

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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-13.001
RULE TITLE: Criteria for License Renewal
PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address the requirement for payment of NICA dues as a criteria for license renewal.
SUBJECT AREA TO BE ADDRESSED: Criteria for license renewal.
SPECIFIC AUTHORITY: 458.309 FS.

LAW IMPLEMENTED: 456.013(6), 458.319, 458.320 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 NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-37.001
RULE TITLE: Minimum Qualifications for the Performance of Electromyography
PURPOSE AND EFFECT: The Board proposes the development of a rule to address the minimum qualifications for the performance of electromyography by physical therapists.
SUBJECT AREA TO BE ADDRESSED: The minimum qualifications for the performance of electromyography by physical therapists.

SPECIFIC AUTHORITY: 458.309 FS.
LAW IMPLEMENTED: 486.021(11) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

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

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.: 5L-1
RULE CHAPTER TITLE: Comprehensive Shellfish Control Code
RULE NO.: 5L-1.003
RULE TITLE: Shellfish Harvesting Area Standards

PURPOSE AND EFFECT: These amendments propose to reclassify the shellfish harvesting areas #28 Suwannee Sound and #92 North St. Johns. Sanitary surveys have been conducted that evaluated current information on pollution sources and bacteriological water quality, and recommend reclassification of the Suwannee Sound shellfish harvesting area and the North St. Johns shellfish harvesting area. This amendment further proposes to amend the shellfish harvesting map for #1621 Apalachicola Bay Approved Summer.

SUMMARY: The proposed reclassification of the Suwannee Sound shellfish harvesting area for the winter months will decrease the size of the conditionally approved area by 5,003 acres, from 71,467 acres to 66,464 acres, increase the size of the conditionally restricted area by 4,804 acres, from 26,591 acres to 31,395 acres, and increase the size of the prohibited area by 196 acres, from 4,697 acres to 4,893 acres. The proposed reclassification of the Suwannee Sound shellfish harvesting area for the spring and summer months will decrease the size of the conditionally approved area by 4,189 acres, from 71,467 acres to 67,278 acres, increase the size of the conditionally restricted area by 4,753 acres, from 26,591 acres to 31,344 acres, and decrease the size of the prohibited area by 252 acres, from 4,697 acres to 4,445 acres.

The current management of the Suwannee Sound shellfish harvesting area is based on local rainfall or river stage. Proposed management of the Suwannee Sound shellfish harvesting area during winter months is based on local rainfall or river stage. Proposed management of the Suwannee Sound shellfish harvesting area during the spring and summer months is based on river stage. The average closure frequency of Suwannee Sound Conditionally Approved during the winter is expected to decrease by 3.5 days per month, from 15.5 days to 12.0 days per month. The average closure frequency of Suwannee Sound Conditionally Restricted during the winter is expected to decrease by 0.2 days per month, from 6.0 days to 5.8 days per month. The average closure frequency of Suwannee Sound Conditionally Approved during the spring and summer is expected to decrease by 8.2 days per month, from 15.5 days to 7.3 days per month. The average closure frequency of Suwannee Sound Conditionally Restricted during the spring and summer is expected to decrease by 3.9 days per month, from 6.0 days to 2.1 days per month.

The proposed reclassification of the North St. Johns shellfish harvesting area will increase the size of the conditionally approved area by 144 acres, from 678 acres to 822 acres, decrease the size of the conditionally restricted area by 74 acres, from 2,270 acres to 2,196 acres, and increase the size of the prohibited area by 125 acres, from 2,470 acres to 2,595 acres. The current management of the North St. Johns shellfish harvesting area is based on local rainfall. Proposed management of the North St. Johns shellfish harvesting area is based on local rainfall. The average closure frequency of North St. Johns Conditionally Approved is expected to decrease by 1.0 days per month, from 3.4 days to 2.4 days per month. The average closure frequency of North St. Johns Conditionally Restricted is expected to decrease by 1.8 days per month, from 2.1 days to 0.3 days per month. Sanitary surveys have been conducted that evaluated current information on pollution sources and bacteriological water quality, and recommend reclassification of the Suwannee Sound shellfish harvesting area and the North St. Johns shellfish harvesting area.

These amendments place descriptions, references to shellfish harvesting area map numbers and operating criteria for the Suwannee Sound shellfish harvesting area #28 and the North St. Johns shellfish harvesting area #92 in the document Shellfish Harvesting Area Classification Boundaries and Management Plans. These documents are hereby incorporated in subsection 5L-1.003(1), F.A.C. Additionally, these amendments provide illustrations of the Suwannee Sound shellfish harvesting area classification boundaries in the shellfish harvesting area maps #28A and #28B, the North St. Johns shellfish harvesting area classification boundaries in the shellfish harvesting area map #92 and the Apalachicola Bay shellfish harvesting area classification boundaries in the shellfish harvesting area map #16B. These maps are hereby incorporated by reference in subsection 5L-1.003(1), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There is no anticipated regulatory cost.

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

SPECIFIC AUTHORITY: 597.020 FS.

LAW IMPLEMENTED: 597.020 FS.

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

DATE AND TIME: Tuesday, January 22, 2007, 10:00 a.m.

PLACE: 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify Chris Brooks, Division of Aquaculture, (850)488-4033 at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Brooks, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, Phone: (850)488-4033

THE FULL TEXT OF THE PROPOSED RULE IS:

5L-1.003 Shellfish Harvesting Area Standards.

(1) The Department shall describe and/or illustrate harvesting areas and provide harvesting area classifications as approved, conditionally approved, restricted, conditionally restricted, prohibited, or unclassified as defined herein, including criteria for opening and closing shellfish harvesting areas in accordance with Chapters II and IV of the National Shellfish Sanitation Program Model Ordinance. Copies of the document Shellfish Harvesting Area Classification Maps, revised ~~June 11, 2006~~, and the document Shellfish Harvesting Area Classification Boundaries and Management Plans, revised ~~June 11, 2006~~, containing shellfish harvesting area descriptions, references to shellfish harvesting area map numbers, and operating criteria herein incorporated by reference may be obtained by writing to the Department at 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301.

(2) through (10) No change.

Specific Authority 597.020 FS. Law Implemented 597.020 FS. History—New 1-4-87, Amended 8-10-88, 7-9-89, 12-23-91, Formerly 16R-7.004, Amended 7-3-95, 6-18-97, 7-1-97, 7-22-97, 10-12-97, 12-16-97, 12-28-97, 2-12-98, 2-25-98, 7-1-98, 7-20-98, 11-13-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7.004, Amended 6-19-00, 8-9-00, 10-14-01(1), 10-14-01(1), 8-17-04, 9-28-04, 9-5-05, 6-11-06,

NAME OF PERSON ORIGINATING PROPOSED RULE: Chris Brooks	1611	Apalachicola Bay Approved Winter Jan – May, Sept – Dec
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture	1621	Apalachicola Bay Approved Summer June – Aug
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2006	1631	Apalachicola Bay Approved, Shellfish lease numbers 525, 551, 551B, 580, 582, 609, 672, and 981 Summer June – Aug
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 6, 2006	1612	Apalachicola Bay Conditionally Approved West 1 Winter Jan – May, Sept – Dec
AREA	1622	Apalachicola Bay Conditionally Approved West 2 Winter Jan – May, Sept – Dec
NUMBER HARVEST AREA NAME	1632	Apalachicola Bay Conditionally Approved West 3 Winter Jan – May, Sept – Dec
0212 Pensacola Bay Conditionally Approved Escambia Bay Shellfish Aquaculture Lease Areas managed during the Summer months of Jul – Sep	1642	Apalachicola Bay Conditionally Approved East Winter Jan – May, Sept – Dec or Apalachicola Bay Approved East Hole Summer June – Aug
0222 Pensacola Bay Conditionally Approved Escambia Bay	1652	Apalachicola Bay Conditionally Approved North Summer June – Aug
0232 Pensacola Bay Conditionally Approved East Bay	1662	Apalachicola Bay Conditionally Approved South Summer June – Aug
0216 Pensacola Bay Conditionally Restricted Escambia Bay	1606	Apalachicola Bay Conditionally Restricted
0226 Pensacola Bay Conditionally Restricted East Bay	1802	Alligator Harbor Conditionally Approved
0622 Choctawhatchee Bay Conditionally Approved Central	2002	Ochlockonee Bay Conditionally Approved
0632 Choctawhatchee Bay Conditionally Approved Eastern	2006	Ochlockonee Bay Conditionally Restricted
0806 West Bay Conditionally Restricted Spring/Fall Apr – Jun, Oct - Nov	2206	Wakulla County Conditionally Restricted
0812 West Bay Conditionally Approved Winter Dec – Mar	2212	Wakulla County Conditionally Approved Zone 1 Winter
0822 West Bay Conditionally Approved Spring/Fall Apr – Jun, Oct – Nov	2222	Wakulla County Conditionally Approved Zone 2 Winter
1012 North Bay Conditionally Approved Western	2232	Wakulla County Conditionally Approved Zone 1 Spring
1022 North Bay Conditionally Approved Eastern	2242	Wakulla County Conditionally Approved Zone 2 Spring
1006 North Bay Conditionally Restricted Eastern	2501	Horseshoe Beach Approved Summer Apr - Sep
1206 East Bay Conditionally Restricted	2502	Horseshoe Beach Conditionally Approved Winter Oct – Mar
1212 East Bay Conditionally Approved Section 1	2506	Horseshoe Beach Conditionally Restricted Winter Oct – Mar
1222 East Bay Conditionally Approved Section 2	2802	Suwannee Sound Conditionally Approved <u>Spring Summer Feb-May and Sept or</u>
1401 St. Joe Bay Approved		Suwannee Sound Conditionally Approved <u>Winter Oct – Jan</u>
1506 Indian Lagoon Conditionally Restricted	2806	Suwannee Sound Conditionally Restricted <u>Spring Summer Feb – May and Sept or</u>
1512 Indian Lagoon Conditionally Approved Spring/Fall Mar – Jun, Oct		Suwannee Sound Conditionally Restricted <u>Winter Oct – Jan</u>
1542 Indian Lagoon Conditionally Approved Zone A Winter Nov – Feb	3012	Cedar Key Conditionally Approved Zone A
1552 Indian Lagoon Conditionally Approved Zone B Winter Nov – Feb	3022	Cedar Key Conditionally Approved Zone B
1572 Indian Lagoon Conditionally Approved Summer Jul – Sep	3006	Cedar Key Conditionally Restricted
	3202	Waccasassa Bay Conditionally Approved
	3206	Waccasassa Bay Conditionally Restricted

- 3402 Withlacoochee Bay Conditionally Approved
- 3406 Withlacoochee Bay Conditionally Restricted
- 3702 Citrus County Conditionally Approved
- 3706 Citrus County Conditionally Restricted
- 4202 Boca Ciega Bay Conditionally Approved
- 4802 Lower Tampa Bay Conditionally Approved
- 5402 Sarasota Bay Conditionally Approved
- 5602 Lemon Bay Conditionally Approved
- 5802 Gasparilla Sound Conditionally Approved
- 6002 Myakka River Conditionally Approved
- 6006 Myakka River Conditionally Restricted
- 6212 Pine Island Sound Conditionally Approved Western Section
- 6222 Pine Island Sound Conditionally Approved Eastern Section
- 6602 Ten Thousand Islands Conditionally Approved
- 7001 Indian River/St. Lucie Approved
- 7006 Indian River/St. Lucie Restricted
- 7202 North Indian River Conditionally Approved
- 7206 North Indian River Conditionally Restricted
- 7412 Body F Conditionally Approved
- 7416 Body F Conditionally Restricted
- 7506 Body E Conditionally Restricted
- 7602 Body D Conditionally Approved
- 7606 Body D Conditionally Restricted
- 7712 Body C Conditionally Approved Zone 1 Spring/Summer/Fall Mar – Nov
- 7722 Body C Conditionally Approved Zone 2 Spring/Summer/Fall Mar – Nov
- 7732 Body C Conditionally Approved Winter Dec – Feb
- 7716 Body C Conditionally Restricted Winter Dec – Feb
- 7726 Body C Conditionally Restricted Spring/Summer/Fall Mar – Nov
- 7802 Body B Conditionally Approved
- 7902 South Banana River Conditionally Approved
- 7906 South Banana River Conditionally Restricted
- 8001 Body A Approved
- 8005 Body A Restricted
- 8201 South Volusia Approved
- 8212 South Volusia Conditionally Approved Zone 1
- 8222 South Volusia Conditionally Approved Zone 2
- 8206 South Volusia Conditionally Restricted
- 8802 St. Johns South Conditionally Approved
- 8806 St. Johns South Conditionally Restricted
- 9202 St. Johns North Conditionally Approved
- 9206 St. Johns North Conditionally Restricted

INDEX OF SHELLFISH HARVESTING AREA
CLASSIFICATION MAPS, BOUNDARIES AND
MANAGEMENT PLANS

Revised June 11, 2006 _____

Shellfish Harvesting Area			
Name	Area Number	Map Number(s)	Effective date
Apalachicola Bay System	16	16A, 16B	September 5, 2005
Alligator Harbor	18	18	October 14, 2001
Boca Ciega Bay	42	42	September 28, 2004
Body A	80	80	December 28, 1997
Body B	78	78	February 7, 1996
Body C	77	77A, 77B	January 1, 1994
Body D	76	76	August 1, 1996
Body E	75	75	January 1, 1994
Body F	74	74	April 5, 2000
Cedar Key	30	30	September 28, 2004
Choctawhatchee Bay	06	06	October 14, 2001
Citrus County	37	37	May 6, 1996
Duval County	96	96	January 31, 1996
East Bay	12	12	June 11, 2006
Gasparilla Sound	58	58	January 25, 1996
Horseshoe Beach	25	25A, 25B	September 28, 2004
Indian Lagoon	15	15A, 15B	September 5, 2005
Indian River/St. Lucie Counties	70	70	June 18, 1997
Lemon Bay	56	56	July 20, 1998
Lower Tampa Bay	48	48	September 28, 2004
Myakka River	60	60	October 28, 1998
North Bay	10	10	August 17, 2004
North Indian River	72	72	June 18, 1997
North St. Johns	92	92	January 1, 1995
Ochlocknee Bay	20	20	August 17, 2004
Pensacola Bay System	02	02	August 17, 2004
Pine Island Sound	62	62	December 28, 1998
Sarasota Bay	54	54	September 28, 2004
South Banana River	79	79	July 22, 1997
South St. Johns	88	88	December 16, 1997
South Volusia	82	82A, 82B	August 9, 2000
St. Joseph Bay	14	14	November 1986
Suwannee Sound	28	28 A, 28 B	February 25, 1998
Ten Thousand Islands	66	66	September 28, 2004
Waccasassa Bay	32	32	September 28, 2004
Wakulla County	22	22A, 22B	August 17, 2004
West Bay	08	08A, 08B	December 28, 1998
Withlacoochee Bay	34	34	September 28, 2004

DEPARTMENT OF REVENUE

RULE NO.: 12-6.0015
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-6.0015, F.A.C., is to: (1) adopt, by reference, changes to the form used by taxpayers to grant a representative authority to perform certain acts on behalf of the taxpayer and to receive and inspect confidential information from the Department; and (2) update information on how to obtain the form from the Department.

SUMMARY: The proposed amendments to Rule 12-6.0015, F.A.C.: (1) adopt, by reference, changes to Form DR-835, Power of Attorney and Declaration of Representative, with instructions; and (2) update information on how to obtain the form from the Department.

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

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

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

LAW IMPLEMENTED: 72.011, 120.54(5), 120.569, 120.57, 213.21 FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12-6.0015 Public Use Forms.

The following forms are employed by the Department in its dealings with the public. These forms are hereby incorporated by reference in this rule. Copies of these forms are available, without cost, by using one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) faxing a forms request

to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site stated in the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

Form Number	Title	Effective Date
DR-835	Power of Attorney and Declaration of Representative (R. 07/06 r. 01/00)	____ 3/6/03

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, 120.54(5), 120.569, 120.57, 213.21 FS. History--New 3-6-03, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5268-5269)

DEPARTMENT OF REVENUE

RULE NO.: 12-22.007
 RULE TITLE: Registration Information Sharing and Exchange Program

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program), is to: (1) incorporate, by reference, the agreements used by the Department in administering the Registration Information Sharing and Exchange Program (RISE Program) authorized under Section 213.0535, F.S.; (2) update the Department's contact person for information regarding the program; (3) update the data elements relating to the licensing or registration activity during each period that will be exchanged consistent with the data elements that are currently exchanged under the program; (4) provide in the rule that any employee authorized by a government agency participating in the program is

required to execute a certificate of familiarity with the confidentiality requirements, a provision that is currently required under the agreements executed between the government agency participants and the Department; and (5) provide in the rule that Level-one participants in the program are required to exchange the required data on a monthly or quarterly basis, a provision that is currently required under the executed agreements.

SUMMARY: The proposed amendments to Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program): (1) provide that the scope of the rule is to provide guidelines regarding the Registration Information Sharing and Exchange Program (RISE Program) authorized under Section 213.0535, F.S.; (2) incorporate, by reference, the agreements used by the Department in administering the program; (3) provide who in the Department to contact for information regarding the program; (4) update the data elements relating to the licensing or registration activity during each period that will be exchanged consistent with the data elements that are currently exchanged under the program; (5) provide that any employee authorized by the participating government agency is required to execute a certificate of familiarity with the confidentiality requirements of Section 213.053, F.S., by January 31 of year each; and (6) provide that Level-one participants in the program are required to exchange the required data on a monthly or quarterly basis.

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

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

SPECIFIC AUTHORITY: 213.0535(4), 213.06(1) FS.

LAW IMPLEMENTED: 213.053(8)(j), 213.0535 FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Gray, Revenue Program Administrator, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4729

THE FULL TEXT OF THE PROPOSED RULE IS:

12-22.007 Registration Information Sharing and Exchange Program.

(1)(a) The Registration Information Sharing and Exchange Program, or "RISE Program", is authorized under Section 213.0535, F.S., to allow government agencies who participate in the program to periodically exchange specified tax information with the Department. This rule provides guidelines regarding this program, section prescribes the data elements to be shared, in the Registration Information Sharing and Exchange Program and the frequency of sharing those data elements. This exchange of registration information between the Department, other state agencies, and units of local government is designed to improve the enforcement of specific state and local taxes, license, and permits.

(b) General information regarding the Registration Information Sharing and Exchange ("RISE") Program and specific questions regarding the status of any data supplied by the Department should be directed to may be obtained by contacting the General Tax Administration (GTA) RISE Coordinator, Compliance Enforcement Process Manager's Office, 4070 Esplanade Esplande Way, Room 315N 335U, Tallahassee, Florida 32399-5139 or by telephone, (850)487-2544 or by visiting the Department's Internet site at <http://www.myflorida.com/dor/governments/rise.html> the address shown inside the parenthesis (<http://myflorida.com/dor/governments/rise.html>).

(c) Specific questions regarding the status of any data supplied by the Department of Revenue should be directed to the RISE Coordinator, General Tax Administration, Compliance Support Process, 4070 Esplande Way, Room 335U, Tallahassee, Florida 32399-5139 or by telephone at (850)487-2544.

(2) RISE Agreements and Information Subject to Sharing.

(a) Level-one Participants. To participate in the Level-one RISE Program, each government agency is required to enter into an agreement with the Department to share information with With regard to the taxes, licenses, and permits enumerated in Section 213.0535(4)(a), F.S., participants in this category exchange and share data regarding new registrants, new filers, or initial reporters, permittees, or licensees. The agreement, including attachments, specifies the data elements relating to the licensing or registration activity during each period that will be exchanged and the frequency of exchange of the information. The information subject to such exchange includes:

1. Registrant's, licensee's, or taxpayer's name (name of business and owner);
2. Business mailing address, including zip code;
3. Business location address, including zip code;
4. Telephone number (business and owner);

5.4. Federal employer identification number or Social Security number (where authorized under the Federal Privacy and Confidentiality Act);

6.5. Business type kind code (NAICS or SIC code);

7. Business kind code (as provided by the Department);

8.6. County code (as provided by the Department);

9.7. Applicable state or local license or registration number and any other unique identifying number;

10.8. Business opening date; and

11. Indication whether new or re-issuance (not renewals or address changes).

9. Telephone number, if available.

(b) Level-two Participants. To participate in the Level-two RISE Program, each government agency is required to enter into an agreement with the Department to share information with ~~With~~ regard to the taxes enumerated in Section 213.0535(4)(b), F.S., ~~participants in this category share and exchange data as specified in paragraph (a). The agreement, including attachments, specifies the data elements relating to the licensing or registration activity during each period that will be exchanged and the frequency of exchange of the information.~~ In addition to the data shared by Level-one participants, Level-two participants shall exchange data relating to tax payment history, audit assessments, and registration cancellations of sales and use tax, tourist development tax, tourist impact tax, municipal resort tax, and/or convention development tax dealers engaging in transient rentals.

(c) The Department hereby incorporates the following agreements used in the administration of the RISE Program:

1. Registration and Information Sharing and Exchange Program – Level-One Agreement (R. 10/06);

2. Registration and Information Sharing and Exchange Program – Level-Two Agreement (R. 10/06);

3. RISE Attachment B (R. 10/06); and

4. RISE Attachment C. Program Participant Certification for Access to Confidential State Tax Information (R. 10/06).

(d) Each government agency participating in the RISE Program is required to transmit its shared data to the Department within 20 days after the close of the reporting period, using the format specified in RISE Attachment B of the executed RISE agreement.

(e) Section 213.053(8)(j), F.S., provides that the Department may provide the information authorized under Section 213.0535, F.S., to eligible participants and certified public accountants for such participants in the RISE Program. As a part of the Level-one RISE Agreement, or the Level-two Agreement, each authorized employee of the participating government agency is required to execute a certification of familiarity with the confidentiality requirements of Section 213.053, F.S., and Rule Chapter 12-22, F.A.C., by January 31 of each year. Any person who becomes an authorized

employee subsequent to January 31 must execute a separate certification of familiarity with the confidentiality requirements. Executed certifications must be forwarded to the RISE Coordinator within 15 business days of the date of hire or the date of change in employment status.

(3)(a) Methods for Transmitting Data. The Department provides for the transmission of data between eligible participants of the RISE program. When submitting data to the Department, the participant is required to indicate the format in which the data is provided to the Department. Data is transmitted to the eligible participant by the Department in the same format as the format in which the participant provides data to the Department.

(b) Eligible participants who are required to transmit information under the RISE program and who are unable to make a timely exchange, because of system failure, incomplete data, or other reasons that are beyond the participant's control, should contact the General Tax Administration RISE Coordinator, General Tax Administration, Compliance Support Process, 4070 Esplanade Way, Room 335U, Tallahassee, Florida 32399-5139 or by telephone at (850)487-2544.

(4) Frequency of Exchange.

(a) Units of state and local government that are Level-one participants are required to exchange, on a monthly or quarterly basis, the data enumerated in paragraph (2)(a) of this rule for each new registrant, new filer, or initial reporter, permittee, or licensee with respect to the taxes, licenses, or permits specified in Section 213.0535(4), F.S. Each RISE participant is required to select either a monthly or quarterly reporting period and to notify the Department of its selection.

(b) The Department of Revenue and local officials who are Level-two participants are required to comply with the monthly or quarterly exchange requirements imposed on Level-one participants. Additionally, Level-two participants are required to exchange, on a quarterly basis, information as provided in paragraph (2)(b) of this rule. Audit assessments and registration cancellation information will be exchanged on a quarterly basis. Tax payment history information will be exchanged only upon a written request.

(c) Any requests for tax information outside of the monthly or quarterly exchange provided in this rule should be addressed to the General Tax Administration RISE Coordinator, General Tax Administration, Compliance Support Process, 4070 Esplanade Way, Room 335U, Tallahassee, Florida 32399-5139 or by telephone at (850)487-2544.

Specific Authority 213.0535(4), 213.06(1) FS. Law Implemented 213.053(8)(j), 213.0535 FS. History–New 3-17-93, Amended 4-2-00,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5269-5271).

DEPARTMENT OF REVENUE

RULE NO.: 12-26.008
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-26.008, F.A.C., is to: (1) adopt, by reference, changes to forms used by the Department in the processing of applications for refunds; and (2) update information on how to obtain the forms from the Department.

SUMMARY: The proposed amendments to Rule 12-26.008, F.A.C.: (1) adopt, by reference, changes to forms used by the Department in the processing of applications for refunds; and (2) update information on how to obtain the forms from the Department.

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

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

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 72.011, 199.183, 199.185, 199.218(5), 201.11, 202.125, 202.23, 206.41, 206.64, 206.8745, 206.97, 206.9815, 206.9875, 206.9941, 206.9942, 212.02(15)(a), (19), 212.05(1)(a)1.b., 212.06(5)(a)1., (7), 212.07(1), 212.08(2)(j), (5)(f), (g), (h), (q), (7), 212.09, 212.11(4), (5), 212.12(6)(a), (c), 212.13(1), (2), 212.12(4), 212.17(1), (2), (3), 212.183, 213.255(2), (3), (4), (12), 213.34, 215.26, 220.725, 220.727, 624.5092, 681.104 FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12-26.008 Public Use Forms.

(1)(a) The following public use forms are used by the Department in the processing of refunds and are hereby incorporated by reference.

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

Form Number	Title	Effective Date
(2) DR-26	Application for Refund (R. 07/06 06/03)	____ 09/04
(3) DR-26I	Application for Refund-Intangible Personal Property Tax (R. 07/06 N-06/03)	____ 09/04
(4) DR-26S	Application for Refund-Sales and Use Tax (R. 10/06 04/03)	____ 09/04
(5) DR-370026	Mutual Agreement to Audit or Verify Refund Claim (R. 02/06 07/02)	____ 09/04

Specific Authority 213.06(1) FS. Law Implemented 72.011, 199.183, 199.185, 199.218(5), 201.11, 202.125, 202.23, 206.41, 206.64, 206.8745, 206.97, 206.9815, 206.9875, 206.9941, 206.9942, 212.02(15)(a), (19), 212.05(1)(a)1.b., 212.06(5)(a)1., (7), 212.07(1), 212.08(2)(j), (5)(f), (g), (h), (q), (7), 212.09, 212.11(4), (5), 212.12(6)(a), (c), 212.13(1), (2), 212.12(4), 212.17(1), (2), (3), 212.183, 213.255(2), (3), (4), (12), 213.34, 215.26, 220.725, 220.727, 624.5092, 681.104 FS. History—New 11-14-91, Amended 4-18-93, 10-4-01, 9-28-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5271-5272)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-1.097
 RULE TITLE: Public Use Forms

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

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

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

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

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

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

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.097 Public Use Forms.

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

(a) through (b) No change.

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

(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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(c) DR-15CON	<u>Consolidated Summary – Sales and Use Tax Return (R. 01/07)</u>	
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(6)(a) DR-15	Sales and Use Tax Return (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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(b) DR-15CS	Sales and Use Tax Return (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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(c) DR-15CSN	DR-15 Sales and Use Tax – Instructions (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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(d) DR-15EZ	Sales and Use Tax Return (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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(e) DR-15EZCSN	DR-15EZ Sales and Use Tax Return – Instructions (R. 01/07 <u>01/06</u>)	____ <u>04/06</u>
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- (f) DR-15EZN Instructions for 2007
~~2006~~ DR-15EZ Sales
and Use Tax Returns
(R. 01/07 ~~01/06~~) _____ 04/06
- (g) No change.
- (h) DR-15MO Florida Tax on Purchases
(R. 02/06 ~~09/04~~) _____ 06/05
- (i) DR-15N Instructions for 2007
~~2006~~ DR-15 Sales and
Use Tax Returns
(R. 01/07 ~~01/06~~) _____ 04/06
- (j) DR-15ZC Application for Florida
Enterprise Zone Jobs
Credit for Sales Tax
Effective June 7, 2006
~~January 1, 2003~~
(R. 06/06 ~~01/03~~) _____ 05/03
- (k) DR-15ZCN Instructions for
Completing the Sales
and Use Tax Return,
form DR-15, when
taking the Enterprise
Zone Jobs Tax Credit
under New Law
(R. 06/06 ~~01/03~~) _____ 05/03
- (l) through (m) No change.
- (7) through (8) No change.
- (9) DR-18 Application for Amusement
Machine Certificate
(R. 03/06 ~~01/05~~) _____ 06/05
- (10) DR-26RP Florida Neighborhood
Revitalization Program
(R. 01/06 ~~04/01~~) _____ 06/01
- (11) through (23) No change.

