

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Application	65C-20.008
Staffing Requirements	65C-20.009
Health Related Requirements	65C-20.010
Health Records	65C-20.011
Large Family Child Care Homes (LFCCH)	65C-20.013
General Information	65C-22.001
Physical Environment	65C-22.002
Training	65C-22.003
Health Related Requirements	65C-22.004
Food and Nutrition	65C-22.005
Record Keeping	65C-22.006
School Age Child Care	65C-22.008

**PURPOSE AND EFFECT:** To discuss proposed clarifications and amendments to the following rules: Chapter 65C-20, F.A.C., Family Day Care Standards and Large Family Child Care Homes and Chapter 65C-22, F.A.C., Child Care Standards.

**SUBJECT AREA TO BE ADDRESSED:** Family Day Care Standards, Large Family Child Care Homes and Child Care Standards.

**SPECIFIC AUTHORITY:** 402.305 FS.

**LAW IMPLEMENTED:** 402.305 FS.

**RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

(1st WORKSHOP)

**TIME AND DATE:** 1:30 p.m., January 30, 2006

**PLACE:** Department of Children and Families, 401 N.W. 2nd Ave., Room N1007, Miami, Florida 33128

(2ND WORKSHOP)

**TIME AND DATE:** 1:30 p.m., February 9, 2006

**PLACE:** Department of Children and Families, 1317 Winewood Boulevard, Building 6, 2nd Floor, Conference Room A, Tallahassee, Florida 32399-0700

(3RD WORKSHOP)

**TIME AND DATE:** 1:30 p.m., February 22, 2006

**PLACE:** Department of Children and Families, 400 W. Robinson Street, Conference Room B, Hurston Building South Tower, Orlando, Florida 32801

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Abbie Messer, Operations Management Consultant II, 1317 Winewood Boulevard, Building 6, Room 373, Tallahassee, FL 32399, (850)488-4900

Copies of the proposed amended rules may be obtained from: Abbie Messer, Operations Management Consultant II, 1317 Winewood Boulevard, Building 6, Room 373, Tallahassee, FL 32399, (850)488-4900.

**Section II  
Proposed Rules**

**DEPARTMENT OF REVENUE**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Amount and Payment of Compensation	12-18.003
Submission of Information and Claims for Compensation	12-18.004

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule 12-18.003, F.A.C. (Amount and Payment of Compensation), is to provide that compensation for tax information will be paid at a flat rate of 10 percent, 5 percent, or 1 percent of the tax, penalty, and interest collected based on the currently established criteria.

The purpose of the proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), is to update information on how to obtain copies of forms from the Department.

**SUMMARY:** The proposed amendments to Rule 12-18.003, F.A.C. (Amount and Payment of Compensation): (1) provide in subsection (2) of the rule that compensation for tax information will be paid at a flat rate of 10 percent, 5 percent, or 1 percent of the tax, penalty, and interest collected, based on the criteria currently established; and (2) remove the provisions of subsection (3) that established the criteria for when the Executive Director will pay an amount of compensation greater than the amounts established in subsection (2) of the rule.

The proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), update information on how to obtain a copy of Form DR-55, Application for Compensation for Tax Information, 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:** 213.06(1), 213.30(1) FS.

**LAW IMPLEMENTED:** 213.30 FS.

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

**TIME AND DATE:** 10:00 a.m., February 6, 2006

**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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12-18.003 Amount and Payment of Compensation.

(1) No change.

(2) The amount of compensation due for providing information resulting in the collection of taxes, penalties, and interest, except for the collection of unpaid taxes derived from the operation of vending machines, will take into account the value of the information in relation to the facts developed in the investigation or inspection of records.

(a) The amount of compensation will be 10 percent of the first \$75,000 in taxes, penalties, and interest collected, 5 percent of the next \$25,000 in taxes, penalties, and interest collected, and 1 percent of any additional taxes, penalties, and interest collected when:

1. The information is provided in the form of detailed and specific documentary or testimonial evidence;

2. The information directly caused an investigation or inspection of records;

3. The information directly resulted in the recovery of taxes, penalties, or interest due that included taxes, penalties, and interest due on a specific infraction of the revenue laws administered by the Department pursuant to Section 213.05, F.S.; and

4. The detailed and specific documentary or testimonial evidence provided by the applicant significantly reduced the time and resources expended in establishing the facts necessary to determine that an infraction of those revenue laws existed.

(b) The amount of compensation will be 5 percent of the first \$75,000 in taxes, penalties, and interest collected, 2 1/2 percent of the next \$25,000 in taxes, penalties, and interest collected, and 1/2 percent of any additional taxes, penalties, and interest collected when:

1. The information provided directly caused an investigation or inspection of records; and

2. The information, although not of sufficient detail or specificity to constitute evidence, was a significant factor in establishing that an infraction occurred and in the recovery of

taxes, penalties, and interest due that included taxes, penalties, and interest due on a specific infraction of the revenue laws administered by the Department pursuant to Section 213.05, F.S.

(c) The amount of compensation will be 1 percent of the first \$75,000 in taxes, penalties, and interest collected, and 1/2 percent of any additional taxes, penalties, and interest collected when:

1. The information caused an investigation or inspection of records; and

2. The information provided was of no value in determining the specific liability for taxes, penalties, or interest due.

~~(3) The Executive Director, or the Executive Director's designee, will pay an applicant an amount greater than the amounts allowed in subsection (2) of this rule when all of the following criteria are met:~~

~~(a) The payment for compensation is insufficient to compensate the applicant for monetary damages;~~

~~(b) The applicant reasonably fears for his or her safety in light of the totality of the circumstances; and~~

~~(c) There is no other way for the Department to secure the proffered information.~~

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

Specific Authority 213.06(1), 213.30(1) FS. Law Implemented 213.30 FS. History—New 6-21-88, Amended 11-14-91, 9-14-93, 10-19-99, \_\_\_\_\_.

12-18.004 Submission of Information and Claims for Compensation.

(1) through (2) No change.

(3)(a) The Department designates Form DR-55, Application for Compensation for Tax Information, as the form to be used by claimants for this purpose. Form DR-55, Application for Compensation for Tax Information (R. 12/02), is hereby incorporated, by reference, in this rule.

(b) Copies of this form may be obtained, without cost, through one or more of the following methods: 1) downloading the form from the Department's Internet site at <http://www.myflorida.com/dor/taxes/rewards.html>; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site 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.

Specific Authority 213.06(1), 213.30(1) FS. Law Implemented 213.30 FS. History—New 6-21-88, Amended 11-14-91, 10-11-99, 10-1-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12-18, F.A.C. (Compensation for Tax Information), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4112-4113). A rule development workshop was held on November 30, 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:	RULE NOS.:
Public Use Forms	12A-1.097
Service Warranties	12A-1.105
Enterprise Zone and Florida Neighborhood Revitalization Programs	12A-1.107

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of sales and use tax.

The purpose of the proposed amendments to Rule 12A-1.105, F.A.C. (Service Warranties), is to: (1) clarify when a registered dealer who repairs or maintains tangible personal property indemnified under a service warranty may issue his or her Annual Resale Certificate to purchase repair parts, materials, and labor tax-exempt; (2) remove an unnecessary example and provisions regarding the imposition of discretionary sales surtax on service warranties; and (3) provide technical changes.

The purpose of the proposed amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), is to implement the provisions of Sections 22 and 30, Chapter 2005-287, L.O.F., regarding the enterprise zone jobs credit.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of sales and use tax; and (2) update information on how to obtain forms from the Department.

The proposed amendments to Rule 12A-1.105, F.A.C. (Service Warranties): (1) remove an unnecessary example regarding the taxability of service warranties; (2) clarify that any registered dealer who performs repairs or maintenance of tangible personal property indemnified under a service warranty may issue the dealer's Annual Resale Certificate to make tax-exempt purchases, for the purpose of resale, of repair parts, materials, and labor that are incorporated into the repair or maintenance property indemnified by a service warranty; (3) remove provisions regarding the imposition of discretionary sales surtax on the sale of service warranties that are provided in Rule 12A-15.003(7), F.A.C.; and (4) provide technical changes.

The proposed amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), provide that any business qualified to receive the enterprise zone jobs credit on or before December 31, 2005, that pays wages after that date may continue to claim that credit, as provided in Sections 22 and 30, Chapter 2005-287, L.O.F.

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., (g)6., (h)6., (n)4., (o)4., (7), (15)(e), 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, 212.0506, 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), 212.15(2), 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), 634.011, 634.131, 634.401, 634.415 FS.

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

TIME AND DATE: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.097 Public Use Forms.

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

(a) Copies of these forms, except those denoted by an asterisk (\*), are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, ~~5) 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 (in Florida only) 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](http://www.myflorida.com/dor)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

(b) No change.

Form Number	Title	Effective Date
(2)(a) DR-1	Application to Collect and/or Report Tax in Florida (R. <u>01/06 01/04</u> )	_____ 09/04
(b) No change.		
(3) through (4) No change.		
(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. <u>01/06 01/05</u> )	_____ 06/05
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. <u>01/06 01/05</u> )	_____ 06/05
(6)(a) DR-15	Sales and Use Tax Return (R. <u>01/06 01/05</u> )	_____ 06/05

(b) DR-15CS	Sales and Use Tax Return (R. <u>01/06 01/05</u> )	_____ 06/05
(c) DR-15CSN	DR-15 Sales and Use Tax <u>Return Returns</u> – Instructions for <u>2006 2005</u> (R. <u>01/06 01/05</u> )	_____ 06/05
(d) DR-15EZ	Sales and Use Tax Return (R. <u>01/06 01/05</u> )	_____ 06/05
(e) DR-15EZCSN	DR-15EZ Sales and Use Tax Return – Instructions for <u>2006 2005</u> (R. <u>01/06 01/05</u> )	_____ 06/05
(f) DR-15EZCN	Instructions for <u>2006 2005</u> DR-15EZ Sales and Use Tax Returns (R. <u>01/06 01/05</u> )	_____ 06/05
(g) through (h) No change.		
(i) DR-15N	Instructions for <u>2006 2005</u> DR-15 Sales and Use Tax Returns (R. <u>01/06 01/05</u> )	_____ 06/05
(j) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, <u>2006 2003</u> (R. <u>01/06 01/03</u> )	_____ 05/03
(k) DR-15ZCN	Instructions for Completing the Sales and Use Tax Return, form DR-15, when taking the Enterprise Zone Jobs Tax Credit under New Law (R. <u>01/06 01/03</u> )	_____ 05/03
(l) No change.		
(m) EZ-M	Florida Enterprise Zone Program – Building Materials Sales Tax Refund Application for Eligibility (R. <u>07/05 07/04</u> )	_____ 08/02

(7) 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, 6-28-05, \_\_\_\_\_.

12A-1.105 Service Warranties.

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

(d) ~~The partial exemption for the sale of new or used motor vehicles to a resident of another state authorized pursuant to Section 212.08(10), F.S., does not apply to the sale of service warranty contracts.~~

~~2. Example: A resident of another state purchases a motor vehicle from a Florida motor vehicle dealer for \$10,000 and a service warranty for \$500. The purchaser executes a notarized statement of his intent to license the vehicle in his state of residence within 10 days from the date of purchase. The tax rate on motor vehicles in the purchaser's state of residence is 3%. The Florida motor vehicle dealer should collect \$300 tax on the sale of the motor vehicle (\$10,000 × .03 = \$300) and \$30 tax on the sale of the service warranty (\$500 × .06 = \$30) for a total of \$330.~~

(2) through (4)(b) No change.

(c) Any dealer registered with the Department who performs repairs or maintenance of tangible personal property indemnified under a service warranty may purchase repair parts, materials, and labor incorporated into the repair or maintenance of indemnified property tax-exempt for the purposes of resale. The repair dealer is required to issue a copy of the dealer's Annual Resale Certificate to the selling dealer at the time of purchase in lieu of paying tax, as provided in Rule 12A-1.039, F.A.C.

(5) The payment of all, or any portion, of a claim arising under a taxable service warranty which is not paid directly to the person performing repairs or maintenance or directly to a lessor of the product listed in the service warranty by the issuer of the service warranty is subject to sales tax. ~~The Such taxable transactions include, but are not limited to, the following amounts are subject to tax:~~

- (a) Any deductible paid by the service warranty holder;
- (b) Any amount paid by the service warranty holder directly to the person performing repairs or maintenance of the product for which the warranty holder may be subsequently reimbursed by the issuer of the service warranty; and
- (c) Payment by the warranty holder for repairs or maintenance that which are not covered by the service warranty.

~~(6) The total consideration received or to be received for any service warranty is subject to any Discretionary Sales Surtax authorized by Section 212.055, F.S., and administered under Section 212.054, F.S., in any county which levies a surtax.~~

Cross Reference: Subsection (7) of Rule 12A-15.003, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (14)(a), (16), 212.0506, ~~212.054, 212.055~~, 212.06, 212.08(7)(v), 212.18(3), 634.011, 634.131, 634.401, 634.415 FS. History—New 1-2-89, Amended 12-11-89, 8-10-92, 1-4-94, 3-20-96, 4-2-00, 6-19-01, \_\_\_\_\_.

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

(1) ENTERPRISE ZONE JOBS CREDIT.

(a) How to Claim the Credit. For employees hired on or after January 1, 2006 ~~October 1, 2004~~, an application that includes the information required by s. 212.096(3)(a)-(f), F.S., effective January 1, 2006 ~~July 1, 2004~~, must be filed with the Enterprise Zone Development Agency for the enterprise zone in which ~~where~~ the business is located to claim the enterprise zone jobs credit. The Department of Revenue prescribes Form DR-15ZC, Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, 2006 ~~2002~~ (incorporated by reference in Rule 12A-1.097, F.A.C.), for this purpose.

(b) Forms Required. Taxpayers claiming the enterprise zone jobs credit against sales and use tax for employees hired on or after January 1, 2006 ~~October 1, 2004~~, must use Form form DR-15ZC to apply for, calculate, and claim the credit with the Department of Revenue. Form DR-15ZC must be

certified by the Enterprise Zone Development Agency, attached to a sales and use tax return, and delivered directly to the Department, or postmarked, within six months after the new employee is hired. Employers Beginning May 1, 2002, ~~employers~~ have seven (~~7~~) months from the date a qualified leased employee is hired to file the certified DR-15ZC with the Department.

(2) BUILDING MATERIALS USED IN THE REHABILITATION OF REAL PROPERTY LOCATED IN AN ENTERPRISE ZONE.

(a) No change.

(b) Forms Required. Taxpayers claiming the refund must file an Application for Refund-Sales and Use Tax (Form form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) and Form form EZ-M with the Department of Revenue. Form DR-26S must be attached to Form form EZ-M and its attachments, and the package must be delivered directly to the Department. For rehabilitation projects completed prior to July 1, 2005, the application package must be delivered to the Department, or postmarked, within 6 months after the rehabilitation of the property is deemed substantially completed by the local building inspector or within 90 days after the rehabilitated property is first subject to assessment. For rehabilitation projects completed on or after July 1, 2005, the application package must be delivered to the Department, or postmarked, within 6 months after the rehabilitation of the property is deemed substantially completed by the local building inspector or by September 1 of the year the rehabilitated property is first subject to assessment. The completed Form form DR-26S, the certified Form form EZ-M, and the required attachment; should be mailed to:

Florida Department of Revenue  
 Refund Subprocess  
 P. O. Box 6490  
 Tallahassee, Florida 32314-6490.

(3) through (9) No change.

Specific Authority 212.08(5)(g)6., (h)6., (n)4., (o)4., (15)(e), 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g), (h), (n), (o), (q), (15), 212.096, 212.11(5), 212.15(2), 212.17(6), 212.18(2) FS. History—New 1-3-96, Amended 6-19-01, 8-1-02, 5-4-03, \_\_\_\_\_.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULES: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P.O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4113-4116). A rule development workshop was held on November 30, 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: Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax Coin-Operated Amusement and Vending Machines, and Other Devices	RULE NOS.:  12A-15.003  12A-15.011
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PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-15.003, F.A.C. (Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax), is to provide when dealers who receive consideration for the issuance of a service warranty are required to collect the discretionary sales surtax.

The purpose of the proposed amendments to Rule 12A-15.011, F.A.C. (Coin-Operated Amusement and Vending Machines, and Other Devices), is to correct divisor rates for sales of food, beverages, and other items of tangible personal property made through vending machines in counties imposing a 1/4 percent or 3/4 percent discretionary sales surtax.

SUMMARY: The proposed amendments to Rule 12A-15.003, F.A.C. (Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax), provide that any dealer who receives consideration for the issuance of a service warranty is required to collect surtax at the rate imposed by the county where the tangible personal property indemnified by the service warranty is delivered or located.

The proposed amendments to Rule 12A-15.011, F.A.C. (Coin-Operated Amusement and Vending Machines, and Other Devices), correct the divisor rates for counties that impose a discretionary sales surtax at the rates of 1/4 percent or 3/4 percent for purposes of computing the amount of sales tax, plus surtax, due on sales of food, beverages, and other items of tangible personal property made through vending machines.

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: 212.05(1)(h), 212.0515, 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(24), 212.05(1), 212.0506, 212.0515, 212.054, 212.055, 212.0596, 212.06(1), (4), (6), (8), (10), 212.07(2), (8), 212.12(11), 212.18(3), 212.183 FS.

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

TIME AND DATE: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-15.003 Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax.

(1) through (6) No change.

(7) SERVICE WARRANTIES.

(a) Any ~~dealer person who is located within a surtax county and~~ who receives consideration for the issuance of a service warranty from the agreement holder is required to collect surtax at the rate imposed by the county where the tangible personal property indemnified by the service warranty is delivered or located.

(b)1. Example: The person receiving consideration for a service warranty is located in County A (a county imposing a 1% surtax). The service warranty covers a refrigerator sold in County A and delivered in County B (a county imposing a 1.5% surtax). The person receiving consideration for the service warranty is required to collect sales tax and surtax on the sales price of the service warranty at the rate of 7.5% (6% state sales tax and 1.5% surtax).

~~2.~~4. Example: The person receiving consideration for the issuance of a service warranty is located in County A (a county imposing a 1% surtax). The service warranty covers a

television located within County B (a county not imposing the surtax). The person receiving consideration for the service warranty is required to collect sales tax on the sales price of the service warranty at the rate of 6%. The person receiving the consideration is not required to collect surtax.

~~3.2.~~ Example: The person receiving consideration for the issuance of a service warranty is located in County A (a county not imposing a ~~1/2%~~ surtax). The service warranty covers a motor vehicle, and the resident address of the owner identified on the title document is located in County B (a county imposing a 1% surtax). The person receiving consideration for the service warranty is required to collect sales tax and surtax on the sales price of the service warranty at the rate of 7% (6% state sales tax and 1% surtax).

(8) through (10) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.0506, 212.054, 212.055, 212.0596, 212.06(1), (4), (6), (8), (10), 212.07(8), 212.18(3), 212.183 FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 6-19-01, 10-2-01, 4-17-03,\_\_\_\_\_.

12A-15.011 Coin-Operated Amusement and Vending Machines, and Other Devices.

(1) No change.

(2)(a) Vending machine sales; effective tax rates. The amount of tax to be paid on food, beverages, and other items of tangible personal property that are sold in vending machines is subject to the surtax at the rate imposed by the county where the machine is located. To calculate the tax due in an applicable reporting period for vending machines located in counties imposing a surtax:

1. Divide the total gross receipts from sales made through the vending machines by the divisors provided in paragraph (b) to compute gross taxable sales;

2. Subtract gross taxable sales from the total gross receipts to compute the amount of tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

<u>Surtax Rate</u>	<u>Divisor for Food and Beverages</u>	<u>Divisor for Other Items of Tangible Personal Property</u>
No Surtax	1.0645	1.0659
1/4%	<del>1.0665</del> <u>1.0425</u>	1.0683
1/2%	1.0686	1.0707
3/4%	1.0706	<del>1.0728</del> <u>1.0727</u>
1%	1.0726	1.0749
1 1/4%	1.07465	1.0770
1 1/2%	1.0767	1.0791

(c) No change.

(3) No change.

Specific Authority 212.05(1)(h), 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(24), 212.05(1)(h), 212.0515, 212.054, 212.055, 212.07(2), 212.12(11), 212.18(3) FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 9-14-93, 11-16-93, 12-13-94, 3-20-96, 6-19-01, 11-1-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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; telephone number (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-15, F.A.C. (Discretionary Sales Surtax), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4116-4117). A rule development workshop was held on November 30, 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 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. (Public Use Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of solid waste fees and the rental car surcharge; and (2) update information 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: 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: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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) Copies of these forms are available, without cost, by one (1) or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~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](http://www.myflorida.com/dor)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2) DR-15SW	Solid Waste and Surcharge Return (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</u>
(3) DR-15SWN	Instructions for <del>2006</del> <u>2005</u> DR-15SW Solid Waste and Surcharge Returns (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</u>
(4)	No change.	

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, 6-28-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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; telephone number (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-16, F.A.C. (Rental Car Surcharge), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4117-4118). A rule development workshop was held on November 30, 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 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): (1) 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; and (2) update information 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: 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: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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 (1) or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~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](http://www.myflorida.com/dor)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(1)	No change.	
(2)	DR-1SR Renewal Application for Secondhand Dealer or Secondary Metals Recycler	
	(R. <u>06/05</u> <del>07/04</del> )	<u>06/05</u>

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, 6-28-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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; telephone number (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4118-4119). A rule development workshop was held on November 30, 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:	RULE NOS.:
Registration	12A-19.010
Tax Due at Time of Sale; Tax Returns and Regulations	12A-19.020
Sales for the Purpose of Resale	12A-19.060
Public Use Forms	12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.010, F.A.C. (Registration), is to: (1) implement Sections 1-11, Chapter 2005-187, L.O.F., regarding the elimination of the communications services tax on substitute communications systems; and (2) amend the definition of taxable "communications services" to clarify that the definition includes services provided using voice-over-Internet-protocol, as provided in Section 14, Chapter 2005-187, L.O.F.

The purpose of the proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), and to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), is to implement Sections 1-11, Chapter 2005-187, L.O.F., regarding the elimination of the communications services tax on substitute communications systems.

The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, revisions to Form DR-700016, Communications Services Tax Return.

SUMMARY: The proposed amendments to Rule 12A-19.010, F.A.C. (Registration): (1) eliminate provisions regarding the communications services tax on substitute communications systems pursuant to Sections 1-11, Chapter 2005-187, L.O.F.; and (2) amend the definition of taxable "communications services" to clarify that the definition includes services provided using voice-over-Internet-protocol, as provided in Section 14, Chapter 2005-187, L.O.F.

The proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), and to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), eliminate provisions regarding the communications services tax on substitute communications systems pursuant to Sections 1-11, Chapter 2005-187, L.O.F.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms): (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; (2) adopt, by reference, revisions to Form DR-700016, Communications Services Tax Return; and (3) update information 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: 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (h) FS.

LAW IMPLEMENTED: 202.11(2), (3), (6), (8), (10), (11), (12), (13), 202.12(1), 202.13(2), 202.151, 202.16, 202.17(1), (3)(a), (4), (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: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Thomas Butscher, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4710

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-19.010 Registration.

(1) Scope of rule. This rule provides guidelines regarding the procedures and requirements for the registration of persons providing communications services, ~~users of substitute communications systems~~, and persons requesting a communications services tax direct pay permit.

(2) No change.

(3)(a) Except as provided herein, a person registering with the Department for the communications services tax must notify the Department of the method(s) that will be employed to determine the local taxing jurisdiction in which service addresses are located. The notification to the Department shall be made using ~~Form form~~ DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule 12A-19.100, F.A.C.). The following persons are not required to file ~~Form form~~ DR-700020 with respect to the activities listed:

1. No change.

~~2. Substitute communications system operators;~~

3. through 6. renumbered 2. through 5. No change.

(b) Persons who must register for the communications services tax include persons who provide the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance, for a consideration, except as provided in paragraph (c). The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added.

(c) through (d) No change.

~~(4) Persons who purchase, install, rent, or lease a substitute communications system must obtain a Communications Services Tax Certificate of Registration (form DR-700014), as provided in subsection (2).~~

~~(a) A substitute communications system means any telephone system, or other system capable of providing communications services, that a person purchases, installs, rents, or leases for his or her own use to provide himself or herself with services used as a substitute for any switched service or dedicated facility by which a dealer of communications services provides a communication path.~~

~~(b) A substitute communications system does not include the use by any dealer of his or her own communications system to conduct a business of providing communications services or any communications system operated by a county, a municipality, the state, or any political subdivision of the state.~~

~~(c) An example of a substitute communications system would occur when a person uses satellite equipment to communicate with other locations without incurring any charges from a communications services provider.~~

~~(4)(5) No change.~~

Specific Authority 202.26(3)(e), (h) FS. Law Implemented 202.11(2), (6), (8), (12), (3), (7), (9), (13), (14), (16); 202.12(1)(b), 202.15, 202.17(1), (3)(a), (4), 202.22(6)(a), 202.27(6) FS. History-New 1-31-02, Amended 4-17-03, \_\_\_\_\_.

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

(1)(a) No change.

~~(b) Tax due under Section 202.12(1)(b), F.S., on the actual cost of operating a substitute communications system is due on March 1 for the preceding calendar year. The payment accompanied with a return must either reach the Department or be postmarked on or before the 20th day of March for a dealer to avoid penalty and interest for late filing.~~

~~(b)(c) No change.~~

(2)(a) No change.

(b) Except as provided herein, all communications services tax dealers must notify the Department of the method or methods the dealer will employ to determine local taxing jurisdictions in which service addresses are located. The notification to the Department shall be made using Form form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule 12A-19.100, F.A.C.). If a communications services tax dealer that is required to notify the Department of the method to be used to determine local taxing jurisdictions fails to notify the Department that the dealer will use a method described in subparagraph (a)1., the dealer will be assigned an initial collection allowance of .25 percent. If a dealer is assigned a collection allowance of .25 percent due to failure to notify the Department of use of a method described in subparagraph (a)1., the dealer will be assigned a .75 percent collection allowance upon subsequently providing a completed Form form DR-700020. The dealer will be entitled to a refund or credit of the difference between the .25 percent collection allowance initially assigned and the .75 percent collection allowance during any period the dealer was using an eligible method and claiming the lower allowance prior to notifying the Department. The following persons are not responsible for collecting and remitting local communications services taxes and are not required to file Form form DR-700020:

1. No change.

~~2. Substitute communications system operators;~~

3. through 6. renumbered 2. through 5. No change.

(c) No change.

(3)(a) No change.

~~(b) Form DR-700016, Florida Communications Services Tax Return, must also be used to report and remit tax due on the use of substitute communications systems. Form DR-700016, accompanied by the applicable payment, is due on the first day of March following the use of a substitute communications system during the preceding calendar year. Such return and applicable payment shall be late on the 21st day of March following the end of the calendar year for which the return and applicable payment are due.~~

~~(b)(c) No change.~~

(4) through (5) No change.

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

(7) 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, 6-28-05, \_\_\_\_\_.

12A-19.060 Sales for the Purpose of Resale.

(1) through (3) No change.

(4) ANNUAL RESALE CERTIFICATES ISSUED BY THE DEPARTMENT.

~~(a) Each newly registered dealer, except persons registered as users of substitute communications systems, will receive a Communications Services Tax Certificate of Registration (Form form DR-700014) and a Communications Services Tax Annual Resale Certificate (Form form DR-700015). For each calendar year, the Department will issue to each active registered dealer a Communications Services Tax Annual Resale Certificate that specifically identifies the valid period of the certificate.~~

~~(b) through (d) No change.~~

(5) through (8) No change.

Specific Authority 202.16(2), 202.26(3)(c), (d) FS. Law Implemented 202.11(3), (10), (4), (11), (12), 202.13(2), 202.16(2), (4), 202.17(6), 202.34(3), (4)(c) FS. History-New 1-31-02, Amended \_\_\_\_\_.

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) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at

www.myflorida.com/dor; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 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 (in Florida only) 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.

(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
01/06	January 2006 –	January 1, 2006 –
11/05	November 2005 – December 2005	November 1, 2005 – December 31, 2005
06/05	June 2005 – October 2005	June 1, 2005 – October 31, 2005
01/05	January 2005 – May 2005	January 1, 2005 – May 31, 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	NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Butscher, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4710
(3)	No change.		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; telephone number (850)922-4729
(4)(a) DR-700016	Florida Communications Services Tax Return (R. 01/06)	_____	DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005
(b) DR-700016	Florida Communications Services Tax Return (R. 11/05)	_____	DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-19, F.A.C. (Communications Service Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4119-4121). A rule development workshop was held on November 30, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.
(c) DR-700016	Florida Communications Services Tax Return (R. 06/05)	_____	
(a) through (p)	renumbered (d) through (s)	No change.	
(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(3), (10), (4), (11), (42); 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, 6-28-05, _____.			

**DEPARTMENT OF REVENUE**

**Miscellaneous**

RULE TITLES:	RULE NOS.:
Definitions; Specific Exemptions	12B-5.020
Importers	12B-5.030
Carriers	12B-5.040
Terminal Suppliers	12B-5.050
Wholesalers	12B-5.060
Terminal Operators	12B-5.070
Exporters	12B-5.080
Local Government Users	12B-5.090
Mass Transit Systems	12B-5.100
Blenders	12B-5.110
Resellers and Retail Dealers	12B-5.120
Refunds	12B-5.130
Dyeing and Marking; Mixing	12B-5.140
Public Use Forms	12B-5.150
Retailers of Alternative Fuel	12B-5.200
Aviation Fuel Licensees	12B-5.300
Producers and Importers of Pollutants	12B-5.400

**PURPOSE AND EFFECT: PART I. TAX ON MOTOR AND DIESEL FUEL**

The purpose of the proposed amendments to Part I, Tax on Motor and Diesel Fuel, of Rule Chapter 12B-5, F.A.C., is to: (1) provide definitions for the terms “enterer” and “gasoline”; (2) provide when a credit for taxes paid on fuel sold to the United States government, its departments, or its agencies in quantities of 500 gallons or more may be obtained; (3) clarify guidelines on how to obtain, or how to renew, annual fuel licenses and when to obtain a license as a retail dealer; (4) provide when tax returns and information returns are required to be filed with the Department; (5) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (6) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (7) provide guidelines to fuel license holders on how to obtain any required Fuel Tax Refund Permit; (8) provide guidelines on how to take an ultimate vendor credit or how to receive a refund of Florida fuel taxes paid on fuel exempt from specified fuel taxes and when the Department will grant such authorized refunds; (9) remove provisions regarding the partial exemption from sales tax and discretionary sales surtax that are provided in Sections 212.08(4)(a)2. and 212.054(2)(b)4., F.S., and Rule 12A-1.0641, F.A.C.; (10) adopt, by reference, forms used by the Department in the administration of Florida fuel taxes; and (11) provide technical changes.

**PART II. TAX ON ALTERNATIVE FUEL**

The purpose of the proposed amendments to Part II, Tax on Alternative Fuel, of Rule Chapter 12B-5, F.A.C., is to: (1) clarify guidelines on how to obtain a license as a retailer of alternative fuel; (2) provide that sales of alternative fuel are

subject to sales tax; (3) provide when returns and payments required to be filed by retailers of alternative fuel are due to the Department; (4) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (5) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; and (6) provide technical changes.

**PART III. TAX ON AVIATION FUEL AND KEROSENE**

The purpose of the proposed amendments to Part III, Tax on Aviation Fuel and Kerosene, of Rule Chapter 12B-5, F.A.C., is to: (1) provide that the sale of aviation fuel to the United States government, its departments, or its agencies is exempt; (2) provide guidelines on how to report tax due on undyed kerosene and how to obtain an ultimate vendor credit for tax paid on kerosene used for tax-exempt purposes; (3) clarify when returns reporting aviation fuel taxes are required to be filed; (4) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (5) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (6) provide guidelines to air carriers on how to apply for a quarterly refund of aviation fuel tax paid for wages paid to certain employees and when an application for refund must be submitted to the Department; (7) remove provisions regarding the proration of aviation fuel by air carriers rendered obsolete on July 1, 2000, by the repeal of proration provisions from Section 212.0598, F.S.; (8) provide guidelines to fixed base operators on how to obtain a refund of aviation fuel taxes paid on aviation fuel sold to the United States government, its departments, or its agencies and when an application for refund must be filed with the Department; (9) clarify guidelines on how to obtain, or to renew, an annual license to operate as a commercial air carrier in Florida; and (10) provide technical changes.

**PART IV. TAX ON POLLUTANTS**

The purpose of the proposed amendments to Part IV, Tax on Pollutants, of Rule Chapter 12-5, F.A.C., is to: (1) clarify guidelines on how to obtain, or to renew, an annual license as an importer or producer of taxable pollutants; (2) clarify that the United States government, its departments, or its agencies are exempt from the tax due on pollutants; (3) provide when returns are required to be filed and taxes on pollutants are due to the Department; (4) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (5) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (6) remove provisions for taking a credit of pollutant tax that are not consistent with the provisions of Section 206.9942(6), F.S.; (7) provide that an application for pollutant tax refund must be filed with the Department for each calendar quarter;

(8) provide guidelines on how to file an application for a refund of pollutant tax with the Department; and (9) provide technical changes.

**SUMMARY: PART I. TAX ON MOTOR AND DIESEL FUEL**

The proposed amendments to Rule 12B-5.020, F.A.C. (Definitions; Specific Exemptions): (1) provide definitions for the terms “enterer” and “gasoline”; and (2) provide that terminal suppliers or wholesales may obtain a credit for taxes paid on fuel sold to the United States government, its departments, or its agencies in quantities of 500 gallons or more.

The proposed amendments to Rule 12B-5.030, F.A.C. (Importers): (1) clarify guidelines on how to obtain, or how to renew, an annual license as an importer of fuel; (2) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; and (3) provide a technical reference to Rule 12B-5.060, F.A.C., for obtaining an ultimate vendor credit.

The proposed amendments to Rule 12B-5.040, F.A.C. (Carriers): (1) clarify guidelines on how to obtain, or to renew, an annual license as a carrier of fuel; (2) provide when carriers are required to file information returns with the Department; (3) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; and (4) provide that electronic filing of information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C.

The proposed amendments to Rule 12B-5.050, F.A.C. (Terminal Suppliers): (1) clarify guidelines on how to obtain, or to renew, an annual license as a terminal supplier of fuel; (2) provide when returns and payments for taxes imposed on gasoline, gasohol, diesel, or aviation fuel are due to the Department; (3) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (4) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (5) provide that terminal suppliers who sell tax-exempt fuel to the United States government, its departments, or its agencies must accrue such taxes and obtain an ultimate vendor credit from the Department; (6) provide that terminal suppliers must accrue tax on sales of diesel fuel that is exempt from the specified taxes when used for agricultural purposes; (7) provide that terminal suppliers must complete Schedule 12, Ultimate Vendor Credits, and file it with their Terminal Supplier Fuel Tax Return to obtain an ultimate vendor credit; and (8) provide technical changes.

The proposed amendments to Rule 12B-5.060, F.A.C. (Wholesalers): (1) clarify guidelines on how to obtain, or to renew, an annual license as a wholesaler of fuel; (2) provide that fuel sold to the United States government, its departments, or its agencies in quantities of 500 gallons or more for

exclusive use in equipment, devices, or motors operated by the United States is exempt; (3) provide when returns and payments for taxes imposed on gasoline, gasohol, diesel, or aviation fuel are due to the Department; (4) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (5) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (6) provide that wholesalers may obtain an ultimate vendor credit for taxes paid on sales of tax-exempt undyed diesel fuel to farmers for agricultural purposes and on sales of tax-exempt fuel to the United States government, its departments, or its agencies; (7) provide that wholesalers must complete Schedule 12, Ultimate Vendor Credits, and file it with their Wholesaler/Importer Fuel Tax Return to obtain an ultimate vendor credit; and (8) provide technical changes.

The proposed amendments to Rule 12B-5.070, F.A.C. (Terminal Operators): (1) provide when terminal operators must obtain a license as a terminal operator of fuel; (2) provide guidelines on how to obtain, or to renew, an annual license as a terminal operator; (3) provide that all terminal operators are required to file an information return with the Department and when such information return is due to the Department; (4) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; and (5) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns.

The proposed amendments to Rule 12B-5.080, F.A.C. (Exporters): (1) clarify guidelines for obtaining, or renewing, an annual license as an exporter of motor fuel or diesel fuel; (2) provide when exporters are required to report their export sales to the Department and when such returns are due; (3) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (4) provide that when returns and other information reports are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such returns and information reports; (5) provide that exporters who export fuel to other states must file an Application for Refund with the Department to receive a refund of Florida taxes paid on exported fuel; (6) provide when an Application for Refund must be filed with the Department; and (7) provide technical changes.

The proposed amendments to Rule 12B-5.090, F.A.C. (Local Government Users): (1) clarify guidelines for counties, municipalities, and school districts on how to obtain a license as a local government user of diesel fuel; (2) provide when returns and payments required to be filed by local government users are due to the Department; (3) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (4) provide that when payments or returns are required to be submitted electronically,

the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (5) provide that local government users may take a credit, or obtain a refund, of specified taxes paid on motor fuel and of the specified fuel sales tax; (6) provide that local government users must hold a Fuel Tax Refund Permit to seek a refund each calendar quarter for the specified fuel sales tax; (7) provide guidelines on how to apply for a Fuel Tax Refund Permit; (8) provide guidelines to local government users on how to apply for a quarterly refund; (9) provide how an application for a quarterly refund must be submitted to the Department; and (10) provide technical changes.

The proposed amendments to Rule 12B-5.100, F.A.C. (Mass Transit Systems): (1) clarify guidelines for mass transit systems on how to obtain a license to seek a refund of tax paid or to seek a partial exemption; (2) provide when returns and payments required to be filed by mass transit systems are due to the Department; (3) provide the definition of the term "legal holiday," as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (4) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (5) provide that mass transit systems may obtain a refund of specified taxes paid on dyed diesel fuel; (6) provide that mass transit systems must hold a Fuel Tax Refund Permit to seek a refund each calendar quarter for the specified diesel fuel taxes; (7) provide guidelines on how to apply for a Fuel Tax Refund Permit; (8) provide guidelines on how to apply for a quarterly refund; (9) provide when an application for a quarterly refund must be submitted to the Department; and (10) provide technical changes.

The proposed amendments to Rule 12B-5.110, F.A.C. (Blenders): (1) clarify guidelines on how to obtain a license as a blender; (2) provide when returns and payments required to be filed by blenders are due to the Department; (3) provide the definition of the term "legal holiday," as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (4) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; and (5) provide technical changes.

The proposed amendments to Rule 12B-5.120, F.A.C. (Resellers and Retail Dealers): (1) clarify guidelines on when retail dealers and resellers are required to register as a sales and use tax dealer; and (2) provide guidelines on how to register each place of business for sales and use tax purposes.

The proposed amendments to Rule 12B-5.130, F.A.C. (Refunds): (1) provide that any person who uses motor fuel for agricultural, aquacultural, or commercial fishing purposes may obtain a refund of specified fuel taxes; (2) provide that such persons must hold a Fuel Tax Refund Permit to seek a refund each calendar quarter for the specified motor fuel taxes; (3) provide guidelines on how to apply for a Fuel Tax Refund Permit; (4) provide guidelines on how to apply for a quarterly

refund of taxes paid on motor fuel used for agricultural, aquacultural, or commercial fishing purposes; (5) provide when an application for a quarterly refund must be submitted to the Department; (6) provide guidelines on when the Department will grant a refund of tax paid on undyed diesel fuel consumed by vehicles that use fuel to turn a concrete mixer drum or for compacting solid waste, or for undyed diesel fuel consumed by a power take-off unit or engine exhaust for unloading bulk cargo by pumping; (7) define the term "full load pump-off" to mean 54,000 pounds or its equivalent in gallons; (8) provide guidelines on when a refund of fuel tax paid on undyed diesel fuel used in off-road stationary equipment or in self-propelled off-road equipment will be granted by the Department; (9) provide guidelines on when a refund of fuel tax paid on undyed diesel fuel used to operate a refrigeration unit or other equipment located on a commercial motor vehicle will be granted by the Department; (10) provide guidelines on when an application for such refund must be filed with the Department and the recordkeeping requirements for making such application to the Department; (11) provide guidelines for when dealers who sell dyed diesel fuel for use in vessels are required to collect sales tax, plus any applicable discretionary sales surtax, or are required to obtain an exemption certificate from a qualified purchaser; (12) provide guidelines to purchasers of undyed diesel fuel used in noncommercial vessels on how to obtain an annual refund of taxes paid on fuel used for such purposes from the Department; (13) provide guidelines to purchasers of undyed diesel fuel used in qualified motor coaches on how to obtain an annual refund of taxes paid on fuel used for such purposes from the Department; (14) remove provisions regarding the partial exemptions from sales tax and discretionary sales surtax that are provided in Sections 212.08(4)(a)2. and 212.054(2)(b)4., F.S., and Rule 12A-1.0641, F.A.C.; and (15) provide technical changes.

The proposed amendments to Rule 12B-5.140, F.A.C. (Dyeing and Marking; Mixing): (1) provide that a licensed terminal supplier, importer, or wholesaler of fuel must obtain a refund authorization number from the Department to receive a refund of taxes paid on fuel that has been mixed with dyed diesel fuel in storage; (2) extend to 30 days the period during which the Department must be notified of a mixing incident; (3) provide guidelines on how to obtain a refund of such taxes; (4) provide when an application for refund must be filed with the Department; (5) provide that dye in any fuel storage facility that is not properly marked is in violation of s. 206.8741, F.S., and subject to the penalty imposed under Section 206.872(11), F.S.; and (6) provide technical changes.

The proposed amendments to Rule 12B-5.150, F.A.C.: (1) change the title to "Public Use Forms"; (2) to adopt, by reference, forms used by the Department in the administration of Florida fuel taxes; and (3) to remove the adoption, by

reference, of forms that are no longer used by the Department or that do not meet the definition of a “rule,” as defined in Section 120.52(15), F.S.

#### PART II. TAX ON ALTERNATIVE FUEL

The proposed amendments to Rule 12B-5.200, F.A.C.: (1) change the title of the rule to “Retailers of Alternative Fuel”; (2) clarify guidelines on how to obtain a license as a retailer of alternative fuel; (3) provide that sales of alternative fuel are subject to sales tax; (4) provide when returns and payments required to be filed by retailers of alternative fuel are due to the Department; (5) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (6) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; and (7) provide technical changes.

#### PART III. TAX ON AVIATION FUEL AND KEROSENE

The proposed amendments to Rule 12B-5.300, F.A.C. (Aviation Fuel Licensees): (1) provide that the sale of aviation fuel to the United States government, its departments, or its agencies is exempt; (2) provide that terminal suppliers must report tax due on undyed kerosene delivered to a residence for home heating or cooking and may obtain an ultimate vendor credit from the Department for tax paid on such kerosene; (3) provide that terminal suppliers and wholesalers who deliver undyed kerosene to retail dealers for resale to consumers to be used for home heating and cooking may obtain an ultimate vendor credit from the Department for tax paid on such kerosene; (4) provide that terminal suppliers must complete Schedule 12, Ultimate Vendor Credits, and file it with their Terminal Supplier Fuel Tax Return to obtain an ultimate vendor credit; (5) provide that wholesalers must complete Schedule 12 and file it with their Wholesaler/Importer Fuel Tax Return to obtain an ultimate vendor credit; (6) provide that resellers who make sales of undyed kerosene without payment of the aviation fuel tax are subject to the specified penalties; (7) clarify when returns reporting aviation fuel taxes are required to be filed; (8) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (9) provide guidelines to air carriers on how to apply for a quarterly refund of aviation fuel tax paid for wages paid to certain employees and when an application for refund must be submitted to the Department; (10) remove provisions regarding the proration of aviation fuel by air carriers rendered obsolete on July 1, 2000, by the repeal of proration provisions from Section 212.0598, F.S.; (11) provide guidelines to fixed base operators on how to obtain a refund of aviation fuel taxes paid on aviation fuel sold to the United States government, its departments, or its agencies and when an application for refund must be filed with the Department; (12) clarify guidelines on how to obtain, or to renew, an annual license to operate as a

commercial air carrier in Florida; (13) provide when commercial air carriers are required to report and pay aviation fuel taxes; (14) provide when returns and payments are due to the Department; (15) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (16) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; and (17) provide technical changes.

#### PART IV. TAX ON POLLUTANTS

The proposed amendments to Rule 12B-5.400, F.A.C. (Producers and Importers of Pollutants): (1) clarify guidelines on how to obtain, or to renew, an annual license as an importer or producer of taxable pollutants; (2) clarify that the United States government, its departments, or its agencies are exempt from the tax due on pollutants; (3) remove obsolete effective tax rates for the Coastal Protection Tax, the Inland Protection Tax, and the Water Quality Assurance Tax; (4) provide when an importer or producer of pollutants is required to file a return and to pay the taxes due on pollutants; (5) provide when payments and returns are due to the Department; (6) provide the definition of the term “legal holiday,” as defined in s. 7503 of the Internal Revenue Code of 1986, as amended; (7) provide that when payments or returns are required to be submitted electronically, the provisions of Rule Chapter 12-24, F.A.C., apply to such payments or returns; (8) remove provisions for taking a credit of pollutant tax that are not consistent with the provisions of Section 206.9942(6), F.S.; (9) provide that an application for pollutant tax refund must be filed with the Department for each calendar quarter; (10) provide guidelines on how to file an application for a refund of pollutant tax with the Department; and (11) provide 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: 206.14(1), 206.59(1), 206.62(10), 206.87(1)(e)2., 206.8741(1), 206.8745(6), 206.877, 206.97, 206.9915, 213.06(1) FS.

LAW IMPLEMENTED: 206.01, 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.03, 206.04, 206.041, 206.05, 206.051, 206.052, 206.054, 206.055, 206.09, 206.095, 206.11(1)(d), 206.199, 206.20, 206.204, 206.205, 206.404, 206.41, 206.413, 206.414, 206.416, 206.43, 206.44, 206.48, 206.485, 206.62, 206.64, 206.645, 206.86, 206.87, 206.872, 206.873, 206.874, 206.8741, 206.8745, 206.877, 206.89, 206.90, 206.91, 206.92, 206.97, 206.9815, 206.9825, 206.9835, 206.9865, 206.9875, 206.9915, 206.9925, 206.9931, 206.9935, 206.9941, 206.9942, 206.9943, 212.18(3) FS.



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

TIME AND DATE: 10:00 a.m., February 6, 2006

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 Office 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, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lynwood Taylor, Tax Law Specialist, and Ronald Gay, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4725.

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I

TAX ON MOTOR AND DIESEL FUEL

12B-5.020 Definitions; Specific Exemptions.

(1) DEFINITIONS.

(a) through (b) No change.

(c) "Enterer" means the importer of record with respect to fuel. However, if the importer of record is acting as an agent (e.g., the importer of record is a customs broker engaged by the owner of the fuel), the person for whom the agent is acting is the enterer. If there is no importer of record for fuel entered into Florida, the enterer is the owner of the fuel at the time the fuel is brought into Florida.

(d) "Fuel" means all fuels as defined in Chapter 206, F.S., and this rule chapter, except as clearly indicated in this rule chapter.

(e) No change.

(f) "Gasoline" means any mixture used as a fuel in spark-ignition, internal combustion engines, which has an octane number not less than 75 and a lead content not greater than 0.05 grams per gallon.

(d) through (g) renumbered (g) through (j) No change.

(2) EXEMPTIONS.

(a) Sales of Fuel to the United States Government.

1. Fuel sold to the United States Government, its departments, or its agencies, in quantities of 500 gallons or more in each delivery, for exclusive use in equipment, devices, or motors operated by the United States is exempt from tax. This exemption does not apply to sales of fuel delivered to service stations or other outlets for resale.

~~2. The exemption provided in paragraph (a) will not apply to sales of fuel to the United States where the fuel is delivered to service stations or other outlets for resale.~~

~~2.3. No change.~~

~~3.4. Terminal suppliers or wholesalers may obtain apply for a refund or take a credit for of taxes paid on fuel sold to the United States federal government, its departments, or its agencies in quantities of 500 gallons or more, as provided in subsection (6) of Rule 12B-5.050, F.A.C., and subsection (6) of Rule 12B-5.060, F.A.C.~~

(b) through (c) No change.

Specific Authority 206.14(1), 206.59(1), 206.62(10), 206.87(1)(e)2, 213.06(1) FS. Law Implemented 206.41(4)(b), 206.62, 206.874, 206.97 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, \_\_\_\_\_.

12B-5.030 Importers.

(1) No change.

(2) LICENSING AND BONDING REQUIREMENTS.

(a) Licensing.

1. To obtain an annual a license as an importer, every a person must file Form with the Department form DR-156, (Florida Fuel Tax Application (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the application under oath, which meets all requirements specified in Section 206.02(2), F.S.

2. Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal application.

~~3.2. Each initial and renewal The application must be accompanied by will require payment of a \$30 license fee.~~

~~3. Each License will be renewed annually by renewal application, and each renewal requires the payment of an annual \$30 renewal fee.~~

(b) No change.

(3) RETURNS AND REGULATIONS.

(a) Licensed importers of gasoline, gasohol, diesel, or aviation fuel are required to will report all taxes imposed by Chapter 206, F.S., on a form DR 309632, Wholesaler/Importer Fuel Tax Return (Form DR-309632, incorporated by reference in Rule 12B-5.150, F.A.C.), as provided in subsection (5) of Rule 12B-5.060, F.A.C. See filing requirements for wholesalers in Rule 12B-5.060, F.A.C.

(b) Electronic filing of payments, returns, and information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing.

1. Payment of the tax is required to be made by electronic means: Importers are required to file data elements and schedules contained in the Wholesaler/Importer Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting taxes is required to be submitted by electronic means; Importers who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when an importer can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

(4) REFUNDS AND CREDITS. Refunds and credits Credits and refunds to importers are authorized only under the provisions for refunds and credits authorized to wholesalers. Importers may obtain an ultimate vendor credit for tax paid in the same manner as wholesalers, as provided in subsection (6) of Rule 12B-5.060, F.A.C. See 12B-5.130.

(5) No change.

Specific Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1) FS. Law Implemented 206.01(3), 206.02, 206.026, 206.027, 206.028, 206.03, 206.05, 206.051, 206.054, 206.43, 206.48(2), 206.485, 206.9835 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98,\_\_\_\_\_.

12B-5.040 Carriers.

(1) LICENSING

(a)(1) Any person transporting fuel for sale or for others in vehicles capable of hauling quantities of 500 gallons or more in this State, must hold a valid have an unrevoked license as a carrier of motor fuel or diesel fuel issued by the Department to engage in such business.

(b) To obtain an annual license, every person must file a Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application.

(c) Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal application.

(d) Each initial or renewal application must be accompanied by a \$30 license fee.

(2) INFORMATION RETURNS.

(a)(2) Carriers are required to will file Form on a report form DR-309637, Petroleum Carrier Information Return (incorporated by reference in Rule 12B-5.150, F.A.C.); Carriers must remit reports to the Department of Revenue on or before by the 20th twentieth day of each month for the previous months activity during the previous month. If the 20th day falls on a Saturday, Sunday, or a legal holiday, returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule section, a legal holiday means will mean a holiday that which

is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code; of 1986, as amended and in effect on January 1, 1996, which is incorporated by reference in this rule. A “legal holiday” pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b)(3) Electronic filing of information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C. Media Filing.

(a) Carriers are required to file data elements and schedules contained in the Petroleum Carrier Information Return by magnetic tape, computer disk, or a telephone modem.

(b)1. Carriers who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

2. Deferral requests will be granted by the Department when a carrier can demonstrate the inability to complete the necessary computer program change by the date the information is due.

(3)(4) No change.

Specific Authority 206.14(1), 206.59(1), 206.97, 206.9915, 213.06(1) FS. Law Implemented 206.021, 206.09, 206.199, 206.20, 206.204, 206.205, 206.485 FS. History—New 7-1-96, Amended 11-21-96,\_\_\_\_\_.

12B-5.050 Terminal Suppliers.

(1) No change.

(2) LICENSING AND BONDING REQUIREMENTS.

(a) Licensing.

1. Before any person may engage in business as a terminal supplier within this state, such person must first obtain, and be the holder of a valid an unrevoked terminal supplier license issued by the Department of Revenue.

2. To obtain an annual a license as a terminal supplier, every a person must file a Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application department an application under oath and in such form as prescribed by the department, which meets all requirements specified in Section 206.02(2), F.S.

3. Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal application.

4.3. Each initial or renewal The application must be accompanied by will require payment of a \$30 license fee.

4. Each license will be renewed annually by renewal application, and each renewal requires the payment of an annual \$30 renewal fee.

~~4.5. Terminal suppliers that who import or export tax-paid fuel are not required to obtain an importer or exporter license.~~

~~5.6. Any terminal operator that who owns fuel at a terminal is required to be licensed as a terminal supplier.~~

(b) Bonding.

1. Prior to becoming licensed, each new terminal supplier applicant must submit, to the ~~Department~~ department, a bond which equals 3 times the estimated average monthly fuel tax levied under Chapter 206, F.S., for each type of fuel that which will be sold, but such bond will not exceed a maximum of \$100,000 for each product type (motor fuel, diesel, and aviation fuel).

2. ~~A All terminal supplier that has suppliers who have~~ filed bonds of less than \$100,000 for each product type (motor fuel, diesel, and aviation fuel) will be notified by the ~~Department~~ department when ~~its their~~ liability increases to an amount that which requires an increase in ~~its bond their initial~~ bonds filed.

(3) EXEMPT SALES.

(a) Sales of Fuel to the United States Government. ~~The exemption provided in subparagraph 1. is not allowed on sales by terminal suppliers when fuel is delivered to retail dealers located on governmental installations.~~

~~4. Terminal suppliers that who sell fuel in quantities of 500 gallons or more per delivery to the United States Government, its departments, or its agencies are not required to collect tax on such sales. This exemption does not apply when fuel is delivered to retail dealers located on governmental installations.~~

(b) through (c) No change.

(4) TAXABLE SALES.

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

2. Dyed Diesel Fuel. Terminal suppliers who sell dyed diesel fuel that which will be used for business purposes as defined in s. 12B-5.020(1)(b), F.A.C., are not required to collect sales tax on such sales.

(5) RETURNS AND REGULATIONS.

(a) All terminal suppliers that who sell gasoline, gasohol, diesel, or aviation fuel are required to will report and remit all taxes imposed by Chapter 206, F.S., on a Terminal Supplier Fuel Tax Return (Form DR-309631, incorporated by reference in Rule 12B-5.150, F.A.C.) on or before the 20th day of each month for transactions occurring during the previous month to the Department of Revenue monthly. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the

District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

~~(b) Form DR-309631, Terminal Supplier Fuel Tax Return must be filed by terminal suppliers by the 20th day of the month following a month in which transactions occur.~~

~~(e) Where payment is required by electronic funds transfer, the tax will be remitted as provided by Rule 12-24, F.A.C., and the return must also be filed by the 20th day of the month.~~

~~(b)(d)~~ No change.

~~(e)1. If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday.~~

2. For purpose of this rule section, a legal holiday will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503, Internal Revenue Code, of 1986, as amended and in effect on 1/1/96, which is incorporated by reference in this rule.

~~(c)(f) Electronic filing of payments, returns, and information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing.~~

1. Payment of the tax is required to be made by electronic means; Terminal suppliers are required to file data elements and schedules contained in the Terminal Supplier Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting taxes is required to be submitted by electronic means; Terminal suppliers who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when a terminal supplier can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

(6) REFUNDS AND CREDITS.

(a) Sales of Fuel to the United States Government.

1. Terminal suppliers that who sell fuel to the United States Government, its departments, or its agencies exempt from taxes imposed under Sections ss. 206.41 and 206.87, F.S., must accrue all such taxes and may obtain, but may take an ultimate vendor credit for the taxes accrued when their Terminal Supplier Tax Returns are filed.

2. To obtain an ultimate vendor credit, terminal Terminal suppliers claiming ultimate vendor credits that exceed their liability must complete Schedule apply for a refund of the excess credits by completing schedule 12, (DR-309642,

Ultimate Vendor Credits (incorporated by reference in Rule 12B-5.150, F.A.C.) of form DR309631 (Terminal Supplier Fuel Tax Return) with the amount of credit listed on the face of the return. Schedule 12 is required to be filed with the Terminal Supplier Fuel Tax Return, as indicated on the return.

(b) Motor and Diesel Fuel Used for Agricultural Purposes.

1. ~~Sales by terminal~~ Terminal suppliers of who sell taxable diesel fuel to persons for agricultural uses as provided in pursuant to Rule 12B-5.020(2)(e)1, F.A.C., are will sell such fuel exempt from the local option fuel tax, the state comprehensive transportation system tax, and the fuel sales tax imposed by Section 206.41(1)(e), (f), and (g), F.S. Local Option Fuel Tax, State Comprehensive Transportation System Tax, and Fuel Sales Tax.

2. A terminal supplier must accrue tax on all sales of taxable diesel fuel. A terminal supplier may sell taxable diesel fuel exempt for agricultural purposes, but they must accrue all taxes imposed under Section s. 206.87, F.S. To obtain The terminal supplier may take an ultimate vendor credit for the tax accrued, terminal suppliers must complete Schedule 12, Ultimate Vendor Credits (Form DR-309642). Schedule 12 is required to be filed with when the Terminal Supplier Tax Return, as indicated on the form is filed.

Specific Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1) FS. Law Implemented 206.01, 206.02, 206.05, 206.09, 206.41, 206.413, 206.414, 206.43, 206.48, 206.485, 206.62, 206.86, 206.87, 206.872, 206.873, 206.874, 206.8745, 206.90, 206.91, 206.97, 206.9815, 206.9941, 206.9942, 212.0501, 212.08(9) FS. History—New 7-1-96, Amended 11-21-96, 10-27-98.

12B-5.060 Wholesalers.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. ~~To obtain an annual a license as a wholesaler, a person must will file a with the Department form DR-156 (Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application under oath, which is incorporated in Rule 12B-5.150, F.A.C., by reference, meeting all requirements specified in s. 206.02, F.S. A wholesaler is not required to have a business location in this State.~~

2. Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal application.

3. Each initial and renewal application must be accompanied by a \$30 license fee.

(b) through (e) No change.

(3) EXEMPT SALES.

(a) Fuel sold to the United States government Government, its departments, or its agencies in quantities of 500 gallons or more in each delivery, for exclusive use in equipment, devices, or motors operated by the United States is exempt.

(b) through (d) No change.

(4) TAXABLE SALES.

(a) through (b) No change.

(c) Sale of Dyed Diesel Fuel for Business Purposes. Wholesalers who sell dyed diesel fuel ~~that which~~ will be used for business purposes ~~as defined in Section 12B-5.020(1)(b), F.A.C., of this rule~~ are not required to collect sales tax on such sales.

(5) RETURNS AND REGULATIONS.

(a) All wholesalers who sell gasoline, gasohol, diesel, or aviation fuel are required to will report and remit all taxes imposed by Chapter 206, F.S., on a Wholesales/Importer Fuel Tax Return (Form DR-309632, incorporated by reference in Rule 12B-5.150, F.A.C.) on or before the 20th day of each month for transactions occurring during the previous month to the Department of Revenue monthly. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

~~(b) Wholesalers must file form DR-309632, Wholesaler/Importer Fuel Tax Return, and supporting schedules by the 20th day of the month following a month in which transactions occur.~~

~~(c) Where payment is required by electronic funds transfer, the tax will be remitted as provided by Rule 12-24, F.A.C., and the return must also be filed by the 20th day of the month.~~

~~(b)(d) No change.~~

~~(e)1. If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday.~~

2. For the purpose of this rule section, a legal holiday will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 Internal Revenue Code, of 1986, as amended and in effect on 1/1/96, which is incorporated by reference in this rule.

~~(c)(f) Electronic filing of payments, returns, and information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing.~~

~~1. Payment of the tax is required to be made by electronic means: Wholesalers are required to file data elements and schedules contained in the Wholesaler/Importer Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.~~

~~2. Any return for reporting tax is required to be submitted by electronic means: Wholesalers who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.~~

~~3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when a wholesaler can demonstrate the inability to complete the necessary computer program change by the date the information is due.~~

~~4. Any information report is required to be submitted by electronic means.~~

~~(6) REFUNDS AND CREDITS.~~

~~(a) Wholesalers that sell undyed diesel fuel to farmers for agricultural purposes tax exempt, as provided in Rule 12B-5.020, F.A.C., may obtain an ultimate vendor credit for the taxes paid when their Wholesaler/Importer Fuel Tax Returns (Form DR-309632) are filed will be authorized an ultimate vendor credit for taxes paid on taxable diesel fuel sold for agricultural uses pursuant to 12B-5.020.~~

~~(b) Wholesalers that sell fuel will be authorized an ultimate vendor credit for taxes paid on taxable diesel fuel sold to the United States government, or its departments, or its agencies in bulk lots of not less than 500 gallons in each delivery exempt from the taxes imposed under Sections 206.41 and 206.87, F.S., may obtain an ultimate vendor credit for the taxes paid when their Wholesaler/Importer Fuel Tax Returns (Form DR-309632) are filed.~~

~~(c) To obtain an Wholesalers claiming ultimate vendor credit, wholesalers must complete Schedule credits that exceed their liability must apply for a refund of the excess credits by completing schedule-12, (DR 309642, Ultimate Vendor Credits (Form DR-309642, incorporated by reference in Rule 12B-5.150, F.A.C.) of form DR309632 (Wholesaler/Importer Fuel Tax Return), with the amount of credit listed on the face of the return. Schedule 12 is required to be filed with the Wholesaler/Importer Fuel Tax Return, as indicated on the return.~~

Specific Authority 206.14(1), 206.59(1), 206.97, 213.06(1) FS. Law Implemented 206.01(6), 206.02, 206.05, 206.404, 206.43, 206.48, 206.485, 206.86, 206.89, 206.90, 206.91, 206.9825 FS. History--New 7-1-96, Amended 11-21-96, 10-27-98, \_\_\_\_\_.

12B-5.070 Terminal Operators.

~~(1) LICENSING. Licensed terminal operators will report all fuel transactions to the Department on form DR-309636, Terminal Operator Information Return.~~

~~(a) Before any person may engage in business as a terminal operator within this state, such person must hold a valid terminal operator license. Terminal operators who own fuel sold or transferred through a terminal must also be licensed as a terminal supplier. See Rule 12B-5.050, F.A.C.~~

~~(b) To obtain an annual license as a terminal operator, a person must file a Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application.~~

~~(c) Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal application.~~

~~(d) Each initial or renewal application must be accompanied by a \$30 license fee for each terminal location operated.~~

~~(2) INFORMATION RETURNS. Terminal operators who own fuel sold or transferred through a terminal must be licensed as a terminal supplier.~~

~~(a) All terminal operators who operate terminals in this state are required file a Terminal Operator Information Return (Form DR-309636, incorporated by reference in Rule 12B-5.150, F.A.C.) on or before the 20th day of each month for transactions occurring during the previous month. A separate return is required for each terminal location. If the 20th day falls on a Saturday, Sunday, or legal holiday, returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.~~

~~(b)(3) Electronic filing of information returns must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C. Media Filing.~~

~~(a) Terminal operators are required to file data elements and schedules contained in the Terminal Operator Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.~~

~~(b)1. Terminal operators who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.~~

~~2. Deferral requests will be granted by the Department when a terminal operator can demonstrate the inability to complete the necessary computer program change by the date the information is due.~~

Specific Authority 206.14(1), 206.59(1), 206.97, 213.06(1) F.S. Law Implemented 206.01(19), 206.022, 206.095, 206.485, 206.872 F.S. History—New 7-1-96, Amended 11-21-96, \_\_\_\_\_.

12B-5.080 Exporters.

(1) No change.

(2) LICENSING AND BONDING REQUIREMENTS.

(a) Licensing.

~~1. Before any person may engage in business as an exporter, such person must hold a valid first obtain, and be the holder of an unrevoked exporter license as an exporter of motor fuel or diesel fuel issued by the Department of Revenue.~~

~~2. Persons who buy fuel within Florida either in or outside Florida, and who sell the such fuel to Florida customers must be licensed as wholesalers. See Rule 12B-5.060, F.A.C.~~

~~(b)1. To obtain an annual a license as an exporter, a person must file an with the Department form DR-156 (Application for Florida Fuel License (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application which is incorporated by reference in rule section 12B-5.150, F.A.C., and which meets all requirements specified in Section 206.02(2), F.S.~~

~~2. Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal application.~~

~~3.2. Each initial or renewal The application must be accompanied by will require payment of a \$30 license fee.~~

~~3. Each license will be renewed annually by renewal application, and each renewal requires the payment of an annual \$30 renewal fee.~~

(c) No change.

(3) RETURNS AND REGULATIONS.

~~(a) Licensed exporters of gasoline, gasohol, diesel, or aviation fuel are required to will report all gallons of fuel exported from Florida taxes imposed by Chapter 206, F.S., on an form DR-309638, Exporter Fuel Tax Return (Form DR-309638, incorporated by reference in Rule 12B-5.150, F.A.C.). Licensed exporters that who are also licensed as wholesalers are not required to report file form DR-309638; instead, they show their export sales on a exports on their Wholesaler/Importer Fuel Tax Return (Form DR-309632, incorporated by reference in Rule 12B-5.150, F.A.C.).~~

~~2. All exporters who sell gasoline, gasohol, diesel, or aviation fuel will report and remit all taxes imposed by Chapter 206, F.S., to the Department of Revenue monthly.~~

~~(b) Form DR-309638, Exporter Tax Return, and Form DR-309632, Wholesaler/Importer Fuel Tax Return, as applicable, must be filed on or before filed by exporters by the 20th day of the month following a month in which export transactions occur. If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule section, a legal holiday means will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the, Internal Revenue Code, of 1986, as amended and in effect on 1/1/96, which is incorporated by reference in this rule. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.~~

~~(c) Where payment is required by electronic funds transfer, the tax will be remitted as provided by Rule 12-24, F.A.C., and the return must also be filed by the 20th day of the month.~~

~~(c)(d) Electronic filing of returns and other required information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing.~~

~~1. Any return for reporting the export is required to be submitted by electronic means; or Exporters are required to file data elements and schedules contained in the Exporter Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.~~

~~2. Any information report is required to be submitted by electronic means. Exporters who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.~~

~~3. Deferral requests will be granted by the Department when an exporter can demonstrate the inability to complete the necessary computer program change by the date the information is due.~~

(4) No change.

(5) REFUNDS AND CREDITS.

~~(a) Exporters who export fuel to other states on which Florida tax has been paid may obtain apply for a refund of Florida taxes paid. To receive a refund of Florida tax paid, an exporter must file an by submitting form DR-26, Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department from the State of Florida Department of Revenue, and providing invoices of such purchases and sales, and copies of the tax return filed in the state of destination. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2)~~

and (3), F.S. For tax paid on or after July 1, 1999, Form DR-26, Application for Refund, must be filed with the Department within 3 years after the date the tax was paid.

(b) Copies of invoices for purchases and sales of fuel exported outside Florida and copies of the tax returns filed in the state of destination are required to be submitted with the application for refund.

~~(c)(b)~~ No change.

(6) No change.

Specific Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1) FS. Law Implemented 206.01(21), 206.02, 206.03, 206.04, 206.05, 206.051, 206.052, 206.41, 206.416, 206.43, 206.48, 206.485, 206.62, 206.87, 206.90, 206.91, 209.97, 206.9915 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98,

12B-5.090 Local Government Users.

(1) No change.

(2) LICENSING AND BONDING REQUIREMENTS.

(a) Licensing.

1. All counties, municipalities, and school districts, and nonpublic schools seeking refunds or partial exemptions from the state must be licensed as Local Government Users.

2. To obtain a license as a Local Government User of diesel fuel, a county, municipality, school district, or nonpublic school counties, municipalities, and school districts must file a with the Department an application under oath, form DR-156 (Florida Fuel Tax Application (Form DR-156, as a: Wholesaler of Alternative Fuel, Local Government User of Diesel Fuel, Mass Transit Systems), which is incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with, and in such form as prescribed by the Department, as provided in the application.

3. There is no application fee or license fee.

(b) No change.

(3) RETURNS AND REGULATIONS.

(a) Local Government Users are required to file a Local Government User of Diesel Fuel Tax Return (Form DR-309634, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department on or before the 20th day of each month following the month in which the use of fuel occurs will report, and remit tax to the Department of Revenue monthly. If the 20th day of the month falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

2. The return filed is form DR-309634, Local Government User of Fuel Tax Return, and is due by the 20th day of a month following the month in which the use of fuel occurs.

3. If the 20th day of the month falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

4. For the purpose of this rule section, a legal holiday will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503, Internal Revenue Code, of 1986, as amended and in effect on 1/1/96, which is incorporated by reference in this rule.

(b) Electronic filing of payments, returns, and other required information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing-

1. Payment of the tax is required to be made by electronic means; Local Government Users are required to file data elements and schedules contained in the Local Government User of Diesel Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting tax is required to be submitted by electronic means; Local Government Users who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when a Local Government User can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

(4) REFUNDS AND CREDITS.

(a) When filing a Local Government User of Diesel Fuel Tax Return (Form DR-309634, incorporated by reference in Rule 12B-5.150, F.A.C.), a county, municipality, or school district will be required to pay 3 cents of the 4 cent excise tax Excise Tax under Section s: 206.87(1)(a), F.S., the ninth-cent fuel tax Ninth-cent Fuel Tax under Section s: 206.87(1)(b), F.S., the local option fuel tax Local Option Fuel Tax under Section s: 206.87(1)(c), F.S., and the state comprehensive enhanced transportation system tax State Comprehensive Enhanced Transportation System Tax under Section s: 206.87(1)(d), F.S., on dyed diesel fuel used in vehicles owned or operated by the county, municipality, or school district. Local government users may take a credit, or obtain a refund, of taxes paid on motor fuel under Section 206.41(1)(b), F.S., and the fuel sales tax imposed under Section 206.41(1)(g)1., F.S., when filing the return.

(b)1. Any county, municipality, or school district, which is not licensed as a local government user, that uses tax-paid diesel fuel, gasoline, or gasohol in vehicles operated on the highways, may seek a refund each calendar quarter for the fuel sales tax imposed under Section 206.41(1)(b) and (g), F.S., for gasoline and gasohol and 1 cent of the tax imposed under Section 206.87(1)(a) and all of the tax imposed under Section 206.87(1)(b), F.S., on diesel fuel. Counties, municipalities, and school districts who file the Local Government User Fuel Tax Return, and who elect to take a credit of taxes paid on motor fuel may deduct the 1 cent County Fuel Tax under s. 206.41(1)(b), and the Fuel Sales Tax under s. 206.41(1)(g)1, F.S., from their tax liability when the return is filed.

2. Prior to qualifying for a refund of taxes paid, counties, municipalities, or school districts and nonpublic schools are required to file an Application for Refund Permit (Form DR-185, incorporated by reference in Rule 12B-5.150, F.A.C.) and obtain a Fuel Tax Refund Permit (Form DR-192, incorporated by reference in Rule 12B-5.150, F.A.C.) issued by the Department. Counties seeking a refund of taxes paid on motor fuel, must file a quarterly tax refund return, form DR-189, Application for Fuel Tax Refund, Municipalities, Counties and School Districts, to obtain such refund.

3. To apply for the refund, a county, municipality, or school district that holds a valid refund permit is required to file an Application for Fuel Tax Refund, Municipalities, Counties and School Districts (Form DR-189, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department. Form DR-189 must be filed for each calendar quarter no later than the last day of the month immediately following the calendar quarter for which the refund is claimed. The filing date may be extended one additional month from the date the DR-189 is due when a written explanation that sets forth reasonable cause for delay in filing the refund application is submitted with the application and the prior quarter's refund application was timely submitted to the Department. Prior to qualifying for a refund of taxes paid on motor fuel, counties, municipalities, and school districts who use gasoline or gasohol in vehicles, are required to obtain a refund permit, by filing form DR-185, Application for Refund Permit with the Department of Revenue.

4. Any nonpublic school operating schools buses that holds a valid refund permit is required to file an Application for Fuel Tax Refund Non-Public Schools (Form DR-190, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department. Form DR-190 must be filed for each calendar quarter no later than the last day of the month immediately following the calendar quarter for which the refund is claimed. The filing date may be extended one additional month from the date the DR-190 is due when a written explanation that sets forth reasonable cause for delay in filing the refund application is submitted with the application and the prior quarter's refund application was timely submitted to the Department.

Specific Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1) FS. Law Implemented 206.41(4), 206.86(11), 206.874(4) FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, \_\_\_\_\_.

#### 12B-5.100 Mass Transit Systems.

(1) No change.

(2) LICENSING AND BONDING REQUIREMENTS.

(a) Licensing.

1. Mass transit systems seeking refunds from the state or partial exemption must hold a valid ~~be licensed as~~ Mass Transit Systems License.

2. To obtain a Mass Transit Systems License System license, a person ~~persons~~ must file a ~~with the Department an~~ application under oath, ~~form DR-156 (Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application as a: Wholesaler of Alternative Fuel, Local Government User of Diesel Fuel, Mass Transit System), which is incorporated in Rule 12B-5.150, F.A.C., and in such forms prescribed by the Department.~~

3. There is no application fee or license fee.

(3) RETURNS AND REGULATIONS.

(a)1- Mass Transit Systems are required to file a Mass Transit System Provider Fuel Tax Return (Form DR-309633, incorporated by reference in Rule 12B-5.150, F.A.C.) and remit the tax due on or before the 20th day of the month following the month in which the use of fuel occurs will report, and remit tax to the Department of Revenue monthly. If the 20th day of the month falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

2. The return filed is form DR 309633, Mass Transit System Provider Fuel Tax Return, and is due by the 20th day of a month following the month in which taxable uses of fuel occur.

3. If the 20th day of the month falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

4. For the purpose of this rule section, a legal holiday will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503, Internal Revenue Code, of 1986, as amended and in effect on 1/1/96, which is incorporated by reference in this rule.



(b) Electronic filing of payments, returns, and information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing.

1. Payment of the tax is required to be made by electronic means; Mass Transit Systems are required to file data elements and schedules contained in the Local Government User of Diesel Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting tax is required to be submitted by electronic means; Mass Transit Systems who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when a Mass Transit System can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

(4) REFUNDS AND CREDITS.

(a)1. When filing a return, a Mass Transit System will be required to pay the excise tax ~~Excise Tax~~ under Section s. 206.87(1)(a), F.S., and the ninth-cent fuel tax ~~Ninth-cent Fuel Tax~~ under Section s. 206.87(1)(b), F.S., on dyed diesel fuel used in vehicles owned or operated by the system.

2.(b)1. Any mass transit system provider, which is not licensed as a Mass Transit System, that uses undyed diesel fuel, gasoline, or gasohol in vehicles operated on the highways, may seek a refund each calendar quarter for the fuel taxes imposed under Section 206.41(1)(e), (f), and (g), F.S., or Section 206.87(1)(c)(d) and (e), F.S. Mass Transit Systems filing returns, who elect to take a credit of taxes paid on motor fuel may deduct the Local Option Fuel Tax under s. 206.41(1)(e), F.S., the SCETS Tax under s. 206.41(1)(f), F.S., and the fuel sales tax under Section 206.41(1)(g), F.S., from their tax liability when the return is filed.

(b)2. Prior to qualifying for a refund of taxes paid, a Mass Transit System is required to file an Application for Refund Permit (Form DR-185, incorporated by reference in Rule 12B-5.150, F.A.C.) and obtain a Fuel Tax Refund Permit (Form DR-192, incorporated by reference in Rule 12B-5.150, F.A.C.) issued by the Department to obtain such refunds. Mass Transit Systems seeking a refund of taxes paid on motor fuel, must file the quarterly tax refund return, form DR-160, Application for City transit Fuel Tax Refund, to obtain such refund.

3. A Mass Transit System that holds a valid refund permit is required to file an Application for Fuel Tax Refund-Mass Transit System Users (Form DR-160, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department to obtain such refunds. Form DR-160 must be filed for each calendar quarter no later than the last day of the month

immediately following the calendar quarter for which the refund is claimed. The filing date may be extended one additional month from the date the DR-160 is due when a written explanation that sets forth reasonable cause for delay in filing the refund application is submitted with the application and the prior quarter's refund application was timely submitted to the Department. Prior to qualifying for a refund of taxes paid on motor fuel, Mass Transit Systems who use gasoline or gasohol in vehicles, are required to obtain a refund permit, by filing form DR-185, Application for Refund Permit with the Department of Revenue.

Specific Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1) FS. Law Implemented 206.041(4), 206.86(12), 206.874(5)(a) FS. History--New 7-1-96, Amended 11-21-96, 10-27-98, \_\_\_\_\_.

12B-5.110 Blenders.

(1) GENERAL INFORMATION.

(a) through (b) No change.

(c)1. To obtain a license as blender, every person must file a Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application.

2. Each initial or renewal application must be accompanied by a \$30 license fee.

(d)(e) No change.

(2) RETURNS AND REGULATIONS.

(a) through (b) No change.

(c) Any person who is licensed as a blender is required to file a only will report and remit all taxes imposed by Chapter 206, F.S., to the Department of Revenue monthly. Form DR-309635, Blender/Wholesaler of Alternative Fuel Tax Return (Form DR-309635, incorporated by reference in Rule 12B-5.150, F.A.C.); on or before must be filed by blenders by the 20th day of the month following a month in which transactions occur. If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule section, a legal holiday means will mean a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the; Internal Revenue Code; of 1986, as amended and in effect on January 1, 1996, which is incorporated by reference in this rule. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(d) Electronic filing of payments, returns, and other required information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing.

1. Payment of the tax is required to be made by electronic means. Blenders are required to file data elements and schedules contained in the diesel Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting tax is required to be submitted by electronic means. Blenders who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when a Blender can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

Specific Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1) FS. Law Implemented 206.02(3), 206.48(1), 206.485, 206.86(7), 206.87(2)(e) FS. History—New 7-1-96, Amended 11-21-96, 10-27-98,\_\_\_\_\_.

12B-5.120 Resellers and Retail Dealers.

(1) Any Before any person desiring to may engage in the business of selling motor fuel or diesel fuel at retail or reselling tax-paid fuel to retailers or end users, such person must register with the Department and obtain a separate sales and use tax certificate of registration for each place of be the holder of an unrevoked Sales and use Tax Certificate of Registration, issued by the Department to engage in such business.

(2)(a) Registration with the Department for purposes of sales and use tax is available by using one of the following methods: To obtain a license as a reseller or retail dealer of motor fuel or diesel fuel, a person must complete an Application for Sales and use Tax Registration (Form DR-1), which is incorporated by reference in Rule 12A-1.097(2), F.A.C.

1. Registering through the Department’s Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor>) using the Department’s “e-Services” without payment of a registration fee; or

2. Filing an Application to Collect and/or Report Tax in Florida (Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the form, and the required \$5 registration fee.

(b) A separate application is required for each place of business. Resellers and Retail dealers must pay a separate registration fee of \$5 and file a separate application (Form DR-1) for each place of business in this state.

Specific Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.404, 206.41(5), 206.414, 206.43, 206.44, 206.86, 212.18(3) FS. History—New 7-1-96, Amended 11-21-96, 10-27-98,\_\_\_\_\_.

12B-5.130 Refunds.

(1) FUEL USED FOR AGRICULTURAL, AQUACULTURAL, AND COMMERCIAL FISHING PURPOSES.

(a)1. Any person Persons who purchases purchase motor fuel used in any tractor, vehicle, or other equipment that which is used exclusively on a farm for planting, cultivating, harvesting, or processing farm products for sale, may obtain are entitled to a refund of local option, state comprehensive enhanced transportation system, and fuel sales taxes paid under Section 206.41(1)(e), (f), and (g), F.S.

2. Persons using motor fuel or diesel fuel in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt or fresh waters of Florida for sale are entitled to a refund of local option, state comprehensive enhanced transportation system, municipal fuel tax, and fuel sales taxes paid under Section 206.41(1)(c),(e), (f), and (g), F.S., and Section 206.87(1)(c), (d), and (e), F.S.

(b)2- Prior to qualifying for obtaining a refund of taxes paid on motor fuel used for agricultural, aquacultural, and commercial fishing purposes, every person is required to file an Application for Refund Permit (Form DR-185, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department and obtain a Fuel Tax Refund Permit (Form DR-192, incorporated by reference in Rule 12B-5.150, F.A.C.) persons must obtain a refund permit from this department.

(c)(b) Persons seeking a refund of taxes paid on motor fuel for agricultural, aquacultural, and commercial fishing purposes must file an Refunds authorized by this subsection will be issued quarterly, and persons requesting refunds of taxes paid on fuel used for agricultural purposes must file quarterly refund returns (Form DR-138, Application for Fuel Tax Refund-Agricultural, Aquacultural, Agriculture and Commercial Fishing Purposes (Form DR-138, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department and submit the original invoices with the returns. Form DR-138 must be filed for each calendar quarter no later than the last day of the month immediately following the calendar quarter for which the refund is claimed. The filing date may be extended one additional month when a written explanation that sets forth reasonable cause for delay in filing the refund application is submitted with the application and the prior quarter’s refund application was timely submitted to the Department.

(2) UNDYED DIESEL FUEL USED FOR OFF-ROAD PURPOSES OR OTHER EXEMPT PURPOSES USED IN POWER TAKE OFF UNITS.

(a) When undyed diesel fuel is consumed by a power take-off unit or engine exhaust for the purpose of turning a concrete mixer drum, for compacting solid waste, or for unloading bulk cargo by pumping, and such power take-off unit or engine exhaust which is mounted on a motor vehicle that, and such vehicle has no separate fuel tank, tax paid on the diesel fuel will be refunded is subject to a refund as follows:

1. A The refund of tax paid on undyed diesel fuel consumed by vehicles which use fuel to turn a concrete mixer drum or for compacting solid waste, will be granted on

thirty-five percent of the gallons consumed by vehicles that use fuel to turn a concrete mixer drum or for compacting solid waste such vehicle. Sales tax imposed under Section 212.0501, F.S., plus any applicable discretionary sales surtax, is due on the average cost per gallon that is eligible for a refund of fuel tax paid. The Department will reduce the amount of refund due on fuel tax paid by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant. ~~The gallons which are subject to refund shall be taxable under Part I of Chapter 212, F.S.~~

2.a. ~~A~~ ~~The refund of the tax paid on undyed diesel fuel that is consumed by a power take-off unit or engine exhaust for unloading bulk cargo,~~ will be granted on 10 gallons per full load pump-off of diesel fuel consumed by a power take-off or engine exhaust for the purpose of unloading bulk cargo from a pneumatic tank by pumping ~~of fuel tax paid.~~ Sales tax imposed under Section 212.0501, F.S., plus any applicable discretionary sales surtax, is due on the average cost per gallon that is eligible for a refund. The Department will reduce the amount of refund due on fuel tax paid by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant.

b. For purposes of this section, a full load pump-off means the unloading of at least 54,000 pounds of dry bulk cargo or its equivalent in gallons using a power take-off or engine exhaust. Persons subject to refund under this subparagraph will use Schedule D1 (Full Load Pump-off Product List), of Form DR-309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes (incorporated by reference in Rule 12B-5.130, F.A.C.) to determine the number of gallons that would be considered a full load for a given product. Initial refunds for products that are not incorporated into Schedule D1 will require documentation to verify the number of gallons that make up a full load to be submitted to the Department with Form DR-309639.

c. The number of pump-offs will be determined by using the following formula:

Gallons or Pounds Unloaded ÷ Full Load Pump Off (as defined above) = Number of Pump-Offs.

d. Vehicles using gasoline do not qualify for this refund.

(b) A refund of fuel tax on undyed diesel fuel will be granted when the fuel is used in off-road stationary equipment or in self-propelled off-road equipment. A refund will not be granted when the fuel is used to operate equipment on the highways. Sales tax imposed under Section 212.0501, F.S., plus any applicable discretionary sales surtax, is due on the average cost per gallon of fuel that is eligible for a refund of fuel taxes paid. The Department will reduce the amount of refund due on fuel tax paid by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant.

(c) A refund of fuel tax paid on undyed diesel fuel will be granted when the fuel is used to operate a refrigeration unit or other equipment located on a commercial motor vehicle and the fuel is placed into a separate tank that is not connected to the fuel supply system of the commercial motor vehicle. Undyed diesel fuel used to operate a refrigeration unit or other equipment on a commercial motor vehicle operated by a licensed common carrier for use in interstate or foreign commerce is subject to sales tax based on the partial exemption provided in Section 212.08(9)(b), F.S., and discretionary sales surtax as provided in Section 212.054(2)(b)4., F.S. Sales tax and surtax due is calculated based on the carrier's mileage apportionment factor. The Department will reduce the amount of refund due on fuel tax paid by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant. See Rules 12A-1.064 and 12A-15.013, F.A.C.

~~(b)1. In order to apply for a refund, a purchaser must have obtained a sales tax registration from the Department of Revenue.~~

~~(d)1.2. Persons seeking a refund of tax paid on undyed diesel for off-road or other exempt purposes must file Form DR-309639. Refunds under this subsection are required to submit form DR-309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes.~~

~~2.3. The Department will reduce the amount of fuel tax refund due by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant. Original invoices or certified copies of invoices obtained from suppliers must be retained by persons electing to file form DR-309639 and must be made available when requested by the Department for audit purposes, but are not required to be submitted with the return when filed.~~

~~(e)(e) An invoice or delivery ticket issued will be made by the seller at the time each motor vehicle is refueled must and will provide accurate information as to the date, the number of gallons placed in the fuel tanks of the motor vehicle, the motor vehicle number or tag number in the event the motor vehicle is not numbered, and the seller's license or registration number. Documentation to All internal records which provide information regarding as to fuel consumption is required to shall be maintained by the purchaser until tax imposed under Chapter 206, F.S., may no longer be determined and assessed under Section 95.091, F.S. purchasers for audit review.~~

(3) No change.

~~(4) FUEL USED FOR COMMERCIAL FISHING PURPOSES IN FLORIDA WATERS.~~

~~(a)1. Persons using motor fuel exclusively for the purpose of operating boats, vessels, or equipment for the taking of aquatic life from salt or fresh waters of Florida for resale, are entitled to a refund of local option, state comprehensive~~

enhanced transportation system, and fuel sales taxes paid under Sections 206.41(1)(e), (f), (g), and 206.87(1)(e), (d), and (e), F.S., and the municipal ~~1~~ gas tax imposed under Section 206.41(1)(e).

2. Prior to obtaining a refund of taxes paid, persons must obtain a refund permit from this department.

(b) Refunds authorized by this subsection will be issued quarterly, and persons requesting refunds of taxes paid on fuel used for commercial fishing purposes must file quarterly refund returns (Form DR-138, Application for Fuel Tax Refund Agriculture and Commercial Fishing Purposes) and submit the original invoices with the returns.

~~(5) SALE OF DIESEL FUEL FOR BUSINESS PURPOSES.~~

~~(a) Undyed Diesel Fuel.~~

1.a. Any person using undyed diesel fuel for business purposes, other than for use on a farm for farming purposes, as defined in Rule 12B-5.020(1)(b), F.A.C., may obtain a refund of fuel taxes paid under Section 206.87, F.S.

b. To obtain a refund under this paragraph, a person must provide proof to the Department that sales tax was paid on undyed diesel fuel used for business purposes.

(b)1. Persons eligible for refunds under this subsection may elect to file either form DR 309639, Application for Refund of Tax Paid on Undyed Diesel Used for off Road or Other Exempt Purposes, monthly, or form DR-26, Application for Refund from the State of Florida Department of Revenue.

2. Taxpayers electing to file form DR-309639 will use the form to deduct the sales tax owed from the fuel tax paid to suppliers on undyed diesel fuel consumed by a trade or business.

3. Any fuel tax paid in excess of the sales tax due will be refunded to the taxpayer.

4. Original invoices or certified copies of invoices obtained from suppliers must be retained by persons electing to file form DR 309639 and must be made available when requested by the Department for audit purposes, but are not required to be submitted with the return when filed.

5. Persons making the election under this paragraph must continue to provide original invoices or certified copies of invoices with form DR-26, when filed.

~~(4)(6) DIESEL FUEL SOLD FOR USE IN VESSELS.~~

~~(a) Dyed Diesel Fuel.~~

1. ~~The sale of dyed~~ Dyed diesel fuel sold for use in any vessel not engaged in interstate or foreign commerce is subject to sales tax and discretionary sales surtax imposed by Chapter 212, F.S., ~~and which must be collected by the selling dealer is required to collect the applicable sales tax and surtax. See Rule 12A-1.059, F.A.C.~~

2. ~~a. The sale of dyed~~ Dyed diesel fuel sold for use in a vessel used to transport persons or property for hire in interstate or foreign commerce or for use in commercial fishing

vessels is subject to the sales tax partial exemption provided in Section 212.08(4)(a)2., F.S., and subject to discretionary sales surtax, as provided in Section 212.054(2)(b)4., F.S. proration of the tax imposed by Chapter 212, F.S., only to the extent provided herein. Dealers who sell dyed diesel fuel for use in such vessels are required to collect the applicable sales tax and surtax due or to obtain a certificate, as provided in Rule 12A-1.0641, F.A.C., from a qualifying purchaser stating that the fuel will be used in a vessel operated by a licensed carrier in interstate or foreign commerce or used in a vessel for commercial fishing purposes. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year. The ratio shall be applied each month to the total Florida purchases of dyed diesel fuel which are used in Florida to establish that portion of the total used and consumed within this state and subject to the tax under Chapter 212, F.S. Dyed diesel fuel used exclusively in intrastate commerce does not qualify for proration of tax.

b. Prior to claiming the partial exemption, persons operating vessels which transport persons or property in intrastate commerce and interstate or foreign commerce who make any purchase of dyed diesel fuel must register as dealers with the Department and extend in writing at the time of purchase a resale certified in lieu of tax, stating the specific reasons for exemption. Vessels which operate on the canals or inland waterways of Florida are deemed to be engaged in intrastate commerce. However, mileage of such vessels from the territorial limit to port dockside and return into international waters, foreign or coastwise, in the continuous movement of persons or property in interstate or foreign commerce, is not considered to be mileage in Florida.

e. In addition, the partial exemption of dyed diesel fuel used to transport persons or property in interstate or foreign commerce shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be partially exempted are for the exclusive use designated herein, not used for pleasure purposes, and setting forth the extent of such partial exemption.

3. Persons operating vessels which transport persons or property exclusively in interstate or foreign commerce may, in lieu of registering as a dealer, furnish vendors with a signed statement that they do not operate on or in the canals or inland waterways of Florida. Mileage of vessels from the territorial limit to port dockside and return into international waters is not considered to be mileage in Florida.

4. A suggested affidavit is presented in subsection (7), below for fuel used in interstate and foreign commerce.

(b) Undyed diesel fuel sold to a purchaser Undyed diesel fuel sold for use on a noncommercial vessel in vessels is subject to the fuel taxes imposed under Section ~~s~~ 206.87(1), F.S. The purchaser may obtain a refund of diesel fuel tax paid

as follows: The purchaser may apply for a refund, which shall be the purchaser may apply for a refund, which shall be the difference between the fuel taxes imposed under Section 206.87(1), F.S., and the sales tax and discretionary sales surtax imposed under Chapter 212, F.S. To obtain the refund, owners are required to file form DR-309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes, and subject to restrictions provided in Section 206.8745(7), F.S.

1. The purchaser must purchase 2,500 gallons or more of diesel fuel for use in a noncommercial vessel per calendar year. No refund will be allowed on purchases of less than 2,500 gallons per calendar year.

2. The purchaser must file an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.), prior to April 1 of the year subsequent to each calendar year in which the diesel fuel tax was paid. The purchaser is entitled to file only one application per calendar year.

3. The purchaser is required to submit original invoices showing the amount of taxes paid with the application. Form DR-26 must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

4. The purchaser is required to pay the sales tax, plus any applicable discretionary sales surtax. The Department will reduce the amount of refund due on tax-paid diesel fuel used for exempt purposes by the amount of sales tax and discretionary sales surtax due.

(5) UNDYED DIESEL FUEL CONSUMED BY CERTAIN MOTOR COACHES.

(a) Undyed diesel fuel sold in this state that is consumed by the engine of a qualified motor coach, as defined in Section 206.8745(8), F.S., during idle time for the purpose of running climate control systems and maintaining electrical systems is subject to a refund of fuel tax paid.

(b) The purchaser of fuel used for such purpose may obtain a refund of diesel fuel tax paid as follows:

1. The purchaser must file an Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida (Form DR-309640, incorporated by reference in Rule 12B-5.150, F.A.C.), prior to April 1 of the year subsequent to each calendar year in which the diesel fuel tax was paid. The purchaser is entitled to file only one application per calendar year.

2. The purchaser is required to submit with the application originals or copies of invoices showing the amount of taxes paid. In lieu of invoices or copies of invoices, the purchaser may submit the Schedule of Fuel Consumed During Idle Time in Florida (Part III of Form DR-309640) and the Schedule of Undyed Diesel Fuel Purchased in Florida for Use in a Motor Coach (Part IV of Form DR-309640).

3. The purchaser is required to pay sales tax, plus any applicable discretionary sales surtax. The Department will reduce the amount of fuel tax refund by the amount of sales tax, plus any applicable discretionary sales surtax, due.

(7) The following is a suggested affidavit form to be used when purchasing items appropriate to carry out the purpose for which a commercial vessel used to transport persons or property in interstate or foreign commerce is designed, equipped, and used:

AFFIDAVIT FOR PURCHASING FUEL APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS DESIGNED, EQUIPPED, AND USED

I, \_\_\_\_\_, as owner, owner's agent, or operator of the commercial vessel, Home Port of \_\_\_\_\_, CERTIFY THAT:

1. The fuel purchased from the vendor listed below (copy of purchase invoice attached) is to be used only on the named vessel to transport persons or property in interstate or foreign commerce and is appropriate to carry out the purpose for which the vessel is designed, equipped, and used.

2. The fuel is purchased for use only on board this vessel (Check appropriate item)

(-) This vessel has not operated and will not operate on the canals or inland waterways or otherwise within the territorial waters of Florida.

(-) This vessel will operate in both non Florida and Florida waters and will report Florida Sales Tax in accordance with Rule 12A-1.064, F.A.C.

Dealer's Certificate of Registration Number: \_\_\_\_\_

This statement is issued in compliance with Rule 12A-1.064, Florida Administrative Code, in order to exempt or partially exempt this purchase from Florida Sales and use Taxes. This certification will continue in force until revoked by written notice to the vendor and the Department of Revenue.

\_\_\_\_\_  
Vendor's Name

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_

\_\_\_\_\_  
Notary Public

(Seal)

My Commission Expires

Cross Reference-Rules 12A-1.059 and 12A-1.0641, F.A.C.

Specific Authority 206.14(1), 206.59(1), 206.8745(6), 213.06(1) FS. Law Implemented 206.41(4), (5), 206.43(5), (6), 206.64, 206.8745, 206.97 FS. History--New 7-1-96, Amended 11-21-96, 10-27-98, \_\_\_\_\_.

12B-5.140 Dyeing and Marking; Mixing.

(1) Marking and Dyeing.

~~(a)1. The Beginning July 1, 1996, and thereafter, the dyeing and marking of diesel fuel will follow the requirements of 48.4082-1, Treasury Regulations; (hereby incorporated by reference in this rule), and shall conform to the requirements pursuant to the Environmental Protection Agency's high sulfur diesel fuel requirements as found in 40 CFR 80.29 in effect on July 1, 1996 (hereby which is also incorporated by reference in this rule).~~

~~2. On or after July 1, 1996, when expressly authorized by law, any amendments to either 48.4082-1 of the Treasury Regulations, or the Environmental Protection Agency's Code Section 40 CFR 80.29 shall be given effect under this rule in such manner and for such periods as are prescribed in such regulation or code, to the same extent as if such amendment had been adopted by the Legislature of this State.~~

~~3. The Department will notify all fuel tax licensees of changes in 48.4082-1, Treasury Regulations, and in Section 40 CFR 80.29, of Environmental Protection Agency's Code on or before December 31 of each year.~~

~~(2) Mixing.~~

~~(a)1. A licensed terminal supplier, importer, or wholesaler that which holds title to taxable diesel fuel that which has been mixed with dyed diesel fuel in storage may qualify for claim a refund of or credit for any state and local option tax paid on the taxable diesel fuel as follows:-~~

~~1.2. The To qualify for a refund or credit, the terminal supplier, importer, or wholesaler must contact the Department of Revenue at (850)410-0329 within 30 days 24 hours of the misfueling incident that caused the mixing of dyed diesel fuel with taxable diesel fuel to, and must obtain a refund authorization number. The terminal supplier, importer, or wholesaler must report the following information:~~

~~3. To obtain a refund authorization number, the terminal supplier, importer, or wholesaler must report the following:~~

~~a. through h. No change.~~

~~2.(b) Prior to granting a refund authorization number, the The Department of Revenue will may investigate the circumstances of the misfueling incident and the handling of the mixed dyed diesel fuel with taxable diesel fuel; prior to granting the refund authorization number.~~

~~(b) To obtain a refund of tax paid on diesel fuel, the terminal supplier, importer, or wholesaler holding a refund authorization number must file an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. For tax paid on or after July 1, 1999, Form DR-26, Application for Refund, must be filed with the Department within 3 years after the date the tax was paid.~~

~~(c)1. The discovery by the Department of Revenue of dye in any fuel storage facility that is not properly marked for off highway or other exempt use as dyed fuel; will be prima facie evidence of a violation of Section 206.8741, F.S., and subject to the penalty imposed under Section 206.872(11), F.S. this rule, and not subject to refund or credit, unless the misfueling incident has been previously reported as provided under this section.~~

~~2. Unless the misfueling incident has been previously reported, persons found in violation of the marking provisions will be subject to a penalty of the greater of \$10 for each gallon of diesel fuel involved or \$1,000, and no refund of tax paid on the diesel fuel will be granted.~~

Specific Authority 206.14(1), 206.59(1), 206.8741(1), 213.06(1) FS. Law Implemented 206.8741, 206.8745(3) FS. History--New 7-1-96, Amended 11-21-96, \_\_\_\_\_.

12B-5.150 Public Use Forms Used by Public.

~~(1)(a) The following public use forms and instructions are utilized by the Department of Revenue, dated below, and are hereby incorporated and made part of this rule by reference in this rule. The instructions on the forms listed below have the same authority as the rules.~~

~~(b) Copies may be obtained, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Forms Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (http://www.myflorida.com/dor/). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331. For those with other disabilities, please inform the Department as to how your inquiry may be reasonably accommodated.~~

Form Number	Title	Effective Date
<del>(1) DR-110</del>	<del>Pollutants License R- 8/96</del>	<del>11/96</del>
<del>(2) DR-114</del>	<del>Fuel License R- 4/96</del>	<del>11/96</del>
<del>(1)(3) DR-138</del>	<del>Application for Fuel Tax Refund- Agriculture, Aquacultural, and Commercial Fishing Purposes (R. 03/05) R- 8/96</del>	<del>11/96</del>
<del>(2)(4) DR-156</del>	<del>Florida Fuel Tax Application (R. 01/06) R- 1/98</del>	<del>1/98</del>
<del>(3) DR-156R</del>	<del>Florida Fuel Tax Renewal Application (R. 01/06)</del>	<del>_____</del>

(4)(5)DR-157	Fuel Tax Surety Bond (R. 08/03) R-2/96	___	11/96	(28)(32) DR-309634N	Instructions for Filing Local Government User of Diesel Fuel Tax Return (R. 01/06) N-7/96	___	11/96
(5)(6) DR-157A	Assignment of Time Deposit (R. 08/03) R-8/96	___	11/96	(29)(33) DR-309635	Blender/Retailer-Wholesaler of Alternative Fuel Tax Return (R. 01/06) N-7/96	___	11/96
(6)(7) DR-157B	Fuel Tax Cash Bond (R. 08/03) R-8/96	___	11/96	(30)(34) DR-309635N	Instructions for Filing Blender/Retailer of Alternative Fuel Tax Return (R. 01/06) N-7/96	___	11/96
(7) DR-157W	Bond Instructions (R. 01/04)	___		(31)(35) DR-309636	Terminal Operator Information Return (R. 01/06) N-7/96	___	11/96
(8) DR-160	Application for Fuel Tax Refund Mass Transit System Users (R. 03/05) Tax Refund R-8/96	___	11/96	(32)(36) DR-309636N	Instructions for Filing Terminal Operator Information Return (R. 01/06) N-7/96	___	11/96
(9) DR-161	Refund Application Schedule of Purchases for Tax Paid Purchases Only (R. 01/06) R-8/96	___	11/96	(33)(37) DR-309637	Petroleum Carrier Information Return (R. 01/06) N-7/96	___	11/96
(10) DR-166	Florida Pollutant Tax Application (R. 01/06) R-1/98	___	1/98	(34)(38) DR-309637N	Instructions for Filing Petroleum Carrier Information Return (R. 01/06) N-7/96	___	11/96
(11) DR-176	Application for Air Carrier Fuel Tax License (N. 01/06)	___		(35)(39) DR-309638	Exporter Fuel Tax Return (R. 01/06) N-7/96	___	11/96
(12)(11) DR-179	Corporate Surety Bond Form Applicant for Motor or Diesel Fuel Tax Refund for Refund Permit Applicant (R. 09/97) R-8/96	___	11/96	(36)(40) DR-309638N	Instructions for Filing Exporter Fuel Tax Return (R. 01/06) N-7/96	___	11/96
(12) DR-181	License Card for Vehicle or Vessel R-8/96	___	11/96	(37)(41) DR-309639	Application for Return of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes (with Instructions) (R. 04/06) N-7/96	___	11/96
(13) DR-182	Florida Air Carrier Fuel Tax Return (R. 02/05) R-1/96	___	11/96	(38) DR-309640	Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida (R. 01/06)	___	
(14) DR-182AC	Florida Air Carrier Fuel Tax Return R-1/96	___	11/96	(39)(42) DR-309641	Gasoline/Gasohol Local Option Schedule by County (R. 01/06) R-9/96	___	11/96
(14)(15) DR-185	Application for Refund Permit (R. 06/04) R-8/96	___	11/96	(40)(43) DR-309642	Ultimate Vendor Credits (R. 01/06) R-7/96	___	11/96
(15)(16) DR-189	Application for Fuel Tax Refund Municipalities, Counties and School Districts (R. 03/05) R-8/96	___	11/96	(41)(44) DR-309643	Mass Transit and Local Government User-Schedule of Receipts (R. 01/06) N-7/96	___	11/96
(16)(17) DR-190	Application for Fuel Tax Refund Non-Public Schools (R. 03/05) R-8/96	___	11/96	(42)(45) DR-309644	Local Government User-Schedule of Disbursements (N. 01/06) N-7/96	___	11/96
(17)(18) DR-191	Application for Aviation Fuel Tax Refund-Air Carriers (R. 03/04) R-8/96	___	11/96	(43) DR-309660	Application for Pollutant Tax Refund (N. 04/06)	___	
(19) DR-192	Refund Permit R-8/96	___	11/96				
(18)(19) DR-248	Alternative Fuel Use Permit Application and Order Form (R. 08/03) R-8/96	___	11/96				
(19) DR-248R	Alternative Fuel Decal Rates for 2004 (R. 11/04)	___					
(21) DR-249	Alternative Fuel Use Permit R-8/96	___	11/96				
(23) DR-249B	Alternative Fuel Use Permit R-8/96	___	11/96				
(22) DR-249A	Alternative Fuel Use Permit 8/96	___	11/96				
(20)(24) DR-904	Pollutants Tax Return (R. 03/05) R-8/96	___	11/96				
(21)(25) DR-309631	Terminal Supplier Fuel Tax Return (R. 01/06) N-7/96	___	11/96				
(22)(26) DR-309631N	Instructions for Filing Terminal Supplier Fuel Tax Return (R. 01/06) N-7/96	___	11/96				
(23)(27) DR-309632	Wholesaler/Importer Fuel Tax Return (R. 01/06) N-7/96	___	11/96				
(24)(28) DR-309632N	Instructions for Filing Wholesaler/Importer Fuel Tax Return (R. 01/06) N-7/96	___	11/96				
(25)(29) DR-309633	Mass Transit System Provider Fuel Tax Return (R. 01/06) N-7/96	___	11/96				
(26)(30) DR-309633N	Instructions for Filing Mass Transit System Provider Fuel Tax Return (R. 01/06) N-7/96	___	11/96				
(27)(31) DR-309634	Local Government User of Diesel Fuel Tax Return (R. 01/06) N-7/96	___	11/96				

Specific Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.404, 206.43, 206.86, 206.877, 206.90, 206.91, 206.92, 206.9931, 206.9943 FS. History-New 11-21-96, Amended 10-27-98.

PART II

TAX ON ALTERNATIVE FUEL

12B-5.200 ~~Retailers~~ Wholesalers of Alternative Fuel.

(1) GENERAL INFORMATION.

(a) Persons who purchase for resale, import or store alternative fuel in a ~~storage~~ facility other than at a terminal, and who place any portion of alternative fuel purchased, imported, or stored into the fuel supply system of a motor vehicle must obtain a license as a ~~Retailer~~ Wholesaler of Alternative Fuel.

(b) ~~Retailers~~ Wholesalers of Alternative Fuel may:

1. through 5. No change.

(2) LICENSING AND BONDING.

(a) To obtain an annual ~~a~~ license as a Retailer ~~Wholesaler~~ of Alternative Fuel, every ~~a~~ person must will file a form DR-156, Florida Fuel Tax Application (Form DR-156, which is incorporated by reference in Rule 12B-5.150, F.A.C.); and the required attachments with the Department, as provided in the application under oath, meeting all requirements specified in s. 206.89, F.S.

2. Each initial or renewal application must be accompanied by a \$5 registration fee.

(b) Persons that hold valid licenses as wholesalers already licensed as Wholesalers pursuant to Section s. 206.02, F.S., are not required to obtain a separate license be licensed as a Retailer Wholesaler of Alternative Fuel.

(c) Bonds of Retailers ~~Wholesalers~~ of Alternative Fuel will be computed at three times the average monthly liability of fuel that which is placed into the supply system of vehicles registered in a state other than Florida.

(3) FUELING OF A VEHICLE WITH FLORIDA DECAL.

(a) In lieu of paying fuel taxes on the purchase of alternative fuel that which is placed into the supply tank of a vehicle registered in Florida, all owners or operators of vehicles powered by alternative fuels are required to obtain an annual will acquire a valid Alternative Fuels Decal for each qualified vehicle from the Department of Revenue. The owners or operators of qualified such vehicles are required to will pay an annual decal fee on each such motor vehicle, as provided in Section in accordance with the rate schedule under s. 206.877, F.S., which is based on specifications pursuant to s. 320.08, F.S.

(b) In addition to the annual alternative decal fee, the sale of alternative fuel is subject to sales tax imposed under Chapter 212, F.S. See Rule 12A-1.059, F.A.C.

(4) FUELING OF A VEHICLE WITH NO FLORIDA DECAL.

(a) No change.

(b) Retailers ~~Wholesalers~~ of Alternative Fuel who place alternative fuel in vehicles that are registered in a State other than Florida, are required to collect and remit all taxes imposed under Section s. 206.87, F.S.

(c) No change.

(5) RETURNS AND REGULATIONS.

(a) ~~Licensed Retailers Wholesalers~~ of Alternative Fuel are required to file a will report taxes collected on alternative fuel that which is placed into vehicles powered by alternative fuel on form DR-309635, Blender/Retailer Wholesaler of Alternative Fuel Tax Return (Form DR-309630, incorporated by reference in Rule 12B-5.150, F.A.C.), by the 20th day of the month following a month in which transactions of placing fuel into vehicles powered by alternative fuel occur.

2- If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

(b) For the purpose of this rule ~~section~~, a legal holiday means will mean a holiday that which is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the, Internal Revenue Code, of 1986, as amended and in effect on 1/1/96, which is incorporated by reference in this rule. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b)(e) Electronic filing of payments, returns, and other required information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when: Media Filing-

1. Payment of the tax is required to be made by electronic means: Wholesalers of Alternative Fuel are required to file data elements and schedules contained in the diesel Fuel Tax Return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting tax is required to be submitted by electronic means: Wholesalers of Alternative Fuel who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with a return for reporting tax; or Deferral requests will be granted by the Department when a Wholesaler of Alternative Fuel can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

Specific Authority 206.14(1), 206.59(1), 206.877, 213.06(1) FS. Law Implemented 206.485, 206.877, 206.89 FS. History--New 11-21-96, Amended 10-27-98.

PART III

TAX ON AVIATION FUEL AND KEROSENE

12B-5.300 Aviation Fuel Licensees.

(1) No change.

(2) GENERAL INFORMATION.

(a) 1. through 3. No change.

4. Bonding. Prior to becoming licensed, each new terminal supplier applicant must submit, to the Department, a bond, as provided in paragraph (2)(b) of Rule under the provisions of section 12B-5.050(2)(b), F.A.C., of this rule.

(b) Wholesalers of Aviation Fuel or Undyed Kerosene.



1. ~~Any person~~ Persons who ~~stores~~ store aviation fuel or undyed kerosene for sale in Florida in a facility other than at a terminal registered with the Internal Revenue Service must ~~hold a valid license as~~ obtain a wholesaler license. See Rule 12B-5.060, F.A.C.

2. through 3. No change.

4. Bonding. Prior to becoming licensed, each new wholesaler applicant must submit, to the Department, a bond, ~~as provided in paragraph (2)(c) of Rule~~ an amount which is determined by the provisions of rule section 12B-5.060(2)(e), F.A.C., of this rule.

(c) Importers of Aviation Fuel or Undyed Kerosene.

1. ~~Every person~~ Persons who ~~imports~~ import aviation fuel or undyed kerosene into Florida, by common or private carrier, upon which Florida tax has not been charged or collected must ~~hold a valid~~ obtain a license as a wholesaler and as an importer. See Rules 12B-5.030 and 12B-5.060, F.A.C.

~~2. Importers must first be licensed as wholesalers in this State.~~

~~2.3.~~ Bonding. Prior to becoming licensed, each new ~~exporter~~ importer applicant must submit, to the Department, a bond, ~~as provided in paragraph (2)(b) of Rule~~ 12B-5.030, F.A.C. an amount which is determined by the provisions of rule section 12B-5.030(2)(b) of this rule.

(d) Exporters of Aviation Fuel or Undyed Kerosene.

1. through 2. No change.

3. Bonding. Prior to becoming licensed, each new importer applicant must submit, to the Department, a bond, ~~as provided in paragraph (2)(c) of Rule~~ 12B-5.080, F.A.C. an amount which is determined by the provisions of rule section 12B-5.080(2)(e), F.A.C., of this rule.

(e) Carriers of Aviation Fuel or Undyed Kerosene.

1. ~~Any person who transports~~ All persons transporting aviation fuel or undyed kerosene within this State must ~~hold a valid license as a~~ have an unrevoked carrier license issued by the Department. See Rule 12B-5.040, F.A.C.

2. through 3. No change.

(3) EXEMPT SALES.

(a) Sales of Aviation Fuel to the United States Government. The sale by terminal suppliers and wholesalers of aviation fuel or undyed kerosene in quantities of 500 gallons or more per delivery to the United States Government, its departments, or its agencies is exempt from tax.

(b) through (c) No change.

(d) Sales of Undyed Kerosene for Home Heating or Cooking.

1. Terminal suppliers who deliver undyed kerosene to a residence for home heating or cooking must ~~accrue~~ assess themselves the 6.9 cents excise tax ~~due on the number of gallons delivered on its,~~ but may take an ultimate vendor credit for the amount of tax assessed when form DR-309631, Terminal Supplier Fuel Tax Return (Form DR-309631,

incorporated by reference in Rule 12B-5.150, F.A.C.) is filed. To obtain a credit for tax accrued, terminal suppliers must complete Schedule 12, Ultimate Vendor Credit (Form DR-309642, incorporated by reference in Rule 12B-5.150, F.A.C.) and submit it to the Department with Form DR-309631.

2. Wholesalers ~~that who~~ deliver tax-paid undyed kerosene to a residence for home heating and cooking may ~~obtain a take~~ an ultimate vendor credit for the 6.9 cents excise tax paid to suppliers when filing their on form DR-309632, Wholesaler/Importer Fuel Tax Returns Return (Form DR-309632, incorporated by reference in Rule 12B-5.150, F.A.C.) when filed. To obtain a credit for tax paid, wholesalers must complete Schedule 12, Ultimate Vendor Credit (Form DR-309642), and submit it with Form DR-309632.

3. No change.

4. Terminal suppliers and wholesalers who deliver undyed kerosene to retail dealers for resale of such fuel exclusively for home heating and cooking may ~~obtain a take an ultimate vendor credit for tax paid on the number of gallons delivered.~~ To obtain a credit for tax paid, terminal suppliers and wholesalers must complete Schedule 12, Ultimate Vendor Credit (Form DR-309642). Terminal suppliers must submit the completed Schedule 12 with Form DR-309631. Wholesalers must submit the completed Schedule 12 with Form DR-309632.

5. No change.

6. Sales of Undyed Kerosene to a Reseller for Use as a Home Heating or Cooking Fuel.

a. A licensed wholesaler or terminal supplier may sell undyed kerosene to a reseller that qualifies as a retail dealer for sale of home heating or cooking fuel and may ~~obtain~~ receive a credit or a refund as the ultimate vendor. To obtain a credit or a refund for tax paid, wholesalers and terminal suppliers must complete Schedule 12, Ultimate Vendor Credit (Form DR-309642). Terminal suppliers must submit the completed Schedule 12 with Form DR-309631. Wholesalers must submit the completed Schedule 12 with Form DR-309632. To obtain a refund of tax paid, wholesalers must file an Application for Refund (Form DR-26, incorporated by reference in rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

b. through c. No change.

d. Resellers that make sales of undyed kerosene for use other than for home heating or cooking without paying the aviation fuel tax are in violation of Chapter 206, F.S., and subject to the penalties provided in Section 206.872(11)(a), F.S. Department action to revoke the sales and use license and the carrier license.

e. A wholesaler or terminal supplier that knows or should have known that the reseller is not making deliveries of undyed and untaxed kerosene for home heating or cooking can lose the ultimate vendor privilege for reseller sales and will be subject to tax, penalty, and interest.

(4) No change.

(5) RETURNS AND REGULATIONS.

(a) Any person who holds an aviation fuel license is required to file the following tax returns monthly with the Department of Revenue:

1. Terminal suppliers of aviation fuel are required to will report tax due on aviation fuel on Form form DR-309631, Terminal Supplier Suppliers Fuel Tax Return.

2. Wholesalers and importers of aviation fuel are required to will report tax due on aviation fuel on Form form DR-309632, Wholesaler/Importer Fuel Tax Return.

3. Exporters of aviation fuel are required to will report all purchases of aviation fuel from terminal suppliers or wholesalers in Florida of fuel that is exported to another state on Form form DR-309638, Exporter Fuel Tax Return.

4. Terminal Operators of aviation fuel are required to report the number of gallons of aviation fuel removed from storage through the terminal rack and aviation fuel imported by means other than bulk transfer into Florida on Form will file form DR-309636, Terminal Operator Information Fuel Tax Return.

5. Carriers of aviation fuel are required to report all aviation fuel moving by truck, rail, pipeline, barge, ship, or other conveyance on Form will report the transport of aviation fuel using form DR-309637, Petroleum Carrier Information Return.

6. Air carriers that have elected to apportion aviation fuel tax under the provisions of s. 212.0598, F.S., will report the use of aviation fuel using form DR-182AC, Florida Air Carrier Fuel Tax Return, beginning January 1997, which is incorporated by reference in Rule 12B-5.150, F.A.C.

(b) The forms in paragraph (a) are incorporated by reference in Rule 12B-5.150, F.A.C.

(c) Electronic filing of payments, returns, and other required information reports must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C., when: Media Filing-

1. Payment of the tax is required to be made by electronic means: Fuel licensees which sell aviation fuel are required to file data elements and schedules contained in the appropriate fuel tax return by magnetic tape, computer disk, or a telephone modem.

2. Any return for reporting tax is required to be submitted by electronic means: Those licensees who sell alternative fuel who are unable to meet the requirements for electronic filing may request a deferral of the date on which electronic data is required to be filed with the Department.

3. No tax is due with any return for reporting tax; or Deferral requests will be granted by the Department when a licensee who sells alternative fuel can demonstrate the inability to complete the necessary computer program change by the date the information is due.

4. Any information report is required to be submitted by electronic means.

(6) No change.

(7) REFUNDS AND CREDITS.

(a) Refunds to Air Carriers for Wages Paid to Employees.

1. Any carrier that is in the business of transporting persons or property for compensation or hire by air will be entitled to a refund of the tax paid on aviation fuel pursuant to Part III of Ch. 206, F.S. The amount of refund shall not exceed the amount of aviation fuel tax paid.

2. No change.

3. The refund shall not exceed either .006 times total gross wages paid in Florida for that quarter, or the amount of aviation fuel tax paid.

3.4. To obtain a refund of aviation fuel tax paid, an Air carrier is required to file an will make an application for refund of wages paid on Form DR-191, Application for Aviation Fuel Tax Return-Air Carriers (Form DR-191, which is incorporated by reference in Rule 12B-5.150, F.A.C.), with by attaching information as may be required by the Department regarding wages or payroll records, and provide necessary documents or information as proof of payment of tax pursuant to Chapter 206, F.S. Form DR-191 must be filed for each calendar quarter no later than the last day of the month immediately following the calendar quarter for which the refund is claimed. The filing day may be extended one additional month when a written explanation that sets forth reasonable cause for delay in filing the refund application is submitted with the application and the prior quarter's refund application was timely submitted to the Department.

4. Amended applications for the prior calendar quarter must be received by the Department by the current calendar quarter's deadline.

5. No refund will be authorized for a tax refund of less than \$5 for a refund period.

5. Refunds will be issued on a calendar quarter basis ending march 31, June 30, September 30 and December 31. Application for refunds will be filed within thirty days after the last day of each quarter for which refund is being requested.

6. Application for refunds will be considered as filed timely if postmarked on or before the thirty day period, except on a Saturday, a Sunday or a state or federal legal holiday, in which case, the date of the next following work day will be accepted.

(b) Refunds to Air Carriers That Apportion Tax.

1. Air carriers that elect to prorate aviation fuel tax under the provisions of Section 212.0598, F.S., are required to file form DR-182AC, Florida Air Carrier Fuel Tax Return.

~~2. Such carriers will compute aviation fuel tax by multiplying 8 percent times the cost of each gallon of fuel purchased during a month times the carrier's apportionment factor determined in the prior calendar year.~~

~~3. When apportioned aviation fuel tax, computed by an air carrier, is less than the amount of Florida aviation fuel tax paid during a month, the difference will be granted as either a refund or as a credit deduction from the carrier's sales tax liability.~~

~~(b)(e) Any fixed base operator that who sells aviation fuel to the United States federal government, its departments, or its agencies for use in governmental aircraft is entitled to apply for a refund of tax paid on such fuel. To receive a refund of tax paid, the fixed base operator must file an by-making application for refund on Form DR-26, Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department from the State of Florida Department of Revenue, pursuant to s. 215.26, F.S., and by furnishing such information as the Department may require for issuance of such refund. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. For tax paid on or after July 1, 1999, Form DR-26, Application for Refund, must be filed with the Department within 3 years after the date the tax was paid.~~

~~(8) No change.~~

~~(9) COMMERCIAL AIR CARRIERS; REGISTRATION; REPORTING.~~

~~(a) Registration.~~

~~1. All airlines that operate operating as commercial air carriers in Florida are required to hold a valid aviation fuel tax license must apply on an annual basis for an Air Carrier Fuel Tax License.~~

~~2. To obtain an annual license, a commercial air carrier must file an Application for Air Carrier Fuel Tax License (Form DR-176, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application.~~

~~3. To renew an annual license, a commercial air carrier must file a Renewal Application for Pollutant or Air Carrier License (Form DR-166R, incorporated by reference in Rule 12B-5.150, F.A.C.)~~

~~3.2. Each initial or The license and renewal application must be accompanied by a fee is \$30 license fee, will be paid into the State Treasury to be credited to the General Revenue Fund.~~

~~(b) Reporting. All Whenever a licensed commercial air carriers are required to file a Florida Air Carrier Fuel Tax Return (Form DR-182, incorporated by reference in Rule 12B-5.150, F.A.C.), to report carrier withdraws aviation fuel withdrawn from bonded inventories and use in domestic flights; or imports of non-tax paid aviation fuel for use in~~

domestic flights, and to the air carrier will remit tax due at the rate of 6.9 cents per gallon on form DR-182, Florida Air Carrier Fuel Tax Return, which is incorporated in Rule 12B-5.150, by reference. Form DR-182 must be filed on or before the 20th day of each month for transactions during the previous month to avoid penalty for late filing. If the 20<sup>th</sup> day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(c) Electronic filing of payments, returns, and other information reports must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C., when: Rate of Tax.

1.a. Payment of the tax is required to be made by electronic means; Air carriers that make the election to pay tax under the special apportionment formula pursuant to Section 212.0598, F.S., are subject to a tax rate of 8 percent of the retail sales price on the purchase of each gallon of aviation fuel.

b. Tax remitted under the election will not be lower than 4.4 cents per gallon.

e. This proration of tax will expire on July 1, 2000.

2.a. Any return for reporting tax is required to be submitted by electronic means; Air carriers that make this election will apportion the tax pursuant to Rule 12A-1.064, F.A.C.

b. Each carrier's ratio will be determined at the close of the carrier's preceding fiscal year, and the ratio will not change by more than 10 percent over the carrier's previous fiscal year.

3.a. No tax is due with any return for report tax; or Each air carrier, after applying for the above election, will file with, and remit to the Department, the proper tax found to be due by computing the tax pursuant to the apportionment formulas arrived at under Section 212.0598, F.S.

b. Such tax will be filed on form DR-182AC, Florida Air Carrier Fuel Tax Return, which is incorporated in Rule 12B-5.150, F.A.C., by reference.

4. Any information report is required to be submitted by electronic means. Air carriers making this election will not be authorized the refund provided in Section 206.9855, F.S.

Specific Authority 206.14(1), 206.59(1), 206.97, 213.06(1) FS. Law Implemented 206.02, 206.03, 206.05, 206.43, 206.48, 206.485, 206.90, 206.91, 206.9825, 206.9835, 206.9865, 206.9875, 212.0598 FS. History--New 11-21-96, Amended 10-27-98, \_\_\_\_\_.

PART IV  
TAX ON POLLUTANTS

12B-5.400 Producers and Importers of Pollutants.

(1) through (2) No change.

(3) LICENSING AND BONDING.

(a) Any person who does not hold a valid motor fuel, diesel fuel, or aviation fuel tax license issued pursuant to Persons not registered pursuant to Parts I, II, or III of Ch. 206, F.S., and who produces, imports, or causes pollutants produce, import, or cause to be imported into this state State taxable pollutants, is required to obtain shall apply for and be issued a pollutants tax license identification number as an importer or producer.

(b) To obtain an annual procure a license as an importer or producer of taxable pollutants, a person must file a with the Department an application, form DR-166 (Florida Pollutant Tax Application (Form DR-166, incorporated by reference in Rule 12B-5.150, F.A.C.); and the required attachments with under oath and in such form as prescribed by the Department, as provided in the application which meets all requirements specified in s. 206.9931, F.S. The Department will require an applicant for a license as an importer or producer of pollutants to provide photograph, fingerprints, or other data required under the provisions of s. 206.02, F.S., prior to obtaining a license.

2. To renew an annual license, an applicant must file a Florida Fuel Tax Renewal Application (Form DR-166R, incorporated by reference in Rule 12B-5.150, F.A.C.).

3. Each initial or renewal application submitted by a person who is not currently licensed under Parts I, II, or III of Chapter 206, F.S., must be accompanied by a \$30 registration fee.

(c) The registration fee shall be \$30.00 for all persons not registered or licensed pursuant to Parts I, II, or III of Ch. 206, F.S. Persons registered or licensed pursuant to Parts I, II, or III of Ch. 206, F.S., are not required to pay a separate registration fee for pollutants tax.

(d) through (f) renumbered (c) through (e) No change.

(4) EXEMPTIONS.

(a) through (d) No change.

(e) The United States federal government, its departments, or and its agencies which import pollutants into this State are exempt from tax and are not required to file a return with the Department the "Pollutant Tax Return." Pollutants tax licensees who sell pollutants to the United States federal government, it departments, or and its agencies are not exempt from paying the tax due on pollutants to the Department.

(5) TAXABLE PRODUCTS.

(a) through (c) No change.

(d) Rate of Tax.

1. The excise tax is levied by Sections ss. 206.9935(1)(a), 206.9935(2)(a), and 206.9935(3)(a), F.S., for the tax for coastal protection, tax for water quality, and tax for inland protection Tax for Coastal Protection, Tax for Water Quality; and Tax for Inland Protection, respectively.

2. The tax rate on all pollutants first produced in, or imported into Florida is subject to change. The Department shall provide written notice to all licensees of these changes as they occur.

2.3. The effective tax rates for each trust fund on or after the indicated dates are:

a. Coastal Protection Tax: 2 cents per barrel of pollutant.

7-1-89 2 cents per barrel of pollutant

b. Inland Protection Tax: 80 cents per barrel of pollutant.

7-1-86 10 cents per barrel of pollutant

5-1-88 20 cents per barrel of pollutant

8-1-91 30 cents per barrel of pollutant

5-1-92 80 cents per barrel of pollutant

c. Water Quality Assurance Tax:

Motor Oil and Lubricants-2.5 cents per gallon

Solvents-5.9 cents per gallon

Other Petroleum Products, Pesticides, and Chlorine-5 cents per barrel

Ammonia-2 cents per barrel.

1-1-87 All Pollutants-2 cents per barrel

10-1-88 Motor Oil and Other Lubricants 5 cents per gallon

10-1-88 Solvents containing compounds specifically listed in Section 206.9925(5), F.S. 10 cents per gallon

7-1-89 Motor Oil and Lubricants-1 cents per gallon

Thru

2-28-90 Solvents and solvent mixtures-2.36 cents per gallon

3-1-90 Motor Oil and Lubricants-2.5 cents per gallon Solvents and solvent mixtures-5.9 cents per gallon

(Solvent mixtures tax is repealed July 1, 1996)

Other Petroleum Products, Pesticides, and Chlorine-5 cents per barrel

Ammonia-2 cents per barrel

3.4. No change.

(6) RETURNS AND REGULATIONS.

(a) Any person licensed as a terminal supplier, importer, wholesaler, or blender pursuant to Chapter 206, F.S., and any person licensed as an importer or producer of pollutants is required to file a Pollutants Tax Return (Form DR-904, incorporated by reference in Rule 12B-5.150, F.A.C.) on or before the 20th day of the month following the month of sale or first removal of pollutants from storage. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied

by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district. Reports and payment of tax to the Department of Revenue by registrants shall be due monthly as provided by Section 206.9931(2), F.S.

(b) All statements or reports required by Part IV of Ch. 206, F.S., shall be filed whether or not tax is due.

(e) All taxable petroleum products, pesticides, ammonia, chlorine, solvents shall be reported on the "Pollutants Tax Return" (DR-904).

(b)(4) ~~When quarterly, semi-annual, or annual reporting is authorized by the Department, pursuant to Section 206.9931(5), F.S., the tax is due on or before the 20th day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month. Instead of reporting for 12 monthly reporting periods, the Executive Director, or the Executive Director's designee, will authorize, if requested, a quarterly return and payment when the tax remitted by the licensee for the preceding quarter did not exceed \$100; or a semiannual return and payment when the tax remitted by the licensee for the preceding six months did not exceed \$200; or an annual return and payment when the tax remitted by the licensee for the preceding twelve months did not exceed \$400. When quarterly, semiannual, or annual reporting is authorized, taxes become due the first day of the month following the authorized reporting period and shall be delinquent on the twenty-first day thereof. A licensee requesting permission to request in writing to the Department, setting out the requested reporting period, the trade name, mailing address, and the licensee's pollutants license number.~~

(c)(e) ~~Electronic filing of payments, returns, and other information reports must be submitted to the Department. Where payment by electronic funds transfer is required the tax shall be remitted as provided by Chapter 12-24, F.A.C., when:~~

1. ~~Payment of the tax is required to be made by electronic means;~~
2. ~~Any return for reporting tax is required to be submitted by electronic means;~~
3. ~~No tax is due with any return for reporting tax; or~~
4. ~~Any information report is required to be submitted by electronic means.~~

(7) REFUNDS AND CREDITS.

(a) ~~Any licensee that registrant who is entitled to a refund of pollutant tax pursuant to Section 206.9942, F.S., is required to file with the Department an may apply for such~~

~~refund on form DR-26, Application for Pollutant Tax Refund (Form DR-309660, incorporated by reference in Rule 12B-5.150, F.A.C.). The request for refund must be supported by charge tickets, sales slips, invoices, or other tangible evidence of the sale; applicable export schedules, and shipping and delivery documents. Charge tickets, sales slips, invoices, or other tangible evidence of the sale must contain the following information: Refund from the State of Florida Department of Revenue. Any refund request or credit shall be supported by original sales invoices showing the tax was paid to the Department and a copy of the supporting export schedules required with returns, shipping and delivery documents.~~

- a. ~~The name, mailing address, and location address of the purchaser;~~
- b. ~~The type of pollutant and the number of gallons or barrels purchased;~~
- c. ~~The date on which the purchase was made;~~
- d. ~~The price paid for the pollutants;~~
- e. ~~The name and place of business of the seller;~~
- f. ~~The pollutant tax paid per gallon or per barrel; and~~
- g. ~~The Department of Environmental Protection storage tank facility identification number for the seller, if applicable;~~

2. ~~In lieu of original sales invoices, the applicant applying for a refund may submit a detailed schedule of individual transactions that includes the information required under subparagraph 1. Original invoices or certified copies of invoices obtained from suppliers must be maintained by the applicant in its records until tax imposed under Chapter 206, F.S., may no longer be determined and assessed under Section 95.091, F.S.~~

3. ~~Form DR-309660 must be filed for each calendar quarter no later than the last day of the first month following the quarter for which the refund is claimed. The filing date may be extended one additional month from the due date of Form DR-309660 when a written explanation that sets forth reasonable cause for delay in filing the refund application is submitted with the application and the prior quarter's application for refund was timely submitted to the Department.~~

4. ~~Amended applications for the prior calendar quarter must be received by the Department by the current calendar quarter's deadline.~~

5. ~~No refund will be authorized for a tax refund of less than \$5 for a refund period.~~

(b) ~~Any licensee that licensees who produces, imports, or purchases solvents or on which the tax has been paid to the State or supplier under the Water Quality Assurance Trust Fund and who consume these solvents in the manufacture or production of a product which is not a pollutant, may take credit or request a refund of the tax paid on the solvent under the Water Quality Assurance Trust Fund, as provided in paragraph (a).~~

(c) Any licensee who has purchased petroleum products on which the tax has been paid to the State or supplier under the Water Quality Assurance Trust Fund and the Tax for Inland Protection Trust Fund, and who subsequently exports said products from the state or bunkers petroleum products into marine vessels engaged in interstate or foreign commerce, may apply for a refund of the tax paid on the petroleum product under the Water Quality Assurance Trust Fund and the Inland Protection Trust Fund, as provided in paragraph (a). Any licensees who produce, import, or purchase solvents on which the tax has been paid to the State or supplier under the Water Quality Assurance Trust Fund and who consume, blend, or mix these solvents to produce a pollutant, which is subject to the tax under the Water Quality Assurance Trust Fund may take credit or apply for a refund of the tax paid on the solvent or under the Water Quality Assurance Trust Fund. The credit or refund shall not exceed the amount of the tax owed for the pollutant.

(d) Any licensee who has produced, imported, or purchased pollutants on which the tax has been paid to the State or supplier and who subsequently exports from the state said pollutants or products containing said pollutants may apply for a refund of the tax paid on the pollutant under the Water Quality Assurance Trust Fund, as provided in paragraph (a).

(e) Any person licensed pursuant to Chapter 206, F.S., that is eligible for a refund pursuant to Section 206.9942, F.S., may, in lieu of applying for a refund, take a credit on the monthly Pollutants Tax Return (Form DR-904). The credit may not exceed the tax imposed on those gallons which would otherwise be eligible for refund. Any request for a credit shall be supported by a charge ticket, sales slip, invoice, or other tangible evidence of the sale showing the tax was paid to the State or supplier; applicable export schedules, and shipping and delivery documents.

Specific Authority 206.14(1), 206.59(1), 213.06(1) F.S. Law Implemented 206.9915, 206.9925, 206.9931, 206.9935, 206.9941, 206.9942, 206.9943, FS. History—New 11-21-96, Amended 10-27-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lynwood Taylor, Tax Law Specialist, and Ronald Gay, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4725

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; telephone number (850)922-4729

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative

Fuels, Aviation Fuels, and Pollutants), were noticed for a rule development workshop in the Florida Administrative Weekly on June 6, 2003 (Vol. 29, No. 23, pp. 2254-2279). A rule development workshop was held on June 24, 2003, and comments were received. In response to comments received by the Department, changes were made by the Department to the following proposed rules and forms: Rule 12B-5.130, F.A.C. (Refunds); Rule 12B-5.150, F.A.C. (Public Use Forms); Rule 12B-5.400, F.A.C. (Producers and Importers of Pollutants); and Form DR-309660 (Application for Pollutant Tax Refund). A second rule development workshop was noticed in the Florida Administrative Weekly on July 8, 2005 (Vol. 31, No. 27, pp. 2424-2449). The second rule development workshop was held on July 27, 2005, and comments were received. In response, changes were made by the Department to proposed Rule 12B-5.020, F.A.C. (Definitions), proposed Rule 12B-5.140, F.A.C. (Dyeing and Marking; Mixing), and proposed Rule 12B-5.150, F.A.C. (Public Use Forms).

**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 forms used by the Department in the administration of the Miami-Dade County Lake Belt mitigation fee.

SUMMARY: The purpose of the proposed amendments to Rule 12B-7.031, F.A.C. (Public Use Forms), is to: (1) adopt, by reference, changes to Form DR-146, Miami-Dade County Lake Belt Mitigation Fee Return; and (2) update information 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: 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: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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) Copies of this form and instructions are available, without cost, by one (+) or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy 2) faxing the Distribution Center at (850)922-2208; or, 3) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 4) downloading selected forms from the Department's Internet site at the address shown inside the parentheses ([www.myflorida.com/dor](http://www.myflorida.com/dor)). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2) DR-146	Miami-Dade County Lake Belt Mitigation Fee Monthly Return (R. <u>01/05</u> <del>11/04</del> )	<u>06/05</u>

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, 6-28-05, \_\_\_\_\_.

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, telephone (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; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-7, F.A.C. (Severance Taxes and Fees), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4121-4122). A rule development workshop was held on November 30, 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.:
Premium Tax; Rate and Computation	12B-8.001
Insurance Policy Surcharge; Rate and Computation	12B-8.0012
Tax Statement; Overpayments	12B-8.003

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), is to implement the changes to Section 288.99(11), F.S., as amended by Chapter 2005-91, L.O.F., regarding the transfer of certified capital company (CAPCO) credits.

The purpose of the proposed amendments to Rule 12B-8.0012, F.A.C. (Insurance Policy Surcharge; Rate and Computation), is to implement the changes to Section 252.372, F.S., as amended by Chapter 2005-280, L.O.F., regarding the collection and remission of the surcharge by surplus lines companies and surplus lines agents for policies issued on or after January 1, 2006.

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-8.001, F.A.C. (Premium Tax; Rate and Computation), add provisions necessary to facilitate the transfer of certified capital company (CAPCO) credits required under Section 288.99(11), F.S., as amended by Chapter 2005-91, L.O.F.

The proposed amendments to Rule 12B-8.0012, F.A.C. (Insurance Policy Surcharge; Rate and Computation), implement the changes to Section 252.372, F.S., as amended by Chapter 2005-280, L.O.F., by removing language relating to the collection and remission of the surcharge by surplus lines companies and surplus lines agents. The surcharges on surplus

lines policies and independently procured policies will be remitted to the Florida Surplus Lines Office for policies issued on or after January 1, 2006.

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments): (1) adopt, by reference, changes to forms used by the Department in the administration of the insurance premium tax; and (2) update information 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: 213.06(1), 220.183(6), 288.99(11), 624.5105(6) FS., Ch. 93-128, L.O.F.

LAW IMPLEMENTED: 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 213.37, 220.183(3), 288.99(11), 624.4621, 624.475, 624.509, 624.5092, 624.510, 624.5105, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS., Ch. 93-128, L.O.F.

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

TIME AND DATE: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2) No change.

(3) Credits Against the Tax.

(a) through (d) No change.

(e) Certified Capital Company (CAPCO) Credit.

1. Who May Claim the Credit. Any certified investor who made an investment of certified capital in a CAPCO and earned a CAPCO credit under Section 288.99, F.S., is entitled to use no more than 10 percent of the CAPCO credit, including any carryover CAPCO credits, per year beginning with the insurance premium tax (IPT) return for calendar year 2000.

2. Carryovers of CAPCO Credit. Any CAPCO credits not used by a certified investor in any single year may be carried forward and applied against the premium tax liabilities of such investor for subsequent calendar years. The IPT return for calendar year 2010 is the first return on which a certified investor or a transferee of a certified investor's unused CAPCO credit may use carryover CAPCO credits.

3. Transfer/Sale of CAPCO Credit. Effective May 26, 2005, CAPCO credits may be sold. A transfer or sale of a CAPCO credit will not affect the time schedule for taking the CAPCO credit. The claim of a transferee of a certified investor's unused CAPCO credit is permitted in the same manner and subject to the same provisions and limitations as the original certified investor. Transfers or sales of a current year CAPCO credit (the amount of CAPCO credit available to be claimed in the current tax year), future year CAPCO credits (the amount of CAPCO credit available to be claimed in future years – excluding carryover CAPCO credits), and CAPCO credit carryovers (the amount of CAPCO credit carried over from prior years where the current year CAPCO credit at that time was not fully used) are allowed.

a.(I) When current year CAPCO credits, future year CAPCO credits or carryover CAPCO credits are transferred in whole or in part, written notification of such action must be provided to the Department of Revenue, Return Reconciliation Process, Insurance Premium Tax, 5050 W. Tennessee St., Bldg. F-3, Tallahassee, FL 32399-0100. This notification must be made at the earlier of within 30 days of such action, or within 30 days of when such IPT return on which such CAPCO credits could initially be claimed is due. The notification is required to contain the name and federal identification number of the original CAPCO investor, the name and federal identification number of the seller (if different from the original CAPCO investor), the name and federal identification number of the purchaser, the amount and type of CAPCO credit being transferred/sold, and a schedule tracking the amount of CAPCO credit granted the original investor and the use of such CAPCO credit through the date of transfer/sale.

(II) Transfer/sale of Future Year and Carryover CAPCO Credit Example. Insurer Z made an investment of certified capital in a CAPCO of \$1,000,000 in 1999 and earned a CAPCO credit of \$1,000,000. Insurer Z may use up to \$100,000 of its CAPCO credit, including any carryover CAPCO credit, each IPT year, beginning with the 2000 IPT return, until the CAPCO credit is used in its entirety. In 2000, 2001, 2002, 2003, and 2004, Insurer Z used CAPCO credits of \$100,000, \$100,000, \$100,000, \$75,000, and \$30,000,



respectively. Insurer Z did not transfer any of its 2000, 2001, 2002, 2003, or 2004 current year CAPCO credits, as it had no affiliates. Insurer Z had a carryover CAPCO credit of \$95,000 (\$25,000 from 2003 and \$70,000 from 2004), which could be used by Insurer Z on its 2010 IPT return. On December 1, 2005, Insurer Z sells all of its remaining CAPCO credits and carryover credits, including its 2005 current year CAPCO credit, to Insurer M. By the earlier of December 31, 2005, or January 31, 2006, Insurer Z sent a letter to the Department of Revenue stating that it sold all of its CAPCO credits to Insurer M. The letter included the federal identification numbers of Insurer Z and Insurer M. The letter also included a breakdown of how insurer Z used its CAPCO credits from 2000 to 2004 (\$405,000 of CAPCO credits used by Insurer Z – \$100,000 used on its 2000 IPT year, \$100,000 used on its 2001 IPT year, \$100,000 used on its 2002 IPT year, \$75,000 used on its 2003 IPT year, and \$30,000 used on its 2004 IPT year) and a recap of the amount of CAPCO credits sold (CAPCO credits of \$100,000 per year for IPT years 2005 through 2009 and a \$95,000 CAPCO credit carryover available for the 2010 IPT year for a total of \$595,000). Insurer M started claiming CAPCO credits beginning with its 2005 IPT return. Insurer M will include a statement with each of its IPT returns on which it is claiming a CAPCO credit that it purchased its CAPCO credit from Insurer Z on December 1, 2005.

b.(I) Instead of fulfilling the requirements of sub-subparagraph a., when a certified investor transfers in whole or in part current year CAPCO credits to an affiliate of the certified investor, the certified investor and the affiliate(s) to whom the current year CAPCO credit transfer was made are required to prepare a schedule reconciling how the certified investor's current year CAPCO credit was utilized and attach a copy of that schedule to the current year IPT returns of the certified investor and affiliate(s) to whom an allocation of current year CAPCO credit was made. The schedule must include the name, federal identification number, and amount of CAPCO credit claimed by each entity. In addition, the certified investor must attach a copy of the certification letter it received from the certified capital investment company to its IPT return.

(II) Transfer of Current Year CAPCO Credit Example. Insurer A made an investment of certified capital in a CAPCO of \$1,000,000 in 1999 and earned a CAPCO credit of \$1,000,000. Insurer A may use up to \$100,000 of its CAPCO credit, including any carryover CAPCO credit, each IPT year, beginning with the 2000 IPT return, until the CAPCO credit is used in its entirety. In the 2005 IPT year, Insurer A transferred \$20,000 of its \$100,000 current year CAPCO credit to its subsidiary, Insurer B. On their 2005 IPT returns, Insurer A claimed a CAPCO credit of \$80,000 and Insurer B claimed a CAPCO credit of \$20,000. Both insurers attached a schedule reconciling the use of Insurer A's \$100,000 current year CAPCO credit. The reconciliation schedule included Insurer A's and Insurer B's names, federal identification numbers, and

the amount of CAPCO credit claimed by each insurer. In addition, Insurer A attached a copy of its CAPCO credit certification letter to its 2005 IPT return.

4. Recordkeeping Requirements. Every certified investor and transferee claiming a CAPCO credit must retain a copy of the certification letter received from the certified capital investment company and a schedule reconciling all credit carryovers, transfers, and sales for as long as the contents are material for administrative purposes. The retention of records is generally controlled by Section 213.35, F.S., which requires records to be kept until the expiration of time for the Department of Revenue to make an assessment under Section 95.091(3), F.S.

(4) through (9) No change.

Specific Authority 213.06(1), 220.183(6), 288.99(11), 624.5105(6) FS. Law Implemented 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 220.183(3), 288.99(11), 624.4621, 624.475, 624.509, 624.5092, 624.510, 624.5105, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History—New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, \_\_\_\_\_.

12B-8.0012 Insurance Policy Surcharge; Rate and Computation.

(1) Every insurer, ~~including surplus lines and surplus lines agents,~~ must collect a surcharge of \$2 and \$4 from the policyholders of certain types of property insurance issued or renewed on or after May 1, 1993. The proceeds will be deposited into the Emergency Management, Preparedness, and Assistance Trust Fund.

(2) through (7) No change.

~~(8) The surcharge on surplus lines policies must be remitted by the surplus lines agents, unless the surplus lines insurer collects and remits the surcharge, and must be remitted on Form DR 907 and Form DR 908. The surcharge is required to be remitted by the surplus lines agent for only the surplus lines policies. The authorized insurer is required to collect and remit the surcharge for all other policies. The \$250 quarterly and annual filing fees do not apply to either the surplus lines agent or the surplus lines insurer.~~

~~(9) The insurance premium tax on surplus lines will continue to be remitted to the Department of Insurance as required.~~

(10) through (11) renumbered (8) through (9) No change.

~~(10)(12) The first installment on the surcharge was due June 15, 1993, for May and June with the subsequent installment due on October 15 for the calendar quarter ending September 30. A separate line denoting the surcharge is provided on the revised Form DR-907 and the revised Form DR-908, annual return, which is due by March 1.~~

(13) through (16) renumbered (11) through (14) No change.

Specific Authority 213.06(1) FS., Ch. 93-128, L.O.F. Law Implemented 624.5092 FS., Ch. 93-128, L.O.F. History—New 6-16-94, Amended \_\_\_\_\_.

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) Copies of these forms are available, without cost, by one (1) or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 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 (in Florida only) 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](http://www.myflorida.com/dor)). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

(3) through (4) No change.

Form Number	Title	Effective Date
(5)(a) DR-907	Florida Insurance Premium Installment Payment (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</u>
(b) DR-907N	Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</u>
(6)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year <del>2005</del> <u>2004</u> (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</u>
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</u>
(7) DR-350900	<del>2005</del> <u>2004</u> Insurance Premium Tax Information for Schedules XII and XIII, DR-908 (R. <del>01/06</del> <u>01/05</u> )	<u>06/05</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, 6-28-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4122-4125). A rule development workshop was held on November 30, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department. A technical change to sub-sub-subparagraph (3)(e)3.a.(II) of proposed Rule 12B-8.001, F.A.C., was made by the Department.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE TITLES: Enterprise Zone Program Forms

RULE NOS.: 12C-1.0188 12C-1.051

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.0188, F.A.C. (Enterprise Zone Program), is to implement the changes to the corporate income tax enterprise zone jobs credit provided in Sections 23, 25, and 30, Chapter 2005-287, L.O.F.

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-1.0188, F.A.C. (Enterprise Zone Program): (1) remove provisions regarding obsolete Form F-1157Z, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax; (2) implement the changes to the corporate income tax enterprise zone jobs credit provided in Sections 23, 25, and 30, Chapter 2005-287, L.O.F., for employees hired on or after January 1, 2006; and (3) update information on how to obtain forms regarding the corporate income tax enterprise zone jobs credit.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) adopt, by reference, changes to the forms used by the Department in the administration of the corporate income tax and franchise tax; and (2) update information 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: 213.06(1), 220.182(8), 220.183(6)(d), 220.51 FS.

LAW IMPLEMENTED: 213.05, 213.35, 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 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, 290.0055, 290.0065, 290.009(1) FS.

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

TIME AND DATE: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.0188 Enterprise Zone Program.

(1) Corporate Income Tax – Enterprise Zone Jobs Credit.

(a) How to Claim the Credit. Subsection 220.181(2), F.S., requires that an application, which includes the information stated in that subsection, be filed with the Enterprise Zone Development Agency for the enterprise zone in which the business is located.

~~(b)1. Forms Required. Taxpayers claiming the Enterprise Zone Jobs Credit for employees hired on or before October 1, 2001, must use Form F-1157Z, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (incorporated by reference in Rule 12C-1.051, F.A.C.), to compute the allowable Enterprise Zone Jobs Credit amount.~~

~~Form F-1157Z requires the signature of an officer, under oath, duly authorized to sign. The F-1157Z must be certified by the Enterprise Zone Development Agency, attached to a corporate income tax return, and submitted to the Department of Revenue.~~

~~1.2. Forms Required. Taxpayers claiming the Enterprise Zone Jobs Credit for employees hired on or after January 1, 2006 October 1, 2001, must use Form F-1156Z, Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax-Effective January 1, 2006 2002 (incorporated by reference in Rule 12C-1.051, F.A.C.), to compute the allowable Enterprise Zone Jobs Credit amount. Form F-1156Z requires the signature of an officer, under oath, duly authorized to sign. The F-1156Z must be certified by the Enterprise Zone Development Agency, attached to a corporate income tax return, and submitted to the Department of Revenue.~~

~~2.3. A copy of the certified F-1157 and F-1156Z must be forwarded to the Florida Department of Revenue, General Tax Administration, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100, by the Enterprise Zone Development Agency.~~

(2) through (3) No change.

(4) The forms referenced in this rule section are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses ([www.myflorida.com/dor](http://www.myflorida.com/dor)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331. These forms may also be obtained from the Enterprise Zone Development Agency for the enterprise zone in which the business is located.

(5) Questions relating to enterprise zones created on January 1, 2006 July 1, 1995, should be directed to:

Executive Office of the Governor  
Office of Tourism, Trade, and Economic Development  
The Capitol  
Tallahassee, Florida 32399-0001.

Specific Authority 213.06(1), 220.182(8), 220.183(6)(d), 220.51 FS. Law Implemented 213.05, 213.35, 220.03(1), 220.131, 220.181, 220.182, 220.183, 220.44, 290.0055, 290.0065, 290.009(1) FS. History—New 1-3-96, Amended 8-1-02, \_\_\_\_\_.

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) Copies of this form may be obtained, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 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 (in Florida only) 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](http://www.myflorida.com/dor)). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2)	No change.	
(3) F-851	Corporate Income/ Franchise and Emergency Excise Tax Affiliation Schedule (R. <del>01/06</del> <del>01/01</del> )	<u>08/02</u>
(4)(a) F-1065	Florida Partnership Information Return (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>
(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>
(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>
(b) F-1120N	F-1120 Instructions – Corporate Income/ Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, <del>2005</del> <del>2004</del> (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>

(7) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax for Taxable Year Beginning on or after January 1, <del>2006</del> <del>2005</del> (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>
(8)(a) F-1120X	Amended Florida Corporate Income/ Franchise and Emergency Excise Tax Return (R. <del>01/06</del> <del>01/04</del> )	<u>09/04</u>
(b) F-1120XN	Instructions for Preparing Form F-1120X Amended Florida Corporate Income/ Franchise and Emergency Excise Tax Return (R. <del>01/06</del> <del>01/04</del> )	<u>09/04</u>
(9) F-1122	Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income and Emergency Excise Tax Return (R. <del>01/06</del> <del>01/01</del> )	<u>08/02</u>
(10)(a) F-1156Z	Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax – Effective January 1, <del>2006</del> <del>2002</del> (R. <del>01/06</del> <del>N. 01/02</del> )	<u>08/02</u>
(b) F-1156ZN	Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax – Effective January 1, <del>2006</del> <del>2002</del> (R. <del>01/06</del> <del>01/03</del> )	<u>06/03</u>
(11) F-1157Z	<del>Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. 01/03)</del>	<del>06/01</del>
(12) through (16)	renumbered (11) through (15) No change.	
(16)(17) F-7004	Florida Tentative Income/ Franchise and/or Emergency Excise Tax Return and Application for Extension of Time to File Return (R. <del>01/06</del> <del>01/05</del> )	<u>06/05</u>

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, 9-24-04, 6-28-05, \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-1, F.A.C. (Corporate Income Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4125-4126). A rule development workshop was held on November 30, 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 the 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. (Public Use Forms): (1) adopt, by reference, changes to the forms used by the Department in the administration of the intangible personal property tax; and (2) update information 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: 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: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~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 (in Florida only) 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
(2) DR-601-C	<u>2006</u> <del>2005</del> Florida Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers as of January 1, <u>2006</u> <del>2005</del> (R. <u>01/06</u> <del>01/05</del> )	_____ <u>06/05</u>

(3) DR-601CN	2006 <del>2005</del> Instructions for Filing Form DR-601C Intangible Personal Property Tax Return for Corporation, Partnership and Fiduciary Filers (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(4) DR-601CS	2006 <del>2005</del> Schedules B, C, D, and E for use with DR-601C (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(5) DR-601-G	Government Leasehold Intangible Personal Property Tax Return for <del>2006 2005</del> Tax Year (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(6) DR-601-I	2006 <del>2005</del> Florida Intangible Personal Property Tax Return for Individual and Joint Filers as of January 1, <del>2006 2005</del> (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(7) DR-601IN	2006 <del>2005</del> Instructions for Filing Form DR-601I Intangible Personal Property Tax Return for Individual and Joint Filers (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(8) DR-601IS	2006 <del>2005</del> Schedules B, C, D, and E for use with DR-601I (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(9) through (11)	No change.	
(12) DR-350617	Application for Exclusion from Filing Stockbroker Position Statement (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(13) DR-350618	Stockbroker Instructions and Specifications for Reporting Information on Magnetic Media for Year Ending <del>12/31/05 12/31/04</del> (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(14) DR-350619	Stockbroker Filing Magnetic Media Transmittal (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>
(15) DR-350620	Stockbroker Information Report (R. <u>01/06</u> <del>01/05</del> )	_____ <del>06/05</del>

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, 6-28-05, \_\_\_\_\_.

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, telephone (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; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4127-4128). A rule development workshop was held on November 30, 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 Tangible Tax**

RULE TITLE: Public Use Forms

RULE NO.: 12C-3.008

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

SUMMARY: The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of the Florida estate tax; and (2) update information 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: 198.08, 213.06(1) FS.

LAW IMPLEMENTED: 198.08 FS.

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

TIME AND DATE: 10:00 a.m., February 6, 2006

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 at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

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

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-3.008 Public Use Forms.

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

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading these forms from the Department's Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site stated in the parentheses ([www.myflorida.com/dor](http://www.myflorida.com/dor)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2) DR-301	Preliminary Notice and Report (R. <del>07/05 09/04</del> )	_____ 05/03
(3) DR-308	Request and Certificate for Waiver and Release of Florida Estate Tax Lien (R. <del>07/05 09/04</del> )	_____ 05/03
(4) No change.		
(5) DR-312	Affidavit of No Florida Estate Tax Due <del>for</del> decedents dying on or after January 1, 2000 (R. <del>07/05 08/02</del> )	_____ 05/03
(6) F-706	Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (R. <del>07/05 04/03</del> )	_____ 05/03

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.08 FS. History—New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, 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, telephone (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; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-3, F.A.C. (Estate Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on November 10, 2005 (Vol. 31, No. 45, pp. 4128-4129). A rule development workshop was held on November 30, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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."

**FLORIDA PAROLE COMMISSION**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Interstate Compact for Parole and Probation Supervision	23-4
RULE TITLES:	RULE NOS.:
Purpose	23-4.001
Required	23-4.002
Basic Procedures	23-4.003
General Rule	23-4.004
Agreement	23-4.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate Commission rules on Interstate Compact supervision for which the Florida Parole Commission no longer has responsibility.

SUMMARY: Elimination of Chapter 23-4, F.A.C., on interstate compact supervision of adult probationers, parolees, and conditional releases.

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: 949.07 FS.

LAW IMPLEMENTED: 949.08 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan Schwartz, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2450

THE FULL TEXT OF THE PROPOSED RULES IS:

23-4.001 Purpose.

Specific Authority 949.07 FS. Law Implemented 949.08 FS. History—Chapter 20519, 1941, Amended 10-20-73, Readopted 10-26-75 Formerly 23-4.01, Repealed \_\_\_\_\_.

23-4.002 Required.

Specific Authority 949.07 FS. Law Implemented 949.08 FS. History—Chapter 20519, 1941, Readopted 10-26-75 Formerly 23-4.02, Repealed \_\_\_\_\_.

23-4.003 Basic Procedures.

Specific Authority 949.07 FS. Law Implemented 949.08 FS. History—Chapter 20519, 1941, Readopted 10-26-75 Formerly 23-4.03, Repealed \_\_\_\_\_.

23-4.004 General Rule.

Specific Authority 949.07 FS. Law Implemented 949.08 FS. History—Chapter 20519, 1941, Readopted 10-26-75 Formerly 23-4.04, Repealed \_\_\_\_\_.

23-4.005 Agreement.

Specific Authority 949.07 FS. Law Implemented 949.08 FS. History—Chapter 20519, 1941, Readopted 10-26-75 Formerly 23-4.05, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frederick B. Dunphy, Vice-Chairman, Florida Parole Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: By vote of the Florida Parole Commission

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

FLORIDA PAROLE COMMISSION

RULE TITLES:	RULE NOS.:
Removal or Termination of Senior Management or Selected Exempt Service Employees	23-15.026
Standards of Conduct and Standards for Disciplinary Action for Career Service Employees	23-15.030
Commissioner Leave Time Held in Abeyance	23-15.031
Florida Clean Indoor Air Act	23-15.055

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate Commission rules on employment matters which are lacking in statutory authority or are provided for by model rules within the Department of Management Services.

SUMMARY: Elimination of rules on Commission employee matters.

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: 110.201, 947.07 FS.

LAW IMPLEMENTED: 110.201 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan Schwartz, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2450

THE FULL TEXT OF THE PROPOSED RULES IS:

23-15.026 Removal or Termination of Senior Management or Selected Exempt Service Employees.

Specific Authority 947.07 FS. Law Implemented 947.04 FS. History—New 3-2-94, Repealed \_\_\_\_\_.

23-15.030 Standards of Conduct and Standards for Disciplinary Action for Career Service Employees.

Specific Authority 110.201, 947.07 FS. Law Implemented 110.227 FS. History—New 8-1-83, Formerly 23-15.30, Amended 9-10-87, 1-5-94, Repealed \_\_\_\_\_.

23-15.031 Commissioner Leave Time Held in Abeyance.

Specific Authority 110, Part III FS. Law Implemented Chapter 110, Part III FS. History – New 1-26-93, Repealed \_\_\_\_\_.

23-15.055 Florida Clean Indoor Air Act.

Specific Authority 947.07 FS. Law Implemented 386.205, 386.206, 386.207 FS. History – New 1-26-93, Amended 1-5-94, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frederick B. Dunphy, Vice-Chairman, Florida Parole Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: By vote of the Florida Parole Commission

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



**FLORIDA PAROLE COMMISSION**

RULE TITLE: Offense Severity Ranking  
 RULE NO.: 23-19.001

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate a repetitive rule contained in Chapter 23-21.008, F.A.C.

SUMMARY: Elimination of Rule 23-19.001 on offense severity rating provided for in another Commission rule.

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: 947.165 FS.

LAW IMPLEMENTED: 947.165 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan Schwartz, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2450

THE FULL TEXT OF THE PROPOSED RULE IS:

23-19.001 Offense Severity Ranking.

Specific Authority 120.53, 947.165, 947.071, 947.07 FS. Law Implemented 947.002, 947.165 FS. History-New 3-20-79, Amended 6-25-79, 8-22-79, 5-20-80, 7-22-81, 9-10-81, Formerly 23-19.01, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frederick B. Dunphy, Vice-Chairman, Florida Parole Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: By vote of the Florida Parole Commission

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

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Care of Inmates  
 RULE NO.: 33-602.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide uniformity in inmate dress requirements by clarifying when the wearing of athletic shorts outside the housing unit is permissible.

SUMMARY: The proposed rule allows inmates to wear athletic shorts outside the housing unit only when on the recreation yard or moving to and from the yard, or to the canteen when going to the canteen directly from the yard.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09, 945.215 FS.

LAW IMPLEMENTED: 944.09 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:

33-602.101 Care of Inmates.

(1) No change.

(2) Inmates shall at all times wear the regulation clothing and identification card in accordance with institution policy.

(a) through (i) No change.

(j) Inmates shall not wear athletic shorts authorized for possession and purchase through the institutional canteen outside their assigned housing units except as authorized below:

1. Inmates shall be allowed to wear athletic shorts on the recreation yard and for movement to and from the recreation yard:

2. Inmates shall be allowed to wear athletic shorts to the inmate canteen only in those cases where inmates are allowed to go to the inmate canteen directly from the recreation yard.

(3) through (10) No change.

Specific Authority 944.09, 945.215 FS. Law Implemented 944.09 FS. History-New 10-8-76, Formerly 33-3.02, Amended 4-19-79, 4-24-80, 1-9-85, 11-3-87, 9-16-88, 7-23-89, 8-27-91, 3-30-94, 11-14-95, 6-2-99, Formerly 33-3.002, Amended 11-21-00, 1-25-01, 1-19-03, 9-23-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Drake, Deputy Assistant Secretary of Institutions – Operations

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2005

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Administrative Confinement  
 RULE NO.: 33-602.220

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language from form DC4-650, Observation Checklist.

SUMMARY: Unnecessary language related to bathroom use is deleted from Form DC4-650, and other provisions are reorganized to make the form more user-friendly.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED 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:

33-602.220 Administrative Confinement.

(1) through (10) No change.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Research, Planning and Support Services, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC4-650, Observation Checklist, effective date 1-19-03.

(b) through (i) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, 4-1-04.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Drake, Deputy Assistant Secretary of Institutions – Operations

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2005

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE TITLE: Guidance and Minimum Levels for Lakes RULE NO.: 40D-8.624

PURPOSE AND EFFECT: To amend Rule 40D-8.624, F.A.C., to establish minimum flows and levels for lakes listed on the District’s Minimum Flows and Levels Priority List pursuant to Sections 373.042 and 373.0421, Florida Statutes (F.S.).

SUMMARY: The District proposes to establish Minimum Levels, including the High Minimum and the Minimum, and a series of Guidance Levels for Lakes Allen, Harvey and Virginia in Hillsborough County, Lake June-In-Winter in Highlands County and Lake Parker in Polk County.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.624 Guidance and Minimum Levels For Lakes.

(1) through (12) No change.

(13) Levels for lakes established during or after August 7, 2000, are set forth in the following table. After the High Minimum Lake Level and Minimum Lake Level elevation for each lake is a designation indicating the Method used, as described in subsection 40D-8.624(7), F.A.C., to establish the level. Guidance Levels established prior to August 7, 2000, are set forth in Table 8-3 in subsection 40D-8.624(14), F.A.C., below.

Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.						
Location by County and Basin	Name of Lake and Section, Township and Range Information	Ten Year Flood Guidance Level	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(a)-(h) No change.						
(i) In Highlands County Within the Peace River Basin <b>RESERVED</b>	June in Winter, Lake S-34, T-36S, R-29E	75.5	74.7	74.5 (CAT 3)	74.0 (CAT 3)	73.2
(j)-(k) No change.						
(l) In Hillsborough County Within the Northwest Hillsborough Basin	Alice, Lake S-16, T-27, R-17	42.4'	40.9'	40.9' (CAT 2)	39.9' (CAT 2)	38.8'
	Allen, Lake S-10, T-27S, R-18E	63.1'	61.8'	61.8' (CAT 1)	60.7' (CAT 1)	59.7'
	Barbara, Lake S-19, T-27, R-18	54.96'	53.15'	53.15' (CAT 3)	52.15' (CAT 3)	51.05'
	Bird Lake S-26, T-27, R-18	53.0'	49.6'	49.6' (CAT 2)	48.6' (CAT 2)	47.5'
	Brant Lake S-23, T-27, R-18	60.5'	58.0'	58.0' (CAT 2)	57.0' (CAT 2)	55.9'
	Calm Lake S-14, T-27, R-17	51.02'	49.41'	49.41' (CAT 3)	48.41' (CAT 3)	47.31'
	Charles, Lake S-23, T27, R-18	56.2'	54.2'	53.8' (CAT 1)	52.4' (CAT 1)	52.1'
	Church Lake S-28, T-27, R-17	36.74'	35.64'	35.64' (CAT 3)	34.64' (CAT 3)	33.54'
	Crenshaw, Lake S-22, T-27, R-18	57.64'	55.5'	54.45' (CAT 3)	53.45' (CAT 3)	53.4'
	Crescent Lake S-10, T-27S, R-17E	43.4'	41.9'	41.3' (CAT 3)	40.3' (CAT 3)	39.8'
	Crystal Lake S-14, T-27, R-18	62.1'	59.8'	59.8' (CAT 2)	58.8' (CAT 2)	57.7'
	Cypress Lake S-24, T-27, R-17	50.86'	48.89'	48.89' (CAT 3)	47.89' (CAT 3)	46.79'
	Dan, Lake S-6, T-27, R-17	34.9'	32.5'	31.9' (CAT 3)	30.9' (CAT 3)	30.4'
	Deer Lake S-1, T-27, R-18	70.0'	66.5'	66.5' (CAT 2)	65.5' (CAT 2)	64.4'
	Dosson Lake S-20, T-27, R-18	55.1'	53.4'	53.4' (CAT 2)	52.4' (CAT 2)	51.3'
	Echo Lake S-28, T-27, R-17	36.74'	35.64'	35.64' (CAT 3)	34.64' (CAT 3)	33.54'
	Ellen, Lake S-19, T-27, R-18	54.96'	53.15'	53.15' (CAT 3)	52.15' (CAT 3)	51.05'
	Fairy (Maurine) Lake S-34, T-27, R-17	34.51'	33.41'	33.41' (CAT 3)	32.41' (CAT 3)	31.31'
	Garden Lake S-17, T-27, R-17	33.9'	31.5'	30.5' (CAT 3)	29.5' (CAT 3)	29.4'
	Halfmoon Lake S-31, T-27, R-18	45.07'	43.3'	43.3' (CAT 2)	42.3' (CAT 2)	41.2'
	Harvey, Lake S-3, T-27S, R-18E	63.1'	61.8'	61.8' (CAT 1)	60.7' (CAT 1)	59.7'
	Helen, Lake S-19, T-27, R-18	54.96'	53.15'	53.15' (CAT 3)	52.15' (CAT 3)	51.05'
	Hobbs, Lake S-1, T-27, R-18	67.75'	65.46'	65.46' (CAT 2)	64.46' (CAT 2)	63.36'

	Horse Lake S-26, T-27, R-17	48.9'	46.9'	45.8' (CAT 3)	44.8' (CAT 3)	44.8'
	Jackson, Lake S-17, T-27, R-17	34.7'	33.0'	33.0' (CAT 2)	32.0' (CAT 2)	30.9'
	Juanita, Lake S-22, T-27, R-17	43.8'	41.7'	41.7' (CAT 2)	40.7' (CAT 2)	39.6"
	Little Moon Lake S-28, T-27, R-17	40.8'	39.1'	39.1' (CAT 2)	38.1' (CAT 2)	37.0'
	Merrywater, Lake S-22, T-27, R-18	58.0'	55.8'	55.8' (CAT 2)	54.8' (CAT 2)	53.7'
	Mound Lake S-11, T-27, R-17	51.8'	50.2'	50.7' (CAT 1)	49.3' (CAT 1)	48.3'
	Platt Lake S-35, T-27, R-18	52.0'	49.7'	49.5' (CAT 1)	48.1' (CAT 1)	45.5'
	Pretty Lake S-26, T-27S, R-17E	45.8	44.3	43.9 (CAT 1)	42.5 (CAT 1)	42.2
	Ranbow Lake S-22, T-27, R-17	40.8'	39.1'	39.1' (CAT 2)	38.1' (CAT 2)	37.0'
	Raleigh, Lake S-27, T-27, R-17	RESERVED	RESERVED	RESERVED (CAT 3)	RESERVED (CAT 3)	RESERVED
	Reinheimer, Lake S-15, T27, R-18	60.8'	58.6'	58.9' (CAT 1)	57.5' (CAT 1)	56.5'
	Rogers, Lake S-27, T-27, R-17	RESERVED	RESERVED	RESERVED (CAT 3)	RESERVED (CAT 3)	RESERVED
	Round Lake S-22, T-27, R-18	56.49'	55.6'	54.5' (CAT 3)	53.5' (CAT 3)	53.5'
	Saddleback Lake S-22, T-27, R-18	56.11'	54.58'	54.58' (CAT 2)	53.58' (CAT 2)	52.48'
	Sapphire Lake S-14, T-27, R-18	64.1'	63.4'	63.0' (CAT 1)	61.6' (CAT 1)	61.3'
	Starvation Lake S-21, T-27, R-18	RESERVED	RESERVED	RESERVED (CAT 3)	RESERVED (CAT 3)	RESERVED
	Strawberry (North Crystal) Lake S-14, T-27, R-18	62.0'	60.1'	60.1' (CAT 3)	59.1' (CAT 3)	58.0'
	Sunset Lake S-17, T-27, R-17	35.0'	34.8'	34.4' (CAT 1)	33.0' (CAT 1)	32.7'
	Sunshine Lake S-20, T-27, R-18	55.1'	53.4'	53.4' (CAT 2)	52.4' (CAT 2)	51.3'
	Taylor, Lake S-16, T-27S, R-17E	40.1	38.2	38.2 (CAT 2)	37.2 (CAT 2)	36.1
	Virginia, Lake S-3, T27S, R-18E	63.1	61.8	61.8 (CAT 1)	60.7 (CAT 1)	59.7
(m)-(y) No change.						
(z) In Polk County Within the Peace River Basin RESERVED	Parker, Lake S-8, T-28S, R-24E	131.8	130.6	130.6 (CAT 3)	129.6 (CAT 3)	129.0
(aa)-(cc) No change.						

(14) Guidance Levels established for lakes prior to August 7, 2000, are set forth in the following table:

Table 8-3 Guidance Water Levels adopted prior to August 7, 2000

Location of Impoundment by County and Basin	Ten (10) Year Flood Guidance Level in Feet Above Mean Sea Level (msl)	High Level in Feet Above Mean Sea Level (msl)	Low Level in Feet Above Mean Sea Level (msl)	Extreme Low Level in Feet Above Mean Sea Level (msl)
(a)-(h) No change.				
(i) In Highlands County Within the Peace River Basin LAKES SecTwsp Rng				
Adelaide, Lake 5 33S 28E	110.00'	106.50'	104.00'	102.50'
Angelo, Lake 4 27S 25E	104.00'	99.50'	97.00'	95.00'
Anoka, Lake 27 33S 28E	124.00'	124.00'	122.00'	120.00'
Apthhorpe, Lake 18 36S 30E	72.00'	71.50'	68.00'	66.00'
Blue, Lake 30 36S 30E	78.70'	77.50'	75.00'	73.50'
Bonnet, Lake 8 34S 29E	91.90'	90.75'	88.00'	86.00'
Brentwood, Lake 10 33S 28E	102.30'	102.75'	99.50'	98.00'
Buck, Lake 29 37S 30E	96.40'	94.00'	91.50'	89.50'
Byrd, Lake 9 33S 28E	110.60'	108.25'	105.50'	104.00'
Carrie, Lake 21 36S 29E	75.13'	75.50'	73.00'	72.50'
Charlotte, Lake 17 35S 29E	93.90'	93.75'	91.25'	89.75'
Chilton, Lake 7 33S 28E	116.30'	114.00'	111.00'	109.50'
Clay, Lake 29 36S 30E	79.00'	78.75'	76.00'	75.00'
Crews, Lake 32 36S 29E	120.50'	119.50'	117.00'	115.50'
Damon, Lake 3 33S 28E	102.30'	101.00'	98.00'	95.00'
Denton, Lake 2 34S 28E	117.10'	116.50'	114.00'	112.00'
Dinner, Lake 17 34S 29E	103.50'	102.50'	98.50'	97.00'
Francis, Lake 22 36S 29E	70.80'	70.50'	67.50'	66.50'
Glenada, Lake 34 33S 28E	118.40'	120.00'	117.00'	115.50'
Grassy, Lake 17 37S 30E	92.10'	91.50'	88.50'	87.50'
Harry, Lake 1 36S 29E	67.60'	67.50'	63.00'	62.00'
Henry, Lake 25 36S 29E	75.13'	75.50'	73.00'	72.50'
Hill, Lake 17 36S 29E	101.00'	99.25'	96.00'	94.50'
Huckleberry Lake 7 35S 29E	104.80'	104.50'	102.00'	101.00'

Huntley, Lake 5 37S 30E	83.40'	83.75'	81.00'	79.50'
Jackson, Lake 30 34S 29E	103.20'	103.00'	100.00'	98.00'
Josephine, Lake 32 35S 29E	72.70'	72.50'	69.00'	68.50'
<del>June in Winter, Lake 34 36S 29E</del>	<del>75.13'</del>	<del>75.50'</del>	<del>73.00'</del>	<del>72.50'</del>
Lake Lachard 36 36S 29E	79.56'	78.50'	76.00'	74.00'
Lelia, Lake 34 33S 29E	113.00'	114.50'	112.50'	110.50'
Letta, Lake 31 33S 29E	100.00'	100.00'	97.00'	95.00'
Little Bonnet Lake 36 33S 28E	101.70'	100.00'	97.00'	96.00'
Little Lake Jackson 6 35S 29E	103.20'	103.00'	100.00'	98.00'
Little Red Water Lake 14 36S 29E	104.10'	103.25'	100.50'	98.50'
Lost Lake 12 37S 29E	90.60'	88.00'	84.00'	82.75'
Lotela, Lake 26 33S 28E	106.60'	108.50'	105.00'	104.00'
McCoy, Lake 6 37S 30E	87.39'	87.00'	84.00'	82.00'
Mirror, Lake 7 37S 30E	94.70'	93.50'	90.00'	88.00'
Center Nellie 13 36S 29E	73.20'	71.50'	67.00'	65.00'
Nellie N.W., Lake 13 36S 29E	73.20'	71.50'	67.00'	65.00'
Nellie S.E., Lake 13 36S 29E	73.20'	71.50'	67.00'	65.00'
Olivia, Lake 6 33S 28E	118.10'	117.50'	114.50'	113.00'
Pearl, Lake 6 37S 30E	87.27'	87.00'	84.00'	82.00'
Persimmon Lake 10 36S 29E	69.30'	68.25'	65.00'	63.50'
Pioneer, Lake 11 33S 28E	108.60'	108.00'	104.50'	103.00'
Placid, Lake 30 36S 30E	94.70'	94.50'	91.50'	90.00'
Pythias, Lake 2 33S 28E	101.20'	101.00'	98.00'	95.00'
Red Beach Lake 15 35S 29E	76.80'	76.50'	73.75'	72.75'
Red Water Lake 14 36S 29E	70.80'	70.50'	67.50'	66.50'
Ruth, Lake 18 35S 29E	94.20'	94.00'	91.50'	90.00'
Saddlebags, Lake 6 37S 30E	84.27'	84.00'	81.00'	79.00'
Sebring, Lake 14 34S 28E	107.60'	107.25'	104.50'	103.00'
Simmons, Lake 24 36S 29E	74.30'	72.50'	68.00'	66.50'
Sirena, Lake 1 37S 29E	87.27'	87.00'	84.00'	82.00'
Trout Lake 34 32S 28E	100.60'	101.00'	98.00'	95.00'
Tulane, Lake 27 33S 28E	120.50'	120.00'	116.00'	114.00'

Unnamed Lake (B) 20 37S 30E	92.10'	91.50'	88.50'	87.50'
Unnamed Lake (F) 24 36S 29E	78.50'	78.00'	74.00'	72.00'
Verona, Lake 23 33S 28E	123.00'	119.00'	115.25'	113.00'
Viola, Lake 14 33S 28E	112.20'	109.50'	105.75'	104.00'
Wolf Lake 24 35S 28E	93.80'	92.50'	90.00'	88.00'
(j)-(k) No change .				
(l) In Hillsborough County Within the Northwest Hillsborough Basin LAKES Sec Twsp Rng				
SWEETWATER CREEK WATERSHED				
Avis Lake 15 28S 18E	38.50'	37.00'	34.50'	32.50'
Bay Lake	47.00'	46.75'	44.00'	42.50'
Boat Lake	38.00'	35.50'	33.75'	31.25'
Brooker Lake	66.00'	64.25'	61.00'	59.00'
Carroll Lake	38.50'	37.00'	34.50'	32.50'
Chapman Lake	52.30'	52.25'	49.50'	48.00'
Cooper, Lake	64.00'	61.75'	59.75'	57.00'
Elaine, Lake 15 28S 18E	38.50'	37.00'	34.50'	32.50'
Gass Lake	51.50'	49.50'	46.25'	44.50'
George, Lake	51.00'	48.00'	45.00'	42.00'
Geraci, Lake	65.00'	63.50'	61.50'	59.50'
Halls Lake 3 28S 18E	50.70'	50.00'	47.50'	46.00'
Lipsey, Lake	42.50'	41.50'	39.00'	37.00'
Magdalene, Lake	50.70'	50.00'	47.50'	46.00'
Thomas, Lake	64.00'	63.50'	61.25'	59.25'
Twin Lake	34.00'	32.00'	30.00'	27.75'
White Trout Lake	38.50'	36.50'	34.00'	32.50'
ROCKY CREEK WATERSHED				
Allen, Lake	<del>62.60'</del>	<del>62.50'</del>	<del>59.75'</del>	<del>57.50'</del>
Armistead, Lake	46.50'	44.00'	40.50'	39.00'
Browns Lake	63.70'	63.50'	60.75'	59.00'
<del>Harvey, Lake</del>	<del>62.90'</del>	<del>62.50'</del>	<del>60.25'</del>	<del>58.00'</del>
Josephine, Lake	47.50'	46.00'	42.75'	40.00'
LeClare, Lake	53.50'	52.00'	49.50'	47.00'
Rock Lake	48.00'	46.00'	42.75'	40.00'
Starvation Lake	55.00'	53.00'	50.00'	48.00'
Turkey Ford Lake	55.00'	54.00'	51.50'	50.00'
<del>Virginia Lake</del>	<del>63.00'</del>	<del>62.50'</del>	<del>60.25'</del>	<del>58.00'</del>
DOUBLEBRANCH CREEK WATERSHED				
Hixon Lake	37.00'	36.50'	33.25'	31.00'
Unnamed Lake #1 2 28S 17E	38.90'	37.50'	35.00'	34.50'
Unnamed Lake #2 2 28S 17E	38.90'	37.50'	35.00'	34.50'

BROOKER CREEK WATERSHED				
Artillery, Lake 3 27S 17E	44.50'	44.00'	40.50'	39.00'
Buck Lake	35.50'	35.00'	32.00'	29.50'
Elizabeth Lake	54.00'	53.00'	51.00'	49.00'
Fern, Lake	48.00'	46.00'	43.00'	41.50'
Frances, Lake	42.50'	40.50'	38.00'	36.00'
Island Ford Lake	42.30'	41.50'	39.00'	37.00'
James Lake 23 27S 17E	47.70'	46.50'	43.50'	42.00'
Keystone Lake	43.20'	42.00'	39.75'	39.00'
Little Lake 23 27S 17E	47.70'	46.50'	43.50'	42.00'
Raleigh, Lake	43.30'	42.50'	38.00'	35.00'
Rogers, Lake	NO LEVELS RECOMMENDED			
Velburton Lake	41.50'	40.00'	37.25'	35.00'
ANCLOTE RIVER WATERSHED				
Hiawatha, Lake	52.50'	50.50'	48.00'	45.00'
Osceola, Lake	47.40'	46.50'	44.50'	42.50'
(m)-(y) No change.				
(z) In Polk County Within the Peace River Basin				
Ada, Lake S33 T28 R27	123.80'	123.00'	120.00'	118.00'
Altamaha, Lake S11 T30 R27	122.60'	122.50'	120.00'	118.00'
Amoret Lake 24 30 27	115.50'	115.25'	113.00'	111.00'
Annie, Lake S3 T29S R27E	122.10'	119.00'	116.00'	114.00'
Arianna, Lake 3 28 25E	137.10'	137.00'	134.50'	132.50'
Aurora, Lake 13 30 28	103.30'	100.00'	97.00'	95.00'
Banana, Lake 10 29 24E	106.75'	106.50'	103.50'	102.00'
Belle, Lake 11 30 27	123.60'	120.00'	117.00'	115.00'
Bess, Lake 18 29S 27E	125.50'	125.25'	123.00'	121.00'
Big Gum Lake 26 29 R28	95.50'	95.00'	92.00'	89.00'
Blue, Lake S13 T28 R25	149.80'	149.00'	146.50'	144.50'
Blue Lake 24 30S 27E	118.00'	117.00'	114.00'	—
Bonnie, Lake S31 T29 R28	113.30'	113.00'	110.00'	108.00'
Bonny, Lake 20 28S 24E	130.90'	130.50'	128.00'	126.00'
Buckeye, Lake S22 T28S R26E	130.10'	129.00'	126.00'	124.50'
Buffum, Lake 12 31S 26E	132.75'	132.25'	129.25'	—
Cannon, Lake 19 28S 26E	132.60'	132.00'	129.50'	127.00'
Clinch, Lake 31 31S 28E	108.00'	106.75'	104.00'	102.50'
Connie, Lake 9 28S 26E	129.70'	128.75'	126.50'	124.50'



Cooper (Worth) S02 T30 R27	124.20'	123.50'	121.00'	119.00'
Crooked, Lake 1 31S 27E	122.60'	122.00'	118.50'	—
Crystal Lake S02 T30 R27	121.40'	121.25'	118.00'	115.00'
Crystal Lake S21 T28 R27	122.90'	122.00'	119.00'	117.00'
Crystal Lake 23 29S 26E	130.00'	129.50'	127.00'	125.00'
Cypress Lake 36 29 28E	100.20'	98.50'	95.00'	93.00'
Lake Daisy S6 T29 R27	130.90'	130.00'	127.00'	126.00'
Lake Deer 25 28 25E	141.30'	140.75'	138.50'	136.50'
Dell, Lake S28 T28 R27	125.70'	123.75'	121.50'	119.50'
Lake Dexter S2 T29 R26	132.20'	132.00'	129.00'	127.50'
Dinner, Lake 15 29S 27E	120.90'	118.50'	116.00'	114.00'
Eagle Lake 29 25E	131.00'	130.75'	128.50'	126.50'
Easy, Lake 19 30 28	115.50'	115.25'	113.00'	111.00'
Echo, Lake S05 T28 R26	132.30'	131.00'	128.00'	126.00'
Effie, Lake 3 30 27	119.60'	118.00'	115.00'	113.00'
Elbert, Lake S22 T28 R26	137.50'	135.50'	133.00'	131.50'
Eloise, Lake 3 29S 26E	132.60'	132.00'	129.50'	127.00'
Fannie, Lake 11 28S 26E	127.00'	125.75'	123.50'	120.00'
Lake Florence S35 T28 R26	128.80'	128.75'	127.00'	125.00'
Lake Fox S6 T29 R27	135.20'	135.00'	132.00'	131.00'
Garfield, Lake 5 30 26E	105.70'	104.75'	101.00'	100.00'
Gator, Lake 26 30S 26E	133.60'	133.00'	130.75'	128.50'
George, Lake S06 T28 R26	130.70'	130.00'	127.50'	125.50'
Gibson, Lake 25 27S 23E	144.20'	143.50'	141.50'	141.50'
Gordon, Lake S16 T28 R27	121.30'	119.00'	116.00'	114.00'
Lake Grassy 2 29 25E	134.80'	129.00'	126.50'	125.50'
Lake Gross (Grassy) S14 T29 R26	138.50'	136.00'	133.50'	132.00'
Hamilton, Lake 18 28S 27E	122.50'	121.50'	119.00'	117.25'
Hancock, Lake 8 29S 25E	102.40'	99.00'	96.00'	94.00'
Hart, Lake 24 29S 26E	124.70'	124.50'	122.00'	120.00'
Hartridge, Lake 8 28S 26E	132.60'	132.00'	129.50'	127.00'
Henry, Lake 16 31S 26E	160.10'	159.00'	156.00'	154.00'

Henry, Lake 36 27S 26E	127.00'	126.50'	124.50'	122.50'
Hickory, Lake 17 32S 28E	98.50'	98.50'	96.00'	94.00'
Howard, Lake 30 28S 26E	132.60'	132.00'	129.50'	127.00'
Ida, Lake 28 31S 28E	80.00'	79.00'	76.50'	75.00'
Ida, Lake S17 T28 R26	136.70'	135.25'	132.00'	130.50'
Idyl, Lake S16 T28 R26	134.90'	134.00'	131.50'	130.00'
Idylwild, Lake 18 28S 26E	132.60'	132.00'	129.50'	127.00'
Jessie, Lake 12 28S 25E	132.60'	132.00'	129.50'	127.00'
Josephine, Lake 13 30 27	121.30'	120.00'	116.50'	114.50'
Josephine, Lake S27 T28 R27	124.10'	121.50'	118.00'	116.50'
Lee, Lake S16 T28 R27	123.50'	123.50'	121.50'	120.00'
Lena, Lake 9 28S 25E	137.10'	137.00'	134.50'	132.50'
Leonore, Lake 10 31S 28E	87.40'	87.00'	84.50'	83.00'
Link, Lake 27 28S 26E	128.70'	128.00'	125.00'	123.00'
Little Aurora	103.30'	100.50'	98.00'	96.00'
Little Gum Lake 35 29S 28E	96.80'	96.50'	94.00'	92.00'
Little Lake Hamilton 5 28S 27E	122.50'	121.50'	119.00'	117.25'
LuLu, Lake 4 29S 26E	132.60'	132.00'	129.50'	127.00'
Lee, Lake 10 29S 27E	122.10'	119.00'	116.00'	114.00'
Lake McLeod 7 29 26E	133.10'	132.00'	129.50'	128.00'
Mabel, Lake 11 29S 27E	114.50'	110.75'	107.00'	105.00'
Mariam, Lake 27 28S 26E	—	124.75'	122.75'	121.00'
Marie, Lake S27 T28 R27	121.00'	121.00'	118.00'	116.00'
Martha, Lake S21 T28 R26	142.50'	142.00'	139.00'	137.00'
Maude, Lake S21 T28 R26	141.70'	140.50'	137.50'	136.00'
May, Lake 29 28S 26E	132.60'	132.00'	129.50'	127.00'
Medora, Lake S36 T27 R25	140.40'	138.00'	134.50'	133.00'
Menzie, Lake S28 T28 R27	127.00'	122.00'	120.00'	118.00'
Middle Lake Hamilton 7 28S 27E	122.50'	121.50'	119.00'	117.25'
Lake Millsite 11 29 25E	125.30'	123.50'	121.00'	119.00'
Mirror, Lake 20 28S 27E	132.60'	132.00'	129.50'	127.00'
Moody, Lake 17 31S R28E	92.80'	93.50'	91.00'	89.00'

Myrtle, Lake 19 29S 27E	118.70'	118.50'	116.50'	114.50'
Lake Ned S1 T29S R26	129.60'	128.50'	126.00'	124.00'
North Lake Wales S01 T30 R27	116.80'	115.00'	112.00'	110.00'
Otis, Lake 28 28S 25E	128.70'	128.00'	125.00'	123.00'
Pansy, Lake S08 T28 R26	130.00'	129.00'	126.50'	124.50'
Parker, Lake 32 29S 27E	122.50'	122.00'	119.50'	117.50'
<del>Parker, Lake 8 28 24E</del>	<del>131.60'</del>	<del>131.00'</del>	<del>128.75'</del>	<del>127.50'</del>
Parks, Lake 36 29S 28E	104.50'	102.50'	100.00'	98.00'
Polecat, Lake 27 30S 26E	142.40'	142.00'	139.50'	137.50'
Reedy, Lake 35 31S 28E	80.00'	79.75'	77.25'	75.25'
Reeves, Lake 13 29S 26E	125.10'	124.50'	122.00'	120.00'
Lake River S1 T29 R26	141.60'	139.50'	136.00'	134.00'
Rochelle, Lake 4 28S 26E	129.70'	128.75'	126.50'	124.50'
Round, Lake 13 29S 26E	129.40'	129.25'	126.50'	124.50'
Roy, Lake 34 28S 26E	132.60'	132.00'	129.50'	127.00'
Ruby, Lake 12 29S 26E	125.50'	125.25'	123.00'	121.00'
Ruth, Lake S28 T28 R27	123.50'	121.50'	117.50'	115.50'
Saddlebag, Lake 6 30S 29E	106.80'	105.00'	102.00'	100.00'
Saint Anne Lake 14 30 28	97.50'	96.00'	93.00'	91.00'
Sanitary (Marianna), Lake S01 T28 R25	138.60'	137.50'	135.00'	133.00'
Sara, Lake S17 T28 R27	122.50'	121.50'	119.00'	117.25'
Scott, Lake 18 29S 24E	168.60'	168.00'	165.00'	164.25'
Lake Sears 36 28 25E	143.20'	141.00'	138.00'	136.00'
Serena, Lake S12 T30 R27	125.30'	118.00'	115.00'	113.00'
Shipp, Lake 32 28S 26E	132.60'	132.00'	129.50'	127.00'
Silver, Lake 5 32S 28E	105.00'	103.00'	100.50'	98.50'
Silver, Lake S20 T28 R26	147.10'	146.50'	144.00'	142.00'
Smart, Lake 9 28S 26E	129.70'	128.75'	126.50'	124.50'
Lake Spirit 35 28 25E	134.10'	131.50'	129.00'	127.00'
Spring, Lake 20 28S 27E	132.60'	132.00'	129.50'	127.00'
Starr, Lake 14 29 27	115.50'	113.00'	110.00'	108.00'
Streety Lake 24 32S 27E	108.70'	105.50'	102.50'	101.00'

Summit, Lake 34 28S 26E	132.60'	132.00'	129.50'	127.00'
Sunset Lake 10 30 28	101.10'	98.00'	95.50'	93.50'
Surveyors, Lake 26 30S 26E	133.60'	133.00'	130.75'	128.50'
Thomas, Lake 1 30E 28E	104.20'	99.50'	97.00'	95.00'
Lake Thomas 35 28 25E	135.60'	132.00'	128.00'	126.00'
Tractor Lake 14 30 27	125.00'	123.25'	121.00'	119.00'
Trask, Lake S22 T28 R27	114.90'	113.00'	108.00'	106.00'
Trout, Lake 34 32S 28E	100.60'	101.00'	98.00'	95.00'
Twin Lakes S11 T30 R27	124.10'	123.75'	120.00'	118.00'
Venus, Lake 9 29S 27E	126.10'	125.00'	122.00'	120.00'
Wales, Lake S01 T30 R27	114.10'	112.50'	110.00'	108.00'
Walker, Lake 21 30S 26E	143.00'	141.00'	137.00'	135.00'
Warren, Lake S11 T30 R27	124.60'	123.50'	121.00'	119.00'
Weader (Weaver), Lake S03 T30 R27	122.00'	121.75'	119.00'	117.00'
Winterset, Lake 11 29S 26E	132.60'	132.00'	129.50'	127.00'
(aa)-(cc) No change.				

Specific Authority 373.044, 373.113, 373.171, F.S. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086, F.S. History—New 6-7-78, Amended 1-22-79, 4-27-80, 10-21-80, 12-22-80, 3-23-81, 4-14-81, 6-4-81, 10-15-81, 11-23-81, 1-5-82, 3-11-82, 5-10-82, 7-4-82, 9-2-82, 11-8-82, 1-10-83, 4-3-83, 7-5-83, 9-5-83, 10-16-83, 12-12-83, 5-8-84, 7-8-84, 12-16-84, 2-7-85, 5-13-85, 6-26-85, 11-3-85, 3-5-86, 6-16-86, Formerly 16J-8.678, Amended 9-7-86, 2-12-87, 9-2-87, 2-18-88, 6-27-88, 2-22-89, 3-23-89, 9-26-89, 7-26-90, 10-30-90, 3-3-91, 9-30-91, 10-7-91, 7-26-92, 3-1-93, 5-11-94, 6-6-96, 2-23-97, Amended 8-7-00, 1-8-04, 12/10/04, 6-05-05,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Doug Leeper, Senior Environmental Scientist, Ecologic Evaluation, Resource Conservation and Development, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2005 for Lakes Allen Harvey and Virginia in Hillsborough County, September 23, 2005 for Lake Parker and October 3, 2003 for Lake June-In-Winter in Highlands County

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact Dianne Lee at (352)796-7211, ext. 4658; TDD only: 1(800)231-6103.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division Health Quality Assurance**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Health Care Clinic Licensure	59A-33
RULE TITLES:	RULE NOS.:
Definitions	59A-33.001
Licensure, Application Process, General Requirements	59A-33.002
Initial License Applications Applicability	59A-33.003
Renewal License Applications	59A-33.004
Change of Ownership License Applications	59A-33.005
Certificates of Exemption and Exempt Status	59A-33.006
AHCA Forms Availability, Information and Website	59A-33.007
Medical and Clinic Director	59A-33.008
Financial Instability	59A-33.009
Cessation of Business, Billing and Medical Records Retention, Suspended and Revoked Licenses	59A-33.0010
Magnetic Resonance Imaging Exemption for Chief Financial Officer	59A-33.011
Survey Requirements and Process	59A-33.012
Medical and Clinic Directorships Maximum Number of Clinics	59A-33.013

PURPOSE AND EFFECT: The Agency proposes to adopt new rules, Chapter 59A-33, Florida Administrative Code, consistent with provisions of the Health Care Clinic Act that created Section 400.9925, F.S. That statutory section was effective October 1, 2003, and requires the development of rules necessary to administer the health care clinics with regulatory licensing program.

SUMMARY: The proposed initial rule, Chapter 59A-33, Florida Administrative Code, includes administration and regulation of the health care clinic licensure program, medical and clinic directors, survey, Magnetic Resonance Imaging (MRI), background screening, certificates of exemption, change of ownership, financial instability, cessation of business and medical records, rules establishing the specific licensure requirements, procedures, forms, policies, fees, procedures for biennial licensure, expiration dates for licenses, financial responsibility requirements and other conditions of renewal of licenses.

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: 400.9925 FS.

LAW IMPLEMENTED: 400.990-400.995 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., Friday, February 3, 2006  
PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room D, Tallahassee, FL 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dennis LaRosa, Health Care Clinic Unit, 2727 Mahan Drive, Tallahassee, Florida or call (850)488-1365

THE FULL TEXT OF THE PROPOSED RULES IS:

INDEX TO PROPOSED RULES FOR HEALTH CARE CLINIC LICENSURE

59A-33.001 Definitions.

In addition to definitions contained in Chapter 400, Part XIII, F.S., the following definitions shall apply specifically to health care clinics.

(1) "Licensee" means an individual, general partner of a limited partnership, general partnership, joint venture, limited liability company, limited liability partnership, unincorporated association, corporation or any other business relationship or entity that owns or controls a health care clinic or is the lessee of the health care clinic having the right of possession of the health care clinic location or mobile unit.

(2) "Physician" means a person currently licensed to practice medicine, osteopathy, chiropractic, or podiatry pursuant to Chapters 458, 459, 460 or 461, F.S., respectively.

(3) "Unencumbered license" means a license issued by the respective health practitioner board of the Department of Health that permits a physician to perform all duties authorized under a license without restriction.

(4) "The Health Care Clinic Act" or "Act" means Part XIII, Chapter 400, F.S.

(5) "Licensed medical provider" means a licensed health care practitioner.

Specific Authority 400.9925 FS. Law Implemented 400.991(1), 400.9925, 400.9905(4)(g), (5) FS. History--New \_\_\_\_\_.

59A-33.002 Licensure, Application Process, General Requirements.

(1) The licensee or prospective licensee shall make application for an initial, change of ownership, or renewal license to operate a health care clinic and shall provide all of the information required by this rule and Chapter 400, Part XIII, F.S. on AHCA Form 3110-0013B, Application for Health Care Clinic Licensure June 2004, and AHCA Form 3110-0013A, Instruction for Completing the Application for Health Care Clinic Licensure June 2004 incorporated by reference. The following shall be included with the application:

(a) License Fee. A nonrefundable \$2,000 application fee payable to the Agency; and

(b) Fictitious Name. When an applicant intends to operate under a fictitious name, a copy of an Affidavit of Compliance with Fictitious Name pursuant to Section 865.09, F.S., or a copy of a registration form from the Division of Corporations, Secretary of State, showing registration of the applicant's fictitious name; and

(c) Evidence of Incorporation. When an applicant is a corporation, a copy of the registration of the applicant entity on file with the Division of Corporations, Secretary of State, State of Florida; and

(d) Financial Projections. Proof of financial ability to operate for the first year of licensure for initial and change of ownership applications. This proof shall include evidence that the applicant has sufficient assets, credit, and projected revenues to cover liabilities and expenses. The applicant must submit a projected income and expense statement and projected balance sheet that have been prepared according to generally accepted accounting principles and signed by a certified public accountant. As a convenience, the applicant may submit the required information on AHCA Form 3110-001C, June 2005, Schedule 2, Projected Income and Expense, incorporated by reference, and AHCA Form 3110-001D, Schedule 3, Projected Balance Sheet, June 2005, incorporated by reference. As an alternative, and not in addition to providing a projected income and expense statement and projected balance sheet, the applicant may submit a surety bond in the amount of \$500,000 payable to the Agency. For a Surety Bond the applicant must submit AHCA Form 3110-1103E, Health Care Clinic Surety Bond, June 2005, incorporated by reference; and

(e) Background Screening. All information required by this paragraph (e) to enable the Agency to evaluate and determine compliance with the Act regarding background screening. This information must include the identification of all individuals who must be the subject of Level 2 background screening under standards established in Chapter 435, F.S., and in Section 400.991(7)(d), F.S., as required on AHCA Form 3110-0013B, June 2005, Application for Health Care Clinic Licensure, adopted by reference.

1. Individuals required to meet background screening requirements include individuals owning or controlling, directly or indirectly, 10% or more of an ownership interest in the health care clinic; the medical or clinic director, or similarly titled person responsible for the day to day operation of the health care clinic; the financial officer or similarly titled individual responsible for the financial operation of the health care clinic; and all health care practitioners employed by or under contract to the health care clinic that have been issued a license, registration or certification by the Florida Department of Health.

2. For each individual not previously screened within the last 5 years, the applicant for licensure shall submit an original completed applicant (meaning that individual) fingerprint card (blue and white card) from any authorized agency or law enforcement office in the United States plus the applicable processing fee established by the Florida Department of Law Enforcement (FDLE); provided however, an individual who owns an interest in a health care clinic, but such ownership interest is less than a 10% interest, may not be required to submit a fingerprint card. This latter proviso shall not preclude the Agency from determining through means other than through the examination of fingerprints, whether any such individual has a criminal record that precludes issuance of a health care clinic license to the applicant for licensure.

3. Upon receipt by the Agency of the results of Level 2 screening, the Agency will notify the applicant in writing if the determination is other than HCC-OK. The applicant shall provide the following additional information to the Agency as requested within 30 days of the notice to enable the Agency to make a final determination regarding whether a disqualifying criminal record exists for any such individual that would preclude issuance of the license to the applicant. The Agency will notify the applicant for the license in writing of a final disqualifying criminal record and the right to formally contest the determination.

4. Any applicant that fails to provide requested criminal or other necessary information within thirty (30) days after the notice to the applicant of the need for such information regarding any particular individual, or that otherwise fails to respond to the notice in a manner that resolves the problem in determining the disqualifying nature of the criminal record of a particular individual, shall subject the applicant's pending license application to denial or revocation of an existing license for such failure.

5. Individuals directly or indirectly owning or controlling 10% or more of an interest in a health care clinic means the natural persons owning or controlling stock, directly or indirectly, in the applicant entity or owning or controlling 10% or more interest in a company or companies directly or indirectly related to the applicant entity through inter-company ownership or control. For example: When a parent company or companies own 100% of the outstanding stock or controls the applicant entity, any individual owning or controlling a 10% or more interest in the parent company is required to undergo Level 2 background screening.

6. Any individual employed by or under contract with a health care clinic who is required to pass Level 2 background screening must submit an applicant fingerprint card and processing fee of \$47 to the Agency within 10 days of becoming affiliated with a health care clinic in accordance with paragraph (1)(e), unless submitted with an initial, change of ownership or renewal application. This requirement shall be a continuous obligation of the health care clinic. All applicants

for a license or current licensees must comply in a timely manner. For persons who have previously completed and met Level 2 background screening requirements and for such other persons subject to background screening, the health care clinic must file a supplemental application on AHCA Form 3110-0013B, June 2005, Application for Health Care Clinic Licensure, incorporated by reference, by following the instructions for meeting background screening requirements when adding personnel to the health care clinic. Failure of the health care clinic to submit fingerprint cards and related fees in a timely manner shall subject the health care clinic to the penalties of Section 400.995(1), F.S.

7. No license will be issued to any health care clinic until all the required background screening responses from the Florida Department of Law Enforcement and from the FBI have been received by the Agency and the individuals screened have been determined cleared consistent with this rule. Documentation that resolves background screening issues is required documentation pursuant to Section 400.991(4), F.S. A license that is granted, notwithstanding the existence of a pending criminal charge against an individual whose criminal case will not be resolved within the time specified in this rule, and which criminal charge may result in the establishment of a criminal record that would have precluded licensure if established prior to issuance of the license, shall be subject to periodic review by the Agency specifically as to the disposition of that individual's criminal charge. The licensee promptly shall notify the Agency of such disposition upon learning of it.

(2) All health care clinics deemed to be unlicensed under this rule are specifically subject to a fine for unlicensed activity in accordance with Section 400.995(5), F.S. and all other remedies provided by law. The Agency may deny, suspend, revoke and refuse to renew a license or application for any reason set forth in Section 408.831, F.S. In the event the Agency denies an application for renewal and seeks sanctions, the Agency shall issue a provisional license that shall enable the health care clinic to operate during the sanction proceedings. The provisional license shall terminate on the date the license is revoked by final order, the date the sanctioning proceeding terminates, or the date the final order grants the health care clinic a standard license.

(3) All forms and these rules may be obtained by contacting the Agency as shown in Rule 59A-33.007, F.A.C.

(4) The health care clinic shall maintain a log of all persons required to be screened pursuant to Section 400.991(7), F.S. and have undergone background screening plus all correspondence and documentation from the Agency including the online Direct Access Screening System results for \_\_\_\_\_ submitted \_\_\_\_\_ fingerprint \_\_\_\_\_ cards \_\_\_\_\_ at: [http://www.fdhc.state.fl.us/bg\\_screen/owa/bg\\_screen.internet.1](http://www.fdhc.state.fl.us/bg_screen/owa/bg_screen.internet.1) og.

Specific Authority 400.991(1), 400.991(7)(d), 400.995(3), 400.9925 FS. Law Implemented 400.9925, 400.991(1)(a), (4), (7)(d), 435.04 FS. History—New \_\_\_\_\_.

#### 59A-33.003 Initial License Applications Applicability.

(1) Licensure is required for all entities meeting the definition of "Health care clinic" per Section 400.9905(4), F.S., that are not otherwise exempt under Section 400.9905(4)(a)-(i), F.S.

(2) Any business that meets the definition of a health care clinic, must submit an application in accordance with Rule 59A-33.002, F.A.C., within 5 days of becoming a health care clinic pursuant to Section 400.9935(2), F.S. An application for licensure is required for health care clinics that have a current certificate of exemption or have self-determined they have exempt status, but do qualify for an exemption under Section 400.9905(4), F.S.

(3) A change of ownership application that is not received before the ownership change has been completed is considered an initial license application. Special Provisions. Submission of applications must be in accordance with Rule 59A-33.002, F.A.C., General Provisions.

Specific Authority 400.9925 FS. Law Implemented 400.991, 400.992 FS. History—New \_\_\_\_\_.

#### 59A-33.004 Renewal License Applications.

(1) At least 90 days prior to the expiration of the license, all licensed health care clinics must submit a complete renewal application on AHCA Form 3110-0013B, Application for Health Care Clinic Licensure June 2005, in accordance with AHCA Form 3110-0013A, Instruction for Completing the Application for Health Care Clinic Licensure June 2005 and check the renewal box. These forms are hereby adopted by reference. All information required by the form and instructions must be submitted. All forms and these rules may be obtained by contacting the Agency in accordance with Rule 59A-33.007, F.A.C.

(2) Timeliness of the renewal application will be determined on the basis of receipt by the Agency. In the event an application is submitted less than 90 days before license expiration, an administrative fine of one-half of the license fee shall be assessed. An application for renewal submitted to the Agency after the expiration date will be processed as an initial application.

(3) A health care clinic is deemed to be unlicensed after the license has expired. The health care clinic is then subject to a fine for unlicensed operation in accordance with Section 400.995(5), F.S.

(4) Special Provisions. Submission of the renewal application must be in accordance with Rule 59A-33.002, F.A.C. Proof of financial ability to operate shall not be required for a renewal application unless the Agency determines there is evidence of financial instability and notifies the health care clinic in writing. (See Rule 59A-33.009, F.A.C., relating to financial instability).

(5) An unannounced onsite inspection and survey will be conducted by the Agency prior to license expiration. All requirements for licensure under these rules and the Act must be met during the survey.

(6) Each health care clinic providing magnetic resonance imaging services must provide proof of required accreditation with the license renewal application. This requirement is met with a copy of a letter or certificate indicating the effective date of the accreditation.

Specific Authority 400.9925 F.S. Law Implemented 400.991(4), (8), (9), 400.991(1), 400.9935(5), (11)(a), 400.995(1), (5) F.S. History—New \_\_\_\_\_.

#### 59A-33.005 Change of Ownership License Applications.

(1) Applications for change ("CHOW") of health care clinic ownership are subject to the following standards.

(a) A health care clinic license cannot be sold, assigned, encumbered, pledged as security, leased or otherwise transferred, directly or indirectly. A health care clinic license is good only for the location and owners originally approved by the Agency.

(b) An application for change of ownership of a health care clinic is required pursuant to Section 400.992(4), F.S., when 45 percent or more of the ownership, voting shares, or controlling interest of a health care clinic is transferred or assigned, or when the maximum aggregate percentage is achieved cumulatively within a 2-year period. The standards and applications under Rule 59A-33.002, F.A.C., shall apply to applications for change of ownership.

(c) When changing the ownership of a health care clinic, an application for change of ownership must be submitted to the Agency at least 60 days before the effective date of the change. A change of ownership prior to submitting this required application in a timely manner and operation as a health care clinic is considered operating in violation of the Act and the clinic shall be fined \$5,000 in accordance with Section 400.995 F.S.

(d) When changing the ownership of a health care clinic, the transferee must submit an application for a license and check the change of ownership box on AHCA Form 3110-0013B, June 2005, Application for Health Care Clinic Licensure with accompanying instructions. This form is adopted herein by reference. The form and these rules may be obtained by contacting the Agency in accordance with Rule 59A-33.007, F.A.C.

(e) When a health care clinic changes ownership according to the criteria set forth in this rule and the Act and operates before a change of ownership application is filed, it is in violation of Section 400.993(1), F.S., and the Agency shall assess a statutory fine of \$5,000.

(f) When a health care clinic changes ownership and operates after an application is filed, but before the new change-of-ownership license is effective, the Agency shall assess the applicant a fine of up to \$5,000 pursuant to Section 400.995(1), F.S.

(g) A change of ownership application requires compliance with Rule 59A-33.002, F.A.C., which includes, but is not limited to, submission of proof of financial ability to operate and applicant fingerprint cards for all persons required to submit to comply with level 2 background screening within the past 5 years in accordance with AHCA Form 3110-0013B, (NEW), titled Application for Health Care Clinic Licensure.

Specific Authority 400.9925 F.S. Law Implemented 400.991(7)(d), 400.992(4)-(5), 400.9925(1)-(5), 400.993(2), 400.995(1), (6), (7) F.S. History—New \_\_\_\_\_.

#### 59A-33.006 Certificates of Exemption and Exempt Status.

(1) Facilities and entities exempt from health care clinic license requirements are set forth in Section 400.9905(4), F.S. A facility is not required to have, but may voluntarily apply for a certificate of exemption.

(2) Facilities that claim an exemption, either by filing an application for an exemption with the Agency and receiving a certificate of exemption, or self-determining, must maintain an exempt status at all times the facility is in operation.

(3) When a change to the exempt status occurs to an exempt facility or entity that causes it to no longer qualify for an exemption, any exempt status claimed or reflected in a certificate of exemption ceases on the date the facility or entity becomes a health care clinic. In such case, the health care clinic must file with the Agency a license application under the Act within 5 days of becoming a health care clinic and shall be subject to all provisions of the Act applicable to unlicensed health care clinics. Failure to timely file an application for licensure within 5 days of becoming a health care clinic will render the health care clinic unlicensed and subject the owners, medical or clinic directors and the health care clinic to sanctions under the Act.

(5) A facility becomes a health care clinic as defined in Section 400.9905(4), F.S. when it does not qualify for an exemption, provides healthcare services to individuals and bills third party payors for those services.

(6) Change of Exempt Status. When exempt status changes are discovered, the Agency will notify a facility or entity applying for, obtaining or self-determining exempt status, that the exempt status is no longer valid, giving the grounds therefor, the date of the change, when known, and the statutory and rule provisions applicable. The Agency shall give the facility or entity notice of unlawful health care clinic operation, the statutory and rule requirements of becoming a health care clinic and sanctions for operating without a valid license for the owners, medical or clinic directors and the location. The Agency shall also provide information to the



facility or entity believed to be operating without exempt status of the licensing procedures and the Agency filings necessary to meet licensure requirements.

(7) The applicant for a certificate of exemption must affirm, without reservation, the exemption sought pursuant to Section 400.9905(4), F.S., and the qualifying requirements for obtaining and maintaining an exempt status; the current existence of applicable exemption-qualifying health care practitioner licenses; qualified ownership, qualified certifications or registration of the facility or owners; federal employer identification number; services provided; proof of legal existence and fictitious name, when the entity and name are required to be filed with the Division of Corporations, Department of State; plus other satisfactory proof required by form adopted by this rule.

(8) The fee for issuance of a certificate of exemption shall be \$100 submitted to the Agency with the application.

(9) Within 30 calendar days after application receipt, the Agency shall determine whether the application is complete. If the application is deemed incomplete, the Agency shall request in writing from the applicant specific information necessary for the application to be deemed complete. Only one such request will be made by the Agency. If the applicant does not provide the specific additional information required by the statute and rule in writing to the Agency within 21 calendar days of receipt of the Agency's request, the application will be deemed incomplete and the certificate of exemption shall be denied. The applicant's response must be received by the Agency no later than 5:00 P.M., E.S.T., on or before the omissions due date. An application for a certificate of exemption from health care clinic licensure shall be granted or denied by the Agency within 90 days of receipt of a fully completed application on AHCA Form 3110-0014, which is incorporated by reference and may be obtained in accordance with Rule 59A-33.007, F.A.C.

(10) The Agency may rely upon the address given on the application as the official address to which correspondence may be sent. It is the duty of the applicant to notify the Agency in writing at least 10 days in advance of any change of the current mailing address by contacting the Agency according to Rule 59A-33.007, F.A.C.

(11) Certificates of exemption are not moveable or transferable, directly or indirectly. They are valid only for the applicant, qualifying owners, licenses, registrations, certifications and services provided under specific statutory exemptions and are valid only to the specific exemption claimed and granted. In order for a certificate of exemption to be valid the applicant must apply for and receive a new certificate of exemption for changes of location and any qualifying statutory or rule requirement of an exemption.

Specific Authority 400.9925 FS. Law Implemented 400.9905(4), 400.9935(2), (9) History—New\_\_\_\_\_.

59A-33.007 AHCA Forms Availability, Information and Website.

All forms and corresponding instructions, copies of these rules, the Health Care Clinic Act and other information necessary for licensure and exemption that are incorporated by reference into this chapter, F.A.C., may be obtained from the Health Care Clinic Unit website: [http://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/Health\\_CareClinic/index.shtml](http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Health_CareClinic/index.shtml) or may be obtained by written request addressed to: AHCA, Health Care Clinic Unit, 2727 Mahan Drive, MS #53, Tallahassee, FL 32308 or by telephone at (850)488-1365 for mailing.

Specific Authority 400.9925 FS. Law Implemented 120.54 FS. History—New\_\_\_\_\_.

59A-33.008 Medical or Clinic Director.

(1) A licensed health care clinic may not operate or be maintained without the day-to-day supervision of a single medical or clinic director as defined in Section 400.9905(5), F.S. The health care clinic responsibilities under Section 400.9935(1)(a)-(g), F.S. cannot be met without an active, appointed medical or clinic director. Failure of an appointed medical or clinic director to substantially comply with health care clinic responsibilities under Rule 59A-33.012, F.A.C., and Section 400.9935(1)(a)-(g), F.S. shall be grounds for the revocation or suspension of the license and assessment of a fine pursuant to Section 400.995(1), F.S.

(2) By statutory definition in Section 400.9905(5), F.S., a medical director is a health care practitioner that holds an active and unencumbered Florida physician's license in accordance with Chapters 458 (medical physician), 459 (osteopathic physician), 460 (chiropractic physician) or 461 (podiatric physician), F.S. A suspended or non-renewed license is considered an encumbered license, as is a license that restricts the license holder from performing health care services in a manner or under supervision different from a license holder without board or Department of Health restrictions.

(3) The Agency may issue an emergency order suspending the license of any health care clinic operated or maintained without a medical or clinic director as required by the Act and this rule for such period of time as the health care clinic is without a medical or clinic director. The Agency shall assess a civil fine of up to \$5,000 for operating or maintaining a health care clinic without a medical or clinic director. Each day of operation following receipt of Agency notice is considered a separate offense. Operation and maintenance of a health care clinic without a medical or clinic director shall be grounds for revocation of the license in addition to the assessment of fines pursuant to Section 400.995(1), F.S.

(4) All health care clinics must notify the Agency of the resignation, abandonment and appointment of a medical or clinic director on AHCA Form 3110-0014, June 05, which is adopted by reference, by delivering the original form to the

Agency at the address set forth in Rule 59A-33.007, F.A.C. Such application must be filed with the Agency within 10 days of the resignation or abandonment of a medical or clinic director. The health care clinic must also file an application with the Agency within 10 days of the appointment of a new medical or clinic director. The form shall require the date the medical or clinic director of record ceased to be the director and the date the successor began as director. The incoming medical or clinic director and a representative of the owner of the health care clinic shall sign the form and attest to its accuracy. The form shall include an acknowledgement that the new medical or clinic director has accepted the responsibilities of Section 400.9935(1), F.S., by signing the form. A copy of the form may be obtained from the Agency at the address shown in Rule 59A-33.007, F.A.C. All appointed medical or clinic directors must comply with Section 400.9905(5), F.S., at the time of appointment and throughout the appointment period. There is no fee for this form.

(5) The application shall be accompanied by a fingerprint card of the medical or clinic director and a processing fee of \$47 per card.

Specific Authority 400.9925(1), (2) FS. Law Implemented 120.542, 120.60(6), 400.9905(5), 400.9915(3), 400.993, 400.9935(1)(a)-(g), 400.9935(3), 400.995(1), (6). History—New \_\_\_\_\_.

#### 59A-33.009 Financial Instability.

When evidence of financial instability of a health care clinic is substantiated, the Agency will notify the health care clinic in writing that satisfactory proof of financial ability to comply with Part XIII, Ch. 400, F.S., must be provided.

(1) Evidence of financial instability of a health care clinic shall, without limitation, include issuance of checks and drafts for which there are insufficient funds, an accumulation of delinquent bills for such items as personnel salaries, drugs, lease, mortgage, utilities or other operational costs, appointment of a receiver, a voluntary or involuntary petition for bankruptcy, a voluntary arrangement with creditors, health care clinic closure, discontinuance of health care clinic business for more than 60 consecutive days or insolvency.

(2) The licensee shall submit to the Agency a written plan of correction to resolve specific financial problems that the Agency has identified as evidence of financial instability. Should the financial instability not be resolved within 90 days of the original notice, the licensee shall be subject to disciplinary action, fine, suspension or revocation of the license. For good cause shown, the licensee may request an extension of no more than 90 days to correct financial instability in accordance with its plan of correction if such request is received and approved by the Agency prior to the expiration of the initial 90 days.

Specific Authority 400.9925 FS. Law Implemented 400.992(3) FS. History—New \_\_\_\_\_.

59A-33.010 Cessation of Business, Billing and Medical Records Retention, Suspended and Revoked Licenses.

(1) The medical or clinic director serves as the medical records owner while the health care clinic is in operation. The licensee is the records owner of billing and medical records after the cessation or change of ownership of the business. The treating health care practitioner is the medical records owner in accordance with Sections 456.057, 456.0575, 456.58, F.S., and the rules promulgated there under unless there is a written agreement between the practitioner and health care clinic to the contrary.

(2) Each original license shall be returned to the Agency at the address shown in Rule 59A-33.007, F.A.C., within 10 days after a change of ownership in accordance with Rule 59A-33.005, F.A.C., or cessation of operations, suspension or revocation of the license by the Agency. Agency staff may enter the premises of the health care clinic at reasonable times to remove a license after final action of the Agency suspending or revoking the license or when the health care clinic has changed ownership in accordance with Rule 59A-33.005, F.A.C. Operating a health care clinic while a license is suspended or revoked shall be deemed unlicensed operation and subject to the statutory penalties, including per-day fines for such operation.

(3) All financial books and medical records, including but not limited to, patient files and billing records, shall be retained by the health care clinic owners in a secure location for a period of at least five (5) years from the last date on the record. The licensee shall notify the Agency in writing within 10 days of closure giving the Agency the name, street address and telephone number of the custodian and street address of the location of financial and medical records.

(4) When a change of ownership occurs, the new medical or clinic director will serve as the records owner in accordance with the practice act of the director. Within 10 days of any change of location or change of records custodian, the health care clinic owners shall provide to the Agency in writing, information as required by subsection (3). Records shall be retained for at least five (5) years from the last date on the record.

Specific Authority 400.9925 FS. Law Implemented 400.991, 400.993, 400.994, 400.995 FS. History—New \_\_\_\_\_.

59A-33.011 Magnetic Resonance Imaging Exemption for Chief Financial Officer.

(1) The statutory authorization threshold to utilize a chief financial officer (“CFO”) in lieu of a medical or clinic director to supervise health care clinic activities under Section 400.9935(1)(g), F.S., is partially met when less than 15% of the total scans for the previous quarter (3 months) of operation are reimbursed from automobile personal injury protection insurance (“PIP”).

(2) Calendar quarters shall begin on the first of January, April, July and October. For health care clinics applying for and obtaining initial licenses, a partial quarter shall count as a full quarter of operations for purposes of qualifying for this CFO exemption to Section 400.9935(1)(g), F.S.

(3) In calculating total scans, a single scan means one patient study. The records of total scans must be maintained by the health care clinic and made available to the Agency upon request. The records for each quarter in which the exemption is claimed must be tallied separately and demonstrate the total number of scans billed to PIP insurance divided by the total scans for the quarter. Upon request of the Agency, the health care clinic shall demonstrate how the figures were determined and the methodology utilized.

(4) The exemption from the required utilization of a medical or clinic director for Section 400.9935(1)(g), F.S., activities applies only to a health care clinic that is fully accredited by the Joint Commission on Accreditation of Healthcare Organizations or dually accredited by the Accreditation Association for Ambulatory Health Care and the American College of Radiology.

(5) Each CFO claiming qualifications for the exemption, shall within 30 days of the health care clinic meeting the threshold for the previous quarter for utilization, affirm to the Agency in writing at the address shown in Rule 59A-33.007, F.A.C., that the CFO meets the minimum qualifications for appointment, the MRI health care clinic has been appropriately accredited and the health care clinic has met the minimum scan threshold for the previous three months.

(6) The health care clinic shall maintain the records reflecting qualification for the CFO exemption, including the individual qualifications of the person acting as the CFO as set forth in Section 400.9935(1)(g), F.S., for 3 years.

Specific Authority 400.9925 FS. Law Implemented 400.9905(3), 400.9935(1)(g) FS. History—New\_\_\_\_\_.

#### 59A-33.012 Survey Requirements and Process.

(1) The survey process is an onsite inspection and review of the health care clinic facility or administrative office, by authorized Agency employees to determine the health care clinic's compliance with the minimum standards established by the Act, its statutory references and rules regulating the operation and licensure of health care clinics. The purpose of the survey is to verify information provided on an application as well as inspect, review, interview, document and determine that the minimum health care delivery system attributes for a health care clinic, as required by the Act and these rules are in place and operational or will be operational after commencing business.

(2) A survey will be conducted for:

(a) Initial applications for licensure;

(b) Applications for renewal licenses;

(c) Applications for a change of ownership; and

(d) complaints filed with the Agency.

(3) The surveyor will request the health care clinic to demonstrate how it is meeting or will meet the minimum requirements for licensure. The medical or clinic director must attend the survey entrance conference and be available when the survey is conducted for the surveyor to determine compliance with minimum standards. Other key personnel required include the financial director, a representative of management or ownership and persons responsible for patient records and billing.

(4) At the entrance conference, each surveyor will identify him or herself and will discuss the survey process and what is expected of the health care clinic during the survey. At the exit conference, surveyors will inform health care clinic representatives of the findings of the survey. When deficiencies are found, the surveyor will discuss them with the persons then in attendance and discuss the criteria for determining the level of sanctions in accordance with Section 400.995(1)(a)-(d), F.S. The field office shall inform the health care clinic in writing of its recommendations and shall require a plan of correction to be prepared and delivered to the field office within 10 days of receipt to correct deficiencies when minimum health care delivery system requirements have not been met. Implementation and Agency verification of a successful plan of correction does not prohibit the field office from recommending sanctions.

(5) To facilitate a licensure survey, the health care clinic should have the following materials readily available for review at the time of the survey. When the survey is unannounced, the materials should be made available to the surveyor upon request.

(a) The professional license or facsimile of the license for the medical or clinic director.

(b) Copy of medical or clinic director's written agreement with the health care clinic assuming the responsibilities for the statutory activities in Sections 400.9935(1)(a)-(g), F.S. If the medical or clinic director signs the application or change of medical or clinic director form, acknowledging these responsibilities as specified in Section 400.9935, F.S., this requirement is met.

(c) Written policies, protocols, guidelines and procedures used or to be used by the facility staff in day-to-day operations. This includes, but is not limited to protocols for physician assistants and advanced registered nurse practitioners plus a copy of the supervision form submitted to the Department of Health by the physician supervisor.

(d) Any policies, procedures, guidelines, checklists and/or means that are used in the systematic creation and maintenance of the health care clinic's medical record system.

(e) Any policies, procedures, guidelines, checklists that demonstrate compliance with the medical records retention, disposition, reproduction, and disclosure requirements of the medical or clinic director's practice act.

(f) Any policies, procedures, guidelines, checklists that demonstrate compliance with the office surgery requirements of the practice acts for services performed at the facility.

(g) Any policies, procedures, guidelines, checklists that demonstrate compliance with adverse incident reporting requirements and injury disclosure.

(h) Personnel files.

(i) Logs, charts or notes demonstrating day-to-day oversight of health care clinic activities by the medical or clinic director.

(j) Copies of professional licenses issued by the respective boards and the Department of Health under the several practice acts.

(k) Any patient referral contracts or agreements of the health care clinic that are in writing and a disclosure to the surveyor of any such agreements that are not in writing including the names of the parties to the agreement, the date and the essential terms of agreement.

(l) For health care clinics that are in operation at the time of the survey, the surveyor will select a sample of at least five (5) patient medical records from the previous 6 months of operation with at least one (1) Medicaid file, if certified as a Medicaid provider, plus the five (5) billing records that correspond with the five patient records.

(m) Description of means by which the health care clinic conducts a systematic review of billings that ensures billings are not fraudulent or unlawful. A sample must be reviewed by the medical director or clinic director at least once every 30 days and a record maintained by the health care clinic for at least three years identifying the records reviewed and when and what action was taken to correct fraudulent or unlawful billings. A log of systematic reviews shall be kept and maintained in a discrete file at the health care clinic for review on request of the Agency during the retention period.

(n) List of services provided or a general descriptor of scope, level and complexity of care for services provided.

(o) Current diagnostic and treatment equipment records showing equipment certification when such equipment must have regulatory certification. This requirement is met with presentation of a current maintenance agreement.

(p) An organizational flow chart with lines of authority and names of key individuals and positions.

(q) An all-inclusive and up to date listing of original signatures and initials of all persons entering information billing and patient records, the printed name and medical designation, if any, such as PA, RN, MD, etc. The log shall be kept and concurrently maintained at the health care clinic. Information required by this rule shall be stored and maintained by the health care clinic for a period of 5 years.

(r) Log of all natural person required and who have been screened under Level 2 criteria of Ch. 435, Section 400.991, F.S.

Specific Authority 400.9925 FS. Law Implemented 400.9925(2) FS. History--New \_\_\_\_\_.

59A-33.013 Medical and Clinic Directorships Maximum Number of Clinics.

A medical or clinic director may not serve in that capacity for more than a maximum of five health care clinics with a cumulative total of more than 200 employees and persons under contract with the health care clinic at given time. A medical or clinic director may not supervise a health care clinic more than 200 miles from any other health care clinic supervised by the same medical or clinic director.

Specific Authority 400.9925(2) FS. Law Implemented 400.9925(2) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Roger Bell, Unit Manager, Health Care Clinic Unit  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek, Deputy Secretary for Health Quality Assurance  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2006  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 13, 2006

**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 HEALTH**

**Board of Psychology**

RULE TITLE: Qualifications to Evaluate and Treat Sex Offenders Under "Qualified Practitioner" Status  
 RULE NO.: 64B19-18.001

PURPOSE AND EFFECT: The Board proposes to promulgate a new rule to implement new legislation regarding the qualifications of licensed psychologists to complete risk assessments and prepare safety plans pursuant to Chapter 947, F.S.

SUMMARY: The new rule specifies the qualifications of licensed psychologists to complete risk assessments and prepared safety plans pursuant to Chapter 947, F.S.

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: 490.004(4), 947.005(9) FS.

LAW IMPLEMENTED: 947.005(9) 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: Susan Love, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-18.001 Qualifications to Evaluate and Treat Sex Offenders Under "Qualified Practitioner" Status.

Prior to holding oneself out as a "Qualified Practitioner," eligible to evaluate and treat sex offenders, complete a "risk assessment" or prepare a "safety plan," as defined in Sections 947.005(9), (10), and (11), Florida Statutes, a Florida licensed psychologist must:

(1) Possess 55 hours of doctoral (based on the formula: one doctoral hour equals 10 continuing education hours) or continuing education in the following core areas:

- (a) Etiology of sexual deviance;
- (b) Evaluation/risk assessment and treatment of adult and adolescent sexual offenders that have established scientific basis;
- (c) Evaluation/risk assessment and treatment of specialized populations of sexual offenders (i.e., the female and developmentally delayed);
- (d) Use of plethysmography, visual reaction time, and polygraphy in the evaluation, treatment, and monitoring of sexual offenders;
- (e) Sex offenders and relevant DSM-IV diagnosis;
- (f) Safety planning/Family safety planning;
- (g) Report writing;
- (h) Legal and ethical issues in the evaluation and treatment of sexual offenders; and
- (i) Relapse prevention treatment model.

(2) Have documented 2,000 hours of supervised experience in the evaluation and treatment of sexual offenders under the supervision of a "Qualified Practitioner" or Board-approved equivalent or be a clinical member of the Association for Treatment of Sexual Abusers (ATSA).

Specific Authority 947.005(9), 490.004(4) FS. Law Implemented 947.005(9) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Psychology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005

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

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: 1S-2.034                      RULE TITLE: Polling Place Procedures Manual

NOTICE OF CORRECTION

A NOTICE OF PUBLIC HEARING on the above proposed rule amendment was published in the January 6, 2006 issue of the Florida Administrative Weekly, Vol. 31, No. 53. The date of the public hearing was incorrectly listed. The correct date and time of the public hearing is:

TIME AND DATE: 1:00 p.m., Tuesday, January 17, 2006  
PLACE: Florida Heritage Hall, R. A. Gray Building, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria Matthews, Assistant General Counsel, Division of Elections, 500 S. Bronough Street, R. A. Gray Building, Tallahassee, Florida 32399, (850)245-6262

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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**

RULE NOS.:	RULE TITLES:
19-11.003	Distributions from FRS Investment Plan Accounts and Reemployment with an FRS-covered Employer
19-11.004	Excessive Trading in the FRS Investment Plan
19-11.005	FRS Investment Plan Complaint Procedures

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 31, No. 47, which is the November 23, 2005, issue of the Florida Administrative Weekly. The changes are made in response to comments from the Joint Administrative Procedures Committee and in response to written material received before the hearing.

The rules will be changed as follows: