

SPECIFIC AUTHORITY: 465.005 FS.  
 LAW IMPLEMENTED: 456.004, 456.009, 48.111(2) FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON AUGUST 11, 2003 IN ORLANDO, FLORIDA.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Lucy C. Gee, Acting Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-25.130 Executive Director.

The Executive Director is hereby designated as the agent of the Board for the service of legal process upon the Board. ~~The Executive Director shall be a pharmacist actively licensed in the State of Florida.~~

Specific Authority 465.005 FS. Law Implemented 456.004, 456.009, 48.111(2) FS. History-New 10-17-79, Formerly 21S-8.04, 21S-8.004, Amended 7-30-91, Formerly 21S-25.130, 61F10-25.130, 59X-25.130, Amended 10-29-97, \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Dairy Industry

RULE TITLES:	RULE NOS.:
Documents Incorporated by	
Reference and Definitions	5D-1.001
Permits, Licenses and Inspections	5D-1.003
Dating; Standards for Milk, Milk Products and Frozen Desserts	5D-1.007
Future Dairy Farms, Milk Plants and Frozen Dessert Plants	5D-1.012

PURPOSE, EFFECT AND SUMMARY: The purpose and effect is to amend Chapter 5D-1, F.A.C., to address changes to the Statute; update definitions and document references; and to clarify certain test procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No SERC has been prepared.

Any person wishing to provide information regarding the SERC, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 502.014, 503.013 FS.  
 LAW IMPLEMENTED: 502.012, 502.014, 502.032, 503.031 FS.

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

TIME AND DATE: 10:00 a.m., July 25, 2003  
 PLACE: Dairy Conference Room, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Hines Boyd, Director, Division of Dairy Industry, Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Room B-29, Tallahassee, Florida 32399-1650, (850)487-1450

THE FULL TEXT OF THE PROPOSED RULES IS:

5D-1.001 Documents Incorporated by Reference and Definitions.

(1) The following documents are incorporated by reference and shall apply in the interpretation and enforcement of Chapters 502 and 503, Florida Statutes:

(a) ~~1993~~ 2001 Grade A Pasteurized Milk Ordinance ("PMO"), 2001 Revision, Public Health Service/Food and Drug Administration Publication No. 229, its Appendices and notes.

(b) 21 Code of Federal Regulations, Parts 101, 130.17, 131 and Revised April 1, 2003 133.128, 133.129, 133.131, 135, 163.130-163.155, 169.175-169.182, and 170.2-170.38, April 1, 1993 Revision.

(c) 7 Code of Federal Regulations, Part 58, Subpart A—58.1 and Subpart B — 58.125-58.131 and 58.142-58.154 58.100-58.159, and 58.605-58.645 and 58.647-58.654, Revised January 1, 2003 April 1, 1993 Revision.

Copies of the foregoing may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(d) Frozen Desserts Processing Guidelines, 1st edition, October 1989. Available from Milk Safety Branch, HFS-626, Division of Cooperative Programs, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740-3835. Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products, 1993 Revision, published by The Center for Food Safety and Applied Nutrition. Copies may be obtained from the Director of the Office of Constituent Operations, Industry Activity Staff, HFS-565, 200 C Street Southwest, Washington, DC 20204.

(e) United States Standards for Grades of Nonfat Dry Milk (Spray Process), February 2, 2001. Available from United States Department of Agriculture, Agriculture Marketing Service, Dairy Programs, Standardization Branch, 1400 Independence Ave., S.W., MS0230, Washington, D.C. 20250-0230. Standard Methods for the Examination of Dairy Products, 15th Edition, published by the American Public

Health Association. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, N.W., Washington, D.C. 20005.

(f) United States Standards for Grades of Whole Dry Milk, April 13, 2001. Available from United States Department of Agriculture, Agriculture Marketing Service, Dairy Programs, Standardization Branch, 1400 Independence Ave., S.W., MS0230, Washington, D.C. 20250-0230. Official Methods of Analysis of the Association of Official Analytical Chemists, pp. 300-302, 351-355, 375-379, 435, 470-471, 476-480, 496-497, 803-833, 851-852, 1149, 1151, 1068-1069, 1091-1094, 1200-1205, 1296-1298, Volumes ONE and TWO, 15th Edition, 1990, published by the Association of Official Analytical Chemists. Copies may be obtained from the Association of Official Analytical Chemists, Suite 400, 2200 Wilson Boulevard, Arlington, Va. 22201.

(g) United States Standards for Dry Whey, December 14, 2000. Available from United States Department of Agriculture, Agriculture Marketing Service, Dairy Programs, Standardization Branch, 1400 Independence Ave., S.W., MS0230, Washington, D.C. 20250-0230.

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

(d) "Degraded milk" is milk that fails to meet the minimum requirements of subsection 5D-1.007(3)(2), F.A.C.

(e) through (f) No change.

(g) "Frozen lowfat yogurt" (also called "Lowfat frozen yogurt") is frozen yogurt, except that the milkfat content of the finished food is not less than 0.5 percent, but not more than 2.0 percent.

(h) "Frozen nonfat yogurt" (also called "Nonfat frozen yogurt") complies with the provisions of frozen yogurt, except that the milkfat content of the finished food is less than 0.5 percent milkfat.

(i) "Reject milk" is milk that fails to meet the minimum requirements of Rule 5D-1.007(2) or 5D-1.007(3), F.A.C.

(j) "Regulatory agency" is the Department of Agriculture and Consumer Services.

(k) "Single service container manufacturer" is included in the definition of "Milk Plant" for purposes of permitting, enforcement and inspection.

(l) "Washing Station" is included in the definition of "Transfer Station" for purposes of permitting, enforcement and inspection.

(m) "Sold" means a transfer of milk or milk products that involves any direct or indirect form of compensation in exchange for the right to acquire such milk or milk products.

Specific Authority 502.014, 503.031 FS. Law Implemented 502.012, 502.014, 503.031 FS. History—New 7-24-70, Amended 1-26-81, 8-31-82, 10-9-86, Formerly 5D-1.01, Amended 12-29-88, 6-27-90, 8-29-93, 12-4-94, 7-2-95, 11-29-95.

5D-1.003 Permits, Licenses and Inspections.

(1) General Permits.

(a) All Milk Plants, Distributors, Washing Stations, Out-of-State Processors of Milk and Milk Products, Receiving Stations, Transfer Stations, Single Service Container Manufacturers and Operators of Milk Plants shall submit an application on Form DACS-05019 Application for Permit (Rev. 05/01 8/93), hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Dairy Industry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. To secure and maintain a permit, the applicant must conform to and comply with the provisions of the PMO and Chapter 502, F.S.

(b) All Milk Haulers shall submit an application on Form DACS-05012 Application for Permit as a Farm Bulk Milk Hauler or Hauling Service (Rev. 05/01 8/93), hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Dairy Industry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. To secure and maintain a permit, the applicant must conform to and comply with the provisions of the PMO and Chapter 502, F.S.

(2) Milkfat Tester Permit. To secure and maintain a Milkfat Tester's Permit, a person must:

(a) Submit, with the \$125.00 application fee, a properly completed Form DACS-05029 Application for Milkfat Tester's License (Rev. 05/01 8/93), hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Dairy Industry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650.

(b) Successfully complete on-site evaluation based on the criteria set forth in Section 502.032, F.S., and Section 6 of the PMO, Rule 5D-1.001(1)(e), F.A.C. conducted by the regulatory agency.

(c) through (e) No change.

(3)(a) No change.

(b) Frozen dessert plants shall meet the following requirements in order to secure and maintain said license:

1. Submit, with the appropriate fee, a properly completed application on Form DACS-05016 Application for Annual Florida State License as a Wholesale Manufacturer of Frozen Desserts and/or Frozen Desserts Mix (Rev. 05/01 8/93), hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Dairy Industry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650.

2. Submit labels for approval.

a. In-State Plant must submit, for approval, a label for each product produced.

b. Out-of-State Plant must submit, for approval, a label for each product distributed in Florida.

## 3. Appropriate Facility Inspection.

a. In-State Plant must pass a sanitation inspection. Inspection criteria is that of the PMO.

b. Out-of-State Plant must submit its most recent inspection report from its local regulatory agency and provide a list of its distribution points in Florida.

(4) Milk Producer's Permit. All Milk Producers shall submit an application on Form DACS-05026, Application for Permit as Milk Producer (Rev. 05/01 2/94), hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Dairy Industry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. To secure and maintain a permit, the applicant must conform to and comply with the provisions of the PMO and Sec. 502.053, F.S.

(5) Temporary Marketing Permit ("TMP") – All milk plants wishing to obtain a TMP shall submit an application of Form DACS 05059, Application for a Temporary Marketing Permit (Rev. 05/01), hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Dairy Industry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. The criteria for obtaining a state TMP shall be the same as that for obtaining a federal TMP under 21 CFR Part 130.17. The fee for a state TMP shall be \$50.00.

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

~~(d) Milk Producer's Permit. The Grade A permit of a producer responsible for shipping milk found to be contaminated according to the provisions of the PMO shall be suspended.~~

~~1. All bulk milk pickup tankers and milk transport tanks delivering raw milk for processing shall be analyzed for drug residues before being processed.~~

~~2. After a negative sample is obtained, the producer's Grade A permit shall be placed on temporary status for a period of 30 days. Within that time period, the regulatory agency must verify that the penalty provided in the PMO was assessed and the producer has completed the protocol mentioned in the PMO.~~

~~3. In addition to the enforcement provisions in the PMO, any milk producer whose permit has been suspended due to positive drug residues shall have the permit reinstated to permanent status after the following provisions have been satisfied:~~

~~a. First violation—The total value of the dumped contaminated load charged back to the offending producer and collected and verified by the producer's marketing agency.~~

~~b. Second and subsequent violations—The total value of the dumped load plus an additional penalty equal to the value difference between the Federal Marketing Order blend price as announced by the Market Administrator for the order to which the producer is assigned and the announced M-W series for~~

~~manufactured milk for all contaminated milk charged back to the offending producer and collected and verified by the producer's cooperative.~~

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

(d) Frozen Dessert Plants within the state shall be subject to inspections based upon the criteria and frequency established for milk plant inspections in the PMO. Sampling and testing shall be quarterly, unless test results indicate a more frequent sampling and testing is necessary.

(e) No change.

Specific Authority 502.014, 503.031 FS. Law Implemented 502.053, 502.014, 502.165, 502.032, 502.231, 503.031, 503.041, 503.051 FS. History—Revised 9-21-67, Amended 1-26-81, 8-31-82, 8-16-84, Formerly 5D-1.03, Amended 10-9-86, 12-29-88, 6-27-90, 8-29-93, 7-2-95, \_\_\_\_\_.

5D-1.007 Dating; Standards for Milk, Milk Products and Frozen Desserts.

(1) Shelf-Life Dating and Expiration Dating.

(a) through (e) No change.

~~(f) Milk product samples shall be held at 43° F (plus or minus 2° F) for the shelf life period plus four (4) days and analyzed to determine that shelf life expiration dates stated on the containers assure the consumer of acceptable quality milk and milk products when kept under normal storage conditions. The temperature at the time of collection shall be officially recorded by the collector. Nothing herein contained shall be construed to prohibit the regulatory agency from taking special samples for analysis and making special tests in order to assure all milk and milk products comply with the minimum standards of freshness, quality and palatability. In the event the regulatory agency determines a processor's or a manufacturer's shelf life for a given product is improper, the regulatory agency shall immediately take such samples as are necessary for full and complete recheck of the shelf life of the product. If the full and complete recheck confirms that the shelf life of the product is improper, the regulatory agency shall serve written notice on the processor or manufacturer and the processor or manufacturer immediately upon receipt of such notice shall alter the shelf life expiration date of the product to comply with the regulatory agency tests. Compliance shall be with the next processing of the product after receipt of such regulatory agency notice.~~

~~(f)(g) This rule does not apply to containers of milk or milk products which are not to be sold in the State of Florida.~~

(g) Each processor shall certify to the regulatory agency the maximum shelf-life of each product in the hands of the consumer under normal storage conditions. Provided, however, the maximum shelf-life of fluid uncultured milk pasteurized at less than 270° F shall not exceed ten days from date of packaging unless technical supporting justification has been supplied to the regulatory agency, the agency has confirmed such shelf-life claims, and specific authority to use a longer shelf-life has been granted by the agency.

(2) Shelf – Life Testing and Testing Procedures.

(a) Milk product samples shall be held at 43° F (plus or minus 2° F) for the shelf life period plus four (4) days and analyzed to determine that shelf-life expiration dates stated on the containers assure the consumer of acceptable quality milk and milk products when kept under normal storage conditions. The temperature at the time of collection shall be officially recorded by the collector. Nothing herein contained shall be construed to prohibit the regulatory agency from taking special samples for analysis and making special tests in order to assure all milk and milk products comply with the minimum standards of freshness, quality and palatability. In the event the regulatory agency determines a processor’s or a manufacturer’s shelf-life for a given product is improper, the regulatory agency shall immediately take such samples as are necessary for full and complete recheck of the shelf-life of the product. If the full and complete recheck confirms that the shelf-life of the product is improper, the regulatory agency shall serve written notice on the processor or manufacturer and the processor or manufacturer immediately upon receipt of such notice shall alter the shelf-life expiration date of the product to comply with the regulatory agency tests. Compliance shall be with the next processing of the product after receipt of such regulatory agency notice.

(b) To extend the shelf-life expiration date of a qualifying product, the processor shall submit a written request to the Division of Dairy Industry specifying the product to be tested and supplying test results which indicate that the product is acceptable for at least ten (10) days or for an additional two (2) days over the current code period. This information must be compiled from current records that cover a period of at least thirty (30) days. The department will collect in Florida two series of duplicate samples of the product during a four week period. The first duplicate sample will be used for routine analysis, the second will be stored at 43°F plus or minus 2°F until six (6) days past the expiration date and then evaluated as acceptable or unacceptable. Both series of samples must be acceptable for six (6) days past the expiration date for the extension request to be granted. If acceptable, the processor will be notified in writing and the product must remain at this new code level for at least six (6) months before any additional code is requested. If unacceptable, the processor will be notified in writing and at least six (6) months must pass before another request is initiated for the product.

(3)(2) Chemical, bacteriological and temperature standards for manufacture of grade A products:

Grade A raw milk for pasteurization, ultra pasteurization or aseptic processing

Temperature	<u>Cooled to 50° F (10° C) or less within four (4) hours or less, of the commencement of the first milking, and to 45° F (7° C) or less within two hours after the completion of milking. Provided, the blend temperature after the first and subsequent milkings does not exceed 50° F (10° C). Cooled to 45° F (7° C) or less within two hours after milking, provided that the blend temperature after the first and subsequent milkings does not exceed 50° F (10° C).</u>
Bacterial limits	Individual producer milk not to exceed 100,000 CFU/ml. prior to commingling with other producer milk. Not to exceed 300,000 CFU/ml. as commingled milk prior to pasteurization.
Drugs	<u>No positive result with drug residue methods referenced in Section 6 of the PMO. Individual producer milk: No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay method. Commingled milk: No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay method.</u>
Somatic Cell Count	Individual producer milk: Not to exceed 750,000 per ml. Goat milk: Not to exceed 1,000,000 per ml.
Added Water	Freezing point not to exceed -0.526° H. Grade A pasteurized or ultra pasteurized milk and milk products and bulk shipment heat treated milk products
Temperature	Cooled to 45° F (7° C) or less and maintained there at.
Bacterial limits*	20,000 CFU/ml.
Coliform	Not to exceed 10 CFU/ml., provided that, in the case of bulk milk transport tank shipments, shall not exceed 100 CFU/ml.
Phosphatase	Less than 1 microgram per ml. by the Scharer Rapid Method (less than 350 500 milliunits/L by the Fluorometric Procedure) or equivalent B not applicable to bulk shipped heat treated milk products.
Drugs	<u>No positive result with drug residue methods referenced in Section 6 of the PMO. No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay method.</u>
Added Water	Freezing point not to exceed -0.526° H.

\*Not applicable to cultured products.

Grade A aseptically processed milk and milk products

Temperature None  
 Bacterial Limits Less than 10 CFU/ml. of incubated products.  
 Drugs No positive result with drug residue methods referenced in Section 6 of the PMO. No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay method.

Added Water Freezing point not to exceed -0.526° H.  
 (4)(3) Chemical, bacteriological and temperature standards for Frozen Desserts:

Raw Milk and Cream

Temperature Not to exceed ~~4550° F (740° C).~~  
 Bacterial Limits Milk – not to exceed 500,000 CFU/ml. In no case shall raw milk have a standard plate or direct microscopic clump count in excess of 1,000,000 CFU/ml; Cream B not to exceed 800,000 CFU/ml. ~~In no case shall raw fluid cream have a standard plate or direct microscopic clump count in excess of 1,000,000/ml.~~

Drugs Milk and cream No positive result with drug residue methods referenced in Section 6 of the PMO. — No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay method.

Somatic Cell Count Not to exceed 750,000 ~~1,000,000/ml~~;  
 Goat’s milk – Not to exceed 1,500,000.

Pasteurized and Ultra Pasteurized Milk and Milk Products

Temperature Cooled to 45° F (7° C) ~~50° F (10° C)~~ or less and maintained there at.

Bacterial Limits\* 50,000 CFU/ml.

Coliform Not to exceed 10 CFU/ml, provided that, in the case of bulk milk transport tank shipments, shall not exceed 100 CFU/ml.

Phosphatase Less than 1 microgram per ml. by the Scharer Rapid Method (less than 500 milliunits/L by the Fluorometric Procedure) or equivalent.

Drugs No positive result with drug residue methods referenced in Section 6 of the PMO. No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay.

\*Not applicable to cultured products

Sterilized Milk and Milk Products

Temperature None.  
 Bacterial Limits Less than 10 CFU/ml of incubated products.

Drugs No positive result with drug residue methods referenced in Section 6 of the PMO. No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay.

Frozen Desserts and Other Products

Defined in this Chapter

Temperature Pasteurized Mix (plain) 45° F (7° C).  
 Pasteurized Mix (flavored) 45° F (7° C).  
 Frozen Desserts 0° F (-17.8° C). Other 0° F (-17.8° C).

Bacterial Limits\* Pasteurized Mix (plain) 50,000 CFU/gram. Pasteurized Mix (flavored) 50,000 CFU/gram. Frozen Desserts – 50,000 CFU/gram. Other B 50,000 CFU/gram.

\*Not applicable to cultured products

Drugs No positive result with drug residue methods referenced in Section 6 of the PMO. No zone equal to or greater than 16mm with the Bacillus stearothermophilus disc assay

Coliform Pasteurized Mix (plain) 10 CFU/gram.  
 Pasteurized Mix (flavored) 20 CFU/gram.  
 Frozen Desserts (plain) 10 CFU/gram.  
 Frozen Desserts (bulky flavored) 20 CFU/gram. Other (plain) 10 CFU/gram.  
 Other (bulky flavored) 20 CFU/gram.

Phosphatase Less than 1 microgram per ml. by the Scharer Rapid Method (less than 500 milliunits/L by the Fluorometric Procedure) or equivalent.

Dry Dairy Products

Dry dairy products used as ingredients shall meet the requirements for “Extra Grade” or better as defined by the U.S. Standards for Grades for the particular product.

Specific Authority 502.014, 503.031 FS. Law Implemented 502.014, 502.042, 503.031 FS. History—Revised 9-21-67, Amended 9-26-69, 12-24-71, 1-26-81, 8-31-82, 8-16-84, Formerly 5D-1.07, Amended 10-9-86, 5-19-87, 12-29-88, 6-27-90, 8-29-93, 12-4-94, 7-2-95, \_\_\_\_\_.

5D-1.012 Future Dairy Farms, Milk Plants and Frozen Dessert Plants.

(1) Milk barn, stable or parlor and milkhouse or room construction.

(a) Walls, ventilation and light. ~~Walls shall be of smooth finish impervious to water.~~ Cement plaster over concrete block walls painted light in color with enamel dairy paint or any new type epoxy finish approved by the Department is suggested. Tile blocks are satisfactory. A light color plaster finish on

cement will not require painting. Ten percent of wall area shall be windowed of the ventilating type, unless adequate mechanical ventilation is ~~and light are~~ furnished. Pipes penetrating walls shall be ~~shielded and~~ sufficiently tight as to prevent any open space between the pipe and the wall penetration.

(b) Ceiling. Ceilings shall ~~have a be of smooth finish impervious to water with same finish as walls with minimum~~ height of 9 feet for milkhouse or room and stanchion type barn and 10 feet 6 inches for parlor type barn. A stanchion or parlor type barn used for the milking of goats shall have a minimum ceiling height of 8 feet. If there is a feed storage area above, the ceiling should be tongue and groove double floor with a layer of felt between the floors. There should be no open beams beneath the ceiling.

(c) No change.

(d) Door and window frames. Door and window frames shall be constructed of material and finish that is resistant to resist decay or corrosion.

(e) No change.

(f) Storage of supplies. ~~Cabinets shall be provided for storage of supplies and racks shall be provided for brushes in the milk room.~~

(g) Herring parlors. ~~In herringbone parlors, feeders if installed shall be designed and installed to insure easy and practical cleaning. Drawings are available in the Dairy Division of the Department of Agriculture and Consumer Services.~~

(~~f~~)(h) Milkers pit. The milkers pit shall be a minimum of 5 feet wide.

(i) Automatic feeders. Automatic feeders shall be installed in a manner to prevent feed leaks at the joints and otherwise be feed dust tight.

(j) Feed storage rooms. ~~Floors, walls and ceilings of feed storage rooms adjacent to milk barn, stable or parlor shall be sufficiently tight to prevent feed leaks into the milking area of the barn, stable or parlor. Doors between the feed storage room and the milking area of barn, stable or parlor shall be self closing, tight and kept closed.~~

(g)(~~k~~) Space between milk storage tanks and walls and ceilings. There shall be a distance of 18 inches between milk storage tank and walls; and 4 feet between the top of the milk storage tank and ceiling; and a distance of 3 feet between milk storage tanks within the same room to secure adequate ventilation and sufficient space for cleaning. Milk storage tanks may be bulkheaded through the wall into the milkroom. If the tanks protrude through the wall to accommodate a top opening manhole and/or agitator the distance between tanks, sidewalls and ceiling still apply.

(h)(~~l~~) Milk Storage Tank Design. A sampling cock shall be provided on all milk storage silo and horizontally mounted tanks designed with the manhole lid in the vertical end or wall of the tank. The sampling cock shall be installed on the lid to

allow for easy removal for cleaning and sanitizing and shall be considered part of the milk tank. The sampling cock shall be used for the purpose of regulatory and hauler sampling only. Hot water heaters. Hot water heaters shall be of not less than 40 gallons capacity and in excess of volume necessary to completely fill the entire C.I.P. system. A rule of thumb size of hot water heater is 2 times the volume of the C.I.P. line. If the hot water heater is electric it should contain a quick recovery type element. Where possible, the hot water heater should be in a separate room.

(i) Properly prepared plans for all milk barns, stable or parlor and milkhouse or room regulated under this chapter which are hereafter constructed, reconstructed or extensively altered shall be submitted to the regulatory agency for approval before work is begun.

(2) Milk plant, frozen dessert plant, receiving station or transfer station construction.

(a) Walls. ~~Walls shall be of smooth finish impervious to water. Cement plaster over concrete block walls painted light in color with enamel dairy paint or any new type epoxy finish approved by the Department is suggested. Tile block walls are satisfactory. Ten percent of wall area should be windowed.~~

(b) Ceiling. Ceiling shall ~~have be~~ a minimum height of 12 feet except for refrigerator or cold storage rooms ~~and of smooth finish impervious to water. Ceilings painted in light color with enamel dairy paint or any new type epoxy finish approved by the Department is suggested.~~

(c) through (e) No change.

(f) Storage of supplies. Sanitary storage shall be provided for supplies.

(g) Ventilation. ~~Ventilation sufficient to prevent excess condensation and contamination shall be provided. If fans are necessary to provide sufficient ventilation, they shall be equipped with automatic opening and closing louvers.~~

(h) Tank unloading room. ~~The walls, ceiling and floor finish of tank unloading room shall be the same as required for milk plants, receiving station or transfer station.~~

(~~f~~)(i) Stainless steel pipelines are properly identified. Identification shall be made with colored tape, plastic bands or a method which has been approved by the regulatory agency and which will remain in place and retain its coloring under normal conditions of use. The following colors shall be used:

RED – RAW MILK LINES

BLUE – PASTEURIZED PRODUCTS LINES

GREEN – CLEANING SOLUTION LINES (SUPPLY AND RETURN)

YELLOW – WATER LINES (APPLICABLE TO STAINLESS STEEL LINES ONLY)

The direction of flow in each line shall also be indicated by an arrow on the pipe, tape, or plastic band. The proper placement of colored bands and directional arrows on pipelines shall be determined by the regulatory agency to ensure easy identification of the product in the pipe and direction of flow.

~~(g)(+)~~ Properly prepared plans for all plants regulated under this chapter which are hereafter constructed, reconstructed or extensively altered shall be submitted to the regulatory agency for approval before work is begun.

Specific Authority 502.014, 503.031 FS. Law Implemented 502.014, 502.121, 503.031 FS. History—Revised 9-21-67, Amended 10-27-67, 3-19-69, 1-26-81, 8-16-84, Formerly 5D-1.12, Amended 6-27-90, 7-2-95, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
John L. Miller, Division of Dairy Industry, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Hines Boyd, Director, Division of Dairy Industry, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: Sections 5D-1.001, 1.003, 1.007 and 1.012 approved on May 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Sections 5D-1.001, 1.003, 1.007 and 1.012 noticed November 22, 2002

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE TITLE: Inspection of DOT Cylinders

RULE NO.: 5F-11.029

PURPOSE AND EFFECT: The purpose of this new rule is to provide criteria for inspection and record keeping with regard to propane containers manufactured under United States Department of Transportation specifications and which are not in commerce.

SUMMARY: This rule outlines criteria for the inspection of propane containers manufactured under the United States Department of Transportation specifications and which are not in commerce. The criteria for this type inspection was outlined in adopted codes in the past, however, the codes have changed and this requirement was removed. For safety concerns and due to the large number of propane containers being used in Florida, this criteria is being proposed in order to continue this industry inspection program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared as costs are anticipated to be negligible, since the majority of propane dealers in Florida have this or a similar inspection program in place.

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: 527.06 FS.

LAW IMPLEMENTED: 527.06 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: 9:00 a.m., July 21, 2003

PLACE: Division of Standards Conference Room, Suite E, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Vicki O’Neil, Bureau Chief, Bureau of Liquefied Petroleum Gas Inspection, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32399-1650, (850)921-8001

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5F-11.029 Inspection of DOT Cylinders.

(1) This section pertains to cylinders, which are manufactured to U.S. Department of Transportation (DOT) specifications. DOT cylinders in stationary service that are filled on site, which are not under the jurisdiction of DOT and not requalified according to DOT requirements, shall be inspected according to the following visual inspection criteria:

(a) The cylinder is checked for exposure to fire, dents, cuts, digs, gouges and corrosion according to requirements of Section C.3.2, Appendix C, of NFPA 58.

(b) The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.

(c) The cylinder is painted or coated to retard corrosion.

(d) The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.

(e) There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.

(f) The cylinder is installed on a firm foundation and is not in contact with the soil.

(g) A cylinder that passes the visual examination shall be legibly marked with the date and year of the examination followed by the letter “E” (example:10-1E indicating requalification in October 2001 by the external visual inspection method.)

(h) The results of the visual inspection shall be documented and a record of the inspection shall be retained for a five-year period.

(2) Any cylinder that fails one or more of the criteria in this section shall not be refilled or continued in service until the condition is corrected. Stationary cylinders shall be visually inspected within 12 years of the date of manufacture and within five years after each subsequent visual inspection.

(3) All DOT cylinders in stationary service on the effective date of this rule, and which are not requalified according to U.S. Department of Transportation standards, shall be inspected according to the criteria of this section no later than January 1, 2008.

(4) Personnel trained and qualified to perform inspection procedures, with such training documented in accordance with Rule 5F-11.060, Florida Administrative Code, shall conduct the visual inspection.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Vicki O’Neil

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

**DEPARTMENT OF REVENUE**

RULE CHAPTER TITLE: Compensation for Tax Information

RULE CHAPTER NO.: 12-18

RULE TITLE: Submission of Information and Claims for Compensation

RULE NO.: 12-18.004

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), is to adopt, by reference, changes to the form used by the Department in the administration of its authority to compensate persons who provide information to the Department pursuant to Section 213.30, F.S.

SUMMARY: The proposed amendments to Rule 12-18.004, F.A.C., adopt, by reference, changes to form DR-55 (Application for Compensation for Tax Information).

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: 9:00 a.m., July 23, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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 Department’s proposed rules are available on the Department’s web site: www.myflorida.com/dor/rules.

THE FULL TEXT OF THE PROPOSED RULE IS:

12-18.004 Submission of Information and Claims for Compensation.

(1) through (2) No change.

(3)(a) The Department hereby designates Form DR-55, Application for Compensation for Tax Information, dated 10/98, which is hereby incorporated in this rule by reference, 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) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department’s Internet site 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, \_\_\_\_\_.

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 B. Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4746



DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed changes 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 May 2, 2003 (Vol. 29, No. 18, pp. 1850-1851). A rule development workshop was held on May 21, 2003. No one appeared to provide comment regarding these proposed rule changes. No changes have been made by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE: Sales and Use Tax  
 RULE CHAPTER NO.: 12A-1  
 RULE TITLE: Public Use Forms  
 RULE NO.: 12A-1.097

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, changes to form DR-1214 (Application for Temporary Tax Exemption Permit), used by the Department in the administration of the exemption for machinery and equipment used to increase productive output (Section 212.08(5)(b), F.S.).

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, changes to form DR-1214 (Application for Temporary Tax Exemption Permit).

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

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

SPECIFIC AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4.,(7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2),(3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2),(7) FS.

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

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

TIME AND DATE: 9:00 a.m., July 23, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ann Rix, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4841

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.097 Public Use Forms.

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

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (20) No change.

(21) DR-1214	Application for Temporary Tax Exemption Permit (R. <del>04/03 08/00</del> )	<u>6/01</u>
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(22) 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, 201.08(1)(a), 201.01, 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, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ann Rix, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4841

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Melton H. McKown, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed changes to Rule 12A-1.097, F.A.C. (Public Use Forms), were noticed for a rule development workshop in the Florida Administrative Weekly on May 2, 2003 (Vol. 29, No. 18, pp. 1851-1852). A rule development workshop was held on May 21, 2003. No one appeared to provide comment regarding these proposed rule changes. Technical changes were made by the Department

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE: Communications Services Tax  
 RULE CHAPTER NO.: 12A-19  
 RULE TITLES: Tax Due at Time of Sale; Tax Returns and Regulations  
 PUBLIC USE FORMS: 12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), is to provide guidelines on which revision of form DR-700016, Florida Communications Services Tax Return, should be used to report communications services tax on services billed from March 1, 2003, through May 31, 2003, and to report tax on services billed on or after June 1, 2003.

The purpose of proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, revisions to form DR-700016, Florida Communications Services Tax Return, effective March 2003 and June 2003.

SUMMARY: The proposed amendments to Rule 12A-19.020, F.A.C., provide that: (1) form DR-700016, Florida Communications Services Tax Return (R. 03/03), is to be used to report communications services tax on services billed from March 1, 2003, through May 31, 2003; and (2) form DR-700016, Florida Communications Services Tax Return (R. 06/03), is to be used to report communications services tax on services billed on or after June 1, 2003.

The proposed amendments to Rule 12A-19.100, F.A.C., adopt, by reference, form DR-700016, Florida Communications Services Tax Return (R. 03/03), and form DR-700016, Florida Communications Services Tax Return (R. 06/03).

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

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

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

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

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

TIME AND DATE: 9:00 a.m., July 23, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting: Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

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

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

(c) Form DR-700016, Florida Communications Services Tax Return, contains current tax rates for each local taxing jurisdiction. These rates are also contained on the Department's Internet site at the address shown inside the parentheses ([www.myflorida.com/dor/taxes/local\\_tax\\_rates.html](http://www.myflorida.com/dor/taxes/local_tax_rates.html)). The Department's Internet site and form DR-700016 are revised when the tax rate in any local jurisdiction changes.

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

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
06/03	June 2003 –	June 1, 2003 –
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

(4) through (8) 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, \_\_\_\_\_.

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) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated FAX on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the form from the Department’s Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

Form Number	Title	Effective Date
(2) No change.		
(3)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 06/03)</u>	<u>_____</u>
(b) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 03/03)</u>	<u>_____</u>

(a) through (f) renumbered (c) through (h) No change.  
(4) through (7) No change.

Specific Authority 202.16(2), 202.26(3)(c),(d) FS. Law Implemented 202.11(4),(11),(12), 202.13(2), 202.16(2),(4), 202.17(6), 202.34(3),(4)(c) FS. History—New 4-17-03, Amended \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed changes to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), were noticed for a rule development workshop in the Florida Administrative

Weekly on May 2, 2003 (Vol. 29, No. 18, pp. 1852-1853). A rule development workshop was held on May 21, 2003. No one appeared to provide comment regarding these proposed rule changes. No changes have been made by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Severance Taxes and Fees	12B-7
RULE TITLES:	RULE NOS.:
Public Use Forms	12B-7.008
Public Use Forms	12B-7.026
Miami-Dade County Lake Belt Mitigation Fee	12B-7.030
Public Use Forms	12B-7.031

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-7.008, F.A.C. (Public Use Forms) of Part I (Tax on Production of Oil, Gas, and Sulfur) of Chapter 12B-7, F.A.C., is to adopt, by reference, changes to forms used by the Department in its administration of the taxes imposed on the production of oil, gas, and sulfur.

The purpose of the proposed amendments to Rule 12B-7.026, F.A.C. (Public Use Forms), of Part II (Severance Tax on Solid Minerals) of Chapter 12B-7, F.A.C., is to: (1) remove the adoption, by reference, of form DR-146, Miami-Dade County Lake Belt Mitigation Fee Monthly Return, which is not used by the Department in its administration of the severance taxes imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state; and (2) adopt, by reference, changes to forms used by the Department in the administration of these severance taxes.

The purpose of the proposed creation of Part III (Mitigation Fees on Mining) of Rule Chapter 12B-7, F.A.C., is to provide for separate administration of the mitigation fee imposed on mining under Section 373.41492, F.S.

The purpose of the proposed creation of Rule 12B-7.030, F.A.C. (Miami-Dade County Lake Belt Mitigation Fee), is to provide guidelines regarding the mitigation fee imposed under Section 373.41492, F.S., on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand within the areas and sections specified.

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

SUMMARY: The proposed amendments to Rule 12B-7.008, F.A.C. (Public Use Forms), of Part I (Tax on Production of Oil, Gas, and Sulfur) of Chapter 12B-7, F.A.C.: (1) provide that the Department uses form DR-144, Gas and Sulfur Production Quarterly Tax Return, form DR-144ES, Declaration of Estimated Gas and Sulfur Production, form DR-145, Oil Production Monthly Tax Return, and form DR-145X, Oil Production Monthly Amended Tax Return, in its

administration of the taxes imposed on the production of oil, gas, and sulfur; and (2) adopt, by reference, changes to these forms.

The proposed amendments to Rule 12B-7.026, F.A.C. (Public Use Forms), of Part II (Severance Tax on Solid Minerals) of Chapter 12B-7, F.A.C.: (1) remove the adoption, by reference, of form DR-146, Miami-Dade County Lake Belt Mitigation Fee Monthly Return; (2) provide that form DR-142, Solid Mineral Severance Tax Return, and form DR-142ES, Declaration/Installment Payment of Estimated Solid Mineral Severance Tax, are used by the Department in its administration of the severance taxes imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state; and (3) adopt, by reference, changes to these forms.

The proposed creation of Part III (Mitigation Fees on Mining) of Rule Chapter 12B-7, F.A.C., provides for separate administration of the mitigation fee imposed on mining under Section 373.41492, F.S.

The proposed creation of Rule 12B-7.030, F.A.C. (Miami-Dade County Lake Belt Mitigation Fee): (1) provides that Section 373.41492, F.S., imposes a mitigation fee on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand within the areas and sections provided in section 373.41492, F.S.; (2) provides that the fee is imposed at the rate per-ton, as provided in Sections 373.41492(2) and (5), F.S.; (3) provides that the Miami-Dade County Lake Belt Mitigation Fee Monthly Return (form DR-146) is to be used to report the fee to the Department; (4) provides when the return and the payment of the fee is due to the Department; and (5) provides when interest and penalties will be imposed on delinquent fees.

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

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

SPECIFIC AUTHORITY: 211.075(2), 211.125(1), 211.33(6), 213.06(1), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 92.525(1)(b),(2),(3),(4), 211.026, 211.075, 211.076, 211.125, 211.30, 211.31, 211.3103, 211.3106, 211.33, 212.11(1)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS.

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

TIME AND DATE: 9:00 a.m., July 23, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance

and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting: Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-7.008 Public Use Forms.

(1)(a) The following ~~public use~~ forms and instructions are used by the Department in its administration of the taxes imposed on the production of oil, gas, and sulfur dealings with the public. These forms are hereby incorporated ~~and made a part of this rule~~ by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-144	Gas and Sulfur Production Quarterly Tax Return (R. <del>04/03</del> <u>03/03</u> )	___ <del>05/03</del>
(3) DR-144ES	Declaration of Estimated Gas and Sulfur Production Tax (R. <del>04/03</del> <u>03/03</u> )	___ <del>05/03</del>
(4) DR-145	Oil Production Monthly Tax Return (R. <del>04/03</del> <u>03/03</u> )	___ <del>05/03</del>
(5) DR-145X	Oil Production Monthly Amended Tax Return (R. <del>04/03</del> <u>03/03</u> )	___ <del>05/03</del>

Specific Authority 211.075(2), 211.125(1), 213.06(1) FS. Law Implemented 92.525(1)(b),(2),(3),(4), 211.026, 211.075(2), 211.076, 211.125, 213.755(1) FS. History--New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, 5-4-03,

12B-7.026 Public Use Forms.

