On March 9, 1998, the members of the Negotiated Rulemaking Committee for development of a minor violation rule, unanimously entered into a consensus agreement and recommended consensus rule language (see attached). This was the first agency use of the negotiated rulemaking provisions of the Administrative Procedures Act of Chapter 120.

The Florida Conflict Resolution Consortium facilitator team of Jonathan Davidson and Robert Jones, assisted the Committee throughout its deliberations by planning and facilitating the organizational session and multiple negotiation sessions, drafting the Committee meeting summaries and assisting and overseeing the drafting of the final consensus rule language. The Committee met six times between October 1997 and March 1998 to develop the consensus rule language. In addition to the Committee meetings, drafting group meetings were noticed and conducted with representatives of the interests in the negotiations.

This was the first time a state agency had utilized the Negotiated Rulemaking procedures set forth in Chapter 120, and several procedural issues arose at the outset of the negotiated rulemaking. The application of the sunshine laws to this process and the characterization of the negotiated rulemaking committee as an advisory committee under Chapter 119, F.S., presented a challenge for the agency. Members appointed to the Committee who shared the same or similar interests would be unable to communicate with each other and prepare for the negotiation outside of the noticed meetings. The Consortium’s assessment, conducted before convening the process, suggested that several teams be appointed to represent the affected interests on the Committee. Instead, the agency decided to form a much smaller committee but asked the facilitators to design a process that would allow for the participation of other representatives of the interests in the development of the consensus among the Committee on the proposed rule language (see the attached memorandum dated July 14, 1997).
Another procedural issue had to do with the nature and effects of the review process of the Joint Administrative Procedures Committee (JAPC) of a proposed consensus rule that might be noticed by the agency. In advance of convening the Committee, the Agency's general counsel advised the JAPC of the issue and sought guidance on how to proceed in advance of the process. In particular, the agency requested that JAPC consider an informal "pre-notice" review so the Negotiated Rulemaking Committee might be able to address any concerns JAPC may have with the consensus rule language (see attached letters).

One measure of the success of the process, in addition to the consensus rule language, was the Committee's consensus on the need for additional rulemaking and the agreement among the interests represented to participate in additional rule development.