough to make it possible for insureds adversely impacted at inception to attain the lowest available rate for which comparable insureds are eligible, considering only allowable underwriting or rating factors (excluding credit information) at the time of the reevaluation.

(9) No credit scoring methodology shall be used for personal lines motor vehicle or personal lines residential property insurance unless that methodology has been demonstrated to be a valid predictor of the insurance risk to be assumed by an insurer for the applicable type of insurance. The demonstration of validity detailed below need only be provided with the first rate, rule, or underwriting guidelines filing following the effective date of this rule and at any time a change is made in the credit scoring methodology. Other such filings may instead refer to the most recent prior filing containing a demonstration. Information supplied in the context of a demonstration of validity will be held as confidential if properly so identified by the insurer and eligible under Section 626.9711, F.S. A demonstration of validity shall include:

(a) A listing of the persons that contributed substantially to the development of the most current version of the method, including resumes of the persons, if obtainable, indicating their qualifications and experience in similar endeavors.

(b) An enumeration of all data cleansing techniques that have been used in the development of the method, which shall include:

1. The nature of each technique;

2. Any biases the technique might introduce; and

3. The prevalence of each type of invalid information prior to correction or enhancement.

(c) All data input that was used by the model developers in the derivation and calibration of the model parameters.

1. Data shall be in sufficient detail to permit the Office to conduct multiple regression testing for validation of the credit scoring methodology.

2. Data, including field definitions, shall be supplied in electronic format compatible with the software used by the Office.

(d) Statistical results showing that the model and parameters are predictive and not overlapping or duplicative of any other variables used to rate an applicant to such a degree as to render their combined use actuarially unsound. Such results shall include the period of time for which each element from a credit report is used.

(e) A precise listing of all elements from a credit report that are used in scoring, and the formula used to compute the score, including the time period during which each element is used. Such listing is confidential if properly so identified by the insurer.

(f) An assessment by a qualified actuary, economist, or statistician (whether or not employed by the insurer) other than persons who contributed substantially to the development of the credit scoring methodology, concluding that there is a significant statistical correlation between the scores and frequency or severity of claims. The assessment shall:

1. Identify the person performing the assessment and show his or her educational and professional experience qualifications; and

2. Include a test of robustness of the model, showing that it performs well on a credible validation data set. The validation data set may not be the one from which the model was developed.

(g) Documentation consisting of statistical testing of the application of the credit scoring model to determine whether it results in a disproportionate impact on the classes set forth in Section 626.9741(8)(c), F.S. A model that disproportionately affects any such class of persons is presumed to have a disparate impact and is presumed to be unfairly discriminatory.

1. Statistical analysis shall be performed on the current insureds of the insurer using the proposed credit scoring model, and shall include the raw data and detailed results on each classification set forth in Section 626.9741(8)(c), F.S. In lieu of such analysis insurers may use the alternative in subparagraph 2. below.

2. Alternatively, insurers may submit statistical studies and analyses that have been performed by educational institutions, independent professional associations, or other reputable entities recognized in the field, that indicate that there is no disproportionate impact on any of the classes set forth in Section 626.9741(8)(c), F.S. attributable to the use of credit reports or scores. Any such studies or analyses shall have been done concerning the specific credit scoring model proposed by the insurer.

3. The Office will utilize generally accepted statistical analysis principles in reviewing studies submitted which support the insurer's analysis that the credit scoring model does not disproportionately impact any class based upon race, color, religion, marital status, age, gender, income, national origin, or place of residence. The Office will permit reliance on such studies only to the extent that they permit independent verification of the results.

(h) The testing or validation results obtained in the course of the assessment in paragraphs (d) and (f) above.

(i) Internal Insurer data that validates the premium differentials proposed based on the scores or ranges of scores.

1. Industry or countrywide data may be used to the extent that the Florida insurer data lacks credibility based upon generally accepted actuarial standards. Insurers using industry or countrywide data for validation shall supply Florida insurer data and demonstrate that generally accepted actuarial standards would allow reliance on each set of data to the extent the insurer has done so.

