

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLE: Package Testing Procedures
 RULE NO.: 5F-3.016

PURPOSE AND EFFECT: The purpose of Rule 5F-3.016, F.A.C., is to amend it to adopt the most recent national standards for package testing procedures as adopted by the National Conference on Weights and Measures and published in Fourth Edition (January 2005) of the National Institute of Standards and Technology Handbook 133. Adoption of the current national standards will make Florida’s requirements uniform with the national requirements and facilitate interstate commerce and trade.

SUBJECT AREA TO BE ADDRESSED: Requirements for package and labeling of commodities sold in package form in Florida and the procedures for testing of such packages.

SPECIFIC AUTHORITY: 531.41(3) FS.

LAWS IMPLEMENTED: 531.41(13) 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: 2:00 p.m., Monday, March 14, 2005

PLACE: Division of Standards’ Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, (850)488-9140

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5F-3.016 Package Testing Procedures.

The Department of Agriculture and Consumer Services hereby adopts the National Institute of Standards and Technology (NIST) Handbook 133, “Checking the Net Contents of Packaged Goods,” Fourth Edition (January ~~2003~~ 2005) as the Rule for the procedures for testing packaged goods and commodities for net contents and incorporates said Handbook herein by this reference. A copy of NIST Handbook 133, Fourth Edition (January ~~2003~~ 2005) may be obtained from the National Conference on Weights and Measures, 15245 Shady Grove Road, Suite 130, Rockville, Maryland 20850, Phone: (240)632-9454 or <http://ts.nist.gov/ts/htdocs/230/235/pubs.htm> <http://ts.nist.gov/ts/htdocs/230/235/h130-01.htm>.

Specific Authority 531.41(3) FS. Law Implemented 531.41(13) FS. History—New 4-9-98, Amended 6-23-02, 6-29-03, _____.

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Implementation of Florida’s System of School Improvement
 RULE NO.: 6A-1.09981

PURPOSE AND EFFECT: The purpose of the rule development is to clarify the circumstances and the criteria to be considered by the Commissioner of Education in determining a grade that accurately reflects the performance of a school in certain situations.

SUBJECT AREA TO BE ADDRESSED: Commissioner of Education authority and guidelines on assigning school grades.

SPECIFIC AUTHORITY: 1001.02, 1008.22, 1008.33, 1008.345 FS.

LAW IMPLEMENTED: 1008.33, 1008.34, 1008.345 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: Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Michael Kooi, Assistant General Counsel, Department of Education, 325 West Gaines Street, Tallahassee, Florida, (850)245-0442

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-1.09981 Implementation of Florida’s System of School Improvement.

(1) through (8) No change.

(9) Accuracy and Representativeness of Performance Data. The Commissioner will review all information submitted by school districts to represent the performance of schools receiving a school performance grade.

(a) through (b) No change.

(c) The factors reviewed in determining a grade that accurately represents the performance of the school may include a lack of sufficient state-level assessment data, improprieties in the administration of the state-level assessment, insufficient number of students tested for the particular year in question, and/or other special circumstances that may affect the accuracy of the grade assigned. For purposes of this rule, “other special circumstances” may include an outbreak of illness at the school, loss of text booklets on delivery to the assessment company, or other circumstance that is beyond the control of the school. It may

also include any acts or omissions, whether intentional or not, on the part of the school, the district, or its employees that affects the reliability or validity of the state assessment results at a particular school.

(d)(e) No change.

Specific Authority 1001.02, 1008.22, 1008.33, 1008.345 FS. Law Implemented 1000.03, 1001.42, 1003.63, 1008.33, 1008.34, 1008.345, 1008.36 FS. History--New 10-11-93, Amended 12-19-95, 3-3-97, 1-24-99, 2-2-00, 2-11-02, 12-23-03, _____.

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

The Dale Hickam Excellent Teaching Program 6A-10.060

PURPOSE AND EFFECT: The purpose of this rule development is to adjust one of the qualifications for who may be certified as eligible for the fee subsidies, incentives, and bonuses under Section 1012.72, Florida Statutes. The qualification relating to discipline of a teacher certificate will now only exclude those whose certificate has been disciplined within the last five years.

SUBJECT AREA TO BE ADDRESSED: Dale Hickam Excellent Teaching Program.

SPECIFIC AUTHORITY: 1012.72(4), 1001.02(2)(n) FS.

LAW IMPLEMENTED: 1012.72 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: Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Michael Kooi, Assistant General Counsel, Department of Education, 325 West Gaines Street, Tallahassee, Florida, (850)245-0442

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-10.060 The Dale Hickam Excellent Teaching Program.

(1) Eligibility for payment(s) of the certification fee subsidy, teaching salary bonus, and mentoring salary bonus, pursuant to Section 1012.72, Florida Statutes, requires the following:

(a) through (e) No change.

(f) Holding a valid Florida educator's certificate that has not never been subject to discipline as the result of a final order of the Education Practices Commission after a formal, informal, or show cause hearing or settlement agreement

within the five (5) years immediately prior to the district's certification pursuant to Section 1012.72(2)(c), Florida Statutes.

Specific Authority 1012.72 FS. Law Implemented 1012.72 FS. History--New 7-12-99, Amended 5-29-00, 5-25-04, _____.

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Governing the Procedure for Submittal and Review of Local Government Comprehensive Plans and Amendments 9J-11

RULE TITLES: RULE NOS.:

Submittal Requirements for Proposed Local Government Comprehensive Plans 9J-11.004

Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments 9J-11.006

Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment 9J-11.009

Review of Proposed Local Government Comprehensive Plan or Proposed Plan Amendment 9J-11.010

Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review 9J-11.011

Submittal Requirements for Adopted Small Scale Development Amendments 9J-11.015

Action to Review Land Development Regulations 9J-11.020

PURPOSE AND EFFECT: The purpose and effect is to revise the rule to conform to current statutory requirements.

SUBJECT AREA TO BE ADDRESSED: The revisions of Chapter 9J-11, F.A.C., pertaining to local government comprehensive plans, including submittal requirements, action upon receipt, review requirements and notices of intent. The revisions of Chapter 9J-11, F.A.C., pertaining to comprehensive plan amendments exempt from the twice per calendar year limitation on the adoption of comprehensive plan amendments. The revision of Chapter 9J-11, F.A.C., pertaining to the small scale development submittal requirements.

SPECIFIC AUTHORITY: 163.3177(9), 163.3202(5) FS.

LAW IMPLEMENTED: 163.3167(2),(3), 163.3175(2),(3),(4), 163.3177(1),(4),(6),(7),(9),(10), 163.3184(1),(2),(3),(4), (5),(6),(7),(14),(15),(16), 163.3187, 163.3187(1),(2),(5), 163.3189, 163.3191, 163.3202, 369.321(5), 380.06(6) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 8:30 a.m. – 9:30 a.m., March 15, 2005

PLACE: The Randall Kelley Training Center, Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Ray Eubanks, Plan Review Administrator, Division of Community Planning, Plan Review and Processing Unit, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, or (850)922-1767, Suncom 292-1967 at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ray Eubanks, Plan Review Administrator, Division of Community Planning, Plan Review and Processing Unit, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9J-11.004 Submittal Requirements for Proposed Local Government Comprehensive Plans.

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

(c) The comprehensive plan including goals, objectives, policies, maps, and support documents which include data and analyses specified in Rule 9J-5.005 ~~and subsection 9J-5.021(4)~~, Florida Administrative Code. Summaries of support documents may be submitted consistent with subsection 9J-5.005(2), Florida Administrative Code;

(d) No change.

Specific Authority 163.3177(9) FS. Law Implemented 163.3167(2), 163.3177(1),(4)(b),(7),(9), 163.3184(2),(3),(14),(15), 163.3191 FS. History—New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 11-24-02, _____.

9J-11.006 Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments.

(1) No change.

(a) through 1. No change.

2. The date or dates on which the local governing body held the public hearing at which the transmittal of the plan amendment to the Department was approved and the date that the proposed amendment and one copy of each item specified under paragraphs 9J-11.006(1)(a), (b), and (c) ~~and (d)~~, Florida Administrative Code, was submitted to the appropriate agencies listed in subsection 9J-11.009(6), Florida Administrative Code;

3. through 7.d. No change.

e. Whether the amendment is directly related to an intergovernmental coordination element pursuant to sub-subparagraph 163.3177(6)(h)1.a., b. and; c. ~~and d~~, Florida Statutes;

f. through i. No change.

j. An amendment changing school concurrency service area boundary pursuant to subparagraph 163.3180(13) ~~(12)~~(c)2., Florida Statutes;

k. through r. No change.

s. An amendment addressing criteria or compatibility of land uses adjacent to or in close proximity to military installations pursuant to subsections 163.3187(1)(m), Florida Statutes;

t. An amendment establishing or implementing a rural land stewardship area pursuant to subsection 163.3177(11)(d), Florida Statutes;

u. An amendment incorporating the regional water supply work plan approved pursuant to Section 373.0361 and subsection 163.3177(6)(c), Florida Statutes;

v. An amendment implementing the Wekiva Study Area plan pursuant to Section 369.321, Florida Statutes.

8. through (3) No change.

Specific Authority 163.3177(9) FS. Law Implemented 163.3177(6),(9), 163.3184(1),(2),(3),(15), 163.3187(1),(2),(5), 163.3191, 369.321(5), 380.06(6) FS. History—New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, _____.

9J-11.009 Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment.

(1) through (6)(i) No change.

(j) The commanding officer or designee of each military installation located within, adjacent or proximate to the local government (if the amendment would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation).

Specific Authority 163.3177(9) FS. Law Implemented 163.3167(2),(3), 163.3175(2), 163.3177(9), 163.3184(2),(3),(4),(5),(6) FS. History—New 9-22-87, Amended 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, _____.

9J-11.010 Review of Proposed Local Government Comprehensive Plan or Proposed Plan Amendment.

(1) through (6)(d) No change.

(e) The review by military installations will be primarily in the context of public safety and the effect on the mission of the military installation, including, but not limited to whether the proposed change will be incompatible with the safety and noise standards contained in the Air Installation Compatible Use Zone (AICUZ), or Range Installation Compatible Use Zone (RAICUZ), if applicable; whether the proposed change is incompatible with the Installation Environmental Noise Management Program (IENMP), if applicable; whether the proposed change is incompatible with the findings of the Joint Land Use Study (JLUS) for the area if one has been completed; and whether the proposed change will adversely affect the military installation's mission.

Specific Authority 163.3177(9) FS. Law Implemented 163.3175(3), 163.3177(9),(10), 163.3184(1)(b),(6)(a),(b),(c), 163.3189(2) FS. History—New 9-22-87, Amended 11-10-93, 11-6-96, 4-8-99, 11-24-02, _____.

9J-11.011 Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review.

(1) through (5)(a)5.d. No change.

e. A copy of any comments from a military installation identifying a possible adverse impact from the proposed amendment together with the local government's response to those comments.

6. through (10) No change.

Specific Authority 163.3177(9) FS. Law Implemented 163.3167(3), ~~163.3175(4)~~, 163.3177(9), 163.3184(1)(b),(2),(6),(7),(15),(16), 163.3187(1), 163.3189, 163.3191, 380.06(6) FS. History--New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, _____.

9J-11.015 Submittal Requirements for Adopted Small Scale Development Amendments.

(1) No change.

(2) The local governing body shall submit one copy of the small scale development amendment which shall include a future land use map depicting the newly adopted land use designation and the boundaries and location of the subject property in relationship to the surrounding street and thoroughfare network. A copy of the public hearing notice shall also be included in the submittal package. The local governing body shall simultaneously submit completed copies of Form RPM-BSP-Small Scale-1 effective ~~11/6/96~~, incorporated by reference with the Small Scale development amendment. Copies of Form RPM-BSP-Small Scale-1 may be obtained from the Department of Community Affairs, Division of Community Planning, Plan Processing Team.

Specific Authority 163.3177(9) FS. Law Implemented 163.3187 FS. History--New 11-10-93, Amended 11-6-96, 4-8-99, _____.

9J-11.020 Action to Review Land Development Regulations.

(1) No change.

(2) The Department shall review the submitted regulations to determine whether the regulations that are required by subsection 163.3202(2) ~~or subsection 163.3202(6)~~, Florida Statutes, have been adopted. The review shall be for the sole purpose of determining whether or not the required regulations have been adopted, and shall not address the consistency of the regulations with the plan.

(3) through (4) No change.

Specific Authority 163.3202(5) FS. Law Implemented 163.3202 FS. History--New 11-6-96, Amended 4-8-99, 11-24-02, _____.

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Grounds for Reasonable Cause for Compromise of Penalties	12-13.007
Guidelines for Determining Amount of Compromise	12-13.0075

PURPOSE AND EFFECT: The purpose of the rule development is to amend Rule 12-13.007, F.A.C. (Grounds for Reasonable Cause for Compromise of Penalties), and Rule 12-13.0075, F.A.C. (Guidelines for Determining Amount of Compromise), to incorporate the provisions of the Expert System for Determining Reasonable Cause for Penalty Compromise. This system is currently under development by the Department for purposes of providing guidelines to be used in determining the amount of compromise of penalty. The effect of the proposed amendments, when adopted, will be that the provisions of the Expert System for Determining Reasonable Cause for Penalty Compromise will be incorporated into the guidelines for determining the amount of compromise of penalty established in these administrative rules.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the development of the proposed amendments to Rules 12-13.007 and 12-13.0075, F.A.C., for purposes of including the provisions of the Expert System for Determining Reasonable Cause for Penalty Compromise currently under development by the Department.

SPECIFIC AUTHORITY: 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 213.05, 213.21 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.

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: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robert Babin, Attorney, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4842, e-mail: babinr@dor.state.fl.us

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

DEPARTMENT OF REVENUE

Sales and Use Tax	RULE NOS.:
RULE TITLES:	
Sales Tax Brackets	12A-1.004
Vending Machines	12A-1.044

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.004, F.A.C. (Sales Tax Brackets), is to remove the sales tax bracket amounts that are also provided on the Department's Internet site pursuant to the provisions of Section 212.12(11), F.S., and to update the information on how to obtain sales tax rate schedules and cards from the Department.

The purpose of the proposed amendments to Rule 12A-1.044, F.A.C. (Vending Machines), is to provide that the effective sales tax rates for sales of food, beverages, or other items of tangible personal property are provided in subsection (2) of Rule 12A-15.011, F.A.C., as amended.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed effective tax rates for sales made through vending machines in counties imposing a discretionary sales surtax, which are provided in subsection 12A-15.011(2), F.A.C., as amended.

SPECIFIC AUTHORITY: 212.0515, 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(10)(g),(14),(15),(16), (19),(24), 212.03(1),(3),(6), 212.031, 212.04(1), 212.05(1), 212.0515, 212.054(1),(2),(3)(l), 212.055, 212.07(1),(2), 212.08(1),(3),(7),(8), 212.11(1), 212.12(2),(3),(4),(9),(11), 212.18(2),(3) FS.

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

TIME AND DATE: 9:30 a.m., March 15, 2005

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407, e-mail: youngj@dor.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.004 Sales Tax Brackets.

~~(1) The following effective tax brackets are applicable to all transactions taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 6 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10	.16	.51	.66
.17	.33	.67	.83
.34	.50	.84	1.09

~~(2) The following effective tax brackets are applicable to the transactions pursuant to s. 212.05(1)(e), F.S., that are taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 7 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10	.14	.58	.71
.15	.28	.72	.85
.29	.42	.86	1.09
.42	.57		.04

~~(3) The following effective tax brackets are applicable to the sale, rental, lease, use, consumption, or storage for use in this state of self propelled, power drawn, or power driven farm equipment taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$2.09, 5 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~

Amount of Sale	Tax
.10	.40
.41	.80
.81	1.20
1.21	1.60
1.61	2.00

~~(4)(a) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties that do not impose a discretionary sales surtax and for counties that impose one or more discretionary sales surtax. Copies are available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at www.myflorida.com/dor/taxes; or 2) faxing a forms request to the Distribution Center at (850)922-2208; 3) calling the Distribution Center at (850)488-8422; or 4) writing the Florida Department of Revenue, Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor/taxes). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

~~(b) For information regarding sales tax bracket effective for transactions in counties imposing discretionary sales surtaxes, see Rule 12A-15.002, F.A.C.~~

Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(3),(6), 212.031(1)(c),(d), 212.04(1), 212.05(1), 212.08(3), 212.12(9),(11) FS. History—Revised 10-7-68, 6-16-72, Amended 9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01,_____.

12A-1.044 Vending Machines.

(1) No change.

(2) All sales made through vending machines of food, beverages, or other items are taxed in the manner provided in Section and at the rates established in s. 212.0515(2), F.S., except as provided in paragraphs (a)-(c). See subsection (2) of Rule 12A-15.011, F.A.C., for the effective tax rates for sales made through vending machines in counties imposing a discretionary sales surtax.

(a) through (c) No change.

(3) through (8) No change.

Specific Authority 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(24), 212.031, 212.05(1)(h), 212.0515, 212.054(1),(2),(3)(l), 212.055, 212.07(1), (2), 212.08(1),(7),(8), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS. History—Revised 10-7-68, 6-16-72, 1-10-78, Amended 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 9-14-93, 12-13-94, 3-20-96, 7-1-99, 6-19-01,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Scope of Rules	12A-15.001
Surtax Sales Brackets	12A-15.002
The Sale of Food, Drink, and Tangible Personal Property at Concession Stands	12A-15.010
Coin-Operated Amusement and Vending Machines, and Other Devices	12A-15.011
Alcoholic and Malt Beverages	12A-15.012

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-15.001, F.A.C. (Scope of Rules), is to update the information on how to obtain a list of counties levying a discretionary sales surtax from the Department.

The purpose of the proposed amendments to Rule 12A-15.002, F.A.C. (Surtax Sales Tax Brackets), is to remove the sales tax bracket amounts that are also provided on the Department’s Internet site pursuant to the provisions of Section 212.12(11), F.S., and to update the information on how to obtain sales tax rate schedules and cards from the Department.

The purpose of the proposed amendments to Rule 12A-15.010, F.A.C. (The Sale of Food, Drink, and Tangible Personal Property at Concession Stands), is to provide the applicable divisor rates for counties imposing discretionary sales surtax at the rates of 1/4 percent and 1 1/4 percent for purposes of

computing tax, plus surtax, due on sales by concessionaires at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business.

The purpose of the proposed amendments to Rule 12A-15.011, F.A.C. (Coin-Operated Amusement and Vending Machines, and Other Devices), is to provide the divisors for counties that impose no surtax and counties that impose a discretionary sales surtax for purposes of computing the amount of tax, plus surtax, due on sales of food, beverages, and other items of tangible personal property made through vending machines and on charges for the use of amusement machines.

The purpose of the proposed amendments to Rule 12A-15.012, F.A.C. (Alcoholic and Malt Beverages), is to provide the applicable divisor rates for counties imposing discretionary sales surtax at the rates of 1/4 percent and 1 1/4 percent to be used for purposes of computing tax, plus surtax, due on sales of alcoholic beverages.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed effective tax brackets and the effective tax rates and divisors for sales of food, beverages, and other items of tangible personal property at concession stands or through vending machines, the effective tax rate for sales of alcoholic or malt beverages, and the effective tax rates for charges for the use of amusement machine.

SPECIFIC AUTHORITY: 212.05(1)(h), 212.0515, 212.07(2), 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(16),(24), 212.05(1)(h), 212.0515, 212.054, 212.055, 212.07(2),(4), 212.08(4), 212.12(9),(10),(11), 212.15(1),(4), 212.18(3) FS.

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

TIME AND DATE: 9:30 a.m., March 15, 2005

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

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-15.001 Scope of Rules.

(1) No change.

(2) The list of counties levying the surtax is subject to frequent revision. An up-to-date listing of counties levying the surtax is available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at www.myflorida.com/dor/taxes; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054(2),(4) FS. History—New 12-11-89, Amended 11-16-93,_____.

12A-15.002 Surtax Sales Brackets.

~~(1) SALES GREATER THAN \$5,000. On taxable transactions in which the sales price for any item of tangible personal property exceeds \$5,000, the first \$5,000 of sales price is subject to the appropriate bracket charges as provided in this rule section. The amount of sales price in excess of \$5,000 for any item of tangible personal property is taxed at 6%.~~

~~(2) 1/2% DISCRETIONARY SALES SURTAX.~~

~~(a) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 13 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10	.15	.01	
.16	.30	.02	
.31	.46	.03	
.47	.61	.04	
.62	.76	.05	
.77	.92	.06	
.93	1.07	.07	
1.08	1.23	.08	
1.24	1.38	.09	
1.39	1.53	.10	
1.54	1.69	.11	
1.70	1.84	.12	
1.85	2.09	.13	

(b) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 15 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10	.13	1.07	1.20
.14	.26	1.21	1.33
.27	.40	1.34	1.46
.41	.53	1.47	1.60
.54	.66	1.61	1.73
.67	.80	1.74	1.86
.81	.93	1.87	2.09
.94	1.06	.08	

(c) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 3 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax
.10	.35
.36	.65
.66	1.00
.01	
.02	
.03	

~~(3) 3/4% DISCRETIONARY SALES SURTAX.~~

~~(a) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.03, 7 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10	.14	.60	.74
.15	.29	.75	.88
.30	.44	.89	1.03
.45	.59	.04	

(b) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.03, 8 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
.10	.12	.52	.64
.13	.25	.65	.77
.26	.38	.78	.90
.39	.51	.91	1.03
.05			
.06			
.07			
.08			

(c) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been

taxable at the rate of 2 1/2%. For taxable sales in the amounts of more than \$4.09, 13 cents is to be charged on each \$4 of price, plus the tax amount due on any fractional part of \$4.

Amount of Sale	Tax	Amount of Sale	Tax
.10—.30	.01	2.16—2.46	.08
.31—.61	.02	2.47—2.76	.09
.62—.92	.03	2.77—3.07	.10
.93—1.23	.04	3.08—3.38	.11
1.24—1.53	.05	3.39—3.69	.12
1.54—1.84	.06	3.70—4.09	.13
1.85—2.15	.07		

~~(4) 1% DISCRETIONARY SALES SURTAX.~~

~~(a) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 7 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10—.14	.01	.58—.71	.05
.15—.28	.02	.72—.85	.06
.29—.42	.03	.86—1.09	.07
.43—.57	.04		

~~(b) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 8 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10—.12	.01	.51—.62	.05
.13—.25	.02	.63—.75	.06
.26—.37	.03	.76—.87	.07
.38—.50	.04	.88—1.09	.08

~~(c) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2 1/2%. For taxable sales in the amounts of more than \$2.09, 7 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10—.28	.01	1.15—1.42	.05
.29—.57	.02	1.43—1.71	.06
.58—.85	.03	1.72—2.09	.07
.86—1.14	.04		

~~(5) 1 1/2% DISCRETIONARY SALES SURTAX.~~

~~(a) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been~~

taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 15 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10—.13	.01	1.07—1.20	.09
.14—.26	.02	1.21—1.33	.10
.27—.40	.03	1.34—1.46	.11
.41—.53	.04	1.47—1.60	.12
.54—.66	.05	1.61—1.73	.13
.67—.80	.06	1.74—1.86	.14
.81—.93	.07	1.87—2.09	.15
.94—1.06	.08		

~~(b) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 17 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~

Amount of Sale	Tax	Amount of Sale	Tax
.10—.11	.01	1.10—1.17	.10
.12—.23	.02	1.18—1.29	.11
.24—.35	.03	1.30—1.41	.12
.36—.47	.04	1.42—1.52	.13
.48—.58	.05	1.53—1.64	.14
.59—.70	.06	1.65—1.76	.15
.71—.82	.07	1.77—1.88	.16
.83—.94	.08	1.89—2.09	.17
.95—1.09	.09		

~~(c) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 4 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax
.10—.25	.01
.26—.50	.02
.51—.75	.03
.76—1.09	.04

~~(6) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties imposing a discretionary sales surtax. Copies are available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at www.myflorida.com/dor/taxes; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Distribution Center at (850)922-2208; or, 3) using a~~

~~fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at the address show inside the parentheses (www.myflorida.com/dor/taxes). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

~~Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9),(10),(11) FS. History--New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01, _____.~~

12A-15.010 The Sale of Food, Drink, and Tangible Personal Property at Concession Stands.

(1)(a) Concessionaires at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business where it is impracticable to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, may calculate tax due for counties imposing a surtax as follows:

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

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

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

<u>Surtax Rate</u>	<u>Divisor</u>
No Surtax	1.0659
<u>1/4%</u>	<u>1.0678</u>
1/2%	1.0697
3/4%	1.0724
1%	1.0751
<u>1 1/4%</u>	<u>1.0773</u>
1 1/2%	1.0795

(2) No change.

~~Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.15(1),(4) FS. History--New 12-11-89, Amended 3-20-96, 6-19-01, _____.~~

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

(1) Amusement machine sales; effective tax rates.

(a) Charges for the use of amusement machines, as defined in Section 212.02(24), F.S., are subject to the surtax at the rate imposed by the county where the machine is located. To calculate the tax due in an applicable reporting period for amusement machines located in counties imposing a surtax:

1. Divide the total gross receipts from charges for the use of amusement machines by the divisors provided in paragraph (b) to compute taxable sales;

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

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

<u>Surtax Rate</u>	<u>Divisor</u>
No Surtax	1.040
<u>1/4%</u>	<u>1.0425</u>
1/2%	1.045
3/4%	1.0475
1%	1.050
<u>1 1/4%</u>	<u>1.0525</u>
1 1/2%	1.055

(c) No change.

(2)(a) Vending machine sales; effective tax rates. The amount of tax to be paid on food, beverages, and other items of tangible personal property that are sold in vending machines is subject to the surtax at the rate imposed by the county where the machine is located. To calculate the tax due in an applicable reporting period for vending machines located in counties imposing a surtax: Section 212.0515, F.S., provides the amount of tax to be paid on food, beverages, or other items of tangible personal property that are sold through vending machines.

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

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

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

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

(c) When an operator cannot account for each type of item sold through a vending machine, the highest divisor rate must be used to calculate the amount of sales tax, plus surtax, due for all products sold through that machine.

(3) No change.

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

12A-15.012 Alcoholic and Malt Beverages.

(1) No change.

(2) DEALERS WHO DO NOT SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, does not put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

<u>County Surtax Rate</u>	<u>Effective Tax Rate</u>
No Surtax	.0635
<u>1/4%</u>	<u>.0656</u>
1/2%	.0677
3/4%	.07035
1%	.0730
<u>1 1/4%</u>	<u>.07395</u>
1 1/2%	.0776

2. No change.

(b)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide the total gross receipts by the following divisors to compute taxable sales:

<u>County Surtax Rate</u>	<u>Divisor</u>
No Surtax	1.0635
<u>1/4%</u>	<u>1.0656</u>
1/2%	1.0677
3/4%	1.07035
1%	1.0730
<u>1 1/4%</u>	<u>1.0753</u>
1 1/2%	1.0776

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

2. No change.

(3) DEALERS WHO SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and does NOT put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of mixed drinks and package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

<u>County Surtax Rate</u>	<u>Effective Tax Rate</u>
No Surtax	.0659
<u>1/4%</u>	<u>.0678</u>
1/2%	.0697
3/4%	.0724
1%	.0751
<u>1 1/4%</u>	<u>.0773</u>
1 1/2%	.0795

2. No change.

(b)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide total gross receipts by the following divisors to compute taxable sales:

<u>County Surtax Rate</u>	<u>Divisor</u>
No Surtax	1.0659
<u>1/4%</u>	<u>1.0678</u>
1/2%	1.0697
3/4%	1.0724
1%	1.0751
<u>1 1/4%</u>	<u>1.0773</u>
1 1/2%	1.0795

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

2. No change.

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.054, 212.055, 212.07(2),(4), 212.08(4), 212.12(11), 212.15(1),(4) FS. History—New 12-11-89, Amended 3-20-96, 6-19-01, _____.

DEPARTMENT OF TRANSPORTATION

<u>RULE CHAPTER TITLE:</u>	<u>RULE CHAPTER NO.:</u>
Equipment and Operational Safety	
Standards for Bus Transit Systems	14-90
<u>RULE TITLES:</u>	<u>RULE NOS.:</u>
Scope	14-90.001
Definitions	14-90.002
Department Responsibilities and Authority	14-90.003
Bus Transit System Operational Standards	14-90.004
Medical Examinations for Bus Transit	
System Drivers	14-90.0041
Transit Bus Accidents	14-90.005
Operational and Driving Requirements	14-90.006
Vehicle and Equipment Standards and	
Procurement Criteria	14-90.007
Standards for Accessible Buses	14-90.008
Bus Safety Inspections	14-90.009
Certification	14-90.010
Inspection of Buses by Law	
Enforcement Officers	14-90.011
Safety and Security Inspections and Reviews	14-90.012

PURPOSE AND EFFECT: Chapter 14-90, F.A.C., is being amended, including the repeal of five rules. The medical examination report for public-sector bus drivers is revised.

SUBJECT AREA TO BE ADDRESSED: Chapter 14-90, F.A.C., is being amended.

SPECIFIC AUTHORITY: 334.044(2), 341.061(2)(a) FS.

LAW IMPLEMENTED: 334.044(12),(28), 341.041(3), 341.061(2) 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: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-90.001 Scope.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(12), (21), 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, 8-2-94, Repealed.

14-90.002 Definitions.

~~(1)~~ “Accessible Bus” means any vehicle readily accessible to and usable by individuals with disabilities and meeting the requirements of Title 49, Code of Federal Regulations, Part 38, Subpart B—Buses, Vans, and Systems.

~~(1)(2)~~ “Bus” means any motor vehicle as defined in subsection 316.003(21) Florida Statutes, other than a taxicab, designed, constructed, and used for the public transport of persons for compensation. For purposes of this Rule Chapter, a bus means a public-sector bus which is owned, operated, leased, or controlled by a bus transit system. Buses are designated in two categories:-

(a) Type I ~~±~~. Over 22 feet in length, including bumpers.

(b) Type II ~~±~~. 22 feet or less in length, including bumpers. This category shall include ~~all such~~ paratransit type vehicles, such as i.e., minibuses, standard vans, modified vans, station wagons, and sedans etc., when used for the transportation of persons for compensation.

~~(3)~~ “Bus Driver” means any person who drives and is in actual physical control of a bus on a street or highway which is being used for the transportation of persons for compensation.

~~(2)(4)~~ “Bus Transit Systems” means a community transportation coordinator; a public transit provider; a private contract transit provider which owns, operates, leases, or controls buses or taxicabs where such transportation consists of continuous or recurring transportation under the same contract; or a privately owned or operated transit provider that receives

operational or capital funding from the Department and owns, operates, leases, or controls buses, other than nonpublic sector buses defined in Section 316.003, Florida Statutes, that provide transportation services available for use by the general riding public those systems defined in subsections 14-90.002(5), (10) and (13).

~~(3)(5)~~ “Community Transportation Coordinator” “Bus Transit System Created Pursuant to Chapter 427” means a provider of any public or private transportation entity designated as a Community Transportation Coordinator pursuant to Chapter 427, Florida Statutes, which provides eordinated transportation services or an entity that ensures such services are provided by another a transportation operator or private contract bus transit system.

~~(4)(6)~~ “Department” means the State of Florida Department of Transportation.

~~(5)(7)~~ “Drive” or “Operate” are terms which include all time spent at the ~~driving~~ controls of a bus in operation.

~~(6)~~ “Driver” means any person trained and designated to drive a bus on a street or highway which is being used for the public transport of persons for compensation.

~~(7)(8)~~ “FMVSS” means Federal Motor Vehicle Safety Standards in effect at the time the bus or component is manufactured.

~~(8)(9)~~ “For Compensation” means for a return in money, property, or of anything of value for service in transporting persons or property by buses over public highways, whether paid, received, or realized, directly or indirectly, and shall specifically be deemed to include any profit in money, goods, or things realized from such transportation.

~~(10)~~ “Governmentally Owned Bus Transit System” means any governmentally owned entity or agency, financed wholly or partly by state funds, that owns, operates, leases, or controls buses.

~~(9)(11)~~ “Manufacturer” ~~of the Chassis~~ means the original producer manufacturer of the chassis, or the producer manufacturer of any integral type of bus, or the producer of equipment installed on any bus for the purpose of transporting individuals with disabilities.

~~(10)(12)~~ “On Duty” means the status of the driver from the time he or she begins work, or is required to be in readiness to work, until the time the driver is relieved from work and all responsibility for performing work. “On Duty” includes all time spent by the driver as follows:

(a) Waiting to be dispatched at bus transit system terminals, facilities, or other private or public property, unless the driver has been completely relieved from duty by the bus transit system.

(b) Inspecting, servicing, or conditioning any vehicle.

(c) Driving.

(d) Remaining in readiness to operate a vehicle (sStand-by).

(e) Repairing, obtaining assistance, or remaining in attendance in or about a disabled vehicle.

(11) “Passenger” means a person who is on board, boarding, or alighting from a bus for the purposes of public transport.

~~(13) “Privately Owned or Operated Bus Transit System That is Financed Wholly or Partly by State Funds” means any private entity or agency that receives operational or capital funding from the state and owns, operates, leases, or controls buses that provide transportation services available for use by the general riding public.~~

~~(14) “Privately Owned or Operated Bus Transit System Under Contract” means an private entity or agency which owns, operates, leases, or controls buses or taxicabs and provides transportation services under contract for a bus transit system for compensation where such transportation consists of continuous or recurring transportation under the same contract. This term shall hereinafter be referred to as “private contract bus transit system”.~~

~~(15) “Public sector Bus” means a bus which is owned, operated, leased, or controlled by a bus transit system.~~

~~(12)(16) “Safe Condition” means a condition where hazards are reduced to the lowest level feasible through the most effective use of available resources and where substantial compliance exists with all safety rules, regulations, and requirements.~~

~~(17) “Safety Certification” means a formal statement or documentation declaring, verifying or attesting that safety requirements are incorporated in designs, construction, procurement activities, training and operation of a transit system.~~

~~(13)(18) “Safety Review” means an on-site assessment to determine if a bus transit system has adequate safety management controls in place and functioning that meet safety standards provided and incorporated by reference in this Rule Chapter.~~

~~(14) “Security” means freedom from harm resulting from intentional acts against passengers, employees, equipment, and facilities.~~

~~(15) “Security Program Plan (SPP)” means a document developed and adopted by the bus transit system detailing its policies, objectives, responsibilities, and procedures for the protection and defense of the system and persons from intentional acts of harm.~~

~~(16) “Security Review” means an on-site assessment to determine if a bus transit system has security management controls in place and functioning that meet security requirements provided in this Rule Chapter.~~

~~(19) “Seven Consecutive Days” means the period of seven consecutive twenty-four hour days beginning on any day at a time designated by the bus transit system for a 24-hour period.~~

~~(17)(20) “System Safety Program Plan (SSPP)” means a documented developed and adopted by the bus transit system detailing its policies, objectives, responsibilities, and procedures against injuries or damage organized approach and guide to accomplishing a system safety program.~~

~~(18)(21) “Taxicab” means any motor vehicle of a nine passenger capacity or less, including the driver, engaged in the general transportation of persons for compensation on occasional trips, not on a regular schedule or between fixed termini or over regular routes, where and such vehicle does not provide transportation services as a result of a contractual agreement with a bus transit system.~~

~~(19)(22) “Trailer Bus” means a trailing or towed vehicle trailer or semitrailer designed or used for the transportation of more than 10 persons, e.g., tram buses.~~

~~(23) “Twenty-four Hour Period” means any 24 consecutive hour period beginning at a time, designated by the bus transit system, from the terminal or location from which the driver is normally dispatched.~~

~~(20)(24) “Unsafe Condition” means any thing or circumstance condition which endangers human life or property.~~

~~(25) “Work Period” means the duration between the time a driver first reports for duty and the time a driver is completely relieved of all duties and is permitted to go off duty for a minimum of eight consecutive hours. The terms “work period” and “on duty” have the same meaning or intent in this rule chapter.~~

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, _____.

14-90.003 Department Responsibilities and Authority.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, Repealed _____.

14-90.004 Bus Transit System Operational Standards.

(1) Each bus transit system shall develop and adopt an SSPP that complies, at a minimum, with established safety standards set forth in this Rule Chapter.:-

(a) ~~Develop a SSPP that complies, at a minimum, with established safety standards set forth in this rule chapter. The SSPP plan shall address consist of safety considerations and standards for the following safety elements and requirements:~~

1. Safety policies and responsibilities. Management
2. Vehicles and equipment standards and procurement criteria.
3. Operational standards and procedures. functions
4. Bus driver and employee selection.
5. Driving requirements.
6. Bus driver and employee training.
7. Vehicle mMaintenance.

~~8. Investigations of events described under subsection 14-90.004(5), F.A.C.~~

~~9. Hazard identification and resolution.~~

~~10.6. Equipment for transporting wheelchairs.~~

~~11. Safety data acquisition and analysis.~~

~~7. Training~~

~~8. Federal, State, and Local regulations, ordinances, or laws~~

~~12.9. Safety standards for private contract bus transit system(s) that provide(s) continuous or recurring transportation services for compensation as a result of a contractual agreement with the bus transit system.~~

~~(b) Each bus transit system shall implement and comply with the SSPP during the operation of the system.~~

~~(c) Each bus transit system shall require that all operable transit buses be inspected at least annually in accordance with established standards.~~

~~(d) Assure that safety inspections are performed by personnel qualified by the bus transit system, as specified in subsection 14-90.009(2).~~

~~(d)(e) Each bus transit system shall annually submit a safety certification to the Department verifying the following: the adoption of a SSPP in accordance, at a minimum, with established standards set forth in this rule chapter.~~

~~1. Adoption of an SSPP in accordance, at a minimum, with established standards set forth in this Rule Chapter.~~

~~2. Compliance with its adopted SSPP and that safety inspections have been performed at least annually on all buses operated by the bus transit system, by persons meeting the requirements of Rule 14-90.009, F.A.C.~~

~~(f) Annually submit a safety certification to the Department verifying compliance with its adopted SSPP and that safety inspections have been performed by a qualified entity at least annually on all buses operated by the system.~~

~~(e)(g) Bus transit systems shall immediately suspend. Require immediate suspension of affected system service operations; if, at any time, continued operation of the system or a portion thereof, is unsafe believed not safe for passenger service or poses a potential danger to public safety.~~

~~(2) Each bus transit system shall develop and adopt an SPP that complies, at a minimum, with security requirements set forth in this Rule Chapter. The SPP shall be adopted separately from the SSPP. Bus transit systems that engage in a contract with a private contract bus transit system(s) pursuant to 14-90.004(1)(a)9. shall:~~

~~(a) The SPP shall address the following security requirements:~~

~~1. Security policies, goals, and objectives.~~

~~2. Organization, roles, and responsibilities.~~

~~3. Emergency management processes and procedures for mitigation, preparedness, response, and recovery.~~

~~4. Procedures for investigation of events described under subsection 14-90.004(5), F.A.C.~~

~~5. Procedures for the establishment of interfaces with other emergency response organizations.~~

~~6. Procedures for interagency coordination with local law enforcement jurisdictions.~~

~~7. Employee security and threat awareness training programs.~~

~~8. Security data acquisition and analysis.~~

~~9. Conduct and participation in emergency preparedness drills and exercises.~~

~~10. Security requirements for private contract transit provider(s) that provide(s) continuous or recurring transportation services for compensation as a result of a contractual agreement with the bus transit system.~~

~~11. Procedures for SPP maintenance and distribution.~~

~~(b) Each bus transit system shall implement and comply with the SPP during the operation of the system.~~

~~(c) Bus transit systems that engage in a contract with a private contract transit provider(s) shall:~~

~~1. Establish minimum security requirements which apply to private contract transit provider(s).~~

~~2. Monitor and assure each private contract transit provider complies with established security requirements during the term of the contract.~~

~~(a) Establish minimum safety standards pursuant to 14-90.004(1)(a) which apply to private contract bus transit system(s), as defined in 14-90.002(14).~~

~~(b) Monitor and assure the private contract bus transit system(s) comply(s) with established safety standards while engaged in a contract pursuant to 14-90.004(2).~~

~~(3) Bus transit systems shall establish criteria and procedures for selection, qualification, and training of all drivers. The criteria shall include the following:~~

~~(a) Driver qualifications and background checks with minimum hiring standards. Require that all buses be operated at all times in compliance with applicable traffic regulations, ordinances, and laws of the jurisdiction in which they are being operated.~~

~~(b) Driving and criminal background checks for all new drivers.~~

~~(c)(b) Verification and documentation. Require proof of valid driver licenses for all employees who drive buses in accordance with Chapter 322, Florida Statutes, and maintain a current legible photostatic record of each driver's license.~~

~~(d)(e) Training. Establish driver training and testing to demonstrate and ensure adequate skills and an employee's capabilities to safely operate each different type of bus or bus combination to before driving on a street or highway unsupervised, i.e., buses requiring different skills for drivers to~~

safely and properly drive. ~~At a minimum, d~~Drivers shall be given explicit instructional and procedural training and testing in the following areas ~~shall include~~:

1. Bus transit system safety and operational policies and procedures.
2. Operational bus and equipment inspections.
3. Bus equipment familiarization.
4. Basic operations and maneuvering.
5. Boarding and alighting passengers.
6. Operation of wheelchair lift and other special equipment and driving conditions.
7. Defensive driving.
8. Passenger assistance and securement.
9. Handling of emergencies and security threats.
10. Security and threat awareness.

~~1. Explicit instructional and procedural training regarding operational and driving requirements, defensive driving, equipment inspection and handling of emergencies.~~

~~2. A road test of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the bus, and associated equipment, that the bus transit system intends for the person to operate.~~

~~3. The road test shall be given by the bus transit system or a person designated by it.~~

~~4. The road test shall be given by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated the capability of operating the vehicle, and associated equipment, that the bus transit system intends for the person to drive.~~

~~(d) Establish driver training for operation of special equipment on buses, such as wheelchair lifts, ramps and wheelchair securement devices, as applicable.~~

~~(e) Bus transit systems shall pProvide written operational and safety procedures to all bus drivers before driving on a street or highway unsupervised. These procedures and instructions shall address, at a minimum, the following:~~

1. Communication and handling of unsafe conditions, security threats, and emergencies.
2. Familiarization and operation of safety and emergency equipment, wheelchair lift equipment, and restraining devices.
3. Application and compliance with applicable federal and state rules and regulations.

~~(f) The provisions in (d) and (e) above shall not apply to personnel licensed and authorized by the bus transit system to temporarily drive, move, or road test a bus to perform repairs or maintenance services where it has been determined that such temporary operation does not create an unsafe operating condition or create a hazard to public safety. Maintain a current record of the different types of buses and bus special equipment each driver is capable of driving and operating.~~

~~(g) Bus transit systems shall maintain the following records for at least four years:~~

~~1. Records of bus driver background checks and qualifications.~~

~~2. Detailed descriptions of training administered and completed by each bus driver.~~

~~3. A Maintain a record of each bus driver's duty status work period which shall include documentation of the following: 1. tTotal days worked, 2. oOn-duty hours, 3. dDriving hours, and 4. tTime of reporting on and off duty each day.~~

~~(h) Notwithstanding the provisions of Section 316.193, 316.1931, 316.1932, 316.1933, 316.1934, Florida Statutes, pursuant to driving under the influence, each Bbus transit system shall establish a drug-free workplace policy statement in accordance with Title 49, C.F.R. Code of Federal Regulations, Part 29, "Government-wide Requirements for Drug-Free Workplace (Grants)" and a substance abuse management and testing program in accordance with 49 C.F.R. Parts 40 and 655, hereby incorporated by reference, Drug-Free Workplace Act.~~

~~(i) Assure that the SSPP provides for the prevention of an employee to drive, move or cause to be driven or moved, on any street or highway, any bus:~~

~~1. Which is in such unsafe condition as to endanger any person or property.~~

~~2. Which does not contain those safety parts or is not at all times equipped with safety equipment and devices in proper condition and adjustment as required by Chapter 316, Florida Statutes, and this rule chapter.~~

~~3. Which is equipped in any manner in violation of Chapter 316, Florida Statutes, and this rule chapter.~~

~~4. The provisions of this subsection shall not apply to personnel authorized by the bus transit system to temporarily drive, move, or road test a bus to perform repairs or maintenance services and it has been determined that such temporary operation does not create an unsafe operating condition or create a hazard to public safety.~~

~~(i)(j) Bus transit systems shall rRequire that drivers write and submit a daily bus inspection report pursuant to Rule subsections 14-90.006(7) and (8), F.A.C.~~

~~(4) Bus Maintenance. Bus transit systems shall establish a maintenance plan and procedures for preventative and routine maintenance for all buses operated. The maintenance plan and procedures Bus transit systems shall assure: All buses operated shall be properly maintained and equipped with all required parts necessary to ensure such buses are in safe and proper operating condition at all times.~~

~~(a) That all buses operated, and all parts and accessories on such buses, including those specified in Rules 14-90.007, F.A.C. and 14-90-008, and any additional parts and accessories which may affect safety of operation, including frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems, are regularly and systematically inspected, maintained, and lubricated at a~~

~~minimum~~ in accordance with the standards developed and established, at a minimum, according to the bus manufacturer's recommendations and requirements in the SSPP to ensure they are in safe and proper operating condition.

(b) That a recording and tracking system is established for A method of indicating the types of inspections, maintenance, and lubrication intervals, including to be performed on each bus and the date or mileage when these services are due. Required maintenance inspections required shall be more comprehensive than daily inspections performed by the driver.

(c) That proper preventive maintenance is performed when a bus is assigned away from the system's regular maintenance facility, or when maintenance services are performed under contracted.

(d) That The maintenance of records are maintained providing written documentation of preventive maintenance, regular maintenance, inspections, lubrication, and repairs performed for each bus under their control. Such records shall be maintained by the bus transit system for at least four years and include at a minimum the following information:

1. Identification of the bus, including make, model, and license number or other means of positive identification and ownership.

2. Date, mileage, and type of inspection, maintenance, lubrication, or repair performed.

3. Date, mileage, and description of each inspection, maintenance, and ~~or~~ lubrication intervals performed.

4. If not owned by the bus transit system, the name of any person or lessor furnishing any bus.

5. The name and address of any entity or contractor performing an inspection, maintenance, lubrication, or repair.

(5) Each bus transit system shall investigate, or cause to be investigated, any event involving a bus or taking place on bus transit system controlled property resulting in a fatality, injury, or property damage as follows:

(a) A fatality, where an individual is confirmed dead within 30 days of a bus transit system related event, excluding suicides and deaths from illnesses.

(b) Injuries requiring immediate medical attention away from the scene for two or more individuals.

(c) Property damage to bus transit system bus(es), non-bus transit system vehicles, other bus system property or facilities, or any other property, except the bus transit system shall have the discretion to investigate events resulting in property damage less than \$1,000.

(d) Evacuation of a bus due to a life safety event where there is imminent danger to passengers on the bus, excluding evacuations due to operational issues.

(6) Each investigation shall be documented in a final report that includes a description of investigation activities, identified causal factors, and any identified corrective action plan.

(a) Each corrective action plan shall identify the action to be taken by the bus transit system and the schedule for its implementation.

(b) The bus transit system must monitor and track the implementation of each corrective action plan.

(7) Investigation reports, corrective action plans, and related supporting documentation shall be maintained by the bus transit system a minimum of four years from the date of completion of the investigation.

(8) On or before January 1, 2006, every bus transit system shall comply with the 2005 amendments to this Rule.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92,

14-90.0041 Medical Physical Examinations for Bus Transit System Drivers.

(1) Bus transit systems shall establish medical physical examination requirements for all applicants for driver positions new and for existing drivers current employees who drive (will drive) buses as defined in Rule Sections 14-90.002(2) and (3). The medical examination requirements shall include a pre-employment examination for applicants, an examination As part of the physical examination requirements, all employees who are bus drivers must receive an initial physical examination and one at least once every two years for existing drivers, and a return to duty examination for any driver prior to returning to duty after having been off duty for 30 or more days due to an illness, medical condition, or injury.

~~(a) Physical examinations shall be performed by the examining physician according to the instructions, and recorded by the physician on Department of Transportation Form Number 775-030-01, "Physical Examination for Public Sector Bus Driver," 07/92, which is hereby incorporated by reference. Copies of Form Number 775-030-01 are available from the Florida Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450.~~

(2)(b) Medical Physical examinations may be performed and recorded according to qualification standards in a form adopted by the bus transit system, provided the medical physical examination qualification standards requirements and the form adopted by the bus transit system meet or exceed those that provided in by Department Form Number 775-030-11, Medical Examination Report for Bus Transit System Driver, Rev. 02/05, hereby incorporated by reference. Copies of Form Number 775-030-11 are available from the Florida Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450 or on-line at www.dot.state.fl.us/transit. The physical examination shall be performed and recorded by a physician meeting the requirements of Rule 14-90.0041(1)(b).

~~(3)1-~~ Medical Physical examinations shall be performed by a Doctor of Medicine or Osteopathy, Physician Assistant, or Advanced Registered Nurse Practitioner licensed or certified by the State of Florida. If medical examinations are performed by a Physician Assistant or Advanced Registered Nurse Practitioner, they must be performed under the supervision or review of a Doctor of Medicine or Osteopathy.

~~(a)2-~~ An ophthalmologist or optometrist licensed by the State of Florida may perform ~~as so~~ much of the examination as pertains to visual acuity, field of vision, and color recognition.

(b) Upon completion of the examination, the medical examiner shall complete, sign, and date the medical examination report.

~~(4)(e)~~ Bus transit systems shall have on file proof of medical physical examination, i.e., a completed and signed medical examination report for each bus driver, dated within the past 24 months.

~~(2)~~ Medical examination reports ~~Records and results of physical examinations~~ of employee bus drivers shall be maintained by the bus transit system for a minimum of four years from the date of the examination.

(3) On or before January 1, 2006, every bus transit system shall comply with the 2005 amendments to this Rule.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(12), 341.041(3), 341.061(2) FS. History—New 11-10-92, Amended _____.

14-90.005 Transit Bus Accidents.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, Repealed _____.

14-90.006 Operational and Driving Requirements.

(1) Bus transit systems shall not permit a driver to drive a bus when such driver's license has been suspended, cancelled, or revoked. Bus transit systems shall require a driver who receives a notice that his or her license to operate a motor vehicle has been suspended, cancelled, or revoked to notify his or her employer of the contents of the notice immediately, ~~or~~ no later than the end of the business day following the day he or she received the notice ~~it~~.

(2) ~~Public sector~~ Buses shall be operated at all times in compliance with applicable traffic regulations, ordinances, and laws of the jurisdiction in which they are being operated.

(3) A ~~The driver of a bus~~ shall not be permitted or required to drive more than 12 hours in any one 24-hour period, or drive after having been on duty for 16 hours in any one 24-hour period, ~~or drive more than 70 hours in any period of seven consecutive calendar days.~~ A driver shall not be permitted to drive until the requirement of a minimum eight consecutive hours off-duty has been fulfilled. A driver's work period shall begin from the time he or she first reports for duty to his or her employer. A driver is permitted to exceed his or her regulated

hours in order to reach a regularly established relief or dispatch point, provided the additional driving time does not exceed one hour.

(4) A driver shall not be permitted or required to be on duty more than 72 hours in any period of seven consecutive days; however, 24 consecutive hours off duty shall constitute the end of any such period of seven consecutive days.

~~(a)~~ A driver who has reached the maximum ~~72~~ 42 driving hours of ~~or 16~~ hours on duty time during the seven consecutive days shall be required to have a minimum of 24 consecutive hours off duty prior to returning to on duty status ~~eight~~ eight ~~within any one 24-hour period.~~

~~(b)~~ A driver's work period shall begin from the time a driver first reports for duty for his or her employer.

~~(5)~~ (4) A driver is ~~may~~ be permitted to drive for more than the regulated hours for safety and protection of the public due to if the hours are necessitated by adverse conditions such as adverse resulting from weather, disaster, security threat, a road or traffic condition, medical emergency, or emergencies resulting from an accident, medical reasons, or disaster.

~~(5)~~ The driver of a bus may be permitted to exceed his or her regulated hours in order to reach a regularly established relief point, provided the additional driving time does not exceed one hour.

(6) Bus transit systems shall not permit or require any driver to ~~No driver shall~~ drive a bus when his or her ability is ~~so~~ impaired, or ~~so~~ likely to be impaired, by fatigue, illness, or other causes, as to make it unsafe for the driver to begin or continue driving. Bus transit systems shall not permit or require any driver to drive a bus when his or her ability is ~~so~~ impaired by such condition as to make it unsafe for the driver to begin or continue driving.

(7) Bus transit systems shall require pre-operational or daily inspection and reporting of each driver to submit a daily written report indicating the condition of the bus and listing all defects and deficiencies likely to affect safe operation or cause mechanical malfunctions.

~~(a)~~ An ~~Prior to operation of a bus, or no less than daily if the bus is so operated, an~~ inspection or test shall be made of the following parts and devices to ascertain that they are in safe condition and in good working order:

1. Service brakes,
2. Parking brakes,
3. Tires and wheels,
4. Steering,
5. Horn,
6. Lighting ~~d~~Devices,
7. Windshield ~~w~~Wipers,
8. Rear vision mirrors,
9. Passenger doors,

10. Exhaust ~~s~~System.
11. Equipment for transporting wheelchairs.
12. Safety, security, and ~~e~~Emergency equipment.

(b) Bus transit systems shall review daily inspection reports and document corrective actions taken as a result of any deficiencies identified by daily inspections.

(c)(b) Bus transit systems shall retain records of daily bus inspections and any corrective action documentation a minimum of two weeks.

(8) A bus with passenger doors in the open position shall not be operated with passengers aboard. The doors shall not be opened until the bus is stopped. A bus with inoperable passenger doors shall not be operated with passengers aboard, except to move a bus to a safe location.

(9) During darkness, interior lighting and lighting in stepwells on buses shall be sufficient for passengers to enter and exit safely.

(10) Passenger(s) shall not be permitted in the stepwell(s) of any bus while the bus is in motion, or to occupy an area forward of the standee line ~~as required in subsection 14-90.007(14).~~

(11) ~~Standee P~~passenger(s) shall not be permitted to stand on buses not designed and constructed for that purpose.

(12) Buses shall not be refueled in a closed building. The fueling of buses when passengers are being carried shall be reduced to the minimum number of times necessary during such transportation.

(13) ~~With passenger(s) aboard, T~~the bus transit system shall require the driver to be properly secured to the driver's seat with a restraining belt at all times while the bus is in motion.

(14) Buses shall not be left unattended with passenger(s) aboard for longer than 15 minutes. The parking or holding brake device must be properly set at any time the bus is left unattended.

(15) Buses shall not be left unattended in an unsafe condition with passenger(s) aboard at any time.

(16) On or before January 1, 2006, every bus transit system shall comply with the 2005 amendments to this Rule.

~~(16) The provisions of Subsections 14-90.006(8), (9), (10), (11), (12) shall not apply to persons testing or training a driver, maintenance personnel or a sales or manufacturer's representative.~~

~~(17) Buses carrying passengers shall stop at all railroad grade crossings in compliance with Section 316.159, Florida Statutes.~~

~~(18) Whenever a bus 80 or more inches in width or 30 feet or more in length is stopped (except when lawfully stopped to pick up or discharge passengers) or disabled upon a roadway or adjacent shoulder, warning lights and devices shall be displayed as required by Section 316.301, Florida Statutes.~~

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History--New 9-7-87, Amended 5-31-89, 11-10-92,

14-90.007 Vehicle Equipment Standards and Procurement Criteria Devices Required.

~~At the time of manufacture, every public-sector bus operated on or over the streets and highways of this State shall be equipped in compliance with applicable Federal Motor Vehicle Safety Standards (Title 49 C. F. R. Part 571); and the State of Florida Uniform Traffic Control Laws (Chapter 316, Florida Statutes); (available from the Florida Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450), which regulations are hereby incorporated by reference and made a part of these rules. With the exception of certain date of manufacture exemptions, as specified herein, every public-sector bus operated on or over the streets and highways of this State shall be equipped as follows:~~

(1) Every bus transit system shall ensure that buses procured and operated meet the following, at a minimum, as applicable:

(a) The capability and strength to carry the maximum allowed load and not exceed the manufacturer's gross vehicle weight rating (GVWR), gross axle weighting, or tire rating.

(b) Structural integrity that mitigates or minimizes the adverse effects of collisions.

(c) Federal Motor Vehicle Safety Standards (FMVSS), 49 C.F.R. Part 571, Sections 102, 103, 104, 105, 108, 207, 209, 210, 217, 220, 221, 225, 302, 403, and 404, hereby incorporated by reference.

(2) Proof of strength and structural integrity tests on new buses procured shall be submitted by manufacturers or bus transit systems to the Department.

(3) In addition to the above, every bus operated in this state shall be equipped as follows:

~~(1) Horn. The horn must be capable of emitting sound audible under normal conditions from a distance of not less than 200 feet and having an activating device which is easily accessible to the driver.~~

~~(2) Windshield Wipers. There must be the same number of windshield wipers as originally equipped at time of manufacture, or equipped with adequate number of wipers to properly clean the windshield(s). The wipers shall be activated by a device(s) easily accessible to the driver.~~

~~(a)(3) Mirrors. There must be two exterior rear vision mirrors, one at each side. The mirrors shall be firmly attached to the outside of the bus and so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle. Each exterior rear vision mirror, on Type I buses; manufactured on or after February 7, 1988, shall have a minimum reflective surface of 50 square inches and the right (curbside) mirror shall be located on the bus so that the lowest most part of the mirror and its mounting is at a minimum of 80~~

inches above the ground. All Type I buses shall, in addition to the above requirement, be equipped with an inside rear vision ~~view~~ mirror capable of giving the driver a clear view of seated or standing passengers, and buses having a passenger exit door that is located inconveniently for the driver's visual control shall be equipped with additional ~~an~~ interior mirror(s), ~~or a combination of mirrors,~~ enabling the driver to view the passenger exit door ~~during egress of passenger(s).~~ The exterior right (curbside) rear vision mirror and its mounting on Type I buses may be located lower than 80 inches from the ground, provided such buses are used exclusively for paratransit services ~~operations~~, as defined in Section 341.031, Florida Statutes. In lieu of interior mirrors, trailer buses and articulated buses may be equipped with closed circuit video systems or adult monitors in voice control with the driver.

(b)(4) Wiring and Battery. Electrical wiring shall be maintained so as not to come in contact with moving parts, or heated surfaces, or be subject to chafing or abrasion which may cause insulation to become worn. Every Type I bus manufactured on or after February 7, 1988, shall be equipped with a storage battery(ies) electrical power main disconnect switch. The disconnect switch shall be practicably located in an accessible location adjacent to or near to the battery(ies) and be legibly and permanently marked for identification. Every storage battery on each public-sector bus shall be mounted with proper retainment ~~retainers~~ or securement ~~devices~~ in a compartment which provides adequate ventilation and drainage.

(5) Service Brakes, Parking Brakes. Braking systems shall comply with Subsections 316.261(1), (2), (3), (8), (9), (10), or Section 316.262, Florida Statutes, as applicable, and shall be maintained in good working order in compliance with Section 316.263, Florida Statutes.

(c)(a) Brake Interlock Systems. All Type I buses having a rear ~~passenger~~ exit door shall be equipped with a rear exit door/brake interlock that automatically applies the brake(s) ~~on the bus~~ upon driver activation of the rear ~~passenger~~ exit door to the open position. Interlock brake application shall remain activated until deactivation by the driver and the rear exit door returns to the closed position. The rear exit door interlock on such buses shall be equipped with an identified override switch enabling emergency release of the interlock function, which ~~and~~ shall not be located within reach of the seated driver.

(b) Air pressure application to the brake(s) during interlock operation, on buses equipped with rear exit door/brake interlock, shall be regulated at the original equipment manufacturer's specifications.

(6) Warning Devices. Every bus using compressed air, vacuum or a combination thereof, shall be equipped with gauges and warning signal devices as required by Subsection 316.261, Florida Statutes. These required warning devices shall not have override switches.

(7) Directional Signals. Every bus shall be equipped with electrical turn signal devices which shall meet the requirements of Subsection 316.234(2), Florida Statutes.

(a) Lamps shall be located and mounted as widely spaced laterally as practical.

(b) Lenses on lamps may be single faced, double faced or incorporated into the parking lamp assembly. Lenses shall indicate white or amber to the front and red or amber to the rear.

(8) Hazard Warning Signals. Every bus manufactured on or after January 1, 1964, shall be equipped with a vehicular hazard warning signal operating unit.

(a) Signals shall operate independently of the ignition, master or equivalent switch.

(b) The operating unit shall cause to flash simultaneously sufficient turn signal lamps as required by FMVSS 108, "Lamps, Reflective Devices and Associated Equipment", (Title 49 C. F. R. Part 571, Section 108, effective October 2, 1986).

(c) Buses manufactured on or after February 7, 1988, that are equipped with engine or other access door(s) that obscure hazard warning signals with the door(s) raised or in the open position, shall be equipped with rear auxiliary hazard warning signals, which when lighted, shall be visible from a distance of 500 feet to the rear of the bus. Auxiliary hazard warning signals may be activated and operated independently of the main hazard warning signals on the bus.

(9) Stop Lamp. There must be at least two lamps on the rear of the bus which shall display red or amber light upon application of the service (foot) brakes or air activated parking brakes, or activation of the passenger exit door control to open position and application of the brake(s) as required in subsection 14 90.007(5)(a). The lamps shall be visible from a distance of no less than 300 feet to the rear of the bus and shall be securely mounted.

(10) Tail Lamps. There must be at least two tail lamps which are in compliance with Section 316.221, Florida Statutes.

(11) Head Lamps. There must be at least two head lamps mounted in equal number on each side. The head lamps shall be in proper adjustment in compliance with Sections 316.220 and 316.237, Florida Statutes.

(12) Clearance Lamps, Identification Lamps, Marker Lamps, Backup Lamps, and Reflectors. Such lamps and reflectors in the kind, size and number and shall be mounted to comply with the requirements for Sections 316.2225, 316.224, 316.225, 316.226, Florida Statutes.

(13) Deceleration Lights. Buses may be equipped with a deceleration lighting system in accordance with Subsection 316.235(5), Florida Statutes, which cautions following vehicles that the bus is slowing, preparing to stop, or stopped.

(4)(14) Standee Line and Warning. Every bus designed and constructed to allow standees, shall be plainly marked with a line of contrasting color at least two inches wide or be

equipped with some other means to indicate that any passenger is prohibited from occupying a space forward of a perpendicular plane drawn through the rear of the driver's seat and perpendicular to the longitudinal axis of the bus. A sign shall be posted at or near the front of the bus stating that it is a violation for a bus to be operated with passengers occupying an area forward of the line.

~~(5)(15)~~ Handrails and Stanchions. Every bus designed and constructed to allow standees shall be equipped with overhead grab rails for standee passengers. Overhead grab rails shall be continuous, except for a gap at the rear exit doorway, and terminate into vertical stanchions or turn up into a ceiling fastener. Every Type I and Type II bus designed for carrying more than 16 passengers shall be equipped with grab handles, stanchions, or bars at least 10 inches long and installed to permit safe on-board circulation, seating and standing assistance, and boarding and unboarding by elderly and handicapped persons. Type I buses shall be equipped with a safety bar and panel directly behind each entry and exit stepwell.

~~(6)(16)~~ Flooring, Steps, and Thresholds. Flooring, steps, and thresholds on all buses shall have slip resistant surfaces without protruding or sharp edges, lips, or ~~and~~ overhangs, to prevent tripping hazards. All step edges and thresholds shall have a band of color(s) running the full width of the step or edge which contrasts with ~~from~~ the step tread and riser, either light-on-dark or dark-on-light.

~~(7)(17)~~ Doors. Power activated doors on all buses shall be equipped with a manual device designed to release door closing pressure.

~~(8)(18)~~ Emergency Exits. All buses shall have an emergency exit door, or in lieu thereof, shall be provided with emergency escape push-out windows. Each emergency escape window shall be in a form of a parallelogram with dimensions of not less than 18" by 24", and each shall contain an area of not less than 432 square inches. There shall be a sufficient number of such push-out or kick-out windows in each vehicle to provide a total escape area equivalent to 67 square inches per seat, including the driver's seat. No less than 40% of the total escape area shall be on one side of the vehicle. Emergency escape kick-out or push-out windows shall be conspicuously marked by a sign or light and shall always be kept in good working order so that they may be readily opened in an emergency. All such windows shall not be obstructed by bars or other such means located either inside or outside so as to hinder escape. Buses equipped with an auxiliary door for emergency exit shall be equipped with an audible alarm and light indicating to the driver, when a door is ajar or opened while the engine is running. Supplemental security locks operable by a key are prohibited on emergency exit doors unless these security locks are equipped and connected with an ignition interlock system or an audio visual alarm located in the driver's compartment. Any supplemental security lock

system used on emergency exits shall be kept unlocked whenever a bus is in operation. Every Type I bus shall be equipped with emergency door(s) or exits, or side windows or roof hatches as required by FMVSS No. 217 "Bus Window Retention and Release" (Title 49 C. F. R. Part 571, Section 217, effective August 26, 1982). Every Type I bus equipped with an auxiliary door for emergency exit shall be equipped with an audible alarm or light indicating to the driver, should the door become ajar or opened while the engine is running. Every Type II bus shall be equipped with at least one emergency door or push-out escape window either at the rear of the bus or on each side, to the rear of the driver's seat. All emergency exits shall function properly, shall be periodically tested to ensure proper performance and shall be marked by a visible sign indicating "Emergency Exit" or "Emergency Door". Supplemental security locks operable by a key are prohibited on emergency exit doors unless these security locks are equipped and connected with an ignition interlock system or an audio visual alarm located in the driver's compartment. Any supplemental security lock system used on emergency exits shall be kept unlocked whenever a bus is in operation.

~~(9)(19)~~ Tires and Wheels. Tires shall be properly inflated in accordance with manufacturer's recommendations.

(a) No bus shall be operated with a tread groove pattern depth:

1. Less than 4/32 (1/8) of an inch, measured at any point on a major tread groove for tires on the steering axle of all buses. The measurements shall not be made where tie bars, humps, or fillets are located.

2. Less than 2/32 (1/16) of an inch, measured at any point on a major tread groove for all other tires of all buses. The measurements shall not be made where tie bars, humps, or fillets are located.

(b) No bus shall be operated with recapped, regrooved, or retreaded tires on the steering axle.

(c) Wheels shall be visibly free from cracks and; distortion and shall not have missing, cracked, or broken mounting lugs.

~~(10)(20)~~ Suspension. The suspension system of all buses, including springs, air bags, and all other suspension parts as applicable, shall be free from cracks, leaks, or any other defect which would or may cause its impairment or failure to function properly.

~~(21) Exhaust System. The exhaust system of all buses shall be maintained in compliance with Section 316.272, Florida Statutes.~~

~~(11)(22)~~ Steering and Front Axle. The steering system of all buses shall have no indication of leaks which would or may cause its impairment to function properly, and shall be free from cracks and excessive wear of components that would or may cause excessive free play or loose motion in the steering system or ~~and~~ above normal effort in steering control.

~~(12)(23)~~ Seat Belts. Every bus shall be equipped with an adjustable driver's restraining belt in compliance with the requirements of FMVSS 209, "Seat Belt Assemblies" (Title 49 C.F.R. Part 571.209, Section 209, effective September 5, 1986) and FMVSS 210, "Seat Belt Assembly Anchorages" (Title 49 C. F. R. Part 571.210, Section 210, effective August 19, 1986).

~~(13)(24)~~ Safety Equipment. Every bus shall be equipped with one fully charged dry chemical or carbon dioxide fire extinguisher, having at least a 1A:BC rating and bearing the label of Underwriter's Laboratory, Inc.

(a) Each fire extinguisher shall be securely mounted on the bus in a conspicuous place or a clearly marked compartment and be readily accessible.

(b) Each fire extinguisher shall be maintained in efficient operating condition and equipped with some means of determining if it is fully charged.

(c) Every Type I bus shall be equipped with portable red reflector warning devices in compliance with Section 316.300, Florida Statutes.

(14) Buses used for the purpose of transporting individuals with disabilities shall meet the requirements set forth in 49 C.F.R. Part 38, hereby incorporated by reference, and the following:

(a) Installation of a wheelchair lift or ramp shall not cause the manufacturer's gross vehicle weight rating, gross axle weight rating, or tire rating to be exceeded.

(b) Except in locations within 3 1/2 inches of the bus floor, all readily accessible exposed edges or other hazardous protrusions of parts of wheelchair lift assemblies or ramps that are located in the passenger compartment shall be padded with energy absorbing material to mitigate injury in normal use and in case of a collision. This requirement shall also apply to parts of the bus associated with the operation of the lift or ramp.

(c) The controls for operating the lift shall be at a location where the bus driver or lift attendant has a full view, unobstructed by passengers, of the lift platform, its entrance and exit, and the wheelchair passenger, either directly or with partial assistance of mirrors. Lifts located entirely to the rear of the driver's seat shall not be operable from the driver's seat, but shall have an override control at the driver's position that can be activated to prevent the lift from being operated by the other controls (except for emergency manual operation upon power failure).

(d) The installation of the wheelchair lift or ramp and its controls and the method of attachment in the bus body or chassis shall not diminish the structural integrity of the bus nor cause a hazardous imbalance of the bus. No part of the assembly, when installed and stowed, shall extend laterally beyond the normal side contour of the bus nor vertically beyond the lowest part of the rim of the wheel closest to the lift.

(e) Each wheelchair lift or ramp assembly shall be legibly and permanently marked by the manufacturer or installer with the following minimum information:

1. The manufacturer's name and address.

2. The month and year of manufacture.

3. A certificate that the wheelchair lift or ramp securement devices, and their installation, conform to State of Florida requirements applicable to accessible buses.

(15) Wheelchair lifts, ramps, securement devices, and restraints shall be inspected and maintained as required in this Rule Chapter. Instructions for normal and emergency operation of the lift or ramp shall be carried or displayed in every bus.

(16) On or before January 1, 2006, every bus transit system and manufacturer shall comply with the 2005 amendments to this Rule.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, _____

14-90.008 Standards for Accessible Buses.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, Repealed _____

14-90.009 ~~Public-sector~~ Bus Safety Inspections Procedures.

(1) Each bus transit system shall require that all buses operated by such bus transit system, and all buses operated by a private operating under contract with the transit provider system, be inspected at least annually in accordance with bus inspection procedures set forth in this Rule section.

(2) It shall be the bus transit system's responsibility to ensure that each individual performing a bus safety inspection under Rule Section 14-90.009(4) is qualified as follows:

(a) Understands the requirements set forth in this Rule Chapter rules 14-90.007, 14-90.008, 14-90.009, and can identify defective components.

(b) Is knowledgeable of and has mastered the methods, procedures, tools, and equipment used when performing an inspection.

(c) Has at least one year of training and/or experience as a mechanic or inspector in a vehicle maintenance program and has sufficient general knowledge of buses owned and operated by the bus transit system to recognize deficiencies or mechanical defects.

(3) Each ~~public-sector~~ bus receiving a safety inspection shall be checked for compliance with the safety devices and equipment requirements as referenced or specified herein. Specific operable equipment and devices as required by this Rule Chapter include the following (as applicable to Type I or II bus(es)):

- (a) Horn~~_.~~
- (b) Windshield ~~w~~Wipers~~_.~~
- (c) Mirrors~~_.~~
- (d) Wiring and ~~b~~Battery(ies)~~_.~~
- (e) Service and ~~p~~Parking ~~b~~Brakes~~_.~~
- (f) Warning ~~d~~Devices~~_.~~
- (g) Directional ~~s~~Signals~~_.~~
- (h) Hazard ~~w~~Warning ~~s~~Signals~~_.~~
- (i) Lighting ~~s~~Systems and ~~s~~Signaling ~~d~~Devices~~_.~~
- (j) Handrails and ~~s~~Stanchions~~_.~~
- (k) Standee ~~l~~Line and ~~w~~Warning~~_.~~
- (l) Doors and ~~i~~nterlock ~~d~~Devices~~_.~~
- (m) Stepwells and ~~f~~looring~~_.~~
- (n) Emergency ~~e~~xits~~_.~~
- (o) Tires and ~~w~~heels~~_.~~
- (p) Suspension ~~s~~ystem~~_.~~
- (q) Steering ~~s~~ystem~~_.~~
- (r) Exhaust ~~s~~ystem~~_.~~
- (s) Seat ~~b~~elts~~_.~~
- (t) Safety ~~e~~quipment~~_.~~
- (u) Equipment for ~~t~~ransporting ~~w~~heelchairs~~_.~~

(4) A safety inspection report shall be prepared by the individual(s) performing the inspection which shall include the following:

- (a) Identification of the individual(s) performing the inspection.
- (b) Identification of the bus transit system operating the bus.
- (c) The date of the inspection.
- (d) Identification of the bus inspected.
- (e) Identification of the equipment and devices inspected including the identification of equipment and devices found deficient or defective, and describe the results of the inspection.

(f) Identification of corrective action(s) for deficient or defective items and date(s) of completion of corrective action(s).

(5) Records of annual safety inspections and documentation of any required corrective actions shall be retained a minimum of four years by the bus transit system for ~~future~~ compliance review.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, _____.

14-90.010 ~~Safety~~ Certification.

(1) Each bus transit system shall annually submit ~~to the Department~~ a safety and security certification to the Department. The certification shall be submitted no later than February 15, annually for the prior calendar year period. The certification shall attest to which verifies the following:

(a) The adoption of an SSPP and an SPP in accordance, at a minimum, with established standards set forth in this the Rule Chapter.

(b) Compliance with its adopted SSPP and SPP.

(c) Performance of safety inspections on all buses operated by the system in accordance with this Rule Chapter 14-90.009.

(d) Reviews of the SSPP and SPP have been conducted to ensure they are up to date.

(2) The ~~safety~~ certification shall include:

(a) The name and address of the bus transit system, and the name and address of the entity(ies) which has (have) performed bus safety inspections and security assessments, if different from that of the bus transit system.

(b) A statement signed by an officer or person directly responsible for management of the bus transit system attesting to compliance with this Rule Chapter 14-90.010(1)(a), (b), (c).

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(28), 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended _____.

14-90.011 Inspection of Buses by Law Enforcement Officers.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2), 316.610 FS. History—New 9-7-87, Repealed _____.

14-90.012 Safety and Security Inspections and Reviews Suspension of Operation.

(1) The Department, or its designee, is authorized to conduct inspections of bus transit systems to ascertain compliance with the provisions of this Rule Chapter.

(2) The Department, or its designee, is authorized to conduct a safety and security review of any bus transit system which the Department believes to be in noncompliance with its SSPP or SPP and providing passenger service operations in an unsafe manner, or there is evidence of an immediate danger to public safety. The Department shall prepare and submit a report of the review to the affected bus transit system. The report shall be submitted to the bus transit system within three business days of completion of the review and contain the following:

(a) Identification of the findings, including a detailed description of the deficiency(ies).

(b) Required corrective action(s) and schedule for implementation of corrective action(s).

(c) Any requirements for suspension of bus transit system service should the Department determine the continued operation of the service, or a portion thereof, poses an immediate danger to public safety.

(3) The ~~If the~~ Department shall initiate the following actions to suspend the affected bus transit system service if a specific deficiency(ies) or unsafe condition(s) exists to the extent determines that a bus transit system is not in compliance with the provisions of this rule chapter and the continued

operation of the system, or a portion thereof, is not safe for passenger service or is posing a potential danger or threat to public safety the Department shall initiate the following actions to suspend the affected system service.

~~(a)(1) Immediately n~~Notify the affected bus transit system of the unsafe condition(s), followed by a certified letter describing the ~~mail~~, of specific deficiency(ies) non-compliance items or unsafe conditions. The notification shall include establish the following:

~~1.(a) Required corrective actions A specific timetable for specific deficiency(ies) correction of non-compliance items or unsafe condition(s).~~

~~2.(b) Requirements for A requirement that the bus transit system to certify in writing to the Department of completion and implementation of required corrective action(s) in accordance with an established implementation schedule the timetable.~~

~~(b)(2) Conduct an on-site review of if the bus transit system to verify does not certify correction of specific deficiency(ies) non-compliance items in accordance with this Rule Sections 14-90.012(1)(a) and (b) and the established implementation schedule a resolution and timetable for correction of safety items.~~

~~(c)(3) Initiate legal action to Ssuspend affected passenger service operations if the bus transit system fails to correct specific deficiency(ies) in accordance with this Rule and the established implementation schedule comply with the resolution and timetable established during the on-site review.~~

~~(4) The affected passenger service operations shall be suspended until the Department has substantiated compliance by the bus transit system.~~

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(28), 341.041(3), 341.061(2), 316.610 FS. History--New 11-10-92, Amended _____.

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."

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Procedural RULE CHAPTER NO.: 40D-1

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

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Form No. 04.10 R-025 (8/02), Notification and Request for Transfer of a Water Use Permit, to reflect the recent changes to Rule 40D-2.351, F.A.C.,

concerning the transfer of Water Use Permits upon a change in ownership or legal control of permitted water withdrawal facilities or the land on which the facilities are located. The amendment includes a change to the form number, to Form No. LEG-R002.01(2/05). The amendment to Rule 40D-1.659, F.A.C., incorporates the revised form.

SUBJECT AREA TO BE ADDRESSED: Amendment of Form No. 04.10 R-025 (8/02), Notification and Request for Transfer of a Water Use Permit. The amendment to Rule 40D-1.659, F.A.C., incorporates the revised form.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 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 District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact: Dianne Lee, (352)796-7211, Ext. 4658, TDD only 1(800)231-6103.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651 THE PRELIMINARY DRAFT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE PERSON LISTED ABOVE.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Regulation of Wells RULE CHAPTER NO.: 40D-3

RULE TITLE: Location RULE NO.: 40D-3.505

PURPOSE AND EFFECT: The proposed rule amendment will provide the District with a mechanism to review and act upon Well Construction Permit (WCP) applications in areas of known groundwater contamination that have been identified by the Environmental Protection Agency, the Department of Environmental Protection, or local governments.

SUBJECT AREA TO BE ADDRESSED: Construction of water wells in areas of known groundwater contamination.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.306, 373.308, 373.309 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.

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
RULE CHAPTER NO.: 40D-4

Resource Permits
RULE TITLE: Definitions
RULE NO.: 40D-4.021

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the definitions of the terms “alteration” and “new surface water management system”.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment clarifies two definitions in the District’s environmental resource permitting rules.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.403, 373.419 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.

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WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
RULE CHAPTER NO.: 40D-4

Resource Permits
RULE TITLES: Publications and Agreements Incorporated by Reference
RULE NOS.: 40D-4.091
40D-4.351

PURPOSE AND EFFECT: The proposed amendment to Rule 40D-4.091, F.A.C. will incorporate proposed changes to subsection 3.3.7.6 of the District’s Environmental Resource Permitting Basis of Review (ERP Basis of Review). The proposed changes to the ERP Basis of Review delete references to impractical or nonexistent methods for demonstrating the financial responsibility necessary to conduct certain wetland mitigation activities.

The proposed amendment to Rule 40D-4.351, F.A.C. clarifies that a Formal Determination of Wetlands and Other Surface Waters issued pursuant to Rule 40D-4.042, F.A.C., may be transferred to a successor in interest to the party who originally petitioned for the determination.

SUBJECT AREA TO BE ADDRESSED: There are two subject areas addressed by this rulemaking. The first subject addresses the mechanics for providing financial responsibility for wetland mitigation. The second subject is transfer of formal wetland delineations to subsequent landowners.

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 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.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

General Environmental 40D-40
 Resource Permits

RULE TITLE: RULE NO.:

General Conditions 40D-40.381

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revision is to include a new limiting general condition in all General Environmental Resource Permits for Minor Surface Water Management Systems. The proposed permit condition emphasizes that the permit was issued based upon the applicant’s certification that the project meets all applicable rules and specifications, and informs the applicant that the applicant will be required to correct any later discovered deficiencies in the project design or construction.

SUBJECT AREA TO BE ADDRESSED: Limiting general conditions for all General Environmental Resource Permits for Minor Surface Water Management Systems.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.117, 373.413, 373.414, 373.416, 373.419 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 District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact: Dianne Lee, (352)796-7211, Ext. 4658, TDD only 1(800)231-6103.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352) 796-7211, Extension 4651
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Environmental Resource Permits 40D-400

RULE TITLE: RULE NO.:

General Permit for Construction, Operation, Maintenance, Alteration, Abandonment or Removal of Minor Silvicultural Surface Water Management Systems 40D-400.500

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to adopt the 2003 version of the Silviculture Best Management Practices Manual published by the Division of Forestry, Florida Department of Agriculture and Consumer Services into Rule 40D-400.500, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Inclusion of the current Silviculture Best Management Practices Manual into Rule 40D-400.500, F.A.C., which describes Noticed General Permits for silvicultural surface water management systems.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.419 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 District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact: Dianne Lee, (352)796-7211, Ext. 4658, TDD only: 1(800)231-6103.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE CHAPTER TITLE: RULE CHAPTER NO.:

School Readiness Services 60BB-4

PURPOSE AND EFFECT: In December 2004, at its 2004 Special Session “A,” the Florida Legislature enacted House Bill 1-A (ch. 2004-484, L.O.F.), which revised Section 411.01, F.S. (School Readiness Act), effective January 2, 2005. Section 411.01(4)(e), of ch. 2004-484, L.O.F. provides the Agency for Workforce Innovation with the authority to adopt rules to administer the provisions of the law.

SUBJECT AREA TO BE ADDRESSED: The following is a list of subject areas that may be addressed through the rulemaking process:

- (a) Performance standards and outcome measures which include, but are not limited to, defining school readiness skills and standards;
- (b) Program expectations;
- (c) Child eligibility and enrollment issues, including but not limited to application procedures and eligibility requirements including health and safety standards;

- (d) Fiscal requirements, including but not limited to: administrative costs, attendance certification, funding requirements, monitoring requirements and disallowances;
- (e) Coalition mergers, including consolidation procedures and early termination of coalition member terms;
- (f) Early learning coalition board membership issues, including: establishing minimum and maximum number of members that may serve on the board, criteria and appointment of private-sector members, and setting review criteria for appointment of members who may or may not have a substantial financial interest.
- (g) Implementation of school readiness plans including the monitoring of performance standards and outcome measures, the adoption of criteria to approve school readiness plans, and sanctions for the coalition’s failure to correctly implement said plan;
- (h) Payment rates as adopted by the early learning coalition and approved by the Agency for Workforce Innovation; and
- (i) Funding issues, including the adoption of a formula for the allocation among early learning coalitions of all state and federal school readiness funds based upon equity and performance.

SPECIFIC AUTHORITY: House Bill 1-A (ch. 2004-484, L.O.F.), 411.01(4)(e) FS.

LAW IMPLEMENTED: 411.01(4)(d)(8), 411.01(5)(c), 411.01(j), 411.01(9), 411.01(5), 411.01(9)(c) 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: Kelley Cramer, Senior Attorney, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150

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

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE CHAPTER TITLE: Voluntary Pre-Kindergarten (VPK) RULE CHAPTER NO.: 60BB-8

PURPOSE AND EFFECT: In December 2004, at its 2004 Special Session “A,” the Florida Legislature enacted House Bill 1-A (ch. 2004-484, L.O.F.), which created the Voluntary Pre-Kindergarten (“VPK”) program, effective January 2, 2005. Section 1002.79(2), ch. 2004-484, L.O.F. provides the Agency for Workforce Innovation with the authority to adopt rules to administer the provisions of the law.

SUBJECT AREA TO BE ADDRESSED:

- (a) Child eligibility and enrollment including application procedures, forms and eligibility requirements;
- (b) Provider profiles and registration including school services, curriculum, instructor credentials, instructor-to-student ratio, and the provider’s school readiness rate as calculated in accordance with Section 1002.69, F.S.;
- (c) Accountability of providers including performance standards, curricula, and sanctions for non-compliance or misconduct;
- (d) Procedures for payment of private pre-kindergarten providers and public schools delivering the voluntary prekindergarten program;
- (e) Uniform attendance policy including the establishment of definitions of excused and unexcused absences, an attendance verification policy, attendance certification forms, monitoring, compliance, and sanctions.
- (f) Fiscal requirements including administrative costs, attendance certification, funding requirements, and disallowance.

SPECIFIC AUTHORITY: House Bill 1-A (ch. 2004-484, L.O.F.), 1002.79(2) FS.

LAW IMPLEMENTED: 1002.53, 1002.65, 1002.71 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: Kelley Cramer, Senior Attorney, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE CHAPTER TITLE: Florida Clean Indoor Air Act and Stand-Alone Bar Smoking Designations RULE CHAPTER NO.: 61A-7

RULE TITLES: Records Required to Maintain the Designation Formula for Compliance with Required Percentage of Gross Food Sales Revenues RULE NOS.: 61A-7.006

For Percentage of Gross Alcohol Sales for Consumption on the Licensed Premises Revenue Formula 61A-7.007

Method Used to Determine Whether an Establishment is Predominately Dedicated to the Serving of Alcoholic Beverages 61A-7.009

61A-7.008

61A-7.009

61A-7.007

61A-7.008

61A-7.009

61A-7.008

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61A-7.009

61A-7.009

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions relating to the Florida Clean Indoor Air Act and smoking in stand-alone bars.

SUBJECT AREA TO BE ADDRESSED: The Florida Clean Indoor Air Act and smoking in stand-alone bars.

SPECIFIC AUTHORITY: 386.2125, 561.695(9) FS.

LAW IMPLEMENTED: 386.203(11), 561.695(6) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Martinez, Special Counsel, Florida Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32366, (850)488-0063

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61A-7.006 Records Required to Maintain the Designation.

(1) Stand-alone bars holding an “ss” or “ssf” designation shall maintain records to substantiate reports, affidavits and designation qualifications. Records of all purchases of food, all gross retail sales of alcohol for consumption on the licensed premises, all gross retail sales of alcohol for consumption off the licensed premises, all gross retail sales of food sold for consumption on the premises, all gross retail sales of food sold for consumption off the premises, and gross revenue from all other sales shall be separately documented.

(2) Stand-alone bars holding an “ss” or “ssf” designation shall maintain complete and accurate records of all sales and purchases. Records shall include, but are not limited to, purchase invoices, sales tickets, inventory records, receiving records, cash register journal tapes, on premises food sales records, computer records generated from automatic dispensing devices, Department of Revenue Sales Tax Returns, and any other record documenting sales. Sales records shall be sequentially organized by month and year and include a monthly statement summarizing the total sales revenue, food revenue, and percentage of food revenue for each month.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History–New _____.

61A-7.007 Formula for Compliance with Required Percentage of Gross Food Sales Revenues.

In order to determine compliance, the division shall use the formula of gross food sales revenue from the sale of food the licensee sells for consumption on premises, including but not limited to non-alcoholic beverages, divided by gross total sales revenue, in any consecutive two month period. The results of

the formula will represent the percentage of food sales revenues as defined herein and in Section 561.695, Florida Statutes.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History–New _____.

61A-7.008 For Percentage of Gross Alcohol Sales for Consumption on the Licensed Premises Revenue Formula.

In order to determine compliance, the division shall use the formula of gross alcohol sales revenues from the sale of alcohol the licensee sells for consumption on premises, divided by gross total sales revenue, in any consecutive two-month period.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History–New _____.

61A-7.009 Method Used to Determine Whether an Establishment is Predominately Dedicated to the Serving of Alcoholic Beverages.

In order to determine whether an establishment, other than one holding a specialty license designated in Rule 61A-7.003, F.A.C., is predominantly dedicated to the serving of alcoholic beverages for consumption on the licensed premises, the division shall compare the percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption on premises with the following categories of revenue:

(1) For stand-alone bars holding the “ss” designation:

(a) The percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption off the premises where the purchaser is required to enter the premises.

(b) The percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption off the premises where the purchaser is not required to enter the premises, and

(c) The percentage of gross revenue from any source not included in the alcohol categories above.

If the percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption on premises is greater than that of the gross sales revenue from each individual category of gross sales in paragraphs 61A-7.009(1)(a)-(c), F.A.C., an establishment is deemed predominately dedicated to the serving of alcoholic beverages.

(2) For stand-alone bars holding the “ssf” designation:

The percentage of gross food sales revenue from the sale of food the licensee sells for consumption on premises,

(a) The percentage of gross food sales revenue from the sale of food the licensee sells for consumption off premises,

(b) The percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption off the premises, and

(c) The percentage of gross revenue from any source not included in the food and alcohol categories above.

If the percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption on premises is greater than that of the gross sales revenue from each individual category of gross sales in paragraphs 61A-7.009(2)(a)-(d), F.A.C., an establishment is deemed predominately dedicated to the serving of alcoholic beverages.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History—New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Board of Licensing

RULE TITLE: Local Disciplinary Actions

RULE NO.: 61G4-20.001

PURPOSE AND EFFECT: The Board proposes to amend the criteria for orders related to registered contractors.

SUBJECT AREA TO BE ADDRESSED: Local disciplinary Actions.

SPECIFIC AUTHORITY: 120, 489.108, 489.113, 489.117 FS.

LAW IMPLEMENTED: 489.131 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: Tim Vaccaro, Executive Director, Construction Industry Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

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

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 Clinical Laboratory Personnel

RULE TITLE: Technologist

RULE NO.: 64B3-5.003

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule.

SUBJECT AREA TO BE ADDRESSED: Technologist.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 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: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

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

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Requirements for Board Approval of

RULE NO.: 64B7-28.010

Continuing Education Programs

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Requirements for Board Approval of Continuing Education Programs.

SPECIFIC AUTHORITY: 456.013(8),(9), 456.025(7), 480.035(7), 480.0415 FS.

LAW IMPLEMENTED: 456.013(8),(9), 456.025(7), 480.0415 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-28.010 Requirements for Board Approval of Continuing Education Programs.

(1) For the purpose of renewing or reactivating a license credit will be approved for programs which are offered by providers whose programs are approved by the Board. In order to receive Board approval to provide one or more programs as a provider, an applicant shall:

(a) Submit a completed Massage Continuing Education Program Provider Registration Application, BMT5, and ~~Approved Provider~~ Supplemental Program/Instructor Information, BMT6, incorporated herein by reference, and a

non-refundable application fee of \$250. The forms will be effective 2-18-98, copies of which may be obtained from the Board office at: 4052 Bald Cypress Way, BIN #C06, Tallahassee, Florida 32399-3256.

(b) Sign and abide by written agreement to:

1. Provide an identifiable person to be responsible for ensuring that each program presented under their Board of Massage Therapy provider registration number meets program requirements set forth in subsection (2) below.

2. Retain a "sign-in-sheet" with the signature of participants and copies of any promotional materials for at least 4 years following the course.

3. Provide each participant with a certificate of attendance verifying the program has been completed. The certificate shall not be issued until completion of the program and shall contain the provider's name and registration number, title of program and program number, instructor, date, number of contact hours of credit, the licensee's name and license number.

4. Notify the Board of any significant changes relative to the maintenance of standards as set forth in these rules.

(2) Each continuing education program presented for license renewal credit or to satisfy initial licensure requirements by a Board approved provider shall:

(a) Meet the standards of subsection 64B7-28.009(2), paragraph (3)(a), (b) or (c), F.A.C.;

(b) Have stated learning objectives;

(c) Be instructed by a person who meets at least one of the following criteria:

1. Holds a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered, or

2. Has graduated from a school of massage or an apprenticeship program which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the Board, and has completed three years of professional experience in the practice of massage, and

a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or

b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or

c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or

3. Is licensed as a massage therapist in another state or foreign sovereign state having standards of education or apprenticeship training substantially similar to or more stringent than those required for licensure in Florida and has practiced massage therapy for a minimum of 10 years, and

a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or

b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or

c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or - 242

4. Has taught at a school of massage which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the Board for a minimum of two years, and

a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or

b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or

c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject.

(d) Provided, however, that approved courses in areas other than massage theory, history, and techniques may be instructed by a person who meets at least one of the following criteria:

1. Holds a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered, or

2. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or

3. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group, or at a massage therapy school, or

4. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject.

(3) The Board retains the right and authority to audit and/or monitor programs given by any provider. The Board will ~~rescind provider status or~~ reject individual programs given by a provider if the provider has disseminated any false or misleading information in connection with the continuing education program, or if the program provider has failed to conform to and abide by the written agreement and rules of the Board.

(4) One hour of continuing education is defined as no less than 50 uninterrupted minutes of learning.

(5) Presenters/moderators/instructors of courses shall not receive credit for courses they present.

(6) A provider of Board approved programs ~~provider~~ must submit a completed application for supplemental courses, form # BMT6, to the Board office prior to offering such courses for credit. The submitted information must also identify any new continuing education instructor and show that such instructor meets the criteria set forth in this rule. Whenever an instructor and his/her course have obtained approval by the Board, the instructor may teach the course at any time, in whole or in part, so long as the materials being taught do not deviate from course materials originally approved, there is no change of instructor, and the documentation of attendance clearly indicates the original course approval number and the hours of credit given for this version of the course.

Therefore, the number of continuing education hours awarded for the course may be the original number of hours approved, or less.

An increase of the number of continuing education hours awarded will require submission of form # BMT6 for approval of a course.

(7) A provider of Board approved programs ~~provider~~ must revise and update all course materials that are affected by changes occurring during the biennial renewal period. The Board will rescind approval of any program ~~provider or course~~ that is found to be obsolete, erroneous, and/or outside the scope of practice, or if the Board determines the program provider has violated the Board's rules or Chapter 456 or 480, F.S. The revised course materials must be submitted with the biennial renewal form and renewal fee.

(8) Provider registration numbers must be renewed biennially on or before August 31 of the biennial renewal year. The provider must return the renewal form provided by the department together with a renewal fee of \$250. If the renewal form and renewal fee are not received by the department on or before August 31 of the biennial year, the provider must submit a new application for approval of any continuing education programs offered for license renewal or initial licensure requirements, and, if any programs are approved, receive a new provider registration number.

Specific Authority 456.013(8),(9), 456.025(7), 480.035(7), 480.0415 FS. Law Implemented 456.013(8),(9), 456.025(7), 480.0415 FS. History--New 4-21-86, Amended 9-14-87, 8-29-88, 2-8-89, 3-12-90, 1-3-91, Formerly 21L-28.010, Amended 9-30-93, 8-16-94, 6-12-95, 2-12-97, Formerly 61G11-28.010, Amended 2-18-98, 10-26-98, 9-20-99, 11-4-99, 11-21-02, 10-12-03,

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Application for Licensure Fee	64B10-11.001
Mandatory HIV/AIDS and Prevention of Medical Errors Education for Initial Licensure and Renewal Examination for Licensure Examination	64B10-11.0011 64B10-11.002 64B10-11.003
College Training in Health Administration Provisional License	64B10-11.007 64B10-11.011
Notification of Change of Address or Employing Facility	64B10-11.012
Temporary License	64B10-11.013

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: Licensure.

SPECIFIC AUTHORITY: 456.017, 456.033(7), 456.035, 468.1685(1),(5),(7),(8), 468.1695(1),(2), 468.1735 FS.

LAW IMPLEMENTED: 456.033(6), 456.035, 468.1685(2), 468.1695(1), 456.017, 456.017(2), 468.1735, 468.1705(4) 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Collection and Payment of Fees	64B10-12.001
Application for Licensure	64B10-12.002
Payment for Duplicating Licenses, Certificates and Permits	64B10-12.0021
Renewal Fee	64B10-12.005
Examination Fee	64B10-12.006
Provisional License Application Fee	64B10-12.0071

Endorsement Fee	64B10-12.008
Initial Licensure Fee	64B10-12.009
Temporary License	64B10-12.011
Preceptor Certification and Recertification Fee	64B10-12.012
Unauthorized Practice Fee	64B10-12.015
Delinquency Fee	64B10-12.016
Continuing Education Provider Initial and Renewal Fee	64B10-12.017

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: Fee Schedule.

SPECIFIC AUTHORITY: 468.1685(1), 468.1695(2),(5), 456.025(2),(7), 468.1735, 468.1705(1), 456.065, 456.036 FS.

LAW IMPLEMENTED: 468.1685(1),(5), 456.025(2),(3),(7), 468.1695(3), 468.1715, 468.1705(1),(4), 456.065, 456.036 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Inactive Status and Renewal of Inactive License	64B10-13.200
Reactivation of Inactive License	64B10-13.300

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: Inactive Status.

SPECIFIC AUTHORITY: 456.036, 468.1685(1), 468.1725, 468.1725(2) FS.

LAW IMPLEMENTED: 456.036, 468.1725 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Minor Violations	64B10-14.005
Mediation	64B10-14.007

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Matters.

SPECIFIC AUTHORITY: 456.073(3), 468.1685(1) FS.

LAW IMPLEMENTED: 456.073(3) 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Continuing Education for Licensure Renewal	64B10-15.001
Criteria for Approved Continuing Education	64B10-15.002
Approved Providers	64B10-15.0021
Initial Licensure Requirements	64B10-15.003

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: Continuing Education.

SPECIFIC AUTHORITY: 456.033, 468.1685, 468.1685(1), 468.1715, 468.1715(3), 468.1725 FS.

LAW IMPLEMENTED: 456.013, 456.013(6), 456.033, 468.1715, 468.1685(5), 468.1715(3), 468.1725 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
General Information	64B10-16.001
Preceptor	64B10-16.002
Change of Status of Preceptor	64B10-16.0021
Facility at Which Training Takes Place	64B10-16.003
Domains of Practice, Objectives, Reports	64B10-16.005
Out-of-State Administrator-In-Training Programs	64B10-16.007

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: Administrator-In-Training Program.

SPECIFIC AUTHORITY: 468.1685(1), 468.1695(2),(3),(4) FS.

LAW IMPLEMENTED: 468.1695(2),(3),(4) 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE:	RULE NO.:
On-Site-Control	64B10-17.001

PURPOSE AND EFFECT: To establish the expected level of control of the facility, and the number of facilities for which an Administrator can be employed.

SUBJECT AREA TO BE ADDRESSED: Facility Control.

SPECIFIC AUTHORITY: 468.1685(1), 468.1685(2), 468.1685(5) FS.

LAW IMPLEMENTED: 468.1685(2), 468.1685(5) 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE:	RULE NO.:
Fees	64B32-4.001

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule.

SUBJECT AREA TO BE ADDRESSED: Fees.

SPECIFIC AUTHORITY: 456.025(1), 456.036(7),(8), 456.065, 468.353(1), 468.364 FS.

LAW IMPLEMENTED: 456.025(1),(6), 456.036, 456.065, 468.364 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-4.001 Fees.

(1) No change.

(2) The reactivation fee for activating an inactive license certification or registration shall be \$50.

(3) The renewal fee for renewing the inactive status of a license certification or registration shall be \$50.

(4) through (7) No change.

