

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLES:	RULE NOS.:
Placement of Races on Primary Ballots	1S-2.002
Revocation of Certification for Committees of Continuous Existence	1S-2.020
Revocation of Registration of Political Committees	1S-2.021
Electronic Transmission of Absentee Ballots	1S-2.030

PURPOSE AND EFFECT: To consider amendments to the Rules listed above.

SUBJECT AREA TO BE DISCUSSED: Placement of Races on Primary Ballots, Revocation of Certification of Committees of Continuous Existence, Revocation of Registration of Political Committees, Electronic Transmission of Absentee Ballots.

SPECIFIC AUTHORITY: 101.015, 101.697, 106.03(7), 106.04(7) FS.

LAW IMPLEMENTED: Art. VI, Section 5(b), Fla. Const., 101.697, 106.03, 106.04(7) FS.

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

TIME AND DATE: 9:00 a.m., Thursday, July 24, 2003
PLACE: Room 102, Collins Building, 107 West Gaines Street, Tallahassee, Florida 32399-0250

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should advise the Department at least 5 calendar days before the hearing by contacting Sarah Jane Bradshaw, (850)245-6200.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sarah Jane Bradshaw, Room 100, Division of Elections, 107 West Gaines Street, Tallahassee, Florida 32399-0250, (850)245-6200

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

DEPARTMENT OF BANKING AND FINANCE

Division of Banking

RULE TITLES:	RULE NOS.:
Applications Forms, Procedures and Requirements	3C-560.102
Requirements	3C-560.201

PURPOSE AND EFFECT: These rules provide for a fingerprint card processing fee of \$39 which includes processing through the Florida Department of Law Enforcement and the Federal Bureau of Investigations. The purpose of the proposed amendments to Rules 3C-560.102 and

3C-560.201, F.A.C., is to change the fee for processing fingerprint cards through the Florida Department of Law Enforcement in accordance with the statutory provisions of Chapter 943.053(3)(b), Florida Statutes, which increases the processing fee from \$15 to \$23 per name submitted. As a result the amended rule will provide for a fingerprint card processing fee of \$47.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments specify the fee for processing fingerprint cards through the Florida Department of Law Enforcement.

SPECIFIC AUTHORITY: 215.405, 560.105(3), 560.118(2), 560.205(1), 560.205(2), 560.403(1) FS.

LAW IMPLEMENTED: 215.405, 560.102, 560.118, 560.127, 560.129, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307, 560.403 FS.

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

Requests for the rule development workshop should be addressed to: Pamela P. Epting, Bureau Chief, 200 East Gaines Street, Fletcher 526, Tallahassee, Florida 32399-0379, (850)410-9805.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pamela P. Epting, Bureau Chief, 200 East Gaines Street, Fletcher 526, Tallahassee, Florida 32399-0379, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3C-560.102 Applications Forms, Procedures and Requirements.

(1) through (4) No change.

(5) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, executive officer, principal, member and all controlling shareholders, unless exempt under Sections 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL921050Z) accompanied by a nonrefundable \$47 ~~39~~ processing fee. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. If that card cannot be processed, it will be necessary to submit a third card along with a nonrefundable fee of \$24 to cover the cost of processing the card. The Department reserves the right to require as many submissions of fingerprint cards and fees as may be necessary until such time as the card can be properly processed by the appropriate law enforcement agency. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

(6) through (9) No change.

Specific Authority 215.405, 560.105(3), 560.118(2), 560.205(1), 560.205(2), 560.403(1) FS. Law Implemented 215.405, 560.102, 560.118, 560.129, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307, 560.403 FS. History—New 9-24-97, Amended 11-4-01, _____.

3C-560.201 Requirements.

Notices of change of control will be processed pursuant to Section 560.127, F.S.

(1) No change.

(2) The responsible person who will be in charge of the applicant’s business activities in this state, each existing or proposed director, executive officer, principal, member and all controlling shareholders, unless exempt under Sections 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL921050Z) accompanied by a \$47 ~~39~~ nonrefundable processing fee. No fingerprint card will be required from any person described above who has been reported to the Department by the registrant and for whom the Department has received the required Biographical Form (Form DBF-MT-7-01) prior to October 1, 2001. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. If that card cannot be processed, it will be necessary to submit a third card along with a nonrefundable fee of \$24 to cover the cost of processing the card. The Department reserves the right to require as many submissions of such fingerprint cards and fees as may be necessary until such time as the card can be properly processed by the appropriate law enforcement agency. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

(3) through (4) No change.

Specific Authority 215.405, 560.105(3) FS. Law Implemented 215.405, 560.127, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307 FS. History—New 9-24-97, Amended 11-4-01, _____.

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE TITLES:	RULE NOS.:
Application Procedure for Mortgage Broker License	3D-40.031
Application Procedure for Mortgage Brokerage Business License	3D-40.051
Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender	3D-40.100
Application Procedure for Mortgage Lender License	3D-40.200
Application Procedure for Correspondent Mortgage Lender License	3D-40.220

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 3D-40.031, 3D-40.051, 3D-40.100, 3D-40.200, and 3D-40.220, F.A.C., is to change the fee for processing fingerprint cards through the Florida Department of

Law Enforcement in accordance with the statutory provisions of Chapter 943.053(3)(b), Florida Statutes, which increases the processing fee from \$15 to \$23 per name submitted.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments specify the fee for processing fingerprint cards through the Florida Department of Law Enforcement.

SPECIFIC AUTHORITY: 215.405, 494.0011(2), 494.0061(3), 494.0062(3) FS.

LAW IMPLEMENTED: 120.60(1), 494.0031, 494.0033, 494.035, 494.0061, 494.0062, 494.0065 FS.

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

Requests for the rule development workshop should be addressed to: Pamela P. Epting, Bureau Chief, 200 East Gaines Street, Fletcher 526, Tallahassee, Florida 32399-0379, (850)410-9805.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pamela P. Epting, Bureau Chief, 200 East Gaines Street, Fletcher 526, Tallahassee, Florida 32399-0379, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3D-40.031 Application Procedure for Mortgage Broker License.

(1) Each person desiring to obtain licensure as a mortgage broker shall apply to the Department by submitting the following:

(a) A completed Application for Licensure as a Mortgage Broker, Form DBF-MB-101, revised ____ ~~40/99~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 Gaines Street, Tallahassee, Florida 32399-0350. The application must be completed and signed within thirty (30) days prior to receipt by the Department;

(b) The statutory, non-refundable application fee required by Section 494.0033, F.S., which shall be the fee for the biennial period beginning September 1 of each odd-numbered year or any part thereof;

(c) A completed fingerprint card accompanied by a \$23 ~~15~~ non-refundable processing fee; and

(d) Evidence that the applicant has completed the mortgage broker education requirements of Section 494.0033(3), F.S.

(2) through (7) No change.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 120.60(1), 494.0033 FS. History—New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, 8-22-99, 12-12-99, _____.

3D-40.051 Application Procedure for Mortgage Brokerage Business License.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, the chief executive officer and each director of an entity applying for licensure as a mortgage brokerage business, shall submit a completed fingerprint card and Biographical Summary, Form MBB-BIO-1 (revised 10/99), to the Department along with a ~~\$23~~ \$45 nonrefundable processing fee. Form MBB-BIO-1 is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(a) Any entity that is a wholly-owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

(b) For purposes of this rule, “chief executive officer” means the person primarily responsible for the operation of the business, and a “financial institution” means a state or federal association, bank, trust company, international bank agency, or credit union.

(c) If the individual owner, director, or chief executive officer holds an active mortgage broker’s license with the Department, they are exempt from the provisions of subsection (2).

(d) If an entity holds an active license under Chapter 494, F.S., with the Department, it is exempt from the provisions of subsection (2) when it applies for a different type of license, unless there has been a change of control of 50% or more of the ownership interest since the time its initial license was approved by the Department.

(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (8) No change.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 494.0031, 494.035 FS. History—New 10-30-86, Amended 1-30-89, 11-28-89, 10-1-91, 6-6-93, 5-14-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, _____.

3D-40.100 Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, the chief executive officer and each director of an entity applying for licensure as a mortgage lender licensed pursuant to the savings clause, shall submit a completed fingerprint card and Biographical Summary, Form ML-BIO-1 (revised 10/99), to the Department along with a ~~\$23~~ \$45 nonrefundable processing fee. Form ML-BIO-1 is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(a) Any entity that is a wholly-owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

(b) For purposes of this rule, “chief executive officer” means the person primarily responsible for the overall activities of the business, and a “financial institution” means a state or federal association, bank, trust company, international bank agency, or credit union.

(c) If the individual owner, director, or chief executive officer holds an active mortgage broker’s license with the Department, he or she are exempt from the provisions of subsection (2).

(d) If an entity holds an active license under Chapter 494, F.S., with the Department, it is exempt from the provisions of subsection (2) when it applies for a different type of license, unless there has been a change of control of 50% or more of the ownership since the time its initial license was approved by the Department.

(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (7) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.0061(1), 494.0065 FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, 12-8-02, _____.

3D-40.200 Application Procedure for Mortgage Lender License.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, the chief executive officer and each director of an entity applying for licensure as a mortgage lender, shall submit a completed fingerprint card and Biographical Summary, Form ML-BIO-1 (revised 10/99), to the Department along with a ~~\$23~~ \$45 nonrefundable processing fee. Form ML-BIO-1 is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(a) Any entity that is a wholly-owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

(b) For purposes of this rule, “chief executive officer” means the person primarily responsible for the overall activities of the business, and a “financial institution” means a state or federal association, bank, trust company, international bank agency, or credit union.

(c) If the individual owner, director, or chief executive officer holds an active mortgage broker’s license with the Department, they are exempt from the provisions of subsection (2).

(d) If an entity holds an active license under Chapter 494, F.S., with the Department, it is exempt from the provisions of subsection (2) when it applies for a different type of license,

unless there has been a change of control of 50% or more of the ownership since the time its initial license was approved by the Department.

(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0061(3) FS. Law Implemented 494.0061 FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02,_____.

3D-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, the chief executive officer and each director of an entity applying for licensure as a correspondent mortgage lender, shall submit a completed fingerprint card and Biographical Summary, Form CL-BIO-1 (revised 10/99), to the Department along with a \$23 ~~45~~ nonrefundable processing fee. Form CL-BIO-1 is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(a) Any entity that is a wholly-owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.

(c) If the individual owner, director, or chief executive officer holds an active mortgage broker's license with the Department, they are exempt from the provisions of subsection (2).

(d) If an entity holds an active license under Chapter 494, F.S., with the Department, it is exempt from the provisions of subsection (2) when it applies for a different type of license, unless there has been a change of control of 50% or more of the ownership since the time its initial license was approved by the Department.

(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0062(3) FS. Law Implemented 494.0062 FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02,_____.

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLE: Application for Registration as Associated Person
RULE NO.: 3E-600.002

PURPOSE AND EFFECT: This rule provides for a fingerprint card processing fee of \$39 which includes processing through the Florida Department of Law Enforcement and the Federal Bureau of Investigations. The purpose of the proposed amendment to Rule 3E-600.002, F.A.C., is to change the fee for processing fingerprint cards through the Florida Department of Law Enforcement in accordance with the statutory provisions of Chapter 943.053(3)(b), Florida Statutes which increases the processing fee from \$15 to \$23 per name submitted. As a result the amended rule will provide for a fingerprint card processing fee of \$47.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments specify the fee for processing fingerprint cards through the Florida Department of Law Enforcement.

SPECIFIC AUTHORITY: 517.03, 517.12 FS.

LAW IMPLEMENTED: 120.53, 120.60 FS.

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

Requests for the rule development workshop should be addressed to: Pamela P. Epting, Bureau Chief, 200 East Gaines Street, Fletcher 526, Tallahassee, Florida 32399-0379, (850)410-9805.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pamela P. Epting, Bureau Chief, 200 East Gaines Street, Fletcher 526, Tallahassee, Florida 32399-0379, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3E-600.002 Application for Registration as Associated Person.

(1)(a) Applications for initial, reaffiliation, and renewal registrations of a principal or agent shall be filed on Form U-4, Uniform Application for Securities Industry Registration or Transfer (Revised 03/02), which hereby is incorporated by reference, and shall include all information required by such form, any other information the Department may require, and payment of the statutory fees required by Section 517.12(10), F.S. Except as otherwise provided in Rules 3E-600.0091, 3E-600.0092, 3E-600.0093, F.A.C., the Department shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Banking and Finance. For dealers that are members of the National Association of Securities Dealers ("NASD"), such application shall be filed with the Department through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 3E-600.0091, F.A.C. For federal covered advisers, such application shall be filed with the Department through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 3E-600.0092, F.A.C. For investment adviser applicants and registrants who

file via the IARD, such application may be filed with the Department through the CRD of the NASD in accordance with Rule 3E-600.0093, F.A.C.

(b) A complete initial application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 03/02). As used on the Form U-4 (Revised 03/02), the term "Office of Employment Address" shall mean the location where the person seeking registration will regularly conduct business on behalf of the dealer or investment adviser. For dealers that are members of the NASD, such application shall be filed with the Department through the CRD of the NASD.

2. Statutory fee in the amount of \$40, for each registration sought, as required by Section 517.12(10), F.S.

3. When specifically requested by the Department, full documentation and details pertaining to affirmative responses. The Department may require such documentation to be certified by its issuer based upon the Department's review of the nature and substance of this disciplinary history and experience of the applicant. For purposes of this rule, "certified" means that there must be a certification or attestation by the issuer of the record that the document was a true copy of a record contained in his office and his seal, if any.

4. Evidence of examination/qualifications set forth in subsection 3E-600.005(2), F.A.C.

5. Florida Fingerprint Card (FL92150Z) when required under Section 517.12(7), F.S., and Rule 3E-600.006, F.A.C., accompanied by a \$47 ~~39~~ processing fee. If the fingerprint card cannot be processed by the Federal Bureau of Investigation because of illegible fingerprints, a second card must be submitted. If that card also cannot be processed, it will be necessary to submit a third card along with a fee of \$24 to cover the cost of processing the card charged by the FBI.

(c) If the information contained in any Uniform Application Form U-4 (Revised 03/02) becomes inaccurate for any reason before or after the associated person becomes registered, the associated person through the dealer or investment adviser, as applicable, shall be responsible for correcting the inaccurate information in thirty (30) days. If the information being updated relates to the applicant's or registrant's disciplinary history, in addition to updating the Uniform Application Form U-4 (Revised 03/02), the associated person through the dealer or investment adviser shall also provide the Department with notice and copies of each civil, criminal or administrative action initiated against the associated person as provided in Rule 3E-600.010, F.A.C. For associated persons who have filed by using the CRD of the NASD, such amendments shall be made through the CRD of the NASD.

(2) A dealer or investment adviser shall be responsible for the acts, practices, and conduct of their registered associated persons in connection with the purchase and sale of securities or in connection with the rendering of investment advice until such time as they have been properly terminated as provided in Rule 3E-600.008, F.A.C.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6),(7),(10), 517.1205 FS. History—New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02,_____.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Uniform Fire Safety Standards for 4A-41
Residential Child Care Facilities

RULE TITLES: RULE NOS.:

Scope 4A-41.101

Definitions 4A-41.102

Standards of the National Fire Protection 4A-41.103
Association Adopted

Occupancy Capacity of Each Facility 4A-41.104

Emergency Egress and Relocation Drills 4A-41.105

Inspections 4A-41.106

Cooking Equipment; Exception 4A-41.107

Special Requirements 4A-41.108

PURPOSE AND EFFECT: Provide firesafety standards for residential child care homes for facilities with five or fewer children, based upon changes to Chapter 409, Florida Statutes, and Rule Chapter 65C-14, Florida Administrative Code.

SUBJECT AREA TO BE ADDRESSED: Provides firesafety standards for residential child care homes for facilities with five or fewer children.

SPECIFIC AUTHORITY: 409.175(6)(f), 633.01(1) FS.