2. Validation data including claims on personal lines residential insurance policies that are the result of acts of God shall not be used unless such acts occurred prior to January 1, 2004.

3. The mere copying of another company's system will not fulfill the requirement to validate proposed premium differentials unless the filer has used a method or system for less than 3 years and demonstrates that it is not cost effective to retrospectively analyze its own data. Companies under common ownership, management, and control may copy to fulfill the requirement to validate proposed premium differentials if they demonstrate that the characteristics of the business to be written by the affiliate doing the copying are sufficiently similar to the affiliate being copied to presume common differentials will be accurate.

(j) The credibility standards and any judgmental adjustments, including limitations on effects, that have been used in the process of deriving premium differentials proposed and validated in paragraph (i) above.

(k) An explanation of how the credit scoring methodology treats discrepancies in the information that could have been obtained from different consumer reporting agencies: Equifax, Experian, or TransUnion. This shall not be construed to require insurers to obtain multiple reports for each insured or applicant.

(l)1. The date that each of the analyses, tests, and validations required in paragraphs (d) through (j) above was most recently performed, and a certification that the results continue to be applicable.

2. Any item not reviewed in the previous 5 years is unacceptable.

Specific Authority 624.308(1), 626.9741(8) FS. Law Implemented 624.307(1), 626.9741 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Milnes, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2003 and February 27, 2004

DEPARTMENT OF FINANCIAL SERVICES

Office of Insurance Regulation

RULE TITLE: Workers' Compensation Insurer Reporting of Significant Underwriting Changes
 RULE NO.: 690-189.015

PURPOSE, EFFECT AND SUMMARY: To administer the requirements of Section 624.4315, Florida Statutes, which requires workers' compensation insurers to notify the Office of Insurance Regulation of significant underwriting changes. The rule provides for definitions and sets forth what criteria for determining actions constitute a significant underwriting change and prescribes the contents of the notice submitted to the Office.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1), 624.4315 FS.

LAW IMPLEMENTED: 624.4315 FS.

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

TIME AND DATE: 10:00 a.m., March 8, 2005

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Watford, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation, e-mail: jim.watford@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-189.015 Workers' Compensation Insurer Reporting of Significant Underwriting Changes.

(1) Purpose: To administer the requirements of Section 624.4315, F.S.

(2) Definitions:

(a) "Insurer Group" means two or more affiliated insurers that are under common ownership and/or management.

(b) "Underwriting" is defined as the insurer selection of policyholders through hazard recognition and evaluation.

(c) "Underwriting Change" is any deliberately planned change in insurer administrative policies or procedures that will affect the insurer's acceptance or rejection of applicants for workers' compensation coverage, the insurer's acceptance or rejection of renewal policies or results in the mid-term cancellation of policies in Florida. An insurer that transfers policyholders to another insurer in the "Insurer Group", with no lapse in coverage occurring for the policyholder, has not made an "Underwriting Change" for purposes of this rule.

(d) "Significant Underwriting Change that materially limits or restricts the number of workers' compensation policies or premiums written in Florida" means an Underwriting Change that results in any of the following:

1. Will reduce the number of in-force policies for the "Insurer Group" by at least 500 policies over the 12 months following the change.

2. Will reduce the number of in-force policies of the "Insurer Group" by at least 100 and will reduce the number of in-force policies of the "Insurer Group" at the end of the previous calendar year by more than 25% over the 12 months following the change.

3. Will reduce the direct premiums written by at least \$2 million and the direct written premiums for the "Insurer Group" for the 12 months following the change will be reduced by more than 30% of the prior calendar year excluding the impact of rate changes and payroll changes.

4. Will result in the complete elimination of all workers' compensation policies in Florida for any insurer.

(3) Any insurer authorized to transact workers' compensation insurance in Florida shall notify the Office within 30 days of implementing any Significant Underwriting Change that will materially limit or restrict the number of workers' compensation policies or premiums written in Florida. The notification shall include the following:

(a) Name of Insurer or Insurers.