Specific Authority 456.025(1), 456.036(7),(8), 456.065, 468.353(1), 468.364 FS. Law Implemented 456.025(1),(6), 456.036, 456.065, 468.364 FS. History—New 4-29-85, Formerly 21M-36.04, Amended 5-10-92, Formerly 21M-36.004, Amended 9-21-93, 1-3-94, Formerly 61F6-36.004, Amended 7-18-95, Formerly 59R-73.004, 64B8-73.004, Amended 4-27-00, 8-13-02, _____.

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: Disciplinary Guidelines RULE NO.: 64B32-5.001

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Guidelines.

SPECIFIC AUTHORITY: 456.079, 468.365(4) FS.

LAW IMPLEMENTED: 456.072, 468.365 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-5.001 Disciplinary Guidelines.

(1) The Board may impose disciplinary penalties upon a determination that an applicant or licensee certificate holder or registrant:

- (a) through (d) No change.
- (2) The range of disciplinary penalties which the Board may impose includes any and all set forth in Section 456.072, F.S.. In determining the appropriate disciplinary action to be imposed in each case, the Board shall take into consideration the following factors:
 - (a) through (b) No change.
 - (c) The number of previous disciplinary cases filed against the applicant or licensee certificate holder or registrant;
 - (d) The length of time the applicant or licensee certificate holder or registrant has practiced;
 - (e) through (f) No change.
 - (g) The effect of the penalty upon the applicant or licensee's certificate holder's or registrant's livelihood;
 - (h) through (i) No change.
 - (3) No change.

(a) Attempting to obtain a license ~~or certificate~~ by bribery, fraud or through an error of the Department or the Board. (468.365(1)(a), 456.072(1)(h), F.S.)

(b) through (cc) No change.

(4) through (6) No change.

Specific Authority 456.079, 468.365(4) FS. Law Implemented 456.072, 468.365 FS. History—New 4-29-85, Formerly 21M-37.01, 21M-37.001, Amended 1-3-94, Formerly 61F6-37.001, 59R-74.001, 64B8-74.001, Amended 5-5-02, 12-5-04, _____.

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLES: Continuing Education Requirement RULE NOS.: 64B32-6.001

Provider Approval and Renewal Procedures 64B32-6.005

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule.

SUBJECT AREA TO BE ADDRESSED: Continuing Education Requirement; Provider Approval and Renewal Procedures.

SPECIFIC AUTHORITY: 456.013(8), 456.025(4), 468.361(2),(3) FS.

LAW IMPLEMENTED: 456.025(7), 468.361 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.001 Continuing Education Requirement.

(1) The Legislature and the Board have determined that competency in delivery of respiratory care services is enhanced by continuous updating of knowledge and skills. To this end, continuing education is required as a condition for renewal of licensure certification and registration of all respiratory care personnel without regard to the avenue taken to licensure.

(2) Each licensee licensed respiratory care therapist shall submit proof satisfactory to the Board of participation in appropriate continuing education. During each biennium, as established by the Department, each licensee must earn 24 contact hours of continuing education except as provided in Rule 64B32-6.001, Florida Administrative Code.

(3) Those persons initially licensed certified for licensure during the second year of a biennium who do not currently hold a respiratory care license are exempt from the continuing education requirements for their first renewal. Continuing education requirements must be met for each biennium thereafter.

(4) A ~~licensee licensed respiratory care therapist~~ who also holds current license in another health care profession may satisfy the continuing education requirement for a renewal of this license with hours counted toward renewal of another license as long as the hours meet all the requirements of this rule chapter.

Specific Authority 456.013(8), 468.361(2) FS. Law Implemented 468.361 FS. History—New 4-29-85, Formerly 21M-38.01, Amended 9-29-86, Formerly 21M-38.001, Amended 1-2-94, Formerly 61F6-38.001, Amended 11-1-94, Formerly 59R-75.001, Amended 6-9-99, Formerly 64B8-75.001, ~~Amended~~

64B32-6.005 Provider Approval and Renewal Procedures.

(1) through (8) No change.

(9) The provider seeking approval for home study courses also shall understand and agree:

(a) In addition to the credit exclusion for recertification, review, refresher or preparatory courses as provided in Rule ~~64B32-6.004~~ ~~64B8-75.004~~, Florida Administrative Code, a home study course submission shall not include reprints from textbooks.

(b) through (c) No change.

(10) No change.

Specific Authority 456.025(4), 468.361(3) FS. Law Implemented 456.025(7), 468.361(3) FS. History—New 4-24-96, Amended 5-7-97, Formerly 59R-75.0041, Amended 4-23-98, 6-9-99, Formerly 64B8-75.0041, Amended 7-4-02, 10-22-03, _____.

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Volunteer Health Care Provider Program	64F-11
RULE TITLES:	RULE NOS.:
Definitions	64F-11.001
Client Eligibility	64F-11.002
Patient Selection and Referral	64F-11.003
Volunteer Provider Eligibility	64F-11.004
Contract Requirements	64F-11.005
Covered Services	64F-11.006
Annual Report	64F-11.009

PURPOSE AND EFFECT: To comply with recent amendments to Section 766.1115, F.S., which authorizes health care providers to perform the patient eligibility and referral process for the Department.

SUBJECT AREA TO BE ADDRESSED: Client eligibility and referral process.

SPECIFIC AUTHORITY: 766.1115(10) FS.

LAW IMPLEMENTED: 766.1115 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., March 15, 2005

PLACE: Department of Health, Division of Health Access and Tobacco, 4025 Esplanade Way, Room 340, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Mark Lundberg, Director, Volunteer Health Services Program, 4052 Bald Cypress Way, Bin #C23, Tallahassee, Florida 32399-1743, (850)245-4151, Fax (850)488-4944, e-mail: Mark_Lundberg2@doh.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64F-11.001 Definitions.

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

(1) "Adverse incident": as defined in subsection ~~395.0197(5)~~, F.S. or its successor statute ~~59A-10.002(4)~~, F.A.C.

~~(2) "Contract" means an agreement executed between a health care provider and a governmental contractor for the purpose of providing health care to individuals who qualify under the Volunteer Health Care Provider program.~~

~~(2)(3) "Corporate medical group" means a corporation for profit established under the provisions of Chapter 607, F.S., or a corporation not for profit established under the provisions of Chapter 617, F.S., for the purpose of providing health care as specified in paragraph (10) below.~~

~~(4) "Department" means the Department of Health.~~

~~(3)(5) "Emergency medical condition": as defined in Section 395.002(9), F.S., or its successor statute, 395.0142(2)(e).~~

~~(4)(6) "Family" means one or more persons living in one dwelling place who are related by blood, marriage, law, or conception. A pregnant woman and her unborn child or children are considered to be two or more family members. If the dwelling place includes more than one family or more than one unrelated individual, the poverty guidelines are applied separately to each family or unrelated individual and not to the dwelling place as a whole. A single adult, over 18, living with relatives is considered to be a separate family for income determination purposes. A ~~However,~~ a student, age 18-21, living at the dwelling place, shall be considered a family member if it is in the best interest of the family.~~

~~(5)(7) "Federal poverty level or poverty level" means the family poverty income levels published and updated annually by the federal Office of Management and Budget (OMB). For the purposes of this rule the poverty levels will be effective ~~April~~ July 1 of each year following publication in the Federal Register.~~

~~(8) “Governmental contractor or contractor” means the department, county health departments (CHD), a special taxing district with health care responsibilities, or a hospital owned and operated by the federal or state government, state agencies, and subdivisions as defined in Section 768.28(2), F.S.~~

~~(6)(9) “Gross family income” means the sum of income available to a family at the time of application. Gross family income shall be based on all income to be earned or received in the last four (4) weeks or anticipated to be earned or received in the current month. Income shall not include Supplemental Security Income (SSI), income from trusts fully funded by SSI payments, and Temporary Assistance to Needy Families (TANF). Aid to Families with Dependent Children (AFDC). Individuals receiving assistance payments under these programs are already eligible under the provisions of paragraph 64F 11.002(1)(a), F.A.C. Income shall include but not be limited to the following:~~

- ~~(a) Wages and salary.~~
- ~~(b) Child support.~~
- ~~(c) Alimony.~~
- ~~(d) Unemployment compensation.~~
- ~~(e) Worker’s compensation.~~
- ~~(f) Veteran’s pension.~~
- ~~(g) Social security.~~
- ~~(h) Pensions and annuities.~~
- ~~(i) Dividends and interest on savings, stocks, and bonds.~~
- ~~(j) Income from estates and trusts.~~
- ~~(k) Net rental income or royalties.~~
- ~~(l) Net income from self employment.~~
- ~~(m) Contributions.~~

~~(7) “Net family income” means gross family income minus the standard work related, child care, and child support deductions as used in determining Medicaid presumptive eligibility for pregnant women.~~

~~(8) “Verification” means to confirm the accuracy of information through sources other than the self declaratory statement of the individual originally supplying the information. Verification may be by telephone, in written form, or by face-to-face contact. Verification does not require written documentation to confirm an applicant’s statement. Examples of verification include:~~

- ~~(a) A statement from a state or federal agency which attests to the applicant’s financial status.~~
- ~~(b) A statement from the applicant’s or family member’s employer.~~
- ~~(c) Pay stubs for four consecutive weeks.~~
- ~~(d) A statement from a source providing unearned income to the applicant or family unit.~~

~~(9) “Self-declaration” means a statement of income, expenses, and family size made by the individual applying for the program. Self-declaration does not include any documentation other than the signature of the person making~~

the statement. The self-declaration statement shall include a signed acknowledgement that the statement is true at the time it is made and that the person making the statement understands that the contractor shall have the option of verifying the statement.

(10) “Health care provider or provider” includes means:

(a) A full-time student enrolled in an accredited program that prepares the student to be a health care provider licensed under Chapters 458, 459, 460, 461, 464, 466, or 467, F.S. The student must perform duties under the supervision and license of a health care provider who is contracted under the Volunteer Health Care Provider Program and is practicing in the student’s area of study. A birth center licensed under Chapter 383, F.S.

~~(b) An ambulatory surgical center licensed under Chapter 395, F.S.~~

~~(c) A hospital licensed under Chapter 395, F.S.~~

~~(d) A physician licensed, or physician assistant certified, under Chapter 458, F.S.~~

~~(e) An osteopathic physician licensed, or osteopathic physician assistant certified, under Chapter 459, F.S.~~

~~(f) A chiropractic physician licensed under Chapter 460, F.S.~~

~~(g) A podiatrist licensed under Chapter 461, F.S.~~

~~(h) A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under Chapter 464, F.S., or any facility that employs nurses licensed or registered under Chapter 464, F.S., to supply all or part of the care delivered under this section.~~

~~(i) A midwife licensed under Chapter 467, F.S.~~

~~(j) A health maintenance organization certified under Part I of Chapter 641, F.S.~~

~~(k) A full-time student enrolled in an accredited program that prepares the student to be a health care provider licensed under Chapters 458, 459, 460, 461, 464, or 467, F.S. The student must perform duties under the supervision and license of a health care provider who participates in the Voluntary Health Care Provider program and is practicing in the student’s area of study.~~

~~(l) A health care professional association and its employees or a corporate medical group and its employees.~~

~~(m) Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or that delivers nonsurgical human medical treatment, and that includes an office maintained by a provider.~~

~~(n) Any nonprofit corporation qualified as exempt from federal income taxation under Section 501(c) of the Internal Revenue Code that delivers health care services provided by licensed professionals listed in this paragraph, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.~~

(11) ~~“Health care professional association” means an organization as defined in Section 621.03, F.S., and includes the licensed health care providers specified in paragraph (10) above.~~

(12) ~~“Injury”: as defined in subsection 59A-10.002(5), F.A.C.~~

(13) ~~“Net family income” means gross family income minus the standard work related, alimony, child care, and child support deductions as used in determining Medicaid presumptive eligibility for pregnant women.~~

(14) ~~“Verification” means to confirm the accuracy of information through sources other than the self declaratory statement of the individual originally supplying the information. Verification may be by telephone, in written form, or by face to face contact. Verification does not require written documentation to confirm an applicant’s statement. Examples of verification include:~~

(a) ~~A statement from a state or federal agency which attests to the individual’s financial status.~~

(b) ~~A statement from the employer.~~

(c) ~~Pay stubs for four weeks if available.~~

(d) ~~A statement from a source providing unearned income to the applicant or family unit.~~

(11)(15) ~~“Volunteer corporation” means a not for profit corporation, consisting of its employees and volunteers, established under the provisions of Chapter 617, F.S., for the purpose of providing volunteer health care as specified in paragraph (10) above, under contract with a governmental contractor, and thereby qualifying its employees and volunteers for sovereign immunity pursuant to Section 766.1115, F.S.~~

(16) ~~“Volunteer provider or volunteer health care provider” means a health care provider under contract with a governmental contractor for the provision of health care services pursuant to Section 766.1115, F.S.~~

(17) ~~“Self declaration” means a statement of income, expenses, and family size made by the individual applying for the program. Self declaration does not include any documentation other than the signature of the person making the statement. The self declaration statement shall include a signed acknowledgement that the statement is true at the time it is made and that the person making the statement understands that the contractor shall have the option of verifying the statement.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.002, Amended _____.

64F-11.002 Client Eligibility.

(1) The governmental contractor has the option to include one or more of the following eligibility groups:

(a) Individuals eligible for services under the Florida Medicaid when a provider is not available and who meet the program income eligibility requirements ~~Program~~.

(b) Individuals whose family income does not exceed 150 percent of the federal poverty level.

(c) Individuals who are clients of the department, and volunteer to participate in ~~the a program offered or approved by the department~~, and who meet the program income eligibility requirements guidelines of that program.

(2) In order to be eligible, an individual ~~individuals~~ shall not have medical or dental care coverage for health insurance ~~or shall not have health insurance that covers the illness, injury, or condition for which medical or dental health care is sought~~.

(3) The governmental contractor has the option to establish an eligibility limit at a level lower than 150 percent of the poverty level, but not lower than 100 percent of the poverty level.

(4) The governmental contractor is responsible for determining if applicants meet the eligibility criteria for participation in the Volunteer Voluntary Health Care Provider Program ~~program~~ and shall establish the written procedures necessary to determine eligibility.

(5) Applicants shall furnish to the governmental contractor information regarding the gross family income for the family unit, ~~work related expenses, child care expenses, and child support payments~~. The applicant’s self declaration of income and expenses is acceptable for eligibility determination, but the governmental contractor may verify income and expenses. ~~Verification of income and expenses shall be required only if the self declaration does not reasonably represent income and expenses and shall be requested for the four week period prior to the date of application. Additional verification for the preceding 12 month period may be requested if the income for the four week period is not representative of the family income and the additional information is in the best interest of the applicant.~~

(6) The governmental contractor shall use net family income to determine eligibility.

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.003, Amended _____.

64F-11.003 Patient Selection and Referral.

(1) The governmental contractor is responsible for determining an applicant’s eligibility and referral selection and initial referral of individuals to contracted health care providers ~~receive health care services~~ under this chapter.

(2) The volunteer provider shall accept all individual referrals up to the numerical limit, if any, that is specified in the contract.

(3) The governmental contractor shall not refer an applicant individual to a health care volunteer provider until ~~after~~ the governmental contractor determines the individual to be eligible.

(4) The governmental contractor may convey to any provider the responsibility for determining eligibility and the referral of clients for the department. The provider may

~~perform the eligibility and referral process in accordance with a contract with the governmental contractor. Once a governmental contractor refers an individual and the provider treats the individual, sovereign immunity granted under this chapter shall not be removed even if the individual who received treatment may later be found to be ineligible.~~

~~(5) If an emergency medical condition exists, a volunteer provider may accept for treatment, prior to receiving a referral from the governmental contractor, an individual previously determined eligible for the program. In this event, the volunteer provider must notify the governmental contractor of the need for a referral for an individual in the program within 48 hours after treatment commenced or within 48 hours after the patient has the mental capability to consent to treatment, whichever occurs later.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.004, Amended _____.

64F-11.004 Volunteer Provider Eligibility.

~~(1) The governmental contractor has sole responsibility to determine the type of services that are needed in a service area and to recruit volunteer providers that can meet those needs. The governmental contractor shall consider in that determination the following:~~

- ~~(a) The population that the contractor serves.~~
- ~~(b) The benefit of that service to the population being served.~~
- ~~(c) The current availability of the service to the population being served.~~
- ~~(d) The expected improvement in access to care that would result from contracting with the volunteer provider.~~

~~(2) The governmental contractor may contract with one or more volunteer providers in a given specialty or type of service but does not have to contract with each volunteer provider that may volunteer to provide care.~~

~~(1)(3) In order to participate in this program, a health care provider shall comply with the following:~~

- ~~(a) Have a current valid Florida health professional license or authorization to practice under Florida Statutes or Florida Administrative Code.~~
- ~~(b) Sign a contract with the governmental contractor.~~
- ~~(c) Not be under obligations, investigation, probation, or restrictions with the suspension by Department of Health, Professional Regulation or sanctioned by Health Care Financing Administration for Medicaid or Medicare violations. If obligations are assigned after the provider has participated in the program, then the governmental contractor will determine contract status of the provider.~~
- ~~(d) Submit to a credential verification process to determine acceptability of participation.~~

~~(e) Participate in a the governmental contractor’s quality assurance program as delineated by the governmental contractor in a manner commensurate with the level of participation in the Voluntary Health Care Provider program.~~

~~(2)(4) The health care provider shall not subcontract for the provision of services under this chapter.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.005, Amended _____.

64F-11.005 Contract Requirements.

~~(1) The contract shall allow the health care provider to deliver health care services as an agent of the governmental contractor to individuals determined eligible in accordance with Rule 64F-11.002, F.A.C. The contract must be for volunteer, uncompensated services.~~

~~(2) The governmental contractor shall use the model contracts, DOH Form 1029 and 1031, developed by the department specifically for this program. Provisions of the model contract shall include the requirements specified in Section 766.1115(4), F.S.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.006, Amended _____.

64F-11.006 Covered Services.

~~(1) The governmental contractor shall specify the services that will be available under the local Voluntary Health Care Provider program and what limitations and restrictions, if any, may apply.~~

~~(1)(2) Experimental procedures and clinically unproven procedures are not covered under this program. The governmental contractor shall determine whether or not a procedure is covered. For the department, the State Health Officer shall make that determination.~~

~~(2)(3) The governmental contractor reserves the right to approve through written protocols all referrals for specialty care and hospitalization, except emergency care as specified in Rule 64F-11.007, F.A.C.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.007, Amended _____.

64F-11.009 Annual Report.

~~(1) Each governmental contractor, by August 31 30 of each year, shall submit to the Director of the Volunteer Health Services Program State Health Office information required to prepare the annual report to the Legislature as specified in Section 766.1115(8), F.S.~~

~~(2) The report period shall be July 1 to June 30.~~

~~(3) The governmental contractor shall include in the report participating clinics and organizations, a list of the types of services that are needed for the service area, a list of available referral services the number of providers, and the number of patient encounters, and the value of services and donations rendered individuals served.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History--
New 1-20-93, Formerly 10D-122.012, Amended _____.

**FISH AND WILDLIFE CONSERVATION
COMMISSION**

Division of Law Enforcement

RULE TITLE: Sarasota County Boating Restricted Areas
RULE NO.: 68D-24.005

PURPOSE AND EFFECT: The purpose of this amendment is to protect vessel traffic safety. The effect of this rule will be to reduce vessel speed over portions of the Gulf Intracoastal Waterway by extending two existing boating restricted areas at Hatchett Creek and the Venice Marine Center and by creating two new boating restricted areas at the Siesta Key and Manasota Beach Bridges. As justification for amendment, Sarasota County cites vessel traffic congestion, public boat ramps, and fueling facilities. The local office of the Florida Fish and Wildlife Conservation Commission's Division of Law Enforcement has concurred with this action. This action is being coordinated with Sarasota County, United States Army Corps of Engineers, and the United States Coast Guard.

SUBJECT AREA TO BE ADDRESSED: The regulation of vessel traffic within and adjacent to the Florida Intracoastal in Sarasota County.

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

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

TIME AND DATE: 2:00 p.m. – 5:00 p.m., March 23, 2005

PLACE: Selby Public Library, 1331 1st Street, Sarasota, Florida (For directions or information, please contact: (941)861-1100)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Captain Alan S. Richard, Assistant General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68D-24.005 Sarasota County Boating Restricted Areas.

(1) For the purpose of regulating the speed and operation of vessel traffic in and adjacent to the Intracoastal Waterway within Sarasota County, Florida, the following Boating Restricted Areas are established:

(a) Idle Speed No Wake Zones –
1 through 3. No change.

4. Hatchett Creek – All waters lying within and adjacent to the Intracoastal Waterway, from shoreline to shoreline, from a drawn perpendicular to the centerline of the Intracoastal Waterway 2,000 feet northwest of the U.S. Highway 41 (Business) Bridge to a line drawn perpendicular to the centerline of the Intracoastal Waterway 700 ~~400~~ feet southeast of said bridge, as depicted drawing D.

5. Venice Marine Center – All waters lying within and adjacent to the Intracoastal Waterway, from shoreline to shoreline, from a line drawn perpendicular to the centerline of the Intracoastal Waterway 400 feet north of the centerline of the Venice Marine Center boat basin channel to a line drawn perpendicular to the centerline of the Intracoastal Waterway 650 ~~350~~ feet south of centerline of said channel, as depicted in drawing E.

6. No change.

7. Siesta Key Bridge – All waters lying within and adjacent to the Intracoastal Waterway, from shoreline to shoreline, from a line drawn perpendicular to the centerline of the Intracoastal Waterway 300 feet north of the centerline of the Siesta Key Bridge to a line drawn perpendicular to the centerline of the Intracoastal Waterway 300 feet south of the centerline of the Siesta Key Bridge, as depicted in Drawing G.

8. Manasota Beach Bridge – All waters lying within and adjacent to the Intracoastal Waterway, from shoreline to shoreline, from a line drawn perpendicular to the centerline of the Intracoastal Waterway 300 feet north of the centerline of the Manasota Beach Bridge to a line drawn perpendicular to the centerline of the Intracoastal Waterway 300 feet south of the centerline of the Manasota Beach Bridge, as depicted in Drawing H.

(b) No change.

(2) The boating restricted areas are depicted in the following drawings:

Drawings A, B, C, and F – No change.

Revised drawing D and E, and new drawings G, and H are not available the time of publication.

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History--
New 8-30-83, Formerly 16N-24.05, Amended 12-21-92, Formerly 16N-24.005, 62N-24.005, Amended _____.

**FISH AND WILDLIFE CONSERVATION
COMMISSION**

Division of Law Enforcement

RULE TITLE: Pinellas County Boating Restricted Areas
RULE NO.: 68D-24.010

PURPOSE AND EFFECT: The purpose of this amendment is to protect vessel traffic safety. The effect of this rule will be to reduce vessel speed over a portion of the Gulf Intracoastal Waterway extending 2,300 feet southeast of the existing restricted area. As justification for amendment, Pinellas County cites vessel traffic congestion, public boat ramps, and a marina that provides fuel. The local office of the Florida Fish and Wildlife Conservation Commission's Division of Law Enforcement has concurred with this action. This action is being coordinated with Pinellas County, United States Army Corps of Engineers, and the United States Coast Guard.

SUBJECT AREA TO BE ADDRESSED: The regulation of vessel traffic within and adjacent to the Florida Intracoastal in Pinellas County.

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

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

TIME AND DATE: 6:30 p.m. – 8:30 p.m., March 22, 2005

PLACE: Clearwater Community Sailing Center, 1001 Gulf Boulevard, Clearwater, Florida (If you need directions or additional information, please call (727)517-7776

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Captain Alan S. Richard, Assistant General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68D-24.010 Pinellas County Boating Restricted Areas.

(1) For the purpose of regulating the speed and operation of vessel traffic on and adjacent to the Florida Intracoastal Waterway in Pinellas County, Florida, the following boating restricted areas are established:

(a)1. through 2. No change.

3. Tom Stuart (Welch) Causeway – All waters lying north of the southern boundary of the right-of-way of the Florida Intracoastal Waterway between a line drawn perpendicular to the center line of the waterway 1,000 feet northwest of the Tom Stuart (Welch) Causeway at Madeira Beach and a line drawn perpendicular to the center line of the waterway ~~1,600~~ 3,900 feet southeast of said bridge, including the waters adjacent to the Florida Intracoastal Waterway from the waterway north and east to the mean high water mark, as depicted in drawing C.

4. through 8. No change.

(b) No change.

(2) No change

(3) The boating restricted areas are depicted in the following drawings:

Drawings A, B, and D through H – No change.

Revised drawing C is not available at this time.

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History—New 9-18-88, Amended 12-7-89, Formerly 16N-24.010, Amended 10-1-96, Formerly 62N-24.010, Amended 10-2-00, _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Law Enforcement

RULE TITLE:

RULE NO.:

Okeechobee Waterway Boating Restricted Areas 68D-24.011

PURPOSE AND EFFECT: The purpose of this amendment is to protect vessel traffic safety. The effect of this rule will be to reduce vessel speed over portions of the Okeechobee Waterway at Moore Haven and at the state road 29 Bridge. Rulemaking was prompted by a regional field report and by discussions with the Glades County Sheriff’s Office, the Hendry County Sheriff’s Office, and personnel from the

Commission’s regional office in West Palm Beach. This action is being coordinated with Glades and Hendry Counties, The City of Moore Haven, the United States Army Corps of Engineers, and the United States Coast Guard.

SUBJECT AREA TO BE ADDRESSED: The regulation of vessel traffic within the Okeechobee Waterway portion of the Florida Intracoastal Waterway in Glades and Hendry Counties.

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

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

TIME AND DATE: 6:00 p.m. – 8:30 p.m., March 24, 2005

PLACE: Moore Haven City Hall (facility is located on River), 299 Riverside Drive, Moore Haven, Florida (For directions or other information, please call (863)946-0711)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Captain Alan S. Richard, Assistant General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68D-24.011 Okeechobee Waterway Boating Restricted Areas.

(1) For the purpose of regulating the speed and operation of vessel traffic on the Okeechobee Waterway, the following Boating Restricted Areas are established:

(a)1. through 6. No change.

7. Old Moore Haven Canal, Okeechobee Rim Canal, Moore Haven Lock Structure and City of Moore Haven Public Docks along the Caloosahatchee River – A Slow Speed Minimum Wake boating restricted area, shoreline to shoreline, in the Okeechobee Rim Canal, from 1,800 feet northwest of the centerline of the Moore Haven Lock Gates canal (26° 50’ 45.2” N/81° 45’ 24.2”W), to 500’ feet southeast of the centerline of the Alvin Ward boat ramp (26° 50’ 21.8”N/81° 04’ 46.9”W), including the area shoreline to shoreline 500 feet north into the Old Moore Haven Canal (26° 50’ 40.9”N/81° 05’ 14.4”W), and including the Moore Haven Locks canal and an area of the Caloosahatchee River shoreline to shoreline to a line parallel to and 1450 feet southwest of the centerline of the US 27 Bridge (26° 49’ 48.3N/81°05’30.2”W) north from the lock gates 1,000 feet in and adjacent to the Okeechobee Waterway to 500 feet southwest of the lock gates, as depicted in drawing G.

8. State Road 29 Bridge and Barron Park – An Idle Speed No Wake boating restricted area, shoreline to shoreline, from a line 950 east of and parallel to the centerline of the State Road 29 bridge to a line 2,293 feet west of and parallel to the centerline of the State Road 29 Bridge, as it crosses the Caloosahatchee River, as depicted in drawing H.

(b) Martin County, Palm Beach County, the City of Clewiston (in coordination and cooperation with the South Florida Water Management District), ~~and~~ Glades County, and Hendry County are authorized to install and maintain appropriate regulatory markers as directed by the Division of Law Enforcement within the boating restricted areas, or portions thereof, located within the respective counties. These local governmental entities may enter into agreements with public or private organizations or individuals to effect this purpose.

(2) The boating restricted areas are depicted in ~~on~~ the following drawings:

Drawings A through F – No change.

Revised drawings G and H are not available at this time.

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History—New 1-5-88, Formerly 16N-24.011, Amended 1-8-96, Formerly 62N-24.011, Amended 10-2-00, _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers’ Compensation

RULE TITLE: Procedures for Imputing Payroll and Penalty Calculations

RULE NO.:

69L-6.028

PURPOSE AND EFFECT: The purpose and effect of the rule is to establish the procedure for imputing the weekly payroll for each employee, corporate officer, sole proprietor, or partner when the employer has failed to provide business records sufficient to enable the department to determine the employer’s payroll for the period requested for purposes of calculating the penalty to be assessed against the employer due to the employer’s failure to secure the payment of compensation, and to calculate the penalty to be assessed against an employer for periods of non-compliance prior to October 1, 2003, when the employer has failed to provide business records sufficient to enable the department to determine the employer’s payroll for that time period.

SUBJECT AREA TO BE ADDRESSED: Calculation of employer penalties where the employer has failed to provide business records sufficient to enable the department to determine payroll for the period requested.

SPECIFIC AUTHORITY: 440.107(9), 440.591 FS.

LAW IMPLEMENTED: 440.107(5) (2002), 440.107(7)(e) FS.

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

TIME AND DATE: 9:30 a.m., March 15, 2005

PLACE: Room 104J, Hartman Building, 2012 Capital Circle, Southeast, 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Andrew Sabolic, Acting Bureau Chief, Bureau of Compliance, Division of Workers’ Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)413-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69L-6.028 Procedures for Imputing Payroll and Penalty Calculations.

(1) In the event an employer fails to provide business records sufficient for the department to determine the employer’s payroll for the period requested for the calculation of the penalty pursuant to Section 440.107(7)(e), Florida Statutes, the department shall impute payroll at any time after the expiration of fifteen business days after receipt by the employer of a written request to produce such business records.

(2) When an employer fails to provide business records sufficient to enable the department to determine the employer’s payroll for the period requested for purposes of calculating the penalty provided for in Section 440.107(7)(d), Florida Statutes, the imputed weekly payroll for each employee, corporate officer, sole proprietor or partner for the portion of the period of the employer’s non-compliance occurring on or after October 1, 2003 shall be calculated as follows:

(a) For employees other than corporate officers, for each employee identified by the department as an employee of such employer at any time during the period of the employer’s non-compliance, the imputed weekly payroll for each week of the employer’s non-compliance for each such employee shall be the statewide average weekly wage as defined in Section 440.12(2), Florida Statutes, that is in effect at the time the stop work order was issued to the employer, multiplied by 1.5. Employees include sole proprietors and partners in a partnership.

(b) If the employer is a corporation, for each corporate officer of such employer identified as such on the records of the Division of Corporations at the time of issuance of the stop-work order, the imputed weekly payroll for each week of the employer’s non-compliance for each such corporate officer shall be the statewide average weekly wage as defined in Section 440.12(2), Florida Statutes, that is in effect at the time the stop work order was issued to the employer, multiplied by 1.5.

(c) If a portion of the period of non-compliance includes a partial week of non-compliance, the imputed weekly payroll for such partial week of non-compliance shall be prorated from the imputed weekly payroll for a full week.

(3) If subsequent to imputation of weekly payroll pursuant to subsection (2) herein, but before the expiration of forty-five calendar days from the receipt by the employer of written request to produce business records, the employer provides business records sufficient for the department to determine the employer's payroll for the period requested for the calculation of the penalty pursuant to Section 440.107(7)(e), Florida Statutes, the department shall recalculate the employer's penalty to reflect the payroll information provided in such business records.

(4) Where periods of the employer's non-compliance occurred prior to October 1, 2003, and the employer fails to provide business records sufficient to enable the department to determine the employer's payroll for periods of non-compliance prior to October 1, 2003, for purposes of calculating the penalty to be assessed against the employer for periods of non-compliance prior to October 1, 2003, the department shall assess against the employer a penalty of \$100 per day for each and every calendar day in the period of non-compliance occurring prior to October 1, 2003 the employer was not in compliance, pursuant to Section 440.107(5), Florida Statutes (2002).

Specific Authority 440.107(9), 440.591 FS. Law Implemented 440.107(5) (2002), 440.107(7)(e) FS. History--New _____.

DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLE: Annual and Quarterly Reporting Requirements
RULE NO.: 690-137.001
PURPOSE AND EFFECT: To adopt the 2005 NAIC Quarterly and Annual Statement Instructions and NAIC's Accounting Practices and Procedures Manual, as required by Section 624.424, Florida Statutes.
SUBJECT AREA TO BE ADDRESSED: Update NAIC Manuals.
SPECIFIC AUTHORITY: 624.307, 624.308(1) FS.
LAW IMPLEMENTED: 624.307(1), 624.424(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: 9:30 a.m.; March 18, 2005
PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: kerry.krantz@fldfs.com
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLE: NAIC Financial Examiners Handbook Adopted
RULE NO.: 690-138.001
PURPOSE AND EFFECT: To adopt the 2005 NAIC Financial Condition Examiners Handbook Adopted, as required by Section 624.424, Florida Statutes.
SUBJECT AREA TO BE ADDRESSED: Update NAIC Manuals.
SPECIFIC AUTHORITY: 624.308(1) FS.
LAW IMPLEMENTED: 624.307(1), 624.316(1)(c) FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
TIME AND DATE: 9:30 a.m., March 18, 2005
PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed below.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: kerry.krantz@fldfs.com
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.