LAW IMPLEMENTED: 409.175(6)(f), 633.022 FS.

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

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

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4A-41.101 Scope.

(1) These rules apply to any residential child care facility required to be licensed by the Florida Department of Children and Family Services, pursuant to Section 409.175, Florida Statutes, in which full-time residence is provided to five or fewer children who are unrelated to the proprietor and who are under age 18. Programs which use such a facility include, for example, group homes which are administered by an agency, wilderness camps, maternity homes, emergency shelters, and runaway shelters.

(2) These rules address life safety during fires and similar emergencies. They address particular matters of construction, protection, and occupancy of buildings to minimize danger to life from fire, smoke, fumes or panic before buildings are vacated.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.102 Definitions.

As used in this part of these rules:

(1) “Facility” means a residential child caring agency, a child placing agency, or a “Family Foster Home” as defined in Section 409.175(2), Florida Statutes.

(2) “Agency” means a residential child caring agency or a child-placing agency.

(3) “AHJ” means the local authority having firesafety and fire prevention jurisdiction which employs or contracts with at least one firesafety inspector certified under Chapter 633, Florida Statutes.

(4) “Division” means the Division of State Fire Marshal of the Department of Insurance.

(5) “NFPA” means the National Fire Protection Association.

(6) “Child” means any unmarried person under the age of 18 years.

(7) “Owner” means the person who is licensed to operate the child-placing agency, family foster home, or residential child-caring agency.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022 FS. History—New _____.

4A-41.103 Standards of the National Fire Protection Association Adopted.

(1) The following portions of NFPA 101, known as the Life Safety Code, 2003 edition, are hereby adopted and incorporated herein by reference:

(a) Section 24.2.1;

(b) Section 24.2.2, except that an approved means of escape shall be equivalent to an outside window or door which shall be openable from the inside, without the use of tools or a key and shall provide a clear opening of not less than 22 inches

in the least dimension and a minimum of 5 square feet in area. The bottom of the opening shall be not more than 48" above the finished floor;

(c) 24.2.3, 24.2.4, 24.3.4, 24.3.4.1, and 24.3.4.3.

(2) The codes and standards published by the National Fire Protection Association may be obtained by writing to the NFPA at: 1 Batterymarch Park, Quincy, Massachusetts 02269-9101. All standards adopted and incorporated by reference in this rule are also available for public inspection during regular business hours at the Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida 32303.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.104 Occupancy Capacity of Each Facility.

The total number of children shall be as determined in accordance with Section 409.175(3)(a), Florida Statutes.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.105 Emergency Egress and Relocation drills.

(1) An emergency egress & relocation drill shall be conducted by each owner at each facility at least three (3) times per year. Each emergency egress & relocation drill shall be conducted at least 90 days after the previous emergency egress & relocation drill. The AHJ is permitted to require an additional emergency egress & relocation drill in conjunction with an annual firesafety inspection.

(2) The purpose of each emergency egress & relocation drill is to familiarize each occupant with the procedures required for the safe, orderly, and expeditious exiting of the building or structure. All occupants shall exit the building or structure to a predetermined area of safety. The climate and weather conditions shall be taken into consideration when scheduling any emergency egress & relocation drill.

(3) Each emergency egress & relocation drill shall be conducted at an unexpected time and under varying conditions that may occur in the case of fires.

(4) During each emergency egress & relocation drill, all occupants shall evacuate the building independently or with staff assistance or any other available assistance, as needed.

(5) Each emergency egress & relocation drill shall be applicable to all occupants of the facility with emphasis on the safe, orderly, and expeditious exiting under proper discipline.

(6) Any occupant subject to an emergency egress & relocation drill shall proceed to a predetermined location outside the building and remain there until all occupants are accounted for. Occupants are permitted to return to the building only when allowed by the person conducting the emergency egress & relocation drill.

(7) The owner shall keep a record of each emergency egress & relocation drill on Form DI4-1557, (rev. 02/2003), Record of Emergency egress & relocation drill, which is hereby adopted and incorporated into these rules by reference. Copies of the form may be obtained by writing to the Department of Insurance, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342. The record shall list as a minimum:

- (a) The date the drill was conducted.
- (b) The time of day the drill was conducted.
- (c) The amount of time, in minutes and seconds, that were required for all occupants to safely exit the building.
- (d) Any unusual circumstance, in narrative or outline form, affecting the safe, orderly and expeditious exit from the building.

(8) If the owner does not keep the record required by subsection (6), or keeps it in a manner that is incomplete, incorrect, or otherwise does not contain the required information, another emergency egress & relocation drill must be performed as soon as possible and the results correctly recorded. In addition, the firesafety inspector shall advise the licensing agency that the facility is not maintaining compliance with the firesafety requirements.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.106 Inspections.

(1) The appropriate firesafety inspector shall conduct a firesafety inspection, which must be determined to be satisfactory for each facility prior to its initial licensure and prior to the annual renewal of its license.

(2) The owner shall request from the AHJ a firesafety inspection at least 30 days in advance of license expiration.

(3) The AHJ or the Division is permitted to require additional firesafety inspections.

(4) The owner shall be responsible for requesting all required firesafety inspections in writing or electronic format, except for any additional firesafety inspections which may be required as provided in subsection (3). All verbal inspection requests shall be followed by a written or electronic verification.

(5) Each required firesafety inspection shall be completed by the AHJ, where available.

(6) Any time there is no AHJ to perform a firesafety inspection, the owner shall notify the Division in writing or in an electronic format. The Division shall inspect or cause the facility to be inspected in accordance with Section 633.022, Florida Statutes.

(7) A local firesafety inspector, or if no local firesafety inspector is available, a special state firesafety inspector, certified in accordance with Chapter 633, Florida Statutes, shall complete each required firesafety inspection.

(8) The inspecting authority shall provide a copy of each inspection report to the licensing agency within thirty days after completing the inspection.

(9) For the purpose of meeting the fire safety inspection requirements of this subsection, a family foster home shall comply with the following:

(a) Install smoke detectors in accordance with section 24.3.4.1 of NFPA 101, 2003 edition;

(b) Fireplaces, heaters, radiators and other hot surfaces shall be shielded against accidental contact;

(c) Sleeping rooms shall have a primary and secondary means of escape in accordance with Rule 4A-41.103(1)(b), Florida Administrative Code;

(d) All heating appliances and other heating devices shall be properly vented;

(e) Emergency evacuation instructions must be posted in a conspicuous location;

(f) Conduct emergency egress & relocation drills in accordance with Rule 4A-41.105, Florida Administrative Code;

(g) Be free of improperly stored combustible materials;

(h) All exits and stairs shall be free of storage or obstructions affecting its use;

(i) Be free of temporary electrical wiring;

(j) Have at least one working flashlight for each sleeping room;

(k) Comply with Rules 4A-41.107 and 4A-41.108, Florida Administrative Code, of this rule chapter;

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.107 Cooking Equipment; Exception.

Notwithstanding any previous construction or interpretation of any law, rule, or code provision, any time a single domestic range or stove is used in an arrangement similar to that of a single family residence, the facility shall not be required to comply with NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, the edition as adopted in Rule 4A-3.012, Florida Administrative Code.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.108 Special Requirements.

(1) Each facility shall have installed at least one portable fire extinguisher with a minimum rating of 2A-10BC.

(2) No unvented fuel-fired heaters shall be permitted unless the heater is listed and approved for such use.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Communications Services Tax	12A-19
RULE TITLE:	RULE NO.:
Transactions Involving Internet Access Service, Electronic Mail Services, Similar On-line Computer Services, and Information Services	12A-19.002

PURPOSE AND EFFECT: The purposes of the proposed creation of Rule 12A-19.002, F.A.C. (Transactions Involving Internet Access Service, Electronic Mail Services, Similar On-line Computer Services, and Information Services), are to: (1) provide that exempt transactions from the state communications services tax and the local communications services tax include only those communications services set forth in Chapter 202, F.S.; (2) define the terms “communications services,” “information services,” “Internet access service,” “Internet,” “Internet Service Provider or Internet Access Provider” “Digital Subscriber Line (DSL),” “cable modem,” “Intranet,” and “Wireless Application Protocol” for purposes of the rule; (3) provide that only charges to end customers for services excluded from the definition of “communications services,” as defined in the rule, are not subject to tax; (4) provide that dealers who separately state the charge to end consumers for the communications services from those charges excluded from the definition of communications services may purchase the communications services tax-exempt for purposes of resale; (5) provide guidance on the taxability of charges to the end-consumer for transmission, conveyance, or routing services that are not separately stated from the charge for tax-exempt communications services; (6) provide guidance on the taxability of the underlying communications services used to transmit signals and data as part of the Internet infrastructure; (7) provide guidance on when tax is due on the “cost price,” as defined by the rule, for dealers that provide communications services for their own use or to their affiliates and for all other dealers; and (8) provide examples of the taxability of dial-up Internet Access, DSL technology, cable modem technology, IP Port technology, and Wireless Application Protocol.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the application of the state communications services tax and the local communications services tax to transactions involving Internet access services, electronic mail services, similar on-line services, and information services.

SPECIFIC AUTHORITY: 202.26(3)(c), 213.06(1) FS.

LAW IMPLEMENTED: 202.105(1), 202.11(3),(7),(14), 202.12(1),(2), 202.13(2), 202.19(1),(2),(4),(5), 202.34, 202.35(4) FS.

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

TIME AND DATE: 9:00 a.m., July 31, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 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 RULE DEVELOPMENT IS: Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4727

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-19.002 Transactions Involving Internet Access Service, Electronic Mail Services, Similar On-line Computer Services, and Information Services.

(1) IMPOSITION OF TAX. The State Communications Services Tax and the Local Communications Services Tax are levied on the sales price of communications services for each taxable transaction; exempt transactions include only those communications services set forth in Chapter 202, F.S., as exempt from such taxes to the extent that such exemptions are in accordance with the constitutions of the State of Florida and of the United States.

(2) “COMMUNICATIONS SERVICES” means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term does not include: information services, Internet access services, electronic mail services, electronic bulletin board services, or similar on-line computer services.

(3) APPLICATION OF TAX.

(a) A separately stated charge for Internet access service, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services is not subject to tax.

(b) A separately stated charge for a transmission, conveyance, or routing service that is used and consumed in providing Internet access service, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services is taxable. Dealers that separately state the charge to the end customer for the

communications services from the charge for Internet access service, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services may purchase the communications services that are resold to the end customer without payment of tax by issuing the dealer's Communications Services Tax Annual Resale Certificate.

(c) If the charge for transmission, conveyance, or routing service is not separately stated to the end customer from the price for Internet access service, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services, the cost price of the transmission, conveyance, or routing service that is used and consumed in providing Internet access service, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services is taxable to the service provider.

(d) The underlying communications services used to transmit signals and data to the Internet or as part of the Internet infrastructure are taxable. Only charges to end customers are charges for Internet access service, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services, and only when such service comes within the definitions provided by this rule. Charges to Internet Service Providers and Internet Access Providers for the transmission, conveyance, or routing services necessary to provide Internet access services, electronic mail service, electronic bulletin board service, similar on-line computer services, or information services to their end customers are not charges for Internet access. Internet access services, electronic mail services, electronic bulletin board services, similar on-line computer services, or information services are not communications services, and Communications Services Tax Annual Resale Certificates can not be used to purchase the underlying communications services in lieu of the payment of tax unless the end customer will pay a separate charge for those communications services.

(4) DEFINITIONS. For purposes of this rule, the following definitions apply:

(a) "Cost Price" means:

1. For dealers that provide communications services for their own use or to their affiliates, "cost price" is determined by reference to the regularly kept books and records that document the provision of transmission, conveyance, or routing services used and consumed by the dealer or its affiliates in providing Internet access services, electronic mail services, electronic bulletin board services, similar on-line computer services, or information services. If the amount charged to unrelated third parties for such services is customarily greater than the amount determined by reference to the books and records, then the cost price is the amount customarily charged to third parties.

2. For all other dealers, the "cost price" is the sales price paid for the purchase of the transmission, conveyance, or routing services used and consumed in providing Internet access services, electronic mail services, electronic bulletin board services, similar on-line computer services, or information services.

(b) "Information services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services, including, but not limited to, electronic publishing, web-hosting service, and end-user 900 number service. The term does not include:

1. The provision of any communications services, including any transmission, conveyance, or routing service.

2. The provision of any video, audio, or other programming service that uses point-to-multipoint distribution by which programming is delivered, transmitted, or broadcast by any means, including any interaction that may be necessary for selecting and using the service, regardless of whether the programming is delivered, transmitted, or broadcast over facilities owned or operated by the seller or another, or whether denominated as cable service or as basic, extended, premium, pay-per-view, digital, music, or two-way cable service.

(c) "Internet access service" refers to the service of connecting users to the Internet. It is a service that enables end customers to access content, information, electronic mail, or other services that are offered over the Internet. The service is generally supplied by an Internet Service Provider or Internet Access Provider. For purposes of Chapter 202, F.S., the determination whether a charge is for Internet access will be based upon the definition of Internet access provided in this rule. The term does not include the provision of any communications services, and Internet access service does not include the underlying transmission paths necessary to reach the Internet. Only charges to end customers can be considered as charges for Internet access service. Charges to providers of Internet access services for the transmission services necessary to provide Internet access to their end customers are not included in the definition of Internet access service.

(d) "Internet" refers to the network of networks that: uses Transmission Control Protocol (TCP)/Internet Protocol (IP) to transmit information; employs IP addresses to identify each location; has no central access or repository of information or location of control; and has the three basic components consisting of end users, Internet Service Providers or Internet Access Providers, and backbone providers. Backbone providers exchange the transmissions that are being carried with each other at Network Access Points (NAPs). An individual transmission may be routed through several service providers to reach its destination. The host computers are interconnected, allowing access by points on the network.

Transmissions are regulated by routers at each connection point, and data is rerouted around points of congestion or failure.

(e) “Internet Service Provider” (ISP) or “Internet Access Provider” (IAP) means a provider that supplies access to the Internet to end customers. The ISP/IAP provides the Internet Protocol (IP) address assigned to each user. The IP address is much like a street address, in that it provides an identifiable location associated with each user. End customers reach an ISP by using either their phone line or a dedicated connection. Providers offer access to the Internet and may include other services (such as electronic mail and instant messaging) and their own proprietary content. Some ISPs may also be backbone providers that connect their end customers to the Internet over their own backbone.

(f) “Digital Subscriber Line” (DSL) refers to the transportation of high-speed digital data across an analog local loop providing a dedicated point-to-point connection to a network. DSL describes a transmission, conveyance, or routing service that can be used in connection with the provision of Internet access service, among other things. The technology permits the transmission, conveyance, and routing of the signals from the end customer’s network termination (commonly referred to as a DSL modem or DSL transceiver) to the line termination at the network end of the transmission path. DSL technology may include the use of a DSL access multiplexer to transmit more than one signal over a transmission path prior to connection to the Internet.

(g) “Cable modem” describes a transmission, conveyance, or routing service that can be used in connection with the provision of Internet access service, among other things. The technology permits the transmission, conveyance, and routing of signals from the end customer’s termination point to the signal origination point in a cable system and includes the use of a cable modem termination system to route the signals to the ISP/IAP for connection to the Internet.

(h) “Intranet” means a private network. It typically uses Internet software and Internet standards, including a web browser to act as a user interface. An Intranet is generally a private Internet for use only by the people who have been authorized to access the network. Charges for the transmission, conveyance, or routing of signals through an Intranet are charges for communications services and are not considered to be charges for Internet Access service, regardless of the technology or protocol used to provide the Intranet.

(i) “Wireless Application Protocol” (WAP) describes a transmission, conveyance, or routing service that can be used in connection with the provision of Internet Access service, among other things. The technology permits the transmission, conveyance, and routing of the signals from the end customer’s device to the ISP/IAP.

(j) “Internet Protocol (IP) port charges” are charges for the physical interface between a customer’s dedicated connection and a provider’s Internet backbone. This is a charge for Internet access, as defined in this rule, when charges are separately made for the transmission, conveyance, or routing service used to transmit the signals to and from the customer’s physical location to the IP port.

(5) Tax that is due from a provider on the cost price of communications services is not to be separately stated to the end customer. Tax that is due on the sale of communications services to the end customer must be separately stated to the end customer.

(6) EXAMPLES.

(a) Dial-Up Internet Access. Customer A desires to obtain Internet Access from her residence. She purchases a dial-up modem for her computer and contracts with her local telephone company for a second telephone line to run to her computer. She contracts with Provider I for Internet access service, as defined in this rule. The communications services purchased from the telephone company provide the transmission, conveyance, and routing necessary to reach Provider I’s connection to the Internet. The charges made by the telephone company to Customer A are subject to tax. The charges made by Provider I to Customer A for Internet access service, as defined by this rule, are not subject to tax. The result would be the same in any case where one provider supplies the Internet access service and another provider supplies the communications services used to reach the other provider’s connection to the Internet.

(b) DSL Technology.

1. Customer B desires to obtain high-speed DSL Internet access service from his home. Provider X makes a single charge to Customer B for “DSL Internet Access,” with no separately stated charge for the transmission, conveyance, and routing services used to connect the customer’s home to Provider X’s connection to the Internet. Tax is due from Provider X on the cost price of the transmission, conveyance, or routing of the signals. No tax should be separately stated on the bill to Customer B for “DSL Internet Access.”

2. Customer B desires to obtain high-speed DSL Internet access service from his home. Provider X makes two charges to Customer B for this service. One charge is for Internet access service, as defined by this rule. The other charge is a separately stated charge for the transmission, conveyance, and routing services used to connect the customer’s home to Provider X’s connection to the Internet. Tax is due and should be separately stated on Customer B’s bill for the charge for the transmission, conveyance, or routing of the signals. Tax is not due on the charge for Internet access service, as defined in this rule.

(c) Cable Modem Technology.

1. Customer C desires to obtain high-speed cable modem Internet access service from her office. Provider X makes a single charge to Customer C for “Cable Modem Internet Access.” with no separately stated charge for the transmission, conveyance, and routing services used to connect the customer’s office to Provider X’s connection to the Internet. Tax is due from Provider X on the cost price of the transmission, conveyance, or routing of the signals. Tax should not be separately stated on Customer’s C’s bill for “Cable Modem Internet Access.”

2. Customer C desires to obtain high-speed cable modem Internet access service from her office. Provider X makes a charge to Customer C for Internet access service, as defined by this rule. Provider X also makes a separately stated charge for the transmission, conveyance, and routing services used to connect the customer’s office to Provider X’s connection to the Internet. Tax is due on the charge for the transmission, conveyance, or routing of the signals. Tax is not due on the charge for Internet access service, as defined in this rule.

(d) IP Port Technology.

1. Business M desires to obtain high-speed data transmission Internet access services. Provider X makes two charges to Business M. One charge is for the IP Port and another charge is for the transmission, conveyance, and routing services between Business M’s location and Provider X’s connection to the Internet. Tax is due on the charge for the transmission, conveyance, or routing of the signals. Tax is not due on the IP Port charge that is for Internet access service, as defined in this rule.

2. Business M desires to obtain high-speed data transmission Internet access services. Provider X makes a single charge to Business M for the IP Port and the transmission, conveyance, and routing services used to connect Business M’s location to Provider X’s connection to the Internet. Tax is due from Provider X on the cost price of the transmission, conveyance, or routing of the signals. No tax should be separately stated on the bill to Business M.

(e) Wireless Application Protocol (“WAP”) Technology.

1. Customer D desires to obtain wireless Internet access service from her cell phone. Provider X makes a single charge to Customer D for “WAP Internet Access,” with no separately stated charge for the transmission, conveyance, and routing used to connect the customer’s cell phone to Provider X’s connection to the Internet. Tax is due from Provider X on the cost price of the transmission, conveyance, or routing of the signals. No tax should be stated on Customer D’s bill for the charge for “WAP Internet Access.”

2. Customer D desires to obtain wireless Internet access service from her cell phone. Provider X makes two charges to Customer D. One charge is for Internet access service, as defined by this rule. The other charge is for the transmission, conveyance, and routing services used to connect the customer’s cell phone to Provider X’s connection to the

Internet. Tax is due on the charge for the transmission, conveyance, or routing of the signals. Tax is not due on the charge that is for Internet access service, as defined in this rule. Cross Reference: Rule 12A-19.060, F.A.C.

Specific Authority 202.26(3)(c), 213.06(1) FS. Law Implemented 202.105(1), 202.11(3),(7),(14), 202.12(1),(2), 202.13(2), 202.19(1),(2),(4),(5), 202.34, 202.35(4) FS. History—New _____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Communications Services Tax	12A-19
RULE TITLES:	RULE NOS.:
Tax Due at Time of Sale; Tax	
Returns and Regulations	12A-19.020
Substitute Communications Systems	12A-19.036
Homes for the Aged and Religious and	
Educational Organizations Exemptions	
from the Communications Services Tax	12A-19.043
Public Use Forms	12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), is to: (1) provide that form DR-700016, Florida Communications Services Tax Return (R. 06/03), is to be used to report communications services tax on services billed from June 1, 2003, through June 30, 2003; (2) provide that form DR-700016, Florida Communications Services Tax Return (R. 07/03), is to be used to report communications services tax on services billed on or after July 1, 2003; and (3) incorporate 2003 legislative changes to the communications services tax return.

The purpose of the creation of Rule 12A-19.036, F.A.C. (Substitute Communications Systems), is to: (1) provide guidance concerning the application of communications services taxes to substitute communications systems; (2) provide that state and local communications services taxes are imposed on the actual costs of operating a substitute communications system; (3) provide that operators are required to register with the Department to report and remit taxes annually; (4) provide that substitute communications systems operated by governmental entities are not subject to tax on their operating costs; (5) provide definitions for purposes of the rule for the terms “substitute communications systems,” “switched service,” “dedicated facility,” and “actual cost”; (6) provide the characteristics of a substitute communications systems; (7) provide examples of communications systems and guidance on whether such systems are “substitute communications systems”; and (8) provide examples of the taxable costs of operating a substitute communications system.

The purpose of the proposed amendments to Rule 12A-19.043, F.A.C., is to: (1) change the title to “Homes for the Aged and Religious and Educational Organizations Exemptions from the Communications Services Tax”; (2) implement 2003

legislative changes providing for an exemption from the Florida communications services tax and the local communications services tax for qualified homes for the aged; (3) define the term “homes for the aged” for purposes of the exemption; (4) provide that a qualified home for the aged is required to issue an exemption certificate to the selling dealer to purchase communications services tax-exempt; and (5) provide a suggested exemption certificate for such purchases. The purpose of proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, changes to form DR-700016, Florida Communications Services Tax Return.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the adoption of changes to the Florida Communications Services Tax Return; (2) the proposed guidelines to implement the exemption from the Florida communications services tax and the local communications services tax for qualified homes for the aged; and (3) the proposed guidelines for the application of the communications services taxes to substitute communications systems.

SPECIFIC AUTHORITY: 202.15, 202.151, 202.16(2), 202.26(3)(a),(c),(d), 213.06(1) FS.

LAW IMPLEMENTED: 92.525(2), 202.11(1),(4), (11),(12),(16), 202.12(1), 202.125, 202.13(2), 202.15, 202.151, 202.16, 202.17(6), 202.19(1),(7), 202.22(6), 202.26(2), 202.27, 202.28(1),(2), 202.30(3), 202.33(2), 202.34(3),(4)(c), 202.35(1), 213.37 FS.

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

TIME AND DATE: 9:00 a.m., August 1, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 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 RULE DEVELOPMENT IS: Gary Gray, Tax Law Specialist, Technical Assistance and Dispute Resolution, (850)922-4729; Jennifer Silvey, Senior Attorney, (850)922-4727, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

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

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

(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
07/03	July 2003 –	July 1, 2003 –
06/03	June 2003 2003 –	June 1, 2003 – June 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

(4) through (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-19.036 Substitute Communications Systems.

(1) SCOPE OF RULE. This rule provides guidance concerning the application of communications services taxes to substitute communications systems, the determination whether a person is operating a substitute communications system, and the calculation of state and local communications services taxes on the actual costs of operating a substitute communications system.

(2) GENERAL. State and local communications services taxes are imposed on the actual costs of operating a substitute communications system. Operators of substitute communications systems are required to register with the Department and to report and remit taxes annually. See Rules 12A-19.010 and 12A-19.020, F.A.C., for guidance on registration and reporting requirements. Substitute communications systems operated by governmental entities are not subject to tax on the operating costs. If a substitute communications system provides a communications service

that would be exempt under Section 202.125, F.S., if purchased from a dealer of communications services, the costs of operating that system are not taxable.

(3) DEFINITIONS. For purposes of this rule, the following terms have the meanings set forth in this subsection.

(a) “Substitute communications system” means any system capable of providing communications services that are a substitute for any switched service or dedicated facility that a dealer would use to provide communications services. A substitute communications system must be capable itself of providing switched service. A substitute communications system may be operated on a “stand alone” basis or may be interconnected to communications services or systems provided by a dealer of communications services. A substitute communications system has all of the following characteristics:

1. The system consists of tangible personal property, facilities, and/or equipment capable of providing the user with its own communications services.

2. The system provides the capability to switch communications signals between or among points.

3. The system does not depend on any communications services provided by a dealer of communications services, although it may interconnect with a dealer’s system.

4. The system is operated exclusively for a taxpayer’s own use, it is not for hire or for resale, and no excess capacity of the system is sold or provided to any third party in any manner.

(b) “Switched service” means any service that uses a mechanical, electrical, optical, or other device that opens or closes circuits, completes or breaks an electrical or other path along which signals travel, or selects paths or circuits to allow for the transmission, conveyance, or routing of communications signals between and among points.

(c) The term “dedicated facility” means any equipment or equipment system that provides a specific user the exclusive use of transmission channels or circuits to carry communications signals.

(d) The term “actual cost” includes materials, labor, and other costs that are directly attributable to the operation and maintenance of a substitute communications system. Examples of costs that may be directly attributable to operation of a substitute communications system are depreciation of equipment and facilities, lease or rental expenses associated with equipment and facilities, repair and maintenance, storage costs, insurance costs, tools and equipment used to maintain the system, utilities used to operate the system, taxes, licensing and franchising costs, interest expense, and employee salaries and benefits.

1. For purposes of this rule, the term “actual cost” does not include the initial purchase price of equipment that is capitalized and comprises or is part of the system. It does, however, include lease or rental expenses for equipment and

facilities and depreciation costs associated with equipment and facilities. Depreciation costs are the amounts claimed for federal income tax purposes.

2. Subsequent purchases of equipment and materials used to maintain or repair the system are included in the term “actual cost” when such items are accounted for as expense items rather than capitalized.

3. If the substitute communications system is located in more than one state, the actual cost of such system for purposes of this rule shall be the actual costs directly attributable to the system’s equipment or components that are physically located in the State of Florida.

4. Certain costs may have to be allocated between the operation of a substitute communications system and other operations. For example, a repair technician may be responsible for maintaining equipment dedicated to a substitute communications system and for other equipment not related to the substitute communications system. Only the amount of the total cost of the technician allocated to the substitute system is taxable under Chapter 202, F.S.

(4) EXAMPLES OF COMMUNICATIONS SYSTEMS. The following examples illustrate the application of this rule.

(a) A taxpayer acquires and operates a telephone system with switching and routing capabilities allowing for intercom and other self-contained communications at the taxpayer’s facility. The taxpayer’s system connects to the local exchange carrier’s system, and the taxpayer pays the local exchange carrier and a long distance carrier for communications services between the taxpayer’s facility and other locations. The taxpayer is operating a substitute communications system, because the system performs routing and transmission operations at the taxpayer’s facility using switching capabilities that a telephone company would use to provide telephone services. The taxpayer owes communications services tax on the actual cost of operating the system. The purchases of external communications services from local and long distance carriers are not part of the costs of the operating the taxpayer’s substitute system.

(b) A taxpayer acquires and operates a computer local area network (LAN) system that uses a router to provide switching capabilities necessary to connect the multiple computers used by the taxpayer’s employees. The taxpayer is providing transmission, switching, and routing services for its own use. The taxpayer is operating a substitute communications system, and it owes communications services tax on the actual costs to operate and maintain the system.

(c) A taxpayer acquires and operates all of the equipment necessary for a wireless dispatch system that transmits and switches voice or data signals to provide a communications path between and among remote receivers and a central base station. Communications services dealers would use similar

equipment and switching capabilities to provide wireless communications services. The taxpayer owes communications services taxes on the actual costs of operating the system.

(d) A taxpayer acquires and uses equipment for a wireless dispatch system that does not have switching capabilities and does not provide communications channels between and among remote receivers. The taxpayer purchases the switching services or "airtime" from a communications services provider and pays communications services tax to the provider. The system is not a substitute communications system.

(e) A taxpayer purchases telephone transmission and receiving equipment located at various sites where the taxpayer does business and acquires and installs a tower for the purpose of providing communications services between and among those sites in lieu of using a local exchange provider and long distance provider. The taxpayer owes communications services taxes on the actual costs of operating the system.

(f) A taxpayer acquires and operates the equipment necessary to transmit, route, and switch data to permit monitoring the activities and operations of manufacturing equipment, pipelines, rail systems, or utilities. The taxpayer owes communications services taxes on the actual cost of operating the system.

(g) An individual has two home personal computers and purchases and installs the equipment that allows the two computers to be connected to each other. The connection allows the two computers to share a single printer, use a single Internet connection, share files and documents, and play games. The equipment consists of a "router" that receives the signal from one computer and sends it to the other computer over a cable that connects each computer to the router. This system is a substitute communications system, because it provides its own switching between two computers. The individual is not entitled to depreciation deductions and incurred no labor costs to install the connection. In addition, there are no other costs that can be identified as directly attributable to the operation of the system. The individual therefore has no substitute communications system liability. If there were any actual costs identifiable to operating the system, the individual would be liable for 2.37 percent gross receipts tax and local communications services tax. The individual would be exempt from the 6.8 percent state portion under the residential exemption in Section 202.125, F.S.

(h) A small business has five computers, each connected to a central router. The connection allows the computers to share printers, files and documents, and other business related activities. This system is a substitute communications system, because it provides its own switching between the five computers. The business owes communications services tax on the actual cost of operating the system.

(i) An individual purchases a "walkie-talkie" set for his two grandsons. The set permits direct voice contact between two handsets and all other handsets using the same channel or

frequency so long as they are within a certain distance of each other. The walkie-talkie is not a substitute communications system, because it does not have switching capabilities.

(j) An individual purchases a citizens band (CB) radio. CB radios broadcast and capture radio-frequency signals. CB radios permit direct voice contact between two radios and all other CB radios using the same channel or frequency, so long as they are within a certain distance of each other. The CB radio is not a substitute communications system, because it does not have switching capabilities.

(k) An individual acquires the amateur radio equipment necessary to operate as a "Ham" operator under a license from the Federal Communications Commission under Section 47, C.F.R. As with CB radios, Ham operators broadcast radio signals in all directions. Ham operator equipment is not a substitute communications system, because it does not have its own switching capabilities.

(l) Provider A sells or leases Company X a specialized mobile radio system. Company X is a plumbing company. The radio system includes a base station and several mobile radio units. The radio system uses Provider A's switching capabilities, and Provider A charges Company X a fee for the transmission of its signals, typically referred to as "airtime." The radio system acquired by Company X is not a substitute communications system, because it uses Provider A's switching services, and Provider A charges Company X a fee for the transmission or the airtime that is subject to communications services tax.