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jamie Peate, Operations Analyst, Technical Assistance and
Dispute Resolution, Department of Revenue, P. O. Box 7443,
Tallahassee, Florida 32314-7443, telephone (850)922-4726
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Buzz McKown, Revenue Program
Administrator II, Technical Assistance and Dispute Resolution,
P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone
number (850)922-4721
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 18, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45,
pp. 5272-5273)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-16.008
RULE TITLE: Public Use Forms
PURPOSE AND EFFECT: The purpose of the proposed
amendments to Rule 12A-16.008, F.A.C. (Public Use Forms),
is to adopt, by reference, changes to forms used by the
Department in the administration of solid waste fees and the
rental car surcharge.
SUMMARY: The proposed amendments to Rule 12A-16.008,
F.A.C. (Public Use Forms), adopt, by reference, changes to
forms used by the Department in the administration of solid
waste fees and the rental car surcharge.
SUMMARY OF STATEMENT OF ESTIMATED
REGULATORY COST: No Statement of Estimated Regulatory
Cost was prepared.
Any person who wishes to provide information regarding a
statement of estimated regulatory costs, or provide a proposal
for a lower cost regulatory alternative must do so in writing
within 21 days of this notice.
SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
LAW IMPLEMENTED: 212.0606, 212.12(2), 213.235,
376.70, 403.717, 403.718, 403.7185 FS.
A HEARING WILL BE HELD AT THE DATE, TIME AND
PLACE SHOWN BELOW:
DATE AND TIME: January 29, 2007, 10:00 a.m.
PLACE: Room 118, Carlton Building, 501 South Calhoun
Street, Tallahassee, Florida
Pursuant to the provisions of the Americans with Disabilities
Act, any person requiring special accommodations to
participate in this workshop/meeting is asked to advise the
agency at least 5 days before the workshop/meeting by
contacting: Larry Green at (850)922-4830. If you are hearing
or speech impaired, please contact the agency using the Florida
Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770
(Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-16.008 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the rental car surcharge, as provided in this rule chapter, and the solid waste fees, as provided in Rule Chapter 12A-12, F.A.C. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-15SWCS	Solid Waste and Surcharge Return (DR-15SW)(R. <u>01/07</u> 01/06)	_____ <u>07/06</u>
(3) DR-15SWN	Instructions for DR-15SW Solid Waste and Surcharge Returns (R. <u>01/07</u> 01/06)	_____ <u>07/06</u>

(4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, 4-17-03, 9-28-04, 6-28-05, 7-25-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5273-5274)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-19.030	Communications Services Tax Direct Pay Permits
12A-19.100	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.030, F.A.C. (Communications Services Tax Direct Pay Permits), is to: (1) require a permit holder whose permit will expire to file an application for renewal of the permit with the Department; (2) clarify that permit holders must issue a copy of their permit to make tax-exempt purchases of communications services identified on the permit; (3) clarify that permit holders must surrender a cancelled permit to the Department; and (4) clarify how permit holders are to pay the amount of communications services tax due to the Department.

The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms) is to: (1) adopt, by reference, the new form used by permit holders to renew their direct pay permit; (2) provide which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months; and (3) adopt, by reference, revisions to Form DR-700016, Communications Services Tax Return.

SUMMARY: The purpose of the proposed amendments to Rule 12A-19.030, F.A.C. (Communications Services Tax Direct Pay Permits), is to: (1) require a permit holder whose permit will expire to file an application for renewal of the permit with the Department; (2) clarify that permit holders must issue a copy of their permit to make tax-exempt purchases of communications services identified on the permit; (3) clarify that permit holders must surrender a cancelled permit to the Department; and (4) clarify how permit holders are to pay the amount of communications services tax due to the Department.

The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms) is to: (1) adopt, by reference, the new form used by permit holders to renew their direct pay permit; (2) provide which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months; and (3) adopt, by reference, revisions to Form DR-700016, Communications Services Tax Return.

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

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

SPECIFIC AUTHORITY: 202.15, 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (i), (j), 202.27(7) FS.

LAW IMPLEMENTED: 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.15, 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green, (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-19.030 Communications Services Tax Direct Pay Permits.

(1) Persons who purchase communications services may apply for a communications services tax direct pay permit from the Department to assume the obligation of self-accruing and remitting to the state the tax due on their purchases of communications services when:

(a) The majority of the communications services purchased for use by a person are for communications that originate outside of Florida and terminate within Florida; or

(b) The taxable status of sales of communications services will be known only upon use.

(2) For purposes of this rule, the term "person" means a single legal entity and does not mean a group or combination of affiliated entities or entities controlled by one (4) person or group of persons.

(3)(a) To request a Communications Services Tax Direct Pay Permit, a person must file Form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax (incorporated by reference in Rule 12A-19.100, F.A.C.), with the Department, in the manner provided on the form.

(b) Each permit holder must hold a valid dealer's Communications Services Tax Certificate of Registration (Form DR-700014) issued by the Department. Persons that are not registered with the Department for the communications

services tax must file an Application to Collect and/or Report Tax in Florida (Form DR-1) with the Department. If Form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax accompanies Form DR-1, then Form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule 12A-19.100, F.A.C.), is only required to be filed if an applicant will be responsible for collecting and remitting local communications services taxes on sales of communications services.

(4)(a) The effective date of a Communications Services Tax Direct Pay Permit is the postmark date of the application or, when delivered by means other than the United States Postal Service, the date the application is received by the Department.

(b) The Department will specify on each communications services tax direct pay permit the specific taxes for which the Dealer is authorized to self-accrue and remit tax directly to the Department. When a direct pay permit authorizes self-accrual of any local communications services taxes, each service address that a direct pay permit applies to will be identified.

(c)1. A communications services tax direct pay permit expires five (5) years from the effective date. The expiration date shall be the end of the month preceding five years from the effective date, if the effective date is on or before the 15th of the month. The expiration date shall be the end of the month that is five (5) years from the effective date, if the effective date is after the 15th of the month. The Department will provide a Renewal Notice and Application for Self-Accrual Authority/Direct Pay Permit – Communications Services Tax (Form DR-700032, incorporated by reference in Rule 12A-19.100, F.A.C.) ~~renewal notice~~ to a permit holder sixty (60) days prior to the expiration date of a permit. Holders of a communications services tax direct pay permit whose certificate will expire must complete Form DR-700032 prior to expiration of their current direct pay permit. Persons that fail to receive Form DR-700032 ~~a renewal notice~~ or ~~who that~~ need more information regarding the notice may contact the Department at Account Management Central Registration, Florida Department of Revenue, P. O. Box 6480, Tallahassee, Florida 32314-6480.

2. When the registration of a permit holder has been canceled, and the permit holder no longer holds a valid dealer's Communications Services Tax Certificate of Registration, the permit holder must surrender the permit to the Department for cancellation. To surrender a permit, the permit holder must forward the permit to Account Management, Florida Department of Revenue, P. O. Box 6480, Tallahassee, Florida, 32314-6480.

3.2. Upon expiration of the purchasing customer's communications services tax direct pay permit, a dealer is required to collect and remit the applicable communications services tax from that customer.

(5) COMMUNICATIONS SERVICES TAX DIRECT PAY PERMIT FOR INTERSTATE COMMUNICATIONS SERVICES.

(a) Persons issued a direct pay permit under the provisions of this subsection will receive Form DR-700031, Communications Services Tax Direct Pay Permit. Permit holders must provide a copy of Form DR-700031 to the communications services dealer to purchase communications services identified on the permit tax-exempt at the time of purchase.

(b) Permit holders are required to pay each calendar year to the Department an amount not to exceed the following:

1. \$100,000 in communications services taxes, imposed under Sections 202.12 and 203.01(1)(a)2., F.S., on all charges for interstate communications services that originate outside Florida and terminate inside Florida that are billed to a single entity; or

2. \$100,000 in communications services taxes, imposed under Sections 202.12 and 203.01(1)(a)2., F.S., on all charges for interstate communications services that originate outside Florida and terminate inside Florida that are billed to a single entity and \$25,000 in local communications services tax, imposed under Section 202.19(1), F.S., on charges for interstate communications services that originate outside Florida and terminate inside Florida that are billed to each individual service address identified on a permit in any municipality or county imposing a local communications services tax.

(c) The filing of the returns for the taxes identified on a direct pay permit must be made on a monthly basis, and the tax may be remitted in one (1) of the following manners:

1. The tax due may be prorated throughout the calendar year;

2. The tax due, based on a permit holder's purchases, may be paid to the Department as the applicable tax is accrued; or

3. The total amount of the tax due, not to exceed the amount of the partial exemption authorized under the permit, may be paid in full as a single payment with the first return of each calendar year, ~~followed by returns indicating that no tax is due in subsequent months. Subsequent returns must be filed indicating that that no tax is due with the return.~~

(d) A return must be filed by a direct pay permit holder even if no tax is due.

(e) A permit holder must pay its tax obligation to the Department using electronic funds transfer, as required by Section 202.30(1), F.S., and Rule Chapter 12-24, F.A.C., and must submit its return using electronic data interchange, as required by Section 202.30(2), F.S., and Rule Chapter 12-24, F.A.C.

(f) In the calendar year of issuance, any amounts of communications services taxes paid by a permit holder to its provider(s) after the effective date of a direct pay permit will be included in ~~credited against~~ the total amount of

communications services tax due to the Department for that calendar year. ~~When~~ ~~in~~ remitting the remaining amounts ~~required to be paid~~ to the Department, the amount paid directly to communications services provider(s) after the effective date of a permit may be deducted from the total amount due to the Department. In the event that a permit holder has paid to its provider(s) ~~after the effective date of a direct pay permit~~ an amount that ~~exceeds results in total payments in excess of~~ the amount of tax allowed ~~required~~ by ~~the~~ a permit, ~~the~~ a permit holder must obtain the applicable refund or credit from its provider(s).

(g) Communications services taxes and local communications services taxes are due and must be paid to the selling dealer or directly to the Department on all charges for intrastate communications services and charges for interstate communications services that originate inside Florida and terminate outside Florida.

(6) COMMUNICATIONS SERVICES TAX DIRECT PAY PERMIT FOR TAX DUE UPON DETERMINATION OF USE.

(a) Persons that are issued a direct pay permit under the provisions of this subsection will receive Form DR-700031, Communications Services Tax Direct Pay Permit. Permit holders must provide a copy of Form DR-700031 to the communications services dealer to purchase communications services identified on the permit tax-exempt at the time of purchase.

(b) Permit holders are required to file tax returns on a monthly basis and pay to the Department the amount of the state communications services tax, imposed under Sections 202.12 and 203.01(1)(a)2., F.S., and the amount of local communications services taxes, imposed under Section 202.19, F.S., due upon the determination of the use of such communications services.

(7) In the event that an original communications services tax direct pay permit is lost or destroyed, a permit holder may request a replacement ~~by visiting any local Department of Revenue Service Center to personally obtain a copy or by~~ contacting the Department at (800)352-3671 ~~(in Florida only)~~ or (850)488-6800. Persons with hearing or speech impairments may call the Department's TDD; at (800)367-8331. Written requests should be addressed to Account Management Central Registration, Florida Department of Revenue, P. O. Box 6480, Tallahassee, Florida 32314-6480.

(8) through (9) No change.

Specific Authority 202.26(3)(e), (i), 202.27(7)(6) FS. Law Implemented 202.12(3), 202.16(4), 202.19(7)(8), 202.27(7)(6)(b), 202.30, 202.34(3) FS. History—New 1-31-02, Amended 4-17-03, _____.

Cross-Reference: Rules 12A-19.010 and 12A-19.060, F.A.C.

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

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

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
<u>01/07</u>	<u>January 2007 –</u>	<u>January 1, 2007 –</u>
<u>06/06</u>	<u>June 2006 – December 2006</u>	<u>June 1, 2006 – December 31, 2006</u>
01/06	January 2006 – <u>May 2006</u>	January 1, 2006 – <u>May 31, 2006</u>
11/05	November 2005 – December 2005	November 1, 2005 – December 31, 2005
06/05	June 2005 – October 2005	June 1, 2005 – October 31, 2005
01/05	January 2005 – May 2005	January 1, 2005 – May 31, 2005
11/04	November 2004 – December 2004	November 1, 2004 – December 31, 2004
10/04	October 2004	October 1, 2004 – October 31, 2004
06/04	June 2004 – September 2004	June 1, 2004 – September 30, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

Form Number	Title	Effective Date	Specific Authority	NAME OF PERSON ORIGINATING PROPOSED RULE:	NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:	DATE PROPOSED RULE APPROVED BY AGENCY HEAD:	DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:
(3) No change.			202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS. Law Implemented 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30 (3) , 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History–New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-05,_____.	Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4729	Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721	December 18, 2006	November 9, 2006 (Vol. 32, No. 45, pp. 5274-5277)
(4)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 01/07)</u>	_____					
(b) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 06/06)</u>	_____					
(a) through (s) renumbered (c) through (u) No change.							
(5) through (11) No change.							
(12)(a) <u>DR-700030</u>	<u>Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax (R. 06/06 N. 07/04)</u>	_____ 04/03					
(b) <u>DR-700032</u>	<u>Renewal Notice and Application for Self-Accrual Authority/ Direct Pay Permit – Communications Services Tax (R. _____)</u>	_____					

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-5.150
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

SUMMARY: The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), adopt, by reference, changes to forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

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

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

SPECIFIC AUTHORITY: 206.14(1), 206.59(1), 213.06(1) FS.
 LAW IMPLEMENTED: 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.404, 206.43, 206.86, 206.877, 206.90, 206.91, 206.92, 206.9931, 206.9943 FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.
 PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-5.150 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department and are hereby incorporated by reference in this rule.

(b) Copies may be obtained, without cost, by one (1) or more of the following methods: 1) downloading the form from the Department's Internet site at

www.myflorida.com/dor/forms/; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2)(4) DR-138	Application for Fuel Tax Refund – Agriculture, Aquacultural, and Commercial Fishing Purposes	(R. 01/07 03/06) ____ 05/06
(2) through (7) renumbered (9)(8) DR-160	(3) through (8) No change. Application for Fuel Tax Refund – Mass Transit System Users	(R. 01/07 03/06) ____ 05/06
(10)(9) DR-161	Refund Application Schedule of Purchases for Tax Paid Purchases Only	(R. 01/07 03/06) ____ 05/06
(10) through (12) renumbered (14)(13) DR-182	(11) through (13) No change. Florida Air Carrier Fuel Tax Return	(R. 01/07 01/06) ____ 05/06
(15)(14) No change.		
(16)(15) DR-189	Application for Fuel Tax Refund – Municipalities, Counties and School Districts	(R. 01/07 03/06) ____ 05/06
(17)(16) DR-190	Application for Fuel Tax Refund – Non-Public Schools	(R. 01/07 03/06) ____ 05/06
(18)(17) DR-191	Application for Aviation Fuel Refund – Air Carriers	(R. 07/06 03/06) ____ 05/06
(18) through (19) renumbered (21)(20) DR-309631	(19) through (20) No change. Terminal Supplier Fuel Tax Return	(R. 01/07 01/06) ____ 05/06

<p>(22)(21) DR-309631N</p>	<p>Instructions for Filing Terminal Supplier Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(33)(32) DR-309637</p>	<p>Petroleum Carrier Information Return (R. <u>01/07 01/06</u>) _____ 05/06</p>
<p>(23)(22) DR-309632</p>	<p>Wholesaler/Importer Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(34)(33) DR-309637N</p>	<p>Instructions for Filing Petroleum Carrier Information Return (R. <u>01/07 01/06</u>) _____ 05/06</p>
<p>(24)(23) DR-309632N</p>	<p>Instructions for Filing Wholesaler/Importer Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(35)(34) DR-309638</p>	<p>Exporter Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>
<p>(25)(24) DR-309633</p>	<p>Mass Transit System Provider Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(36)(35) DR-309638N</p>	<p>Instructions for Filing Exporter Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>
<p>(26)(25) DR-309633N</p>	<p>Instructions for Filing Mass Transit System Provider Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(37)(36) DR-309639</p>	<p>Application for Return of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes (with Instructions) (R. <u>07/06 04/06</u>) _____ 05/06</p>
<p>(27)(26) DR-309634</p>	<p>Local Government User of Diesel Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(38)(37) DR-309640</p>	<p>Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida (R. <u>01/07 01/06</u>) _____ 05/06</p>
<p>(28)(27) DR-309634N</p>	<p>Instructions for Filing Local Government User of Diesel Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(39)(38) DR-309645</p>	<p>2006 Refundable Portion of Local Option and SCETS Tax (R. <u>06/06 01/06</u>) _____ 05/06</p>
<p>(29)(28) DR-309635</p>	<p>Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>(40)(39) DR-309660</p>	<p>Application for Pollutant Tax Refund (R. <u>01/07 04/06</u>) _____ 05/06</p>
<p>(30)(29) DR-309635N</p>	<p>Instructions for Filing Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>Specific Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.404, 206.43, 206.86, 206.877, 206.90, 206.91, 206.92, 206.9931, 206.9943 FS. History—New 11-21-96, Amended 10-27-98, 5-1-06,_____.</p>	
<p>(31)(30) DR-309636</p>	<p>Terminal Operator Information Return (R. <u>01/07 01/06</u>) _____ 05/06</p>	<p>NAME OF PERSON ORIGINATING PROPOSED RULE: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726</p>	
<p>(32)(31) DR-309636N</p>	<p>Instructions for Filing Terminal Operator Information Return (R. <u>01/07 01/06</u>) _____ 05/06</p>		

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5277-5278)

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-8.003
 RULE TITLE: Tax Statement; Overpayments

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), is to adopt, by reference, changes to forms used by the Department in the administration of the insurance premium tax.

SUMMARY: The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), are necessary to adopt, by reference, changes to forms used by the Department in the administration of the insurance premium tax.

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

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

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 213.05, 213.37, 624.5092, 624.511, 624.518 FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule.

(2) through (4) No change.

Form Number	Title	Effective Date
(5)(a) DR-907	Florida Insurance Premium Installment Payment (R. 01/07 01/06)	___ 06/06
(b) DR-907N	Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. 01/07 01/06)	___ 06/06
(6)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year 2006 2005 (R. 01/07 01/06)	___ 06/06
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. 01/07 01/06)	___ 06/06
(7) DR-350900	2006 2005 Insurance Premium Tax Information for Schedules XII and XIII, DR-908 (R. 01/07 01/06)	___ 06/06

Specific Authority 213.06(1) FS. Law Implemented 213.05, 213.37, 624.5092, 624.511, 624.518 FS. History—New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02, 5-4-03, 9-28-04, 6-28-05, 6-20-06,

NAME OF PERSON ORIGINATING PROPOSED RULE: Jamie Peate, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5278-5279)

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:	RULE TITLES:
12C-1.0187	Credits for Contributions to Nonprofit Scholarship Funding Organizations
12C-1.0191	Capital Investment Tax Credit Program
12C-1.051	Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), is to incorporate changes to Section 220.187, F.S., as amended by Section 2, Chapter 2006-75, L.O.F., which provide for rescindments of the tax credit for contributions to nonprofit scholarship organizations and remove the limitation on the amount of donation that may be contributed by an entity to such organizations.

The purpose of the proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), is to provide the requirements of the approval process for a new qualifying project located in an enterprise zone and brownfield area for purposes of the capital investment tax credit applied against the corporate income tax, pursuant to Section 220.191(1)(h)3., F.S., created by Section 1, Chapter 2006-55, L.O.F.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, new forms and changes to the forms used by the Department in the administration of the corporate income tax and to remove obsolete forms no longer used by the Department.

SUMMARY: The proposed amendments to Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), incorporate changes to Section 220.187, F.S., as amended by Section 2, Chapter 2006-75, L.O.F. The proposed amendments remove language that specifically disallowed a rescindment of an allocated credit and the limitation on the amount of donation that may be contributed by an entity to nonprofit scholarship organizations. The proposed amendments provide guidance on the rescindment process and when such rescindments of credit will be approved by the Department. The proposed amendments also provide that, in lieu of a specific threshold requiring taxpayers to file an application for credit against the corporate income tax online, taxpayers who are required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., will be required to file the application online via the Department's online Internet site.

The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), provide information and the requirements of the approval process for a new qualifying project that is located in an enterprise zone and brownfield area for purposes of the capital investment tax credit applied against the corporate income tax, pursuant to Section 220.191(1)(h)3., F.S., created by Section 1, Chapter 2006-55, L.O.F.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, new forms and changes to the forms used by the Department in the administration of the corporate income tax and remove obsolete forms no longer used by the Department.

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

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

SPECIFIC AUTHORITY: 213.06(1), 220.187, 220.191(7), 220.51 FS.

LAW IMPLEMENTED: 213.05, 213.35, 213.755, 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS.

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

DATE AND TIME: January 29, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations.

(1) An application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (Form F-1160, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to receive such credit.

(a) Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., that paid \$30,000 or more in corporate income tax in the state fiscal year prior to application must apply online via the Department's Internet site at www.myflorida.com/dor. When the application for credit has been completed and submitted electronically, a confirmation screen will provide a confirmation number and will confirm receipt of the electronic application for credit.

(b) Taxpayers who are not required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., that paid less than \$30,000 in corporate income tax in the state fiscal year prior to application are encouraged to apply online via the Department's Internet site at www.myflorida.com/dor. However, such taxpayers a taxpayer that paid less than \$30,000 in corporate income tax in the state fiscal year prior to application may apply for an allocation of credit by filing mailing a paper version of Form F-1160 with the Department to: Florida Department of Revenue, Revenue Accounting - CIT SFO Credit, 5050 W. Tennessee Street, Building I, Tallahassee, FL 32399-0100.

(c) No change.

(2) through (3) No change.

(4) A taxpayer is required to make a separate application for each SFO scholarship funding organization it intends to support or any carry forward credit it would like to use. Any credit, including carry forward credits, allocated to a taxpayer cannot be rescinded by the taxpayer or returned to the Department for reallocation to another taxpayer.

(5) through (6) No change.

(7) Effective for tax years beginning on or after January 1, 2006, a taxpayer may apply to the Department for rescindment of all or part of a previously approved credit allocation for a contribution to an SFO, or a credit carryforward. The rescindment will be approved unless: (1) the taxpayer has had more than one approved rescindment of this credit within the last three (3) tax years; (2) the previously approved credit allocation amount to be rescinded has been claimed as a credit on a previously filed Florida corporate income tax return; or (3) the allocation year is closed for all taxpayers. The allocation for a particular year is closed for all taxpayers at the end of the subsequent calendar year. For example, the allocation year beginning January 1, 2006, closes for all taxpayers on December 31, 2007, regardless whether the

annual allotment has been reached, because there are no more tax years remaining open that began in calendar year 2006 as of December 31, 2007.

(a) An Application for Rescindment of Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (Form F-1161, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to rescind all or part of a previously approved credit allocation or credit carryforward allocation.

(b)1. Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must apply for rescindment of all or part of a previously approved credit allocation for a contribution to an SFO, or a credit carryforward, online via the Department's Internet site at www.myflorida.com/dor. When the application for rescindment has been completed and submitted electronically, a confirmation screen will provide a confirmation number and will confirm receipt of the electronic application for rescindment.

2. Taxpayers who are not required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., are encouraged to apply for the rescindment of a credit allocation for a contribution to an SFO by applying online via the Department's Internet site. However, such taxpayers may apply for a rescindment by filing a paper version of Form F-1161 with the Department.

(c) The Department will send written correspondence to each rescindment applicant within ten working days of receipt of the application for rescindment regarding the amount of the rescindment or the reason the rescindment could not be approved.

(d) If the approval of a rescindment reopens the credit allocation for a year in which the annual allotment had previously been reached, the Department will notify each SFO that additional credit is available for allocation for that year.

(8)(7) No change.

Specific Authority 213.06(1), 220.187, 220.51 FS. Law Implemented 213.05, 213.35, 213.755, 220.03(1), 220.131, 220.187, 220.44 FS. History—New 3-15-04, Amended _____.

12C-1.0191 Capital Investment Tax Credit Program.

(1) Qualifying projects defined in Section 220.191(1)(h)1. and 2., F.S.

(a)(4) Section 220.191, F.S., requires an application process for the capital investment tax credit, which includes review and recommendation by Enterprise Florida (EFI), and a certification from the Office of Tourism, Trade, and Economic Development (OTTED). Once the applicant has been recommended by EFI and certified by OTTED, the applicant is required to reach a written agreement with the Florida Department of Revenue (Department) on how the taxable income from the qualifying project is to be determined or

calculated. The Department adopts a Technical Assistance Advisement (TAA), which the applicant requests from the Department, as the method for entering into such written agreement. When requesting the TAA, the applicant is required to ~~should~~ follow the guidelines provided in Rule 12-11.003, F.A.C., and in addition, to include how the applicant proposes they propose to determine the taxable income generated by or arising out of the qualifying project.

1.~~(a)~~ In situations where the applicant is using a separate corporate entity to account for the activities of the qualifying project, the taxable income generated by that entity as reported on the return filed pursuant to Section 220.22(1), F.S., will be used to determine the amount of income tax due, and the subsequent amount of the credit that will be available for use. If the applicant has other activities not related to the project reported on this return, a pro forma attachment will be required to separately account for the taxable income generated by the project, the resulting amount of tax due, and the subsequent amount of the credit that will be available for use.

2.~~(b)~~ Where the activities of the qualifying project are included within preexisting multiple corporate structures, such as several affiliates or divisions, or the activities of the project are included within a corporation or corporations that are included in ~~filling~~ a consolidated income tax return filed pursuant to Section 220.131, F.S., the applicant will be required to separately account for, using a “pro forma” format, the qualifying project’s taxable income, the amount of income tax due, and subsequent credit. This pro-forma attachment will indicate separately all revenues, expenses, either direct or indirect, and any other adjustments made in the determination of the project’s annual taxable income, and the subsequent annual amount of the Capital Investment Tax Credit that may be claimed on ~~in~~ the Florida corporate income tax return. This computation requires the qualifying project’s annual taxable income to be determined by generally accepted accounting principles (GAAP) and; to conform to the provisions contained in Florida Corporate Income Tax Law under Chapter 220, F.S.

3.~~(c)~~ In situations where the activities of the project are included within other types of corporate structures, the applicant will be required to separately account for, using a “pro forma” format, the qualifying project’s taxable income, the amount of income tax due, and subsequent credit. This pro-forma attachment will indicate separately all revenues, expenses, either direct or indirect, and any other adjustments made in the determination of the project’s annual taxable income, and the subsequent annual amount of the Capital Investment Tax Credit that may be claimed on ~~in~~ the Florida corporate income tax return. This computation requires the qualifying project’s annual taxable income to be determined by generally accepted accounting principles (GAAP) and; to conform to the provisions contained in Florida Corporate Income Tax Law under Chapter 220, F.S.

~~(b)(2)~~ The maximum annual amount of Capital Investment Tax Credit is limited to 5 percent of the certified eligible capital costs of the qualifying project, for a period not to exceed 20 years, beginning with the commencement of the project’s operations. The tax credit may not be carried forward or backward. The sum of all capital investment tax credits cannot exceed 100 percent of the eligible capital costs of the project.

(2) Qualifying projects defined in Section 220.191(1)(h)3., F.S.

(a) Section 220.191, F.S., requires an application process for the capital investment tax credit, which includes review and recommendation by Enterprise Florida (EFI) and a certification from the Office of Tourism, Trade, and Economic Development (OTTED). The maximum annual amount of Capital Investment Tax Credit is limited to the lesser of \$15 million or 5 percent of the certified eligible capital costs of the qualifying project, for a period not to exceed 20 years, beginning with the commencement of the project’s operations. If the tax credit is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 20 years after the commencement of operations of the project. The tax credit may be used in whole or in part by the qualifying business or by any corporation that is a member of that qualifying business’ affiliated group of corporations, is a related entity taxable as a cooperative under subchapter T of the Internal Revenue Code, or, if the qualifying business is an entity taxable as a cooperative under subchapter T of the Internal Revenue Code, is related to the qualifying business. The sum of all capital investment tax credits cannot exceed 100 percent of the eligible capital costs of the project.

(b) When the capital investment tax credit is used in whole or in part by a member of the qualifying business’s affiliated group or by a related entity that is taxable as a cooperative under subchapter T of the Internal Revenue Code, the qualifying business and the entities claiming the qualifying business’s tax credit must attach a schedule reconciling the amount of capital investment tax credit claimed by each entity. The name, federal identification number, and amount of capital investment tax credit claimed by each entity must be included in the schedule.

(3) A copy of the OTTED certification, EFI documents, and, as appropriate, any “pro forma” attachment required by the written agreement to provide the calculations used in the determination of the annual taxable income generated by or arising out of the qualifying project, is required to ~~should~~ be included with the Florida Corporate Income Tax Return (Form ~~form~~ F-1120) when filing for, and claiming the Capital Investment Tax Credit.

(4) A taxpayer that claims the capital investment tax credit against the insurance premium tax may not claim credit for the same qualifying project against the corporate income

tax. For qualifying projects defined in Section 220.191(1)(h)3., F.S., the capital investment tax credit may only be applied against corporate income tax.

(5) No change.

Specific Authority 213.06(1), 220.191(7), 220.51 FS. Law Implemented 220.191 FS. History—New 8-4-05, Amended.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
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(2) No change.

(3) F-851	Corporate Income/ Franchise and Emergency Excise Tax Affiliation Schedule (R. <u>01/07 01/06</u>)	____ 04/06
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(4)(a) F-1065	Florida Partnership Information Return (R. <u>01/07 01/06</u>)	____ 04/06
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(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/07 01/05</u>)	____ 04/06
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(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/07 01/06</u>)	____ 04/06
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(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/07 01/05</u>)	____ 04/06
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(b) F-1120N	F-1120 Instructions – Corporate Income/ Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, <u>2006 2005</u> (R. <u>01/07 01/06</u>)	____ 04/06
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(7) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax for Taxable	
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(8)(a) F-1120X

Year Beginning on or
after January 1,
2007 2006
(R. 01/07 01/06) ____ 04/06

Amended Florida
Corporate Income/
Franchise and
Emergency Excise
Tax Return
(R. 01/07 01/06) ____ 04/06

(b) F-1120XN

Instructions for
Preparing Form
F-1120X Amended
Florida Corporate
Income/Franchise
and Emergency Excise
Tax Return
(R. 01/07 01/06) ____ 04/06

(9) No change.

(10)(a) F-1156Z	Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. <u>07/06 07/05</u>)	____ 04/06
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(b) F-1156ZN	Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. <u>07/06 07/05</u>)	____ 04/06
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(11)(a) F-1158	Enterprise Zone Property Tax Credit (R. 01/00)	08/02
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(b) F-1158N	Instructions for Form F-1158 Enterprise Zone Property Tax Credit (R. 01/00)	____ 08/02
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(11)(12)(a) F-1158Z	Enterprise Zone Property Tax Credit —Effective July 1, 1995 (R. <u>01/07 01/03</u>)	____ 06/03
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(b) F-1158ZN	Instructions for Form F-1158Z (Effective July 1, 1995) Enterprise Zone Property Tax Credit (R. <u>01/07 01/03</u>)	____ 06/03
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(12)(13) No change.

- (13)(a)(14) F-1160 Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. 10/06 07/04) _____ 09/04
- (b) F-1161 Application for Rescindment of Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. 07/06) _____
- (14)(15) No change.
- (15)(16) F-7004 Florida Tentative Income/Franchise and/or Emergency Excise Tax Return and Application for Extension of Time to File Return (R. 01/07 01/06) _____ 04/06

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006 (Vol. 32, No. 45, pp. 5279-5283)

DEPARTMENT OF REVENUE

Division of Child Support Enforcement

RULE NO.: 12E-1.032
 RULE TITLE: Electronic Remittance of Support Payments

PURPOSE AND EFFECT: The creation of proposed Rule 12E-1.032, F.A.C., provides instruction and guidance to employers regarding the electronic remittance of support payments and electronic submission of associated case data to the State Disbursement Unit. The effect of this proposed rule is to develop procedures to use in the administration of Section 61.1824(6), F.S. These procedures will reduce data entry errors and misapplied payments as well as reduce the amount of time to process the payments, resulting in families receiving their support quicker.

SUMMARY: This proposed new rule provides instruction and guidance to employers on how to electronically remit support payments deducted pursuant to an income deduction order or income deduction notice and how to electronically submit associated case data to the State Disbursement Unit. The proposed rule provides acceptable methods of transferring funds and associated case data by electronic means, explains the process to resolve electronic remittance or transmission problems, identifies associated case data fields that must be remitted with each support payment, and provides that waivers granted to employers under Section 213.755, or Section 443.163, F.S., constitutes a waiver from the electronic support filing requirements.

The proposed rule also incorporates the National Automated Clearing House Association (NACHA), User Guide For Electronic Child Support Payments, Using The Child Support Application Banking Convention, Version 5.0, revised August 21, 2006. NACHA is the national trade association for electronic payments associations, which establishes the rules, industry standards, and procedures governing the exchange of commercial automated clearing house payments by depository financial institutions.

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

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

SPECIFIC AUTHORITY: 61.1824(6), 409.2557(3)(o) FS.
 LAW IMPLEMENTED: 61.1824(6) FS.

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

DATE AND TIME: Monday, January 22, 2007, 9:30 a.m.
 PLACE: 4070 Esplanade Way, Room 301, Tallahassee, Florida
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Phil Scruggs, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850)922-9558, e-mail address scruggsp@dor.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

12E-1.032 Electronic Remittance of Support Payments.

(1) Scope. This rule chapter sets forth the rules to be used in the administration of Section 61.1824(6), F.S., which provides for the electronic remittance of support payments deducted pursuant to an income deduction order or income deduction notice and the electronic submission of associated case data by an employer to the State Disbursement Unit. An employer who needs general information concerning the electronic remittance of support payments and associated case data may contact the State Disbursement Unit, EFT Marketing, at (850)205-8227.

(2) Definitions. As used in this rule:

(a) "Addenda record" means information required by the Department in an Automated Clearing House Credit "ACH credit" transfer that is needed to completely identify an employer or provide information concerning a payment, in approved electronic format.

(b) "Associated case data" means support payment information required to be submitted to the State Disbursement Unit pursuant to Title IV-D of the Social Security Act. Paragraph (5)(h), subparagraph 1. through 10., of this rule lists the case data required to be submitted to the State Disbursement Unit.

(c) "Automated Clearing House" or "ACH" means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions rather than the physical movement of paper items.

(d) "Automated Clearing House Credit" or "ACH credit" means the electronic transfer of funds generated by the employer, cleared through the ACH for deposit to the State Disbursement Unit.

(e) "Department" means the Florida Department of Revenue.

(f) "Due date" means the date that an electronic payment and associated case data must be received by the State Disbursement Unit.

(g) "Electronic means" includes any one or more of the following methods of transmitting funds or data: electronic data interchange, electronic funds transfer, Internet, or any other technology designated by the Department.

(h) "Employer" means a person, business, or organization that pays one or more workers to perform a service or engage in an activity in exchange for financial compensation.

(i) "Employer's representative" means a financial institution or business utilized by the employer to provide ACH support payment services.

(j) "National Automated Clearing House Association" or "NACHA" means the national trade association for electronic payments associations, which establishes the rules, industry standards, and procedures governing the exchange of commercial ACH payments by depository financial institutions.

(k) "State Disbursement Unit" or "SDU" means the single unit in the state that receives all withheld support payments and processes all support payments pursuant to Section 61.1824, F.S.

(3) Methods of Transferring Funds and Associated Case Data by Electronic Means.

(a) Electronic remittance of support payments and associated case data by the employer or the employer's representative to the State Disbursement Unit shall be in a format used within the "Automated Clearing House" or "ACH" network to conduct the transfer of support funds between business or government entities. An acceptable format includes either "Cash Concentration and Disbursement Plus (CCD+)" or "Corporate Trade Exchange (CTX)."

(b) The ACH credit transfer is the method by which employers subject to electronic payment requirements under this rule shall remit payments and associated case data by electronic means.

(4) Remittance or Transmission Problems.

(a) If the employer or employer's representative incorrectly submits associated case data or incorrectly remits support payments, the employer or the employer's representative shall contact, not later than the next business day after the date on which the error is discovered, the State Disbursement Unit toll-free at (888)883-0743 or local number at (850)201-0183 for specific instructions.

(b) The State Disbursement Unit shall review payment error and associated case data problems, determine the course of action to correct the error(s), and take steps to process the information and payment. The Department shall assist the State Disbursement Unit in resolving payment errors, on a case-by-case basis.

(c) To assist the employer or employer's representative in complying with Section 61.1824(6), F.S., and this rule chapter, the State Disbursement Unit shall contact the employer or employer's representative when one or more of the following conditions exist.

1. The employer or employer's representative does not transmit error-free payments and associated case data.

2. The employer or employer's representative varies from the requirements and specifications of these rules.

3. The employer or employer's representative fails to make timely electronic payments or timely provide associated case data, or fails to provide the required addenda record with the electronic payment.

(d) The State Disbursement Unit shall help the employer or the employer's representative resolve the condition(s) in paragraph (c).

(5) Procedures for Payment.

(a) Automated Clearing House Credit Method (ACH Credit Method). An employer who uses the ACH credit method must contact the employer's financial institution or a business that provides prescribed ACH services and arrange to transfer the support payment to the State Disbursement Unit using an ACH credit transfer.

(b) The employer or employer's representative must contact the State Disbursement Unit, EFT Marketing, at (850) 205-8227, prior to remitting electronically, and provide the information listed in paragraph (c). The State Disbursement Unit will compare the information provided by the employer or employer's representative with identifying information in the State Disbursement Unit's child support computer system. Identifying information submitted by the employer or the employer's representative must match the identifying information in the State Disbursement Unit computer system. If the information does not match, the payment may be misapplied to another case. The State Disbursement Unit will work with the employer or the employer's representative to resolve discrepancies.

(c) The employer or the employer's representative must provide the State Disbursement Unit with the following information for each obligor for whom payments will be remitted:

1. Obligor first and last name;
2. Obligor Social Security Number;
3. Obligee first and last name; and
4. Case identifier.

(d) The State Disbursement Unit will inform the employer or employer's representative of the following when there is a match of the information listed in paragraph (c).

1. State Disbursement Unit's banking information to send payments electronically; and
2. That electronic remittance of support payments may commence.

(e) Neither the State Disbursement Unit nor the Department will pay for expenses incurred by the employer or employer's representative to use the ACH credit method. Pursuant to Section 61.1301(2)(e)6., F.S., the employer may collect a fee from the employee's income for each withheld payment.

(f) To assure the receipt of support payments by the due date, an employer or the employer's representative must initiate the payment transaction in accordance with subsection (6).

(g) All ACH credit transfers must be in the NACHA Cash Concentration and Disbursement Plus "CCD+" or NACHA Corporate Trade Exchange "CTX" format containing an Accredited Standards Committee (ASC) X12 820 Payment Order/Remittance Advice Transaction Set with associated addenda record(s) for child support, in the format specified by the Department. The Department uses NACHA guidelines to govern the formats and specifications for the electronic remittance of support payments and the electronic submission of associated case data, which are contained in the User Guide For Electronic Child Support Payments, Using The Child Support Application Banking Convention, Version 5.0, revised August 21, 2006, incorporated herein by reference. Members of the public may obtain a copy of the NACHA guidelines by writing to the Florida Department of Revenue, Child Support Enforcement Program, Attn: Forms Coordinator, P. O. Box 8030, Tallahassee, Florida 32314-8030, or by accessing <http://www.nacha.org/>. The employer, employer's financial institution, or the employer's representative providing ACH services may contact the State Disbursement Unit, EFT Marketing, at (850)205-8227 to determine the formats, standards, and technical requirements to implement this provision.

(h) The electronic record shall include the following associated case data fields.

1. Segment identifier – A unique identifier for a segment composed of a combination of two or three uppercase letters and digits. "DED" is the segment identifier.

2. Application identifier – The type of deduction withheld from an employee's pay. "CS" is the application identifier.

3. Case identifier – The unique identifier composed of alpha and numeric characters based on the court order number.

4. Pay date – The date the income was withheld from the employee's paycheck.

5. Payment amount – The amount of support withheld from the employee's income for a specific pay period, which is paid to the State Disbursement Unit.

6. Noncustodial parent Social Security Number

7. Medical support indicator – The indicator designates whether the employer offers family medical insurance coverage. If medical insurance coverage is available, place a 'Y' in the field; if there is no coverage available, place an 'N' in the field. The National Automated Clearing House Association standard requires this data element.

8. Noncustodial parent name

9. Federal Information Processing Standard Code (FIPS code) – The unique code that identifies each child support jurisdiction (i.e., states, counties and central registries). As used in this rule, the FIPS code refers to the code of the State Disbursement Unit receiving the transaction.

10. Employment termination indicator – The employment termination indicator notifies the Department that an individual's employment has terminated. The employer is

required to report this information pursuant to Section 61.1301(2)(k), F.S. If the employee has terminated, place a 'Y' in this field; otherwise, the field is not used.

(i) The employer or employer's representative may combine payment amounts from more than one employee in a single payment as long as the required information in paragraph (5)(h), subparagraph 1. through 10., is submitted for each employee. In addition, the employer or employer's representative must separately identify the portion of the single payment that is attributable to each employee.

(6) Due Date.

(a) Pursuant to Section 61.1301(1)(a)3., F.S., the employer is required to remit support payments based upon the employee's pay cycle.

(b) The employer or employer's representative who is required to pay support and provide associated case data through electronic means must initiate the transfer so that the amount due is deposited as collected funds to the State Disbursement Unit's account on or before the due date. If the date on which the employer or employer's representative is required to initiate an ACH credit transfer falls on a Saturday, Sunday, or a business or banking holiday, the employer or the employer's representative must initiate the transaction on the preceding business day. For the purpose of this rule, "banking day" has the meaning prescribed in Section 674.104(1), F.S.

(7) Waiver From Electronic Filing Requirements. A waiver granted by the Department from the requirement to electronically file tax returns under Section 213.755, F.S., or Section 443.163, F.S., constitutes a waiver from the requirement to remit support payments and associated case data by electronic means.

Specific Authority 61.1824(6), 409.2557(3)(o) FS. Law Implemented 61.1824(6) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Phil Scruggs, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850) 22-9558, e-mail address scruggsp@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sharyn Thomas, Revenue Program Administrator II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 29, 2006, Vol. 32, No. 39, pp. 4532-4534. A workshop was held on October 16, 2006. No one other than Department staff presented written or verbal comments at the workshop. No comments have been submitted on these proposed rules

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-73
 RULE CHAPTER TITLE: Public Transit

RULE NO.: 14-73.001
 RULE TITLE: Public Transit

PURPOSE AND EFFECT: Rule 14-73.001, F.A.C., is substantially rewritten. The rule title and the chapter title are changed from "Public Transportation" to "Public Transit." The purpose of these changes is to improve the quality of Transit Development Plans (TDPs) by extending the plans from five years to ten years, requiring updates every five years instead of every three years, making the annual report, public involvement, demand estimation requirements more explicit, requiring plan approval, and establishing a deadline for said approval in order to qualify for grant funding. The effect will be to provide better planned and, thus, improved public transit services, and to provide the State with improved estimates of transit needs over a longer period of time.

SUMMARY: Rule 14-73.001, F.A.C., is amended.

SPECIFIC AUTHORITY: 334.044(2), 341.041(12)(b) FS.

LAW IMPLEMENTED: 341.041, 341.051, 341.052, 341.071 FS.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 14-73.001. See Florida Administrative Code for present text.)

14-73.001 Public Transit ~~Transportation~~.

(1) Purpose. This rule sets forth requirements for the recipients of the Department's public transit grant funds.

(2) Definitions.

(a) "Department" means the Florida Department of Transportation.

(b) "District Office" means any of the seven geographically defined districts as set forth in Section 20.23(4)(a), F.S.

(c) "Provider" means a transit agency or a community transportation coordinator as set forth in Section 341.052, F.S.

(3) Transit Development Plans (TDPs). TDPs are required for grant program recipients in Section 341.052, F.S. A TDP shall be the provider's planning, development, and operational guidance document, based on a ten-year planning horizon and covers the year for which funding is sought and the nine subsequent years. A TDP or an annual update shall be used in developing the Department's five-year Work Program, the Transportation Improvement Program, and the Department's Program and Resource Plan. A TDP shall be adopted by a provider's governing body. Technical assistance in preparing TDPs is available from the Department. TDPs shall be updated every five years and include all elements described below.

(a) Public Involvement Process. The TDP preparation process shall include opportunities for public involvement as outlined in a TDP public involvement plan, approved by the Department, or the local Metropolitan Planning Organization's (MPO) Public Involvement Plan, approved by both the Federal Transit Administration and the Federal Highway Administration. The provider is authorized to establish time limits for receipt of comments. The TDP shall include a description of the process used and the public involvement activities undertaken. As required by Section 341.052, F.S., comments must be solicited from regional workforce boards established under Chapter 445, F.S. The Department, the regional workforce board, and the MPO shall be advised of all public meetings where the TDP is to be presented or discussed, and shall be given an opportunity to review and comment on the TDP during the development of the mission, goals, objectives, alternatives, and ten-year implementation program.

(b) Situation Appraisal. The TDP is a strategic planning document and will include an appraisal of factors within and outside the provider that affect the provision of transit service. At a minimum the situation appraisal shall include:

1. The effects of land use, state and local transportation plans, other governmental actions and policies, socioeconomic trends, organizational issues, and technology on the transit system.

2. An estimation of the community's demand for transit service using the planning tools provided by the Department, or a Department approved transit demand estimation technique with supporting demographic, land use, transportation, and transit data. The result of the transit demand estimation process shall be a ten-year annual projection of transit ridership.

3. An assessment of the extent to which the land use and urban design patterns in the provider's service area support or hinder the efficient provision of transit service, including any efforts being undertaken by the provider or local land use authorities to foster a more transit-friendly operating environment.

(c) Provider's Mission and Goals. The TDP shall contain the provider's vision, mission, goals, and objectives, taking into consideration the findings of the situation appraisal.

(d) Alternative Courses of Action. The TDP shall develop and evaluate alternative strategies and actions for achieving the provider's goals and objectives, including the benefits and costs of each alternative. Financial alternatives, including options for new or dedicated revenue sources, shall be examined.

(e) Ten-Year Implementation Program. The TDP shall identify policies and strategies for achieving the provider's goals and objectives and present a ten-year program for their implementation. The ten-year program shall include: maps indicating areas to be served and the type and level of service to be provided, a monitoring program to track performance measures, a ten-year financial plan listing operating and capital expenses, a capital acquisition or construction schedule, and anticipated revenues by source. The implementation program shall include a detailed list of projects or services needed to meet the goals and objectives in the TDP, including projects for which funding may not have been identified.

(f) Relationship to Other Plans. The TDP shall be consistent with the Florida Transportation Plan, the local government comprehensive plans, the MPO long-range transportation plan, and regional transportation goals and objectives. The TDP shall discuss the relationship between the ten-year implementation program and other local plans.

(4) Annual Update. Annual updates shall be in the form of a progress report on the ten-year implementation program, and shall include:

(a) Past year's accomplishments compared to the original implementation program;

(b) Analysis of any discrepancies between the plan and its implementation for the past year and steps that will be taken to attain original goals and objectives;

(c) Any revisions to the implementation program for the coming year;

(d) Revised implementation program for the tenth year;

(e) Added recommendations for the new tenth year of the updated plan;

(f) A revised financial plan; and

(g) A revised list of projects or services needed to meet the goals and objectives, including projects for which funding may not have been identified.

(5) Plan Submission and Approval.

(a) To be approved by the Department, a TDP must meet all applicable deadlines and address all requirements of this rule, including a public involvement plan that included opportunities for review and comment by interested agencies, and citizens or passengers during the development of the provider's mission, goals, and objectives during the development of alternatives and during the development of the ten-year implementation program.

(b) The Department will accept TDPs for review at any time. Provider adopted TDPs must be submitted to the Department by September 1. Late filed TDPs will be accepted

if extenuating circumstances beyond the provider's control exist and the District Office is able to complete its review and approval process by the last business day of December. Within 60 days of receiving an adopted TDP or annual update the Department will notify the provider as to whether or not the TDP or annual update is in compliance with the requirements of this rule, and, if not in compliance, a list of deficiencies. Within 30 days of any resubmitted TDP or annual update the Department will notify the provider as to whether or not the resubmission is in compliance with the requirements of this rule.

(6) Grant Administration. Public transit funds will be considered on the basis of public transit needs as identified in TDPs. The Department is authorized to fund up to such percentages as are designated for each type of public transportation project by Chapter 341, F.S., for the respective state and federal projects described therein. The Department shall, within statutory parameters, determine the level of funding participation for each project.

(a) State funding participation in public transit projects and services shall require a duly executed agreement, unless otherwise required by law.

(b) Eligibility to receive state public transit grants from the Department is limited to those providers specifically designated by law to receive such grants, and determined by statutory budgeting and programming requirements.

(c) Written requests for appropriated public transit grant funds by a provider are to be addressed to the District Office in which district the provider operates public transit service. The request shall include at a minimum the name and address of the provider, level of funding being requested, type of funding or program participation requested, and use to be made of the requested funds. Where a deadline for applications has been established, applications received after the deadline shall be returned. Deadlines for each program application may be obtained from the District Office.

(d) Federal funds for which the Department is the primary recipient may involve special application procedures or submittal format, imposed by the federal grantor agency as a condition of receiving federal funds. The provider will be notified by the District Office of special application requirements at the time of submission of a written request for funding if the District Office has not previously distributed such information to the provider.

(e) The Department will award public transit grant funds after July 1 of each state fiscal year, but will not award funds until a provider's TDP has been found to be in compliance with this rule.

(f) Annual updates and approved TDPs shall be on file at the appropriate District Office by the last business day of December of the state fiscal year for which funding is sought. If a provider's annual report has not been submitted by the last day of December in the fiscal year for which funding is sought,

the provider will not receive any state public transit grant funds in that state fiscal year, and funds previously allocated for the provider will be allocated among the remaining providers. If a provider's TDP has not been submitted and found in compliance by the last business day of December of the state fiscal year the annual or five year update was due, the provider will not receive any public transit grant funds in that state fiscal year, and funds previously allocated for the provider will be allocated among the remaining providers.

Specific Authority ~~334.044(2), 341.041(12)(b)~~ FS. Law Implemented ~~341.07, 341.09, 332.003-007, 339.135, 339.155, 341.041, 341.051, 341.052, 341.071, 341.053, 341.302, 341.303~~ FS. History--New 9-24-75, Formerly 14-73.01, Amended 12-8-92,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ed Coven, State Transit Manager

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Denver J. Stutler, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 30, 2005

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

PUBLIC SERVICE COMMISSION

DOCKET NO.: 060554-TL

RULE NO.: 25-4.084
RULE TITLE: Carrier-of-Last-Resort; Multitenant Business and Residential Property

PURPOSE AND EFFECT: To specify the requirements for a local exchange company to petition the Commission for relief if it is not automatically relieved of its Carrier-of-Last-Resort (COLR) obligations as defined in Section 364.025(6)(b)1. through 4., F.S., for a multitenant business or residential property.

SUMMARY: The rule implements Section 364.025(6)(d), F.S., providing notice and filing requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There should be little or no impact on individuals or companies subject to this rule.

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

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 364.025 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christiana T. Moore, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6098

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.084 Carrier-of-Last-Resort; Multitenant Business and Residential Property.

(1) A petition for waiver of the carrier-of-last-resort obligation to a multitenant business or residential property pursuant to Section 364.025(6)(d), F.S., shall be filed with the Division of the Commission Clerk and Administrative Services and shall be delivered by hand delivery on the same day, or by overnight mail on the day following filing, upon the relevant owners or developers together with a copy of Section 364.025(6), F.S., and this rule.

(2) A petition for waiver of the carrier-of-last-resort obligation shall be limited to a single development.

(3) The petition must include the following:

(a) The name, address, telephone number, electronic mail address, and any facsimile number of the petitioner;

(b) The name, address, telephone number, electronic mail address, and any facsimile number of the attorney or qualified representative of the petitioner if any;

(c) The address or other specific description of the property for which the waiver is requested;

(d) The specific facts and circumstances that demonstrate good cause for the waiver as required by Section 364.025(6)(d), F.S.;

(e) A statement that interested persons have 14 calendar days from the date the petition is received to file a response to the petition with the Commission, unless the fourteenth day falls on a Saturday, Sunday, or holiday, in which case the response must be filed no later than the next working day; and

(f) A statement certifying that delivery of the petition has been made on the relevant owners or developers and the method of delivery.

(4) A response to a petition must include the following:

(a) The name, address, telephone number, electronic mail address, and any facsimile number of the respondent;

(b) The name, address, telephone number, electronic mail address, and any facsimile number of the attorney or qualified representative of the respondent if any upon whom service of pleadings and other papers shall be made; and

(c) Whether the respondent disputes the facts and circumstances alleged in the petition.

Specific Authority 350.127(2) FS. Law Implemented 364.025 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ray Kennedy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 32, No. 34, August 25, 2006

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

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

PUBLIC SERVICE COMMISSION

DOCKET NO. 060508-EI

RULE NO.: RULE TITLE:

25-6.0423 Nuclear Power Plant Cost Recovery
PURPOSE AND EFFECT: The purpose of the rule is to implement Section 366.93, F.S., to promote electric utility investment in nuclear power plants by establishing cost recovery mechanisms that allow for the recovery in rates of all costs prudently incurred in the siting, design, licensing, and construction of a nuclear power plant.

SUMMARY: The rule will establish cost recovery mechanisms that promote electric utility investment in nuclear power plants and allow for the recovery in rates of all costs prudently incurred in the siting, design, licensing, and construction of a nuclear power plant. The rule addresses the treatment of site selection costs, preconstruction costs, and carrying costs on construction cost balances. The rule provides for separate hearings to determine the amount of pre-construction costs and company costs on construction cost balances to be recovered through the annual Capacity Cost Recovery Clause. The rule also provides for annual prudence reviews of construction

costs. When the plant goes into commercial service, the rule establishes that base rates will be increased to cover the projected revenue requirement for the first 12 months the plant is in service, as well as the undepreciated cost of any plant retired as a result of bringing the nuclear unit on line. Since the time frame over which the undepreciated plant removed may be recovered is limited to a maximum of five years, the rule also requires that base rates be reduced by the amount included to recover any such undepreciated plant at the expiration of that recovery period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The SERC states there will be increased costs to utilities from preparing and presenting nuclear power plant costs for annual Commission review. There will be significant benefits to utilities from the certainty associated with the recovery of these costs, both before the plant goes into commercial service and after the plant is completed. While consumers of electricity will benefit from fuel diversity and price stability once the nuclear plant goes into commercial service, consumers will begin paying these costs through rates prior to the receipt of the benefits.

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

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

LAW IMPLEMENTED: 366.93 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Harris, Office of General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6076

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.0423 Nuclear Power Plant Cost Recovery.

(1) Purpose. The purpose of this rule is to establish alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear power plants in order to promote electric utility investment in nuclear power plants and allow for the recovery in rates of all such prudently incurred costs.

(2) Definitions. As used in this rule, the following definitions shall apply:

(a) "Nuclear power plant" or "plant" is an electrical power plant that utilizes nuclear materials as fuel, as defined in Section 403.503(13), Florida Statutes and Section 366.93(1)(c) Florida Statutes.

(b) "Cost" includes, but is not limited to, all capital investments including rate of return, any applicable taxes and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant as defined in Section 366.93(1)(a), Florida Statutes.

(c) "Site selection." A site will be deemed to be selected upon issuance of a final order granting a petition for a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes.

(d) "Site selection costs" are costs that are expended prior to the selection of a site.

(e) "Pre-construction costs" are costs that are expended after a site has been selected in preparation for the construction of a nuclear power plant, incurred up to and including the date the utility completes site clearing work.

(f) Site Selection costs and pre-construction costs include, but are not limited to: any and all costs associated with preparing, reviewing and defending a Combined Operating License (COL) application for a nuclear power plant; costs associated with site and technology selection; costs of engineering, designing, and permitting the nuclear power plant; costs of clearing, grading, and excavation; and costs of on-site construction facilities (i.e., construction offices, warehouses, etc.).

(g) "Construction costs" are costs that are expended to construct the nuclear power plant including, but not limited to, the costs of constructing nuclear power plant buildings and all associated permanent structures, equipment and systems.

(3) Deferred Accounting Treatment. Site selection and pre-construction costs shall be afforded deferred accounting treatment and shall, except for projected costs recovered on a projected basis in one annual cycle, accrue a carrying charge equal to the utility's allowance for funds used during construction (AFUDC) rate until recovered in rates.

(4) Site Selection Costs. After the Commission has issued a final order granting a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes, a utility may file a petition for a separate proceeding, to recover prudently incurred site selection costs. This separate proceeding will be limited to only those issues necessary for the determination of prudence and method for recovery of site selection costs of a nuclear power plant.

(5) Pre-Construction Costs and Carrying Costs on Construction Cost Balance. After the Commission has issued a final order granting a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes, a

utility may petition the Commission for recovery of pre-construction costs and carrying costs of construction cost balance as follows:

(a) Pre-Construction Costs. A utility is entitled to recover, through the Capacity Cost Recovery Clause, its actual and projected pre-construction costs. The utility may also recover the related carrying charge for those costs not recovered on a projected basis. Such costs will be recovered on an annual basis, or may, as proposed by the utility in its petition or any other party and approved by the Commission, be recovered over a greater period of years.

1. Actual pre-construction costs incurred by a utility prior to the issuance of a final order granting a determination of need pursuant to Section 403.519, Florida Statutes, shall be included in the initial filing made by a utility under this subsection for review, approval, and a finding with respect to prudence.

2. The Commission shall include pre-construction costs determined to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in Paragraph 5(c)2. of this rule. Such costs shall not be subject to disallowance or further prudence review in that proceeding.

(b) Carrying Costs on Construction Cost Balance. A utility is entitled to recover, through the utility's Capacity Cost Recovery Clause, the carrying costs on the utility's annual projected construction cost balance associated with the nuclear power plant. The actual carrying costs recovered through the Capacity Cost Recovery Clause shall reduce the allowance for funds used during construction (AFUDC) that would otherwise have been recorded as a cost of construction eligible for future recovery as plant in service:

1. For nuclear power plant need petitions submitted on or before December 31, 2010, the associated carrying costs shall be computed based on the pretax AFUDC rate in effect on June 19, 2006;

2. For nuclear power plant need petitions submitted after December 31, 2010, the utility's pretax AFUDC rate in effect at the time the petition for determination of need is filed is presumed to be appropriate unless the Commission determines otherwise in its need determination order;

3. The Commission shall include carrying costs on the balance of construction costs determined to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in paragraph (5)(c) of this rule. Such factor shall not be subject to disallowance or further prudence review in that proceeding.

(c) Capacity Cost Recovery Clause for Nuclear Costs.

1. Each year, a utility shall submit, for Commission review and approval, as part of its Capacity Cost Recovery Clause filings:

a. True-Up for Previous Years. By April 1, a utility shall submit its final true-up of pre-construction expenditures, based on actual preconstruction expenditures for the prior year and

previously filed expenditures for such prior year and a description of the pre-construction work actually performed during such year; or, once construction begins, its final true-up of carrying costs on its construction expenditures, based on actual carrying costs on construction expenditures for the prior year and previously filed carrying costs on construction expenditures for such prior year and a description of the construction work actually performed during such year.

b. True-Up and Projections for Current Year. By May 1, a utility shall submit for Commission review and approval its actual/estimated true-up of projected pre-construction expenditures based on a comparison of current year actual/estimated expenditures and the previously-filed estimated expenditures for such current year and a description of the pre-construction work projected to be performed during such year; or, once construction begins, its actual/estimated true-up of projected carrying costs on construction expenditures based on a comparison of current year actual/estimated carrying costs on construction expenditures and the previously filed estimated carrying costs on construction expenditures for such current year and a description of the construction work projected to be performed during such year.

c. Projected Costs for Subsequent Years. By May 1, a utility shall submit, for Commission review and approval, its projected pre-construction expenditures for the subsequent year and a description of the pre-construction work projected to be performed during such year; or, once construction begins, its projected construction expenditures for the subsequent year and a description of the construction work projected to be performed during such year.

2. The Commission shall, prior to August 15 of each year, conduct a hearing to determine the reasonableness of projected pre-construction expenditures and the prudence of actual pre-construction expenditures expended by the utility; or, once construction begins, to determine the reasonableness of carrying costs on projected construction expenditures and the prudence of actual carrying costs on construction expenditures expended by the utility. Within 30 days of the Commission's vote, the Commission shall enter its order. One year after the true-up of actual carrying charges, the Commission shall make an annual prudence determination of the annual actual construction costs. To facilitate this determination, the Commission shall conduct an on-going auditing and monitoring program of construction costs and related contracts pursuant to Section 366.08, Florida Statutes. In making its determination of reasonableness and prudence the Commission shall apply the standard provided pursuant to Section 403.519(4)(e), Florida Statutes.

3. The Commission shall include those costs it determines, pursuant to this subsection, to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings. Such costs shall not be subject to disallowance or further prudence review in that proceeding.

4. The final true-up for the previous year, actual/estimated true-up for the current year, and subsequent year's projected nuclear power plant costs as approved by the Commission pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component of the over/under recovered balance to be included in the following year's nuclear power plant cost recovery proceeding for the Capacity Cost Recovery Clause.

5. By May 1 of each year, along with the filings required by this paragraph, a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the nuclear plant.

(6) Failure to Enter Commercial Service. Following the Commission's issuance of a final order granting a determination of need for the nuclear power plant, in the event the utility elects not to complete or is precluded from completing construction of the nuclear power plant, the utility shall be allowed to recover all prudent site selection costs, pre-construction costs, and construction costs.

(a) The utility shall recover such costs through the Capacity Cost Recovery Clause over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.

(b) The amount recovered under this section will be the remaining unrecovered Construction Work in Progress (CWIP) balance at the time of abandonment and future payment of all outstanding costs and any other prudent and reasonable exit costs. The unrecovered balance during the recovery period will accrue interest at the utility's overall pretax weighted average midpoint cost of capital on a Commission adjusted basis as reported by the utility in its Earnings Surveillance Report filed in December of the prior year, utilizing the midpoint of return on equity (ROE) range or ROE approved for other regulatory purposes, as applicable.

(7) Commercial Service. As operating units or systems associated with the nuclear power plant and the nuclear power plant itself are placed in commercial service:

(a) The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), Florida Statutes, separate from any cost recovery clause petitions, that includes any and all costs reflected in such increase, whether or not those costs have been previously reviewed by the Commission; provided, however, that any actual costs previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause, to which administrative finality has attached, shall not be subject to disallowance or further prudence review.

(b) The utility shall calculate the increase in base rates resulting from the jurisdictional annual base revenue requirements for the nuclear power plant in conjunction with the Capacity Cost Recovery Clause projection filing for the year the nuclear power plant is projected to achieve commercial operation. The increase in base rates will be based on the annualized base revenue requirements for the nuclear power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the Capacity Cost Recovery Clause projection filing.

(c) At such time as the nuclear power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided in subparagraph (5)(c)4. above.

(d) The rate of return on capital investments shall be calculated using the utility's most recent actual Commission adjusted basis overall weighted average rate of return as reported by the utility in its most recent Earnings Surveillance Report prior to the filing of a petition as provided in paragraph (7)(a). The return on equity cost rate used shall be the midpoint of the last Commission approved range for return on equity or the last Commission approved return on equity cost rate established for use for all other regulatory purposes, as appropriate.

(e) The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the nuclear power plant shall be recovered through an increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

(8) Annual Reports Required by Rule 25-6.135, F.A.C. On an annual basis following issuance of the final order granting a determination of need and until commercial operation of the nuclear power plant, a utility shall include the budgeted and actual costs as compared to the estimated in-service costs of the nuclear power plant as provided in the petition for need determination in its annual report filed pursuant to Rule 25-6.135, F.A.C. The estimates provided in the petition for need determination are non-binding estimates. Some costs may be higher than estimated and other costs may be lower. A utility shall provide such revised estimated in-service costs as may be necessary in its annual report.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.93 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kathy Lewis
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 19, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: Vol. 32, No. 31, August 4, 2006

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

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

PUBLIC SERVICE COMMISSION

DOCKET NO.: 060755-EU

RULE NO.: RULE TITLE:
25-22.081 Contents of Petition

PURPOSE AND EFFECT: The main purpose and effect of this proposed rule change is to make it consistent with Section 403.519(4), F.S., effective June 19, 2006.

SUMMARY: This rule governs the procedures for filing a petition with the Commission to determine the need for a proposed nuclear fuel electrical power plant.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The additional costs to utilities should be minimal.

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

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

LAW IMPLEMENTED: 403.519 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christiana T. Moore, Office of General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6098

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.081 Contents of Petition.

(1) Petition for Fossil or Nuclear Fuel Electric Plants.

Petitions submitted to commence a proceeding to determine the need for a proposed fossil or nuclear fuel electrical power plant or responses to the Commission's order commencing such a proceeding shall comply with the other requirements of Chapter 25-22, F.A.C., as to form and style except that a utility may, at its option, submit its petition in the same format and style as its application for site certification pursuant to Sections 403.501 through 403.517, Florida Statutes, so long as the informational requirements of this rule and Chapter 25-22, F.A.C., are satisfied. The petition, to allow the Commission to take into account the need for electric system reliability and integrity, the need for adequate reasonable cost electricity, the need for fuel diversity and supply reliability, and the need to determine whether the proposed plant is the most cost effective alternative available, shall contain the following information:

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

~~(c)(3)~~ A statement of the specific conditions, contingencies or other factors which indicate a need for the proposed electrical power plant including the general time within which the generating units will be needed. Documentation shall include historical and forecasted summer and winter peaks, number of customers, net energy for load, and load factors with a discussion of the more critical operating conditions. Load forecasts shall identify the model or models on which they were based and shall include sufficient detail to permit analysis of the model or models. If a determination is sought on some basis in addition to or in lieu of capacity needs, such as fuel diversity ~~oil blackout~~, then detailed analysis and supporting documentation of the projected costs and benefits is required. Where a determination is sought for a nuclear power plant, the nonbinding estimate provided for in paragraph (2)(b) below shall be considered to be sufficient for purposes of this paragraph.

~~(d)(4)~~ A summary discussion of the major available generating alternatives which were examined and evaluated in arriving at the decision to pursue the proposed generating unit. The discussion shall include a general description of the generating unit alternatives, including purchases where appropriate; and an evaluation of each alternative in terms of economics, reliability, long-term flexibility and usefulness and any other relevant factors such as fuel diversity and fuel supply reliability. These major generating technologies generally available and potentially appropriate for the timing of the proposed plant and other conditions specific to it shall be discussed. In addition, each investor-owned utility shall include a detailed description of the selection process used and a detailed description of the generating unit alternatives proposed by each finalist, if any, selected to participate in subsequent contract negotiations pursuant to Rule 25-22.082, F.A.C. No provision of Rule 25-22.082, F.A.C., shall be applicable to a nuclear power plant sited after June 19, 2006.

(5) through (7) renumbered (e) through (g) No change.

(2) In addition to complying with paragraphs (1)(a) through (g) above, a nuclear power plant petition shall contain the following information:

(a) The description required by Section 403.519(4)(a)2., F.S., including a discussion about how the proposed nuclear power plant will enhance the electric supply reliability by reducing the exposure to fossil fuel supply disruptions:

(b) A description of and a nonbinding estimate of the cost of the proposed nuclear power plant, including associated transmission facilities:

(c) The annualized base revenue requirement for the first 12 months of operation of the proposed nuclear power plant, based on the nonbinding estimate of the cost provided pursuant to paragraph (2)(b) above; and

(d) A summary of any discussions with other electric utilities regarding ownership of a portion of the plant by such electric utilities.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 403.519 FS. History—New 12-22-81, Formerly 25-2.133, 25-22.81, Amended 1-10-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
James McRoy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 32, No. 39, September 29, 2006

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40D-3	Regulation of Wells
RULE NOS.:	RULE TITLES:
40D-3.101	Content of Application
40D-3.411	Well Completion Report
40D-3.531	Abandoned Well Plugging

PURPOSE AND EFFECT: Rules 40D-3.101, 40D-3.411, and 40D-3.531, F.A.C., address requirements for permitting and constructing water wells. The rules reference forms used to permit wells and document well construction and abandonment. Several of the referenced forms have been updated and the District proposes to amend the rules to reference the current forms. The proposed amendment of Rule 40D-3.531, F.A.C., also reorganizes the rule to clarify the permitting requirements for well abandonment and to clarify how a referenced form should be used. The reorganization does not substantively change the rule.

SUMMARY: The proposed rule amendments update references to forms used in the permitting and construction of water wells. Rule 40D-3.531, F.A.C., will also be reorganized to clarify permitting requirements and form usage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the proposed revisions to Rule 40D-1.607, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

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

LAW IMPLEMENTED: 373.109, 373.206, 373.207, 373.209, 373.306, 373.308, 373.309, 373.313, 373.316 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-3.101 Content of Application.

(1) Applications for permits required by this Chapter shall be submitted to the District. All permit applicants shall submit the forms entitled; “State of Florida Permit Application to Construct, Repair, Modify or Abandon Well”, adopted by reference in subsection 40D-1.659(4), F.A.C. form number 41-10-410(1)REV.4/95. Except for replacement and domestic wells, all applications to construct a well within the Most Impacted Area of the Eastern Tampa Bay Water Use Caution Area, as set forth in Section 7.2.8.A and Figure 7.2-2, of the Basis of Review for Water Use Permit Applications, adopted by reference described in Rule 40D-2.091, F.A.C., shall include the form entitled “Well Verification For All Non-Domestic Wells Located in the Most Impacted Area of the

Eastern Tampa Bay Water Use Caution Area”, adopted by reference in subsection 40D-1.659(7), F.A.C. ~~form number 42.10-005 (2/94).~~

(2) through (3) No change.

Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.109, 373.308, 373.309, 373.313, 373.316 FS. History—Readopted 10-5-74, Formerly 16J-3.07, Amended 7-1-90, 9-30-91, 12-31-92, 4-11-94, 10-19-95,_____.

40D-3.411 Well Completion Report.

(1) Well completion reports are required for the construction, repair, modification or abandonment of all wells. The District’s receipt of a well completion report raises the rebuttable presumption that all work under the permit has been completed or has ceased.

(a) The water well contractor shall submit to the District the form entitled; “Well Completion Report;”, adopted by reference in subsection 40D-1.659(5), F.A.C., form number 41.10-410(2) REV. 8/96; within 30 days of the expiration of the permit.

(b) through (d) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.308, 373.309, 373.313 FS. History—Readopted 10-5-74, Amended 10-24-76, Formerly 16J-3.09, 16J-3.14, Amended 7-1-90, 9-30-91, 12-31-92, 10-19-95, 1-1-01,_____.

40D-3.531 Abandoned Well Plugging.

(1) The form entitled “State of Florida Permit Application to Construct, Repair, Modify or Abandon Well”, adopted by reference in subsection 40D-1.659(4), F.A.C., shall be submitted to the District prior to the abandonment of any well, including an incomplete well.

~~(2)(1)~~ All abandoned wells as defined by subsection Section 373.303(1), F.S., and subsection 40D-3.021(1), F.A.C., abandoned artesian wells as defined by subsection Section 373.203(1), F.S., and incomplete wells as defined by subsection 40D-3.021(17), F.A.C., shall be plugged in accordance with subsection ~~(3)(2)~~ of this rule and Rule 40D-3.517, F.A.C., unless they can be repaired in accordance with this Chapter.

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

~~(5)(4)~~ The A “Well Grouting/Abandonment Form”, adopted by reference in subsection 40D-1.659(6), F.A.C., will be used to document the well abandonment District form number 04.10R-026 (9/02) is incorporated herein by reference.

~~(5) An abandonment permit is required for the abandonment of any well including an incomplete well.~~

Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.206, 373.207, 373.209, 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-30-91, 12-31-92, 7-2-98, 9-26-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352) 796-7211, extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 30, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2006

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER NO.: 40D-40
 RULE CHAPTER TITLE: General Environmental Resource Permits

RULE NO.: 40D-40.301
 RULE TITLE: Conditions for Issuance of General Permits for Minor Surface Water Management Systems

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to clarify what impacts the District will consider in determining whether certain activities regulated under Part IV, Chapter 373, Florida Statutes (F.S.), qualify for a General Environmental Resource Permit for Minor Surface Water Management Systems under the District’s rules. The effect will be to make clear in District rule that activities in, on or over less than 100 square feet of wetlands or other surface waters meet the threshold for this type of general permit.

SUMMARY: The proposed revisions delete existing rule language that restricts the activities considered for permitting threshold purposes to dredging and filling. The amendment also adds language to clarify that activities evaluated pursuant to this rule include not only those activities occurring in, but in, on or over wetlands or other surface waters.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the proposed revisions to Rule 40D-1.607, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.427 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-40.301 Conditions for Issuance of General Permits for Minor Surface Water Management Systems.

(1) To obtain this general permit, an applicant must provide reasonable assurance that the following conditions are met and certify that:

(a) through (b) No change

(c) The proposed activities will ~~occur in, on or over~~ ~~consist of the dredging or filling of~~ less than 100 square feet ~~of in~~ wetlands or other surface waters. Road or driveway crossings of ditches constructed in uplands will not be counted against the 100 square foot limit;

(d) through (j) No change.

(2) through (3) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.427 FS. History--New 3-1-88, Amended 10-3-95, 10-16-96, 9-26-02, 2-1-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352) 796-7211, extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2006

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-8.002	Definitions
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.0086	Denial, Suspension, Revocation of License and Imposition of Fines
59A-8.022	Clinical Records
59A-8.027	Emergency Management Plans

PURPOSE AND EFFECT: The purpose of the rule revisions is to conform the rules and Comprehensive Emergency Management Plan format to changes made by the 2006 Florida Legislature in Chapters 2006-71 and 2006-192, Laws of Florida; to clarify language regarding financial instability; to revise the Affidavit of Compliance with Screening Requirement form to add level 2 screening and annual submission as required in Section 435.04, F.S.; and to remove

the time frame for clinical records retention since it is stated in 400.491, F.S. The effect will be updated rules with uniform licensure procedures that conform to state laws; a revised Comprehensive Emergency Management Plan format that includes the means by which the same type and quantity of services received in the home will be provided to patients evacuated to special needs shelters; and an updated Affidavit of Compliance with Screening Requirement form for administrators to attest to completion of both level 1 and level 2 screening for staff as required in law.

SUMMARY: The rules are being updated due to the changes to Chapter 400, Part III, Florida Statutes made by the 2006 Florida Legislature in Chapters 2006-71 and 2006-192, Laws of Florida. The changes in the rules for Chapter 2006-71, Laws of Florida, are: revising Rule 59A-8.027, F.A.C., and the Comprehensive Emergency Management Plan format to include the means by which the same type and quantity of services will be provided to special needs patients in shelters that they received prior to the evacuation; removing the Department of Health as the reviewer of multi-county plans as requested by the Department and referring to the contact designated by the Department for plan reviews; and adding the requirement for documentation of efforts made to deliver the same type and quantity of services in the patient record if the home health agency is unable to continue services. The following revisions were made to comply with Chapter 2006-192, Laws of Florida: the change of ownership definition was deleted in Rule 59A-8.002, F.A.C., since the definition is now in Section 408.803, F.S.; the time frame for applicants to respond to letters of omission was changed to 21 days from 30 days in Rule 59A-8.0086, F.A.C.; and the legal right to occupy property was added to address change requirements in Rule 59A-8.003, F.A.C. Legal references from Chapter 408, Part II, F.S., replaced Chapter 400, Part III, F.S., references in sections of the rules pertaining to initial, renewal and change of ownership licensure applications; surveys; voluntary relinquishment of license; injunctions; level 2 background screening for administrators and financial officers; and financial instability. Legal references from Chapter 408, Part II, F.S., were inserted in sections of the rule pertaining to administrative fines, denials and moratoriums in addition to the Chapter 400, Part III, F.S., references. Other changes include clarification of requirements when financial instability is found; revision of the Affidavit of Compliance with Screening Requirement form to add level 2 and annual submission per Section 435.04, F.S.; removal of the time frame for clinical record retention since it is stated in Section 400.491, F.S.; and assign new form number to the revised Comprehensive Emergency Management Plan for Home Health Agencies as the original form number duplicated an existing Agency form. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 400.491, 400.497 FS.

LAW IMPLEMENTED: 400.497, 408.806, 408.807, 408.809, 408.810, 408.811, 408.813, 408.814, 408.815, 408.816 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jan Benesh, Licensed Home Health Programs Unit, Bureau of Health Facility Regulation, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308, beneshj@ahca.myflorida.com or by phone at (850)414-6010

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-8.002 Definitions.

(1) through (5) No change.

~~(6) "Change of Ownership" means when a home health agency is purchased by a new corporation or partnership from the entity which currently holds the home health agency license. A one hundred percent stock purchase of the current corporate or partnership owner, or a change in the principals in the existing corporation or partnership, does not constitute a change of ownership, if that corporation or partnership continues to be the owner of the home health agency. If a person or persons own the home health agency, rather than a corporation or partnership, a change of ownership takes place when those individuals(s) sell the home health agency to other individual(s), or when the form of ownership changes from individual ownership to a business entity.~~

(6) through (38) renumbered (5) through (37) No change.

Specific Authority 400.497 FS. Law Implemented 400.462, 400.487 FS. History—New 4-19-76, Formerly 10D-68.02, Amended 4-30-86, 8-10-88, 5-30-90, 5-27-92, Formerly 10D-68.002, Amended 4-27-93, 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06, _____.

59A-8.003 Licensure Requirements.

(1) The issuance of an initial license shall be based upon compliance with Chapter 400, Part ~~III~~ IV, F.S., and this rule as evidenced by a signed and notarized, complete and accurate home health agency application, as referenced in subsection 59A-8.004(1), F.A.C., and the results of a survey conducted by the AHCA.

(2) An application for renewal of the current license must be submitted to AHCA at least 60 days prior to the date of expiration of the license, pursuant to Section 408.806(2) ~~Section 400.471(7)~~, F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license. Home

health agencies that apply for renewal of their licenses will be surveyed pursuant to Section ~~408.811~~ 400.484, F.S., based on the extent of compliance on previous surveys and complaint investigations with these rules and state laws. Home health agencies will be surveyed on an unannounced basis at least every 36 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the survey.

(3) through (5) No change.

(6) An application package for a change of ownership shall be made on a form prescribed by AHCA, as referenced in subsection 59A-8.004(1), F.A.C.

(a) The buyer or lessee must make application to AHCA for a new license at least 60 days before the date of the transfer of ownership as required by Sections 408.807(1) and (2) ~~400.471(7)~~, F.S.

(b) No change.

(c) Failure to apply for a change of ownership of a licensed home health agency as required by Section 408.806(2) ~~(b) and~~ 400.471, F.S., shall result in a fine set and levied by AHCA pursuant to days advance notice in writing to the AHCA Licensed Home Health Programs Unit in Tallahassee and the AHCA area office. The home health agency must submit to the AHCA Licensed Home Health Programs Unit a certificate of occupancy, certificate of use, or evidence that the location is zoned for a home health agency business for the new address and evidence of legal right to the property in accordance with Section 408.810(6), F.S. Failure to notify AHCA within the time frame will result in a \$500 fine, pursuant to Sections 408.813 and 400.474(1), F.S. Emergency relocations must be reported within seven days, with the reason for the relocation documented, to avoid a penalty assessment. An emergency relocation can be due to any of the following situations: 1) an eviction notice; 2) environmental conditions on or near the site which are not conducive to the health and well being of staff and clients, including a fire or flooding; 3) an element near the site which would make the premises harmful or dangerous; 4) circumstances arising from or caused by weather conditions and/or a natural disaster; or 5) a change in property zoning that requires the home health agency to move.

(10) through (12) No changes.

(13) Upon revocation, suspension, voluntary or involuntary termination of a license, the home health agency shall return its license to AHCA. If the provider voluntarily chooses to terminate the license, the provider must notify AHCA, as required in Section 408.810(4)(a), F.S. ~~This includes~~ by submitting a letter to the address: AHCA Licensed Home Health Programs Unit, 2727 Mahan Drive – Mail Stop 34, Tallahassee, FL 32308, officially declaring the closure date of the home health agency.

Specific Authority 400.497 FS. Law Implemented 400.464, 400.471, 400.474, 400.484, 400.497 FS. History—New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06,_____.

59A-8.004 Licensure Procedure.

(1) An application for licensure, initial, change of ownership, or renewal, shall be made on a form prescribed by the AHCA: Home Health Agency Application for Initial Licensure, form number, AHCA 3110-1001, Revised July 2005; Application for Renewal of Licensure, form number, AHCA 3110-1011, January 2006; and Application for Change of Ownership, form number AHCA 3110-1012, July 2005, all incorporated by reference. These forms may be obtained at the AHCA web site, <http://ahca.myflorida.com> under “Licensing & Certification” and then under: Home Health Agency. If the requestor is unable to obtain the documents from the web site, the forms may be obtained from the AHCA Licensed Home Health Programs Unit by contacting (850)414-6010, and sending a check or money order to cover the Agency’s costs for the copying and mailing.

(2) ~~The A-corporate~~ applicant shall identify ~~the state of incorporation~~, its legal name, its business name, and the names and addresses of corporate officers and directors, the name and address of each person having at least a 5% equity interest in the entity corporation and other information as required in Section 408.806(1), F.S. For initial and change of ownership applications and corporate name changes, a current certificate of status or authorization pursuant to Chapter 607, F.S., is required.

(3) through (5) No change.

(6) An applicant for renewal of a license shall not be required to provide proof of financial ability to operate, unless the applicant has demonstrated financial inability to operate, as defined in subsection 59A-8.002(16), F.A.C. ~~If an agency a licensee~~ has shown signs of financial instability at any time, pursuant to Section 408.810(8), F.S., AHCA shall require the applicant for renewal of license to provide proof of financial ability to operate, by submitting schedules 2 through 7 of AHCA Form 3110-1013, December 2004, described in subsection (5) above-, and documentation of correction of the financial instability, to include evidence of the payment of any bad checks, delinquent bills or liens. If complete payment cannot be made, evidence must be submitted of partial payment along with a plan for payment of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal, state, or district court, an accepted plan of repayment must be provided.

(7) The applicant shall submit a signed affidavit with the application and annually thereafter as required in Sections 400.512 and 435.04(5), F.S., from the administrator affirming that the administrator, the financial officer, and all direct and contract personnel who enter the home in the capacity of their

employment have been screened ~~for good moral character~~. This Affidavit of Compliance with Screening Requirements, form number AHCA 3110 1014, Revised December 2006, incorporated by reference, also confirms that all remaining personnel, who enter the home in the capacity of their employment, have worked continuously for the home health agency since before October 1, 2000.

(8) ~~New administrators and financial officers employees~~ may work on probationary status, once they have submitted the documents described in subsection (9) ~~or (10)~~ below, including a signed and notarized copy of the Affidavit of Compliance with Background Screening Requirements, AHCA 3100-0008, December 2006, incorporated by reference Good Moral Character, AHCA 3110 0001, December 2004, pending a determination of compliance with minimum standards set forth in Chapter 435, F.S. New direct or contract personnel who enter the home in the capacity of their employment may work on probationary status, once they have submitted the documents described in subsection (10) below, including a signed and notarized copy of the Affidavit of Good Moral Character, AHCA 3110 0001, Revised December 2006, incorporated by reference, pending a determination of compliance with minimum standards set forth in Chapter 435, F.S.

(9) ~~Background sScreening for good moral character~~ for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in Section 408.809 400.474(4), F.S. The fingerprint card for level 2 screening for the administrator and the financial officer can be obtained from the Agency for Health Care Administration, Licensed Home Health Programs Unit, by calling (850)414-6010 or sending a request by fax to (850)922-5374. The completed fingerprint card should be submitted with a check or money order to cover the cost of the screening to the Agency for Health Care Administration, Licensed Home Health Programs Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308.

(10) through (12) No change.

Specific Authority 400.497 FS. Law Implemented 400.471, 400.512, 408.810 FS. History—New 4-19-76, Formerly 10D-68.04, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, 10-6-91, Formerly 10D-68.004, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06,_____.

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

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

(a) If the applicant fails to submit all the information required in the application within 21 30 days of being notified in accordance with Section 408.806(3), F.S., by AHCA Licensed Home Health Programs Unit of the omissions in the application, the application shall be denied.

(b) through (e) No change.

(2) No change.

(3) This provision does not restrict AHCA from imposing an administrative fine, revoking the license or issuing a moratorium in accordance with Sections 400.484(2)(b), 408.814 and 408.815, F.S.

(4) If the AHCA finds that a violation of these rules creates an emergency threatening the health and safety of its patients, the AHCA shall suspend the license by emergency order under Chapter 120, F.S., and Section 408.814, F.S., and may institute injunctive proceedings in accordance with Section 408.816, F.S.

Specific Authority 400.497 FS. Law Implemented 120.59, 400.474, 400.484 FS. History–New 10-27-94, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06,_____.

59A-8.022 Clinical Records.

(1) through (3) No change.

(4) All clinical records must be retained by the home health agency as required in Section 400.491, F.S. for a period of five years following the termination of service. Retained records can be stored as hard paper copy, microfilm, computer disks or tapes and must be retrievable for use during unannounced surveys as required in Section 408.811, F.S.

(5) through (6) No change.

Specific Authority 400.497 FS. Law Implemented 400.491, 400.494, 400.497 FS. History–New 4-19-76, Amended 2-2-77, Formerly 10D-68.22, Amended 4-30-86, 8-10-88, Formerly 10D-68.022, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06,_____.

59A-8.027 Emergency Management Plans.

(1) Pursuant to Section 400.492, F.S., each home health agency shall prepare and maintain a written comprehensive emergency management plan, in accordance with criteria shown in the “Emergency Management Planning Format for Home Health Agencies,” AHCA Form 3110-~~10224006~~, ~~Revised December 2006~~⁵, incorporated by reference. This document is available from the Agency for Health Care Administration at <http://ahca.myflorida.com> and shall be used as the format for the home health agency’s emergency management plan. The plan shall describe how the home health agency establishes and maintains an effective response to emergencies and disasters.

(2) The plan, once completed, will be forwarded electronically for approval to the ~~Office of Public Health Nursing, Department of Health by multi-county agencies or to the contact designated by the Department of Health for single county agencies.~~

(3) through (7) No change.

(8) On admission, each home health agency shall, pursuant to Section 252.355, F.S., inform patients and patient caregivers of the home health agency’s procedures during and immediately following an emergency and inform patients of the special needs registry maintained by their county

Emergency Management office. The home health agency must document in the patient’s file if the patient plans to evacuate or remain at home; if during the emergency the patient’s caregiver can take responsibility for services normally provided by the home health agency; or if the home health agency needs to continue services to the patient. If the patient is a resident of an assisted living facility or an adult family care home, the home health agency must contact the assisted living facility or adult family care home administrator or designated emergency management personnel and find out the plan for evacuation of the resident in order to document the resident’s plans in the home health agency’s file for the patient. If it is determined the home health agency needs to provide continued services, it will be the responsibility of the home health agency to provide the same type and quantity of care for the patient in the special needs shelter during and after the emergency, equal to the care received prior to the shelter assignment as specified in Section 400.492, F.S., except in certain situations as specified in Section 400.492(3), F.S.

(9) through (11) No change.

(12) When a home health agency is unable to continue services to special needs patients registered under Section 252.355, F.S., that patient’s record must contain documentation of the efforts made by the home health agency to comply with their emergency management plan in accordance with Section 400.492(3), F.S. Documentation includes, but is not limited to, contacts made to the patient’s caregivers, if applicable; contacts made to the assisted living facility and adult family care home, if applicable; and contacts made to local emergency operation centers to obtain assistance in reaching patients and contacts made to other agencies which may be able to provide temporary services.

~~(13)~~⁽¹²⁾ Each home health agency is required to collect registration information for special needs patients who will need continuing care or services during a disaster or emergency, pursuant to Section 252.355, F.S. This registration information shall be submitted, when collected, to the county Emergency Management office, or on a periodic basis as determined by the home health agency’s county Emergency Management office.

~~(14)~~⁽¹³⁾ Home health agency staff shall educate patients registered with the special needs registry that special needs shelters are an option of last resort and that services may ~~will~~ not be equal to what they have received in their homes.

(14) through (39) renumbered (15) through (40) No change.

Specific Authority 400.492, 400.497 FS. Law Implemented 400.492, 400.497 FS. History–New 7-18-01, Amended 8-15-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jan Benesh

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeffrey N. Gregg

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2006
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2006

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-18.002	Definitions
59A-18.004	Licensure Requirements, Procedures, and Fees
59A-18.005	Registration Policies
59A-18.0081	Certified Nursing Assistant and Home Health Aide
59A-18.010	Acceptance of Patients or Clients
59A-18.013	Administration of Drugs and Biologicals
59A-18.015	Surveys and Inspections
59A-18.016	Penalties
59A-18.018	Emergency Management Plans

PURPOSE AND EFFECT: The purpose of the rule revisions is to conform the rules and Comprehensive Emergency Management Plan format to changes made by the 2006 Florida Legislature in Chapter 2006-71 and Chapter 2006-192, Laws of Florida; to clarify language regarding financial instability; to revise the Affidavit of Compliance with Screening Requirement form to add level 2 screening and annual submission as required in Section 435.04, F.S.; to delete the requirement for providing the names and license numbers of independent contractors with the renewal applications; to delete the requirement for insurance since there is no legal authority; to add the law regarding assistance with medications to the laws given to independent contractors; and to include that physician assistants and advanced registered nurse practitioners may order medications for patients, as permitted in Chapter 2005-243, Laws of Florida. The effect will be updated rules with uniform licensure procedures that conform to state laws; a revised Comprehensive Emergency Management Plan format that includes the means by which the same type and quantity of services will be provided to patients evacuated to special needs shelters; an updated Affidavit of Compliance with Screening Requirement form for administrators to attest to completion of both level 1 and 2 screening for staff as required in law; a decrease in the items required to be submitted with applications for licensure due to the elimination of the requirement to submit proof of insurance and the elimination of the requirement to submit information on independent contractors with renewal applications; a corrected Rule 59A-18.013, F.A.C., that includes orders from physician assistants and advanced registered nurse practitioners as permitted in the 2005 changes to Section

400.506(17), F.S.; and the inclusion of the law on assistance with medication with the laws distributed to independent contractors.

SUMMARY: The rules are being updated due to the changes to Chapter 400, Part III, Florida Statutes, made by the 2006 Florida Legislature in Chapter 2006-71 and 2006-192, Laws of Florida. The changes in the rule for Chapter 2006-71, Laws of Florida are: revising Rule 59A-18.018, F.A.C., and the Comprehensive Emergency Management Plan to include the means by which the same type and quantity of services will be provided to special needs patients in shelters that they received prior to the evacuation; removing the Department of Health as the reviewer of multi-county plans as requested by the Department and referring to the contact designated by the Department for plan reviews; and adding the requirement for documentation of efforts made to deliver the same type and quantity of services in the patient record if the agency is unable to continue services. The following revisions are made to comply with Chapter 2006-192, Laws of Florida: the change of ownership definition is deleted in Rule 59A-18.002, F.A.C., since the definition is now in Section 408.803, F.S.; the conditional license is removed from Rule 59A-18.004, F.A.C., as Chapter 408, Part II, F.S., permits either a standard or a provisional license; and Rule 59A-18.016, F.A.C., is revised pursuant to Section 408.806, F.S., for late renewal application fines, and a separate subsection is added for the change of ownership late application fine, decreasing the maximum amount to \$500. Legal references from Chapter 408, Part II, F.S., replace Chapter 400, Part III, F.S., references in sections of the rule pertaining to initial, renewal and change of ownership licensure applications; surveys; voluntary relinquishment of license; level 2 background screening for administrators and financial officers; and financial instability. Legal references from Chapter 408, Part II, F.S., are inserted in sections of the rule pertaining to administrative fines, denials, moratoriums and injunctions in addition to the Chapter 400, Part III, F.S., references. Other changes include the elimination of the insurance requirement since there is no legal authority; the elimination of the requirement for a listing of independent contractor names and license numbers with the renewal application; the addition of Section 400.488, F.S., on administration of medications to the laws given by nurse registries to independent contractors; and the revision of Rule 59A-18.005, F.A.C., to include that physician assistants and advanced registered nurse practitioners may order medications in addition to physicians, as permitted in Section 400.506(17), F.S.

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

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

SPECIFIC AUTHORITY: 400.497, 400.506 FS.

LAW IMPLEMENTED: 400.506, 408.806, 408.807, 408.809, 408.810, 408.811, 408.813, 408.814, 408.815, 408.816 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Jan Benesh, Licensed Home Health Programs Unit, Bureau of Health Facility Regulation, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308, beneshj@ahca.myflorida.com or call (850)414-6010. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jan Benesh, Licensed Home Health Programs Unit, Bureau of Health Facility Regulation, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308, beneshj@ahca.myflorida.com or call (850)414-6010

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-18.002 Definitions.

(1) through (3) No change.

~~(4) "Change of ownership" means when a nurse registry is purchased by a new person, corporation or partnership from the person or entity which currently holds the nurse registry license. A one hundred percent stock purchase of the current corporate or partnership owner, or a change in the principals in the existing corporation or partnership, do not constitute a change of ownership, if that corporation or partnership continues to be the owner of the nurse registry.~~

(5) through (6) renumbered (4) through (5) No change.

~~(6)(7) "Financial instability" means the nurse registry cannot meet its financial obligation. The issuance of bad checks or an accumulation of delinquent bills or liens or failure to pay any outstanding fines unless the fine has been appealed is evidence of financial instability.~~

(8) through (13) renumbered (7) through (12) No change.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History—New 2-9-93, Amended 1-27-94, 12-24-00,_____.

59A-18.004 Licensure Requirements, Procedures, and Fees.

(1) Prior to operating a nurse registry as defined under Section 400.506, F.S., the owner shall make application for a license on AHCA Form 3110-7001, Nurse Registry Application for Initial License, Revised May 2006, incorporated by reference. The application shall be accompanied by a \$2,000 licensure fee. The application and other pertinent information can be obtained at the AHCA web site: <http://ahca.myflorida.com> under "Licensing, & Certification" and then on "Nurse Registry". If the requestor is unable to obtain the forms and related information from the web site, the documents may be obtained from the AHCA Licensed Home Health Programs Unit by contacting (850)414-6010 and sending a check or money order to cover the Agency's costs for copying and mailing. The receipt of a license from AHCA shall be based upon compliance with all applicable rules and laws regulations, as evidenced by a signed application under oath and upon the results of a survey conducted by AHCA representatives. ~~It is unlawful to operate a registry without first obtaining from AHCA a license authorizing such operation.~~

~~(2) The registry license is not transferable. Sale of the licensed nurse registry, assignment, lease or other transfer, whether voluntary or involuntary, shall require relicensure by the new owner prior to taking over the operation, pursuant to Section 400.506(8), F.S. The prospective owner shall submit, at least 60 days prior to the effective date of the change, an application for a new license.~~

~~(2)(3) No change.~~

~~(3)(4) An initial licensure application shall include: Initial licensure – An application for an initial license to operate a nurse registry shall be submitted per Section 408.806, F.S., for a new operation or change of licensee accompanied by a non-refundable license fee of \$2,000 for each site in operation to be licensed, and must be submitted and signed under oath on AHCA Form 3110-7001, Nurse Registry Application for Initial License, Revised May 2006, which is incorporated by reference, provided by the agency, and shall include:~~

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

~~(g) The name of the registry's administrator, the alternate administrator and the name and license or certification number for the registered nurse or nurses that the nurse registry has available to meet the requirements in Section 400.506(10)(c), F.S. An application for renewal will include the same information for the administrator, alternate administrator and registered nurse or nurses available to meet the requirements in Section 400.506(10)(c), F.S., unless there have been no changes since the previous application for licensure, as well as the name and license or certification number of current independent contractors for registered nurses, licensed~~

~~practical nurses and certified nursing assistants, and the name of current independent contractors for home health aids, homemakers and companions.~~

~~(h) Evidence of liability insurance coverage for the nurse registry;~~

~~(h)(+) A signed Affidavit of Compliance with Screening Requirements, AHCA Form 3110-1014, Revised December May 2006, incorporated by reference, from the administrator, will be submitted with the application and annually thereafter as required in Section 435.04(5) and 400.512, F.S., stating that the administrator, the financial officer, and each direct care contractor who enters the home of patients or clients and who was registered with the nurse registry on or after October 1, 2000, has been screened in accordance with level 1 standards and that the remaining contractors have been continuously registered with the nurse registry since before October 1, 2000, pursuant to Section 400.512(2), F.S.~~

1. Screening for the administrator, or similarly titled individual who is the managing employee responsible for the daily operation of the nurse registry, and for the financial officer, or similarly titled individual who is responsible for the financial operation of the nurse registry, including billings for patient care and services, shall be in accordance with level 2 standards for screening set forth in Section 408.809, F.S. Chapter 435, F.S., and in accordance with Section 400.506(2), F.S. The fingerprint card for level 2 screening for the administrator and the financial officer can be obtained from, and must be submitted to, the Agency for Health Care Administration, Licensed Home Health Programs Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308. Screening processing fees for level 2 screening shall be made payable to the Agency for Health Care Administration.

2. No change.

~~(i)(+) Evidence of financial ability to operate, which shall consist of the completion of the financial schedules contained in the application which includes and a balance sheet and income and expense statement for the first year of operation as well as documented which provides evidence of sufficient assets, credit and projected revenues to cover projected liabilities and expenses pursuant to Section 408.810(8), F.S.~~

(5) through (6) renumbered (4) through (5) No change.

~~(6)(7) An application for renewal of a registry license shall be submitted, as referenced in Section 400.506(5), F.S., not less than 60 days prior to expiration of the license pursuant to Section 408.806 (2), F.S. The submission shall be on AHCA Form 3110-7004, Nurse Registry Application for Renewal of License May 2006, incorporated by reference, and shall include a renewal fee of \$2,000. The application shall include: All of the information required by paragraphs (4)(a) through (h)(+) above.~~

~~(7)(8) An application for renewal of a license shall not be required to provide proof of financial ability to operate, unless the applicant has demonstrated financial instability at any time,~~

pursuant to Section 408.810(8), F.S., in which case AHCA shall require the applicant for renewal to provide proof of financial ability to operate by submitting Schedules 2 through 6 from AHCA Form 3110-7001, Nurse Registry Application for Initial License, Revised May 2006 and documentation of correction of the financial instability, to include evidence of the payment in full of any bad checks, delinquent bills or liens and all associated fees, costs, and changes related to the instability. If complete payment cannot be made, evidence must be submitted of partial payment along with a plan for payment of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal, state, or district court, an accepted plan of repayment must be provided. If the licensed nurse registry has demonstrated financial instability as outlined above at any time the AHCA will request proof of financial ability to operate. Such proof may include a copy of the corporation's tax return, three corporate checking and savings account statements, or a financial statement prepared and signed by a CPA.

~~(8)(9) An application for a change of ownership of a registry shall be submitted, on AHCA Form 3110-7001, Nurse Registry Application for Initial License, Revised May 2006, as referenced in subsection 59A-18.004(1), F.A.C., not less than 60 days prior to the effective date of the change in accordance with Section 408.806(2)(b), F.S. The submission shall include the change of ownership licensure fee of \$2,000. The application shall include all of the information required by paragraphs (4)(a) through (l)(+) above.~~

~~(10) A conditional license shall be issued to an applicant against whom revocation or suspension action is pending at the time of license renewal, effective until final disposition of such proceedings by AHCA.~~

~~(9)(H) A nurse registry has the following responsibility in terms of hours of operation:~~

(a) through (e) No change.

Specific Authority 400.497, 400.506 FS, Law Implemented 400.497, 400.506, 400.512 FS. History--New 2-9-93, Amended 1-27-94, 12-24-00, 8-10-06, _____.

59A-18.005 Registration Policies.

(1) Each nurse registry shall disseminate the following rules and statutes to each applicable independent contractor at the time of registration.

(a) Registered nurses and licensed practical nurses shall receive for their use and reference:

1. through 5. No change.

6. Sections 400.506, 400.512, 400.484, 400.462, 400.488, and 400.495, F.S.

(b) Certified nursing assistants and home health aides shall receive for their use and refs.

3. Sections 400.506, 400.512, 400.484, 400.462, 400.488, and 400.495, F.S.

(2) through (8) No change.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History—New 2-9-93, Amended 1-27-94, 12-24-00, 8-10-06,_____.

59A-18.0081 Certified Nursing Assistant and Home Health Aide.

(1) through (9) No change.

(10) Home health aides who complete their training in another state must provide a copy of the course work and a copy of their training documentation to the nurse registry. If the course work is equivalent to Florida's requirements, the nurse registry may refer the home health aide for contract. If the home health aide's course work does not meet Florida's requirements, the home health aide must receive training in a school approved by the Department of Education to the extent necessary to bring the training into compliance with subsection 59A-18.0081(8)(6), F.A.C., prior to being referred for contract.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History—New 2-9-93, Amended 1-27-94, 12-24-00,_____.

59A-18.010 Acceptance of Patients or Clients.

(1) through (2) No change.

(3) ~~The nurse registry must inform the patient or client of their right to report abuse, neglect, or exploitation by calling the toll free 1(800) 96 ABUSE telephone number, and information on the toll free Agency for Health Care Administration Complaint Line number 1 888 419 3456 pursuant to Section 400.495, F.S.;~~

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

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History—New 2-9-93, Amended 12-24-00,_____.

59A-18.013 Administration of Drugs and Biologicals.

(1) No change.

(2) The procedures shall include the following:

(a) An order for medications to be administered by the licensed nurse shall be dated and signed by the attending physician, physician assistant, or advanced registered nurse practitioner as required in Section 400.506(17), F.S.;

(b) An order for medications shall contain the name of the patient, the name of the drug, dosage, frequency, method or site of injection, and order from the physician, physician assistant, or advanced registered nurse practitioner if the patient or caregiver are to be taught to give the medication; and

(c) A verbal order for medication or change in the medication orders from the physician, physician assistant, or advanced registered nurse practitioner shall be taken by a licensed registered nurse, reduced to writing, to include the patient's name, the date, time, order received, signature and title. The physician, physician assistant, or advanced registered nurse practitioner shall acknowledge the telephone order

within 30 days by signing and dating the orders. A verbal order or change in medication order shall be on file in the clinical record at the nurse registry within 30 days.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History—New 2-9-93, Amended 1-27-94, 12-24-00,_____.

59A-18.015 Surveys and Inspections.

(1) ~~AHCA shall conduct surveys, based on a variable survey cycle, and make inspections, as necessary, pursuant to Section 408.811 400.506(9), F.S., in order to respond to complaints or to determine compliance with the provisions of Chapter Section 400, Part III 506, F.S., and these rules.~~

(2) No change.

(3) Nurse registries that apply for renewal of their licenses will be surveyed based on the extent of compliance on previous surveys with these rules and state laws in accordance with Section 408.811, F.S. After two consecutive full surveys, nurse registries that had no deficiencies on the previous survey, and no confirmed complaints, will be surveyed on an unannounced basis no later than every 36 months. Nurse registries that had no patient care or independent contractor registration deficiencies that affect patient health and safety will be surveyed on an unannounced basis no later than a range of 18 to 24 months. Nurse registries that had a change of ownership since the previous survey, a complaint survey with deficiency citations, or patient care or independent contractor registration deficiencies that affect patient health and safety during the last survey will receive an unannounced survey no later than a range of 12 to 18 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis, prior to the next full survey cycle.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.481, 400.484, 400.506 FS. History—New 2-9-93, Amended 1-27-94, 12-24-00,_____.

59A-18.016 Penalties.

(1) AHCA will institute injunctive proceedings in accordance with Section 408.816, F.S., in a court of competent jurisdiction when violations of the provisions of Section 400.506, F.S., or any rules promulgated thereunder constitute an emergency affecting the immediate health and safety of a patient or client receiving services.

(2) through (3) No change.

(4) The failure to file a timely renewal licensure application shall result in an administrative fine, pursuant to Section 408.806(2)(d), F.S. 400.506(4), F.S., charged to the registry in the amount of \$50.00 per day, each day constituting a separate violation. In no event shall such fine aggregate more than \$2,500.

(5) The failure to file a timely change of ownership licensure application shall result in an administrative fine, pursuant to Section 400.506(4), F.S., charged to the registry in

the amount of \$50.00 per day, each day constituting a separate violation. In no event shall such fine aggregate more than \$500.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History—New 2-9-93, Amended 1-27-94, 12-24-00,

59A-18.018 Emergency Management Plans.

(1) Pursuant to Section 400.506(16), F.S., each nurse registry shall prepare and maintain a written comprehensive emergency management plan, in accordance with the Comprehensive Emergency Management Plan for Nurse Registries, AHCA Form 3110-10176, Revised December 20065, incorporated by reference. This document is available from the Agency for Health Care Administration at <http://ahca.myflorida.com> under “Licensing & Certification”, and then under Nurse Registry. The plan shall describe how the nurse registry establishes and maintains an effective response to emergencies and disasters. The plan, once completed, will be sent electronically by e-mail by multi-county nurse registries to the Office of Public Health Nursing, Department of Health or to the contact designated by the Department of Health for single county nurse registries as required in Section 400.506(16)(e), F.S.

(2) through (5) No change.

(6) Nurse registries shall assist patients who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities in registering with the local emergency management agency, as required in Section 400.506(15), F.S.

(a) through (b) No change.

(c) The independent contractors referred by the nurse registry, or registry staff, shall inform patients registered with the special needs registry that special needs shelters are an option of last resort and that services may ~~will~~ not be equal to what they have received in their homes.

(d) No change.

(7) The person referred for contract to a patient registered with the special needs registry, which shall include special needs registry patients being served in assisted living facilities and adult family care homes, shall ensure that the same type and quantity of continuous care is provided, ~~either~~ in the special needs shelter that was provided prior to the emergency as specified in, or in the patient’s home pursuant to Section 400.506(16)(a), F.S., unless circumstances beyond the control of the independent contractor as described in Section 400.506(16)(d), F.S., make it impossible to continue services.

(8) When a nurse registry is unable to continue services to special needs patients registered under Section 252.355, F.S., that patient’s record must contain documentation of the efforts made by the registry to comply with their emergency management plan in accordance with Section 400.506(16), F.S. Documentation includes but is not limited to contacts made to

the patient’s caregivers, if applicable, contacts made to the assisted living facility and adult family care home if applicable; contacts made to local emergency operation centers to obtain assistance in reaching patients and contacts made to other agencies which may be able to provide temporary services.

(8) through (12) renumbered (9) through (13) No change.

~~(14)(13)~~ The patient record for each person registered as a special needs patient shall include the list described in subsection ~~(13)(12)~~ above and information as listed in Sections 400.506(16)(a) and (b), F.S.

Specific Authority 400.506 FS. Law Implemented 400.506 FS. History—New 8-10-06, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jan Benesh

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeffrey N. Gregg

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 3, 2006

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE CHAPTER NO.: RULE CHAPTER TITLE:

59A-25 Minimum Standards for Home Medical Equipment Providers

RULE NOS.: RULE TITLES:

59A-25.001 Definitions
59A-25.002 Licensure Requirements
59A-25.003 Scope of Services
59A-25.004 Minimum Qualifications for Personnel
59A-25.005 Compliance
59A-25.006 Emergency Management Planning

PURPOSE AND EFFECT: The purpose of the rule revisions is to conform the rules to changes made to Chapter 400, Part VII and to the addition of Chapter 408, Part II, Florida Statutes, by the 2006 Florida Legislature in Chapter 2006-71 and Chapter 2006-192, Laws of Florida, respectively; to add the criteria for comprehensive emergency management plans as required in law; to update the application for licensure; to add new financial schedules as an alternative to surety bonds pursuant to Section 400.931(5), F.S.; and to add a notification of change of address form. The effect will be updated rules that conform to state law; a new uniform emergency management plan format that includes the provision of continuing services for life-supporting or life-sustaining equipment during an emergency and the provision of the same type and quantity of services to consumers who evacuate to special needs shelters; a revised licensure application that incorporates new required controlling interest information and clarified instructions; new

financial schedules developed in order to provide an alternative to a surety bond as a means of proving financial ability to operate; a new notification of change of address form, which includes clear instructions as to what is required for licensure purposes; and a reduction in the maximum fine for late submission of renewal and change of ownership applications from \$500 to \$150.

SUMMARY: The rules are being updated due to changes made to Chapter 400, Part VII and to the addition of Chapter 408, Part II, Florida Statutes, by the 2006 Florida Legislature in Chapter 2006-71 and Chapter 2006-192, Laws of Florida, respectively. These changes are: adding an emergency management plan criteria form for home medical equipment providers that provides for the continuation of services during an emergency; an updated licensure application form that incorporates new required controlling interest information and clarifying instructions for completion; new financial schedules that can be used as an alternative to a surety bond upon initial and change of ownership application or when there is evidence of financial instability; a notification form for change of address, which includes clear instructions as to what is required for licensure purposes; and a reduced fine for late application submissions. In addition, the following requirements were deleted in rule as they are now stated in law: the definition of "life-supporting or life-sustaining device"; level 2 background screening of the general manager and financial officer; renewal application time frames and reminders; change of ownership application time frames; varying licensure survey cycles; fines for unlicensed activity; and provision of the AHCA complaint call center number to consumers. Corrections have been made to the licensing unit's contact information. The term "consumer" is substituted for "patient" throughout the rule to more closely mirror statute and use consistent/similar terminology.

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

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

SPECIFIC AUTHORITY: 400.935, 408.819 FS.

LAW IMPLEMENTED: 400.925, 400.934, 400.935, 408.803, 408.806, 408.807, 408.809, 408.810, 408.811, 408.812, 408.813, 408.815, 408.831 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by

contacting: If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Noël Cronin Lawrence, Agency for Health Care Administration, Licensed Home Health Programs Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, FL 32308-5407, lawrencn@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-25.001 Definitions.

In addition to definitions contained in Chapter 400, Part VII and Chapter 408, Part II, F.S., the following terms shall apply:

(1) No change.

(2) "Central Service Center" means the licensed premises that ~~are is~~ is in charge of taking consumer orders, dispatching the orders to their distribution centers that provide home medical equipment services, and maintaining consumer patient and personnel records. The central service center is responsible for the operation of its designated distribution centers.

(3) Class I deficiency is any act, omission, or practice that results in a consumer's patient's death, disability, or permanent injury, or places a consumer patient at imminent risk of death, disability, or permanent injury. Upon finding a class I deficiency, the agency shall impose an administrative fine in the amount of \$5,000 for each occurrence and each day that the deficiency exists. In addition, the agency shall immediately revoke the license, deny the renewal of a license or impose a moratorium on accepting new consumers patients until the factors causing the deficiency have been corrected.

(4) Class II deficiency is any act, omission, or practice that has a direct adverse effect on the health, safety, or security of a consumer patient. Upon finding a class II deficiency, the agency shall impose an administrative fine in the amount of \$1,000 for each occurrence and each day that the deficiency exists. In addition, the agency shall revoke the license, deny the renewal of a license or impose a moratorium on accepting new consumers patients, until the deficiency has been corrected.

(5) Class III deficiency is any act, omission, or practice that has an indirect, adverse effect on the health, safety, or security of a consumer patient. Upon finding an uncorrected or repeated class III deficiency, the agency shall impose an administrative fine not to exceed \$500 for each occurrence and each day that the uncorrected or repeated deficiency exists.

(6) Class IV deficiency is any act, omission, or practice related to required reports, forms, or documents which does not have the potential of negatively affecting consumers patients. These violations are of a type that the agency determines do not threaten the health, safety, or security of patients. Upon finding an uncorrected or repeated class IV deficiency, the

agency shall impose an administrative fine not to exceed \$200 for each occurrence and each day that the uncorrected or repeated deficiency exists.

(7) through (8) No change.

~~(9) Life-supporting or life-sustaining device, as defined in 21 Code of Federal Regulations part 860.3, means a device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life.~~

Specific Authority 400.935 FS. Law Implemented Part VII X of Chapter 400, 400.92-.957 FS. History—New 6-4-00, Amended 10-6-02, _____.

59A-25.002 Licensure Requirements.

(1) through (2) No change.

(3) Licensing fees:

(a) through (b) No change.

(c) The fee for an application package with rules, law, forms and an instruction package is based on AHCA's actual cost of postage plus the copying fee per page as authorized in Section 119.07, F.S. The costs are rounded up to the next whole dollar. The documents and forms in the application package can be printed with no fee from the AHCA web site at <http://ahca.myflorida.com> under 'Licensing and Certification', 'Home Medical Equipment Providers': www.fdhe.state.fl.us.

(4) Initial licensure application: An application for initial licensure ~~must shall~~ be made on forms prescribed by AHCA. The application package contains the following forms that are incorporated by reference as part of this rule:

(a) Home Medical Equipment Provider Application for Licensure, ~~form number~~ AHCA Form 3110-1005, Revised Dec. 06 April, 2002;

~~(b) Affidavit of Good Moral Character, form number 3110-0001, Revised February, 1994, (Attachment A);~~

~~(b)(e) Affidavit Affirmation of Compliance with Screening Requirements, AHCA Fform number 3110-1006, Revised Dec. 06 March, 2000, (Attachment B);~~

~~(d) Request for Level 1 Criminal History Check, form number, AHCA 3110-0002, Revised June, 1998;~~

~~(e) Federal Bureau of Investigation, United States Department of Investigation fingerprint card, form number, FD 258, Revised December 29, 1982;~~

~~(c)(f) Home Medical Equipment Provider Surety Bond, form number AHCA Form 3110-1018 4008, Revised August 2006 May, 2001;~~

These forms may be obtained through the AHCA Licensed Home Health Programs Care Unit, 2727 Mahan Drive, Mail Stop 34 Building 4, Tallahassee, Florida 32308-5407. In addition to the application, the following information must be submitted.

~~(d)(g)~~ Initial applicants must demonstrate financial ability to operate as referenced in Section 400.931(3) and 408.810(8), F.S., by submitting proof of a current \$50,000 surety bond for

each location to be licensed or submission of AHCA Form 3110-1021, Dec. 06, with evidence of sufficient assets to cover projected expenses. If a bond is submitted, sSubmission of a copy of a current Medicaid bond will satisfy as proof of financial ability to operate. Corporations that own multiple licensed HME locations will not be required to resubmit proof of financial ability to operate when applying for a license for an additional provider location.

~~(e)(h)~~ Background screening:

1. The general manager as defined in Section 400.925(7), F.S., and the financial officer must shall submit level 2 screening directly to AHCA as referenced in Section 408.809 400.931(5)(a), F.S. Level 2 screening consists of the Florida Department of Law Enforcement/ FBI fingerprint screening.

2. The general manager must shall coordinate the submission of level 1 screening for all personnel who enter a consumer's home, including contractors, hired on or after 7/1/99. ~~Level 1 screening is submitted directly to the Florida Department of Law Enforcement.~~ Level 1 screening consists of the submission of the criminal history check either to the AHCA Background Screening Unit, 2727 Mahan Drive, Mail Stop 40, Tallahassee, FL 32308-5407 or to the Florida Department of Law Enforcement. The cost of processing screening must be paid by the provider or by the employee that is screened. New employees may work on probationary status, once they have submitted their screening documents as permitted in Chapter 435, F.S. The general manager must shall submit a signed affidavit with each initial and renewal application affirming that direct and contract personnel who enter the home in the capacity of their employment, have been screened for good moral character.

~~(f)(i)~~ Each licensed HME provider location must obtain and maintain professional and commercial liability insurance of not less than \$250,000 per claim as referenced in Section 400.931(6), F.S. In case of contracted services, the contractor must shall maintain liability insurance of not less than \$250,000 per claim. A corporation can provide a blanket policy, which indicates that each of its licensed locations ~~is are~~ insured under one policy, verifying not less than \$250,000 per claim for each location.

~~(g)(j)~~ Applicants must meet the local zoning requirements. Physical location cannot be a post office box. The licensee must have all county licenses and permits that are applicable.

(5) Renewal application:

(a) An application for renewal of licensure, with its forms and attachments, is required per Section 400.931, F.S., 408.806, F.S., and these rules. ~~AHCA Fform number 3110-1005, Dec. 06 April, 2002,~~ incorporated by reference must be submitted and can be obtained as stated in subsection (4) above. ~~The application, with its forms and attachments, can be downloaded from the Internet at the following AHCA web site address: http://www.fdhe.state.fl.us. Once inside the website, choose the words "Site Index", then "Home Care~~

Unit”, “Home Medical Equipment Provider” and finally choose “Application for License”. If a renewal applicant does not have access to the Internet, the application with its forms and attachments will be provided by AHCA as referenced in paragraph 59A-25.002(3)(e), F.A.C. It is the responsibility of the HME provider to submit an application, within the specified time frames, whether or not they receive separate notification from AHCA of the impending expiration of the license.

(b) If AHCA has reason to believe a provider is financially unstable, the applicant must demonstrate financial ability to operate by submitting proof of a current \$50,000 surety bond as referenced in Section 400.931(3), F.S., or by submitting AHCA Form 3110-1021, Dec. 06, with evidence of sufficient assets to cover projected expenses before the license is renewed. In addition, the applicant must document its correction of the financial instability, to include evidence of the payment in full of any bad checks, delinquent bills or liens, and all associated fees, costs and charges related to the instability. If payment in full cannot be or is not made, evidence must be submitted of partial payment along with a plan for payment in full with satisfaction of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal, state, or district court, an accepted plan of repayment must be provided. Failure to pay any outstanding fines, unless the fine is being appealed, is an indicator of financial instability and AHCA will ask the provider to demonstrate financial ability to operate by submission of proof of a bond unless the provider pays the fine.

(6) If an HME provider has shown signs of financial instability at any time, pursuant to Sections 408.810(8) and (9), F.S., the HME provider must submit proof of financial ability to operate, including financial schedules that show anticipated provider revenue and expenses and the basis for financing the anticipated cash flow requirements of the licensee on AHCA Form 3110-1021, Dec. 06, and documentation of correction of the financial instability, to include evidence of payment made and proof of receipt of payment by the respective creditor, vendor or lienor of any bad checks, delinquent bills or liens, and all associated fees, costs and charges relating to the instability. Verifiable copies of satisfactions of liens, copies of cancelled checks, certified mail (courier) return receipts with copies of checks, receipts for payments, paid invoices and authorized letters of estoppel will suffice as proof of payment, if in the full and correct amounts. If payment in full cannot be or is not made, evidence must be submitted of partial payment along with a plan for payment in full of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal, state, or district court, an accepted plan of repayment must be provided.

(7)(6) If a cChange of ownership is to occur, aAn application for a change of ownership, AHCA Fform number 3110-1005, Dec. 06 April, 2002, incorporated by reference,

must be submitted per the requirements in Section 408.807 400.931(9), F.S., and these rules. To verify that the buyer of an HME business submits a change of ownership application at least 15 days before the effective date of the change of ownership, the buyer must send in documentation showing the date the ownership transferred from seller to buyer as required in Section 400.931(9), F.S.

(8)(7) If a cChange of address is to occur, (The provider must submit AHCA Form 3110-1020, Dec. 06, incorporated by reference, a letter notifying AHCA of the impending move, the date the change of address is to occur and the letter must be accompanied by the required fee. The notification of relocation must be given not less than 24 hours prior to before the actual move. The applicant must comply with local zoning requirements and obtain all applicable local county licenses and permits for the new location.

Specific Authority 400.935 FS. Law Implemented Part VII X of Chapter 400, 400.92-.957, 408.803, 408.806, 408.807, 408.809, 408.810, 408.815 FS. History—New 6-4-00, Amended 10-6-02, 4-13-03, _____.

59A-25.003 Scope of Services.

(1) No change.

(2) Home medical equipment includes oxygen and related respiratory equipment, customized wheelchairs and related seating and positioning as referenced in Section 400.925(8), F.S. In addition to the home medical equipment referenced in Section 400.925(8), F.S., other examples of equipment requiring services includes the following:

(a) All Apnea monitors, enteral feeding pumps, infusion pumps, portable home dialysis equipment, and ventilator equipment and supplies for all related equipment. All of the equipment referenced here in paragraph (a), including oxygen equipment and related respiratory equipment defined as referenced in Section 400.925(13)(8), F.S., is considered as life-supporting or life-sustaining equipment, which includes suctioning equipment.

(b) Continuous positive airway pressure machines, all electrostimulation equipment such as bone, muscle and transcutaneous electrical nerve stimulators, hospital beds, intermittent positive pressure breathing machines, motorized scooters, nebulizers, passive motion devices, patient lifts, phototherapy (billirubin) light with photometer, pressure ulcer care equipment, specialty prescribed cribs (child safety), ~~suction machines~~, trapeze equipment, ventilator equipment (that is non-life supporting), wheelchairs, and walkers. All of the equipment referenced here in paragraph (b), including the custom wheelchairs and seating as referenced in Section 400.925(8), F.S., is considered non-life supporting equipment.

(3) No change.

(4) Consumer Patient records:

(a) A record must be maintained for each consumer patient that documents the home medical equipment and any services received as required in Section 400.94(1), F.S.

(b) Consumer Patient information may not be disclosed from the consumer's patient's file without the written consent of the consumer patient, the consumer's patient's guardian or the consumer's patient's power of attorney. All information received by any employee, contractor or AHCA employee regarding a consumer patient of the HME is confidential.

(c) Consumer Patient records ~~must~~ shall be made available to AHCA representatives when an inspection or a complaint investigation is done.

(d) No change.

(5) Contracts: Services provided by contract for consumers ~~must~~ shall be through a written agreement between the provider and the business providing any equipment and services for a consumer, herein referred to as the contractor. Contracts must be retained for a minimum of 5 years. The contract must include the following at a minimum:

(a) through (c) No change;

(d) Responsibility of the HME provider to retain and maintain all records of consumers patients served by a contractor;

(e) through (i) No change.

Specific Authority 400.935 FS. Law Implemented Part ~~VII~~ X of Chapter 400, 400.92-.957 FS. History--New 6-4-00, Amended 10-6-02,_____.

59A-25.004 Minimum Qualifications for Personnel.

The provider ~~must~~ shall be in compliance with and make available to AHCA surveyors the information referenced in this section.

(1) General Manager, as defined in Section 400.925(7), F.S.:

(a) No change.

(b) Duties: The general manager is responsible for the following areas either directly or by clear delegation in writing:

1. Assuring the maintenance of consumer patient records including equipment repair and maintenance records as referenced in Section 400.94, F.S.;

2. through 5. No change.

6. Assuring that staff can accommodate consumer's patient's language;

7. Assuring an adequate inventory of equipment and supplies to provide consumers patients currently being served;

8. through 14. No change.

(2) through (3) No change.

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

(c)(~~d~~) No change.

Specific Authority 400.935 FS. Law Implemented Part ~~VII~~ X of Chapter 400, 400.92-.957 FS. History--New 6-4-00, Amended 10-6-02,_____.

59A-25.005 Compliance.

(1) The survey or inspection:

(a) All providers must be in compliance with Part ~~VII~~ X of Chapter 400, F.S., Part II of Chapter 408, F.S., and these rules. A provider shall be surveyed on an unannounced basis as required in Section 408.811, F.S. every two years, unless a survey is necessary due to a complaint. A renewal survey is to be completed within eighteen to thirty months from the date of the last licensure survey. The renewal survey shall be completed no earlier than eight months before expiration of the provider's license and no later than the license expiration date and the average gap between surveys shall not exceed twenty-four months. Area offices may do follow-up surveys to check on correction of deficiencies at any time on an unannounced basis.

(b) through (j) No change.

(2) No change.

(3) Adverse action: Denial, Suspension, Revocation, and Administrative Fines. Fine amounts are not to exceed \$5,000 per violation, per day as stated in Section 400.932(1), F.S.

(a) AHCA shall deny, suspend or revoke an application for license, or impose a fine for the reasons in Section 400.932, F.S., and for the following reasons:

1. If the provider fails to submit an application for a change of ownership within the time frames specified in Sections 408.806 and 408.807 ~~400.931(8) and (9), F.S., a \$50 \$500 fine per day, not to exceed \$150~~ shall be levied. If the application is received after the required filing date and, but exhibits a hand-canceled postmark from a United States the U.S. Post Office, ~~or delivery documentation by a carrier service, dated on or before the required filing date,~~ no fine will be levied;

~~2. If the provider fails to submit an application for renewal of a license within ninety days before the expiration date of the existing license, as specified in Section 400.931(8), F.S., a \$50 fine per day, not to exceed \$500, will be levied. If the application is received after the required filing date, but exhibits a hand-canceled postmark from the U.S. Post Office, or delivery documentation by a carrier service, dated on or before the required filing date, no fine will be levied.~~

~~2.3.~~ If the provider fails to notify AHCA of a change of address within the timeframes specified in subsection 59A-25.002(8)(7), F.A.C., ~~of this rule,~~ a minimum of a \$500 fine shall be levied;

~~3.4.~~ No change.

~~4.5.~~ If the provider is cited for a class I deficiency that is any act, omission or practice that results in a consumer's patient's death, disability, or permanent injury, or places a consumer patient at imminent risk of death, disability, or permanent injury, the agency shall impose an administrative fine in the amount of \$5,000 for each occurrence and each day that the deficiency exists. In addition, the agency shall

immediately revoke the license, deny the renewal of a license or impose a moratorium on accepting new consumers patients until the factors causing the deficiency have been corrected;

~~5.6.~~ If the provider is cited for a class II deficiency that is any act, omission or practice that has a direct adverse effect on the health, safety or security of a consumer patient, the agency shall impose an administrative fine in the amount of \$1,000 for each occurrence and each day that the deficiency exists. In addition the agency shall revoke the license, deny the renewal of a license or impose a moratorium of new consumers patients until the deficiency has been corrected;

~~6.7.~~ If the provider is cited for a class III deficiency that is any act, omission or practice that has an indirect, adverse effect on health, safety, or security of a consumer patient, the agency shall impose an administrative fine not to exceed \$500 for each occurrence and each day that the uncorrected or repeated deficiency exists;

~~7.8.~~ If the provider is cited for a class IV deficiency that is uncorrected or repeated acts or omissions or practices related to required reports, forms or documents which do not have the potential of negatively affecting consumers patients, the agency shall impose an administrative fine not to exceed \$200 for each occurrence and each day that the uncorrected or repeated deficiency exists;

~~8.9.~~ No change.

~~10.~~ A fine of \$2,500 shall be levied against providers determined to be operating without a license.

11. through 14. renumbered 9. through 12. No change.

(b) No change.

~~(4) Other requirements:~~

~~(4)(a)~~ Providers must ~~should~~ report unlicensed home medical equipment providers to the AHCA Consumer Complaint, Publication and Information Call Center's toll free number of 1(888)419-3456 or the local number of (850)487-3183.

~~(b) Consumers should contact their HME provider with any complaint issues regarding equipment and services. If the provider and consumer are unable to resolve the complaint issues together, the provider must inform the consumer of the AHCA Information Center's numbers listed above to report unresolved issues.~~

Specific Authority 400.935 FS. Law Implemented Part VII X of Chapter 400, 400.92-.957, 408.806, 408.807, 408.811 FS. History—New 6-4-00, Amended 10-6-02, _____.

59A-25.006 Emergency Management Planning.

(1) Pursuant to Section 400.934(20)(a), F.S., each home medical equipment provider must prepare and maintain a written comprehensive emergency management plan, that meets the minimum criteria in these rules and the Comprehensive Emergency Management Plan (CEMP) Format for Home Medical Equipment (HME) Providers, AHCA Form 3110-1019, Dec. 06, incorporated by reference.

This document is available from the Agency for Health Care Administration at <http://ahca.myflorida.com> under Licensing & Certification, Home Medical Equipment Provider. The CEMP Format contains the minimum criteria that must be included in each home medical equipment provider emergency management plan, as required in Section 400.934(20), F.S. The plan must describe how the home medical equipment provider establishes and maintains an effective response to emergencies and disasters. The completed plan will be e-mailed or mailed to the local county health department for each county listed on the home medical equipment provider's license as required in Section 400.934(20)(b), F.S., unless the county health department does not require submission of home medical equipment provider emergency management plans per Section 381.0303(7), F.S.

(2) The home medical equipment provider must review its emergency management plan on an annual basis, make any substantive changes and inform their staff of those changes. For the purposes of this section, 'substantive changes' would include, but not be limited to, change of address, change of administrative staff who are responsible for coordinating the home medical equipment provider's emergency response or their contact telephone numbers and change of type of equipment or equipment services provided.

(3) The substantive changes as defined in subsection 59A-25.019(2), F.A.C., must be reported to the county emergency management office and to the county health department. For home medical equipment providers with multiple counties on their license, the changes must be reported to each county health department and each county emergency management office designated on the license. The telephone numbers must include numbers where the coordinating staff can be contacted outside of the home medical equipment provider's regular office hours. All home medical equipment providers must report these changes, whether their plan has been previously reviewed or not, as defined in subsection (1).

(4) When a home medical equipment provider goes through a change of ownership, the new owner must review the emergency management plan and make any substantive changes, including changes noted in subsection (3). Those home medical equipment providers will need to report any substantive changes in their plans to the reviewing entity in subsection (1).

(5) In the event of an emergency, the home medical equipment provider must implement the emergency management plan pursuant to Section 400.934(20), F.S.

(6) Home medical equipment providers must assist consumers receiving HME services who would need assistance and sheltering during evacuations because of physical, mental, cognitive impairment, or sensory disabilities in registering with the local emergency management agency, as required in

Section 252.355(1), F.S., and as determined by the established procedures of the local emergency management agency related to special needs registration.

(a) Each home medical equipment provider must, pursuant to Sections 400.934 and 252.355, F.S., inform consumers and consumer caregivers, by the best method possible as it pertains to the person’s disability, of the special needs registry and procedures for registration at the special needs registry maintained by their county emergency management office.

(b) If the consumer is to be registered with the special needs registry, the home medical equipment provider must assist the consumer with registering, pursuant to Sections 400.934 and 252.355, F.S., and the established procedures of the local emergency management agency. The home medical equipment provider must document in the consumer’s file if the consumer plans to evacuate or remain at home and if the consumer’s caregiver or family can take responsibility during the emergency for equipment services normally provided by HME staff or independent contractors referred by the home medical equipment provider or if the home medical equipment provider needs to make referrals in order for equipment services to continue. If the consumer is also receiving services through any other licensed health care provider or federal or state funded program designated in Section 252.355, F.S., to help clients register with the special needs registry, then the home medical equipment provider will check with the other service provider or program case manager to verify if the consumer has already been registered. If so, a note will be made in the consumer’s file by the home medical equipment provider that the consumer’s need for registration has already been reviewed and handled by the other provider or program. Home medical equipment providers are not required to assist consumers residing in skilled nursing facilities, assisted living facilities or adult family care homes with special needs registration as those licensed facilities are responsible for evacuation and alternative sheltering of their clients.

(c) The collected registration information must be furnished to the county emergency management agency pursuant to Section 400.934, F.S., and as determined by the established procedures of the local emergency management agency related to special needs registration.

(7) The home medical equipment provider must provide the same type and quantity of equipment services to its consumers, which must include those being served in assisted living facilities and adult family care homes, who evacuate to special needs shelters which were being provided prior to evacuation, pursuant to Section 400.934(20)(a), F.S. Home medical equipment providers are not required to continue to provide services to consumers in emergency situations that are beyond their control and that make it impossible to provide services, such as when roads are impassable or when consumers do not go to the location specified in their consumer records.

(8) If the home medical equipment provider is unable to provide equipment services to consumers who are special needs registry patients, including any assisted living facility and adult family care home special needs registry patients, then the provider will make reasonable efforts to find another resource for the consumer, pursuant to Section 400.934(20)(a), F.S. This would include arranging for services for consumers who have been forced to relocate outside of the geographic service area of the home medical equipment provider.

(9) During emergency situations, when there is not a mandatory evacuation order issued by the local county emergency management office, some consumers, registered pursuant to Section 252.355, F.S., may decide not to evacuate and will stay in their homes. The home medical equipment provider must establish procedures, prior to the time of an emergency, which will delineate to what extent the provider will continue to arrange for essential equipment services during and immediately following an emergency pursuant to Section 400.934(20)(a), F.S.

Specific Authority 400.925, 400.934, 400.935 FS. Law Implemented 400.925, 400.934, 400.935 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Noël Cronin Lawrence

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeffrey N. Gregg

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 18, 2006

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE NOS.:	RULE TITLES:
60BB-4.997	General Information
60BB-4.998	Program Guidelines
60BB-4.999	Allocation Methodology

PURPOSE AND EFFECT: To repeal rules the Department of Children and Family Services transferred to the Agency for Workforce Innovation concerning the Teacher Education and Compensation Helps (T.E.A.C.H.) Program.

SUMMARY: These repealed rules address the Department of Children and Family Services’ implementation of the T.E.A.C.H. Program.

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

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

SPECIFIC AUTHORITY: Chapter 120, 411.0103(3) FS.

LAW IMPLEMENTED: 411.0103 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kelley Cramer, Senior Attorney, 107 E. Madison Street, MSC #110, Tallahassee, Florida 32399, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULES IS:

60BB-4.997 General Information.

Specific Authority 402.3017 FS. Law Implemented 402.3017 FS. History--New 5-29-01, Formerly 65C-26.001, Repealed.

60BB-4.998 Program Guidelines.

Specific Authority 402.3017 FS. Law Implemented 402.3017 FS. History--New 5-29-01, Formerly 65C-26.002, Repealed.

60BB-4.999 Allocation Methodology.

Specific Authority 402.3017 FS. Law Implemented 402.3017 FS. History--New 5-29-01, Formerly 65C-26.003, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kelley Cramer, Senior Attorney, 107 E. Madison Street, Tallahassee, Florida 32301 (850)245-7150

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sooni Raymaker, Deputy General Counsel, Agency for Workforce Innovation, 107 E. Madison Street, Tallahassee, Florida 32301 (850)245-7150

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-29.003
 RULE TITLE: Experience for Licensure by Endorsement

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify requirements for applicants seeking licensure by endorsement.

SUMMARY: Requirements will be clarified in the rule for applicants seeking licensure by endorsement.

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

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

SPECIFIC AUTHORITY: 473.304, 473.308 FS.

LAW IMPLEMENTED: 473.308 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Acting Division Director, Board of Accountancy/MQA, 240 NW 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-29.003 Experience for Licensure by Endorsement.

(1) Applicants for licensure by endorsement shall meet the requirements of Rules 61H1-27.001, 61H1-27.002, and 61H1-28.007, F.A.C.

(2) Any applicant seeking licensure by endorsement under Section 473.308(a), F.S., and having not been licensed in another state, shall have completed continuing education meeting the requirements of Rule 61H1-33.003, F.A.C., for the two (2) years immediately preceding the filing of the application.

(3)(4) Any applicant seeking licensure by endorsement under Section 473.308(3)(b), F.S., and having been licensed in another state, shall have meet the requirements of that section provided that, while licensed in another state, the applicant has completed whatever continuing education is required by that state to maintain an active license to practice public accounting in that state, so long as such requirements are equivalent to those required by Rule 61H1-33.003, F.A.C., to maintain an active license in Florida for the two (2) years immediately preceding the filing of the application.

(4)(2) Any applicant seeking licensure by endorsement under Section 473.308(4), F.S., Experience used to meet the requirements of Section 473.308(4), F.S., must have experience that includes at least five years experience in the practice of public accounting while licensed as a Certified Public Accountant or Chartered Accountant in the practice of public accounting or as an auditor or accountant in a unit of federal, state, or local government provided that the position meets the activity and supervision requirements set forth in Section 473.308(4), F.S.

(5) College courses used to meet education requirements of Rules 61H1-27.001 and 61H1-27.002, F.A.C., cannot also be used to meet the initial continuing professional education requirements of subsection (2) or (3) above.

Specific Authority 473.304, ~~473.306~~, 473.308 FS. Law Implemented 473.308 FS. History--New 4-2-88, Amended 6-12-88, Formerly 21A-29.003, Amended 2-12-98, 5-19-03, 1-31-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 13, 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-28.404
 RULE TITLE: Regulation of Daily Operating Hours
 PURPOSE AND EFFECT: The Board proposes to repeal the rule.

SUMMARY: The rule will be repealed.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 465.005, 465.022 FS.
 LAW IMPLEMENTED: 465.022(1) FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.404 Regulation of Daily Operating Hours.

~~Any person who receives a community pharmacy permit pursuant to Section 465.018, F.S., and commences to operate such an establishment shall, for the benefit of the public health and welfare, keep the prescription department of the establishment open for a minimum of forty (40) hours per week and a minimum of five (5) days per week. The Board hereby approves exceptions to the requirements noted above and permits closing of the prescription department for the following holidays: New Year's Day, Memorial Day, Fourth of July (Independence Day), Labor Day, Veterans' Day, Thanksgiving, Christmas and any bona fide religious holiday provided that notice of such closing is given as set forth below. A sign in block letters not less than one inch height shall be displayed either at the main entrance of the establishment or at or near the place where prescriptions are dispensed in a~~

~~prominent place that is in clear and unobstructed view. Such sign shall state the hours the prescription department is open each day.~~

Specific Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History--New 8-20-65, Amended 5-19-72, Repromulgated 12-18-74, Amended 5-6-80, 3-31-81, Formerly 21S-1.24, Amended 7-14-88, Formerly 21S-1.024, Amended 7-31-91, 3-15-92, Formerly 21S-28.404, 61F10-28.404, Amended 9-21-94, Formerly 59X-28.404, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2004

DEPARTMENT OF FINANCIAL SERVICES

Division of Treasury

RULE NO.: 69C-6.003
 RULE TITLE: The Plan; Prescribed Forms
 PURPOSE AND EFFECT: The purpose of the rule amendment is to amend the State of Florida Employee Deferred Compensation Plan.

SUMMARY: The rule adopts revisions to the State of Florida Employees Deferred Compensation Plan as follows:
 A provision is added to allow loans to participants from their deferred compensation accounts under conditions permitted by federal law.

Hardship withdrawal standards are changed as follows:
 Foreclosure is narrowed as a basis for a hardship withdrawal by requiring that the foreclosure be upon the participant's primary residence rather than any real property.
 Eviction from a primary residence is added as a basis for hardship withdrawal to conform to a federal regulation on that point.

"Dental or periodontal treatment that is necessary due to a sudden injury" is added as a basis for a hardship withdrawal.
 "Dental or periodontal treatment which is cosmetic or is necessary due to a chronic or degenerative condition such as periodontitis, decay, bruxism, or malocclusion not due a sudden injury" is added to the list of events for which a hardship withdrawal is not available.

The amount that can be obtained through the simplified hardship withdrawal process in the event of a hurricane emergency is raised from \$1,500.00 to \$2,500.00.

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

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

SPECIFIC AUTHORITY: 112.215(12) FS.

LAW IMPLEMENTED: 112.215 FS.

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

DATE AND TIME: Tuesday, January 23, 2007, 9:30 a.m.

PLACE: Room 415, Hermitage Centre, Suite 400, 1801 Hermitage Blvd., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kandi Winters, (850)413-3162. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kandi Winters, Chief of Deferred Compensation, Division of Treasury, Bureau of Deferred Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0346, phone (850)413-3162

THE FULL TEXT OF THE PROPOSED RULE IS:

69C-6.003 The Plan; Prescribed Forms.

(1) Form DFS-J3-1176 (Eff. _____), State of Florida Employees Deferred Compensation Plan, is hereby established and incorporated into this rule by reference as the plan contemplated in Section 112.215, F.S.

(2) through (4) No change.

Specific Authority 112.215(12) FS. Law Implemented 112.215 FS. History—New 1-1-87, Amended 10-7-87, 2-14-88, 2-19-89, 6-21-89, 8-7-95, 9-21-98, 6-11-02, Formerly 4C-6.003, Amended 8-26-04, 2-21-05, 7-9-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kandi Winters, Financial Administrator, Deferred Comp Section, Division of Treasury, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bruce Gillander, Division Director, Division of Treasury, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 13, 2006

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker's Compensation

RULE NO.:

RULE TITLE:

69L-7.602

Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule

PURPOSE AND EFFECT: To adopt new 2007 versions of nationally approved uniform billing forms for medical providers which are utilized by Florida's Workers' Compensation insurance industry for medical bill reimbursements to healthcare providers, to adopt a revised pharmacy billing form, to amend the data reporting requirements resulting from medical form changes, to revise and add additional Explanation of Bill Review Codes used by insurers to report bill review outcomes to health care providers as required to facilitate the medical bill dispute resolution process, to update the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG) reflecting its most current edition, and to update adopted reference material to reflect the most current edition.

SUMMARY: Rule amendment reflecting changes and updates to forms, reference materials, EDI requirements, and billing instructions for providers and insurers associated with the Florida Workers' Compensation Medical Services Billing Rule.

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

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

SPECIFIC AUTHORITY: 440.13(4), 440.15(3)(b), (d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS.

LAW IMPLEMENTED: 440.09, 440.13(2)(a), (3), (4), (6), (11), (12), (14), (16), 440.15(3)(b), (d), 440.185(5), (9), 440.20(6), 440.525(2), 440.593 FS.

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

DATE AND TIME: Tuesday, January 23, 2007, 9:00 a.m.

PLACE: 104J, Hartman Bldg., 2012 Capital Circle, S.E., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Don Davis, (850)413-1711. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Don Davis, Division of Workers' Compensation, Office of Data Quality and Collection, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4226, phone (850)413-1711

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-7.602 Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule.

(1) No change.

(a) No change.

(b) "Adjust " or "Adjusted" means payment is made with modification to the information provided on the bill.

(c)(b) "Agency" means the Agency for Health Care Administration as defined in Section 440.02(3), F.S.

(d)(e) "Ambulatory Surgical Center" is defined in Section 395.002(3), F.S.

(e)(d) "Billing" means the process by which a health care provider submits a medical claim form or medical bill to an insurer, service company/third party administrator or any entity acting on behalf of the insurer, to receive reimbursement for medical services, goods, or supplies provided to an injured employee.

(f)(e) "Catastrophic Event" means the occurrence of an event outside the control of an insurer, submitter, service company/third party administrator or any entity acting on behalf of the insurer, such as an electronic data transmission failure due to a natural disaster, or an act of terrorism (including but not limited to cyber terrorism) or a telecommunications failure, in which recovery time will prevent an insurer, submitter, service company/third party administrator or any entity acting on behalf of the insurer from meeting the filing and reporting requirements of Chapter 440, F.S., and this rule. Programming errors, system malfunctions, or electronic data interchange transmission failures that are not a direct result of a catastrophic event are not considered to be a catastrophic event as defined in this rule. See paragraph (6)(d) for requirements to request approval of an alternative method and timeline for medical report filing with the Division due to a catastrophic event.

(g)(f) "Charges" means the dollar amount billed.

(h)(g) "Charge Master" means for hospitals a comprehensive listing of all the goods and services for which the facility maintains a separate charge, with the facility's charge for each of the goods and services, regardless of payer type and means for ASCs a listing of the gross charge for each CPT[®] procedure for which an ASC maintains a separate charge, with the ASC's charge for each CPT[®] procedure, regardless of payer type a comprehensive listing of all goods and services for which the hospital or ambulatory surgical center maintains a separate charge with the hospital's or ambulatory surgical center's charges for each of the goods and

~~services, regardless of payer type. The charge master shall be maintained and produced when requested for the purpose of verifying its usual charges pursuant to Section 440.13(12)(d), F.S.~~

(i)(h) "Claims-Handling Entity File Number" means the number assigned to the claim file by the insurer or service company/third party administrator for purposes of internal tracking.

(j)(i) "Current Dental Terminology" (CDT) means the American Dental Association's reference document containing descriptive terms to identify codes for billing and reporting dental procedures.

(k) "Current Procedural Terminology" (CPT[®]) means the American Medical Association's reference document (HCPCS Level I) containing descriptive terms to identify codes for billing and reporting medical procedures and services.

(l)(j) "Date Insurer Paid" or "Date Insurer Paid, Adjusted and Paid, Disallowed or Denied" means the date the insurer, service company/third party administrator or any entity acting on behalf of the insurer mails, transfers or electronically transmits payment to the health care provider or the health care provider representative. If payment is disallowed or denied, "Date Insurer Paid" or "Date Insurer Paid, Adjusted and Paid, Disallowed or Denied" means the date the insurer, service company/third party administrator or any entity acting on behalf of the insurer mails, transfers or electronically transmits the appropriate notice of disallowance or denial to the health care provider or the health care provider representative. See paragraph (5)(l) for the requirement to accurately report the "date insurer paid".

(m)(k) "Date Insurer Received" means the date that a Form DFS-F5-DWC-9, DFS-F5-DWC-10 (or insurer pre-approved alternate form), DFS-F5-DWC-11, DFS-F5-DWC-90 or the electronic form equivalent is in the possession of the insurer, service company/third party administrator or any entity acting on behalf of the insurer. See paragraph (5)(l) for the requirement to accurately report the "date insurer received". If a medical bill meets any of the criteria in paragraph (5)(j) of this rule and possession of the form is relinquished by the insurer, service company/TPA or any entity acting on behalf of the insurer by returning the medical bill to the provider with a written explanation for the insurer's reason for return, then "date insurer received" shall not apply to the medical bill as submitted.

(n)(l) "Deny" or "Denied" means payment is not made because the service rendered is treatment for a non-compensable injury or illness means to determine that no payment is to be made for a specific procedure code or other service reported by a health care provider to an insurer, service company/third party administrator or any entity acting on behalf of the insurer on a bill.

(o)(m) "Department" means Department of Financial Services (DFS) as defined in Section 440.02(12), F.S.

~~(p)(n)~~ “Disallow” or “Disallowed” means payment is not made because the service rendered has not been substantiated for reasons of medical necessity, insufficient documentation, lack of authorization or billing error means to determine that no payment is to be made for a specific procedure code or other service reported by a health care provider to an insurer, service company/third party administrator or any entity acting on behalf of the insurer for reimbursement, based on identification of a billing error, inappropriate utilization or over utilization, use of an incorrect billing form, only one line item billed and the bill has an invalid code, or required information is inaccurate, missing or illegible.

~~(q)(o)~~ “Division” means the Division of Workers’ Compensation (DWC) as defined in Section 440.02(14), F.S.

~~(r)(p)~~ “Electronic Filing” means the computer exchange of medical data from a submitter to the Division in the standardized format defined in the Florida Medical EDI Implementation Guide (MEIG), 2006.

~~(s)(q)~~ “Electronic Form Equivalent” means the format, provided in the Florida Medical EDI Implementation Guide (MEIG), 2006, to be used when a submitter electronically transmits required data to the Division. Electronic form equivalents do not include transmission by facsimile, data file(s) attached to electronic mail, or computer-generated paper-forms.

~~(t)(r)~~ “Electronically Filed with the Division” means the date an electronic filing has been received by the Division and has successfully passed structural and data-quality edits.

~~(u)(s)~~ “Entity” means any party involved in the provision of or the payment for medical services, care or treatment rendered to the injured employee, excluding the insurer, service company/third party administrator or health care provider as identified in this section.

~~(v)(t)~~ “Explanation of Bill Review” (EOBR) means the notice of payment or notice of adjustment ~~and payment~~, disallowance or denial sent by an insurer, service company/third party administrator or any entity acting on behalf of an insurer to a health care provider containing code(s) and code descriptor(s), in conformance with paragraph (5)(o) of this rule.

~~(w)(u)~~ “Florida Medical EDI Implementation Guide (MEIG), 2006” is the Florida Division of Workers’ Compensation’s reference document containing the specific electronic formats and data elements required for insurer reporting of medical data to the Division.

~~(x)(v)~~ “Healthcare Common Procedure Coding System National Level II Codes (HCPCS)” (HCPCS) means the Centers for Medicare and Medicaid Services’ (CMS) reference document listing descriptive codes for billing and reporting professional services, procedures, and supplies provided by health care providers.

~~(y)(w)~~ “Health Care Provider” is defined in Section 440.13(1)(h), F.S.

~~(z)(x)~~ “Hospital” is defined in Section 395.002(13), F.S.

~~(aa)(y)~~ “ICD-9-CM International Classification of Diseases” (ICD-9) is the U.S. Department of Health and Human Services’ reference document listing the official diagnosis and inpatient-procedure code sets.

~~(bb)(z)~~ “Insurer” is defined in Section 440.02(38), F.S.

~~(cc)(aa)~~ “Insurer Code Number” means the number the Division assigns to each individual insurer, self-insured employer or self-insured fund.

~~(dd)(bb)~~ “Itemized Statement” means a detailed listing of goods, services and supplies provided to an injured employee, including the quantity and charges for each good, service or supply.

~~(ee)~~ “Medical Bill” means the document or electronic equivalent submitted by a health care provider to an insurer, service company/TPA or any entity acting on behalf of the insurer for reimbursement for services or supplies (e.g. DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, DFS-F5-DWC-90 or the provider’s usual invoice or business letterhead) as appropriate pursuant to subsection (4)(b) of this rule.

~~(ff)(ee)~~ “Medically Necessary” or “Medical Necessity” is defined in Section 440.13(1)(l), F.S.

~~(gg)(dd)~~ “NDC Number” means the National Drug Code (NDC) number, assigned under Section 510 of the Federal Food, Drug, and Cosmetic Act, which identifies the drug product labeler/vendor, product, and trade package size. The NDC number is an eleven-digit number that is expressed in the universal 5-4-2 format and included on all applicable reports with each of the three segments separated by a dash (-).

~~(hh)~~ “Pay” or “Paid” means payment is made applying the applicable reimbursement formula to the medical bill as submitted.

~~(ii)(ee)~~ “Physician” is defined in Section 440.13(1)(q), F.S.

~~(ff)~~ “Physician’s Current Procedural Terminology (CPT®)” (CPT) means the American Medical Association’s reference document (HCPCS Level I) containing descriptive terms to identify codes for billing and reporting medical procedures and services.

~~(jj)(gg)~~ “Principal Physician” means the treating physician responsible for the oversight of medical care, treatment and attendance rendered to an injured employee, to include recommendation for appropriate consultations or referrals.

~~(kk)(hh)~~ “Report” means any form related to medical services rendered, in relation to a workers’ compensation injury that, which is required to be filed with the Division under this rule.

~~(ll)(ii)~~ “Service Company/Third Party Administrator (TPA)” means a party that has contracted with an insurer for the purpose of providing services necessary to adjust workers’ compensation claims on the insurer’s behalf.

~~(mm)(jj)~~ “Service Company/Third Party Administrator (TPA) Code Number” means the number the Division assigns to a service company, adjusting company, managing general agent or third party administrator.

~~(nn)(kk)~~ “Submitter” means an insurer, service company/TPA, entity or any other party acting as an agent ~~or vendor~~ on behalf of an insurer, service company/TPA, or any entity to fulfill any insurer responsibility to electronically transmit required medical data to the Division.

~~(oo)(H)~~ “UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee, November February 2006” (UB-92 ~~M~~manual) is the reference document providing billing and reporting completion instructions for the Form DFS-F5-DWC-90 (UB-92 HCFA-1450, Uniform Bill, Rev. 1992).

~~(pp)~~ “UB 04 Manual” means the National Uniform Billing Committee Official UB-04 Data Specifications Manual 2007, which is the reference document providing billing and reporting completion instructions for the Form DFS-F5-DWC-90 (UB-04 CMS-1450, Uniform Bill, Rev. 2006).

(2) Forms Incorporated by Reference for Medical Billing, Filing and Reporting.

(a)1. Form DFS-F5-DWC-9 (CMS-1500 Health Insurance Claim Form, Rev. 12/90); Form DFS-F5-DWC-9-A (Completion Instructions for Form DFS-F5-DWC-9: comprised of three sets of completion instructions for use by health care providers, ambulatory surgical centers, and work hardening and pain management programs), Rev. 5/26/2005, Effective to bill for dates of service up to and including 03/31/07.

2. Form DFS-F5-DWC-9 (CMS-1500 Health Insurance Claim Form, Rev. 08/05); Form DFS-F5-DWC-9-B (Completion Instructions for Form DFS-F5-DWC-9: comprised of three sets of completion instructions for use by health care providers, ambulatory surgical centers, and work hardening and pain management programs), Rev. 1/1/2007. May be used to bill for dates of service up to and including 3/31/2007 and shall be used to bill for dates of service on and after 4/1/2007.

(b)1. Form DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form), Rev. 2/14/2006, Effective to bill for dates of service up to and including 03/31/07.

2. Form DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form), Rev. 1/1/2007. May be used to bill for dates of service up to and including 3/31/2007 and shall be used to bill for dates of service on and after 4/1/2007.

(c)1. Form DFS-F5-DWC-11 (American Dental Association Dental Claim Form, Rev. 2002); Form DFS-F5-DWC-11-A (Completion Instructions for Form DFS-F5-DWC-11), Rev. 5/26/2005, Effective to bill for dates of service up to and including 03/31/07.

2. Form DFS-F5-DWC-11 (American Dental Association Dental Claim Form, Rev. 2006); Form DFS-F5-DWC-11-B (Completion Instructions for Form DFS-F5-DWC-11), Rev. 1/1/2007. May be used to bill for dates of service up to and including 3/31/2007 and shall be used to bill for dates of service on and after 4/1/2007.

(d) Form DFS-F5-DWC-25 (Florida Workers’ Compensation Uniform Medical Treatment/Status Reporting Form), Rev. 2/14/2006, ~~and~~

(e)1. Form DFS-F5-DWC-90 (UB-92 HCFA-1450, Uniform Bill, Rev. 1992). Effective for submissions up to and including 05/22/07 ~~are hereby incorporated by reference into this rule.~~

2. Form DFS-F5-DWC-90 (UB-04 CMS-1450, Uniform Bill, Rev. 2006); Form DFS-F5-DWC-90 – B (Completion Instructions for Form DFS-F5-DWC-90). May be used to bill for submissions between 3/1/2007 and 5/22/2007 and shall be used to bill for submissions on and after 5/23/2007.

(f) Obtaining Copies of Forms and Instructions.

1. A copy of either revision of the Form DFS-F5-DWC-9 can be obtained from the CMS web site: <http://www.cms.hhs.gov/forms/>. Completion instructions for either revision of the form can be obtained from the Department of Financial Services/Division of Workers’ Compensation (DFS/DWC) web site: <http://www.fldfs.com/WC/forms.html#7>.

2. A copy of either revision of the Form DFS-F5-DWC-10 and completion instructions for either revision of the form can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

3. A copy of either revision of the Form DFS-F5-DWC-11 can be obtained from the American Dental Association web site: <http://www.ada.org/>. Completion instructions for either revision of the form can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

4. No change.

5. A copy of either revision of the Form DFS-F5-DWC-90 can be obtained from the CMS web site: <http://cms.hhs.gov/forms/>. Completion instructions for Form DFS-F5-DWC-90 (Rev. 1992) can be obtained from the UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee (Rev. ~~September February~~ 2006) and subparagraph (4)(b)~~(d)~~4. of this rule. Completion instructions for Form DFS-F5-DWC-90 (Rev. 2006), Form DFS-F5-DWC-90-B (Rev. 1/1/07), can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

~~(g)(b)~~ In lieu of submitting a Form DFS-F5-DWC-10, when billing for drugs or medical supplies, alternate billing forms are acceptable if:

1. No change.

2. The form provides all information required to be submitted to the Division, pursuant to the date-applicable Florida Medical EDI Implementation Guide (MEIG), 2006, on the Form DFS-F5-DWC-10. Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 shall not be submitted as an alternate form.

(3) Materials Adopted for Reference. The following publications are incorporated by reference herein:

(a) UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee (Rev. ~~September~~ February 2006). A copy of this manual can be obtained from the Florida Hospital Association by calling (407)841-6230.

(b) The Florida Medical EDI Implementation Guide (MEIG), 2006, applicable for data submission until 7/1/2007. The Florida Medical EDI Implementation Guide (MEIG), 2006 can be obtained from the DFS/DWC web site: http://www.fldfs.com/WC/edi_med.html.

(c) No change.

(d) The ~~Physicians'~~ Current Procedural Terminology (CPT®), as adopted in Rule 69L-7.020, F.A.C.

(e) The Current Dental Terminology (CDT-20054), as adopted in Rule 69L-7.020, F.A.C.

(f) The ~~20076~~ ICD-9-CM Professional for Hospitals, Volumes 1, 2 and 3, International Classification of Diseases, 9th Revision, Clinical Modification, Copyright ~~20065~~, Ingenix, Inc. (American Medical Association).

(g) The Physician ICD-9-CM ~~20076~~, Volumes 1 & 2, International Classification of Diseases, 9th Revision, Clinical Modification, Copyright ~~20065~~, Ingenix, Inc. (American Medical Association).

(h) through (k) No change.

(l) National Uniform Billing Committee Official UB-04 Data Specifications Manual 2007, version 1.00, September 2006, as adopted by the National Uniform Billing Committee. A copy of this manual can be obtained from the National Uniform Billing Committee web site: <http://www.nubc.org/UB-04%20SUBSCRIPTION%20ORDER%20FORM.doc>

(m) The Florida Medical EDI Implementation Guide (MEIG), 2007, applicable for data submission on or after 4/2/2007 and required for all data submission on or after 8/9/2007. The Florida Medical EDI Implementation Guide (MEIG), 2007 can be obtained from the DFS/DWC web site: http://www.fldfs.com/WC/edi_med.html.

(n) Current Procedural Terminology (CPT®), 2007 Professional Edition, Copyright 2006, American Medical Association.

(4) Health Care Provider Responsibilities.

(a) Bill Submission/Filing and Reporting Requirements.

~~1.(a)~~ All health care providers are responsible for meeting their obligations, under this rule, regardless of any business arrangement with any entity under which claims are prepared, processed or submitted to the insurer.

~~2.(b)~~ Each health care provider is responsible for submitting any additional form completion information and supporting documentation requested, in writing, by the insurer at the time of authorization, or at the time a reimbursement request is received.

3. Each health care provider shall resubmit a medical claim form or medical bill with insurer requested documentation when the EOB provides an explanation for disallowance based on the lack of documentation submitted with the medical bill.

~~4.(e)~~ Insurers and health care providers shall utilize only the Form DFS-F5-DWC-25 for physician reporting of the injured employee's medical treatment/status. Any other reporting forms may not be used in lieu of or supplemental to the Form DFS-F5-DWC-25. Provider failure to accurately complete and submit the DFS-F5-DWC-25, in accordance with the Form DFS-F5-DWC-25 Completion/Submission Instructions adopted in this rule, may result in the Agency imposing sanctions or penalties pursuant to subsection 440.13(8), F.S. or subsection 440.13(11), F.S.

~~a.1-~~ The Form DFS-F5-DWC-25 does not replace physician notes, medical records or ~~D~~ivision-required medical reports.

~~b.2-~~ All information submitted on physician notes, medical records or ~~D~~ivision-required medical reports must be consistent with information documented on the Form DFS-F5-DWC-25.

5. All medical claim form(s) or medical bill(s) related to services rendered for a compensable injury shall be submitted by a health care provider to the insurer, service company/TPA or any entity acting on behalf of the insurer, as a requirement for billing.

6. Medical claim form(s) or medical bill(s) may be electronically filed or submitted via facsimile by a health care provider to the insurer, service company/TPA or any entity acting on behalf of the insurer, provided the insurer agrees.

7. When requested by the insurer, service company/TPA or any entity acting on behalf of the insurer, a health care provider shall send documentation that supports the medical necessity of the specific services rendered and any other required documentation pursuant to paragraph (4)(b) of this rule and the applicable reimbursement manual.

8. Each health care provider is responsible for correcting and resubmitting any billing forms returned by an insurer, service company/TPA or any entity acting on behalf of the insurer pursuant to paragraph (5)(j) of this rule.

9. Each hospital and ambulatory surgical center shall maintain its charge master and shall produce relevant portions when requested for the purpose of verifying its usual charges pursuant to Section 440.13(12)(d), F.S.

(b)(4) Special Billing Requirements.

1. When anesthesia services are billed on a Form DFS-F5-DWC-9, completion of the form must include the CPT® code and the “P” code (physical status modifier), which correspond with the procedure performed, in Field 24D. Anesthesia health care providers shall enter the date of service and the 5-digit qualifying circumstance code, which correspond with the procedure performed, in Field 24D on the next line, if applicable.

2. When an Advanced Registered Nurse Practitioner (ARNP) provides services as a Certified Registered Nurse Anesthetist, the ARNP he/she shall bill on a Form DFS-F5-DWC-9 for the services rendered and enter his/her Florida Department of Health ARNP license number in Field 33b, regardless of the employment arrangement under which the services were rendered, or the party submitting the bill.

3. Regardless of the employment arrangement under which the services are rendered or the party submitting the bill, the following health care providers, who render direct billable services for which reimbursement is sought from an insurer, service company/TPA or any entity acting on behalf of the insurer, service company/TPA, shall bill on a Form DFS-F5-DWC-9 and enter his/her Florida Department of Health license number in Field 33b on the Form DFS-F5-DWC-9:

a. through c. No change.

4. No change.

a. Inpatient billing – Hospitals shall, in addition to filing a Form DFS-F5-DWC-9;

I. Attach an itemized statement with charges based on the facility’s Charge Master; and

II. Submit all applicable documentation or certification required pursuant to Rule 69L-7.501, F.A.C.; and

III. Bill professional services provided by a physician, physician assistant, advanced registered nurse practitioner, or registered nurse first assistant on the Form DFS-F5-DWC-9, regardless of employment arrangement.

IV. When entering the CPT®, HCPCS or unique workers’ compensation codes in Form Locator 44 on the Form DFS-F5-DWC-9, the hospital shall utilize CPT®, HCPCS or unique workers’ compensation codes provided in the Florida Workers’ Compensation Health Care Provider Reimbursement Manual adopted in Rule 69L-7.501, F.A.C.

b. Outpatient billing – Hospitals shall, in addition to filing a Form DFS-F5-DWC-9;

I. Enter the CPT®, HCPCS or unique workers’ compensation code (provided in the Florida Workers’ Compensation Health Care Provider Reimbursement Manual

as incorporated for reference adopted in Rule 69L-7.501(2), F.A.C.) in Form Locator 44 on the Form DFS-F5-DWC-9, to bill outpatient radiology, clinical laboratory and physical, occupational or speech therapy charges; and

II. Make written entry “scheduled” or “non-scheduled” in Form Locator 84 of Form revision 1992 and in Form Locator 80 of Form revision 2006 – ‘Remarks’ on the DFS-F5-DWC-9, directly after entry of the hospital’s physical location ZIP code, when billing outpatient surgery or outpatient surgical services; and

III. Make written entry “implant(s)” followed by the reimbursement calculation made pursuant to Rule 69L-7.501, F.A.C., in Form Locator 84 of Form revision 1992 and in Form Locator 80 of Form revision 2006 – ‘Remarks’ on the DFS-F5-DWC-9, directly after entry of “scheduled” or “non-scheduled”, when present.

IV. Attach an itemized statement with charges based on the facility’s Charge Master if there is no line item detail shown on the Form DFS-F5-DWC-9; and

V. Submit all applicable documentation or certification required pursuant to Rule 69L-7.501, F.A.C.

VI. Bill professional services provided by a physician, physician assistant, advanced registered nurse practitioner, or registered nurse first assistant on the Form DFS-F5-DWC-9, regardless of employment arrangement.

5. A certified, licensed physician assistants, anesthesia assistants and registered nurse first assistants who provides services as a surgical assistant, in lieu of a second physician, shall bill on a Form DFS-F5-DWC-9 entering the CPT® code(s) plus modifier(s), which represent the service(s) rendered, in Field 24D, and must enter his/her Florida Department of Health license number in Field 33b.

6. Ambulatory Surgical Centers (ASCs) shall bill on a Form DFS-F5-DWC-9 using the American Medical Association’s CPT® procedure codes, or using the unique workers’ compensation procedure code 99070 and billing with itemized line item charges based on the ASC’s Charge Master except when billing for procedure code 99070. ASC medical bills shall be accompanied by all applicable documentation required pursuant to Rule 69L-7.100, F.A.C.

7. No change.

8. Out-of-State health care providers shall bill on the applicable medical bill form pursuant to subsection (4)(c) of this rule.

9. Dental Services.

a. through b. No change.

10. Pharmaceutical(s), Durable Medical Equipment and Medical Supplies.

a. When dispensing commercially available medicinal drugs commonly known as legend or prescription drugs:

I. Pharmacists shall bill on Form DFS-F5-DWC-10 and shall enter the NDC number, in the universal 5-4-2 format, in Field 9, with each segment separated by a dash (-).

II. Physicians, physician assistants or ARNPs shall bill on Form DFS-F5-DWC-9 and shall enter the NDC number, in the universal 5-4-2 format, in Field 24D, with each segment separated by a dash (-). Optionally, the unique workers' compensation code 96370 may be entered in addition to the NDC number in Field 24D.

III. Hospitals shall bill on Form DFS-F5-DWC-90 using the appropriate revenue codes.

b. When dispensing medicinal drugs which are compounded and the prescribed formulation is not commercially available:

I. Pharmacists shall bill on Form DFS-F5-DWC-10 and shall enter the unique workers' compensation code 96371 in Field 9.

II. Physicians, physician assistants or ARNPs shall bill on Form DFS-F5-DWC-9 and shall enter the unique workers' compensation code 96371 in form Field 24D.

III. Hospitals shall bill on Form DFS-F5-DWC-90 using the appropriate revenue codes.

c. When dispensing over-the-counter drug products:

I. Pharmacists shall bill on Form DFS-F5-DWC-10 and shall enter the NDC number, in the universal 5-4-2 format in form Field 9, with each segment separated by a dash (-).

II. Physicians, physician assistants or ARNPs shall bill on Form DFS-F5-DWC-9, shall enter the NDC number in the universal 5-4-2 format, in Field 24D, with each segment separated by a dash (-). The requirement to enter the NDC number in Field 24D supersedes the instruction to enter 99070 in the Florida Workers' Compensation Health Care Provider Reimbursement Manual.

III. Hospitals shall bill on Form DFS-F5-DWC-90 using the appropriate revenue codes.

d. When administering or dispensing injectable drugs:

I. Pharmacists shall bill on Form DFS-F5-DWC-10 and shall enter the NDC number, in the universal 5-4-2 format, in form Field 9, with each segment separated by a dash (-).

II. Physicians, physician assistants or ARNPs shall bill on a Form DFS-F5-DWC-9 and enter the appropriate HCPCS "J" code in form Field 24D. When an appropriate HCPCS "J" code is not available for the injectable drug, enter the NDC number, in the universal 5-4-2 format in form Field 24D with each segment separated by a dash (-).

III. Hospitals shall bill on Form DFS-F5-DWC-90 using the appropriate revenue codes.

e. When dispensing durable medical equipment (DME):

I. Pharmacists shall bill on Form DFS-F5-DWC-10 and shall enter the applicable HCPCS code in Field 21 on form revision 2/14/2006 and in Field 21 on form revision 1/1/2007.

II. Physicians, physician assistants or ARNPs shall bill on Form DFS-F5-DWC-9, shall enter the applicable HCPCS code in Field 24D and attach documentation indicating the actual cost of the supply, including applicable manufacturer's shipping and handling.

III. Hospitals shall bill on Form DFS-F5-DWC-90 using the applicable revenue codes.

IV. Ambulatory Surgical Centers shall bill for these products on Form DFS-F5-DWC-9 using applicable HCPCS codes.

V. Medical Suppliers shall bill on Form DFS-F5-DWC-10 and shall enter the applicable HCPCS code in form Field 21 on form revision 2/14/2006 and in Field 21 on form revision 1/1/2007. The requirement to enter the HCPCS code when billing for medical equipment or supplies supersedes the instruction that "the medical supplier is not required to submit codes" in the Florida Workers' Compensation Health Care Provider Reimbursement Manual.

f. When dispensing medical supplies which are not incidental to a service or procedure:

I. Pharmacists shall bill on Form DFS-F5-DWC-10 and shall enter the applicable HCPCS code in Field 16 on form revision 2/14/2006 and in Field 21 on form revision 1/1/2007.

II. Physicians, physician assistants or ARNPs shall bill on Form DFS-F5-DWC-9, shall enter the applicable HCPCS code in Field 24D and attach documentation indicating the actual cost of the supply, including applicable manufacturer's shipping and handling. The requirement to enter the HCPCS code when billing for medical equipment or supplies supersedes the instruction "under the specific HCPCS code or 99070" in the Florida Workers' Compensation Health Care Provider Reimbursement Manual.

III. Hospitals shall bill on Form DFS-F5-DWC-90 under the applicable revenue codes.

IV. Ambulatory Surgical Centers shall bill separately for these products on Form DFS-F5-DWC-9 and shall enter the applicable CPT[®] code or HCPCS in Field 24D.

V. Medical Suppliers shall bill on Form DFS-F5-DWC-10 and shall enter the applicable HCPCS code in Field 16 on form revision 2/14/2006 and in Field 19 on form revision 1/1/2007. The requirement to enter the HCPCS code when billing for medical equipment or supplies supersedes the instruction that "the medical supplier is not required to submit codes" in the Florida Workers' Compensation Health Care Provider Reimbursement Manual.

g. Pharmacists who provide Medication Therapy Management Services shall bill for these services on a Form DFS-F5-DWC-9 by entering the appropriate CPT[®] code(s) 0115T, 0116T or 0117T that represent the service(s) rendered in form Field 24D, shall enter their Florida Department of Health license number in Field 33b and shall submit a copy of the physician's written prescription with the medical bill.

~~h. Pharmacists and medical suppliers may only bill on an alternate to Form DFS-F5-DWC-10 when an insurer has pre-approved use of the alternate form. Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 shall not be approved for use as the alternate form.~~

~~a. Pharmacists and medical suppliers shall bill on a Form DFS F5 DWC 10 or on an insurer pre approved alternate form. Forms DFS F5 DWC 9, DFS F5 DWC 11 or DFS F5 DWC 90 shall not be submitted as an alternate form.~~

~~b. Pharmacists shall complete Field 9, on a Form DFS-F5-DWC-10, by entering the unique workers' compensation code 96371 when medicinal drugs are compounded and the formulation prescribed is not commercially available.~~

~~e. Dispensing physicians, physician assistants or ARNPs shall bill on a Form DFS F5 DWC 9, when supplying commercially available medicinal drugs (commonly known as legend or prescription drugs) and shall enter the NDC number in Field 24D. Optionally, the unique workers' compensation code 96370 may be entered in addition to the NDC code, in Field 24D.~~

~~d. When administering or supplying injectable drugs, the physician, physician assistant or ARNP shall bill on a Form DFS F5 DWC 9 and enter the appropriate HCPCS "J" code in Field 24D.~~

~~e. Dispensing physicians shall complete Field 24D, on a Form DFS F5 DWC 9, by entering the unique workers' compensation code 96371 when medicinal drugs are compounded and the formulation prescribed is not commercially available.~~

~~f. Dispensing physicians, physician assistants or ARNPs shall bill by entering code 99070 in Field 24D, on a Form DFS F5 DWC 9, when supplying over the counter drugs and shall submit documentation indicating the name, dosage, package size and cost of the drug(s).~~

~~g. Physicians and other licensed health care providers providing medical supplies shall bill on a Form DFS F5 DWC 9 and attach documentation indicating the actual cost of the supply, including applicable manufacturer's shipping and handling.~~

~~11.40. Physicians billing for a failed appointment for a scheduled independent medical examination (when the injured employee does not report to the physician office as scheduled) shall bill on their invoice or letterhead. The invoice shall not be a Form DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, or DFS-F5-DWC-90.~~

~~12.44. Health care providers receiving reimbursement under any payment plan (pre-payment, prospective pay, capitation, etc.) must accurately complete the Form DFS-F5-DWC-9 and submit the form to the insurer.~~

~~13.42. Health care providers and other insurer-authorized providers rendering services reimbursable under workers' compensation, whose billing requirements are not otherwise~~

specified in this rule (e.g. home health agencies, independent, non-hospital based ambulance services, air-ambulance, emergency medical transportation, non-emergency transportation services, translation services, etc.) shall bill on their invoice or business letterhead. These providers shall not submit the Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11 or DFS-F5-DWC-90 as an invoice.

~~(c)(e)~~ Bill Completion.

1. Bills shall be legibly and accurately completed by all health care providers, regardless of location or reimbursement methodology, as set forth in this section and paragraph (4)(b) of this rule.

2. Billing elements required by the Division to be completed by a health care provider are identified in specific Form DFS-F5-DWC-9-A or Form DFS-F5-DWC-9-B (completion instructions), as appropriate for the date of the revised form, available at the following websites:

a. through c. No change.

3. Billing elements required by the Division to be completed for Pharmaceutical or Medical Supplier Billing are identified in specific Form DFS-F5-DWC-10 (completion instructions), as appropriate for the date of the revised form, available at website: <http://www.fldfs.com/WC/forms.html#7>.

4. Billing elements required by the Division to be completed for Dental Billing are identified in specific Form DFS-F5-DWC-11-A or Form DFS-F5-DWC-9-B (completion instructions), as appropriate for the date of the revised form, available at website: <http://www.fldfs.com/WC/forms.html#7>.

5. Billing elements required by the Division to be completed for Hospital Billing are identified in the UB-92 Manual, the UB-04 Manual, Form DFS-F5-DWC-90-B (completion instructions) and subparagraph (4)(b)(d)4. of this rule.

6. No change.

~~(f) Health Care Provider Bill Submission/Filing and Reporting Requirements.~~

~~1. All medical claim form(s) or bill(s) related to services rendered for a compensable injury shall be submitted by a health care provider to the insurer, service company/TPA or any entity acting on behalf of the insurer, as a requirement for billing.~~

~~2. Medical claim form(s) or bill(s) may be electronically filed or submitted via facsimile by a health care provider to the insurer, service company/TPA or any entity acting on behalf of the insurer, provided the insurer agrees.~~

~~3. Medical claim form(s) or bill(s) shall be filed by the health care provider with an insurer, service company/TPA or any entity acting on behalf of the insurer. The health care provider must submit required documentation that supports the medical necessity of services rendered. This requirement does not apply to Pharmacies, Medical Suppliers, Ambulatory Surgical Centers or Hospitals except as requested in conjunction with an insurer audit.~~

(5) Insurer Responsibilities.

(a) through (b) No change.

(c) At the time of authorization for medical service(s), an insurer shall inform in-state and an out-of-state health care providers of the specific reporting, billing and submission requirements of this rule and provide the specific address for submitting a reimbursement request.

(d) No change.

(e) Required data elements on each Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, and DFS-F5-DWC-90, for both medical only and lost-time cases, shall be filed with the Division within 45-calendar days of when the medical bill is paid, adjusted, disallowed or denied by the insurer, service company/TPA or any entity acting on behalf of the insurer, payment, adjustment and payment, disallowance or denial. The this 45-calendar day filing requirement includes initial submission and correction and re-submission of all errors identified in the "Medical Claim Processing Report", as defined in the date-applicable Florida Medical EDI Implementation Guide (MEIG), ~~2006~~.

(f) An insurer shall be responsible for accurately completing required data filed with the Division, ~~as of the effective date of this rule,~~ pursuant to the date-applicable Florida Medical EDI Implementation Guide (MEIG), ~~2006~~, and subparagraphs (4)(c)(e)2.-5. of this rule.

(g) No change.

(h) An insurer, service company/TPA or any entity acting on behalf of an insurer must report to the Division the procedure code(s), number of line-items billed, diagnosis code(s), ~~or~~ modifier code(s) and ~~or~~ amount(s) charged, as billed by the health care provider when reporting these data to the Division. However, the insurer, service company/TPA or any entity acting on behalf of an insurer may correct the procedure code(s) or modifier code(s) to effect payment and shall report both the provider billed code(s) and insurer adjusted code(s) pursuant to the date-appropriate MEIG. The insurer, service company/TPA or any entity acting on behalf of an insurer shall utilize the EOBR code "80" to notify the health care provider concerning any such billing errors and shall transmit EOBR code "80", in instances when the carrier corrects the provider coding, when reporting to the Division.

(i) An insurer, service company/TPA or any entity acting on behalf of the insurer shall manually or electronically date stamp accurately completed Forms DFS-F5-DWC-9, DFS-F5-DWC-10 (or insurer pre-approved alternate form), DFS-F5-DWC-11, DFS-F5-DWC-90 or the electronic form equivalent on the "date insurer received" as defined in paragraph (1)(~~m~~)(~~k~~) of this rule.

(j)1. When a medical bill is submitted for reimbursement by a health care provider, the insurer, service company/TPA or entity acting on behalf of the insurer must review the medical bill to determine if any of the criteria in subparagraph (5)(j)5. of this rule are present. If a medical bill meets any of the

criteria listed in subparagraph (5)(j)5. of this rule, the insurer, service company/TPA or entity acting on behalf of the insurer must either:

a. Secure and/or correct the information on the medical bill and proceed to make a reimbursement decision to pay, adjust, disallow or deny billed charges within 45-calendar days from the "date insurer received"; or

b. Return the medical bill to the provider with a written statement identifying the criteria under which the medical bill is being returned within twenty-one (21) days of the "Date Insurer Received". The written statement sent to the provider with the returned medical bill shall bear the following statement CAPITALIZED and in BOLD print: "A HEALTH CARE PROVIDER MAY NOT BILL THE INJURED EMPLOYEE FOR SERVICES RENDERED FOR A COMPENSABLE WORK-RELATED INJURY".

2. If the insurer returns a medical bill to the provider pursuant to subparagraph (5)(j)5. of this rule, the written statement must include all criteria upon which the return of the medical bill are based.

3. If the criterion upon which the return of the medical bill is based includes any of the criteria in sub-subparagraph (5)(j)5.d.-f. of this rule, the written statement must identify the information that is illegible, incorrect, or omitted.

4. An insurer may return a medical bill to a provider without issuance of an EOBR only on the basis of the criteria set forth in subparagraph (5)(j)5. of this rule.

5. The criteria upon which a medical bill is to be reviewed by the insurer, service company/TPA or entity acting on behalf of the insurer for return to the provider pursuant to this sub-paragraph of paragraph (5)(j) of this rule are:

a. Services are billed on an incorrect medical billing form; or

b. The medical bill has been submitted to the incorrect insurer; or

c. The medical bill has been submitted to the incorrect service company/TPA or entity acting on behalf of the insurer; or

d. Claimant identification information required by this rule is illegible on the medical bill; or

e. Claimant identification information required by this rule is incorrect on the medical bill; or

f. Billing information required by this rule is omitted on the medical bill.

6. An insurer, service company/TPA or entity acting on behalf of the insurer shall establish and maintain a process by which medical bills that have been returned and written statements identifying the reason for return are compiled. The compiled information must be sufficiently detailed to allow verification and review by the Division.

(j) ~~An insurer, service company/TPA or any entity acting on behalf of the insurer shall return any bills to the provider, with a written explanation, when:~~

1. ~~Services are billed on an incorrect billing form; or~~
2. ~~An invalid code is used or a required code is omitted and is the only line item billed on the form; or~~
3. ~~Required billing information is illegible, inaccurate, or omitted on the form.~~

(k) An insurer, service company/TPA or any entity acting on behalf of the insurer shall pay, adjust ~~and pay~~, disallow or deny billed charges within 45-calendar days from the date insurer received, pursuant to Section 440.20(2)(b), F.S.

(l) No change.

1. No change.

a. through d. No change.

2. The insurer must:

a. ~~Document~~ the option(s) selected in subparagraph (5)(l)1. of this rule, ~~must identify~~

b. Document the specific effective date for each option selected, ~~must specify~~

c. Document the specific role of each "entity" acting on the insurers behalf in the option selected, ~~and must~~

d. Make this written documentation available to the Division for audit purposes pursuant to Section 440.525, F.S., ~~When the insurer selects options b., c., or d. from subparagraph (5)(l)1. of this rule, there must be~~

e. Maintain written documentation from the "entity" acknowledging its responsibilities concerning "date insurer received" and "date insurer paid" for each option when the insurer selects options b., c., or d. from subparagraph (5)(l)1. of this rule, and. ~~The~~

f. Maintain written documentation ~~maintained by the insurer must~~ identifying the applicability of the options selected in sufficient detail to allow verification of the coding of each medical bill under subparagraph (5)(l)4. of this rule.

3. No change.

4. The option in subparagraph (5)(l)1. of this rule selected by the insurer must be identified on each medical report electronic submission to the Division, ~~in accordance with paragraph (6)(e) of this rule,~~ and must utilize the following coding methodology:

a. If the "date insurer received" is the date the insurer gains possession of the health care provider's medical bill and the "date insurer paid" is the date the health care provider's payment is mailed, transferred or electronically transmitted by the insurer, then Payment Code "x"1 must be transmitted on each individual form-type electronic submission. ("x" must equal 'R', 'M' or 'C' as denoted in Appendix D of the date-appropriate Florida Medical Implementation EDI Guide (MEIG), ~~2006.~~) When submitting Payment Code "x"1 to the Division, the insurer is declaring that no "entity" as defined in paragraph (1)(u)(s) of this rule is involved in the medical bill claims-handling processes related to "date insurer received" or "date insurer paid".

b. If the "date insurer received" is the date the "entity" acting on behalf of the insurer gains possession of the health care provider's medical bill and the "date insurer paid" is the date the health care provider's payment is mailed, transferred or electronically transmitted by the "entity" acting on behalf of the insurer, then Payment Code "x" 2 must be transmitted on each individual form-type electronic submission. ("x" must equal 'R', 'M' or 'C' as denoted in Appendix D of the date-appropriate Florida Medical Implementation EDI Guide (MEIG), ~~2006.~~) When submitting Payment Code "x" 2 to the Division, the insurer is declaring that the specified "entity" as defined in paragraph (1)(u) of this rule is acting on behalf of the insurer for purposes of the medical bill claims-handling processes related to "date insurer received" and "date insurer paid".

c. If the "date insurer received" is the date the insurer gains possession of the health care provider's medical bill and "date insurer paid" is the date the health care provider's payment is mailed, transferred or electronically transmitted by the "entity" acting on behalf of the insurer, then Payment Code "x" 3 must be transmitted on each individual form-type electronic submission. ("x" must equal 'R', 'M' or 'C' as denoted in Appendix D of the date-appropriate Florida Medical Implementation EDI Guide (MEIG), ~~2006.~~) When submitting Payment Code "x" 3 to the Division, the insurer is declaring that no "entity" as defined in paragraph (1)(u)(s) of this rule is involved in the medical bill claims-handling process related to "date insurer received".

d. If the "date insurer received" is the date the "entity" acting on behalf of the insurer gains possession of the health care provider's medical bill and the "date insurer paid" is the date the health care provider's payment is mailed, transferred or electronically transmitted by the insurer, then Payment Code "x" 4 must be transmitted on each individual form-type electronic submission. ("x" must equal 'R', 'M' or 'C' as denoted in Appendix D of the date-appropriate Florida Medical Implementation EDI Guide (MEIG), ~~2006.~~) When submitting Payment Code "x" 4 to the Division, the insurer is declaring that no "entity" as defined in paragraph (1)(u)(s) is involved in the medical bill claims-handling processes related to "date insurer paid".

(m) An insurer, service company/TPA or any entity acting on behalf of the insurer, when reporting paid medical claims data to the Division, shall report the dollar amount paid by the insurer or reimbursed to the employee, the employer or other insurer for healthcare service(s) or supply(ies). When reporting disallowed or denied charges, the dollar amount paid shall be reported as \$0.00.

(n) An insurer, service company/TPA or any entity acting on behalf of the insurer ~~is shall~~ not required to report electronically as medical payment data to the Division, those payments made for failed appointments for scheduled

independent medical examinations, for federal facilities billing on their usual form or for health care providers in subparagraph (4)(b)13. who bill on their invoice or letterhead.

(o) A submitter, filing electronically, shall submit to the Division the Explanation of Bill Review (EOBR) code(s), relating to the adjudication of each line item billed and:

1. Maintain the EOBR in a format that can be legibly reproduced, and

2. Use the EOBR codes and code descriptors as follows up through the date for reporting production data with the Medical Data System in the Claim Record Layout-Revision "D" as required in paragraph (6)(f) of this rule:

a. 01 Services not authorized, as required.

b. 02 Services denied as not related to the compensable work injury.

c. 03 Services related to a denied work injury: Form DFS-F2-DWC-12 on file with the Division.

d. 04 Services billed are listed as not covered or non-covered ("NC") in the applicable reimbursement manual.

e. 05 Documentation does not support the level, intensity, frequency, duration or provision of service(s) billed. (Insurer must specify to the health care provider.)

f. 06 Location of service(s) is not consistent with the level of service(s) billed.

g. 07 Reimbursement equals the amount billed.

h. 08 Reimbursement is based on the applicable reimbursement fee schedule.

i. 09 Reimbursement is based on any contract.

j. 10 Reimbursement is based on charges exceeding the stop-loss point.

k. 11 Reimbursement is based on insurer re-coding. (Insurer must specify to the health care provider.)

l. 12 Charge(s) are included in the per diem reimbursement.

m. 13 Reimbursement is included in the allowance of another service. (Insurer must specify procedure to the health care provider.)

n. 14 Itemized statement not submitted with billing form.

o. 15 Invalid code. (Use only when other valid codes are present.)

p. 16 Documentation does not support that services rendered were medically necessary.

q. 17 Required supplemental documentation not filed with the bill. (Insurer must specify required documentation to the health care provider.)

r. 18 Duplicate Billing: Service previously paid, adjusted and paid, disallowed or denied on prior claim form or multiple billing of service(s) billed on same date of service.

s. 19 Required Form DFS-F5-DWC-25 not submitted within three business days of the first treatment pursuant to Section 440.13(4)(a), F.S.

t. 20 Other: Unique EOBR code descriptor. Use of EOBR code "20" is restricted to circumstances when an above-listed EOBR code does not explain the reason for payment, adjustment and payment, disallowance or denial of payment. When using EOBR code "20", an insurer must reflect code "20" and include the specific explanation of the code on the EOBR sent to the health care provider. The insurer, service company/TPA or any entity acting on behalf of the insurer must maintain a standardized EOBR code descriptor list.

3. When reporting production data with the Medical Data System in the Claim Record Layout-Revision "D" as required in paragraph (6)(f) of this rule, the insurer shall comply with the following instructions pertaining to EOBRs: In completing an Explanation of Bill Review (EOBR) an insurer shall, for each line item billed, select the EOBR code(s) from the list below which identifies(y) the reason(s) for the insurer's reimbursement decision for each line item. The insurer may utilize up to three EOBR codes for each line item billed. When utilizing more than one EOBR, the insurer shall list the EOBR codes that describe the basis for its reimbursement decision in descending order of importance. An insurer, service company/TPA or any entity acting on behalf of the insurer shall submit to the Division the Explanation of Bill Review (EOBR) code, relating to the adjudication of each line item billed, in descending order of importance.

The EOBR code list is as follows:

10 – Payment denied: compensability: injury or illness for which service was rendered is not compensable.

21 – Payment disallowed: medical necessity: medical records reflect no physician's order was given for service rendered or supply provided.

22 – Payment disallowed: medical necessity: medical records reflect no physician's prescription was given for service rendered or supply provided.

23 – Payment disallowed: medical necessity: diagnosis does not support the service rendered.

24 – Payment disallowed: medical necessity: service rendered was not therapeutically appropriate.

25 – Payment disallowed: medical necessity: service rendered was experimental, investigative or research in nature.

26 – Payment disallowed: service rendered by healthcare practitioner outside scope of practitioner's licensure.

30 – Payment disallowed: lack of authorization: no authorization given for service rendered.

40 – Payment disallowed: insufficient documentation: documentation does not substantiate the service billed was rendered.

41 – Payment disallowed: insufficient documentation: level of evaluation and management service not supported by documentation.

42 – Payment disallowed: insufficient documentation: intensity of physical medicine and rehabilitation service not supported by documentation.

43 – Payment disallowed: insufficient documentation: frequency of service not supported by documentation.

44 – Payment disallowed: insufficient documentation: duration of service not supported by documentation.

45 – Payment disallowed: insufficient documentation: fraud statement not provided pursuant to Section 440.105(7), F.S.

46 – Payment disallowed: insufficient documentation: required itemized statement not submitted with the medical bill.

47 – Payment disallowed: insufficient documentation: invoice not submitted for implant.

48 – Payment disallowed: insufficient documentation: invoice not submitted for supplies.

49 – Payment disallowed: insufficient documentation: invoice not submitted for medication.

50 – Payment disallowed: insufficient documentation: requested documentation not submitted with the medical bill.

51 – Payment disallowed: insufficient documentation: required DFS-F5-DWC-25 not submitted.

52 – Payment disallowed: insufficient documentation: supply(ies) incidental to the procedure.

53 – Payment disallowed: insufficient documentation: required operative report not submitted with the medical bill.

54 – Payment disallowed: insufficient documentation: required narrative report not submitted with the medical bill.

60 – Payment disallowed: billing error: service previously billed and processed on prior medical bill.

61 – Payment disallowed: billing error: same service billed multiple times on same date of service.

62 – Payment disallowed: billing error: incorrect procedure, modifier or supply code.

63 – Payment disallowed: billing error: service billed is integral component of another procedure code.

64 – Payment disallowed: billing error: service “not covered” under applicable workers’ compensation reimbursement manual.

65 – Payment disallowed: billing error: multiple providers billed on the same form.

71 – Payment adjusted: insufficient documentation: level of evaluation and management service not supported by documentation.

72 – Payment adjusted: insufficient documentation: intensity of physical medicine and rehabilitation service not supported by documentation.

73 – Payment adjusted: insufficient documentation: frequency of service not supported by documentation.

74 – Payment adjusted: insufficient documentation: duration of service not supported by documentation.

75 – Payment adjusted: insufficient documentation: requested documentation not submitted with the medical bill.

80 – Payment adjusted: billing error: correction of procedure, modifier or supply code.

81 – Payment adjusted: billing error: payment modified pursuant to a charge audit.

82 – Payment adjusted: payment modified pursuant to carrier charge analysis.

83 – Payment adjusted: medical benefits paid apportioning out the percentage of the need for such care attributable to preexisting condition (Section 440.15(5)(b), F.S.).

84 – Payment adjusted: co-payment applied pursuant to Section 440.13(14)(c), F.S.

90 – Paid: no modification to the information provided on the medical bill: payment made pursuant to Florida Workers’ Compensation Health Care Provider Reimbursement Manual.

91 – Paid: no modification to the information provided on the medical bill: payment made pursuant to Florida Workers’ Compensation Reimbursement Manual for Ambulatory Surgical Centers.

92 – Paid: no modification to the information provided on the medical bill: payment made pursuant to Florida Workers’ Compensation Reimbursement Manual for Hospitals.

93 – Paid: no modification to the information provided on the medical bill: payment made pursuant to contractual arrangement.

94 – Paid: Out-of-State Provider: payment made pursuant to the Out-of-State Provider section of the applicable Florida reimbursement manual.

95 – Paid: Reimbursement Dispute Resolution: payment made pursuant to receipt of a Determination or Final Order on a Petition for Resolution of Reimbursement Dispute, pursuant to Section 440.13(7), F.S.

(p) An insurer, service company/TPA, submitter or any entity acting on behalf of the insurer shall make available to the Division and to the Agency, upon request and without charge, a legibly reproduced copy of the electronic form equivalents or Forms DFS-F5-DWC-9, DFS-F5-DWC-10 (or insurer pre-approved alternate form), DFS-F5-DWC-11, DFS-F5-DWC-25, DFS-F5-DWC-90, supplemental documentation, proof of payment, EOBR ~~and standardized EOBR code “20” descriptor list~~, and the insurer written documentation required in subparagraphs (5)(j)6. and (5)(l)2. of this rule.

(q) An insurer, service company/TPA or any entity acting on behalf of the insurer to pay, adjust ~~and pay~~, disallow or deny a filed bill shall submit to the health care provider an Explanation of Bill Review, utilizing the EOBR codes and code descriptors, as set forth in paragraph (o) of this section, and shall include the insurer name and specific insurer contact information. An insurer, service company/TPA or any entity acting on behalf of the insurer shall notify the health care provider of notice of payment or notice of adjustment ~~and payment~~, disallowance or denial only through an EOBR. An EOBR shall specifically state that the EOBR constitutes notice

of disallowance or adjustment of payment within the meaning of Section 440.13(7), F.S. An EOBR shall specifically identify the name and mailing address of the entity the carrier designates to receive service on behalf of the “carrier and all affected parties” for the purpose of receiving the petitioner’s service of a copy of a petition for reimbursement dispute resolution by certified mail, pursuant to Section 440.13(7)(a), F.S.

(r) Copies of hospital medical records shall be subject to charges allowed pursuant to Section 395.3025, F.S. and Section 440.13, F.S.

(s) When an insurer, service company/TPA or any entity acting on behalf of the insurer renders reimbursement as pre-payment for medical services, goods or supplies, reimbursement of employee payment or payment for pharmacy first-fill services, the required data elements, optionally including the appropriate Pre-Payment/Employee Payment/First Fill Indicator as described in the MEIG, shall be submitted to the Division within 45 calendar days of the insurer, service company/TPA or any entity acting on behalf of the insurer receipt date of the medical billing form, regardless of the date of payment.

(t) When an insurer, service company/TPA or any entity acting on behalf of the insurer renders reimbursement following receipt of a Determination or Final Order in response to a petition to resolve a reimbursement dispute filed pursuant to Section 440.13(7), F.S., the insurer shall:

1. Submit the required data elements to the Division within 45 calendar days of rendering reimbursement; and

2. Submit the data as a replacement submission pursuant to the date-appropriate MEIG; and

3. Submit the cumulative, not the supplemental, payment information at the line-item level utilizing EOBR 95 for each line-item reflecting a payment amount differing from the payment amount reported on the original submission; and

4. Report the “Date Insurer Received” as 22 days after the date the Determination was received by certified mail, in instances where the insurer has waived its rights under Section 120, F.S. or report the “Date Insurer Received” as the date the carrier received the Final Order by certified mail, in instances where the insurer has invoked its rights pursuant to Section 120, F.S., whichever occurs first.

(u) When an insurer, service company/TPA, submitter or any entity acting on behalf of the insurer has reported medical claims data to the Division which was not required, the insurer shall withdraw the previously reported data as described in the MEIG.

(v) When an insurer, service company/TPA, any entity acting on behalf of the insurer renders reimbursement for multiple bills received from a health care provider, the insurer shall report required data elements to the Division for each individual bill, including “Date Insurer Received” and “Date Insurer Paid”, submitted by the health care provider and shall

not combine multiple bills received from a health care provider into a single medical bill data submission (i.e. a single bill equals a single data transmission).

(6) No change.

(a) Effective ~~3/16/ March 16,~~ 2005, all required medical reports shall be electronically filed with the Division by all insurers.

(b) Required data elements shall be submitted in compliance with the instructions and formats as set forth in the date-appropriate Florida Medical EDI Implementation Guide (MEIG), ~~2006.~~

(c) No change.

(d) Submitters who experience a catastrophic event resulting in the insurer’s failure to meet the reporting requirements in paragraph (5)(e) of this rule, shall submit a written or electronic request within 15 business days ~~of~~ after the catastrophic event failure to the Division for approval to submit in an alternative reporting method and an alternative filing timeline. The request shall contain a detailed explanation of the nature of the event, date of occurrence, and measures being taken to resume electronic submission. The request shall also provide an estimated date by which electronic submission of affected EDI filings will be resumed. Approval must be obtained from the Division’s Office of Data Quality and Collection, 200 East Gaines Street, Tallahassee, Florida 32399-4226. Approval to submit in an alternative reporting method and an alternative filing timeline shall be granted by the Division if a catastrophic event ~~beyond the control of the submitter~~ prevents electronic submission.

(e) When filing any medical report that corrects a rejected medical bill or replaces a previously accepted medical bill, the submitter shall use the same control number as the original submission. The replacement submission shall contain all information necessary to process the medical bill including all services and charges from the claim as billed by the health care provider and all payments made by the insurer to the health care provider. Information contained on the original submission is deemed independent and is not considered as a supplement to information contained in the replacement submission.

(f) Additionally, an insurer shall be responsible for accurately completing the electronic record-layout programming requirements for the reporting of the Form DFS-F5-DWC-9 Claim Detail Record Layout – Revision “D”, Form DFS-F5-DWC-10 Claim Detail Record Layout – Revision “D”, Form DFS-F5-DWC-11 Claim Detail Record Layout – Revision “D” and Form DFS-F5-DWC-90 Claim Detail Record Layout – Revision “D” in accordance with the Florida Medical EDI Implementation Guide (MEIG), 2007, to the Division in accordance with the phase-in schedule as denoted below in sub-subparagraphs a., b., and c. of this section. The electronic record layout for Form DFS-F5-DWC-9 in the MEIG, 2007, adds the new fields for

gender, date of birth, up to three new modifiers and a maximum of three EOBR codes per line item from the revised code set. The electronic record layout for Form DFS-F5-DWC-10 in the MEIG, 2007, adds the new fields for gender, date of birth, pharmacist's Florida Department of Health license number, and, medical supply and equipment HCPCS code(s), quantity, purchase or rental date, usual charge, amount paid, prescriber's license number and a maximum of three EOBR codes per line item from the revised code set. The electronic record layout for Form DFS-F5-DWC-11 in the MEIG, 2007, adds the new fields for gender, date of birth and a maximum of three EOBR codes per line item from the revised code set. The electronic record layout for Form DFS-F5-DWC-90 in the MEIG, 2007, adds the new form locators for gender, date of birth, designation of surgery as scheduled or unscheduled, implant amount, up to three External Cause of Injury codes, four additional ICD-9 diagnostic codes, four other procedure codes, operating physician's Florida DOH license number and a maximum of three EOBR codes per line item from the revised code set. The conversion implementation schedule is as follows:

1. Submitters who have been approved for reporting production data with the Medical Data System (Record Layout – Revision "C"), between 12/5/2005 and 2/24/2006 shall begin testing on 4/2/2007 and shall complete the testing process with the new Revision "D" record layouts no later than 5/14/2007.

2. Submitters who have been approved for reporting production data with the Medical Data System (Record Layout – Revision "C"), between 2/25/2006 and 3/31/2006 shall begin testing on 5/15/2007 and shall complete the testing process with the new Revision "D" record layouts no later than 6/26/2007.

3. Submitters who have been approved for reporting production data with the Medical Data System (Record Layout – Revision "C"), between 4/1/2006 and the effective date of this rule shall begin testing on 6/27/2007 and shall complete the testing process with the new Revision "D" record layouts no later than 8/8/2007.

4. The Division will, resources permitting, allow submitters that volunteer to complete the test transmission processes earlier than the schedule denoted above. Each voluntary submitter shall have six weeks to complete test transmission to production transmission processes, for all electronic form equivalents, that comply with requirements set forth in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2007.

(g) All submitters shall be in production with the new Revision "D" record layouts on 8/9/2007. Optionally, after successful completion of the testing process and continuing up to and including 8/8/2007, submitters may elect to submit all required medical reports as required in the new Revision "D" record layouts, as required in the current Revision "C" record layouts, or, as required in the Revision "C" record layouts for

billings on the current medical claim forms and as required in the Revision "D" record layouts for billings on the new medical claim forms.

(h) Submitters who do not accurately complete and maintain electronic record-layout programming requirements of this rule shall not submit medical reports electronically until the submitter has been approved for reporting production data with the Medical Data System as necessary to meet the filing requirements of paragraph (5)(e) of this rule.

~~(e) Effective September 1, 2006, each insurer shall be responsible for accurately completing the additional electronic Revision C record layout programming requirements in accordance with the Florida Medical EDI Implementation Guide (MEIG), 2006. The additional requirements include:~~

~~1. The electronic record layout in the Florida Medical EDI Implementation Guide (MEIG), 2006, for Form DFS-F5-DWC-10 adds the new Field 16B for submission of the Amount Paid by Insurer.~~

~~2. The electronic record layout in the Florida Medical EDI Implementation Guide (MEIG), 2006, amends the Payment Plan Code values in Appendix D for Field 23A on the Form DFS-F5-DWC-9, Field 24A on the Form DFS-F5-DWC-10, Field 24A on the Form DFS-F5-DWC-11, and Field 36A on the Form DFS-F5-DWC-90 in order to collect and specify the insurer's particular medical bill claims handling arrangements for "date insurer received" and for "date insurer paid, adjusted and paid, disallowed, or denied" for each individual medical bill form type. The data field name is changed from "Payment Plan Code" to "Payment Code" to reflect these modifications to the values.~~

~~3. The designation of the claims handling arrangement affirms the option selected by the insurer in subparagraph (5)(1)1. of this rule.~~

(7) Insurer Administrative Penalties and Administrative Fines for Untimely Health Care Provider-Payment or Disposition of Medical Bills.

(a) The Department shall impose insurer administrative penalties for failure to comply with the payment, adjustment and payment, disallowance or denial requirements pursuant to Section 440.20(6)(b), F.S. Timely performance standards for timely payments, adjustments and payments, disallowances or denials, reported on Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11 and DFS-F5-DWC-90, shall be calculated and applied on a monthly basis for each separate form category that was received within a specific calendar month.

(b) No change.

Specific Authority 440.13(4), 440.15(3)(b), (d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS. Law Implemented 440.09, 440.13(2)(a), (3), (4), (6), (11), (12), (14), (16), 440.15(3)(b), (d), 440.185(5), (9), 440.20 (6), 440.525(2), 440.593 FS. History—New 1-23-95, Formerly 38F-7.602, 4L-7.602, Amended 7-4-04, 10-20-05, 6-25-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Don Davis, Office of Data Quality and Collection, Division of
 Workers' Compensation
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Dan Sumner, Assistant Director,
 Division of Workers' Compensation
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: October 16, 2006
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: October 27, 2006

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-43.0041 Application and Administrative Requirements.

The Florida Small Cities CDBG program is governed by the Housing and Community Development Act of 1974, as amended; Title 24 C.F.R. 570; the "Guide to National Objectives and Eligible Activities for State CDBG Program" published by the US Department of Housing and Urban Development, as amended/revised; and the Florida Small Cities CDBG Program Application Manual, Form CDBG-A-1, Effective, which can be obtained by contacting the Florida Small Cities CDBG Program at the Department of Community Affairs, and are incorporated herein by reference, as effective on _____.

(1) through (1)(e) No change.

(f) Documents to meet application requirements ~~or additional submissions resulting from the site visit~~ must be submitted in original or photocopy form. ~~Facsimile or electronic submissions are not acceptable.~~ Additional submissions resulting from the site visit may be submitted by mail, facsimile or electronically.

(g) A local government with an open Planning and Design Specifications subgrant cannot apply for a new Commercial Revitalization, Housing or Neighborhood Revitalization subgrant.

(2) through (3)(c) No change.

(4) Consistency with Local Comprehensive Plan.

~~(a)~~ The application shall include affirmation that the proposed activities are consistent with applicable elements of the adopted local comprehensive plan and shall include applicable excerpts from the applicant's comprehensive plan in the supporting documentation section of the application.

~~(b) If the Department determines that an application is inconsistent with the adopted local comprehensive plan, the applicant shall be advised of that determination in the completeness review letter. If after review of the applicant's response, the Department reaffirms its determination of inconsistency, the application shall be rejected.~~

(5)(a) No change.

(b) Activities undertaken outside the applicant's jurisdiction which are also undertaken within the applicant's jurisdiction, except in an Economic Development application where the infrastructure activities may be undertaken exclusively outside the jurisdiction. Applicants considering projects that would benefit Entitlement community residents should refer to the HUD Memorandum entitled "State CDBG Activities benefiting Entitlement Community Residents," issued May 26, 2006.

(5)(c) through (d)3. No change.

(e) When two jurisdictions apply for funding for a joint project supported by two subgrants, an interlocal agreement must be included in each application that indicates that the

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.: RULE CHAPTER TITLE:
 5L-3 Aquaculture Best Management Practices

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 32, No. 50, December 15, 2006 issue of the Florida Administrative Weekly. The date of a hearing, if requested, was incorrectly published. If requested in writing, the correct hearing date will be as follows:

DATE AND TIME: Monday, January 8, 2007, 9:00 a.m.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kal Knickerbocker, Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, (850)488-4033

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER NO.: RULE CHAPTER TITLE:
 9B-43 Florida Small Cities Community Development Block Grant Program
 RULE NOS.: RULE TITLES:
 9B-43.0041 Application and Administrative Requirements
 9B-43.0051 Grant Administration and Project Implementation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 32, No. 47, November 22, 2006, issue of the Florida Administrative Weekly. These changes are in response to comments received at a public hearing held on December 14, 2006 in Tallahassee.