(1)(a) The following ~~public use~~ forms and instructions are used by the Department in its administration of the taxes imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state dealings with the public. These forms are hereby incorporated ~~and made a part of this rule~~ by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-142	Solid Mineral Severance Tax Return (R. <del>04/03</del> <u>03/03</u> )	___ <del>05/03</del>

- (3) DR-142ES Declaration/Installment  
Payment of Estimated  
Solid Mineral Severance  
Tax (R. 04/03 03/03) \_\_\_\_\_ 05/03
- (4) DR-146 ~~Miami-Dade County  
Lake Belt Mitigation  
Fee Monthly Return (n. 7/99)~~ \_\_\_\_\_ 10/01

Specific Authority 211.33(6), 213.06(1), ~~373.41492(4)(b)~~ FS. Law Implemented ~~92.525(2), 211.075(2), 211.30, 211.31, 211.3103, 211.3106, 211.33, 213.755(1), 373.41492~~ FS. History--New 12-18-94, Amended 10-4-01, 5-4-03, \_\_\_\_\_.

**PART III – MITIGATION FEE ON MINING**

**12B-7.030 Miami-Dade County Lake Belt Mitigation Fee.**

(1) The Miami-Dade County Lake Belt mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand within the areas and sections provided in section 373.41492, F.S. The per-ton mitigation fee is at the rate provided in sections 373.41492(2) and (5), F.S.

(2) The tax is to be reported to the Department on the Miami-Dade County Lake Belt Mitigation Fee Monthly Return (form DR-146, incorporated by reference in Rule 12B-7.031, F.A.C.).

(3)(a) Except as provided in Rule Chapter 12-24, F.A.C., the payment and the Miami-Dade County Lake Belt Mitigation Fee Monthly Return must be delivered to the Department or be postmarked on or before the 20th day of the month following the month of the taxable transaction to avoid penalty and interest for late filing. 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 this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday, as this term is defined in Chapter 682, F.S., and section 7503, Internal Revenue Code of 1986, as amended. A “legal holiday” pursuant to section 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

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

1. Payment of the fee is required to be made by electronic means;
2. Any return for reporting fees is required to be submitted by electronic means; or
3. No fee is due with a return for reporting fees.

(4) When any person fails to remit the mitigation fee, or any portion thereof, on or before the day the fee is required to be paid, interest will be added to the amount of unpaid fee at the rate of interest established pursuant to Section 213.235,

F.S., and Rule 12-3.0015, F.A.C. (prorated daily). Interest accrues on the amount of fee due from the date of delinquency until the date on which the tax is paid.

(5) Persons who are required to make a return or to pay the mitigation fee imposed under Section 373.41492, F.S., and administered under the provisions of Chapter 212, F.S., and fail to do so will be subject to penalties, as provided in Section 212.12(2), F.S.

Specific Authority 211.33(6), 213.06(1), 373.41492(4)(b) FS. Law Implemented 92.525(1)(b),(2),(3),(4), 211.30, 211.31, 211.3103, 211.3106, 211.33, 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS. History--New \_\_\_\_\_.

**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) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) 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). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
(2) DR-146	Miami-Dade County Lake Belt Mitigation Fee Monthly Return (R. 02/03)	_____

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 \_\_\_\_\_.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles B. Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; (850)922-4726

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed changes 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 May 2, 2003 (Vol. 29, No. 18, pp. 1853-1855). A rule development workshop was held on May 21, 2003. No one appeared to provide comment regarding these proposed rule changes. No changes have been made by the Department.

**DEPARTMENT OF REVENUE**

**Division of Ad Valorem Tax**

RULE TITLE: RULE NO.:

Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners 12D-10.0044

**PURPOSE AND EFFECT:** The purpose of the creation of Rule 12D-10.0044, F.A.C., is to implement the provisions of sections 2 and 4, Chapter 2002-18, L.O.F., providing requirements for acceptance of value adjustment board petition forms; providing for exchange of information for value adjustment board hearings; requiring the Department of Revenue to prescribe uniform procedures for value adjustment board hearings; and providing that petitioners may reschedule hearings.

**SUMMARY:** The proposed creation of Rule 12D-10.0044, F.A.C., provides the requirements for exchange of information between value adjustment board petitioners and the property appraiser and mailing/delivery methods and time frames for the information; provides that value adjustment boards are required to hold organizational hearings and make value adjustment board uniform proceedings available to petitioners prior to scheduled hearings.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated 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:** 194.011(5), 195.027(1), 213.06(1) FS.

**LAW IMPLEMENTED:** 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 200.069, 213.05 FS.

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

**TIME AND DATE:** 9:30 a.m., Friday, July 18, 2003  
**PLACE:** Larson Building, Room 116, 200 E. Gaines St., Tallahassee, Florida

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any person requiring special accommodations to participate in any proceeding before the Property Tax

Technical Unit is asked to advise the Department at least 48 hours before such proceeding by contacting Sharon Gallops, (850)414-6108. A person who is hearing-impaired or speech-impaired should contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8700 (Voice) and 1(800)955-8771 (TDD).

The proposed rule was originally published in Vol. 28, No. 40, October 4, 2002, pp. 4216-4218, issue of the Florida Administrative Weekly. A rule development workshop was held on August 22, 2002 in Tallahassee, Florida. A public hearing was held on October 30, 2002 in Tallahassee, Florida. Based on comments received at the workshop and the hearing and written comments received prior to and subsequent to the workshop and subsequent to the hearing, changes have been made to the proposed rule as published in the October 4, 2002, Florida Administrative Weekly, in accordance with s. 120.54(3)(d)1., F.S. The Notice(s) of Change to the proposed rule were published in Vol. 28, No. 48, pp. 5351-5352, November 27, 2002; Vol. 29, No. 3, p. 191, January 17, 2003; Vol. 29, No. 9, p. 872, February 28, 2003; Vol. 29, No. 15, p. 1498, April 11, 2003 and Vol. 29, No. 21, p. 2115, May 23, 2003 issues of the Florida Administrative Weekly. The full text of the proposed rule presented below incorporates these changes as published in these issues of the Florida Administrative Weekly.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Sharon Gallops, Tax Law Specialist, Department of Revenue, Property Tax Technical Unit, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108

**THE FULL TEXT OF THE PROPOSED RULE IS:**

12D-10.0044 Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners.

(1) The value adjustment board must accept Forms DR-486 and DR-486T, regardless that the value adjustment board uses another such form, as permitted under Section 195.022, F.S.

(2) Subsequent to the mailing or sending of the hearing notice, and at least 10 days before the scheduled hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing.

(3) No later than 5 days after the property appraiser receives the petitioner's documentation, the property appraiser shall provide the petitioner with a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing. The evidence list must contain the property record card if provided by the clerk. In computing the

5 day period prescribed in this subsection, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. See Rule 1090(a), Florida Rules of Civil Procedure, entitled Time.

(4)(a) If the taxpayer does not provide the information to the property appraiser at least ten days prior to the hearing pursuant to subsection (2), the property appraiser need not provide the information to the taxpayer pursuant to subsection (3).

(b) If the property appraiser does not provide the information within the time required by subsection (3) and at least five calendar days before the hearing, the taxpayer shall be entitled to reschedule the hearing. If the property appraiser provides the information within the time set forth in subsection (5) but less than five calendar days before the hearing, the petitioner's submission of the information shall qualify as a written request for rescheduling as provided in subsection (9). In such circumstances, the clerk shall reschedule the hearing upon being so advised by the petitioner.

(5)(a) The exchange in subsections (2) and (3) shall be delivered by regular or certified U.S. mail, personal delivery, overnight mail, FAX or email. A party will have prima facie complied with the requirements of this section if the information was deposited in the U.S. mail five (5) calendar days prior to the day of such scheduled delivery, or if emailed or Faxed to an address provided by the other party. It shall be sufficient if at least three FAX or email attempts are made to such address. If more than one FAX number is provided, three (3) attempts must be made for each number to satisfy this requirement. The taxpayer and property appraiser may agree to a different timing and method of exchange. "Provided" means made available in the manner designated by the property appraiser or by the petitioner in his/her submission of information, as via email, facsimile, U.S. mail, or at the property appraiser's office for pick up. If the petitioner does not designate his/her desired manner for receiving the property appraiser's information, the information shall be provided by the property appraiser by depositing it in the U.S. mail.

(b) The information shall be sent to the address listed on the petition form; however, it may be submitted to an email or FAX address if given.

(c) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. If the tenth day before a hearing is a Saturday, Sunday, or legal holiday, the information under subsection (2) shall be provided no later than the previous business day.

(6) Level of detail on evidence summary: The summary pursuant to subsections (2) and (3) shall be sufficiently detailed as to reasonably inform a party of the general subject matter of the witness' testimony, and the name and address of the witness.

(7) Hearing procedures: Neither the Board nor the special master shall take any general action regarding compliance with this section, but any action on each petition shall be considered on a case by case basis. Any action shall be based on a consideration of whether there has been a substantial noncompliance with this section, and shall be taken at a scheduled hearing and based on evidence presented at such hearing. "General action" means a prearranged course of conduct not based on evidence received in a specific case at a scheduled hearing on a petition. A property appraiser shall not appear at the hearing and use undisclosed evidence that was not supplied to the petitioner as required. The normal remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.

(8) The information shall be in writing and may be delivered by regular or certified U.S. mail or personal delivery so that the information shall be received timely.

(9) The petitioner may reschedule the hearing one time by submitting a written request to the clerk of the board no less than 5 calendar days before the scheduled appearance.

(10) This rule provides procedures for information and evidence exchange between the petitioner and property appraiser, consistent with s. 194.032, F.S., subject to the provisions of s. 194.034(1)(d), F.S., and subsection 12D-10.003(4), F.A.C., relating to a request by a property appraiser for information from the petitioner in connection with a filed petition, which information need not be provided earlier than ten days prior to a scheduled hearing pursuant to subsections (2) and (5).

(11) The value adjustment board shall hold an organizational meeting and must make the uniform procedures available to petitioners. Such procedures shall be available a reasonable time following the organizational meeting and shall be available a reasonable time before the commencement of hearings in conformance with this rule. The Board shall be deemed to have complied if it causes petitioners to be notified in writing, along with or as part of the notice of hearing, of the existence and availability of its procedures and include notice as to the exchange of information contained in this rule. The Board is authorized to use other additional or alternative means of notification directed to the general public or specific taxpayers, as it may determine.

(12) Such procedures shall be available in time to permit parties to comply with them, and such procedures, and the provisions of this rule, shall apply to petitions heard on and after January 1, 2003.

Specific Authority 194.011(5), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 200.069, 213.05 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Department of Revenue, Property Tax Technical Unit, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator I, Property Tax Technical Unit, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 2, 2002, Vol. 28, No. 31

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Prepaid Escrow Accounts  
 RULE CHAPTER NO.: 14-114

RULE TITLE: Prepaid Escrow Accounts  
 RULE NO.: 14-114.0011

PURPOSE AND EFFECT: The purpose of this rule is to establish a process for setting up an account, determining how much security is required, billing, and showing under what circumstances an account can be suspended, closed, or terminated. The amendment allows associations to provide shared security for their members. The amendment also adds language regarding security increases and non-payment for these accounts. The amendment also deletes overweight and overdimensional permit fees from prepaid escrow accounts, in anticipation of privatization of that function.

SUMMARY: This amendment adds language to address shared security accounts. The amendment provides for one deposit by associations to cover their members so that the Department has one security covering multiple accounts. The amendment also adds language regarding security increases and non-payment of these accounts. The amendment also deletes overweight and overdimensional permit fees from prepaid escrow accounts, in anticipation of privatization of that function.

SPECIFIC AUTHORITY: 334.044(2), 334.187(4) FS.

LAW IMPLEMENTED: 334.187 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated 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.

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: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-114.0011 Prepaid Escrow Accounts.

(1) This rule establishes the procedures for the use of Prepaid Escrow Accounts for purchases of materials and documents from the Department. Materials and documents which may be purchased are: contract bidding documents, plans, maps, standard specifications for road and bridge construction, bid tabulations, photostatic or certified copies of documents, manuals, aerial photography and photolab reproductions, ~~permits for overweight/overdimensional fees,~~ and other similar items.

(2) Definitions.

(a) "Account" means a Prepaid Escrow Account.

(b) "Account Holder" means anyone who has an active approved application for a Commercial, Florida Government, Other Government, State Agency, or Individual Prepaid Escrow Account.

(c) "Association" means a formal organization of individuals, companies, or other entities, who have an interest, activity, or purpose in common.

~~(d)(e)~~ "Commercial Account" means any Prepaid Escrow Account used in the furtherance of trade or commerce by a business.

~~(e)(f)~~ "Department" means the Florida Department of Transportation.

~~(f)(g)~~ "Florida Governmental Account" means a Prepaid Escrow Account of any local governmental entity, as defined in Section 334.03(14), Florida Statutes, and any public body as defined in Section 1.01(8), Florida Statutes.

~~(g)(h)~~ "Individual Account" means a Prepaid Escrow Account other than a Commercial, Florida Governmental, Other Governmental, or State Agency Prepaid Escrow Account.

~~(h)(i)~~ "Other Governmental Account" means an Account used by a unit or subdivision of the federal government or state government, other than those otherwise defined herein.

~~(i)(j)~~ "Prepaid Escrow Account" means the Accounts specifically defined herein which are established for the purpose of allowing customers of the Department to make purchases without payment at the time of transaction.

~~(j)(k)~~ "Security Deposit" means a combination of cash and account bond required to guarantee payment.

(k) "Shared Security Account" means an Account that pools a security deposit being provided by an association for its members. Although the security is pooled, each member must have its own Account with the Department.



(1)(f) “State Agency Account” means a Prepaid Escrow Account issued to those agencies included in Section 20.03(2), Florida Statutes, the Office of the Governor, the Cabinet, and all Cabinet agencies.

(3) Initial Application. Application for a Prepaid Escrow Account with the Department will be made by submitting a Prepaid Escrow Account Application, Department of Transportation Form 350-060-10, R. 01/02, and the appropriate deposit as set forth in paragraph 14-114.004(4)(b), F.A.C., to the Florida Department of Transportation, Office of Comptroller, Cashier, 3717 Apalachee Parkway East, Tallahassee, Florida 32311-3400.

(4) Processing of the Application.

(a) Approval. The ~~Florida Department’s of Transportation Office of~~ Comptroller will review all applications for accuracy and completeness before processing. Upon completion of the review and approval, each approved application will be assigned a numeric account number by the Office of Comptroller for entry into the Department accounts receivable records, and for monthly billing purposes. An executed copy of the application will be returned to the applicant, who is then an Account Holder.

(b) Security Deposit. An Account will not be approved until the required security deposit has been received and approved by the Department. With the exception of State Agency Accounts and Shared Security Accounts, the required security deposit for each Account is \$300.00, or three times the estimated monthly usage, whichever is greater. Deposits for Commercial Accounts, Other Governmental Accounts, and Individual Accounts may be made in cash for the full amount of the required security deposit, or with \$300.00 cash and the remainder by account bond. Deposits for Florida Governmental Accounts may be made with a purchase order to the Department up to an amount of \$10,000.00, and the remainder by cash or account bond; or a cash deposit for the full amount of the required security deposit; or with a \$300.00 cash deposit and the remainder by account bond. All account bonds must be on the Account Bond, Department of Transportation Form 350-060-08, R. 01/02. State Agency Accounts will not require security deposits unless the agency fails to pay the Account in compliance with Section 215.422, Florida Statutes. If a State Agency Account Holder fails to pay as required, the Department will require the same security deposit for the State Agency Account as for an Other Governmental Account. The Department will approve associations for Shared Security Accounts using the following criteria: financial status, number of members, years of operation, and benefit to the Department. The security deposit will be held in one lump sum amount for all accounts and must be in the form of cash or account bond. It is the responsibility of the association to send the Department notices of member enrollment and inactivation. The Department requires the security to be equal or greater than the average of the last 12

months of invoices for all members. To calculate this figure, all members’ invoices for the past 12 months are added together and then divided by 12.

(c) Increase in Deposit. If, after establishment of an Account, actual monthly usage exceeds estimated monthly usage, the deposit must be increased to equal the sum of the three highest months’ usage in the last 12 month period. If the Account has been established for less than three full months, the usage will be based on the period the Account has been in use. The Department will notify the Account Holder in writing of the increase in the security deposit required. Failure to increase the security deposit to the proper level within 30 days of receipt of the notification will cause immediate loss of Account usage privileges until the required security deposit is received by the Department. If the required security deposit is not increased within an additional 15 days, the Account will be terminated. If additional security is required for Shared Security Accounts, the Department will notify the association in writing of the increase due. If the increased amount has not been deposited within 60 days, the Department will require security deposits directly from the Account Holders.

(d) Suspension of Account. If usage in any one month exceeds the amount of the security deposit, all Account privileges will immediately be suspended until the security deposit is increased in conformance with paragraph 14-114.0011(4)(c), F.A.C. Additionally, if at any time the total unpaid balance on the Account exceeds the amount of the security deposit, all Account privileges will immediately be suspended until the security deposit is increased in conformance with paragraph 14-114.0011(4)(c), F.A.C.

(5) Monthly Billing. A monthly billing is prepared and mailed to the Account Holder. If an Account is not paid in full within 30 days of the date of the billing, the Account becomes past due. If not paid within 15 days of becoming past due, a suspension notice will be issued and the Account Holder will be refused Account privileges. If the Account is not paid within 15 days of the date of the suspension notice, the Account will be terminated.

(6) Termination. The Department will terminate Accounts if the Prepaid Escrow Account program is no longer deemed necessary, and will terminate Individual Accounts if this or other accounts of the Account Holder with the Department are delinquent. The Account Holder may terminate its Account at any time. When an Account is terminated, outstanding purchases will be deducted from the balance of the Account Holder’s deposit. If there are not sufficient funds in the Account to cover outstanding purchases, the Account Holder will be notified of the funds due. The Account Holder must pay all sums due within 30 days of the termination notification. If payment is not received, the Department will pursue collection of any amounts owed. Any funds remaining in the Account Holder’s Account in excess of the outstanding purchases will be refunded to the Account Holder upon verification that all

amounts due have been paid. Any amount owed for terminated Shared Security Accounts will be sent directly to the association for payment. If payment has not been received within 60 days, the Department will draw against the association's Account. When an Account has been terminated for non-payment the Account Holder will not be eligible to apply for a Prepaid Escrow Account for a period of one year after the date of termination. Upon the second termination of an Account for non-payment, the applicant will no longer be eligible for a Prepaid Escrow Account with the Department.

(7) Forms. The following forms, which are incorporated by reference and made a part of these rules, are to be used by the applicants for Prepaid Escrow Accounts:

Form Number	Date	Title
350-060-10	01/02	Prepaid Escrow Account Application
350-060-08	01/02	Account Bond

These forms may be obtained from the Department of Transportation Office of the Comptroller, Accounts Receivable Section, 3717 Apalachee Parkway East, Tallahassee, Florida 32311-3400.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187 FS. History—New 6-4-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rebecca Sponholtz, CPA, Accounts Receivable Administrator, General Accounting Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Morefield, Assistant Secretary for Transportation Policy, for José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE: Ownership and Use of “Florida’s

RULE CHAPTER NO.:

Seal of Approval” Certification Mark 20-97

RULE TITLE: Withdrawal of License or Permission

RULE NO.: 20-97.010

PURPOSE AND EFFECT: Eliminating the date certain for rescinding all licenses issued for the use of the “Florida’s Seal of Approval” certified mark.

SUMMARY: Eliminating the date certain for rescinding all licenses issued for the use of the “Florida’s Seal of Approval” certified mark.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

SPECIFIC AUTHORITY: 601.10(1), 601.11, 601.15(2)(b),(10)(a) FS.

LAW IMPLEMENTED: 601.101 FS.

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

TIME AND DATE: 10:30 a.m., September 17, 2003

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF PROPOSED RULE IS:

20-97.010 Withdrawal of License or Permission.

The Department of Citrus reserves the right to revoke or cancel any given license or permission to use the mark upon the following grounds:

(1) The failure of the authorized user to comply with the provisions set forth herein.

(2) The commission of acts which adversely affect the licensor’s name, reputation or goodwill.

~~(3) Effective September 1, 2003, all authorizations granted by the Department of Citrus to use the Florida’s Seal of Approval mark shall be rescinded, provided however, all participating users of the mark as of that date may continue to use existing label stock until such stocks are exhausted.~~

Specific Authority 601.10(1), 601.11, 601.15(2)(b),(10)(a) FS. Law Implemented 601.101 FS. History—New 3-24-85, Formerly 20-97.10, Amended 9-14-97, 3-20-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 28, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2003

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Use of Force

RULE NO.: 33-602.210

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: correct titles of and references to existing forms; incorporate a new form; correct cross-references contained in the rule; clarify provisions related to use of force on inmates receiving mental health treatment; clarify guidelines for use of chemical agents, and provide for the use of a new use of force device.

SUMMARY: The proposed rule corrects titles of and references to existing forms; incorporates a new form; corrects cross-references contained in the rule; clarifies provisions related to use of force on inmates receiving mental health treatment; clarifies guidelines for use of chemical agents, and provides for the use of a new use of force device.

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, 945.35 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:

33-602.210 Use of Force.

(1) through (4) No change.

(5) The warden or duty warden will be consulted and give her or his permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection (1) shall prepare, date and sign the Authorization For Use of Force Report, Form DC6-232 either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection (20)(49) of this rule.

(6) Whenever force is used, a detailed written report of force used shall be prepared, dated and signed by the initial employee using force. Form DC6-230, Institutions Report of Force Used, shall be used for this purpose. If more than one employee was involved in the initial use of force, the highest ranking official involved or the most senior employee shall complete the report. Each additional employee involved in the use of force who agrees with the facts and circumstances as reported on Form DC6-230 Section part I shall prepare an Institutions Report of Force Used Staff Supplement, Form DC6-231. The report shall describe in detail the type and amount of force used by himself or herself. Each Employee shall individually write his or her own report, then submit the completed report to the clerical personnel designated by the warden to type all the reports onto one form to be signed by each employee. Any additional employee who does not agree with the facts and circumstances as reported in Form DC6-230 Section part I shall prepare a separate Form DC6-230,

Institutions Report of Force Used. Forms DC6-230 and DC6-231 are incorporated by reference in subsection (20)(49) of this rule.

(7) No change.

(8) The warden or acting warden shall immediately conduct a preliminary review of the video tape(s) and all associated reports for signs of excessive force or procedural deviation. If signs of excessive force or procedural deviation are noted by the warden or assigned inspector, she or he will notify the Office of the Inspector General directly, so that there is no undue delay in initiating an investigation. The warden shall then appoint a staff member of equal or higher rank than those involved in the use of force to collect all pertinent information and required documentation. This information will include the reports of all involved staff and the statements of staff witnesses, inmate witnesses, the inmate subject, and the completed Use of Force File Checklist, Form DC1-813. All inmate statements (subject and witnesses) shall be made in writing using the Witness Statement, Form DC6-112C. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. All employees who witness but do not participate in the use of force shall complete an Incident Report, Form DC6-210. Form DC6-210 is incorporated by reference in subsection (20)(49) of this rule. This process will be completed within 5 working days (Monday through Friday). The warden shall review the information and note any inappropriate actions. The warden shall review the Use of Force File Checklist, Form DC1-813, and shall forward the videotape(s) and associated reports on the use of force and the warden's review to the institutional inspector within five working days. Form DC1-813 is incorporated by reference in subsection (20)(49) of this rule. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Use of Force Unit within the Office of the Inspector General (OIG) within 5 working days. The OIG, following its review, will either approve the use of force action or disapprove it. If necessary, it will be referred for investigation before final approval or disapproval. If disapproved, the OIG shall advise the warden in writing of the reason for the disapproval so that the warden can take any needed corrective action. If employee disciplinary action appears warranted, the warden shall forward the materials to the service center employee relations supervisor. Form DC6-296, Disapproved Use of Force/ Disposition Report, shall be used for this purpose. Form DC6-296 is incorporated by reference in subsection (20)(49) of this rule. The warden shall document all corrective action taken. Copies of the employee's report, the warden's summary and the inspector general's review and determination shall be kept in the inmate's file. A Use of Force Log, Form DC2-802, shall be placed in every employee's personnel file. This form will be maintained by the servicing personnel office and shall contain a record of every report of use of force and staff supplement completed by the employee. The warden or his or her designee shall be responsible for submitting accurate information to the personnel office in order to maintain the

DC2-802. Any use of force reports completed prior to April 15, 1998 shall also remain in the file. Form DC2-802, Use of Force Log, is incorporated by reference in subsection ~~(20)(19)~~ of this rule.

(9) Any employee who witnesses, or has reasonable cause to suspect, that an inmate has been unlawfully abused shall immediately prepare, date and sign an Incident Report, Form DC6-210, pursuant to Section 944.35(5), F.S., specifically describing the nature of the force used, the location and time of the incident and the persons involved. The report shall be delivered to the inspector general of the department with a copy delivered to the warden of the institution. The inspector general shall conduct an appropriate investigation and, if probable cause exists that a crime has been committed, notify the state attorney in the circuit in which the institution is located. Form DC6-210, Incident Report, is incorporated by reference in subsection ~~(20)(19)~~ of this rule.

(10) Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare a report documenting the reasons that force or restraint was authorized. Form DC6-232, Authorization For Use Of Force Report, shall be used for this purpose. The physician's or clinical associate's report shall be attached to the Institutions Report of Force Used when actual force is used, or the Incident Report, Form DC6-210, in cases when restraints are applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign a Refusal of Health Services Affidavit, Form DC4-711A, declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Forms DC4-711A, DC4-701C and DC4-708 are incorporated by reference in subsection ~~(20)(19)~~ of this rule. When the use of psychiatric restraints (leather or vinyl waist belt, wrist cuffs and leg restraints; protective helmets; four point restraints) is authorized and the inmate does not offer resistance to the application of the restraints, the completion of an Institutions Report of Force Used, Form

DC6-230, or an Institutions Report of Force Used Staff Supplement, Form DC6-231, will not be required. In these situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and an Incident Report, Form DC6-210, will be completed. The videotape, the completed incident report, and the completed Authorization for Use of Force Report, Form DC6-232, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in subsection (8) above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection (6) above will be followed, to include the completion of the Authorization for Use of Force Report, Form DC6-232.

(11) No change.

(12) Batons, chemical agents, electronic immobilization devices, and specialty impact munitions shall not be used on inmates who are assigned to inpatient mental health care in an infirmary units (i.e., isolation management rooms, transitional care units, crisis stabilization units, and the corrections mental health institution, or other mental health treatment facility.) except when it appears reasonable necessary to:

(a) through (d) No change.

(13) Use of electronic immobilization devices.

(a) through (d) No change.

(e) When in a close management or confinement setting, prior to utilizing electronic immobilization devices, the officer shall review Form DC4-650B, Chemical Agents Risk Assessment for the Use of Chemical Agents and Electronic Immobilization Devices Form, to determine whether the inmate has a medical condition which may be exacerbated by use of electronic immobilization devices. If no form is available, and where time and circumstances permit, medical staff shall be consulted to determine if the inmate has any medical condition that would make the use of an electronic immobilization device dangerous to that inmate's health. Form DC4-650B is incorporated by reference in subsection (20) of this rule.

(f) No change.

(g) As soon as possible following each use of an electronic immobilization device the inmate shall be afforded medical examination and treatment. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in

subsection (20) of this rule. Mental health staff shall evaluate the inmate not later than the next work-day to determine whether a higher level of mental health care (isolation management, transitional, or crisis stabilization) is indicated. For the purposes of this rule, the following definitions shall apply:

1. through 2. No change.

(h) through (k) No change.

(l) Electronic immobilization devices shall not be utilized after the application of any CN or CS chemical agents.

(14) Use of Chemical Agents.

(a) The following chemical agents are authorized for use by the department:

1. OC – Oleoresin Capsicum (pepper spray) – An inflammatory agent that causes tearing and involuntary closing of the eyes, nasal discharge, sneezing, disorientation, and the sensation of respiratory distress.

a. OC is the primary chemical agent to be used for cell extractions and other in-cell, individual, use, unless circumstances exist as outlined in subparagraph 2. below.

b. OC shall be used only in the manner prescribed in department rules and procedures, consistent with manufacturer directions.

c. OC shall not be used in conjunction with any electronic immobilization device.

2. CS – Orthochlorobenzal Malononitrile or Orthochlorobenzylidene Malononitrile – An irritant agent that causes eyes to burn and tear, nasal discharge, and skin and upper respiratory irritation.

a. CS shall be used for cell extractions and other in-cell, individual, use only when OC is ineffective and efforts to talk the inmate into cooperating have failed.

b. When documentation is available, e.g. previous Institutional Report of Force Used, Form DC6-230, to substantiate that the use of OC has in the past proven ineffective in controlling a specific inmate, the warden or duty warden has the option to authorize the use of CS as the initial/primary chemical agent.

c. CS is additionally authorized as the initial/primary chemical agent during in-cell applications in which the inmate has covered his person or fabricated a barrier in an effort to prevent direct contact with the chemical agent.

d. When CS is used as the initial/primary chemical agent the justification shall be listed in Section I of Form DC6-230, Institutions Report of Force Used.

~~e.~~ CS shall be used only in the manner prescribed in department rules and procedures, consistent with manufacturer directions.

~~f.~~ CS shall not be used in conjunction with any electronic immobilization device.

3. No change.

(b) Chemical agents, OC CN or CS ~~gas~~, shall be used only after all other reasonable efforts to control a disorderly inmate or group of inmates have been exhausted. All chemical agents shall be used with caution.

(c) through (j) No change.

(k) Chemical agents shall be stored in the main arsenal. A small amount of chemical agents may be stored in secure locations such as the control room mini-arsenal or the officer's station in confinement and close management units until its use is authorized. Each stored chemical agent dispenser will be numbered. The Chemical Agent Accountability Log, Form DC6-216, will be kept in all areas in which chemical agents are stored and will be utilized to record the weight of each numbered chemical agent dispenser prior to issue and again when it is returned to the secure inventory storage area. The weighing process will be conducted and a verifying entry will be made in the log, including the signature of the shift supervisor authorizing the use of the chemical agent. The chief of security shall monitor the canister weights following each use of chemical agents to ensure the amounts used are consistent with that expected by reviewing and initialing the Chemical Agent Accountability Log, Form DC6-216. Form DC6-216 is incorporated by reference in subsection (20)(19) of this rule. Staff designated by the Secretary of the Department shall be issued one three or four ounce dispenser of ~~MK-4 Defense Technologies 10% non-flammable~~ OC pepper spray ~~or equivalent~~, with marking dye, after being properly trained in chemical agent utilization. The chemical agent dispenser shall be securely encased and attached to the officer's belt. Each MK-4 chemical agent dispenser will be secured within a pouch by a numbered, breakable seal. Form DC6-213, Individual Chemical Agent Dispenser, will be utilized to document the name of the officer to whom each dispenser is assigned as well as the seal number on the dispenser she or he received. Upon receiving the dispenser and pouch, the officer will examine the safety seal to ensure that it is intact. If the seal is broken, the Shift Supervisor will be notified immediately and an Incident Report, Form DC6-210, will be written. Forms DC6-210 and DC6-213 are incorporated by reference in subsection (20)(19) of this rule. The arsenal sergeant shall maintain a mastery inventory of all individual chemical agent dispensers complete with the weight of the dispenser at the time the original seal is attached. Whenever a dispenser is returned with a broken seal, the arsenal sergeant shall document the weight of the dispenser on the Form DC6-216 and attach a new seal.

(l) No change.

(m) Procedure for the use of chemical agents on disruptive inmates under controlled conditions:

1. No change.

2. If the confinement or close management lieutenant or shift supervisor's efforts to control the disorderly inmate have failed and the use of chemical agents is the least level of force

that can be expected to successfully gain control of the disruptive inmate while minimizing the risk of injuries to all involved, the shift supervisor shall:

a. When in a close management or confinement setting, review Form DC4-650B, Chemical Agent Risk Assessment for the Use of Chemical Agents and Electronic Immobilization Devices Form, to determine if the inmate has a medical condition that would be exacerbated by the use of chemical agents; if no form is available, where time and circumstances permit, contact medical staff to determine whether the inmate has any medical condition that would make the use of chemical agents dangerous to that inmate's health; and

b. through 3.f. No change.

(o) through (p) No change.

(n) Medical Requirements. All inmates shall be examined by medical staff as soon as possible after the chemical agent has been used but not more than one hour after the first exposure, except in cases of emergency where this may not be possible. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. If an injury is claimed or found to exist, Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In those cases where an injury is claimed but not substantiated by medical examination, the statement shall indicate that, and the documentation shall be sufficient to support that no injury was found upon examination. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection (20) of this rule. Mental health staff shall evaluate the inmate not later than the next working day, to determine whether a higher level of mental health care (isolation management, transitional or crisis stabilization) is indicated.

(15) through (16) No change.

(17) Pepperball Launching System (PLS). The PLS shall be used primarily by restricted labor squad supervisors and exercise officers for designated confinement, close management and death row populations. The PLS is intended for the dispersal of chemical agents in situations where the use of aerosol type agents would not be effective due to weather conditions or when their use could subject the officer or uninvolved inmates to injury. The PLS shall only be employed by officers trained in their use and effects.

(a) The secretary shall designate those institutions authorized to utilize the PLS.

(b) In controlled situations when time constraints are not an issue, the PLS can only be used if authorized by the warden or duty warden. Additionally, certified correctional staff will be designated by the warden to utilize the PLS and will be pre-authorized to administer chemical agents in instances where chemical agents must be used immediately to quell assaults and fights among inmates assigned as outlined in paragraphs (c) and (d) below.

(c) PLS is authorized for use to quell assaults and fights among inmates assigned to restricted labor squads.

(d) PLS is authorized for use in designated confinement, close management and death row recreation areas to quell assaults and fights among inmates.

(e) PLS is classified as less-than-lethal at all distances, but, unless the incident necessitates otherwise, it shall be primarily utilized at a distance of five (5) feet or greater to prevent the inmate from attempting to take control of the launcher.

(f) Written authorization from the warden or acting warden shall be received prior to utilization of the PLS for situations other than those described in paragraphs (c) and (d) above. This written authorization shall detail the reasons it was necessary to utilize the PLS in addition to or in place of aerosol type chemical agents.

(g) All subsequent reports, medical requirements and reviews required for the use of chemical agents as outlined in subsection (14) above shall be completed after the use of the PLS.

(17) through (18) renumbered (18) through (19) No change.

~~(20)~~(19) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (b) No change.

(c) DC4-529, Staff Request/Referral, effective \_\_\_\_\_.

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

~~(j)~~(+) DC6-230, Institutions Report of Force Used, effective \_\_\_\_\_ July 25, 2002.

~~(k)~~(+) DC6-231, Institutions Report of Force Used Staff Supplement, effective \_\_\_\_\_ 2-7-00.

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

~~(n)~~(m) DC4-650B, Chemical Agents Risk Assessment for the Use of Chemical Agents and Electronic Immobilization Devices Form, effective \_\_\_\_\_ July 25, 2002.

Specific Authority 944.09, FS. Law Implemented 20.315, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dale Landress

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 23, 2003

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Forms and Instructions  
 RULE NO.: 40E-1.659

PURPOSE AND EFFECT: Update the District’s water use compliance forms, water use permit application and supporting information forms to conform to new legislative direction, new policy development, and regional water supply plan implementation.

SUMMARY: Replace current Pumpage Report (Form Number 0188) with Quarterly and Monthly Pumpage Reports & Seasonal Crop Reporting; replace current Short-term Dewatering General Water Use Permit (Form Number 0445) with new Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G); replace current Water Use Permit Application (Form Number 0645) with new Water Use Permit Application (RC-1A, RC-1W, RC-1G) and revise related Tables; and add Major General Permit (Form Number 1109). The updated forms are posted on the SFWMD Website at www.sfwmd.gov.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 120.53, 373.044, 373.113 FS.

LAW IMPLEMENTED: 120.53, 373.113 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A PUBLIC HEARING WILL BE NOTICED IN THE FAW. (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

The procedure for requesting a hearing is governed by subsection 28-103.004(2), F.A.C., as follows: a request for a public hearing must be in writing and filed with the District Clerk during normal business hours, at the address below, within 21 days of publication of this notice. The request must specify how the requestor would be affected by the proposed rule. Any affected person who fails to timely file a request for hearing waives the right to request a hearing on the proposed rule.

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities

or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Bower, Sr. Supv. Hydrogeologist, Water Use Regulation, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6930 or (561)682-6930 (internet: rbower@sfwmd.gov). The updated forms are posted on the SFWMD Website at www.sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-1.659 Forms and Instructions.

(1) The following forms and instructions are hereby incorporated by reference into this Chapter:

Form No.	Date	Title
0050A	7-89	Application to the South Florida Water Management District for a Permit for Utilization of District Works and Modification of Existing Permit Works of the District No.
0108	3-91	Application for Release of Mineral, Canal, and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida
0113	8-95	Surface Water Management Permit No.
0115	8-95	Surface Water Management Permit Modification No.
0119	8-95	Wetland Resource Permit No.
0122	4-93	Application to the South Florida Water Management District for Authority to Utilize Works or Land of the District
0123	12-01	Well Construction Permit Application
0124	11-90	Well Completion Report
0145	8-95	Environmental Resource Permit No.
0157	8-95	Environmental Resource Permit Modification No.
<u>0188-QMQ</u>	<u>08-03</u>	<u>Quarterly Report of Withdrawals</u>
<u>0188-MDQ</u>	<u>08-03</u>	<u>Monthly Report of Daily Withdrawals</u>

<u>0188-QASR</u>	<u>08-03</u>	<u>Quarterly Report of Injections and Withdrawals for Aquifer Storage and Recovery (ASR) Wells</u>	<u>0645-G72</u>	<u>08-03</u>	<u>Table J Aquifer Storage and Recovery</u>
			<u>0645-G73</u>	<u>08-03</u>	<u>Table K Water Supply System Interconnections</u>
<u>0188-QMON</u>	<u>08-03</u>	<u>Quarterly Report of Monitoring Requirements</u>	<u>0645-0779</u>	<del><u>12-01</u></del> <u>5-92</u>	<del><u>Water Use Permit Application</u></del> Guidance for Preparing an Application for a “Works of the District” Permit in the Everglades/Application for a Works of the District Permit
<u>0188-QMOF</u>	<u>08-03</u>	<u>Quarterly Report of Withdrawals from Wells and Surface Water Pumps</u>			Special Use Application and License
<u>0188-QCROP</u>	<u>08-03</u>	<u>Report of Planting and Harvest of Seasonal Crops</u>	<u>0830</u>	<u>4-94</u>	Environmental Resource/Surface Water Management Permit
<u>0188-QBWDR</u>	<u>08-03</u>	<u>Quarterly Report of Bulk Water Delivered and Received</u>	<u>0881</u>	<u>8-95</u>	Construction Completion/Construction Certification
<u>0188</u>	<u>12-01</u>	<u>Pumpage Report</u>			Certification of Waiver of Permit Application Processing Fee
<u>0195</u>	<u>6-91</u>	<u>Public Water Supply Well Information and Classification</u>			Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity
<u>0196</u>	<u>10-89</u>	<u>Water Well Inspection Scheduling Card</u>			Mitigation Construction Commencement Notice
<u>0299</u>	<u>1-90</u>	<u>Water Use Permit No.</u>	<u>0889</u>	<u>8-95</u>	Environmental Resource Standards/Noticed General Permit No.
<u>0444</u>	<u>8-95</u>	<u>Application for a Standard General Permit for Incidental Site Activities</u>	<u>0920</u>	<u>8-95</u>	Surface Water Management General Permit No.
<u>0445</u>	<u>08-03</u>	<del><u>12-01</u></del> <u>Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G) Application for a Short term Dewatering General Water Use Permit</u>			Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0483</u>	<u>8-95</u>	<u>Request for Environmental Resource, Surface Water Management, Water Use, or Wetland Resource Permit Transfer</u>	<u>0938</u>	<u>8-95</u>	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-W01</u>	<u>08-03</u>	<u>Water Use Permit Application (RC-1A, RC-1W, RC-1G)</u>	<u>0941</u>	<u>8-95</u>	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G60</u>	<u>08-03</u>	<u>Table A Descriptions of Wells</u>	<u>0942</u>	<u>8-95</u>	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G61-1</u>	<u>08-03</u>	<u>Table B Description of Surface Water Pumps</u>	<u>0960</u>	<u>8-95</u>	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G61-2</u>	<u>08-03</u>	<u>Table C Description of Culverts</u>			Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G65</u>	<u>08-03</u>	<u>Table D Crop Information</u>			Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G74</u>	<u>08-03</u>	<u>Table E Water Received From or Distributed to Other Entities</u>	<u>0961</u>	<u>8-95</u>	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G69</u>	<u>08-03</u>	<u>Table F Past Water Use &amp; Table G Projected Water Use</u>			Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G70</u>	<u>08-03</u>	<u>Table H Projected Water Use (For Per Capita Greater than 200 GPD)</u>			Environmental Resource/Surface Water Management Permit Construction Commencement Notice
<u>0645-G71</u>	<u>08-03</u>	<u>Table I Water Treatment Method and Losses</u>	<u>0970</u>	<u>8-95</u>	Applicant Transmittal Form for Requested Additional Information



0971	8-95	Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit
0972	8-95	Petition for a Formal Wetland and Surface Water Determination
0973	8-95	Above Ground Impoundment Inspection/Certification Report
0974	8-95	Notice of Intent to Construct a Minor Silvicultural System
0980	8-95	Notice of Intent to Use a Noticed General Environmental Resource Permit
<u>1109</u>	<u>08/03</u>	<u>Water Use General Permit</u>

Specific Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53, 373.113 FS. History--New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, 4-20-94, 10-3-95, 6-26-02, 8-14-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Use Regulation Division  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Content of General Water Use Permit Applications  
 RULE NO.: 40E-20.101  
 PURPOSE AND EFFECT: Update reference to the District's Dewatering Water Use General Permit.  
 SUMMARY: The rule is amended to reference the District's newly revised Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G). The updated forms are posted on the SFWMD Website at www.sfwmd.gov.  
 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 within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.  
 LAW IMPLEMENTED: 373.103(1), 373.219, 373.223, 373.229 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A PUBLIC HEARING WILL BE NOTICED IN THE FAW. (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

The procedure for requesting a hearing is governed by subsection 28-103.004(2), F.A.C., as follows: a request for a public hearing must be in writing and filed with the District Clerk during normal business hours, at the address below, within 21 days of publication of this notice. The request must specify how the requestor would be affected by the proposed rule. Any affected person who fails to timely file a request for hearing waives the right to request a hearing on the proposed rule.

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Bower, Sr. Supv. Hydrogeologist, Water Use Regulation, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6930, (561)682-6930 (internet: rbower@sfwmd.gov). The updated forms are posted on the SFWMD Website at www.sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-20.101 Content of General Water Use Permit Applications.

(1) through (2) No change.

(3) Applicants for a Dewatering Water Use General Permit under subsection 40E-20.302(2), F.A.C., shall file ~~Form 0645 - Water Use Permit Applications, Part RC-1A Administrative Information for Water Use Permit Applications, and Form 0445, Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G) Application for a Dewatering Water Use General Permit,~~ as incorporated by reference in Rule 40E-1.659, F.A.C.

(4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103(1), 373.219, 373.223, 373.229 FS. History--New 8-14-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Use Regulation Division  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Medicaid Providers Who Bill on the CMS-1500  
 RULE NO.: 59G-4.001  
 PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Provider Reimbursement Handbook, CMS-1500, October 2003, in Rule 59G-4.001, F.A.C. The effect will be to substantially rewrite Chapters six through eight of the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500, which was incorporated in Rule 59G-5.020, F.A.C., and rename this section as the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, October 2003.

In the Notice of Rule Development, we proposed incorporating the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, in Rule 59G-5.020, F.A.C., Provider Requirements, which is the same rule in which we are incorporating the Florida Medicaid Provider General Handbook. For administrative purposes, we decided to incorporate the handbooks in separate rules, because the Florida Medicaid Provider General Handbook applies to all Medicaid providers; and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, applies only to providers who bill on the CMS-1500 claim form. Providers who bill on the CMS-1500 claim form are included in Chapter 59G-4, F.A.C., Medicaid Services, so we are incorporating the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, in that rule chapter.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, October 2003. The Handbook revisions include a substantial rewrite to Chapters six through eight of the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500, which was incorporated in Rule 59G-5.0520, F.A.C., revisions to claim form processing and new claim form requirements for paper CMS-1500 claim forms effective October 16, 2003.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912 FS.

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

DATE AND TIME: 10:30 a.m., July 21, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Agency for Health Care Administration, Medicaid Contract Management, 2308 Killlearn Center Blvd., Suite 200, Tallahassee, FL 32309, (850)922-2725

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.001 Medicaid Providers Who Bill on the CMS-1500.

All Medicaid providers and their billing agents who submit claims on behalf of an enrolled Medicaid provider who are required by their service specific coverage and limitations handbook or other notification by the Medicaid program to bill the Florida Medicaid program on a paper CMS-1500 claim form for reimbursement of services performed on a Medicaid eligible recipient, must be in compliance with the provisions of the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, October 2003, which is incorporated by reference and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lynne Metz

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2003

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Provider Requirements  
 RULE NO.: 59G-5.020

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the Florida Medicaid Provider General Handbook, October 2003. The effect will be to combine the general Medicaid policies that are in chapters 1 through 5 and the appendices of the claim-specific Florida Medicaid Reimbursement Handbooks into a general handbook that will pertain to all Medicaid providers.

In the Notice of Rule Development, we proposed incorporating the Florida Medicaid Provider General Handbook and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, in Rule 59G-5.020, F.A.C., Provider

Requirements. For administrative purposes, we decided to incorporate the handbooks in separate rules, because the Florida Medicaid Provider General Handbook applies to all Medicaid providers; whereas the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, applies only to providers who bill on the CMS-1500 claim form. The Florida Medicaid Provider Reimbursement Handbook, CMS-1500, is being incorporated by reference in Chapter 59G-4, F.A.C., Medicaid Services.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule the Florida Medicaid Provider General Handbook, October 2003. The handbook contains the general Medicaid policies that are in chapters 1 through 5 and the appendices of the claim-specific Florida Medicaid Provider Reimbursement Handbooks.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912 FS.

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

TIME AND DATE: 9:00 a.m., July 21, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Medicaid Contract Management, 2308 Killlearn Center Blvd., Suite 200, Tallahassee, Florida 32309, (850)922-2725

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-5.020 Provider Requirements.

All Medicaid providers ~~advanced registered nurse practitioners; ambulatory surgery centers; audiologists; birthing centers; child health check up providers; chiropractors; community mental health services providers; county health departments; county health department certified match providers; dentists (when submitting claims on the HCFA 1500 claim form); durable medical equipment and medical supply providers; early intervention service providers; federally qualified health centers; freestanding dialysis centers; hearing aid specialists; home health agencies; independent laboratories; licensed midwives; Medicaid certified school match providers; medical foster care providers; opticians; optometrists; physicians; physician assistants; podiatrists;~~

~~portable x-ray providers; prescribed pediatric extended care centers; registered nurse first assistants; rural health clinics; therapists; and visual services providers~~ enrolled in the Medicaid program and their billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Reimbursement Handbook, October 2003 HCFA 1500 and Child Health Check-Up 221, updated May 2001, which is incorporated by reference and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00, 4-24-01, 8-6-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Girard

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Employee Leasing Companies**

RULE TITLE: Definitions  
 RULE NO.: 61G7-6.001

PURPOSE AND EFFECT: The Board propose to amend this rule to add a definition for financial responsibility for payment of wages.

SUMMARY: This rule sets out the Department's and the Board's interpretation of definitions of terms as they are used in the administration of Part XI Chapter 468, F.S., as it relates to employee leasing companies.

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: 468.520, 468.522, 468.525 FS.

LAW IMPLEMENTED: 468.520, 468.522, 468.525(4), 468.529(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Employee Leasing Companies, 1940 North Monroe Street, Tallahassee, FL 32399-0767

THE FULL TEXT OF THE PROPOSED RULE IS:

61G7-6.001 Definitions.

To enable the Board and the Department to administer Part XI of Chapter 468, F.S., the Board hereby interprets the following terms as used in the definition of employee leasing as follows:

- (1) No change.
- (2) “Assumes responsibility for the payment of wages” as used in s. 468.525(4)(b), F.S., means the obligation of the employee leasing company to comply with the terms of employment established by the employee leasing company with an employee relating to the payment of wages of the employee. The term does not include any obligation on the part of the employee leasing company to assume any contractual obligation which may exist between a client of an employee leasing company and any leased employee, unless the employee leasing company specifically adopts this contractual obligation by way of a written agreement entered into with the leased employee.

(2) through (10) renumbered (3) through (11) No change.

Specific Authority 468.520, 468.522, 468.525 FS. Law Implemented 468.520, 468.522, 468.525(4), 468.525(4)(b), 468.529(1) FS. History§New 7-20-92, Formerly 21EE-6.001, Amended 9-14-93, 10-24-94, 7-18-95, 4-26-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Employee Leasing Companies

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 21, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 6, 2003

**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”.

<b>DEPARTMENT OF HEALTH</b>	
<b>Board of Dentistry</b>	
RULE TITLES:	RULE NOS.:
Definitions	64B5-14.001
Prohibitions	64B5-14.002
Training, Education, Certification, and Requirements for Issuance of Permit	64B5-14.003
Additional Requirements	64B5-14.004
Application for Permit	64B5-14.005
Reporting Adverse Occurrences	64B5-14.006
Inspection of Facilities	64B5-14.007
Conscious Sedation	64B5-14.009

PURPOSE AND EFFECT: The Board proposes the rule amendments to conform with recent amendments to Rules 64B5-14.001 and 64B5-14.002, F.A.C., and to conform to the consensus at the national and state levels on the prevailing standards of practice for dentists using conscious sedation.

SUMMARY: The rule amendments delete the word “parenteral” which makes this form of conscious sedation inclusive along with enteral conscious sedation.

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

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

SPECIFIC AUTHORITY: 466.004(4), 466.017(3) FS.

LAW IMPLEMENTED: 120.60(8), 466.017(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD’S NEXT MEETING TO BE HELD ON JULY 11, 2003 IN ORLANDO, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B5-14.001 Definitions.

(1) through (3) No change.

(4) Conscious ~~Parenteral~~ ~~conscious~~ sedation – A depressed level of consciousness produced by the ~~parenteral~~ administration of pharmacologic substances, that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command. This modality includes administration of medications via all routes: that is, intravenous, intramuscular, subcutaneous, submucosal, or inhalation, as well as enteral routes; that is oral, rectal, or transmucosal. The drugs, and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

(5) through (8) No change.

(9) Office team approach – A methodology employed by a dentist in the administration of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, and pediatric sedation whereby the dentist uses one or more qualified assistants/dental hygienists who, working under the direct supervision of the dentist, assist the dentist, and assist in emergency care of the patient.

(10) through (11) No change.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History–New 1-31-80, Amended 4-7-86, Formerly 21G-14.01, Amended 12-31-86, 6-1-87, 9-1-87, 2-1-93, Formerly 21G-14.001, Amended 12-20-93, Formerly 61F5-14.001, Amended 8-8-96, Formerly 59Q-14.001, Amended 3-9-03, \_\_\_\_\_.

## 64B5-14.002 Prohibitions.

(1) No change.

(2) ~~Conscious Parenteral~~ conscious sedation. Beginning November 1, 1986, no dentists licensed in this State, including those authorized to administer ~~parenteral~~ conscious sedation subsequent to January 31, 1982, shall administer ~~parenteral~~ conscious sedation in the practice of dentistry until they have obtained a permit as required by the provisions of this rule chapter.

(3) through (7) No change.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.02, 21G-14.002, Amended 12-20-93, Formerly 61F5-14.002, Amended 8-8-96, Formerly 59Q-14.002, Amended 3-9-03, \_\_\_\_\_.

## 64B5-14.003 Training, Education, Certification, and Requirements for Issuance of Permits.

(1) General Anesthesia Permit.

(a) A permit shall be issued to an actively licensed dentist authorizing the use of general anesthesia or deep sedation at a specified practice location or locations on an outpatient basis for dental patients provided the dentist:

1. through 5. No change.

(b) through (c) No change.

(d) A dentist permitted to administer general anesthesia or deep sedation under this rule may administer ~~parenteral~~ conscious sedation and nitrous-oxide inhalation conscious sedation.

(e) No change.

(2) ~~Parenteral~~ Conscious Sedation Permit.

(a) A permit shall be issued to a dentist authorizing the use of ~~parenteral~~ conscious sedation at a specified practice location or locations on an outpatient basis for dental patients provided such dentist:

1. Has received formal training in the use of ~~parenteral~~ conscious sedation; and

2. Is certified by the institution where the training was received to be competent in the administration of ~~parenteral~~ conscious sedation; and

3. Is competent to handle all emergencies relating to ~~parenteral~~ conscious sedation.

(b) through (c) No change.

(d) A dentist utilizing ~~parenteral~~ conscious sedation shall maintain a properly equipped facility for the administration of ~~parenteral~~ conscious sedation, staffed with supervised assistant/dental hygienist personnel, capable of reasonably handling procedures, problems, and emergencies incident thereto. The facility must have the equipment capability of delivering positive pressure oxygen ventilation. Administration of ~~parenteral~~ conscious sedation requires at least two

individuals: a dentist, and an auxiliary trained in basic cardiac life support. It shall be incumbent upon the operating dentist to insure that the patient is appropriately monitored.

(e) A dentist utilizing ~~parenteral~~ conscious sedation and his assistant/dental hygienist personnel shall be certified in an American Heart Association or American Red Cross or equivalent agency sponsored cardiopulmonary resuscitation course at the basic life support level to include one man CPR, two man CPR, infant resuscitation, and obstructed airway with a periodic update not to exceed two years. Starting with the licensure biennium commencing on March of 2000, a dentist and all assistant/dental hygienist personnel shall also be trained in the use of either an Automated External Defibrillator or a defibrillator and electrocardiograph as part of their cardiopulmonary resuscitation course at the basic life support level. In addition to CPR certification, a dentist utilizing ~~parenteral~~ conscious sedation must be currently trained in ACLS (Advanced Cardiac Life Support) or ATLS (Advanced Trauma Life Support).

(f) Dentists permitted to administer ~~parenteral~~ conscious sedation may administer nitrous-oxide inhalation conscious sedation.

(g) Dentists permitted to administer ~~parenteral~~ conscious sedation may administer pediatric conscious sedation in compliance with rule 64B5-14.010, F.A.C.

(3) Pediatric Conscious Sedation Permit.

(a) A permit shall be issued to a dentist authorizing the use of pediatric conscious sedation at a specified practice location or locations on an outpatient basis for dental patients provided such dentist:

1. through 3. No change.

(b) through (c) No change.

(d) Dentists permitted to administer ~~parenteral~~ conscious sedation may administer pediatric conscious sedation.

(4) Nitrous-Oxide Inhalation Analgesia.

(a) A dentist may employ or use nitrous-oxide inhalation analgesia on an outpatient basis for dental patients provided such dentist:

1. through 3. No change.

(b) through (c) No change.

(d) Nitrous oxide may not be used in combination with oral sedative drugs to achieve a depressed level of consciousness unless the administering dentist holds a ~~parenteral~~ conscious sedation permit issued in accordance with subsection 64B5-14.003(2), F.A.C., or a pediatric conscious sedation permit issued in accordance with Rule 64B5-14.010, F.A.C.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.03, Amended 12-31-86, 11-8-90, 2-1-93, Formerly 21G-14.003, Amended 12-20-93, Formerly 61F5-14.003, Amended 8-8-96, 10-1-96, Formerly 59Q-14.003, Amended 2-17-98, 12-20-98, 5-31-00, 6-7-01, \_\_\_\_\_.

64B5-14.004 Additional Requirements.

(1) Office Team – A dentist licensed by the Board and practicing dentistry in Florida and who is permitted by these rules to induce and administer general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, pediatric conscious sedation or nitrous-oxide inhalation analgesia may employ the office team approach.

(2) Dental Assistants, Dental Hygienists – Dental assistants and dental hygienists may monitor nitrous-oxide inhalation analgesia under the direct supervision of a dentist who is permitted by rule to use general anesthesia, ~~parenteral~~ conscious sedation, pediatric conscious sedation, or nitrous-oxide inhalation analgesia, while rendering dental services allowed by Chapter 466, Florida Statutes, and under the following conditions:

(a) through (b) No change.

(3) through (4) No change.

(5) A dentist utilizing ~~parenteral~~ conscious sedation in the dental office may induce only one patient at a time. A second patient shall not be induced until the first patient is awake, alert, conscious, spontaneously breathing, has stable vital signs, is ambulatory with assistance, is under the care of a responsible adult, and that portion of the procedure requiring the participation of the dentist is complete. In an office setting where two or more permit holders are present simultaneously, each may sedate one patient provided that the office has the necessary staff and equipment, as set forth in paragraph 64B5-14.003(2)(d), F.A.C., for each sedated patient.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History–New 1-31-80, Amended 2-13-86, Formerly 21G-14.04, Amended 12-31-86, 12-28-92, Formerly 21G-14.004, Amended 12-20-93, Formerly 61F5-14.004, Amended 8-8-96, Formerly 59Q-14.004, Amended \_\_\_\_\_.

64B5-14.005 Application for Permit.

(1) No dentist shall administer, supervise or permit another health care practitioner, as defined in subsection 456.001, F.S., to perform the administration of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation or pediatric conscious sedation in a dental office for dental patients, unless such dentist possesses a permit issued by the Board. A permit is required even when another health care practitioner, as defined in subsection 456.001, F.S., administers general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, or pediatric conscious sedation in a dental office for a dental patient. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially. Nothing herein shall be read to authorize the administration of any anesthesia by a health care practitioner who is permitted to administer anesthesia pursuant to their own professional license. All dentists in a practice who perform the administration of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation or pediatric conscious sedation shall each possess an individual permit.

(2) through (3) No change.

(4) An application for a ~~parenteral~~ conscious sedation permit must include the application fee specified in Rule 64B5-15.017, F.A.C., which is non-refundable; the permit fee specified in Rule 64B5-15.018, F.A.C., which may be refunded if the application is denied without inspection of the applicant’s facilities; evidence indicating compliance with all the provisions of this chapter; and identification of the location or locations at which the licensee desires to be authorized to use or employ ~~parenteral~~ conscious sedation.

(5) through (6) No change.

(7) The holder of any general anesthesia, ~~parenteral~~ conscious sedation, or pediatric conscious sedation permit is authorized to practice pursuant to such permit only at the location or locations previously reported to the Board office.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History–New 4-7-86, Amended 1-29-89, 11-16-89, 11-8-90, 4-24-91, Formerly 21G-14.005, Amended 12-20-93, Formerly 61F5-14.005, Amended 8-8-96, Formerly 59Q-14.005, Amended 12-12-00, \_\_\_\_\_.

64B5-14.006 Reporting Adverse Occurrences.

(1) Any dentist practicing in the State of Florida must notify the Board in writing by registered mail, postmarked within 48 hours of any mortality or other incident occurring in the dentist’s outpatient facilities. A complete written report shall be filed with the Board within 30 days of the mortality or other incident. Incidents which shall be reported are those which result in temporary or permanent physical or mental injury requiring hospital emergency room treatment and/or hospitalization of a patient during, or as a direct result of the use of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, pediatric conscious sedation, oral sedation, nitrous oxide, or local anesthesia during or related to a dental procedure. The report shall include at minimum, responses to the following:

(a) through (e) No change.

1. through 3. No change.

(f) No change.

(2) No change.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History–New 2-12-86, Amended 3-27-90, Formerly 21G-14.006, Amended 12-20-93, Formerly 61F5-14.006, Amended 8-8-96, Formerly 59Q-14.006, Amended \_\_\_\_\_.

64B5-14.007 Inspection of Facilities.

(1) The Chairman of the Board or the Board by majority vote shall appoint consultants who are Florida licensed dentists to inspect facilities where general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, or pediatric conscious sedation is performed. Consultants shall receive instruction in inspection procedures from the Board prior to initiating an inspection.

(2) Any dentist who has applied for or received a general anesthesia permit, ~~parenteral~~ conscious sedation permit, or pediatric conscious sedation permit shall be subject to announced or unannounced on-site inspection and evaluation

by an inspection consultant. This inspection and evaluation shall be required prior to issuance of an anesthesia permit. However, if the Agency cannot complete the required inspection prior to licensure, such inspection shall be waived until such time that it can be completed following licensure.

(3) No change.

(4) Any applicant who receives a failing grade as a result of the on-site inspection shall be denied a permit for general anesthesia and ~~parenteral~~ conscious sedation.

(5) Any permit holder who fails the inspection shall be so notified by the anesthesia inspection consultant and shall be given a written statement at the time of inspection which specifies the deficiencies which resulted in a failing grade. The inspection consultant shall give the permit holder 20 days from the date of inspection to correct any documented deficiencies. Upon notification by the permit holder to the inspection consultant that the deficiencies have been corrected, the inspector shall reinspect to insure that the deficiencies have been corrected. If the deficiencies have been corrected, a passing grade shall be assigned. No permit holder who has received a failing grade shall be permitted 20 days to correct deficiencies unless he voluntarily agrees in writing that no general anesthesia or deep sedation or ~~parenteral~~ conscious sedation will be performed until such deficiencies have been corrected and such corrections are verified by the anesthesia inspection consultant and a passing grade has been assigned.

(6) through (7) No change.

(8) The holder of any general anesthesia, ~~parenteral~~ conscious sedation, or pediatric conscious sedation permit shall inform the Board office in writing of any change in authorized locations for the use of such permits prior to accomplishing such changes. Written notice shall be required prior to the addition of any location or the closure of any previously identified location.

(9) No change.

Specific Authority 466.017(3) FS. Law Implemented 120.60(8), 466.017(3) FS. History--New 10-24-88, Amended 3-27-90, 11-8-90, 4-24-91, 2-1-93, Formerly 21G-14.007, Amended 12-20-93, Formerly 61F5-14.007, Amended 8-8-96, Formerly 59Q-14.007, Amended \_\_\_\_\_.

**64B5-14.009 ~~Parenteral~~ Conscious Sedation.**

~~Parenteral~~ Conscious Sedation Permit applicants or permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

(1) through (6) No change.

(7) The following records are required when ~~parenteral~~ conscious sedation is administered:

(a) through (d) No change.

1. through 6. No change.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History--New 10-24-88, Amended 11-16-89, 4-24-91, Formerly 21G-14.009, 61F5-14.009, Amended 8-8-96, 10-1-96, Formerly 59Q-14.009, Amended 8-2-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 16, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 16, 2003

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Examinations RULE NO.: 64B8-5.001

PURPOSE AND EFFECT: The proposed rule amendment substantially rewords the existing rule to address requirements for licensure by examination.

SUMMARY: The proposed rule amendment substantially rewords the existing rule with regard to the requirements for licensure by examination.

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

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

SPECIFIC AUTHORITY: 456.017(1), 458.309, 458.311(1)(h), 458.313(4) FS.

LAW IMPLEMENTED: 456.017(1),(2), 458.311, 458.313 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

**THE FULL TEXT OF THE PROPOSED RULE IS:**

(Substantial rewording of Rule 64B8-5.001 follows. See Florida Administrative Code for present text.)

**64B8-5.001 Examinations.**

(1) Pursuant to subsection 456.017(1)(c), F.S., the Board hereby approves and designates the use of the United States Medical Licensing Examination prepared by the Federation of State Medical Boards of the United States, Inc., and the National Board of Medical Examiners (USMLE).

(2) Any applicant who attempts to qualify for licensure by using his/her USMLE exam scores shall meet the following requirements:

(a) The applicant must achieve a weighted score of no less than 75 on each step of the USMLE;

(b) The applicant must have passed each step of the USMLE in no more than 5 attempts; and

(c) The applicant must have passed all steps of the USMLE within seven-years from the date the applicant passes the first applicable step of the USMLE to the date the applicant passes the last applicable step of the USMLE;

(3) Any applicant who attempts to qualify for licensure by using a combination of his/her National Board of Medical Examination (NBME), Federation of State Medical Boards Examination (FLEX), and the USMLE scores, shall meet the following requirements:

(a) The applicant must successfully pass one of the following combinations of exams prior to the year 2000:

1. NBME Part I, NBME Part II, and NBME Part III;
2. FLEX Component 1 and FLEX Component 2;
3. NBME Part I, NBME Part II, and USMLE Step 3;
4. NBME Part I, USMLE Step 2, and USMLE Step 3;
5. NBME Part I, USMLE Step 2, and NBME Part III;
6. USMLE Step 1, NBME Part I, and NBME Part III;
7. USMLE Step 1, USMLE Step 2, and NBME Part III;
8. USMLE Step 1, NBME Part II, and USMLE Step 3;
9. FLEX Component 1 and USMLE Step 3;
10. NBME Part I, NBME Part II, and FLEX Component 2;
11. NBME Part I, USMLE Step 2, and FLEX Component 2;
12. USMLE Step 1, USMLE Step 2, and FLEX Component 2; or
13. USMLE Step 1, NBME Part II, and FLEX Component 2.

(b) The applicant must have passed all parts/components/steps of the above examination combinations within seven-years from the date the applicant passes the first applicable part/component/step of the examination combination to the date the last applicable part/component/step in the combinations listed in subsection 3(a); and

(c) The applicant must have passed each part/component/step of the exam combinations listed in subsection 3(a) in no more than five attempts.

(4) The applicant may exceed the seven-year period requirement in subsection (2) under the following conditions:

1. The applicant has successfully passed all steps of the USMLE in no more than two attempts on each step; or
2. The applicant was enrolled in an M.D./Ph.D. program at the time the USMLE was taken; or
3. The applicant has retaken the initial USMLE step he/she passed and has passed this step in no more than 2 attempts.

(5) The applicant may exceed the five-attempt limit under subsection 2 and 3 if the applicant completes 12 months of a Board approved training program as listed in Rule 64B8-4.004,

F.A.C., between the fifth and sixth attempt at passing a part/component/step of the examinations and passes the part/component/step of the examination on the sixth attempt.

(6) Pursuant to subsections 458.311(1)(h) and 458.313(2), F.S., any applicant who is currently licensed in at least one other jurisdiction of the United States or Canada, the Board approves and designates the use of the Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX). An applicant must achieve a score of no less than 75 of the SPEX to be eligible for licensure in Florida. If such score is obtained outside of Florida the applicant will not be required to re-take the SPEX or pay the fee required for purchase of the SPEX. However, if the applicant is submitting a score on the SPEX for the purpose of complying with the clinical competency examination requirement of Section 458.313(10)(c), F.S., the score of 75 or more must be achieved within the year preceding the application for licensure.

Specific Authority 456.017(1), 458.309, 458.311(1)(h), 458.313(4) FS. Law Implemented 456.017(1),(2), 458.311, 458.313 FS. History—New 12-5-79, Amended 11-10-82, 11-28-84, 3-13-85, 8-11-85, 12-4-85, Formerly 21M-21.01, Amended 2-16-86, 12-16-86, 5-10-89, Formerly 21M-21.001, Amended 5-9-94, Formerly 61F6-21.001, Amended 10-18-94, 1-2-95, Formerly 59R-5.001, Amended 8-18-98, 2-3-00, 8-20-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Credentials Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Disciplinary Guidelines  
 RULE NO.: 64B8-8.001

PURPOSE AND EFFECT: The proposed rule amendments are intended to address performing or attempting to perform health care services on the wrong patient and leaving a foreign body in a patient.

SUMMARY: The proposed rule amendments set forth penalties for performing or attempting to perform health care services on the wrong patient and leaving a foreign body in a patient.

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

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



SPECIFIC AUTHORITY: 456.0375(4)(c), 456.079, 458.309, 458.331(5) FS.

LAW IMPLEMENTED: 456.0375(4)(c), 456.072, 456.079, 458.331(5) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

VIOLATION	FIRST OFFENSE	SECOND OFFENSE
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(a) through (s) No change.

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. (458.331(1)(t), F.S.)	(t) From two (2) years probation to revocation or denial, and to an administrative fine from \$1,000.00 to \$10,000.00.	(t) From suspension to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.
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1. through 3. No change.

4. Performing surgery or a medical procedure on the wrong patient; at the wrong site or location on the patient; or performing the wrong surgery or procedure on a patient.	4. From a \$10,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, a minimum of 50 hours of community service, and a one hour lecture on wrong-site surgery presented to a medical community in the State of Florida to revocation.	4. From a \$10,000 fine, a reprimand and probation or denial to revocation
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(u) through (pp) No change.

(qq) Performing or attempting to perform health care services on the wrong patient, a wrong site procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. (456.072(1)(aa), F.S.)	(qq) From a \$10,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, a minimum of 50 hours of community service, and a one hour lecture on wrong-site surgery in the State of Florida to revocation.	(qq) From a \$10,000 fine, a reprimand and probation or denial to revocation
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(456.072(1)(aa), F.S.)

(rr) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical paraphernalia commonly used in surgical, examination, or other diagnostic procedures. (456.072(1)(bb), F.S.)	(rr) From a \$2,000 to a \$10,000 fine, a letter of concern, a minimum of five (5) hours of risk management education, a minimum of 50 hours of community service, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation.	(rr) From a \$10,000 fine, a reprimand and probation or denial to revocation
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(3) through (7) No change.

Specific Authority 456.0375(4)(c), 456.079, 458.309, 458.331(5) FS. Law Implemented 456.0375(4)(c), 456.072, 456.079, 458.331(5) FS. History—New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01, 7-10-01, 6-4-02, 9-10-02, 12-11-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Rules Committee, Board of Medicine  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Board of Medicine  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: June 7, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Requirement for Physician Office Registration;  
 Inspection or Accreditation  
 RULE NO.: 64B8-9.0091

PURPOSE AND EFFECT: The proposed rule amendments are intended to address office inspection criteria.

SUMMARY: The proposed rule amendments set forth criteria with regard to deficiency notices in office surgery inspections.

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

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

SPECIFIC AUTHORITY: 458.309(1),(3) FS.

LAW IMPLEMENTED: 456.069, 458.309(3) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0091 Requirement for Physician Office Registration; Inspection or Accreditation.

- (1) No change.
- (2) Inspection.
  - (a) through (b) No change.
  - (c) The ~~initial~~ inspection conducted pursuant to this rule shall be announced at least one week in advance of the arrival of the inspector(s).
  - (d) through (e) No change.
  - (f) The deficiency notice and any subsequent documentation shall be reviewed for consideration of disciplinary action. This consideration shall include, but not be limited to the following:

1. When the initial notice of deficiencies contain deficiencies that constitute immediate and imminent danger to the public;

2. The physician fails to provide the Department with documentation of correction of all deficiencies within 30 days from the date of inspection;

3. Upon a finding of noncompliance after a reinspection has been conducted pursuant to (2)(e) of this rule.

Documentation of corrective action shall be considered in mitigation of any offense.

(g) If disciplinary actions pursuant to §456.073, F.S., are taken, documentation of corrective action shall be considered in mitigation of any offense.

(h)(g) Nothing herein shall limit the authority of the Department to investigate a complaint without prior notice.

(3) No change.

Specific Authority 458.309(1),(3) FS. Law Implemented 456.069, 458.309(3) FS. History—New 5-15-00, Amended 9-18-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Rules Committee & Surgical Care Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2003

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Performance of Pro Bono  
 Medical Services  
 RULE NO.: 64B15-13.005

PURPOSE AND EFFECT: The Board proposes the rule amendments to update the requirements for obtaining continuing education credit hours for pro bono medical services to indigent or underserved populations.

SUMMARY: The proposed rule amendments specify pro bono services for continuing education credit as pro bono medical services, and also establish certain health settings where provision of these medical services may be credited for continuing education requirements.

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

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

SPECIFIC AUTHORITY: 456.013(7), 459.005 FS.

LAW IMPLEMENTED: 456.013(7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-13.005 Performance of Pro bono Medical Services.

(1) Up to 10 hours, per biennium, of continuing education credit may be fulfilled by the performance of pro bono medical services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigency shall be low-income (no greater than 150% of the federal poverty level) or uninsured persons. Credit shall be given on an hour per hour basis that recognized by the Federal Poverty Income Guidelines produced by the Department of Health and Human Services.

(2) The Board approves for credit under this rule, the following entities:

(a) The Department of Health;

(b) Community and Migrant Health Centers funded under section 330 of the United States Public Health Service Act; and

(c) Volunteer Health Care provider programs contracted to provide uncompensated care under the provisions of section 766.1115, Florida Statutes, with the Department of Health.

~~(3)(2)~~ For services provided to an entity not specified under this rule a licensee must apply for prior approval in order to receive credit under this rule, licensees must make application to the Board and receive approval in advance. Credit shall be given on an hour per hour basis. In the application for approval, licensees shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be served, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the application shall provide a brief explanation as to those facts.

~~(4)(3)~~ Unless otherwise provided through Board order, no licensee who is subject to a disciplinary action that requires additional continuing education as a penalty, shall be permitted to use pro-bono medical services as a method of meeting the additional continuing education requirements.

Specific Authority 456.013(7), 459.005 FS. Law Implemented 456.013(7) FS. History—New 12-7-92, Formerly 21R-13.005, 61F9-13.005, Amended 10-25-95, Formerly 59W-13.005, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Requirements for Osteopathic Physician Office Registration; Inspection or Accreditation

RULE NO.: 64B15-14.0076

PURPOSE AND EFFECT: The Board proposes the rule amendment to add a new office registration form for osteopathic physicians who perform office surgery.

SUMMARY: The proposed rule amendment addresses the information required for Level II or Level III office surgeries performed by osteopathic physicians.

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

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

SPECIFIC AUTHORITY: 459.005(1),(2) FS.

LAW IMPLEMENTED: 456.069, 459.005(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.0076 Requirement for Osteopathic Physician Office Registration; Inspection or Accreditation.

(1) Registration.

(a) Every Florida licensed osteopathic physician who holds an active Florida license and performs Level II surgical procedures in Florida with a maximum planned duration of five (5) minutes or longer or any Level III office surgery, as fully defined in Rule 64B15-14.007, F.A.C., shall register with the Board of Osteopathic Medicine on application form DH-MQA 1071, 1/03, effective \_\_\_\_\_. It is the osteopathic physician's responsibility to ensure that every office in which he or she performs Levels II or III surgical procedures as described above is registered, regardless of whether other physicians are practicing in the same office or whether the office is non-physician owned.

(b) through (d) No change.

(2) through (3) No change.

Specific Authority 459.005(1),(2) FS. Law Implemented 456.069, 459.005(2) FS. History—New 2-12-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2003

**DEPARTMENT OF HEALTH  
Board of Osteopathic Medicine**

RULE TITLE: Reinstatement of License  
RULE NO.: 64B15-19.0055

PURPOSE AND EFFECT: The Board proposes a new rule, based on Board of Medicine Rule 64B8-8.003, needed to set the requirements for reinstatement of a license after an inactive period due to disciplinary action.

SUMMARY: The proposed new rule establishes the requirements and the conditions for reinstatement of a license after revocation, suspension or other restrictions, and the requirements to demonstrate the ability to safely engage in the practice of osteopathic medicine.

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

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

SPECIFIC AUTHORITY: 459.005, 459.015 FS.

LAW IMPLEMENTED: 456.013(6), 459.015 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.0055 Reinstatement of License.

(1) No license to practice osteopathic medicine in Florida which was revoked by the Board after June 5, 1983, or which was voluntarily relinquished after July 1, 1988, shall be subject to reinstatement unless leave to petition for reinstatement was specifically authorized in the final order. An osteopathic physician whose license was revoked or relinquished may,

however, apply for relicensure unless, in the case of relinquishment, the osteopathic physician explicitly agreed never to reapply for licensure.

(2) When disciplinary action is taken against a licensee which results in the licensee's being unable to use the license for a period of time for reasons including, but not limited to, suspension, inactivation, or other restriction, but not including revocation subsequent to June 5, 1983, the licensee may petition for reinstatement of the license as follows:

(a) When the suspension, inactivation, or restriction is for a definite period of time and is not based upon the osteopathic physician's ability to safely engage in the practice of osteopathic medicine pursuant to Section 459.015(3), F.S., the license shall be reinstated upon expiration of the period of suspension if full compliance with the final order has been shown and the licensee has submitted documentation of completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction;

(b) When the suspension, inactivation, or other restriction is for a definite period of time, is based upon the osteopathic physician's ability to safely engage in the practice of osteopathic medicine, or both, the licensee shall demonstrate to the Board at the expiration of the period of suspension, or immediately prior thereto, compliance with the terms and conditions of the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, and, where applicable, the ability to safely engage in the practice of osteopathic medicine in order to obtain reinstatement. The Board shall consider reinstatement at either the Board meeting immediately preceding expiration or at any Board meeting subsequent thereto. If the licensee is able to demonstrate compliance with the terms of the final order and, where applicable, the ability to safely engage in the practice of osteopathic medicine, the Board shall reinstate the license.

(c) When the suspension, inactivation, or other restriction is for a definite period of time or for an indefinite period of time, the licensee may petition the Board to consider reinstatement of a license acted against for an indefinite period of time or early reinstatement of a license acted against for a definite period of time. When such a petition is filed, it must include all documentation of the petitioner's compliance with the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, petitioner's ability to safely engage in practice, petitioner's plan for the return to practice, and any other information which the petitioner would want the Board to consider if it grants the petition for consideration. If the plan for return to practice includes a period of supervised

practice, the documentation should include the name of the proposed supervising physician and a written statement from the proposed supervising physician of his or her willingness to serve in that capacity. No oral testimony or personal appearance will be permitted at the time the Board hears a petition to consider reinstatement or early reinstatement. Upon the granting by the Board of the petition to consider such reinstatement or early reinstatement, the licensee shall, at a subsequent meeting, have an opportunity to demonstrate his or her ability to safely engage in the practice of osteopathic medicine and compliance with the terms of the final order. The Board shall reinstate the license upon a proper demonstration of competency and of compliance with the final order by the licensee.

(3) In order to demonstrate the ability to safely engage in the practice of osteopathic medicine, a licensee shall show compliance with all terms of the final order and may, in addition, present evidence of additional matters, including, but not limited to:

(a) Completion of continuing education courses approved by the Board;

(b) Participation in medical educational programs, including post-graduate training, internships, residencies, or fellowships;

(c) Submission of reports of mental or physical examination by appropriate professionals;

(d) Completion of treatment within a program designed to alleviate alcohol, chemical, or drug dependencies, including necessary aftercare measures or a plan for continuation of such treatment, as appropriate;

(e) If action was taken against a Florida license based on action taken against the license or the authority to practice osteopathic medicine by the licensing authority of another jurisdiction, proof that the licensee has a license in the jurisdiction which took action and that license is in good standing and unencumbered;

(f) If action was taken against the license based on conviction of, being found guilty of, or entry of a plea of nolo contendere to a crime, proof that all criminal sanctions imposed by the court have been satisfied; and,

(g) Other factors, not enumerated, which would demonstrate the osteopathic physician's ability to safely engage in the practice of osteopathic medicine.

Specific Authority 459.005, 459.015 FS. Law Implemented 456.013(6), 459.015 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLES:	RULE NOS.:
Definitions	67-37.002
Fund Availability and Allocation	67-37.003
Local Housing Assistance Plans	67-37.005
Review of Local Housing Assistance Plans and Amendments	67-37.006
Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans	67-37.007
Local Housing Assistance Trust Fund	67-37.008
Local Affordable Housing Incentive Strategies	67-37.010
Interlocal Entities	67-37.011
Compliance Monitoring for Housing Developed with SHIP Local Housing Distribution Funds	67-37.015
Reporting Requirements	67-37.016

PURPOSE, EFFECT AND SUMMARY: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the State Housing Initiatives Partnership (SHIP) Program which provides funds to Local Governments as an incentive to create Partnerships to produce and preserve affordable housing. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

SPECIFIC AUTHORITY: 420.907 FS.

LAW IMPLEMENTED: 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, 420.9079 FS.

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

DATE AND TIME: 10:00 a.m., July 24, 2003

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301-1329

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Darlene Raker at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Thomas W. Burt, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

## THE FULL TEXT OF THE PROPOSED RULES IS:

## 67-37.002 Definitions.

As used in this rule chapter, the following definitions shall apply:

~~(1) “Adjusted for Family Size” means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in Section 420.9071(19), (20), or (28), F.S., based upon a formula established by the United States Department of Housing and Urban Development.~~

~~(1)(2) “Administrative Expenditures Expenses” means those expenditures expenses directly related to implementation of the Local Housing Assistance Plans.~~

~~(2)(3) “Annual Report” or “Form SHIP-AR/02-1 AR/99-1” is a multi-page report that is required to be completed and submitted to the Corporation by September 15 of each year pursuant to Section 420.9075(9), F.S., and is adopted and incorporated herein by reference with an effective date of 12-26-99. A complete copy of Form SHIP-AR/02-1 may be obtained at [www.floridahousing.org](http://www.floridahousing.org), or by contacting Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.~~

~~(4) “Corporation” means Florida Housing Finance Corporation.~~

~~(3)(5) “Debt Service” means the amount required in any fiscal year to pay the principal of, redemption premium, if any, and interest on bonds and any amounts required by the terms of the documents authorizing, securing, or providing liquidity for bonds necessary to maintain in effect any such liquidity or security arrangements.~~

~~(4)(6) “Default” means the failure to make required payments on a financial loan secured by a first mortgage which leads to foreclosure and loss of property ownership.~~

~~(5)(7) “Encumbered” means that deposits made to the local affordable housing trust fund have been committed by contract, or purchase order, letter of commitment or award in a manner that obligates the county, eligible municipality, or interlocal entity to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property by a vendor, supplier, contractor, or owner.~~

~~(6)(8) “Expenditure,” “Expended,” or “Spent” means the affordable housing activity is complete and funds deposited to the local affordable housing trust fund have been transferred from the local housing assistance trust fund account to pay for the cost of the activity. In all cases, this definition will apply when the project is completed as evidenced by documentation of final payment to the contractor and release of all lien waivers, issuance of the certificate of occupancy by the local building department, and occupancy by an eligible person or eligible household. In the case of a loan guarantee strategy, the~~

deposits to the local housing assistance trust fund will be considered expended when they are deposited from the local housing assistance trust fund into the guarantee fund. The funds deposited to the local housing assistance trust fund must be spent within twenty-four months from the end of the applicable State fiscal year. Exceptions to this time frame must be approved by a majority vote of the Review Committee on a case-by-case basis. Exceptions will only be granted for good cause. Examples of good cause are natural disasters, requirements of other State agencies, adverse market conditions, and unavoidable development delays. Adequate documentation must be presented to the Review Committee before an extension will be granted, e.g., project status, work plan and completion schedule, commitment of funds, etc.

~~(7)(9) “Home Ownership Activities” means the use of the local affordable housing trust fund moneys for the purpose of providing owner-occupied housing. Such uses may include, but are not limited to, construction, rehabilitation, purchase, and lease-purchase financing where the primary purpose is the eventual purchase of the housing by the occupant within twenty-four months from initial execution of a lease agreement or within 24 months of the applicable fiscal year, whichever occurs first, to meet the requirement of subsection subparagraph (8).~~

~~(8)(10) “Institutional First Mortgage Lender” means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, or other financial institution or governmental agency authorized to conduct business in this state and which customarily provides service or otherwise aids in the financing of mortgages on real property located in this state.~~

~~(9)(11) “Interlocal Entity” means an entity created pursuant to the provisions of Chapter 163, Part I, F.S., for the purpose of establishing a joint local housing assistance plan pursuant to the provisions of Section 420.9072(5), F.S.~~

~~(10)(12) “Loan” means an award from the local housing assistance trust fund to an eligible sponsor or eligible person to partially or fully finance the acquisition, construction, or rehabilitation of eligible housing with requirement for repayment or provision for forgiveness of repayment if the condition of the award is maintained.~~

~~(11)(13) “Persons Who Have Special Housing Needs” means individuals who have incomes not exceeding moderate-income and, because of particular social, economic, or health-related circumstances, may have greater difficulty acquiring or maintaining affordable housing. Such persons may have, for example, encountered resistance to their residing in particular communities, and may have suffered increased housing costs resulting from their unique needs and high risk of institutionalization. Such persons may include, but are not limited to, persons with developmental disabilities; persons with mental illnesses or chemical dependency; persons with~~

Acquired Immune Deficiency Syndrome (“AIDS”) and Human Immunodeficiency Virus (“HIV”) disease; runaway and abandoned youth; public assistance recipients; migrant and seasonal farm workers; refugees and entrants; the elderly; and disabled adults.

~~(12)~~(14) “Rehabilitation” means repairs or improvements which are needed for safe or sanitary habitation, correction of substantial code violations, or the creation of additional living space. Local plans may more specifically define local rehabilitation standards.

~~(13)~~(15) “Review Committee” means the committee established pursuant to Section 420.9072 (3)(a), F.S.

~~(14)~~(16) “SHIP” or “SHIP Program” means the State Housing Initiatives Partnership Program created pursuant to the State Housing Initiative Partnership Act, Sections 420.907-.9079, F.S.

~~(15)~~(17) “State” means the State of Florida.

Specific Authority 420.9072(9), 420.0003(3)(e),(7) FS. Law Implemented 420.9072 420.9074 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.002, Amended 12-26-99, \_\_\_\_\_.

#### 67-37.003 Fund Availability and Allocation.

~~(1) Distributions by the Corporation shall be made to each approved county and eligible municipality within the county according to an interlocal agreement between the county governing authority and the governing body of the eligible municipality or, if there is no interlocal agreement, according to population. The portion for each eligible municipality is computed by multiplying the total moneys earmarked for a county by a fraction, the numerator of which is the population of the eligible municipality and the denominator of which is the total population of the county. The remaining revenues shall be distributed to the governing body of the county.~~

~~(2) Moneys that otherwise would be allocated and distributed to a local government that does not meet the program requirements for allocation and distribution shall remain in the local government housing trust fund to be used by the Corporation to administer the State Housing Initiatives Partnership Program pursuant to Section 420.9078, F.S.~~

Specific Authority 420.9072 (9) FS. Law Implemented 420.9073 FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.003, Amended 12-26-99, Repealed \_\_\_\_\_.

#### 67-37.005 Local Housing Assistance Plans.

(1) To be eligible for SHIP funding for a state fiscal year, a county or eligible municipality must submit and receive approval of its local housing assistance plan and amendments thereto as provided in Rule 67-37.006, F.A.C. Plans must be submitted to the Corporation by May 2 preceding the end of the fiscal year in which the current plan expires. In the case of new eligible municipalities, plans must be submitted to the Corporation by May 2 of the state fiscal year prior to the state fiscal year they are eligible for funding. No SHIP local housing

distribution funds shall be distributed in any fiscal year to any county or eligible municipality unless and until an approved plan is in place with respect to such fiscal year.

(2) The effective period of a local housing assistance plan may be up to three years. Counties or eligible municipalities which receive plan approval for more than one fiscal year shall not be required to resubmit a new plan until May 2 of the year in which the approved plan expires.

(3) Each local housing assistance plan shall include a description of the local housing assistance plan and incentive strategies, shall reference the requirements of Sections 420.907-420.9079, et seq., F.S., and how each of those requirements shall be met, and shall describe the process which the local government has followed to develop the Plan. A county or eligible municipality may choose to use SHIP local housing distribution funds for one or more of the activities described in Rule 67-37.007, F.A.C.

(4) The county or eligible municipality shall provide in its local housing assistance plan a complete description of all activities to be undertaken in its local housing assistance plan as described in Rule 67-37.005, F.A.C.

(5) For each strategy or use of local housing distribution funds, the county or eligible municipality shall provide, in its local housing assistance plan, the following information:

(a) The proposed dollar amount of the local housing distribution to be used for each strategy, stated for each State fiscal year in a multi-year plan;

(b) The estimated number of households proposed to be served by income;

(c) The maximum amount of funding per unit, and the estimated amount of funding for new construction, rehabilitation or non-construction activities. On a multi-year plan, this information must be presented separately for each State fiscal year;

(d) The proposed sales price of new and existing units, which can be lower but may not exceed 90% of median area purchase price established by the U.S. Treasury Department, or as required by Section 420.9075(4)(c), F.S.:

(e) The statement that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of an amount representing the percentage of the area’s median annual gross income for the household as indicated in Sections 420.9071(19), (20) or (28), F.S. However, it is not the intent to limit an individual household’s ability to devote more than 30 percent of its income for housing. Housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size established by the Corporation;

(f) A description of the extent to which a strategy is implemented by combining resources through a partnership in order to reduce the cost of housing;

(g) A description of the support services provided by local plans that will be made available to the residents of the housing; and

(h) A description of the initiatives which will be used to conduct outreach and to attract applicants for assistance. The information required for paragraphs (a) through (d) will be included on the “Housing Delivery Goals Chart #2002,” and is adopted and incorporated herein by reference with an effective date of \_\_\_\_\_, which is required to be completed for each fiscal year, and is adopted and incorporated herein by reference. A copy of the “Housing Delivery Goals Chart #2002” may be obtained at [www.floridahousing.org](http://www.floridahousing.org) or by contacting Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.

(i) A description of how the strategies further the housing element, goals, policies, and objectives of the local government’s comprehensive plan.

(6) Each local housing assistance plan shall also include a statement, and evidence thereof, that the county or eligible municipality:

(a) Has a plan to advertise a notice of funding the availability of the housing assistance plan at least 30 days before the beginning of the application period in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, the advertisement must include the following:

1. Identify the amount of the distribution projected to be received from the state for the fiscal year;
2. List the beginning and end date, if applicable, of the application period;
3. Provide the name of the local plan contact person and other pertinent information including where applicants may apply for assistance.

(b) The advertisement may include other such information that the local governments deem necessary such as:

1. An estimated amount of SHIP local housing distribution per strategy;
2. Income set asides for each strategy along with applicable income limits;
3. A description of the selection criteria for each strategy;
4. The maximum housing value limitation for each strategy, or;
5. A statement that SHIP local housing distribution may not be used to purchase, rehabilitate, or repair mobile homes.
6. Once a waiting list has been exhausted and funds remain unencumbered, advertise as instructed in Section 420.9075(3)(b), F.S.

7. Has developed a qualification system and selection criteria for applications for Awards to eligible sponsors, which includes a description that demonstrates how eligible sponsors that employed personnel from the WAGES and Workforce Development Initiatives programs will be given preference in the selection process, adopted criteria for selection of eligible persons, and adopt a maximum Award schedule or system of amounts consistent with the intent and budget of its local housing assistance plan, with Sections 420.907-420.9079, F.S.

(c) Certifies that the staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility throughout the 15 year compliance period as described at subsection 67-37.015(3), F.A.C.;

(d) A time line for the expenditure of SHIP local housing distribution funds in sufficient detail to allow for a comparison of such plan with actual expenditures. The time line must also provide, in sufficient detail, an alternate course of action should the local government determine it will not meet program encumbrance and expenditure requirements. The time line should include specific dates the local staff plan to review to determine plan efficiency and efficacy. The information submitted must be presented separately for each State fiscal year;

(e) A provision for the application of program income and recaptured funds from loan repayments, reimbursements or other repayments, and interest earnings on the local housing distribution funds. Such provision shall evidence compliance with the provisions of Rule 67-37.007, F.A.C.;

(f) A provision requiring:

1. The county or eligible municipality to encumber the local housing distribution funds deposited into the local housing assistance trust fund for each State fiscal year by June 30 one year following the end of the applicable State fiscal year;

2. The expenditure of the local housing distribution deposited into the local housing assistance trust fund by any eligible person or eligible sponsor within 24 months of the close of the applicable State fiscal year unless otherwise extended as provided at subsection 67-37.002(8), F.A.C.;

3. A detailed listing including line-item budget of proposed ~~Administrative~~ Expenditures ~~expenses~~. These must be presented on an annual basis for each State fiscal year submitted; and

4. A copy of the ordinance and its amendments, if the original ordinance has been amended from its original submission, as thereto required by Section 420.9072(2)(b), F.S.;

~~5.~~ Small counties and eligible municipalities receiving a local housing distribution of up to \$350,000 may use up to 10 percent of program income for administrative costs.



(7) A copy of the local housing assistance plan shall be submitted to the Corporation, via U.S. Mail or electronic submission. If submitted electronically, a mailed copy shall be sent to the Corporation within three working days of the plan being electronically transmitted. The mailed copy submitted to the corporation shall bear the original signature of the authorized official which includes: Mayor, Commissioner, County Manager or City Manager or the authorized official's designee and a certification that the document being submitted is the county's, eligible municipality's or interlocal entity's local housing assistance plan and that all provisions of the plan conform to the requirements of Section 420.9072, F.S., et seq., and Rule Chapter 67-37, F.A.C. Each local housing assistance plan shall be printed typed on 8 1/2" × 11" paper, ~~bound or electronic submission~~ and contain a table of contents or checklist, which specifies exactly where in the documentation certain required items shall be located. Each local housing assistance plan shall be coded with text which is being deleted struck through and text being added underlined. Within two weeks after receipt of final approval letter, the local government shall provide to the Corporation a clean copy (no strike through or underline) for Corporation files.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2), 420.9075 FS. History—New 11-26-92, Amended 5-2-93, 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.005, Amended 12-26-99, \_\_\_\_\_.

#### 67-37.006 Review of Local Housing Assistance Plans and Amendments.

(1) Local housing assistance plans and amendments shall be reviewed by a five member Review Committee appointed by the Executive Director. In the event that a quorum is not convened for the review of a plan or an amendment to a plan, action can be taken with a simple majority vote of those members present for the review.

(2) Any county or eligible municipality desiring review of any plan or amendment prior to adoption by the local government body shall submit it for review to the Review Committee. The plan or amendment will be reviewed by the Review Committee, which will recommend it for approval or identify inconsistencies with the requirements of the SHIP program Rule Chapter 67-37, F.A.C., and Sections 420.907 – 9079, F.S. within 30 days after receipt.

(3) Amendments to an approved local housing assistance plan must be adopted by resolution and the county or eligible municipality must provide a copy to the Review Committee within 21 days after adoption. A county or eligible municipality must amend its plan if at any time ~~it is determined~~ a strategy will ~~not be deleted used (deleted)~~ or a new strategy will be added. However, an amendment must at all times maintain consistency with SHIP program requirements. All amendments will be reviewed by the Review Committee. The Committee will approve the amendment or identify inconsistencies with the requirements of the SHIP program within 30 days after receipt of the amendment.

(4) A county or eligible municipality which has adopted a Plan or an amendment that has been determined by the Review Committee to be inconsistent with the requirements of the SHIP program, shall make necessary revisions identified by the Review Committee within 45 days of receipt of the Committee's comments; however, the Corporation shall not require submission of a new local housing assistance plan to implement amendments imposed by Chapter 97-167, Laws of Florida, until the current effective plan expires.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2) FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.006, Amended 12-26-99, \_\_\_\_\_.

#### 67-37.007 Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.

(1) SHIP local housing distribution funds shall be used to implement the local housing assistance plan. The benefit of assistance provided through the SHIP program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution deposited into the local housing assistance trust fund for a mixed-income rental development. SHIP local housing distribution funds may be used:

(a) To implement local housing assistance and incentive strategies that create or preserve affordable housing;

(b) To supplement Corporation programs, for example: such as, but not limited to, the State Apartment Incentive Loan Program established under Section 420.5087, F.S., and HOME Home Ownership Assistance Program (HAP) established under Section 420.5088, F.S., with the SHIP local housing distribution funds directed to uses within the local government jurisdiction;

(c) To provide local match to obtain federal housing grants or programs, such as HOME, established by 24 CFR, Part 92;

(d) To fund emergency repairs by existing service providers under weatherization programs, pursuant to Sections 409.509-409.5093, F.S., and

(e) To further the housing element of the local government comprehensive plan adopted pursuant to Section ~~§~~ 163.3184, F.S., specific to affordable housing.

(2) SHIP local housing distribution funds may be used for both home ownership and rental housing activities. However, at least 65 percent of each local government's local housing distributions ~~funds~~ must be used for home ownership activities.

(3) At least seventy-five percent of a local government's SHIP local housing distributions ~~funds~~ must be used for construction, rehabilitation or emergency repairs of affordable, eligible housing. Construction, rehabilitation, or emergency repairs must be completed either within one year immediately preceding the date of conveyance of title (i.e., closing) or within 24 months of the close of the applicable State fiscal year to satisfy this requirement, unless otherwise extended as provided at subsection 67-37.002(6)(8), F.A.C. For purposes of

this rule, SHIP recipients may rely on the following expenditures to be considered construction, rehabilitation or emergency repair costs:

- (a) Those hard costs which are typically or customarily treated as construction costs by institutional lenders;
- (b) Payment of impact fees;
- (c) Infrastructure expenses typically paid by the developer;
- (d) Construction soft costs such as engineering studies and appraisals, if directly related to housing construction, rehabilitation or emergency repairs;
- (e) Relocation costs associated with rehabilitation of the residence usually occupied by a tenant or home owner;
- (f) Financing, or "buy-down" costs, if directly attributable to assisting eligible persons to own a home or obtain rental occupancy (e.g., security and utility deposit assistance) in a home or unit which has obtained a certificate of occupancy in the 12-month period immediately preceding the contract for sale and purchase or has never been occupied or lease of the premises. When used to purchase an existing housing unit, closing costs and down payment assistance will be considered toward fulfilling the 75 percent construction requirement only if the housing unit receives rehabilitation. Any other costs may be submitted to the Review Committee for review and approval.

(4) The Review Committee will approve expenditures for the following categories as Administrative Expenditures expenses:

- (a) Salaries of persons directly responsible for preparation of the plans or reporting required as part of the administration of the local SHIP plan;
- (b) Office expenditures expenses of persons responsible for the administration of the local SHIP plan;
- (c) Studies conducted by the county or eligible municipality or by consultants selected by the county or eligible municipality to provide data on affordable housing need and demand in the area, and
- (d) Expenditures Expenses related to travel, training, education, and public information initiatives. Administrative Expenditures expenses detailed in the local housing assistance plan which do not fit in these categories shall be analyzed by the Review Committee, which shall make a determination as to whether the proposed expenditures expenses shall be approved as Administrative Expenditures expenses.

(5) The balance of the local housing distribution funds and other funds deposited into the local housing assistance trust fund must be used for housing production and finance activities, including, ~~but not limited to,~~ financing the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan. Notwithstanding the provisions of paragraphs (2) and (3) of

this section, program income as defined in Section s. 420.9071(24), F.S., may also be used to fund activities described in this paragraph.

(6) The sales purchase price or value of new or existing homes which are sold or rehabilitated under the SHIP Program may not exceed 90 percent of the average median area purchase price in for either new or existing homes, as applicable, for the statistical area in which where the housing is located, ~~as established by the United States Department of Treasury.~~ The local government at its discretion may set the sales purchase price or value below the 90 percent benchmark. The maximum area purchase price used must be that established by the United States Department of Treasury or that calculated in accordance with Section 420.9075(4)(c), F.S.

(7) Loans issued using local housing distribution funds deposited to the local housing assistance trust fund may not have terms exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(8) All units constructed, rehabilitated, or otherwise assisted with local housing distributions ~~funds~~ provided from the local housing assistance trust fund must be occupied by eligible persons as required by Section 420.9075(4)(d)2., F.S. ~~At least 30 percent of the local housing distribution funds deposited funds into the local housing assistance trust fund must be reserved for awards to very low income persons or eligible sponsors who will serve very low income persons and at least an additional 30 percent of the local housing distribution funds deposited into the local housing assistance trust fund must be reserved for awards to low income persons or eligible sponsors who will serve low income persons.~~ The remainder may be reserved for eligible persons or eligible sponsors that will serve eligible persons.

(9) Monthly mortgage payments, including taxes and insurance, and monthly rental payments must be affordable for the very low-, low- and moderate-income persons and households who will benefit from the local housing assistance plan.

(10) Rental units constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund must be monitored at least annually for 15 years or the term of assistance, whichever is longer, for compliance with tenant income and affordability requirements: As referenced in Section 420.9075(3)(e), F.S. In determining the maximum allowable rents, 30 percent of the applicable income category divided by 12 months shall be used based on the number of bedrooms. A one-person household shall be used for an efficiency unit, and for units with separate bedrooms, one and one-half persons per bedroom shall be used. A rental limit chart based on the above calculation adjusted for bedroom size will be provided to the local governments by the Corporation annually.

(11) Loans or grants for houses constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligibility municipality in its local housing assistance plan.

(12) Developers receiving assistance from both SHIP and the Low-Income Rental Housing Tax Credit (LIHTC) Program shall be required to comply with the income, affordability and other LIHTC requirements. Similarly, any units receiving assistance from SHIP and other federal, State or local programs shall be required to comply with any requirements specified by the other program in addition to SHIP program requirements. In the event both programs have restrictions on the same issue, the more restrictive regulation shall take precedence. If one program is silent on an issue, the program with a regulation on the issue shall apply.

(13) The local government may require that housing units receiving assistance from local housing distribution funds deposited to the local housing assistance trust fund be located within the boundaries of the local governmental's jurisdiction which has been approved for receipt of local housing distribution funds.

(14) Local housing distribution funds deposited to the local housing assistance trust fund may not be used as a pledge of the debt service on bonds or as rent subsidies.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.007, Amended 12-26-99, \_\_\_\_\_.

67-37.008 Local Housing Assistance Trust Fund.

~~(1) Each county or eligible municipality receiving a local housing distribution shall establish and maintain a local housing assistance trust fund with a qualified depository as defined in Chapter 280, F.S. All moneys of a county or eligible municipality received from its share of the local housing distribution funds, recaptured local housing distribution funds, program income, and other moneys received or budgeted by the county or eligible municipality to provide for the local housing assistance plan, as well as moneys generated from local housing assistance plan activities such as interest earned on loans, shall be deposited into the trust fund; however, local housing distribution moneys used to match Federal HOME Program moneys may be repaid to the HOME Program trust fund if required by federal law or regulation. Expenditures other than for the administration and implementation of the local housing assistance plan may not be made from the trust fund.~~

~~(1)(2) Amounts on deposit in each local housing assistance trust fund shall be invested as permitted by law for the local housing distribution funds of the applicable local government(s). All investment earnings shall be retained in such fund and used for the purposes thereof.~~

~~(2)(3) The local housing assistance trust fund shall be separately stated as a special revenue fund in a county's or eligible municipality's audited financial statements. Copies of such audited financial statements shall be forwarded annually to the Corporation as soon as available, but no later than March 31 of the following fiscal year. In addition to providing a Consolidated Annual Financial Report (CAFR), all participating jurisdictions must provide evidence of compliance with the Florida Single Audit Act.~~

~~(3)(4) An interlocal entity shall have its local housing assistance trust fund separately audited for each State fiscal year, which audit shall be forwarded to the Corporation as soon as available, but no later than March 31st of the following fiscal year.~~

~~(4) Local governments which have had an audit, review or investigation involving SHIP funds will send the Corporation a copy of any related report within 10 days of the issuance of such report.~~

Specific Authority 420.9072(9) FS. Law Implemented 429.9075(5) 420.9073(4) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.008, Repromulgated 12-26-99, Amended \_\_\_\_\_.

67-37.010 Local Affordable Housing Incentive Strategies. The advisory committee must approve the local affordable housing incentive strategy recommendations at a public hearing by affirmative vote of a majority (5) of the membership of the advisory committee.

Specific Authority 420.9072(9) FS. Law Implemented 420.907 FS. History—New 2-9-94, 1-6-98, Formerly 91-37.010, Amended 12-26-99, Repromulgated \_\_\_\_\_.

67-37.011 Interlocal Entities.

~~(1) There is no requirement that local jurisdictions which are parties to an interlocal agreement be contiguous, although the local housing assistance plan submitted by each interlocal entity must show a logical basis for combining the entities.~~

~~(1)(2) The interlocal agreement shall specify whether a single report for all jurisdictions or individual reports for each participating local government shall be submitted pursuant to Rule 67-37.016, F.A.C.~~

~~(2)(3) New eligible municipalities which intend to become a member of an established interlocal entity must:~~

~~(a) Adopt an ordinance which creates the affordable housing advisory committee, establishes responsibility for plan administration and, if applicable, establishes the local affordable housing trust fund.~~

~~(b)(a) Adopt by resolution a local housing assistance plan and adopt by resolution the appointments to the advisory committee.~~

~~(3)(b) All members of the existing interlocal entity must adopt by resolution an amendment to the local housing assistance plan to include the new eligible municipality.~~

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(5) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.011, Amended 12-26-99, \_\_\_\_\_.

67-37.015 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

(1) The staff or entity with administrative authority for a local housing assistance plan must develop a tracking system to ensure that the local housing distribution funds disbursed from the local housing assistance trust fund are at all times expended in accordance with the set-aside requirements in Rule 67-37.007, F.A.C. and time restraints detailed at subsection 67-37.005(6), F.A.C.

(2) The combined household annual gross income of an applicant who is applying as an owner/occupant of a residence must be verified and certified by the SHIP program administrator or his/her designee using income verification and certification procedures such as those established by the U.S. Department of Housing and Urban Development or the Rural Housing Service Farmers Home Administration. Other verification procedures must be submitted to the Review Committee for analysis to determine if they are acceptable to the Committee, prior to the allocation of any SHIP program assistance. Whichever verification and certification method is used, annual gross income must be used and the SHIP Program income limits cannot be exceeded.

(3) The staff or entity with administrative authority for a local housing assistance plan assisting rental developments shall monitor and determine tenant eligibility and the amount of subsidy using the same guidelines as specified at (2) above, at least annually for 15 years or the term of assistance, whichever is longer. The Corporation will monitor the activities of the local governments to determine compliance with program requirements as defined in Section 420.9075(3)(e), F.S.

(4) The staff or entity with administrative authority for a local housing assistance plan must provide documented evidence to the Corporation or its designated monitoring agent that permits as defined in Sections 163.3164(7) and (8), F.S. for affordable housing projects are expedited to a greater degree than other projects and that there is an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption.

~~(5)~~(4) The Corporation, or any duly authorized representative shall be permitted to inspect the local housing assistance plan, advertisements, applications, income verifications and certifications, plan participation contracts, financial records, plan tracking records, construction cost verification including receipts and contracts, and any other applicable documents at any reasonable time with or without notice. Such records must be maintained within the participating county or eligible municipality at a place accessible to the Corporation staff or its designated monitoring agent.

(6) If the Corporation staff or its designated monitoring agent determines that an eligible jurisdiction has established a pattern of violation of the criteria of its local housing assistance plan established under Sections 420.907-9079, F.S., or that an eligible sponsor has established a pattern of violation of the applicable award conditions, the corporation shall report such pattern of violation to the Executive Office of the Governor at which time the distribution of program funds to the county or eligible municipality will be suspended. The eligible jurisdiction, with assistance from the Affordable Housing Catalyst Program, shall develop a corrective action plan (CAP). The CAP shall be submitted to the Corporation within 60 days of the date of the letter from the Corporation notifying the eligible jurisdiction of the pattern of violation. The CAP must describe the proposed corrective action for each violation and how the correction actions will be implemented within 3 months of the CAP's approval by the Corporation. Upon receipt of the CAP, the Corporation shall have 30 days to review and approve or recommend changes to the CAP. Upon approval of the CAP, program funds will be distributed.

(7) Within 12 months of approval of the corrective plan of action the Corporation staff or its designated monitoring agent will audit the eligible jurisdiction to determine if the plan has been implemented. If the Corporation's staff or its designated monitoring agent determines that the corrective actions have not been implemented, the corporation shall report such pattern of violation of criteria or violation of award conditions to the Executive Office of the Governor. The distribution of program funds to the county or eligible municipality will be suspended until such time as the corrective plan of action has been satisfactorily implemented, at which time funds will be distributed.

~~(8)~~(5) Projects receiving assistance from the local housing assistance plan and from other State or federal programs which may have conflicting verification, certification, and monitoring requirements, shall comply with requirements of the most restrictive program.

Specific Authority 420.9072(9) FS. Law Implemented 420.9075(3)(e), 420.907 FS. History--New 2-9-94, Amended 12-28-94, 1-6-98, Formerly 91-37.015, Amended 12-26-99, \_\_\_\_\_.

67-37.016 Reporting Requirements.

The Annual Report must be filed with the Corporation utilizing the Annual Report Form SHIP-AR/02-1 ~~AR/99-1~~ and is adopted and incorporated herein by reference with an effective date of \_\_\_\_\_. Annual Report Form SHIP-AR/02-1 ~~AR/99-1~~ may be obtained from the Corporation at [www.floridahousing.org](http://www.floridahousing.org) or by contacting the SHIP Program at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.

Specific Authority 420.9072(9) FS. Law Implemented 420.907 FS. History--New 2-9-94, Amended 12-28-94, 1-6-98, Formerly 91-37.016, Amended 12-26-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Darlene Raker, Florida Housing Finance Corporation, 227  
 North Bronough Street, Suite 5000, Tallahassee, Florida  
 32301-1329, (850)488-4197  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Thomas W. Burt, Local  
 Government Liaison, Florida Housing Finance Corporation,  
 227 North Bronough Street, Suite 5000, Tallahassee, Florida  
 32301-1329, (850)488-4197  
 DATE PROPOSED RULE APPROVED BY AGENCY:  
 October 11, 2002, Corporation Board Meeting  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: Vol. 28, No. 39, September 27, 2002

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

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER NO.: 14-87  
 RULE CHAPTER TITLE: Payment of Commercial Motor  
 Vehicle Penalties and Fees  
 RULE NO.: 14-87.002  
 RULE TITLE: Commercial Motor Vehicles

**NOTICE OF CHANGE**

Notice was published in Florida Administrative Weekly, Vol. 29, No. 14, dated April 4, 2003.

SUMMARY OF CHANGE: These changes result from a review by the Joint Administrative Procedures Committee.

1. Rule Section 14-87.002(3): Delete the entire first sentence.
2. Rule Section 14-87.002(4), first sentence: Change “. . . may be detained or impounded . . .” to “. . . will be detained or impounded . . .”
3. Rule Section 14-87.002(7): Change “. . . Sections 316.545, 316.3025, and 316.516, Florida Statutes . . .” to “. . . Section 316.545, Florida Statutes . . .”

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**Division of Motor Vehicles**

RULE CHAPTER NO.: 15C-7  
 RULE CHAPTER TITLE: Motor Vehicle Dealers  
 RULE NO.: 15C-7.003  
 RULE TITLE: Application for License;  
 Requirements for Offices,  
 Display Space and Operation;  
 Denial, Suspension or  
 Revocation; Implementation

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 29, No. 12, March 21, 2003, Florida Administrative Weekly has been withdrawn.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NO.: 40E-2.091  
 RULE TITLE: Publications Incorporated by Reference

**NOTICE OF CHANGE**

In accordance with subparagraph 120.54(3)(d)1., F.S., notice is hereby given that changes were made to Sections 2.3.9, 2.3.10, 3.3.2, 3.3.7, and 5.1(1) of the “Basis of Review for Water Use Permit Applications Within the South Florida Water Management District – August 2002” incorporated by reference Rule 40E-2.091, F.A.C., which proposed rules were published in Vol. 29, No. 17, pages 1681-1683, of the April 25, 2003, issue of the Florida Administrative Weekly, and adopted, with these changes, by the South Florida Water Management District’s Governing Board at a public hearing on June 12, 2003. The changes to the “Basis of Review” incorporated into the April 25, 2003 notice, is posted on the SFWMD Website at [www.sfwmd.gov](http://www.sfwmd.gov).

In response to written material received from the regulated community before the date of the final public hearing, the following changes were made to the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, incorporated by reference in Rule 40E-2.091, F.A.C.:

**2.3.9 Drainage Districts**

Applicants for an individual or general permit who are dependant users pursuant to Section 2.7.3.A. and are supplied water by a permitted Drainage or Water Control District do not need to be permitted separately for supplemental quantities unless there is a change in the withdrawal source for which the Drainage or Water Control District has no authority or permission to use. The allocation of the supply from the additional source will be authorized through the issuance of a separate permit specific to the new source classification.

**2.3.10 Micro Irrigated Citrus**

The annual allocation for micro irrigated citrus will be calculated using methodology and coefficients described in Section 2.3.2. The maximum month allocation will be defined by the highest month value for full evapotranspiration for either March, April or May, as determined using the methodology in Section 2.3.2. In the event that the allocation calculated by this methodology is insufficient to meet the supplemental irrigation requirements of an applicant’s grove under a 1 in 10 year drought condition, the applicant may apply for an allocation in excess of the allocation calculated by Section 2.3.2. In such circumstances, the applicant must affirmatively demonstrate the need for a higher allocation by