(m) Provider A sells or leases Company X a private two-way mobile radio system. Company X is a plumbing company. The radio system includes a base station, a central tower used for signal switching by Company X, and several mobile radio units. Provider A does not provide Company X with airtime or switching services. The equipment Company X acquired provides it with services that are dedicated and exclusively used by Company X for its internal use. The two-way radio system does not have any excess channel capacity and cannot be used by any third party. The two-way mobile radio system is a substitute communications system, and Company X must pay communications services tax on the actual cost of maintaining the system.

(5) EXAMPLES OF TAXABLE COSTS. The following examples illustrate the taxable costs of operating a substitute communications system.

(a)1. Provider A sells Utility X a private two-way mobile radio system on June 1, 2002. Utility X provides electricity to its customers and uses the system for dispatch and communication between and among service vehicles and base offices. The radio system includes a base station, a central tower used for signal switching by Utility X, and several mobile radio units. Provider A does not provide Utility X with airtime or switching services. The two-way radio system is dedicated and exclusively used by Utility X for its internal use.

Utility X is located in an unincorporated area of a county with a local communications services tax rate of 2.8 percent. The initial purchase price for the two-way mobile radio system, including equipment and installation totals \$1,000,000. During the 2002 calendar year, Utility X incurred the following expenses attributable to the two-way mobile radio system:

a. One service technician with an annual salary of \$60,000 (includes annual salary and benefits) who spent 50 percent of his time maintaining the system during the period July 1, 2002, to December 31, 2002.

b. Depreciation expense of \$200,000 for the system equipment claimed on Utility X's 2002 federal income tax return.

c. Two additional mobile units were purchased in October 2002 for \$2,000.

d. Several mobile units were repaired in November 2002. The cost to repair the units totaled \$1,000.

e. Interest expense claimed on Utility X's 2002 federal income tax return for the loan used for the purchase of and secured by the system was \$20,000.

f. Miscellaneous parts, tools, and equipment purchased by Utility X to maintain and repair the system during the year totaled \$3,500.

2. The initial purchase price of the two-way mobile radio system for \$1,000,000 and the two additional mobile units purchased in October 2002, for \$2,000, is not part of the "actual cost" of a substitute communications system and therefore not subject to communications services tax. In this example, the items subject to communication services tax include: (1) the portion of the service technician's salary and benefits attributable to maintaining the system totaling \$15,000 (50 percent of the salary and benefits for 6 months), (2) the depreciation expense for the system (\$200,000), (3) the repair to several mobile units (\$1,000), (4) the interest expense directly attributable to the system (\$20,000), and (5) the miscellaneous parts, tools and equipment (\$3,500). Utility X should remit \$21,962.15 Florida communications services tax (\$239,500 x .0917) and \$6,706.00 local communications services tax (\$239,500 x .028), for a combined payment totaling \$28,668.15 to the Florida Department of Revenue.

(b) Company B is a small theme park located in a municipality with a local communications service tax rate of 2.8 percent. Company B enters into a lease agreement on January 1 for equipment that constitutes a substitute communications system from Provider Y. Company B's lease payment to Provider Y for the system is \$20,000 per month or \$240,000 per year, which includes sales tax. The lease payments for the system are subject to communications services tax. Company B, in this example, should remit \$22,008.00 Florida communications services tax (\$240,000 x .0917) and \$6,720.00 local communications services tax (\$240,000 x .028), for a combined payment totaling \$28,728.00 to the Florida Department of Revenue.

Specific Authority 202.26(3)(c), 213.06(1) FS. Law Implemented 202.11(1)(16), 202.12(1)(b), 202.125, 202.15, 202.19(7) FS. History--New

12A-19.043 Homes for the Aged and Religious and Educational Organizations Exemptions Exemption from the Communications Services Tax.

(1)(a) The sale of communications services, as defined in Section 202.11(3), F.S., is subject to the Florida communications services tax and the local communications services tax, unless specifically exempt.

(b) This rule provides guidelines regarding sales by religious institutions and the documentation and recordkeeping requirements regarding the exemption for sales to homes for the aged and to religious or educational organizations from the communications services taxes.

(2) SALES TO HOMES FOR THE AGED.

(a) The sale of communications services to a home for the aged, as defined by Section 202.125(4), F.S., is exempt from the Florida communications services tax and the local communications services tax when the home for the aged is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, holds a valid Consumer's Certificate of Exemption (form DR-14) issued by the Department for sales and use tax purposes, and meets one of the following provisions:

1. The home for the aged is licensed as a nursing home or an assisted living facility under Chapter 400, F.S.; or

2. At least 75 percent of the occupants in the home for the aged are 62 years of age or older or totally and permanently disabled and the home for the aged qualifies for an ad valorem property tax exemption under Section 196.196, 196.197, or 196.1975, F.S.

(b) DOCUMENTATION REQUIREMENTS.

1. To be entitled to exemption as a home for the aged at the time of purchase, the purchaser must issue to the selling dealer a certificate signed by an authorized representative stating that the purchases are for a home for the aged, as defined by Section 202.125(4), F.S., that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. Dealers are not required to obtain copies of Internal Revenue Service determination letters granting homes for the aged exemption under s. 501(c)(3) of the Internal Revenue Code.

2. The following is a suggested format to be provided by a home for the aged to the selling dealer.

EXEMPTION CERTIFICATE FOR PURCHASES OF COMMUNICATIONS SERVICES BY HOMES FOR THE AGED

DATE: _____
TO: _____ (Selling Dealer's Business Name)
_____ (Selling Dealer's Address)

I, the undersigned, am a representative of the exempt home for the aged identified below. The purchases of communications services made on or after _____ from the business identified above are for use by the home for the aged identified below.

The charges for the purchases of communications services from the dealer identified above will be billed to and paid directly by the exempt home for the aged identified below. These purchases are exempt from the Florida communications services tax and the local communications services tax because the entity is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, holds a valid Florida Consumer's Certificate of Exemption, and is a "home for the aged," as defined by Section 202.125(4), F.S.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

AUTHORIZED SIGNATURE ON BEHALF OF THE EXEMPT HOME FOR THE AGED

PRINTED NAME OF AUTHORIZED SIGNATORY AND TITLE

NAME OF THE EXEMPT HOME FOR THE AGED

ADDRESS OF EXEMPT HOME FOR THE AGED

(2) through (4) renumbered (3) through (5) No change.

Specific Authority 202.26(3)(c) FS. Law Implemented 92.525(2), 202.125(4), 202.13(2), 202.16(4), 202.26(2), 202.34(3), 213.37 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) No change.

Effective Date

Form Number Title

(2) No change.

(3)(a) DR-700016 Florida Communications Services Tax Return (R. 07/03)

(a) through (h) renumbered (b) through (i) 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 _____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE CHAPTER TITLE: Communications Services Tax RULE CHAPTER NO.: 12A-19

RULE TITLES: Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods 12A-19.070 Department of Revenue Electronic Database 12A-19.071 Certification of Service Address Databases 12A-19.072 Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions 12A-19.073

PURPOSE AND EFFECT: The Communications Services Tax Simplification Law (Chapter 202, F.S.) requires that communications services dealers must collect and remit local communications services taxes based on the rate of the local taxing jurisdiction in which customer service addresses are located. The Department of Revenue is required to develop and maintain an electronic database in which local service addresses are assigned to local jurisdictions, and local governments are required to provide information for inclusion in the database. Use of certain methods to assign service addresses, including use of a database that has been certified by the Department of Revenue as meeting statutory accuracy standards, entitles a dealer to a higher collection allowance and to protection against liability for taxes, interest, and penalties resulting from erroneous service address assignments. The promulgation of these proposed rules ensures the following: 1) that communications services tax dealers are informed of their obligations concerning the assignment of customer service addresses, of the methods of assigning addresses that will entitle dealers to protection against liability, and of the methods of assigning addresses that will entitle a dealer to a higher collection allowance; 2) that the procedures for the Department and local governments to maintain the accuracy of the database on an on-going basis are available; 3) that the procedures for application for certification by the Department of databases used by communications services tax dealers are available; and 4) that interested parties are aware that the applicable forms have been incorporated into Rule 12A-19.100, F.A.C.

The purposes of the proposed creation of Rule 12A-19.070, F.A.C. (Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods), are to provide guidelines on: 1) the requirement that communications services dealers assign customer service addresses to local taxing jurisdictions; 2) the use of certain databases to avoid liability for errors in customer service address assignments; 3) the due diligence standard applicable to dealers using databases that provide protection from liability for errors in

assigning customer service addresses; and 4) the collection allowance available depending on the database used by a communications services dealer.

The purposes of the proposed creation of Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database), are to provide guidelines on: 1) the electronic customer service database maintained by the Department of Revenue; 2) the procedures for local taxing jurisdictions to request changes to the Department of Revenue database; and 3) procedures for any substantially affected person to object to the assignment of a customer service address in the Department of Revenue database.

The purpose of the proposed creation of Rule 12A-19.072, F.A.C. (Certification of Service Address Databases), is to provide guidelines on the standards and procedures for certification of a customer service address database developed by a communications services dealer or a vendor.

The purpose of the proposed creation of Rule 12A-19.073, F.A.C. (Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions), is to provide guidelines on the use of an enhanced zip code method to assign customer service addresses.

These proposed rules adopt and incorporate by reference two (2) sets of instructions that are incorporated into the on-line Department of Revenue service address database. The on-line instructions incorporated by reference are the "Guide for Address Change Requests" and the "Instructions for Preparing and Submitting Customer Address Files for Certification Testing." These proposed rules also reference the incorporation of four (4) forms required for administration of the Communications Services Tax Simplification Law in Rule 12A-19.100, F.A.C. The forms are: DR-700012, "Application for Certification of Communications Services Database"; DR-700020, "Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax)"; DR-700022, "Local Communications Services Tax Notification of Jurisdiction Change"; and DR-700025, "Objection to Communications Services Tax Electronic Database Service Address Assignment."

SUBJECT AREA TO BE DISCUSSED: The subject of this rule development workshop is to develop the requirements to be used by the Department regarding siting service addresses to the appropriate local taxing jurisdiction and the procedures for certification of databases.

SPECIFIC AUTHORITY: 202.26(3)(b),(f),(g),(4), 202.28(1) FS.

LAW IMPLEMENTED: 202.22, 202.23, 202.28, 202.34(1)(a) FS.

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

TIME AND DATE: 1:30 p.m., July 31, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 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 RULE DEVELOPMENT IS: Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Office of the General Counsel, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4727

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods.

(1)(a) Dealers of communications services that are required to collect local communications services taxes must assign each customer service address to a specific local taxing jurisdiction for purposes of determining the appropriate local communications services tax rate to be applied to sales made to that address. Local communications services taxes must be collected and remitted for each service address in accordance with the service address assignments in the latest version of the communications services tax Address/Jurisdiction Database, which is the electronic database maintained by the Department that is updated and adopted every January 1 and July 1, as discussed in Rule 12A-19.071, F.A.C. Except as otherwise provided in subsection (2), a dealer is liable for any additional local communications services taxes, interest, and penalties that are due as a result of assigning service addresses to incorrect local taxing jurisdictions when the correct local taxing jurisdiction's tax rate exceeds the incorrectly assigned local taxing jurisdiction's tax rate.

(b) In determining the liability for any additional local communications services taxes, interest, and penalties of a dealer who has failed to assign a service address to the correct local taxing jurisdiction, the Department will take into account any amount of local communications services tax that was collected and erroneously assigned by the dealer to another local taxing jurisdiction. The Department will reallocate and redistribute such amounts between the local taxing jurisdictions involved to apply the payment of any additional local communications services taxes to the correct local taxing jurisdiction. Interest and penalties will be applied to the additional local communications services taxes due on the sale

after crediting the dealer with the amount of local communications services tax collected that was erroneously based on an assignment to an incorrect local taxing jurisdiction. In addition, a specific penalty of 10 percent of any tax collected but reported to an incorrect jurisdiction as a result of an incorrect address assignment, not to exceed \$10,000 per return, will be imposed on any dealer that does not use a database described in paragraph (2)(a).

(2)(a) A dealer will not be liable for any additional local communications services taxes, interest, or penalty due solely because of an error in assigning a service address to a local taxing jurisdiction if the dealer exercised due diligence in employing one of the following methodologies in assigning that service address:

1. The Address/Jurisdiction Database;

2. A database that has been certified by the Department, as provided in Rule 12A-19.072, F.A.C.;

3. An enhanced zip code method, as discussed in Rule 12A-19.073, F.A.C.; or

4. A database that, upon audit by the Department, is determined to have met the accuracy rate criterion required for certification under Rule 12A-19.072, F.A.C., at the time of the sale on which local communications services taxes are due.

(b) A dealer must timely notify the Department of the method or methods to be used in assigning service addresses on form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule 12A-19.100, F.A.C.). If a dealer changes the method or methods to be used, the dealer must notify the Department on form DR-700020 of the change in method or methods and of the effective date of the change.

(c) Due Diligence. In order to avoid liability for any additional local communications services tax, penalty, and interest resulting from errors in the assignment of customer service addresses to local taxing jurisdictions under paragraph (a), a dealer must exercise due diligence in employing one of the methodologies described. The dealer must exercise the care and attention that is expected from and ordinarily exercised by a reasonable and prudent person when ascertaining the correct amount of tax due on sales made by that person.

1. A dealer is exercising due diligence if that dealer expends reasonable resources to accurately and reliably implement a method described in paragraph (a) and maintains adequate internal controls in the assignment of service addresses.

a. Internal controls in the assignment of service addresses are adequate if the dealer has in place and consistently follows procedures to obtain and incorporate accurate updates to its database at least once every six months and corrects errors in assignments of service addresses within 120 days from discovering or being notified of such errors. A dealer's internal controls must ensure that, when the dealer is notified of an

error, the error is corrected and the error is not repeated when a subsequent update is obtained. A dealer may choose to update its database more frequently than once every six months as long as the dealer has in place and consistently follows procedures to obtain and incorporate accurate updates. The auxiliary file described in paragraph (1)(b) of Rule 12A-19.071, F.A.C., that is maintained by the Department and available to dealers and local government users may be used by the dealer to update the dealer's database more frequently than the minimum of at least once every six months.

b. Internal controls in the assignment of service addresses are not adequate if corrected assignments of service addresses are not maintained or are incorrectly replaced with the previous incorrect assignment. Once notified by any person of an error, the dealer must ensure that the corrected information is preserved in its database. In the event that the error reoccurs, the dealer will not be considered to have exercised due diligence as required for the protection described in paragraph (a).

2. A communications services dealer must maintain records establishing that the dealer has exercised due diligence for the period of time during which the Department is authorized to assess taxes on sales of communications services by that dealer. Such records include instructions or procedures provided to employees, contracts and correspondence with third-party vendors or service providers concerning the acquisition or maintenance of data, documentation establishing that the data was consistently updated at least once every six months, records concerning customer or local taxing jurisdiction objections to the assignment of service addresses and responses to those objections, records of changes made to the assignment of service addresses and when the changes were made, and any other records that pertain to the acquisition, maintenance, and revision of the data upon which service address assignments are based.

3. If a communications services dealer uses a certified database provided by a third party vendor, the communications services dealer must exercise due diligence in its own conduct in using the database. A dealer using a certified database provided by a third party vendor is exercising due diligence if that dealer expends reasonable resources to accurately and reliably implement the third party vendor's certified database and maintains adequate internal controls in the assignment of service addresses. For example, the dealer must follow the vendor's instructions on use of the database and promptly incorporate any updates supplied by the vendor. As part of its due diligence, the dealer has a duty to take reasonable steps to ascertain that the vendor maintains the database so as to ensure continuing qualification for certification. For example, if a vendor failed to provide an update to the database when scheduled to do so, a reasonable and prudent dealer relying on that vendor's database would contact the vendor and make inquiry. A dealer that uses a third party vendor's certified

database must ensure that, when the dealer discovers or is notified of errors in assignments of service addresses, the errors are corrected within 120 days from discovering or being notified of such errors and the error is not repeated when a subsequent update is obtained from the vendor.

(d) If a communications services dealer uses multiple databases or methodologies, such dealer is protected from liability for any additional local communications services tax, interest, and penalty only as to service addresses assigned as specified in paragraph (a) of this subsection. Such a dealer is liable as provided in subsection (1) for any additional local communications services taxes, interest, and penalties in regard to erroneous jurisdictional assignments for any service address assigned by any other methodology. A dealer that uses multiple databases must maintain documents demonstrating that a service address has been assigned employing a methodology described in paragraph (a) in order to be held harmless for any additional local communications services taxes resulting from erroneous assignment of that service address.

(e)1. Employing a method described in paragraph (a) protects a dealer from liability for any additional local communications services taxes and related interest and penalties that would otherwise have been due to a local taxing jurisdiction. A dealer's employment of a method described in paragraph (a) does not deprive a purchaser of the right to a refund of overpayment of local communications services taxes resulting from an erroneous assignment of that customer's service address to a local taxing jurisdiction with a higher rate than that in effect in the correct local taxing jurisdiction. If a purchaser complies with the procedural requirements of Section 202.23, F.S., and establishes that the dealer has incorrectly assigned the purchaser's service address and that an overpayment of local communications services tax has resulted, the dealer must refund the amount of the overpayment to the purchaser. Upon making such refund, the dealer would be entitled to an equal credit or refund from the Department upon proper reporting to the Department of the amount and jurisdictions involved. Dealers are not entitled to retain or take credits for taxes collected from any customers assigned to an incorrect local taxing jurisdiction in excess of the taxes due to the correct local taxing jurisdiction unless a refund or credit has been provided to the customer.

2. For purposes of this paragraph, a purchaser that establishes that a dealer has assigned the purchaser's service address to a different local taxing jurisdiction from the one to which that address was assigned in the latest version of the Address/Jurisdiction Database as of the date of the sale has established a presumption that the dealer's assignment was erroneous. If a dealer believes that the assignment of the purchaser's address in the Department's database is incorrect, the dealer should refer that refund claim to the Department for a determination in accordance with the procedures in Section

202.23, F.S. A dealer who assigned a purchaser's service address in accordance with the latest version of the Address/Jurisdiction Database at the time of the sale on which the purchaser asserts that tax was overpaid is not required to make a refund to the purchaser unless the Department has subsequently revised the assignment of that address to correct an error and such revision had retroactive effect as of the date of the sale involved pursuant to paragraph (3)(c) of Rule 12A-19.071, F.A.C.

(3) Collection Allowance.

(a) Any communications services dealer that employs a methodology described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .75 percent on taxes collected on service addresses assigned using the described methodologies. Any communications services dealer that employs any methodology that is not described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .25 percent on taxes collected on service addresses assigned using such other methodology. A communications services dealer who is not liable for an assessment of additional local communications services taxes, interest, and penalties by reason of employing a database that is found upon audit to meet the accuracy criteria for certification, as described in subparagraph (2)(a)4., is entitled to a collection allowance of .25 percent until such time as an application for certification of the database is made and approved.

(b) A communications services dealer must maintain adequate records to demonstrate that a .75 percent collection allowance was claimed only in regard to taxes that were collected for service addresses that were assigned employing a methodology that qualifies for that allowance. If a communications services dealer's records do not clearly establish the correct collection allowance for each service address, the dealer shall be entitled to only a .25 percent collection allowance on sales made to any service address that the dealer cannot establish was assigned using a database or methodology that qualifies for the .75 percent collection allowance.

(c) A communications services dealer must also timely and correctly remit all tax and meet all the other requirements of Section 202.28, F.S., in order to be entitled to any collection allowance. This rule deals only with determining the amount of collection allowance available to a dealer who otherwise qualifies to receive the allowance. It does not create any separate entitlement to an allowance other than that set forth in Section 202.28, F.S.

Specific Authority 202.26(3)(b),(f),(g),(4), 202.28(1) FS. Law Implemented 202.22(1),(4),(5),(6),(8), 202.23, 202.28(1),(2), 202.34(1)(a) FS. History—New

12A-19.071 Department of Revenue Electronic Database.

(1)(a) The Department maintains an electronic database that assigns service addresses to local taxing jurisdictions in a format that satisfies the requirements of Section 202.22(2)(a), F.S. The electronic database, referred to as the communications services tax Address/Jurisdiction Database, is maintained on the Department's website at the address inside the parentheses (www.myflorida.com/dor). Local taxing jurisdictions and communications services providers are provided with access codes to permit them to register as users of the database. Registered local taxing jurisdictions and communications services dealers have the capability of downloading databases of addresses assigned to each local taxing jurisdiction. A file of addresses in the format adopted by the Federation of Tax Administrators and the Multistate Tax Commission in accordance with the federal Mobile Telecommunications Sourcing Act is available. Local taxing jurisdictions also have access to an on-line form for requesting changes in service address assignments. The database has a single address lookup feature that permits any person to enter an address and ascertain to which local jurisdiction it is assigned. Use of the single address lookup feature does not require an access code or registration. The Department will allow other persons to download from the database, if permitting such access is practicable and the Department determines that such access will further efficient administration of the taxes for which the Department is responsible. The Department will also use the database for other purposes when the Department determines that such use will promote the correct collection of the taxes it administers, such as situsing sales tax dealers to the correct county.

(b) When a change to the Address/Jurisdiction Database has been approved, it is stored in an auxiliary file pending its inclusion in the next scheduled update of the database, which occurs every January 1 and July 1. The auxiliary file is maintained by the Department and contains the most recent service address local taxing jurisdictional assignment information. Dealers may use this auxiliary file to update their service address assignments between the January 1 and July 1 updates to the Address/Jurisdiction Database even though such use of this auxiliary file is not required to satisfy due diligence requirements. The individual address lookup feature searches this auxiliary file as well as the current database and may therefore reflect information that has not yet been incorporated into the database available for downloading and use by local taxing jurisdictions and communications services dealers. In such cases, the individual address lookup page carries a statement notifying the viewer that it reflects a pending change to the database.

(c) The availability and effective date of the initial database was announced in the Florida Administrative Weekly. The availability and effective date of subsequent updates are also announced in the Florida Administrative Weekly. Updates

incorporate corrections of any errors discovered since the last preceding update as well as changes in addresses or jurisdictional boundaries based on information provided by local taxing jurisdictions. Each updated version of the Address/Jurisdiction Database is posted on the Department's website at least 90 days prior to the effective date of the updated version and is also available to dealers of communications services, vendors of databases, and other persons authorized to download the database in magnetic or electronic media for a fee not to exceed the cost of furnishing the updated version in such media. Requests for electronic or magnetic media copies should be addressed to: Florida Department of Revenue, Communications Services Tax, Local Government Jurisdiction Unit, Post Office Box 5885, Tallahassee, Florida 32314-5885.

(d) To fulfill its statutory responsibility to maintain the database, the Department will when practicable initiate procedures to correct apparent errors, such as an address being assigned to two jurisdictions or not being assigned to any jurisdiction. The Department will in such cases initiate an objection to the database in accordance with the provisions of subsection (3).

(2)(a) Local taxing jurisdictions have a continuing obligation to provide the Department with information to update the Address/Jurisdiction Database, such as changes in service addresses or address ranges, annexations, incorporations, reorganizations, and any other changes to jurisdictional boundaries. Local taxing jurisdictions must inform the Department of the identity of the jurisdictions' officers or employees who are authorized to act as contact persons with the Department on database matters. Local taxing jurisdictions are limited to two (2) authorized contact persons; however, local taxing jurisdictions may provide updated contact person information as frequently as necessary to ensure that the appropriate contact person can be reached by the Department to administer database matters.

(b) Local taxing jurisdictions must submit information requesting changes to the Address/Jurisdiction Database electronically following the on-line Guide for Address Change Requests (hereby incorporated by reference). Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to request authorization to submit changes through alternative electronic media. The information must also be submitted on form DR-700022, Local Communications Services Tax Notification of Jurisdiction Change (incorporated by reference in Rule 12A-19.100, F.A.C.).

(c) In the event that a local taxing jurisdiction improperly formats its batch submission, the Department will notify the requesting jurisdiction of its error and designate the file as a pending submission until such time as a corrected submission is received. If the corrected submission is not received in time to be included in the next update, the pending submission will

be denied and the local taxing jurisdiction should provide a new submission for those addresses or address ranges. Local taxing jurisdictions should not submit jurisdiction changes between the last date of submission for the next update and the official adoption of the update. Submissions initiated during this time frame will be denied and a new submission will be necessary.

(d) The local taxing jurisdiction must specify the effective date of any information to be incorporated in the Address/Jurisdiction Database. The effective date must be the next January 1 or July 1 after the date of submission of the information to the Department. Changes must be submitted no later than the date that is 120 days prior to the January 1 or July 1 on which changes are to be effective.

(e)1. Any requested changes or additions to the Address/Jurisdiction Database must be supported by competent evidence. Competent evidence to support a change to the Address/Jurisdiction Database is documentation establishing that the service addresses affected by the requested change or addition are located in the local taxing jurisdiction indicated on the request. Examples of competent evidence include annexation ordinances, articles of incorporation of a new municipality, the plat filed for a newly approved subdivision, or the enhanced 911 Master Street Address Guide (MSAG) database information relating to local law enforcement responders issued by the local jurisdiction coordinator's office. Competent evidence must clearly designate the service addresses or address ranges that are affected.

2. If a requested change is to move an address from one local taxing jurisdiction to another, competent evidence includes the consent of the local taxing jurisdiction that did not request the change. To facilitate processing of the change, the local taxing jurisdiction requesting the change should attempt to obtain a written consent to the change signed by an authorized contact person of the non-requesting jurisdiction. Form DR-700022 contains an authorization statement that will serve as the written consent of the non-requesting local taxing jurisdiction when signed by that jurisdiction's authorized contact person. The Department will consider the receipt of a form DR-700022 containing the signatures of the authorized contact persons of both the initiating and affected jurisdictions to be sufficient competent evidence only when the form is submitted with supporting documentation that identifies the service addresses involved and includes the documentation on which the authorized contact person of the non-requesting jurisdiction relied when giving consent. Identification of the batch number associated with the address changes is insufficient by itself to demonstrate competent evidence establishing that the service addresses are located in the local taxing jurisdiction indicated on the request. If the requesting jurisdiction has not obtained the written consent of the non-requesting jurisdiction, the Department will contact the

non-requesting jurisdiction before making the change. Based upon the response of the non-requesting jurisdiction, the Department will take the following action in regard to the requested change:

a. If the non-requesting jurisdiction consents in writing, the Department will accept and process the change.

b. If the non-requesting jurisdiction objects in writing, the Department will treat the requested change as one that must be resolved by the local taxing jurisdictions involved as provided in subsection (3).

c. If the non-requesting jurisdiction fails to either consent or object in writing within 20 days after the date on which the Department notified that jurisdiction of the requested change, the Department will accept and process the change. This will not preclude the non-requesting jurisdiction from subsequently objecting to the new address assignments after they have been processed.

(f) Examples.

1. A local taxing jurisdiction approves the plat and grants the permits necessary for development of a new subdivision on February 1, 2005. The plat indicates street names but no address numbers have yet been assigned by the postal authorities. In order for the addresses to be added to the electronic database effective the following July 1, the local taxing jurisdiction must file form DR-700022 with a copy of the approved subdivision plat and submit on-line address change information by March 3, 2005. If that deadline is not met, the earliest date on which the new service addresses can be added to the database is January 1, 2006. In order to meet the deadline and be certain that the actual address numbers are included, the contact person for the local taxing jurisdiction may request the addition of a range of numbers that is certain to include the actual numbers. Because the development of the subdivision affects only the requested jurisdiction, no consent from any other jurisdiction is required.

2. A municipality annexes an area with 1500 service addresses that was formerly in an unincorporated area of the county. The annexation will be effective July 1, 2003. The municipality's database contact person timely enters address change requests for 1525 addresses on-line and files a form DR-700022 on February 15, 2003. Included with the form are a copy of the annexation ordinance and a map with the annexed area outlined with street address ranges included in the annexed area noted. The county database contact person has not signed the form DR-700022 or otherwise given written consent to the changes. On February 20, 2003, the Department notifies the county of the requested changes and provides copies of the municipality's form DR-700022, annexation ordinance, and map. The county does not respond with written consent or a written objection. On March 14, 2003, the Department processes the changes, and they are included in an update available on April 1, 2003, to take effect July 1, 2003. The county's database contact person notifies the Department

on July 15, 2003, that the county believes the database now incorrectly assigns 25 service addresses to the municipality. The Department will handle this as an objection to the database as discussed in subsection (3).

3. A municipality annexes an area with 1500 service addresses that was formerly in an unincorporated area of the county. The annexation will be effective July 1, 2003. The municipality's contact person timely enters address change requests for the 1500 addresses on-line and writes a letter to the county's contact person requesting that consent be indicated by signing a form DR-700022 that has been prepared by the municipality and enclosed with the letter. Also enclosed with the letter is a copy of the annexation ordinance and a street map on which the annexed area is outlined. The county contact person signs the form DR-700022. The municipality submits the form and copies of the letter, annexation ordinance, and map to the Department on February 15, 2003. The Department will approve the changes and include them in the July 1, 2003 update to the Address/Jurisdiction database.

(3)(a) Any substantially affected party may object to information contained in the Address/Jurisdiction Database by submitting form DR-700025, Objection to Communications Services Tax Electronic Database Service Address Assignment (incorporated by reference in Rule 12A-19.100, F.A.C.), along with competent evidence to support the party's objection. Local taxing jurisdictions should use form DR-700022 to create addresses in the Address/Jurisdiction Database or to request address assignment changes resulting from changes in jurisdictional boundaries, but may use form DR-700025 to object to existing address assignments that the local taxing jurisdiction believes are incorrect. Regardless of which form is used to request changes to the Address/Jurisdiction Database, the consent of an affected jurisdiction will be required. Examples of substantially affected parties include purchasers of communications services who pay local communications services taxes, dealers who are required to collect local communications services taxes, the Department of Revenue, and local taxing jurisdictions that object to a change to the Address/Jurisdiction Database proposed by another local taxing jurisdiction.

(b) Multiple address submissions affecting multiple jurisdictions should be segregated, based on the specific combinations of the affected jurisdictions, in a manner that segregates the changes from City A to City B from the changes from City B to City A.

(c) When a dealer that is required to collect local communications services tax objects to information contained in the Address/Jurisdiction Database, the dealer must use form DR-700025. In the event the dealer objects to the assignment of multiple addresses or address ranges, the dealer should electronically submit the addresses in the form used to apply for certification of databases by following the on-line Instructions for Preparing and Submitting Customer Address

Files for Certification Testing, as provided in paragraph (2)(a) of Rule 12A-19.072, F.A.C. In the event that the dealer is unable to submit its objection electronically, the dealer should contact the Department to request authorization to submit changes through alternative electronic media.

(d) Examples of competent evidence that supports an inquiry into a substantially affected party's objection include an electric utility bill from a provider that operates only within a particular local taxing jurisdiction, a voter registration card indicating the voter residing at a service address is entitled to vote in municipal elections or only in county elections, the enhanced 911 MSAG database, or a map that includes the boundaries of a local taxing jurisdiction and clearly places a service address inside or outside those boundaries. For example, if a map shows that a street is entirely within the boundaries of a municipality, that map is competent evidence that a service address on that street should be assigned to that municipality in the database. The Department will notify the substantially affected party of any deficiencies in the objection or competent evidence.

(e) When the Department believes that addresses or address ranges have been assigned to an incorrect local taxing jurisdiction, the Department will initiate the change by using form DR-700025. The Department will use any information at its disposal, including E911 address information and information supplied by any dealer, as a basis for initiating an objection; however, in no event, will the Department change any address assignment without providing notice to affected jurisdictions in manner provided in subsection (3)(f).

(f) Upon receipt of an objection on a completed form DR-700025, including competent evidence to support the objection, the Department will forward copies of the form, along with the associated documentation to the database contact person in each affected taxing jurisdiction. The Department will when practicable provide the information electronically for review by the local taxing jurisdictions. The local taxing jurisdiction should review the specific address at issue as well as the address range that will be impacted by the change to ensure that the local taxing jurisdiction retains all of the addresses that it believes are within its local taxing jurisdiction. The Department will instruct each local taxing jurisdiction to indicate in writing its determination in regard to the objection. If the affected local taxing jurisdictions each indicate agreement with the objection, the Department will revise the electronic database accordingly. If a local taxing jurisdiction fails to respond within a reasonable time, which shall be no less than 30 days, such jurisdiction shall be deemed to have indicated agreement with the objection. If either local taxing jurisdiction notifies the Department in writing that it does not agree with the objection, the Department will immediately assign the address with a special designation that

indicates that the jurisdictional assignment of the address is in dispute. The service address will be reassigned to a local taxing jurisdiction when one of the following events occurs:

1. The Department receives written notification from the local taxing jurisdiction that did not agree with the change requested in the objection that such local taxing jurisdiction has subsequently determined that the change should be made;

2. The Department receives written notification from the party that filed the form DR-700025 that the objection was erroneous and the assignment in the database was correct; or

3. The Department is provided with a copy of a final order, judgment, or other binding written determination resolving the jurisdictional assignment of the contested address.

(g) No communications services provider who relies on the assignment of a service address in the Address/Jurisdiction Database will be held liable for any additional local communications services tax, interest, or penalty in regard to that service address if the assignment is later determined to be erroneous under this subsection. For purposes of making refunds to purchasers, a correction to the Address/Jurisdiction Database will have retroactive effect to the July 1 or January 1 on which the erroneous assignment took effect if the form DR-700025 objecting to the assignment is filed no later than the August 31 following an assignment that took effect on July 1 or the February 28 (February 29 in a leap year) following an assignment that took effect on January 1.

Specific Authority 202.26(3)(b),(g),(4) FS. Law Implemented 202.22(2), 202.23 FS. History—New

12A-19.072 Certification of Service Address Databases.

(1) A communications services dealer that develops and maintains its own database for assigning service addresses to local taxing jurisdictions or a third party vendor that provides a database for sale to communications services dealers or uses such a database in providing billing or other services to communications services dealers may apply to the Department for certification of the database. A database will be certified if it assigns street addresses, address ranges, post office boxes, and post office box ranges to the proper local taxing jurisdictions with an overall accuracy rate of 95 percent with a 95 percent level of confidence, based on a statistically reliable sample. Accuracy must be measured based on the entire geographic area within the state of Florida covered by the database for which certification is sought.

(2)(a) Application for certification must be made to the Department on form DR-700012, Application for Certification of Communications Services Database (incorporated by reference in Rule 12A-19.100, F.A.C.) and in accordance with the on-line Instructions for Preparing and Submitting Customer Address Files for Certification Testing (available at the Department's website, www.myflorida.com/dor, and hereby incorporated by reference). All applicable portions of the application must be completed.

(b) The Department will notify the applicant of any errors or omissions in the application and of all additional information or documentation required within 90 days of receipt of the application. The Department will review the application and contact the individual designated in the application concerning any additional information required and the format in which such information must be submitted. The applicant shall provide access to all records, facilities, and processes reasonably required to review, inspect, or test the database within 10 working days of the Department's request for such access.

(c) The Department will test the applicant's database by comparing the assignments of service addresses to the assignments of service addresses in the Address/Jurisdiction Database, which is the Department's on-line database described in Rule 12A-19.071, F.A.C. The Department will notify the applicant of all service addresses that do not match the Department's database regardless of whether the applicant's database meets the accuracy criterion for certification.

(d) Within 180 days of receipt of a completed application, the Department will issue a written determination.

1. If the notice grants certification, it will specify the expiration date, which will be three years from the date of the notice.

2. If the notice denies certification, it must specify the grounds, inform the applicant of any available remedy, and set forth procedures for protesting the denial. If the applicant cures the defects that formed the basis for denial and upon retesting the database meets the requirements for certification, the Department will issue a notice certifying the database. If the defects forming the basis of the denial are based on a sample, correction of the errors identified in the sample does not constitute correction of the database. The Department is authorized to grant certification of the database even in cases where the applicant has filed a petition and a proceeding is pending under Chapter 120, F.S.

(3) An application for recertification of a database must be submitted on form DR-700012 when the certification period expires. If an application for recertification is received prior to the stated expiration date of the certification period, the prior certification will not expire until the Department takes final action on the application for recertification. In such cases, if the Department denies recertification, the prior certification will remain in effect until the time for administrative or judicial review of the Department's denial of recertification has expired or, if later, the date fixed by order of the reviewing court.

(4) Certification or recertification of a database is effective upon the date of the Department's notice approving the application. The notice approving the application is in the form of a letter stating that the database is certified and that an application for renewal should be applied for by a specified

date. Except when extended as provided under subsection (3), when a timely application for recertification has been filed, a certification or recertification is effective through the date stated on the notice, which shall be three years from the date of the notice.

(5) In determining whether a database qualifies for certification, the Department will consider whether the applicant will implement procedures designed to maintain the accuracy level required for certification throughout the certification period. If the Department obtains information indicating that a certified database is not being properly maintained and updated to insure on-going accuracy at the required levels, the Department will notify the applicant and review the operation and maintenance of that database. If the Department determines that a database no longer qualifies for certification and remedial steps are not promptly taken, the Department will revoke the certification. The Department shall first provide notice to the applicant of its intent to revoke the certification as provided in Section 120.60, F.S., and afford the applicant a point of entry under Chapter 120, F.S., to contest the notice of intent.

(6) Certification is contingent upon there being no material changes to the database or procedures for its updating and maintenance. If there are such changes, the applicant should inform the Department and request a determination whether a new form DR-700012 should be submitted. If practicable, the Department will test the effect of the changes rather than require a new certification procedure for the entire database. A material change is any change that could reasonably be expected to affect whether the database would still meet the 95 percent accuracy level required for certification. Examples of changes that could be material would be an expansion of the service area covered by a database, the merger of two or more databases, a change in the sources from which information for the database is obtained, or alteration of the methods by which service addresses are assigned, updated, or corrected. Changes to the assignment of service addresses or address ranges that are made in the course of consistently followed procedures to obtain and incorporate accurate updates and to correct errors in assignments of service addresses as required to satisfy the due diligence standards set forth in paragraph (2)(c) of Rule 12A-19.070, F.A.C., are not material address changes that require Department review of a database.

Specific Authority 202.26(3)(g),(4) FS. Law Implemented 202.22(3) FS. History—New _____.

12A-19.073 Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions.

(1) An enhanced zip code method is a method of assigning service addresses to local taxing jurisdictions based on United States postal zip codes of at least nine digits.

(2) A communications services dealer may avoid liability as provided in Rule 12A-19.070, F.A.C., for any additional local communications services tax, penalty, and interest

resulting from errors in assigning service addresses to an incorrect local taxing jurisdiction when the correct local taxing jurisdiction has a higher local tax rate by employing an enhanced zip code method only if the requirements of this rule are satisfied.

(3) The dealer or the vendor providing the database is not permitted to rely solely on the location of the post office to which an enhanced zip code is assigned by the United States Postal System if the area covered by the enhanced zip code is not entirely located within the same local taxing jurisdiction as the post office. In some cases, the area included in an enhanced zip code overlaps local jurisdictional boundaries or is outside the local taxing jurisdiction where the post office to which a zip code is assigned is located. In addition, a dealer may provide services to customer service addresses for which an enhanced zip code is not available, because the service address is in a rural area or is without postal delivery. The dealer or the vendor must use a reasonable methodology that accurately assigns service addresses to the correct local taxing jurisdictions in such circumstances. The dealer or vendor will be considered to have used a reasonable methodology if it relies on information obtained from one or more of the following sources:

1. The Address/Jurisdiction Database, described in Rule 12A-19.071, F.A.C.;

2. A database that has been certified by the Department as provided in Rule 12A-19.072, F.A.C.;

3. Representatives of relevant local taxing jurisdictions whose responsibilities entail knowledge of the location of addresses as within or without their jurisdictions;

4. The United States Census Bureau; or

5. The United States Post Office.

(b) The dealer must maintain records that establish the methodology used to assign service addresses as provided in this subsection.

(4) The dealer employing an enhanced zip code method to assign service addresses to local jurisdictions must satisfy the notification and due diligence requirements set forth in paragraphs (2)(b) and (c) of Rule 12A-19.070, F.A.C. For purposes of due diligence requirements, a communications services dealer or an enhanced zip code database vendor is deemed to have expended reasonable resources to accurately and reliably implement an enhanced zip code method if the requirements of subsection (3) have been met. The due diligence requirement includes the requirement to correct errors in the assignments of service addresses within 120 days of discovering or being notified by any person of such errors. The database vendor or dealer must also maintain adequate internal controls to assure the on-going accuracy of an enhanced zip code database as described in subparagraph (2)(c)1. of Rule 12A-19.070, F.A.C.

(5) Mobile communications services providers using an enhanced zip code method are subject to the safe harbor provisions of Title 4 U.S.C. s. 120. Such providers will be held harmless from liability for additional local communications services tax, penalty, and interest resulting from erroneous assignments of customer service addresses to local taxing jurisdictions as provided in the federal Mobile Communications Sourcing Act. However, on May 23, 2003, the Department provided notice, as required by Title 4 United States Code (U.S.C.) section 119(b), that the Department of Revenue's Address/Jurisdiction Database complies with the formatting requirements of Title 4 U.S.C. section 119(a)(2) of the Mobile Telecommunications Sourcing Act.

(6) In order to be entitled to the .75 percent collection allowance, a communications services dealer that employs an enhanced zip code method to assign service addresses must satisfy the requirements of subsection (3) of this rule and the requirements of subsection (3) of Rule 12A-19.070, F.A.C.

Specific Authority 202.26(3)(b),(f),(g),(4), 202.28(1) FS. Law Implemented 202.22(1),(4),(6),(7), 202.28(1)(b)2. FS. History--New _____.

DEPARTMENT OF REVENUE

Division of Ad Valorem Tax

RULE TITLE: Florida Uniform Market Area Guidelines
 RULE NO.: 12D-8.0082

PURPOSE AND EFFECT: The purpose of the creation of proposed Rule 12D-8.0082, F.A.C., is to create the Florida Uniform Market Area Guidelines. Rule development will begin to develop uniform regulations and guidelines that establish criteria for the identification of market areas by county property appraisers for preparation of the real property assessment roll under Section 193.114, F.S., and to receive public comments on the second draft of the guidelines. These guidelines are being developed for adoption under the procedures set forth in Section 120.54, F.S., and will be adopted as rules.

SUBJECT AREA TO BE ADDRESSED: Florida Uniform Market Area Guidelines.

SPECIFIC AUTHORITY: 195.027(1), 195.032, 213.06(1) FS.

LAW IMPLEMENTED: 193.114, 195.032, 195.062, 213.05 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 9:30 a.m., Tuesday, July 22, 2003

PLACE: Capital Complex Center, Building C-1, Room D/E, 5050 W. Tennessee St. (U.S. Hwy. 90 West), Tallahassee, Florida

TIME AND DATE: 9:30 a.m., Thursday, July 24, 2003

PLACE: Orlando Public Library, Albertson Room, Third Floor, 101 E. Central Blvd., Orlando, Florida

Copies of the agendas for the workshops may be obtained from: Sharon Gallops, Tax Law Specialist, Department of Revenue, Property Tax Technical Unit, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108

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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 text of the second draft of the Florida Uniform Market Area Guidelines is expected to be available 10 days before the rule development workshops by contacting the person referenced above or by accessing the website on the Internet at <http://www.myflorida.com/dor/property/RP/pcomment.html>.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12D-8.0082 Florida Uniform Market Area Guidelines.

Pursuant to Section 193.114, F.S., these guidelines are adopted in conformity with the procedures set forth in Section 120.54, F.S. Market areas and market area codes shall be established in accordance with these guidelines. Property appraisers shall use these guidelines to establish market areas and market area codes as provided by Section 193.114, F.S. These guidelines are entitled:

Florida Uniform Market Area Guidelines New 12/03
Copies of these guidelines may be obtained from the Department of Revenue, Property Tax Administration Program, P. O. Box 3000, Tallahassee, Florida 32315-3000 and may be found on the Internet at <http://www.myflorida.com/dor/property/>.

Specific Authority 195.027(1), 195.032, 213.06(1) FS. Law Implemented 193.114, 195.032, 195.062, 213.05 FS. History--New _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CITRUS

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

RULE CHAPTER NO.: 20-39

RULE TITLE: Approved Boxes

RULE NO.: 20-39.003

PURPOSE AND EFFECT: This rule would provide for two new containers to be added to the list of containers approved for use in shipping fresh Florida Citrus.

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

SPECIFIC AUTHORITY: 601.11 FS.

LAW IMPLEMENTED: 601.11 FS.

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

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

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

Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

PUBLIC SERVICE COMMISSION

UNDOCKETED

RULE TITLE: Cost of Service Load Research

RULE NO.: 25-6.0437

PURPOSE AND EFFECT: To update the rule to reflect current need for information, to reduce the frequency of filing the load research studies, and eliminate reporting data that are no longer used.

SUBJECT AREA TO BE ADDRESSED: Cost of service load research rule changes.

SPECIFIC AUTHORITY: 366.05(1), 350.127(2) FS.

LAW IMPLEMENTED: 350.117, 366.03, 366.04(2)(f), 366.05(1), 366.06(1), 366.82(3),(4) FS.

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

TIME AND DATE: 10:00 a.m., August 21, 2003

PLACE: Betty Easley Conference Center, Room 234, 4075 Esplanade Way, Tallahassee, Florida

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: David Wheeler, Division of Economic Regulation, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6670

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-6.0437 Cost of Service Load Research.

(1) Applicability. This rule shall apply to all investor owned electric utilities over which the Commission has jurisdiction and which provide electric service to more than 50,000 retail customers at the end of any calendar year ~~had gross annual retail sales of 500 GWH or more in 1983.~~

(2) Purpose. The primary purpose of this rule is to require that load research that supports cost of service studies used in ratemaking proceedings is of sufficient precision to reasonably assure that tariffs are equitable and reflect the true costs of

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Promotional and Advertising Services Contracts

RULE CHAPTER NO.: 20-104

RULE TITLE: Competition Announcement

RULE NO.: 20-104.003

PURPOSE AND EFFECT: This rule would exempt Department of Citrus' promotional and advertising service vendors from the fee and registration requirements imposed by the Department of Management Services (DMS) on all state contracted vendors.

SUBJECT AREA TO BE ADDRESSED: Exemption of advertising and promotional contracts from required registration and fee imposed by DMS.

SPECIFIC AUTHORITY: 601.10(1),(12), 601.15(2) FS.

LAW IMPLEMENTED: 601.10(12) FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alice P.

servicing each class of customer. Load research data gathered and submitted in accordance with this rule will also be used by the Commission to allocate costs to the customer classes in cost recovery clause proceedings, in evaluating proposed and operating conservation programs, for research, and for other purposes consistent with the Commission’s responsibilities.

(3) Sampling Plan. Within 90 days of becoming subject to this rule, each utility ~~All utilities subject to this rule shall, within 90 days of the effective date of this rule,~~ shall submit to the Commission a proposed load research sampling plan. The plan shall provide for sampling all rate classes that account for more than 1 percent of a utility’s annual retail sales. The plan shall provide that all covered rate classes shall be sampled within two years of the effective date of this rule. The sampling plan shall be designed to provide estimates of ~~the summer and winter peak demand by class and the averages of the 12 monthly coincident peaks for each class within plus or minus 10 percent at the 90 percent confidence level.~~ The sampling plan shall also be designed to provide estimates of the summer and winter peak demands for each rate class within plus or minus 10 percent at the 90 percent confidence level, except for the General Service Non-Demand rate class. The sampling plan shall be designed to provide estimates of the summer and winter peak demands for the General Service Non-Demand rate class within plus or minus 15 percent at the 90 percent confidence level. Any utility subject to this rule may apply to the Commission to waive the requirements hereof for any specific covered rate class.

(4) Review of Proposed Plan. Except where a utility has requested a formal ruling by the Commission, within 90 days after submission, the Commission’s Division of Economic Regulation ~~Electric and Gas Department~~ shall review each utility’s plan to determine whether it satisfies the criteria set forth in Section 3. above and shall notify the utility in writing of its decision accepting or rejecting the proposed sampling plan. If a proposed plan is rejected, the written notice of rejection shall state clearly the reasons for rejecting the proposed plan. If a utility’s proposed plan is rejected the utility shall submit a revised sampling plan to the Commission within 60 days after receiving the notice of rejection. Where a utility has requested staff review of its sampling plan and the plan has been rejected the utility may petition the Commission for approval of the plan. If a utility has not submitted a satisfactory sampling plan within 6 months following the submission of the initially proposed plan, the Commission may prescribe by order a sampling plan for the utility.

(5) No change.

(6) Revised Sampling Plans. Each utility subject to this rule shall submit a current, revised sampling plan to the Commission no less often than every three ~~two~~ years after the most recent initial sampling plan was required to be submitted is approved. Any new or revised plan shall be developed using data from the utility’s most current load research to determine

the required sampling plan to achieve the precision required in Section 3 of this rule. New or revised plans shall be reviewed by the Commission pursuant to Section 4. of this rule.

(7) Load Research Data to be Reported. Each utility subject to this rule shall perform a complete load research study in accordance with the specifications of this rule ~~by December 31, 1985 and~~ no less often than every three years ~~two years thereafter~~. Each utility shall, within 120 days following completion of the study, submit to the Commission the results of each load research study completed after the effective date of this rule. The submission shall include a detailed calculation of the average 12 coincident peak and class load factors for each covered rate class based upon the load research results ~~This submission shall include the hourly load data described in Section (8) for the residential class. The load research results of each study shall be submitted in a form prescribed by the Commission.~~

(8) Hourly Data to be Available Upon Request. Each utility subject to this rule shall make available within 30 ~~90~~ days of a request by the Commission the estimated hourly demands by class for all ~~8760~~ hours in the year derived from this Load Research.

Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 350.117, 366.03, 366.04(2)(f), 366.05(1), 366.06(1), 366.82(3),(4) FS. History–New 3-11-84, Formerly 25-6.437, Amended.

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

Tomoka Community Development District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Tomoka Community Development District	42LL-1
RULE TITLES:	RULE NOS.:
Establishment	42LL-1.001
Boundary	42LL-1.002
Supervisors	42LL-1.003

PURPOSE AND EFFECT: The purpose of this proposed rule is to establish a community development district (“CDD”), the Tomoka Community Development District (“Tomoka CDD”), pursuant to Chapter 190, F.S. The petition to establish the District, filed by ICI Homes, Inc., on behalf of PlanMore, Inc., collectively referenced as (“Petitioner”), requests that the Florida Land and Water Adjudicatory Commission establish by rule the Tomoka CDD. A Notice of Receipt of Petition for the Tomoka CDD was published in the May 2, 2003, edition of the Florida Administrative Weekly. The land area proposed to be served by the District will consist of approximately 2,100 acres, located in an area west of Interstate 95, northeast of U.S. Highway 1, south of Old Dixie Highway, and bounded on the east by the Florida Power and Light utility easement. The effected property comprises only Westlake Phases I & II. All the lands in the proposed Tomoka CDD are within the unincorporated area of Flagler County, Florida. There are two (2) out-parcels located within the external boundaries of the

proposed Tomoka CDD which are to be excluded from the Tomoka CDD. The future general distribution, location and extent of the public and private land uses within the proposed Tomoka CDD are consistent with the Flagler County Comprehensive Plan and include residential and recreational elements. The proposed land uses within the proposed Tomoka CDD are subject to the approved Plantation Bay Development of Regional Impact Development Approval issued by Flagler and Volusia Counties. Approximately 2,500 residential units are planned for development within the Tomoka CDD. There is no commercial or retail development planned. The Petitioner either owns or has written consent to establish the Tomoka CDD from the owners of 100% of the real property located within the proposed Tomoka CDD. The Tomoka CDD, if established, intends to participate in the construction of certain road and entranceway improvements. The Tomoka CDD is also expected to provide certain stormwater and recreational amenity improvements for the lands within the District, as well as wetland restoration and funding for roadway planning, development, and engineering study.

SUBJECT AREA TO BE ADDRESSED: Establishment of the Tomoka Community Development District.

SPECIFIC AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 FS.

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

TIME AND DATE: 2:00 p.m. – 4:00 p.m., Wednesday, July 30, 2003

PLACE: Room 1802M, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-7917, at least five (5) business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jonathan T. Johnson, Hopping Green & Sams, P.A., Post Office Box 6526, Tallahassee, Florida 32314, (850)222-7500 or Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1802, Tallahassee, Florida 32399-0001, (850)487-1884

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE:
Rural Health Clinic Services

RULE NO.:
59G-4.280

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Rural Health Clinic Services Coverage and Limitations Handbook, October 2003. The effect will be to incorporate by reference in the rule the current Florida Medicaid Rural Health Clinic Services Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Rural Health Clinic Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

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

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Mail Stop 20, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kay Aloi, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5403, (850)922-7330

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.280 Rural Health Clinic Services.

(1) No change.

~~(2) Payment Methodology for Covered Services:~~

~~(a) Provider-based clinics shall be reimbursed for rural health clinic services on the basis of a fixed all inclusive rate per visit, calculated by the Medicare Part A carrier that services the provider.~~

~~(b) Independent clinics shall be reimbursed for rural health clinic services at a cost based all inclusive rate per visit, calculated by the Medicare Part A carrier Blue Cross/Blue Shield of Chattanooga, Tennessee.~~

~~(c) Medicaid will utilize the annual rate established by the Medicare Part A carrier for reimbursement of rural health clinics with the exception of immunizations, emergency services, radiology, services rendered in a hospital, Norplant kits, intrauterine devices and DepoProvera, which are reimbursed based on a fee schedule established by Medicaid.~~

~~(d) In lieu of retroactive payment to a clinic, a percentage allowance will be added to the per encounter rate as of July 1 of each year based on the clinic's last year-end cost report. The percentage allowance will be based on the Consumer Price Index (CPI) estimated for the month of the clinic's fiscal year end divided into the CPI projected for December of the same rate period. The established rate multiplied by this ration will determine the clinic's rate per encounter for each subsequent twelve-month period. The effective date of each rate change will be July 1 of each year.~~

(2)(3) All rural health clinic providers enrolled in the Medicaid program must comply with the Florida Medicaid Rural Health Clinic Services Coverage and Limitations Handbook, October 2003 ~~June 2000~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA 1500 and Child Health Check-Up 221, incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 4-14-80, Amended 12-28-80, Formerly 10C-7.51, Amended 8-11-91, 1-19-93, Formerly 10C-7.051, Amended 6-29-94, 6-10-96, 6-24-98, 12-4-00, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Nursing Home Services

RULE NO.: 59G-6.010

The Agency is in the process of amending its Title XIX Long-Term Care Reimbursement Plan (The Plan) to incorporate changes to the reimbursement methodology effective July 1, 2003.

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan (the Plan) payment methodology, effective July 1, 2003. The proposed rates for Medicaid nursing home reimbursement will be rates resulting from the current methodology used to calculate per diem rates in the Long-Term Care Reimbursement Plan including the 2003-04 General Appropriations Act, Senate Bill 2-A, Specific Appropriation 198.

Due to non-recurring funds, the \$26,925,842 provided in fiscal year 2002-03 for the purpose of rebasing the operating cost component of the Medicaid nursing home per diem rate will be repealed. These funds were used to address to increased cost of general and professional liability insurance.

SUBJECT AREA TO BE ADDRESSED: Repeal of \$26,925,842 in the operating cost component of the Medicaid nursing home per diem.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

IF REQUESTED IN WRITING WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED IN WRITING, A RULE DEVELOPMENT WORKSHOP WILL NOT BE HELD).

TIME AND DATE: 3:00 p.m., July 23, 2003

PLACE: The Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, Agency for Health Care Administration, 2728 Mahan Drive, Building 3, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Outpatient Hospital Services

RULE NO.: 59G-6.030

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology. Effective July 1, 2003, the proposed rates for Medicaid outpatient hospitals will be rates resulting from the current methodology used to calculate per diems including appropriations from the 2003-04 General Appropriations Act, Senate Bill 2-A, Specific Appropriation 173.

1. \$45,385,063 is provided to increase the outpatient cap for adults from \$1,000 to \$1,500 per year and to eliminate the outpatient reimbursement ceilings for teaching, specialty and Community Health Education Program hospitals.
2. \$2,728,087 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose charity care and Medicaid days as a percentage of total adjusted hospital days equals or exceeds 11 percent. The Agency shall use the average of the 1997, 1998 and 1999 audited DSH data available as of March 1, 2003. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency will use the average of the audited DSH data for 1997, 1998 and 1999 that is available. For those hospitals with only one year of audited DSH data, the Agency shall eliminate the inpatient reimbursement ceilings for only those hospitals with 1999 audited DSH data.
3. \$3,626,006 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose Medicaid days, as a percentage of total hospital days, exceed 9.6%, and are trauma centers. The Agency shall use the average of the 1997, 1998 and 1999 audited DSH data available as of March 1, 2003. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency will use the average of the audited DSH data for 1997, 1998 and 1999 that is available.
4. A delay in the price level increase until October 1, 2003.

Other changes to the Plan unrelated to Senate Bill 2-A are:

- a. Adding a provision limiting the period of time an audited cost report may be reopened.
- b. The prior authorization of certain outpatient surgical procedures in Plan Section III. 7 is deleted.
- c. The 6% outpatient reimbursement rate reduction in Plan Section V.B 7 is deleted.

The effect of the proposed amendment will be: Effective July 1, 2003, the proposed rates for Medicaid outpatient hospitals will be rates resulting from the current methodology used to calculate per diems including appropriations from the 2003-04 General Appropriations Act, Senate Bill 2-A, Specific Appropriation 173.

- 1. \$45,385,063 is provided to increase the outpatient cap for adults from \$1,000 to \$1,500 per year and to eliminate the outpatient reimbursement ceilings for teaching, specialty and Community Health Education Program hospitals.
- 2. \$2,728,087 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose charity care and Medicaid days as a percentage of total adjusted hospital days equals or exceeds 11 percent. The Agency shall use the average of the 1997, 1998 and 1999 audited DSH data available as of March 1, 2003. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency will use the average of the audited DSH data for 1997, 1998 and 1999 that is available. For those hospitals with only one year of audited DSH data, the Agency shall eliminate the inpatient reimbursement ceilings for only those hospitals with 1999 audited DSH data.
- 3. \$3,626,006 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose Medicaid days, as a percentage of total hospital days, exceed 9.6%, and are trauma centers. The Agency shall use the average of the 1997, 1998 and 1999 audited DSH data available as of March 1, 2003. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency will use the average of the audited DSH data for 1997, 1998 and 1999 that is available.
- 4. A delay in the price level increase until October 1, 2003.

Other changes to the Plan unrelated to Senate Bill 2-A are:

- a. Adding a provision limiting the period of time an audited cost report may be reopened.
- b. The prior authorization of certain outpatient surgical procedures in Plan Section III. 7 is deleted.
- c. The 6% outpatient reimbursement rate reduction in Plan Section V. B 7 is deleted.

SUBJECT AREA TO BE ADDRESSED: The methodology underlying the establishment of the proposed rates for Medicaid Outpatient Hospitals will be rates resulting from the current methodology used to calculate per diems including the 2003-04 General Appropriations Act, Senate Bill 2-A, Specific Appropriation 173.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 10:00 a.m., July 23, 2003

PLACE: 2727 Mahan Drive, Conference Room D, Building 3, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robert C. Butler, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Tallahassee, Florida 32308, (850)414-2756

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Services in Facilities Not Publicly Owned or Operated (Facilities Formerly Known as ICF/DD Facilities) **RULE NO.:** 59G-6.045

The Agency is in the process of amending its Title XIX Intermediate Care Facilities (ICF) for the Mentally Retarded and the Developmentally Disabled Facilities not publicly owned and not publicly operated Reimbursement Plan (the Plan) to incorporate changes to the reimbursement methodology.

PURPOSE AND EFFECT: The purpose and the effect of the proposed amendment is: Effective July 1, 2003, the proposed rates for Medicaid ICFs not publicly owned and not publicly operated will be rates resulting from the current methodology used to calculate per diem rates except for the following:

A modification to the calculation of the total per diem to reflect incentives as an uninflated add-on to the operating and resident care cost component.

SUBJECT AREA TO BE ADDRESSED: The proposed rates for Medicaid ICFs not publicly owned and not publicly operated will be rates resulting from the current methodology used to calculate per diem rates except for the following:

A modification to the calculation of the total per diem to reflect incentives as an uninflated add-on to the operating and resident care cost component.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 11:00 a.m., July 23, 2003

PLACE: Agency For Health Care Administration 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert Butler, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Tallahassee, Florida 32308, (850)414-2759

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.:

Payment Methodology for Federally Qualified Health Centers (FQHC) Services 59G-6.080

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment is to incorporate changes to the Florida Title XIX Federally Qualified Health Centers (FQHC) Reimbursement Plan payment methodology, effective April 1, 2003, to provide the following changes:

1. Each Rural Health Clinic (RHC) entering the Florida Medicaid RHC Program on or after January 1, 2001 may be required to submit a Rural Health Clinic Form 222-Medicare cost report postmarked or accepted by a common carrier no later than 3 calendar months after the close of its cost reporting year. A complete, legible copy of the cost report shall be submitted to AHCA.
2. Inclusion of Rural Health Clinic (RHC) in the title of the Federally Qualified Health Center Reimbursement Plan and addition of RHC references where applicable through the reimbursement plan.
3. For RHCs, Medicaid will accept the annual audited cost report established by the Medicare carrier.
4. For FQHCs, the Bureau of Primary Health Care (BPHC) should approve an increase or decrease in the scope of services (s).
5. For FQHCs, decreases in scope of service(s) that do not require BPHC approval should be reported to AHCA.
6. For both FQHCs and RHCs, the approval date for scope of service increases will be the latter of the date the service was implemented or 75 days prior to the date the request was received. The approval date for scope of service decreases will be the date the service was terminated.
7. For both FQHCs and RHCs, the effective date for scope of service increases will be the first day of the month following the approval date.
8. For both FQHCs and RHCs, the providers' Fiscal Year End (FYE) audit must be submitted before the scope of services can be approved.
9. For both FQHCs and RHCs, the financial data submitted for the scope of service increase or decrease must contain at least six months of actual cost information.

10. For both FQHCs and RHCs, if no financial data for the scope of service increase or decrease has been received within 12 months after the FYE in which costs were first incurred, the scope of service request shall be denied.
11. For RHCs who experience an increase or decrease in its scope of service(s) of greater than 1 percent and request an adjustment to their rate must meet the following criteria:
 - a. The AHCA approval date for scope of service increases will be the latter of the date the service was implemented or 75 days prior to the date the request was received. The AHCA approval date for scope of service decreases will be the date the service was terminated.
 - b. A copy of the most recent audited Medicare cost report must be filed with the request.
 - c. Submit a budgeted cost report (RHC Form 222-Medicare), which contains the increase or decrease costs associated with the scope of services.
 - d. If no financial data for the scope of service increase or decrease has been received within 12 months after the RHC's FYE in which the costs were first incurred, the scope of service request shall be denied.
12. For both FQHCs and RHCs, a new provider entering the Medicaid program on or after January 1, 2001, the initial rate shall be the lesser of rates established in Section V.A(2) and V.A.(3) of the reimbursement plan.
13. Each rural health clinic encounter rate will be determined by using the current Medicare rate established by the Title XVIII Medicare carrier.
14. Establish the prospective encounter rate for each RHC as the lower of the prospective encounter rates or the ceiling.
15. Incorporation of Rural Health Clinics to Rule 59G-6.080, F.A.C., Payment Methodology for Federally Qualified Health Center Services.

SUBJECT AREAS TO BE ADDRESSED: Specific requirements for providers enrolling entering the FQHC program on or after January 1, 2001; increases or decreases in scope of services; and prospective encounter rates and ceilings; incorporation of Rural Health Clinics to Rule 59G-6.080, F.A.C., Payment Methodology for Federally Qualified Health Center Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 2:00 p.m., July 23, 2003

PLACE: 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert Butler, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120-B, Tallahassee, Florida 32308, (850)414-2759

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NOT CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: Daily Three Pool
 RULE NO.: 61D-7.010

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes which relate to the sale of tickets or other evidences showing an interest in or contribution to a pari-mutuel pool pursuant to Section 550.155(1), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is the appropriate calculation of the Daily Three Pool under Rule 61D-7.010, Florida Administrative Code.

SPECIFIC AUTHORITY: 550.0251(3),(7), 550.155(1) FS.

LAW IMPLEMENTED 550.0251, 550.155(1) FS.

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

TIME AND DATE: 10:00 a.m. – 2:00 p.m., July 23, 2003

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Mary Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Manner of Application
 RULE NO.: 64B8-51.001

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

SUBJECT AREA TO BE ADDRESSED: Incorporation of a revised application form.

SPECIFIC AUTHORITY: 478.43(1),(4) FS.

LAW IMPLEMENTED: 478.45 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Medical Errors Course Provider
 RULE NO.: 64B8-52.005

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address entities approved to provide courses on medical errors.

SUBJECT AREA TO BE ADDRESSED: Entities approved to provide courses on medical errors.

SPECIFIC AUTHORITY: 456.013(7), 478.50(4)(b) FS.

LAW IMPLEMENTED: 456.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH
Board of Osteopathic Medicine**

RULE TITLE: Application for Licensure
RULE NO.: 64B15-6.002
PURPOSE AND EFFECT: The Board proposes to update the rule to conform with Board of Medicine’s corresponding physician assistant Rule 64B8-30.002, F.A.C.
SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments clarify the requirements for physician assistant licensure application, and specify time limits.
SPECIFIC AUTHORITY: 459.005 FS.
LAW IMPLEMENTED: 459.022 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 SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-6.002 Application for Licensure.

(1) All persons applying for licensure as a physician assistant shall submit an application to the Department on forms approved by the Council and the Board and provided by the Department. ~~The application shall be accompanied by the application fee.~~

(2) The application may not be used for more than one year from the date of receipt by the Council of the original submission of the application form and fee. The fee to be paid at the time of application for licensure shall be as set forth in Rule 64B15-6.013 ~~40.002~~, F.A.C. After one year from the date that the original application and fee have been received in the Council office, a new application and fee shall be required from any applicant who desires licensure as a physician assistant.

(3) All application information must be submitted no later than 15 days prior to the Council meeting at which the applicant desires his or her application to be considered.

Specific Authority 459.005 FS. Law Implemented 459.022 FS. History—New 10-18-77, Formerly 21R-6.02, Amended 10-28-87, 4-21-88, 5-20-91, 3-16-92, Formerly 21R-6.002, 61F9-6.002, 59W-6.002, Amended 6-7-98, 3-10-02, _____.

**DEPARTMENT OF HEALTH
Board of Osteopathic Medicine**

RULE TITLE: Requirements and Limitations of Prescribing Privileges
RULE NO.: 64B15-6.0037

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the drugs a physician assistant may prescribe, and to update the rule text to conform with Board of Medicine’s corresponding physician assistant Rule 64B8-30.007, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment designates the scope of drugs a physician assistant is permitted to prescribe by written agreement with a supervising physician.

SPECIFIC AUTHORITY: 459.022 FS.

LAW IMPLEMENTED: 459.022 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 SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-6.0037 Requirements and Limitations of Prescribing Privileges.

Written prescriptions shall be subject to the following requirements:

Each supervising physician and prescribing physician assistant shall enter into and keep on file a written agreement outlining which ~~of the~~ medicinal drugs not prohibited by ~~in~~ the formulary the supervising osteopathic physician has specifically authorized the physician assistant to prescribe. Each agreement must be signed and dated by all parties and maintained on file for at least five (5) years. Any such agreement must be provided to the Department, the Council, or any of their agents upon request.

Specific Authority 459.022 FS. Law Implemented 459.022 FS. History—New 2-20-94, Formerly 61F9-6.0037, Amended 2-1-95, Formerly 59W-6.0037, Amended 5-12-98, _____.

**DEPARTMENT OF HEALTH
Board of Osteopathic Medicine**

RULE TITLE: Formulary
RULE NO.: 64B15-6.0038

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the drugs an osteopathic physician may delegate to a physician assistant to prescribe, and to update the rule text to conform with Board of Medicine’s corresponding physician assistant Rule 64B8-30.008, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment designates the scope of drugs an osteopathic physician is permitted to delegate to a physician assistant to prescribe.

SPECIFIC AUTHORITY: 458.347, 459.022(4)(e) FS.

LAW IMPLEMENTED: 459.022(4)(e) 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 SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-6.0038 Formulary.

(1) No change.

(2) A supervising physician may delegate to a prescribing physician assistant only such authorized medicinal drugs as are used in the supervising physician’s practice, not listed in paragraph (1).

(3) through (4) No change.

Specific Authority 458.347, 459.022(4)(e) FS. Law Implemented 459.022(4)(e) FS. History–New 3-12-94, Formerly 61F9-6.0038, Amended 11-30-94, 4-17-95, 8-27-95, 11-13-96, Formerly 59W-6.0038, Amended 5-12-98, 3-10-99, 3-9-00, 6-19-00, 11-23-00, 2-26-02,_____.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Physician Assistant Fees RULE NO.: 64B15-6.013

PURPOSE AND EFFECT: The Board proposes the rule amendment to set the renewal fee for a prescribing physician assistant, and to update the rule text to conform with Board of Medicine’s corresponding physician assistant Rule 64B8-30.019, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment requires a \$200 renewal fee for prescribing physician assistants.

SPECIFIC AUTHORITY: 456.036(5),(7), 459.005, 459.009, 459.022(7) FS.

LAW IMPLEMENTED: 456.036(5),(7), 459.009, 459.022(7) 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 SEPTEMBER 13, 2003 IN TAMPA, FLORIDA.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-6.013 Physician Assistant Fees.

The following fees are prescribed by the Council and adopted by the Boards:

(1) through (3) No change.

(4) The application fee for a person applying to be certified as a prescribing physician assistant shall be \$200.00. The fee for initial certification as a prescribing physician assistant shall be \$200.00. The renewal fee for a prescribing physician assistant shall be \$200.00. No additional fees will be required for any separate application for a distinct area of practice or a change in practice setting during the same biennium.

(5) through (9) No change.

Specific Authority 456.036(5),(7), 459.005, 459.009, 459.022(7) FS. Law Implemented 456.036(5),(7), 459.009, 459.022(7) FS. History–New 11-4-93, Amended 2-20-94, Formerly 61F9-6.013, 59W-6.013, Amended 8-11-98, _____.

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE TITLES: General Regulations; Definitions 64F-12.001
Records of Drugs, Cosmetic and Devices 64F-12.012

PURPOSE AND EFFECT: To modify the definition of “ongoing relationship” to allow for the implementation of legislation passed during the 2003 Legislative Session in SB 2312 related to the regulatory scheme for recordkeeping requirements of prescription drugs wholesaled from prescription drug wholesaler to prescription drug wholesaler. The legislation progressively increases these recordkeeping requirements over time. Consistent with the legislation, this rule will allow for implementation from July 1, 2003, when the law goes into effect through March 1, 2004, when the definition of “ongoing relationship” is redefined statutorily. In addition, this proposed rule will adopt specific elements required to appear on a required document called a pedigree paper related to the wholesale distribution of a prescription drug defined as a “specified drug.” These elements were included in a proposed rule on the same subject published in Vol. 29, No. 10 of the Florida Administrative Weekly on March 7, 2003. The paragraph addressing these elements was

the subject of a Notice of Change based on a comment received from the Joint Administrative Procedures Committee, which was published in Vol. 29, No. 19 on May 9, 2003. This rule was subsequently withdrawn in Vol. 29, No. 20 on May 16, 2003, because other portions of that rule amendment were inconsistent with the legislation. This paragraph is consistent with the authority delegated to the department under SB 2312, as enacted.

SUBJECT AREA TO BE ADDRESSED: The definition of “ongoing relationship” which is a term used in the definition of an authorized distributor of record for purposes of recordkeeping requirements for the distribution of a prescription drug is modified. In addition, the proposed rule lists the elements that are required to appear on a pedigree paper, when one is required, in the wholesale distribution of a specified drug as that term is defined in rule.

SPECIFIC AUTHORITY: 499.0121, 499.05 FS.

LAW IMPLEMENTED: 499.0121 FS.

A RULE DEVELOPMENT WORKSHOP WILL NOT BE HELD. THE AGENCY HEAD HAS DETERMINED THAT A RULE DEVELOPMENT WORKSHOP IS UNNECESSARY SINCE THE RULE WILL NOW REFER TO STATUTORY DEFINITIONS AND ISSUES THAT HAVE ALREADY BEEN THROUGH RULE DEVELOPMENT, THE LEGISLATIVE PROCESS AND PUBLIC HEARINGS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Stovall, Compliance Manager, 2818-A Mahan Drive, Tallahassee, Florida 32308, (850)487-1257, Ext. 210, sandra_stovall@doh.state.fl.us.fl

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64F-12.001 General Regulations; Definitions.

(1) No change.

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

(a) through (i) No change.

(j) “Ongoing relationship” means:

1. For a prescription drug other than a specified drug, an association that exists when a manufacturer and a distributor enter into a written agreement under which the distributor is authorized to distribute the manufacturer’s product(s) for a period of time or for a number of shipments, and at least one sale is made under that agreement, ~~and~~ the name of the authorized distributor of record is entered on the manufacturer’s list of authorized distributors of record or equivalent list, ~~or. An ongoing relationship may also be documented by~~ at least three purchases of a manufacturer’s product(s) are made directly from that manufacturer within a

six month period from the date for which the authorized distributor of record relationship is claimed ~~and the distributor’s name is entered on the manufacturer’s list of authorized distributors of record or equivalent list.~~

~~2. Effective 60 days after the effective date of this sub paragraph (j)2., for a specified drug, an association that exists for each transaction involving the specified drug between a manufacturer and a prescription drug wholesaler such that the prescription drug wholesaler has purchased the specific unit of the specified drug directly from the manufacturer for further distribution of that specific unit of the specified drug.~~

(k) through (v) No change.

Specific Authority 499.05, 499.61, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.0054, 499.0057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.66, 499.67, 499.71, 499.75 FS. History—New 1-1-77, Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-26-99, 4-18-01, 6-30-03, _____.

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

(1) through (2) No change.

(3) The pedigree papers required by s. 499.0121(6)(d) and ~~(e)~~, F.S., must include either the proprietary name or the generic name with the name of the manufacturer or distributor reflected on the label of the product; dosage form; strength; container size; quantity by lot number; the name and address of each owner of the prescription drug that is required to be identified on the pedigree paper, the name and address of each location from which it was shipped if different from the owner’s; and the transaction dates. The pedigree paper must clearly identify the invoice to which it relates. A copy of the pedigree paper must be maintained by each recipient.

(4) through (15) No change.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Substance Abuse and Mental Health Programs

RULE CHAPTER TITLE: Community Substance Abuse and Mental Health Services – Financial Rules
 RULE CHAPTER NO.: 65E-14

PURPOSE AND EFFECT: Chapter 65E-14, F.A.C., entitled Community Substance Abuse and Mental Health Services – Financial Rules, is being amended in response to feedback from providers and district staff during statewide training sessions on recently adopted rule amendments.

SUBJECT AREA TO BE ADDRESSED: Modifications to several forms and exhibits incorporated into the rule by reference and clarifications to recently adopted rule language.

SPECIFIC AUTHORITY: 394.457(3), 394.493(2), 394.66(9),(12), 394.674(4),(6), 394.74, 394.76, 394.77, 394.78(1),(3),(6), 397.321(5), 402.73(7) FS.

LAW IMPLEMENTED: 394.457(3), 394.493(2), 394.66(9),(12), 394.674(3),(4), 394.74, 394.76(1),(5), 394.77, 394.78(1),(3),(6), 397.321(3)(c),(10), 397.431, 397.481 FS.

BECAUSE PROPOSED AMENDMENTS WILL BE BASED ON FEEDBACK RECEIVED FROM AFFECTED PROVIDERS AS A RESULT OF STATEWIDE TRAINING ON RECENTLY ADOPTED RULE AMENDMENTS, A RULE DEVELOPMENT WORKSHOP IS NOT PLANNED. IF A WORKSHOP IS REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, WHEN AVAILABLE, IS: Larry Ochalek, 1317 Winewood Blvd., Building 6, Room 307, Tallahassee, Florida 32399-0700, (850)414-1500

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

Commission develops. The affected counties have opted to form a single LRRC and the Commission anticipates delivering the preliminary rule proposal to the LRRC in July 2003. The LRRC has tentatively scheduled a series of public meetings to be held in July and August 2003, with the first meeting being scheduled for July 15 at the offices of the Tampa Bay Regional Planning Council in St. Petersburg. Additional information about the LRRC or its meeting schedule should be directed to Ms. Nanette Holland of the Tampa Bay Estuary Program, (727)893-2765.

SUBJECT AREA TO BE ADDRESSED: Manatee protection in the Tampa Bay area.

SPECIFIC AUTHORITY: 370.12(2)(g),(n),(o) FS.

LAW IMPLEMENTED: 370.12(2)(d),(g),(k),(n),(o) FS.

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

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

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Manatees

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Manatees	68C-22
RULE TITLES:	RULE NOS.:
Hillsborough County Zones	68C-22.013
Manatee County Zones	68C-22.014
Pinellas County Zones	68C-22.016
Hillsborough County – Big Bend Zones Established	68C-22.022

PURPOSE AND EFFECT: In April 2001, the Florida Fish and Wildlife Conservation Commission agreed to consider the need to adopt or amend manatee protection regulations in several specific locations around the state. Tampa Bay is one of the areas identified for evaluation. The Commission is considering what (if any) additional regulations are needed to protect manatees or manatee habitat in this area. Options being considered include regulations that would limit allowable motorboat speed and operation, as well as regulations that would prohibit some human activities in limited portions of Tampa Bay. As required by §370.12(2)(f), F.S., the Commission has requested that the counties of Hillsborough, Manatee, and Pinellas establish a Local Rule Review Committee (LRRC) for the purpose of reviewing and commenting on the preliminary rule proposal that the

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Best Management Practices (BMPs) for Citrus, Cow/Calf, Dairies and Other Agriculture in the Lake Okeechobee priority basins (S-191, S-154, S65 D and E)	5M-3
RULE TITLES:	RULE NOS.:
Purpose	5M-3.001
Definitions	5M-3.002
Approved Best Management Practices	5M-3.003
Notice of Intent to Implement	5M-3.004
Presumption of Compliance	5M-3.005
Land Application of Animal Wastes	5M-3.006
Record Keeping	5M-3.007
Land Use Changes	5M-3.008
Preservation of Authority	5M-3.009