(b) Reason for the Significant Underwriting Change.

(c) A detailed description of the change and the expected impact.

(d) Anticipated number of policies that will be impacted by change.

(e) Anticipated percentage of policies in force that will be impacted by change.

(f) Estimated written premium impacted by change.

(g) Estimated written premium impacted by change as a percent of total written premium for the 12 months following the change excluding the impact of rate changes or payroll changes.

(h) Does change affect some classes more than others? Yes or No. If answer is Yes, describe the affected classes.

(i) Date that insurer will begin implementing change.

(j) Effective dates of policies that will be affected by change.

(k) How long will it take for the change to be fully implemented?

(4) In order to monitor changes, each insurer shall report to the Office annually, the following information for the preceding calendar year, to be received by the Office no later than June 1st.

(a) Number of policies in-force as of December 31st.

(b) Calendar year direct written premium as reported on the Florida State Page (Statutory Page 14) of the Annual Statement.

(5) The information required by subsections (3) and (4) shall be reported through the Office's website at <http://www.fldfs.com/companies/>. In lieu of reporting this information directly, each insurer can authorize the designated statistical agent to report the information required by subsection (4) on their behalf. If the insurer authorizes the designated statistical agent to report the information required by subsection (4), any corrections to that data shall be submitted by the designated statistical agent.

Specific Authority 624.308(1), 624.4315 FS. Law Implemented 624.4315 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Watford, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Miller, Deputy Commissioner, Forms and Rates, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2004

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-10 RULE CHAPTER TITLE: Outdoor Advertising Sign Regulation and Highway Beautification

RULE NO.: 14-10.0052 RULE TITLE: Zoning Enacted Primarily to Permit Outdoor Advertising Signs

NOTICE OF HEARING

Based upon a request for a hearing, a hearing will be held as follows:

TIME AND DATE: 1:30 p.m., March 14, 2005

PLACE: Florida Department of Transportation, Haydon Burns Building Auditorium, 605 Suwannee Street, Tallahassee, Florida

Notice was published in Florida Administrative Weekly, Vol. 31, No. 1, January 7, 2005.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-51 RULE CHAPTER TITLE: Florida's Highway Guide Sign Program

RULE NOS.:	RULE TITLES:
14-51.013	Sign Evaluation Process
14-51.014	General Criteria
14-51.020	Supplemental Guide Signs
14-51.021	General Service Signs
14-51.030	Supplemental Guide Signs
14-51.041	Criteria for Unincorporated Communities

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. 30, No. 38, September 17, 2004, issue of the Florida Administrative Weekly.

There were no requests for hearing and no hearing was held. The rulemaking process currently is suspended under the provisions of Section 120.54(3)(e)6., Florida Statutes, pending resolution of the comments received from the Joint Administrative Procedures Committee.

SUMMARY OF CHANGES: The following changes are being made in response to a review by the Joint Administrative Procedures Committee.

1. 14-51.013(2): Delete (2)(d) in its entirety and renumber the previously proposed (2)(e) as (2)(d).
2. 14-51.014: Add a new (8) as follows:

“(8) The proposed design, location, materials, and support structure must fully comply with current Department's Design Standards Indices Numbered 9535, 11860, 11861, 11862, 11863, 11864, 11865, and 17302, and Section 994, “Retroreflective and Nonrefelctive Sign Sheeting,” from the Standard Specifications for Road and Bridge Construction, 2004 edition. These documents, incorporated herein by reference, can be downloaded at the following locations: <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/9535.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/11860.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/11861.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/11862.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/11863.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/11864.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/11865.pdf>; <http://www.dot.state.fl.us/rddesign/rd/RTDS/04/17302.pdf>; <http://www.dot.state.fl.us/specificationsoffice/2004BK/D994.doc.pdf>.”

3. 14-51.014(2): Change the language to delete references to “suggested annual attendance” as follows: