

Section I
Notice of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE NO.: RULE TITLE:

6D-12.003 Campus Police Department

PURPOSE AND EFFECT: The purpose of this rule is to amend and to update the campus police policy manual, consistently with section 1002.36(8)(f), F.S., which establishes a policy manual, which includes without limitation, procedures for managing routine law enforcement situations and emergency law enforcements situations for the Florida School for the Deaf and the Blind.

SUBJECT AREA TO BE ADDRESSED: Campus Police of the Florida School for the Deaf and the Blind.

RULEMAKING AUTHORITY: 1002.36(4)(c) and 1002.36(8)(f), FS.

LAW IMPLEMENTED: 1002.36(4)(e) and 1002.36(8), FS.

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

DATE AND TIME: Friday, April 12, 2019, 9:00 a.m.

PLACE: Center for Leadership Development, Moore Hall, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084

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 3 days before the workshop/meeting by contacting: Jerry Chandlee, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, Florida 32084, Telephone (904)827-2315, Email: chandleer@fsdb.k12.fl.us. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jerry Chandlee, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, Florida 32084, Telephone (904)827-2315, Email: chandleer@fsdb.k12.fl.us.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS: RULE TITLES

62-4.242 Antidegradation Permitting Requirements;
Outstanding Florida Waters; Outstanding
National Resource Waters

62-4.243 Exemptions from Water Quality Criteria
62-4.244 Mixing Zones: Surface Waters
62-4.246 Sampling, Testing Methods, and Method
Detection Limits for Water Pollution
Sources

PURPOSE AND EFFECT: As required by the Federal Clean Water Act, the Department of Environmental Protection (Department) is initiating the Triennial Review of state surface water quality standards. All surface water quality standards in Chapter 62-4, Chapter 62-302, Chapter 62-303, and Chapter 62-304, F.A.C., are under review and may be revised as part of the Triennial Review.

SUBJECT AREA TO BE ADDRESSED: The Department will consider amendments to all surface water quality standards, including those within Chapter 62-4, F.A.C. (there are separate notices for Chapters 62-4, 62-302, 62-303, and 62-304, F.A.C.).

RULEMAKING AUTHORITY: 373.016, 373.171, 403.051, 403.061, 403.062, 403.087, 403.088, 403.0882, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 373.016, 373.171, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0882, 403.091, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708 FS.

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

DATE AND TIME: Tuesday, May 14, 2019, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, Room 609, 2600 Blair Stone Road, Tallahassee, Florida

DATE AND TIME: Wednesday, May 15, 2019, 9:00 a.m.

PLACE: Elsa Kimbell Environmental Education and Research Center Auditorium, Jonathan Dickinson State Park, 16450 SE Federal Hwy, Hobe Sound, FL

DATE AND TIME: Thursday, May 16, 2019, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Conference Rooms A/B/C, Orlando, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing is asked to advise the agency at least 5 days before the workshop/hearing by contacting: Kaitlyn Sutton at (850)245-8819. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaitlyn Sutton, Water Quality Standards Program, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 6511,

Tallahassee, FL 32399-2400; telephone (850)245-8819, email Kaitlyn.Sutton@dep.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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| RULE NOS: | RULE TITLES: |
| 62-302.200 | Definitions |
| 62-302.300 | Findings, Intent, and Antidegradation Policy for Surface Water Quality |
| 62-302.400 | Classification of Surface Waters, Usage, Reclassification, Classified Waters |
| 62-302.500 | Surface Waters: Minimum Criteria, General Criteria |
| 62-302.520 | Thermal Surface Water Criteria |
| 62-302.530 | Table: Surface Water Quality Criteria |
| 62-302.531 | Numeric Interpretations of Narrative Nutrient Criteria |
| 62-302.532 | Estuary-Specific Numeric Interpretations of the Narrative Nutrient Criterion |
| 62-302.533 | Dissolved Oxygen Criteria for Class I, Class II, Class III, and Class III-Limited Waters |
| 62-302.540 | Water Quality Standards for Phosphorus Within the Everglades Protection Area |
| 62-302.700 | Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters |
| 62-302.800 | Site Specific Alternative Criteria |

PURPOSE AND EFFECT: As required by the Federal Clean Water Act, the Department of Environmental Protection (Department) is initiating the Triennial Review of state surface water quality standards. All surface water quality standards in Chapter 62-4, Chapter 62-302, Chapter 62-303, and Chapter 62-304, F.A.C., are under review and may be revised as part of the Triennial Review.

SUBJECT AREA TO BE ADDRESSED: The Department will consider amendments to all surface water quality standards, including those within Chapter 62-302, F.A.C. (there are separate notices for Chapters 62-4, 62-302, 62-303, and 62-304, F.A.C.).

RULEMAKING AUTHORITY: 373.043, 373.4592, 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 373.016, 373.026, 373.414, 373.4592, 403.021, 403.021(11), 403.031, 403.061, 403.062, 403.067, 403.085, 403.086, 403.087, 403.088, 403.101, 403.141, 403.161, 403.182, 403.201, 403.502, 403.504, 403.702, 403.708, 403.802 FS.

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

DATE AND TIME: Tuesday, May 14, 2019, 9:00 a.m.
PLACE: Florida Department of Environmental Protection, Bob

Martinez Center, Room 609, 2600 Blair Stone Road, Tallahassee, Florida

DATE AND TIME: Wednesday, May 15, 2019, 9:00 a.m.
PLACE: Elsa Kimbell Environmental Education and Research Center Auditorium, Jonathan Dickinson State Park, 16450 SE Federal Hwy, Hobe Sound, Florida

DATE AND TIME: Thursday, May 16, 2019, 9:00 a.m.
PLACE: Florida Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Conference Rooms A/B/C, Orlando, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing is asked to advise the agency at least 5 days before the workshop/hearing by contacting: Kaitlyn Sutton at (850)245-8819. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaitlyn Sutton, Water Quality Standards Program, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400; telephone (850)245-8819, email Kaitlyn.Sutton@dep.state.fl.us.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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| RULE NOS: | RULE TITLES: |
| 62-303.100 | Scope and Intent |
| 62-303.150 | Relationships Among Planning, Study and Verified Lists |
| 62-303.200 | Definitions |
| 62-303.300 | Methodology to Develop the Planning List |
| 62-303.310 | Evaluation of Aquatic Life Use Support |
| 62-303.320 | Aquatic Life-Based Water Quality Criteria |
| 62-303.330 | Biological Assessment |
| 62-303.350 | Assessments of Numeric Interpretations of Narrative Nutrient Criterion |
| 62-303.351 | Nutrients in Freshwater Streams |
| 62-303.352 | Nutrients in Freshwater Lakes |
| 62-303.353 | Nutrients in Estuaries and Open Coastal Waters |
| 62-303.354 | Nitrate-nitrite in Freshwater Spring Vents |
| 62-303.360 | Primary Contact and Recreation Use Support |
| 62-303.370 | Fish and Shellfish Consumption Use Support |
| 62-303.380 | Drinking Water Use Support and Protection of Human Health |
| 62-303.390 | The Study List |
| 62-303.400 | Methodology to Develop the Verified List |

- 62-303.410 Determination of Aquatic Life Use Support
- 62-303.420 Aquatic Life-Based Water Quality Criteria Assessment
- 62-303.430 Biological Impairment
- 62-303.450 Assessments of Numeric Interpretations of Narrative Nutrient Criteria
- 62-303.460 Primary Contact and Recreation Use Support
- 62-303.470 Fish and Shellfish Consumption Use Support
- 62-303.480 Drinking Water Use Support and Protection of Human Health
- 62-303.500 Prioritization
- 62-303.600 Evaluation of Pollution Control Mechanisms
- 62-303.700 Listing Cycle
- 62-303.710 Format of Verified List and Verified List Approval
- 62-303.720 Delisting Procedure

PURPOSE AND EFFECT: As required by the Federal Clean Water Act, the Department of Environmental Protection (Department) is initiating the Triennial Review of state surface water quality standards. All surface water quality standards in Chapter 62-4, Chapter 62-302, Chapter 62-303, and Chapter 62-304, F.A.C., are under review and may be revised as part of the Triennial Review. The Department proposes to revise certain parts of Chapter 62-303, F.A.C., to provide additional clarity on procedures used to assess state surface waters.

SUBJECT AREA TO BE ADDRESSED: The Department will consider amendments to all surface water quality standards, including those within Chapter 62-303, F.A.C. (there are separate notices for Chapters 62-4, 62-302, 62-303, and 62-304, F.A.C.).

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.021(11), 403.062, 403.067 FS.

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

DATE AND TIME: Tuesday, May 14, 2019, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, Room 609, 2600 Blair Stone Road, Tallahassee, Florida

DATE AND TIME: Wednesday, May 15, 2019, 9:00 a.m.

PLACE: Elsa Kimbell Environmental Education and Research Center Auditorium, Jonathan Dickinson State Park, 16450 SE Federal Hwy, Hobe Sound, Florida

DATE AND TIME: Thursday, May 16, 2019, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Conference Rooms A/B/C, Orlando, Florida

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agency at least 5 days before the workshop/hearing by contacting: Kaitlyn Sutton at (850)245-8819. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaitlyn Sutton, Water Quality Standards Program, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400; telephone (850)245-8819, email Kaitlyn.Sutton@dep.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-304.100	Scope and Intent
62-304.300	St. Marks Basin TMDLs
62-304.305	Ochlockonee Basin TMDLs
62-304.310	Apalachicola River Basin TMDLs
62-304.315	Chipola River Basin TMDLs
62-304.325	Choctawhatchee River Basin TMDLs
62-304.330	Pensacola Bay Basin TMDLs
62-304.335	Perdido Bay Basin TMDLs
62-304.400	Upper Suwannee River Basin TMDLs
62-304.405	Lower Suwannee River Basin TMDLs
62-304.406	Aucilla River Basin TMDLs
62-304.410	Santa Fe River Basin TMDLs
62-304.415	Lower St. Johns River Basin TMDLs
62-304.425	Nassau Basin TMDLs
62-304.435	Upper East Coast Basin TMDLs
62-304.500	Ocklawaha River Basin TMDLs
62-304.505	Middle St. Johns River Basin TMDLs
62-304.506	Wekiva Springs Study Area TMDLs
62-304.510	Upper St. Johns River TMDLs
62-304.515	Kissimmee River Basin TMDLs.
62-304.520	Indian River Lagoon Basin TMDLs
62-304.600	Tampa Bay Basin TMDLs
62-304.605	Alafia River TMDLs
62-304.610	Hillsborough River Basin TMDLs
62-304.615	Manatee River Basin TMDLs
62-304.620	Little Manatee River Basin TMDLs
62-304.625	Peace River Basin TMDLs
62-304.640	Withlacoochee Basin TMDLs
62-304.645	Springs Coast Basin TMDLs
62-304.700	Total Maximum Daily Loads in the Southeast Florida District
62-304.705	St. Lucie Basin TMDLs
62-304.710	Loxahatchee Basin TMDLs
62-304.715	Lake Worth Lagoon basin TMDLs
62-304.725	Southeast Coast Basin TMDLs
62-304.726	Pompano Canal TMDL
62-304.735	Everglades Basin TMDLs

- 62-304.800 Caloosahatchee River Basin TMDLs
- 62-304.805 Charlotte Harbor Basin TMDLs
- 62-304.810 Everglades West Coast Basin TMDLs
- 62-304.900 Statewide TMDLs

PURPOSE AND EFFECT: The Department is initiating rulemaking to establish Total Maximum Daily Loads (TMDLs) for certain Florida surface waters, where those waters previously have been identified as impaired for specific pollutants and included on the Department’s verified list of impaired waters. Pursuant to Section 403.067(6), F.S., TMDLs must be adopted in rule by the Secretary of the Department. Chapter 62-304, F.A.C., was established as the rule chapter within which rules adopting TMDLs shall reside. In accordance with paragraph 62-302.531(2)(a), F.A.C., any of these rules which establish nutrient TMDLs, if adopted, are intended to constitute site specific numeric interpretations of the narrative nutrient criterion set forth in paragraph 62-302.530(48)(b), F.A.C., that will supersede the otherwise applicable numeric nutrient criteria in subsection 62-302.531(2), F.A.C., for the particular surface water segment.

Additionally, as required by the Federal Clean Water Act, the Department is initiating the Triennial Review of state surface water quality standards. All surface water quality standards in Chapter 62-4, Chapter 62-302, Chapter 62-303 and Chapter 62-304, F.A.C., are under review and may be revised as part of the Triennial Review.

The Department also intends to undertake rulemaking to streamline and otherwise clean up various provisions in Chapter 62-304, F.A.C. For instance, duplicative text will be consolidated in one location in the rule Chapter.

SUBJECT AREA TO BE ADDRESSED: TMDLs and their allocations will be established for the pollutants identified in the Department’s verified list of impaired waters as causing the impairment for certain impaired waters in the above listed basin. As part of Triennial Review process, the Department will consider amendments to all surface water quality standards, including those within Chapter 62-304, F.A.C. (there are separate notices for Chapters 62-4, 62-302, 62-303, and 62-304, F.A.C.). The rule Chapter also will be streamlined in an attempt to shorten the rules and help ensure uniformity where possible.

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

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

- DATE AND TIME:** Tuesday, May 14, 2019, 9:00 a.m.
- PLACE:** Florida Department of Environmental Protection, Bob Martinez Center, Room 609, 2600 Blair Stone Road, Tallahassee, Florida
- DATE AND TIME:** Wednesday, May 15, 2019, 9:00 a.m.
- PLACE:** Elsa Kimbell Environmental Education and Research

Center Auditorium, Jonathan Dickinson State Park, 16450 SE Federal Hwy, Hobe Sound, Florida

DATE AND TIME: Thursday, May 16, 2019, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Conference Rooms A/B/C, Orlando, Florida

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Erin Rasnake, Division of Environmental Assessment and Restoration, Water Quality Evaluation and TMDL Program, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone: (850)245-8338, email Erin.Rasnake@dep.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-21.001	Purpose and Intent
67-21.002	Definitions
67-21.0025	Miscellaneous Criteria
67-21.003	Application and Selection Process for Developments
67-21.004	Federal Set-Aside Requirements for MMRB Loans
67-21.0045	Determination of Method of Bond Sale
67-21.006	MMRB Development Requirements
67-21.007	MMRB Fees
67-21.008	Terms and Conditions of MMRB Loans
67-21.009	Interest Rate on Mortgage Loans
67-21.010	Issuance of Revenue Bonds
67-21.013	Non-Credit Enhanced Multifamily Mortgage Revenue Bonds
67-21.014	MMRB Credit Underwriting Procedures
67-21.015	Use of Bonds with Other Affordable Housing Finance Programs
67-21.017	Transfer of Ownership of a MMRB Development
67-21.018	Refundings and Troubled Development Review
67-21.019	Issuance of Bonds for Section 501(c)(3) Entities
67-21.025	HC Fees

- 67-21.026 HC Credit Underwriting Procedures
- 67-21.027 HC General Program Procedures and Requirements
- 67-21.028 HC with Tax-Exempt Bond-Financed Developments
- 67-21.029 HC Extended Use Agreement
- 67-21.030 Sale or Transfer of a Housing Credit Development
- 67-21.031 Qualified Contracts

PURPOSE AND EFFECT: The purpose of this rule chapter is to establish the procedures by which the Corporation shall (1) administer the Application process, determine loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the Multifamily Mortgage Revenue Bond (MMRB) Program authorized by Section 142 of the Code and Section 420.509, F.S., and (2) administer the Application process, determine Non-Competitive Housing Credit amounts and implement the provisions of the Non-Competitive Housing Credit process authorized by Section 42 of the Code and Section 420.5099, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The rule development workshop will be held to receive comments and suggestions from interested persons relative to the development of the Non-Competitive Application and the program requirements for MMRB and Non-Competitive Housing Credits, as specified in Rule Chapter 67-21, Florida Administrative Code (F.A.C.).

RULEMAKING AUTHORITY: 420.507, 420.508 FS.

LAW IMPLEMENTED: 420.509, 420.5099 FS.

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

DATE AND TIME: Monday, April 22, 2019, 2:30 p.m., Eastern Time

PLACE: Florida Housing Finance Corporation, 227 N. Bronough Street, 6th Floor, Seltzer Room, Tallahassee, Florida
The workshop will be accessible via telephone and call-in information is posted on the Florida Housing website <https://www.floridahousing.org/programs/developers-multifamily-programs/competitive/2019-rule-development-process>.

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: Elizabeth Thorp at (850)488-4197. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Marisa Button, Director of Multifamily Allocations
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-48.001	Purpose and Intent
67-48.002	Definitions
67-48.004	Selection Procedures for Developments
67-48.007	Fees
67-48.0072	Credit Underwriting and Loan Procedures
67-48.0075	Miscellaneous Criteria
67-48.009	SAIL General Program Procedures and Restrictions
67-48.0095	Additional SAIL Selection Procedures
67-48.010	Terms and Conditions of SAIL Loans
67-48.0105	Sale, Transfer or Refinancing of a SAIL Development
67-48.013	SAIL Construction Disbursements and Permanent Loan Servicing
67-48.014	HOME General Program Procedures and Restrictions
67-48.015	Match Contribution Requirement for HOME Allocation
67-48.017	Eligible HOME Activities
67-48.018	Eligible HOME Applicants
67-48.019	Eligible and Ineligible HOME Development Costs
67-48.020	Terms and Conditions of Loans for HOME Rental Developments
67-48.0205	Sale, Transfer or Refinancing of a HOME Development
67-48.022	HOME Disbursements Procedures and Loan Servicing
67-48.023	Housing Credits General Program Procedures and Requirements
67-48.027	Tax-Exempt Bond-Financed Developments
67-48.028	Carryover Allocation Provisions
67-48.029	Extended Use Agreement
67-48.030	Sale or Transfer of a Housing Credit Development
67-48.031	Qualified Contracts
67-48.040	EHCL General Program Procedures and Restrictions
67-48.041	Terms and Conditions of EHCL Loans

PURPOSE AND EFFECT: The purpose of this rule chapter is to establish the procedures by which the Corporation shall (1) determine loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) and Elderly Housing Community Loan (EHCL) Programs authorized by Section 420.5087, Florida Statutes, and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, Florida Statutes; and (2) determine Housing Credit (HC) amounts and implement the provisions of the Housing Credit Program authorized by Section 42 of the Code and Section 420.5099, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The rule development workshop will be held to receive comments and suggestions from interested persons relative to (1) the development of program requirements for the SAIL, EHCL, HOME, and HC Programs, as specified in Rule Chapter 67-48, Florida Administrative Code and (2) amendments to the Florida Housing Finance Corporation's 2018 Qualified Allocation Plan (QAP).

RULEMAKING AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

DATE AND TIME: Monday, April 22, 2019, 2:30 p.m. Eastern Time

PLACE: Florida Housing Finance Corporation, 227 N. Bronough Street, 6th Floor, Seltzer Room, Tallahassee, Florida. The workshop will be accessible via telephone and call-in information is posted to the Florida Housing website <https://www.floridahousing.org/programs/developers-multifamily-programs/competitive/2019-rule-development-process>.

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: Elizabeth Thorp at (850)488-4197. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Marisa Button, Director of Multifamily Allocations

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NOS.:	RULE TITLES:
5E-4.002	Labels
5E-4.003	Noxious Weed Seed
5E-4.004	Worthless Seed
5E-4.0041	Disposition of Seed Contaminated with Noxious Weed Seed
5E-4.006	Seed Standards
5E-4.007	Commercial Tests
5E-4.0071	Consumer Request Samples
5E-4.011	Flower Seed Germination Standards
5E-4.013	Seed Aircraft Registration, Inspection, Security, Transactions, Recordkeeping, Area-of-Application Information and Forms
5E-4.014	Seed Dealer Registration Fees

PURPOSE AND EFFECT: The proposed rules are being developed to implement recently enacted statutory changes to Chapter 578, F.S., and to update associated form references and other outdated information.

SUMMARY: Extensive changes were made to Section 578.09, F.S., Labeling Requirements. Consequently, the analysis tag templates and labeling guidance outlined in Rule 5E-4.002, F.A.C., require updating to assist seed producers and distributors in properly labeling their seed by aligning seed label content and format with recently modified seed-type classifications, labeling terminology, and germination test date requirements. Rule 5E-4.003, F.A.C., lists prohibited noxious weed seed, several of which are misspelled or need naming corrections to align with currently-recognized, scientific plant nomenclature. Rule 5E-4.004, F.A.C., requires changes to align this rule section with new verbiage adopted in Chapter 578, F.S., regarding “tree and shrub seed”, and deletes irrelevant language pertaining to worthless seed. Rule 5E-4.006, F.A.C., updates references to federal publications that establish seed standards and specifies the locations where these references can be obtained. Rule 5E-4.007, F.A.C., updates the kinds of seed for which the department offers commercial and consumer request testing services. Rule 5E-4.0071, F.A.C., lists the fees associated with the analysis of official seed samples taken by the department upon request by a consumer. Changes to Rule 5E-4.0071, F.A.C., are required to align this rule section with new verbiage adopted in Chapter 578 F.S., and certain seed kinds and groups currently listed, are being consolidated to simplify the schedule of charges. Rule 5E-4.011, F.A.C., requires a change pertaining to the germination standard for sunflower seeds, to align with the nationally-recognized

standard. Rule 5E-4.013, F.A.C., pertains to aircraft registration and aerial application of seed. Many forms have new revision dates and a reference needs to be added for the aircraft registration website. Rules 5E-4.0041 and 5E-4.014, F.A.C., both need to be updated to reflect the new Bureau of Licensing and Enforcement, and Rule 5E-4.014, F.A.C., also requires an update to reflect the new department website address.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS (SERC) AND LEGISLATIVE RATIFICATION:

The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or, if no SERC is required, the information expressly relied upon and described herein:

There are no adverse regulatory impacts associated with implementing this rule. The proposed modifications serve to align Rule Chapter 5E-4 Florida Administrative Code (F.A.C.) with changes recently made to Chapter 578 Florida Statutes (F.S.). The impact of these changes will be to help clarify labeling requirements for the industry, align Florida's requirements more closely with Federal and neighboring state laws, improve seed related services the department offers to consumers, and better educate the industry on updates to the list of noxious weeds in Florida. These changes are intended to facilitate industry compliance and enhance consumer protections and do not require modifications to current seed labeling or marketing practices. There are no anticipated additional costs to industry or other adverse effects to seed retailers, processors, or other small businesses. The adverse impact or potential regulatory costs of the proposed rule modifications did not exceed any of the criteria established in Section 120.541(2)(a), F.S. Additionally, no interested parties have submitted information regarding the economic impact of the proposed changes.

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.

RULEMAKING AUTHORITY: 567.181, 570.07(23), 578.11(2), 578.11(2)(i), 580.036(2) FS.

LAW IMPLEMENTED: 487.101, 576.111, 578.08(1), 578.09, (2)(a), 578.092, 578.11, 578.11(2), (2)(h), 578.11(3), 578.12, 578.29, 580.111, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Oglesby, Chief, Bureau of Licensing and Enforcement, 3125 Conner Boulevard, Bldg. 8, Tallahassee, FL 32399; (850)617-7997; Sarah.Oglesby@FreshFromFlorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial Rewrite of Rule 5E-4.002, F.A.C. See Florida Administrative Code for present text)

5E-4.002 Labels.

(1) Form. The analysis tag or label shall carry the information required by Section 578.09, F.S., in substantially the following form:

(a) For agricultural seed:

Kind & Variety _____		Net Wt. _____	Lot No. _____
Origin _____	Pure Seed _____ %		Germination _____ %
Inert Matter _____ %	Hard or Dormant Seed _____ %		
Other Crop Seed _____ %	Total Germination _____ %		
Weed Seed _____ %	Date of Test _____, 20____		
Name and Number of Noxious Weed Seed Per Pound _____			
Name and Address of Licensee _____			
Name of Treatment _____		Inoculant Expires _____, 20____	

(b) For mixed agricultural seeds:

Mixed/Mixture/Mix/Blend _____		Lot No. _____			
Origin _____	Net Wt. _____				
Brand Name _____					
Kind and Variety	Pure Seed Percent	Germination Percent	Hard or Dormant Percent	Total Germination	Date of Test
Other Crop Seed _____ %	Inert _____ %	Weed Seed _____ %			
Name and Number of Noxious Weed Seed Per Pound _____					
Name and Address of Licensee _____					
Name of Treatment _____		Inoculant Expires _____, 20____			

(c) For coated agricultural seed:

Kind & Variety _____		Net Wt. _____	Lot No. _____
Origin _____	Pure Seed _____ %		Germination _____ %
Inert Matter _____ %	Hard or Dormant Seed _____ %		
Coating Material _____ %	Total Germination _____ %		
Other Crop Seed _____ %	Date of Test _____, 20____		
Weed Seed _____ %	Name and Number of Noxious Weed Seed Per Pound _____		
Name and Address of Licensee _____			
Name of Treatment _____		Inoculant Expires _____, 20____	

(d) For combination mulch, seed, and fertilizer products:

Product Name _____	Kind & Variety _____
Origin _____	Net Wt. _____ Lot No. _____
Pure Seed _____ %	Germination _____ %
Inert Matter _____ %	Hard or Dormant Seed _____ %
Other Crop Seed _____ %	Total Germination _____ %
Weed Seed _____ %	Date of Test _____, 20____
Name and Number of Noxious Weed Seed Per Pound _____	
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20____	

(e) Vegetable seeds in packets which germinate above standard:

Kind & Variety _____	Scientific Name _____
Lot No. _____	Net Wt. _____
Date of Test _____, 20	
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20	

(f) Vegetable seeds other than packet seeds, or packet seeds that germinate below standard:

Kind & Variety _____	Scientific Name _____
Lot No. _____	Net Wt. _____
Germination _____ % Hard or Dormant _____ % Total Germination _____ %	
Date of Test _____, 20	
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20	

(g) Flower seeds in packets that germinate above standard:

Kind & Variety _____	Scientific Name _____
Lot No. _____	Net Wt. _____
Date of Test _____, 20	
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20	

(h) Flower seeds in packets that germinate below standard:

Kind & Variety _____	Scientific Name _____
Lot No. _____	Net Wt. _____
Germination _____ % Hard or Dormant _____ % Total Germination _____ %	
Date of Test _____, 20	Below Standard
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20	

(i) Flower seeds in containers other than packets, pure seed percentage below 90%:

Kind & Variety _____	Scientific Name _____
Net Wt. _____	Lot No. _____
Pure Seed _____ % Germination _____	
Inert Matter _____ % Hard or Dormant Seed _____	
Other Crop Seed _____ % Total Germination _____	
Weed Seed _____ % Date of Test _____, 20	
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20	

(j) Flower seeds in containers other than packets, pure seed percentage above 90%:

Kind & Variety _____	Scientific Name _____
Lot No. _____	Net Wt. _____
Germination _____ % Hard or Dormant Seed _____ % Total Germination _____ %	
Date of Test _____, 20	
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires _____, 20	

(k) For tree or shrub seed:

Common Name _____	Scientific Name _____
Lot No. _____	Net Weight or Seed Count _____
Purity Percent _____ %	Origin/Collection Area _____
Germination _____ % Hard Seed or Dormant _____ % Total Germination _____ %	
Date of Test _____, 20	OR Year Collected _____
Name and Address of Licensee _____	
Name of Treatment _____ Inoculant Expires: _____, 20	

(1) The maximum percent of seed moisture for hermetically sealed containers of agricultural or vegetable seed, shall be as follows:

<u>Family/Kind</u>	<u>Maximum percent Seed Moisture</u>
<u>1. Chenopodiaceae</u>	
<u>a. Beet, chard</u>	<u>7.5</u>
<u>b. Spinach</u>	<u>8.0</u>
<u>2. Astercaee – Lettuce</u>	<u>5.5</u>
<u>3. Brassicaceae</u>	
<u>a. Cabbage, broccoli, cauliflower, collard,</u>	
<u>b. Chinese cabbage, kale, turnip, rutabaga,</u>	
<u>c. Kohlrabi, Brussels sprouts, mustard, radish</u>	<u>5.0</u>
<u>4. Cucurbitaceae</u>	
<u>a. Cucumber, muskmelon, squash, pumpkin</u>	<u>6.0</u>
<u>b. Watermelon</u>	<u>6.5</u>
<u>5. Poaceae</u>	
<u>a. Sweet corn</u>	<u>8.0</u>
<u>b. Kentucky bluegrass</u>	<u>6.0</u>
<u>c. Creeping red fescue</u>	<u>8.0</u>
<u>d. Annual ryegrass</u>	<u>8.0</u>
<u>e. Perennial ryegrass</u>	<u>8.0</u>
<u>6. Fabaceae</u>	
<u>a. Snap bean, lima bean, pea</u>	<u>7.0</u>
<u>b. Crimson clover</u>	<u>8.0</u>
<u>7. Amaryllidaceae – Onion, leek, chive,</u>	<u>6.5</u>
<u>Welsh onion</u>	
<u>8. Solanaceae</u>	
<u>a. Tomato</u>	<u>5.5</u>
<u>b. Pepper</u>	<u>4.5</u>
<u>c. Eggplant</u>	<u>6.0</u>
<u>9. Apiaceae</u>	
<u>a. Carrot, celery, celeriac</u>	<u>7.0</u>
<u>b. Parsnip</u>	<u>6.0</u>
<u>c. Parsley</u>	<u>6.5</u>
<u>10. All other agricultural or vegetable seed not listed above</u>	<u>6.0</u>

(2) The term “container” includes, but is not limited to, bin, box, bag and barrel.

(3) All information required on the seed analysis tag or label shall be identified and placed on one side of the tag or label without intervening matter. No other information or matter shall be placed on this side of the tag or label unless such information is likewise identified.

(4) Analysis tag or label for agricultural seed shall show a complete analysis, and the complete purity analysis shall total one hundred percent (100%). Blank spaces on a form tag shall be deemed to imply the word “None” when such interpretation is reasonable. Either numerals or the word “None” should be used to express a percentage or numbers per pound.

(5) The name of the kind and variety of seed shall not be abbreviated, but shall be written in the words, symbols or figures as expressed by the breeder’s designation of the seed.

(6) The place of origin shall not be used in connection with the name of variety or kind of seed, unless it is a part of the generally accepted name of kind or variety. Modifying words or phrases shall not be used in connection with the variety – as for example, “for forage purposes,” etc.; nor shall brand names be used as varietal names.

(7) Upon expiration of each germination test period as prescribed by Subsections 578.09(2), (5), (6), (7) & (8) and Subsection 578.092(3) F.S., a new test shall be made and the result thereof, together with the date when same was completed, shall be shown on the label or tag attached to the container of such seed (a new label or tag is recommended).

(8) Different varieties of the same kind of seed, when in quantities of less than five percent (5%), will be shown on the label or tag as other crop seed.

(9) Hybrid varieties of seed shall be labeled with the word “Hybrid” as required by Section 578.09, F.S.

Examples:

(a) Hybrid Oshkosh Alfalfa	85.00%
other Alfalfa	14.50%
Inert matter	.25%
Other crop seed	.15%
Weed seed	.10%
(b) Hybrid Wintergreen Cabbage	85.00%
other Cabbage	14.00%
Inert matter	1.00%
Other crop seed	.00%
Weed seed	.00%

(10) The following wording will comply with the requirements of Section 578.26, F.S., when printed on the analysis tag or label attached to the seed at the time of purchase by the buyer:

Notice: As a prerequisite to maintaining a legal action based upon the failure of seed to which this label is attached to produce as represented, a sworn complaint shall be made to the department within such time as to permit inspection of the crops, plants, or trees, accompanied by the required filing fee, and a copy of the complaint shall be sent to the seller by certified mail, in accordance with Section 578.26, F.S.

Rulemaking Authority 578.11(2) FS. Law Implemented 578.11(2), 578.09, ~~578.092~~ ~~578.28~~, ~~578.28(3)~~ FS. History–New 11-21-69, Amended 12-1-70, 9-30-72, 3-1-73, Formerly 5E-4.02, Amended 3-4-93, 6-14-95, _____.

5E-4.003 Noxious Weed Seed.

(1) Prohibited noxious weed seed shall include:

- (a) Field Bindweed (~~Convolvulus~~ ~~Convolvulus~~ None per pound arvensis)
- (b) Serrated tussock (Nassella trichotoma None per pound ~~trichotoma~~)
- (c) Benghal dayflower (Commelina benghalensis) None per pound
- (2) Restricted noxious weed seed shall include:
 - (a) Annual bluegrass (Poa annua) 1,000 per pound
 - (b) Balloonvine (Cardiospermum halicacabum) 4 per pound
 - (c) Bermudagrass (Cynodon spp.) 300 per pound
 - (d) Blessed thistle (Cnicus benedictus) 9 per pound
 - (e) Buckhorn plantain (Plantago lanceolata) 100 per pound
 - (f) Canada thistle (Cirsium arvense) 100 per pound
 - (g) Cheat or Hairy chess (~~Chess~~ (Bromus secalinus, 300 per pound and/or commutatus)
 - (h) Cocklebur (Xanthium spp.) 4 per pound
 - (i) Corncockle (Agrostemma githago) 100 per pound
 - (j) Crotalaria
 - 1. Crotalaria spectabilis 9 per pound
 - 2. Crotalaria mucronata (Striata) 54 per pound
 - (k) Darnel (Lolium temulentum) 100 per pound
 - (l) Docks (Rumex crispus, obtusifolius and conglomeratus) 100 per pound
 - (m) Dodders (Cuscuta spp.) 100 per pound
 - (n) Horsenettle and Nightshades (Solanum 100 per pound carolinense and/or elaeagnifolium)
 - (o) Johnson grass and Sorghum alnum (Sorghum 27 per pound halepense and/or alnum)
 - (p) Nutgrass (Cyperus rotundus) 1 per pound
 - (q) Quack grass (~~Elymus~~ ~~Agropyron~~ repens) 100 per pound
 - (r) Red rice (Oryza sativa) 300 per pound
 - (s) Sheep sorrel (Rumex acetosella) 200 per pound
 - (t) Tropical soda apple (Solanum viarum) 1 per pound
 - (u) Texas millet or Buffalograss (Urochloa ~~Panicum~~ 9 per pound texanum) ~~Buffalograss~~
 - (v) Wild onion ~~onions~~ (Allium spp.) 27 per pound
 - (w) Wild radish (Raphanus raphanistrum) 27 per pound
 - (x) Wild turnip or mustard (Brassica spp.) 27 per pound

(3) The total amount of all restricted noxious weed seed shall not exceed three hundred (300) per pound exclusive of Annual bluegrass.

Rulemaking Authority 570.07(23), 578.11(2) FS. Law Implemented 578.11(3), 578.12, ~~578.29~~ FS. History–New 5-30-63, Amended 8-22-68, 9-29-83, Formerly 5E-4.03, Amended 8-6-89, 11-14-04, 11-26-08, _____.

5E-4.004 Worthless Seed.

Agricultural, vegetable ~~Vegetable~~, flower, ~~or forest tree,~~ or shrub seed shall be deemed worthless for planting purposes if containing in excess of two percent (2%) of total weed seed or

more noxious weed seed than shown in regulation Rule 5E-4.003, F.A.C., and shall not be sold for such purposes. ~~Exception: Carpet grass shall be considered worthless for planting purposes if containing in excess of five percent (5%) of total weed seed.~~

Rulemaking Authority 578.11(2) FS. Law Implemented 578.11(2) FS. History—New 11-21-69, Formerly 5E-4.04, Amended _____.

5E-4.0041 Disposition of Seed Contaminated with Noxious Weed Seed.

(1) through (3) No change.

(4) The following documents are hereby adopted and incorporated by reference. These documents may be obtained by contacting the Florida Department of Agriculture and Consumer Services, Bureau of Licensing and Enforcement Compliance Monitoring, 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399-1650 and are available online as indicated.

(a) Stop Sale, Stop Use, or Hold Order (FDACS-13233, Rev. 06/10), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02279>.

(b) Release Notice (FDACS-13248, Rev. 08/10), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02280>.

(c) Authorization for Movement of Goods Under Stop Sale Order (FDACS-13249, Rev. 08/10), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02281>.

(d) University of Florida, Institute of Food and Agricultural Sciences, SS-AGR-77 “Tropical Soda Apple: Biology, Ecology and Management of a Noxious Weed in Florida” (Revised February 2010), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02282>. Rulemaking Authority 570.07(23), 567.181, 578.11(2), 580.036(2) FS. Law Implemented 487.101, 576.111, 578.11(3), 578.12, 580.111 FS. History—New 11-14-04, Amended 11-26-08, 3-13-13, _____.

5E-4.006 Seed Standards.

The minimum standard for agricultural seeds shall be 60% (including hard seed or dormant seed) except hybrid field corn seed which shall be 90%. The minimum standards for vegetable seeds are set forth in the documents incorporated herein. The Federal Seed Act Regulation ~~federal seed act regulations~~ specified in 7 CFR 201

(Revised January 2019), are hereby incorporated by reference. Copies of this document may be obtained online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX> ~~from the Superintendent of Documents, Attn: New Orders, P. O. Box 371954, Pittsburgh, PA 15250-7954. Charge orders may be telephoned to the Government Printing Office order desk at (202)783-3238.~~ Also incorporated by reference are the State Noxious-Weed Seed Requirements Recognized in the Administration of the Federal Seed Act, October 2018 January 1994 publication, and the January 1995 replacement

~~pages for the January 1994 publication.~~ Copies of this these documents may be obtained online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX> ~~from the United States Department of Agriculture, Agricultural Marketing Service, Seed Regulatory and Testing Branch, Livestock and Seed Division, Building 506, BARC East, Beltsville, MD 20705-2350; telephone (301)504-9430.~~

Rulemaking Authority 570.07(23), 578.11(2) FS. Law Implemented 578.09(2)(a), 578.11(2) FS. History—New 5-30-63, Amended 1-1-65, 11-21-69, Formerly 5E-4.06, Amended 2-7-89, 6-14-95, 6-9-98, _____.

5E-4.007 Commercial Tests and Consumer Request Samples.

(1) The department will make commercial tests and perform analysis of consumer request samples of seed when such will not interfere with prescribed duties of the department. ~~A schedule of charges is listed below:~~

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

(a) Consumer means individuals who purchase and use seed for plant production purposes.

(b) Consumer request seed samples means an official seed sample taken and analyzed by the department at the request of the consumer.

(3) Schedule of charges for the collection, packaging, shipment and analysis of consumer request seed samples and commercial tests is listed below:

Product	Type Test and Charge	
	Purity	Germination
(a) Aeschynomene	\$10.50	\$15.75
(b) Alfalfa	15.75	15.75
(c) Austrian Austria Winter Pea	10.50	15.75
(d) Bahiagrass, Pensacola	15.75	21.00
(d)(e) Bahiagrass, <u>All Other</u> Varieties	21.00	21.00
(e)(f) Beggarweed	10.50	15.75
(f)(g) Bentgrass	15.75	15.75
(g)(h) Bermudagrass	21.00	15.75
(h)(i) Bluegrass	21.00	15.75
(i)(j) Buckwheat	15.75	15.75
(j)(k) Carpetgrass	21.00	15.75
(k)(l) Centipedegrass	21.00	15.75
(l)(m) Chufa	10.50	21.00
(m)(n) Clovers	15.75	15.75
(n)(o) Corn, Field or Sweet	10.50	21.00
(o)(p) Cowpeas	10.50	15.75
(p)(q) Fescue	21.00	15.75
(q)(r) Flowers	15.75	15.75
(r)(s) Flowers, Mixed	26.25	31.50
(s)(t) Hairy Indigo	15.75	15.75
(t)(u) Herbs	<u>15.75</u>	15.75
(u)(v) Lespedeza	15.75	15.75
(v)(w) Lovegrass	21.00	15.75

(w)(x) Lupine	10.50	15.75
(x)(y) Millets	15.75	15.75
(y)(z) Mixed Grasses	36.75	36.75
(z)(aa) Oats	15.75	15.75
(aa)(bb) Partridge Pea	10.50	15.75
(bb)(cc) Peanuts, Hulled	10.50	15.75
(cc)(dd) Rye	15.75	15.75
(dd)(ee) Ryegrass	21.00	15.75
(ee)(ff) Rice	15.75	15.75
(ff)(gg) Sesame	10.50	15.75
(gg)(hh) Sesbania	10.50	15.75
(hh)(ii) Sorghum	15.75	15.75
(ii)(jj) Soybeans	10.50	15.75
(jj)(kk) Sunflower	10.50	15.75
(kk)(ll) Timothy	15.75	15.75
(ll)(mm) Tobacco	15.75	15.75
(mm)(nn) Tree or Shrub Seed	15.75	21.00
(nn)(oo) Triticale	15.75	15.75
(oo)(pp) Vegetables (1)*	10.50	15.75
(pp)(qq) Vegetables (2)**	10.50	21.00
(qq)(rr) Velvet bean Beans	10.50	15.75
(rr)(ss) Vetch	10.50	15.75
(ss)(tt) Wheat	15.75	15.75

*Vegetables (1): Radish, Squash, Cucumber, Cantaloupe, Pumpkin, Collard, Turnip, Mustard, Cabbage, Bean, Lettuce, Peas

**Vegetables (2): Watermelon, Carrot, Pepper, Tomato, Eggplant, Sweet Corn

(4)(2) The Cold Test for corn is \$5.00 AA Test for soybeans is \$10.50.

(5)(3) Seed not listed will be charged according to other seed of similar size.

(6)(4) An additional charge of \$5.00 is required for testing germination of uncleaned seed.

(7)(5) The charge for noxious weed test is equal to one-half of the charge of the purity test.

Rulemaking Authority 578.11(2) FS. Law Implemented 578.11(2), (2)(h) FS. History—New 6-29-62, Amended 9-29-83, Formerly 5E-4.07, Amended 8-17-92,_____.

5E-4.0071 Consumer Request Samples.

Rulemaking Authority 570.07(23), 578.11(2)(h) FS. Law Implemented 578.11(2), 578.11(2)(h) FS. History—New 3-4-93, Repealed.

5E-4.011 Flower Seed Germination Standards.

(1) Flower seed subject to Chapter 578, F.S., and their germination standards are as follows:

Kind	Standard Germ. %	
(a) African daisy – Dimorphotheca aurantiacs	55	
(b) Ageratum – Ageratum mexicanum	60	
(c) Alyssum – Alyssum compactum, A. maritimum, A. procumbens, A. saxatile	60	
(d) Amaranthus – Amaranthus spp.	65	50

(e) Anemone – Anemone coronaria, A. pulsatilla	55
(f) Angels trumpet – Datura arborea	60
(g) Arabis – Arabis alpina	60
(h) Armeria – Armeria spp.	50
(i) Aster, China – Callistephus, chinensis except Pompon, Powderpuff, and Princess types	55
(j) Aster, China – Callistephus chinensis, Pompon, Powderpuff, and Princess types	50
(k) Aubrietia – Aubrietia deltoidea deltoides	45
(l) Balsam – Impatiens balsamina	70
(m) Calendula – Calendula officinalis	65
(n) California Poppy – Eschscholtzia californica	60
(o) Calliposis – Coreopsis bicolor, C. drummondii, C. elegans	65
(p) Campanula: Canterbury bells – Campanula medium Cup and Saucer bellflower – Campanula medium calycanthema Carpathian bellflower – Campanula carpatica Peach bellflower – Campanula persicifolia	60 50 65
(q) Candytuft, annual – Iberis amara, I. umbellata	65
(r) Candytuft, perennial – Iberis gibraltaria, I. sempervirens	55
(s) Castor bean – Ricinus communis	60
(t) Cathedral Bells – Cobaea scandens	65
(u) Celosia – Celosia argentea	65
(v) Centaurea: Basket flower – Centaurea americana, Cornflower, C. cyanus, Dusty Miller – C. candidissima, Royal centaurea – C. imperialis, Sweet Sultan – C. moschata, Velvet centaurea – C. gymnocarpa	60 55
(w) Chinese forget-me-not – Cynoglossum amabile	55
(x) Chrysanthemum, annual – Chrysanthemum carinatum, C. coronarium, C. segetum	40
(y) Clarkia – Clarkia elegans	65
(z) Cleome – Cleome gigantea	65
(aa) Columbine – Aquilegia spp.	50
(bb) Coral bells – Heuchera sanguinea	55
(cc) Coreopsis, perennial – Coreopsis lanceolata	40
(dd) Cosmos: Sensation, Mammoth and Crested types – Cosmos bipinnatus; Klondyke type C. sulphureus	65
(ee) Dahlia – Dahlia spp.	55
(ff) Delphinium, perennial: Belladonna and Bellamosum types; Cardinal larkspur – Delphinium cardinale; Chinensis types; Pacific Giant, and Gold Medal and other hybrids of D. elatum	55
(gg) Dianthus: Carnation – Dianthus caryophyllus China pinks – Dianthus chinensis, Heddewigi, Heddensis	60 70
Grass pinks – Dianthus plurmarious plurmarious	60
Maiden pinks – Dianthus deltoides	60
Sweet William – Dianthus barbatus	70
Sweet Wivelsfield – Dianthus allwoodii	60
(hh) Dracaena – Dracaena indivisa	55
(ii) English daisy – Bellis perennis	55

(jj) Forget-me-not – <i>Anchusa myosatidiflora</i>	50	(xxx) <i>Salvia</i> – Scarlet Sage – <i>Salvia splendens</i> ;	50
(kk) Foxglove- <i>Digitalis</i> spp.	60	Mealycup Sage (blue bedder) – <i>Salvia farinacea</i>	
(ll) <i>Gaillardia</i> , annual – <i>Gaillardia pulchella</i> , Var.	45	(yyy) <i>Saponaria</i> – <i>Saponaria ocymoides</i> , <i>S. vaccaria</i>	60
picta; perennial – <i>G. grandiflora</i>		(zzz) <i>Scabiosa</i> , annual – <i>Scabiosa atropurpurea</i>	50
(mm) <i>Geranium</i> – <i>Geranium</i> spp.	40	(aaaa) <i>Scabiosa</i> , perennial – <i>Scabiosa caucasica</i>	40
(nn) <i>Geum</i> – <i>Geum</i> spp.	55	(bbbb) <i>Schizanthus</i> – <i>Schizanthus</i> spp.	60
(oo) <i>Gilia</i> – <i>Gilia</i> spp.	65	(cccc) <i>Shasta Daisy</i> – <i>Chrysanthemum maximum</i> , <i>C.</i>	65
(pp) <i>Godetia</i> – <i>Godetia amonena</i> , <i>G. grandiflora</i>	65	<i>leucanthemum</i>	
(qq) Gourds: Yellow-flowered – <i>Cucurbita pepo</i> ;	70	(dddd) Snapdragon – <i>Antirrhinum</i> spp.	55
White- flowered – <i>Langenaria sisceraria</i> ;		(eeee) <i>Solanum</i> – <i>Solanum</i> spp.	60
Dishcloth <i>Luffa cylindrica</i>		(ffff) Stocks: Common – <i>Mathiola incana</i> ; Evening	65
(rr) <i>Gypsophila</i> : annual baby’s breath – <i>Gypsophila</i>	70	scented – <i>Mathiola bicornis</i>	
<i>elegans</i> ; perennial baby’s breath – <i>G. paniculata</i> ,		(gggg) Sunflower – <i>Helianthus</i> spp.	65
<i>G. pacifica</i> , <i>G. repens</i>		(hhhh) Sweet Pea, annual and perennial other than	75
(ss) <i>Helichrysum</i> – <i>Helichrysum Monstrosum</i>	60	dwarf bush – <i>Lathyrus odoratus</i> , <i>L. latifolius</i>	
(tt) Hollyhock – <i>Althea</i> <i>Althea rosea</i>	65	(iiii) Sweet Pea, dwarf bush – <i>Lathyrus odoratus</i>	65
(uu) <i>Impatiens</i> – <i>Impatiens</i> spp.	55	(jjjj) <i>Thunbergia</i> – <i>Thunbergia alata</i>	60
(vv) <i>Ipomea</i> : Cypress vine – <i>Ipomea quamoclit</i> ;	75	(kkkk) Torch flower – <i>Tithonia speciosa</i>	70
Moonflower – <i>I. Noctiflora</i> ; Morning glories,		(llll) <i>Tritoma</i> – <i>Kniphofia</i> spp.	65
Cardinal Climber, Hearts and Honey vine – <i>Ipomea</i>		(mmmm) <i>Vervain, garden Verbena, annual</i> – <i>Verbena</i>	35
spp.		<i>hybrida</i>	
(ww) Job’s tears – <i>Coix lacrymajobi</i>	70	(nnnn) <i>Vinca</i> – <i>Vinca rosea</i>	60
(xx) <i>Kochia</i> – <i>Kochia childsi</i>	55	(oooo) <i>Viola</i> – <i>Viola cornuta</i>	55
(yy) Larkspur, annual – <i>Delphinium ajacis</i>	60	(pppp) Wallflower – <i>Cheiranthus allioni</i>	65
(zz) <i>Lantana</i> – <i>Lantana camara</i> , <i>L. hybrida</i>	35	(qqqq) <i>Zinnia</i> (except <i>linearis</i> and creeping) – <i>Zinnia</i>	65
(aaa) <i>Linaria</i> – <i>Linaria</i> spp.	65	<i>angustifolia</i> , <i>Z. elegans</i> , <i>Z. grandiflora</i> , <i>Z. gracillima</i> ,	
(bbb) <i>Lobelia</i> , annual – <i>Lobelia erinus</i>	65	<i>Z. haegeana</i> , <i>Z. multiflora</i> , <i>Z. pumila</i>	
(ccc) <i>Lunaria</i> , annual <i>Lunaria annua</i>	65	(rrrr) <i>Zinnia, linearis</i> and creeping – <i>Zinnia linearis</i> ,	50
(ddd) <i>Lupine</i> – <i>Lupinus</i> spp.	65	<i>Sanvitalia procumbens</i>	
(eee) Marigold – <i>Tagetes</i> spp.	65	(2) Kinds not listed	50
(fff) Marvel of Peru – <i>Mirabilis jalapa</i>	60	(3) No flower seed marked below standard may be sold	
(ggg) Mignonette – <i>Reseda odorata</i>	55	which germinate less than 30%.	
(hhh) <i>Myosotis</i> – <i>Myosotis alpestris</i> , <i>M. oblongata</i> , <i>M.</i>	50	(4) A mixture of kinds of flower seed will be considered to	
<i>pulastris</i>		be below standard if the germination of any kind or	
(iii) <i>Nasturtium</i> – <i>Tropaeolum</i> spp.	60	combination of kinds constituting 25 percent or more of the	
(jjj) <i>Nemesia</i> – <i>Nemesia</i> spp.	65	mixture by number is below standard for the kind or kinds	
(kkk) <i>Nemophila</i> – <i>Nemophila insignis</i>	70	involved.	
(lll) <i>Nicotiana</i> – <i>Nicotiana affinis</i> , <i>N. Sanderae</i> , <i>N.</i>	65	Rulemaking Authority 578.11(2) FS. Law Implemented 578.11(2) FS.	
<i>sylvestris</i>		History–New 11-21-69, Formerly 5E-4.11, Amended 8-17-	
(mmm) <i>Nierembergia</i> – <i>Nierembergia</i> spp.	55	92._____.	
(nnn) <i>Nigella</i> – <i>Nigella damascena</i>	55		
(ooo) Pansy – <i>Viola tricolor</i>	60		
(ppp) <i>Penstemon</i> – <i>Penstemon barabatus</i> , <i>P.</i>	60		
<i>grandiflorus</i> , <i>P. Laevigatus</i> , <i>P. Pupescens</i>			
(qqq) <i>Petunia</i> – <i>Petunia</i> spp.	45		
(rrr) <i>Phacelia</i> – <i>Phacelia companularia</i> , <i>P. minor</i> , <i>P.</i>	65		
<i>tanacetifolia</i>			
(sss) Phlox, annual – Phlox drummondii all types and	55		
varieties			
(ttt) <i>Physalis</i> – <i>Physalis</i> spp.	60		
(uuu) Poppy: Shirley poppy – <i>Papaver rhoeas</i> ; Iceland	60		
poppy – <i>P. nudicaule</i> ; Oriental poppy –			
<i>P. orientale</i> ; Tulip poppy – <i>P. glaucum</i>			
(vvv) <i>Portulaca</i> – <i>Portulaca grandiflora</i>	55		
(www) <i>Salpiglossis</i> – <i>Salpiglossis gloxinaeflora</i> , <i>S.</i>	60		
<i>sinuata</i>			

1650. The registration shall be submitted to the Department on or before June 30 of each year.

(2) through (3) No change.

(4) Transactions. Any purchase, sale, rental, leasing, or transfer of ownership of an aircraft required to be registered with the department pursuant to subsection (1) above shall be transmitted to the department on (1) Florida Department of Revenue Form DR-15AIR 42 Rev-01/16 ~~06/99~~ Ownership Declaration and Sales and Use Tax Return for Report on Aircraft or (2) Aircraft Bill of Sale Form AC 8050-2 Rev. 10/18 ~~(9/92)~~ or (3) Report of Aircraft Transaction Form FDACS-13355 Rev. 10/13 ~~New 1/02~~ within 24 hours of the transaction.

(5) through (6) No change.

(7) Forms. The following forms are hereby incorporated by reference and available at the links below. These forms may be obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 ~~(4-29)~~, Tallahassee, Florida 32399-1650, telephone (850)~~617-7870~~ 488-3314.

(a) Application for Aircraft Registration (~~FDACS-13354~~), Rev. 10/13 ~~New 01/02~~ <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(b) ~~Ownership Declaration and Sales and Use Tax Return for Report on Aircraft~~ (DR-42A), Rev. 1/16 ~~06/99~~ <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(c) Aircraft Bill of Sale Form AC 8050-2, New 10/18 ~~Report of Aircraft Transaction (DACS-13355), New 3/02~~ <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(d) Report of Aircraft Transaction (~~FDACS-13355~~), (Rev. 10/13) ~~New 3/02~~ <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

Rulemaking Authority 570.07(23), 578.11(2) FS., Chapter 2001-360, Laws of Florida. Law Implemented 578.11 FS., Chapter 2001-360, Laws of Florida. History–New 6-9-02, Amended.

5E-4.014 Seed Dealer Registration Fees.

~~(4)~~ The Application for Registration as a Seed Dealer, FDACS-13204, Rev. 07/14 ~~6/09~~, shall be submitted annually for each place of business at which seed is sold, distributed for sale, offered for sale, exposed for sale, or handled for sale, and shall be accompanied by the applicable fee established in Section 578.08, F.S.

~~(2) All forms and filing specifications contained in this rule are hereby adopted and incorporated by reference and may be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Compliance Monitoring, 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399-~~

~~1650 or by visiting the Department's website at <http://www.doacs.state.fl.us/onestop/forms/>.~~

Rulemaking Authority 570.07(23), 578.11(2)(i) FS. Law Implemented 578.08(1) FS. History–New 1-18-10, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kelly Friend, Director, Division of Agricultural Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Nicole “Nikki” Fried

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NOS.: RULE TITLES:

- 5K-4.0010 Definitions
- 5K-4.002 Adoption of Federal Regulations and Other Standards
- 5K-4.004 General Requirements for the Manufacturing, Processing, Packing, Holding and Retailing of Foods
- 5K-4.0041 Mobile Food Establishments and Commissaries
- 5K-4.0050 Special Process Approvals
- 5K-4.020 Food Permits; Requirements and Fees
- 5K-4.021 Food Manager Certification
- 5K-4.023 Packaged Ice
- 5K-4.033 Limited Poultry and Egg Farm Operation
- 5K-4.035 Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: The purpose of this rulemaking is to establish definitions, incorporate by reference current versions of federal regulations, update permitting requirements, consolidate the requirements of Chapter 5K-9, F.A.C., for vended water machines into Chapter 5K-4, F.A.C., adopt rules for special process approvals and mobile food establishments, and adopt guidelines for administrative penalties.

SUMMARY: This proposed rule chapter establishes definitions and administrative penalties, and updates requirements for food establishments, special process approvals, and vended water.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The department's proposed rules do not increase fees or otherwise impose any other costs, directly or indirectly, on the regulated industry. Based on this information, the department determined there will be no adverse impact to small businesses and the potential regulatory costs of the proposed rule chapter does not exceed any of the criteria established in Section 120.541(2)(a), F.S. Additionally, no interested party submitted additional information regarding the economic impact. 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.

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.

RULEMAKING AUTHORITY: 500.09, 500.12, 500.459, 570.07(23), FS.

LAW IMPLEMENTED: 500.03, 500.04, 500.09, 500.10, 500.11, 500.12, 500.121, 500.13, 500.147, 500.148, 500.165, 500.169, 500.171, 500.172, 500.173, 500.174, 500.179, 500.459, 500.511, 500.70, 500.80, 570.07(23), FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Matthew Colson by email at Matthew.Colson@FreshFromFlorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-4.0010 Definitions.

For the purpose of this rule chapter, the definitions in Section 500.03, F.S., and the following shall apply.

(1) Candy is a type of confectionery that does not require refrigeration. Candy includes hard candies such as lollipops, chocolates, chocolate or sugar covered fruits or nuts, caramels, toffees or similar sugar-based foods customarily eaten as snack foods.

(2) Confectionery mean sweet foods such as candy, chewing gum, or similar foods made primarily of sugar or sugar substitutes. Confectionery does not include baked goods where flour is the main ingredient such as cakes, cookies, or frozen desserts.

(3) Commissary means a support service location for a Mobile Food Establishment that meets all applicable requirements of Chapter 500, F.S., and Chapter 5K-4, F.A.C.

(4) Distribution means the transfer of food from one business to another, or from one business location to another.

(5) Ice means food that is formed from water by freezing to a solid state that is intended for human consumption or offered for other use by the consumer.

(6) Ice Vending Machine means a Food Establishment that is a self-serving device that, upon insertion of a coin or token or upon receipt of payment by any means, dispenses a bag or a bulk service of ice to a customer.

(7) Maximum Contaminant Level (MCL) means the maximum permissible level of a contaminant as set forth in Rule 64E-8.006, F.A.C. and Rule Chapter 62-550, F.A.C.

(8) Mobile Food Establishments are Food Establishments that are self-propelled or otherwise moveable from place to place such as a truck, trailer, or similar self-propelled conveyance or non-permanent kiosk or table where pre-packaged food products are sold.

(9) Potentially Hazardous Food /Time/Temperature Control for Safety Food (PHF/TCS) means food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(10) Potable Water means water that meets the quality standards of Chapter 62-550, F.A.C., and is satisfactory for drinking, culinary, and domestic purposes.

(11) Production Batch of Sprouts means all sprouts that are started at the same time in a single growing unit (e.g., a single drum or bin, or a single rack of trays that are connected to each other), whether the sprouts are grown from a single lot of seed (including, for example, when multiple types of seeds are grown in a single growing unit).

(12) Retail Food Establishment means an establishment that sells food products directly to consumers as its primary function.

(13) Water Vending Machine means a self-service device that, upon insertion of a coin or token or upon receipt of payment by any means, dispenses a serving of water into a container.

(14) Wholesale Food Establishment means an establishment whose sales of food products directly to consumers is not its primary function.

Rulemaking Authority 500.09, 570.07(23), F.S. Law Implemented 500.03, F.S. History-New _____.

5K-4.002 Adoption of Federal Regulations and Other Standards.

(1) The following materials are hereby incorporated and adopted as rules under the Florida Food Act, Chapter 500, F.S. Copies of all referenced materials documents are available for examination at the Florida Department of Agriculture and Consumer Services, Division of Food Safety, Bureau of Food

~~and Meat~~ Inspection, 3125 Conner Boulevard, Suite H, Tallahassee, Florida 32399-1650 or online as indicated.

(a) Code of Federal Regulations Title 7 – Agriculture, ~~Part 51, Sections 51.2-51.3, 51.300-51.3749, Part 52, Sections 52.2-52.3, 52.771-52.3764, Part 56, Sections 56.1-56.2, 56.35-56.37, 56.39-56.41, 56.75-56.77, Part 57, Sections 57.1, 57.35, 57.45, 57.800-57.860, 57.900-57.970, and Part 70, Sections 70.1-70.2, 70.50-70.55, 70.110, revised as of January 1, 2016~~ ~~2014~~, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04643>~~

(b) Code of Federal Regulations Title 9 – Animal and Animal Products, Parts 301, 303, 316-317, Part 318, Sections 318.10, 318.16, 318.20, Part 319, Part 352, Sections 352.1 and 352.7, Part 354, Sections 354.1, 354.70-354.72, and Part 381, Sections 381.1-381.15, 381.125, revised as of January 1, 2016 ~~2014~~, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04644>~~

(c) Code of Federal Regulations Title 19 – Custom Duties, Part 134, revised as of April 1, 2016~~2014~~, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04647>~~

(d) Code of Federal Regulations Title 21 – Food and Drugs, Part 1 (excluding subparts L, and M), Part 2, Sections 2.5, 2.25-2.125, Parts 7, 70, 73-74, 100, Part 101, (excluding section 101.8, subsection 101.9(g)(2), and section 101.11), Parts 102-109, Part 110 (except for 110.80(b)(3)(i) is amended to required refrigerated foods to be maintained at a temperature of 41 degrees Fahrenheit (5 degrees Celsius) or below and 110.80(b)(3)(iii) is amended to require that hot foods to be maintained at a temperature of 135 degrees Fahrenheit (57 degrees Celsius) or above), Part 111 – 190 and Part 1240, revised as of April 1, 2016~~2014~~, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.

~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04645>~~ and <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<https://www.flrules.org/Gateway/reference.asp?No=Ref-07843>~~

(e) Code of Federal Regulations Title 21 – Food and Drugs, Part 112, Sections 112.3, 112.12, 112.44(a)(1)-(4), 112.140, 112.49(a), Subparts C, and LM-O pertaining only to sprouts, Part 117 (except for 117.80(c)(3) is amended to require refrigerated foods to be maintained at a temperature of 41 degrees Fahrenheit (5 degrees Celsius) or below and require that hot foods be maintained at a temperature of 135 degrees Fahrenheit (57 degrees Celsius) or above revised as of April 1, 2016, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-08684>~~

(f) Code of Federal Regulations Title 40 – Protection of Environment, Part 180, (excluding subsection 180.6(d) and Section 180.101), revised as of July 1, 2018~~2013~~, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04646>~~

(2) The following materials are hereby incorporated and adopted as rules under the Florida Food Act, Chapter 500, F.S. Copies of all referenced materials documents are available for examination at the Florida Department of Agriculture and Consumer Services, Division of Food Safety, Bureau of Food ~~and Meat~~ Inspection, 3125 Conner Boulevard, Suite H, Tallahassee, Florida 32399-1650 or online as indicated.

(a) The action levels for food defects declared by the United States Food and Drug Administration and referenced in the FDA/CFSAN Defect Action Level Handbook, The Food Defect Action Levels, May 1995 (Revised May 1998), <http://www.flrules.org/Gateway/reference.asp?No=Ref-04900>.

(b) Industry Activities Staff Booklet, Action Levels for Poisonous or Deleterious Substances in Human Food and Animal Feed (August 2000), <http://www.flrules.org/Gateway/reference.asp?No=Ref-04901>.

(c) Fish and Fisheries Products Hazards and Controls Guidance, 4th Edition (April 2011), <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(d) Guidance for Industry: Juice HACCP Hazards and Controls Guidance First Edition (March 2004), <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(e) AWWA B604-74: American Waterworks Association (AWWA) Standard for Granular Activated Carbon (January 1974) <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>.

(f) Guidance Document for Unattended Food Establishments (December 2017) <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>.

(3) Food Salvage Operations.

(a) The “Food Sorting Guidance and Model Consumer Commodity Salvage Code (September 2017~~November 2002)~~,” jointly published by the Association of Food and Drug Officials, the U.S. Department of Health and Human Services and the U.S. Department of Agriculture is hereby adopted as sanitation criteria, standards, and requirements for food salvage operations in Florida and is incorporated by reference, <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<https://www.flrules.org/Gateway/reference.asp?No=Ref-04902>~~, with the following exclusions: Sections 1-102(B), 9-102(C), (F) and (G), 13-101-13-106, and 14-101-14-107. The Department has determined that posting the incorporated

material on the Internet would constitute a violation of the federal copyright law. The incorporated material will be available for public inspection and examination at the Florida Department of Agriculture and Consumer Services, Division of Food Safety, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Suite H, Tallahassee, Florida 32399-1650.

(b) For the purposes of subsection (3), of this rule, “Consumer commodity” is defined as: “any food, beverage, dietary supplement, animal food (pet food), single service food containers or utensils, soda straws, paper napkins, or any other product of a similar nature. It also may include animal feed when handled at the same facility as other consumer commodities. This definition includes salvage caused by disasters which could include animal feeds which are handled differently than “animal food” which is destined for consumption by pets (e.g., cans of cat food, broken bags of dry dog food).”

(4) Food Code – Provisions Adopted and Exclusions. The following materials are hereby incorporated and adopted as rules under the Florida Food Act, Chapter 500, F.S. Copies of all referenced materials documents are available for examination at the Florida Department of Agriculture and Consumer Services, Division of Food Safety, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Suite H, Tallahassee, Florida 32399-1650 or online as indicated.

(a) Chapters 1-7, Subpart 8-101, ~~Subpart 8-103~~, Section 8-201.13, Section 8-201.14, Section 8-202.10 of the “~~2017 2009~~ Food Code,” (hereafter known as the Food Code), “Annexes 3 – 7 of the ~~2017 2009~~ Food Code,” and the “~~Supplement to the 2009 Food Code~~” (effective date September 29, 2011), published by the U.S. Public Health Service of the U.S. Department of Health and Human Services. Interested persons may obtain copies of these materials online at <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04648>, and~~
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04649>, respectively.~~

(b) The following provisions of the Food Code are not adopted by reference and therefore are specifically excluded from rule:

1. 1-201.10(B), definitions for terms “Food Establishment,” “Food Processing Plant,” and “Temporary Food Establishment”; and,
2. 1-201.10(B), the word “unpackaged” only within the definition of “Food Employee”; and,
3. 4-301.12(C)(5), 4-301.12(D), 4-301.12(E); and,
4. 3-203.11(C); and,
5. All subsequent parts of subsection 6-202.110 after the word “law”; and,
6. 3-502.11; and,

7. 2-102.12.

Rulemaking Authority 500.09, 500.12(1)(f), 500.12(5)(d), 500.12(6), 500.459, 570.07(23), (24) FS. Law Implemented 500.02, 500.03, 500.032, 500.04, 500.09, 500.10, 500.11, 500.12, 500.121, 500.13, 500.147, 500.166, 500.169, 500.172, 500.459, 570.07(2), (6), (9), (16), (18), (24), 570.0725 FS. History—New 3-1-72, Amended 12-31-74, 1-18-83, 6-17-85, Formerly 5E-6.02, Amended 7-25-88, 4-13-92, Formerly 5E-6.002, Amended 8-8-95, 9-9-96, 12-10-96, 4-10-97, 9-8-97, 11-15-99, 2-5-04, 3-1-09, 2-25-15, 1-16-17, 10-31-17, _____.

5K-4.004 General Requirements for the Manufacturing, Processing, Packing, Holding and Retailing of Foods.

The provisions of subsections (1) through ~~(6)(7)~~ shall apply in determining whether the facilities, methods, practices and controls used in the manufacture, processing, packing, holding, retailing or offering for sale of foods are in conformance with or are operated or administered in conformity with this rule to assure that food for human consumption is safe.

(1) Food Establishment Plant and grounds.

(a) Grounds – the grounds about a Food Establishment plant under the control of the operator shall be free from conditions which may result in the contamination of food including, ~~but not limited to~~, the following:

1. Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the Food Establishment plant building or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests.

2. Excessively dusty roads, yards or parking lots that may constitute a source of contamination in areas where food is exposed.

3. Inadequately drained areas that may contribute contamination to food products through seepage or food-borne filth and by providing a breeding place for insects or microorganisms.

4. If the Food Establishment plant grounds are bordered by grounds not under the operator’s control of the kind described in subparagraphs 1.-3. of this ~~rule paragraph~~, care must be exercised in the Food Establishment plant by inspection, extermination, removal, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

(b) Food Establishment Plant buildings and structure shall:

1. Be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food processing purposes. Food Establishments Plants that are engaged primarily in the processing of foods must have concrete or other impervious floors with ~~proper~~ slope to ~~adequate~~ floor drains as ~~may be required to prevent pooling or accumulation of water and other liquids~~. None of the operations connected with a food processing Food Establishment plant shall be conducted in any room or area used as living or sleeping quarters. There shall be

no direct opening between living quarters and any room or area where foods are manufactured or processed.

2. Provide sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations and production of safe food. Floors, walls, and ceilings in the Food Establishment plant shall be of such construction as to be ~~adequately~~ cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes shall not be so suspended over working areas that drip or condensate may contaminate foods, raw materials, or food-contact surfaces. Aisles or working spaces between equipment and between equipment walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food-contact surfaces with clothing or personal contact.

3. Provide separation by partition, location, or other effective means for those operations which may cause contamination of food products with undesirable microorganisms, chemicals, filth or other extraneous material.

4. Provide adequate lighting to handwashing areas, dressing and locker rooms, and toilet rooms and to all areas where food or food ingredients are examined, processed or stored and where equipment and utensils are cleaned. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or display shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

5. Provide adequate ventilation or control equipment to minimize odors and noxious fumes or vapors (including steam) in areas where they may contaminate food. Such ventilation or control equipment shall not create conditions that may contribute to food contamination by airborne contaminants.

6. Provide, where necessary, effective screening or other protection against birds, animals, and vermin (including, but not limited to, insects and rodents).

(2) Equipment and utensils. All Food Establishment plant equipment and utensils should be:

- (a) Suitable for their intended use,
- (b) So designed and of such material and workmanship as to be adequately cleanable, and,
- (c) Properly maintained.

The design, construction and use of such equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water or any other contaminants. All equipment should be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

(3) Sanitary facilities and controls. Each Food Establishment plant shall be equipped with adequate sanitary facilities and accommodations including, ~~but not limited to,~~ the following:

(a) Water supply – The water supply shall be sufficient for the operations intended and shall be derived from an approved adequate source in accordance with paragraph 500.03(1)(c), F.S. Any water that contacts foods or food-contact surfaces shall be safe and from an approved source in accordance with applicable provisions of Chapter 403, F.S. the state sanitary code. Running water, at a ~~suitable~~ temperature suitable for its intended use and under pressure, as needed, shall be provided in all areas where the processing of food, the cleaning of equipment, utensils or containers, or employees' sanitary facilities, require.

(b) Sewage disposal – Sewage disposal shall be made into an approved sewerage system or disposed of through other approved means, in accordance with applicable provisions of Chapter 403, F.S. the state sanitary code.

(c) Plumbing – Plumbing shall be sized, installed, and maintained in accordance with applicable provisions of the Florida Building state sanitary Ceode, and maintained to:

- 1. Carry sufficient quantities of water to required locations throughout the Food Establishment plant.
- 2. Properly convey sewage and liquid disposable waste from the Food Establishment plant.
- 3. Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment or utensils, or create an unsanitary condition.
- 4. Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(d) Toilet facilities – Each Food Establishment plant shall provide its employees with ~~adequate~~ toilet and associated hand-washing facilities within the Food Establishment plant in accordance with applicable provisions of the state sanitary code. Fixtures shall be of readily cleanable sanitary design. ~~Water closets shall be equipped with open front type seats of smooth non-absorbent material.~~ Toilet rooms shall be furnished with toilet tissue. Toilet rooms shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination, except where alternate means have been taken to prevent such contamination (such as double doors, positive air-flow systems, etc.). Signs shall be posted requiring employees to use cleaning soap or detergents after using toilet.

(e) Hand-washing facilities – ~~Adequate and~~ conveniently located facilities for hand washing and, where appropriate, hand sanitizing shall be provided at each location in the Food Establishment plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities, ~~where appropriate,~~ shall be furnished with running water at a ~~suitable~~ temperature for hand washing, effective

hand-cleaning and sanitizing preparations, sanitary towel service or suitable drying devices and, where appropriate, easily cleanable waste receptacles. The use of a “common” towel is forbidden.

(f) Rubbish and offal disposal – Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces, and water supplies.

(4) Sanitary operations.

(a) General maintenance – Building, fixtures, and other physical facilities of the Food Establishment plant shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for Food Establishment plant and equipment maintenance and operation, or in manufacturing or processing operations, shall be used or stored in the Food Establishment plant. These materials shall be identified and used only in such manner and under conditions as will be safe for their intended uses.

(b) Animal and vermin control – No animals or birds, other than those essential as raw material, shall be allowed in any area of a Food Establishment plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of ~~approved~~ insecticides or rodenticides permitted and approved pursuant to Chapter 487, F.S. and Rule 5E-2.031, F.A.C., is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues.

(c) Sanitation of equipment and utensils – All utensils and product-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces or equipment used in the operation of Food Establishments plants should be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) should be stored in appropriate containers and handled, dispensed, used, and disposed of in a manner that prevents contamination of food or food-contact surfaces. Where necessary to prevent the introduction of undesirable microorganisms into food products, all utensils and product-

contact surfaces of equipment used in the Food Establishment plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

(d) Storage and handling of cleaned portable equipment and utensils – Cleaned and sanitized portable equipment and utensils with product-contact surfaces should be stored in such a location and manner that product-contact surfaces are protected from splash, dust, and other contamination.

(5) Processes and controls. All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing, and storing of food shall be conducted in accordance with adequate sanitation principles. Overall sanitation of the Food Establishment plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable microorganisms, or any other objectionable material to the processed product:

(a) Raw material and ingredients shall be inspected and segregated ~~as necessary~~ to assure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products ~~shall be of adequate quality, and water~~ shall not be reused for washing, rinsing or conveying products in a manner that may result in contamination of food products.

(b) Containers and carriers of raw ingredients should be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(c) When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner.

(d) Food-processing areas and equipment used for processing human food should not be used to process nonhuman food-grade animal feed or inedible products unless

there is no reasonable possibility for the contamination of the human food.

(e) Processing equipment shall be maintained in a sanitary condition through frequent cleaning, including sanitization where indicated. Where possible, ~~Insofar as necessary~~ equipment shall be taken apart for thorough cleaning.

(f) All food processing, including packaging and storage, should be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microbiological growth, toxin formation or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, heat processing and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

(g) Chemical, microbiological, or extraneous material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected or treated or processed to eliminate the contamination where this may be properly accomplished.

(h) Packaging processes and materials shall not transmit contaminants or objectionable substances to the products, shall conform to any applicable food additive regulation in ~~(21 CFR part 121)~~ incorporated in paragraph 5K-4.002(1)(d), F.A.C., and should provide adequate protection from contamination.

(i) Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity should be utilized to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records should be retained for a period of time that exceeds the shelf life of the product, except that they need not be retained more than 2 years.

(j) Storage and transportation of finished products shall be under such conditions as will prevent contamination and will protect against undesirable deterioration of the product and the container. Food that is being held for later sale or use shall be stored on pallets or equivalent with adequate separation between lots and walls to permit personnel to properly clean and protect such food. Sources of contamination that foods and food products shall be protected against include, ~~but are not limited to,~~ dust, flies, rodents and other vermin, toxic material, unclean equipment and utensils, unnecessary handling, flooding by sewage, overhead leaking, and development of pathogenic and toxigenic microorganisms.

(6) Personnel. The Food Establishment plant management shall take all reasonable measures and precautions to assure the following:

(a) Disease control – No person affected by disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contamination, shall work in a Food Establishment plant in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by such person, or of disease being transmitted by such person to other individuals.

(b) Cleanliness – All persons, while working in direct contact with food preparation, food ingredients, or surfaces coming into contact therewith shall:

1. Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty, to the extent necessary to prevent contamination of food products.

2. Wash their hands thoroughly (and sanitize, if necessary to prevent contamination by undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

3. Remove all insecure jewelry and, during periods where food is manipulated by hand, remove from hands jewelry that cannot be adequately sanitized.

4. If gloves are used in food handling, maintain them in an intact, clean, and sanitary condition. Such gloves should be of an impermeable material except where their usage would be inappropriate or incompatible with the work involved.

5. Wear hair nets, caps or other effective hair restraints. Hair spray or the equivalent is not acceptable as a hair restraint.

6. Not store clothing or other personal belongings, eat food or drink beverages, or use tobacco in any form in areas where food or food ingredients are exposed or in areas used for washing equipment or utensils.

7. Take any other necessary precautions to prevent contamination of foods with microorganisms or foreign substances including, ~~but not limited to,~~ perspiration, hair, cosmetics, tobacco, chemicals, and medicants.

(c) Education and training – Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food-handling techniques and food-protection principles and be cognizant of the danger of poor personal hygiene and unsanitary practices.

(d) Supervision – Responsibility for assuring compliance by all personnel with all requirements of this rule shall be clearly assigned to competent supervisory personnel.

~~(7) Dietary supplements containing ephedrine alkaloids. Dietary supplements containing ephedrine alkaloids present an unreasonable risk of illness or injury to health under conditions of use recommended or suggested in the labeling, or if no conditions of use are recommended or suggested in the labeling, under ordinary conditions of use. Therefore ephedrine alkaloids are deleterious substances, and dietary supplements containing ephedrine alkaloids are adulterated under Section 500.10, F.S.~~

~~(7)(8) Exemptions. Exclusions The following operations are excluded from coverage under these general regulations, however, the department will issue special regulations when believed necessary to cover these excluded operations: Establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities which are ordinarily cleaned, prepared, treated or otherwise processed before being marketed to the consuming public; are exempted from coverage under these general regulations.~~

~~(8)(9) Review of plans by the Department.~~

(a) An Applicant or holder of a food permit may request assistance from the Department in the review of construction or remodeling plans to evaluate conformance with requirements as established in this chapter by submitting a completed Plan Review Application, FDACS-14222 (Rev. 11/18), the attachments, and fee to the Department as required in the form. The Plan Review Application, FDACS-14222 (Rev. 11/18) is incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(b) The fee for plan review assistance will be determined by multiplying the number of reviewer hours expended in reviewing plans and in consulting with the applicant, at the rate of \$30.10 per hour. An additional flat fee of \$25.00 per plan review will be charged for associated expense costs such as FAX, telephone, mailing, shipping, or document duplication expenditures incurred by the Department. Time expended shall be recorded in quarter hour increments with a minimum charge of one hour per plan review. Payment for plan review assistance is due 15 days from the date of invoice from the Department.

(9) Laboratory testing. Where laboratory testing is required in this rule chapter, such testing shall be performed by an ISO (International Organization of Standardization) 17025 based accredited laboratory certified to conduct testing for the microorganism, or analyte of concern. The results of such testing shall be provided directly from the laboratory to the Department via email to www.FoodInsp@FreshFromFlorida.com, and the testing shall be done at the expense of the Food Establishment.

Rulemaking Authority 570.07(23), 500.09, 500.12 FS. Law Implemented 500.04, 500.09, 500.10, 500.12(2)(b), 500.13, 500.172 FS. History–New 3-1-72, Repromulgated 12-31-74, Amended 1-18-83, Formerly 5E-6.04, 5E-6.004, Amended 9-30-96, 7-26-04, _____.

5K-4.0041 Mobile Food Establishments and Commissaries.

(1) Mobile Food Establishments.

(a) Mobile Food Establishments shall meet all applicable requirements as specified in the Mobile Food Permit Requirements (Rev. 11/18) incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX> and as indicated on the form.

(b) Each Mobile Food Establishment not operating in conjunction with a permitted Food Establishment will require its own permit and is subject to all applicable fees. A permitted Food Establishment may operate one Mobile Food Establishment without paying an additional permit fee. Any additional Mobile Food Establishments will require a separate permit and are subject to all applicable fees.

(c) Mobile Food Establishments shall not operate independent of a Commissary approved by the Department unless otherwise specified in this rule chapter. Each Mobile Food Establishment shall submit to the Department a completed Commissary Letter of Agreement, FDACS-14223 (Rev. 11/18) hereby incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

1. Commissary Letter of Agreement, FDACS-14223 (Rev. 11/18), shall be executed on an annual basis.

2. The Mobile Food Establishment shall make this agreement available to the Department upon request.

(d) Each Mobile Food Establishment shall report to a Commissary to store or replenish supplies, clean utensils, and equipment, or dispose of liquid and solid waste, with the exception of Mobile Food Establishments that sell only prepackaged foods and have all necessary support equipment located in the unit.

1. The Mobile Food Establishment shall visit the Commissary each day of operation unless exempt by this Rule Chapter.

2. The Mobile Food Establishment shall have more than one approved Commissary for each time it operates in a location where it cannot visit its primary Commissary once a day during operation. A Commissary Letter of Agreement, FDACS-14223 (Rev. 11/18) is required for each additional Commissary used by the Mobile Food Establishment.

(e) Mobile Food Establishments shall not process or prepare exposed potentially hazardous foods (PHFs) within the mobile food establishment without first obtaining a food permit. Processing/preparing food includes combining food

ingredients, heating/cooking food, cutting/slicing of food, and repackaging of bulk foods or similar operations.

(f) Exemptions. Mobile Food Establishments selling only fresh fruits or vegetables are exempted from this rule chapter.

(2) Commissaries. A Commissary must be permitted as a Food Establishment under Chapter 500, F.S., a Public Food Service Establishment licensed under Chapter 509, F.S., or a Food Service Establishment licensed under Chapter 381, F.S. Rulemaking Authority 500.09, 570.07(23) FS., Law Implemented 500.09, 500.12, FS. History—New _____.

5K-4.0050 Special Process Approvals.

(1) A Retail Food Establishment shall obtain a special process approval from the Department before the following:

(a) Smoking food as a method of food preservation rather than as a method of flavor enhancement;

(b) Curing food;

(c) Using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not time/temperature control of safety food;

(d) Packaging TCS foods using a reduced oxygen packaging method except where the growth of toxin formation by Clostridium botulinum and the growth of Listeria monocytogenes are controlled as specified under 3-502.12 of the FDA Food Code;

(e) Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;

(f) Custom processing animals that are for personal use as food and not for sale or service in a Food Establishment;

(g) Sprouting seeds or beans; or

(h) Preparing food by methods other than those specified in this rule chapter.

(2) The Department shall not issue a special process approval until the Department receives from the Retail Food Establishment the following:

(a) A complete Application for Special Process Approval For Retail Food Establishments, FDACS-14095 (Rev. 11/18), submitted either online at www.FoodInsp@FreshFromFlorida.com or by mail as indicated on the form. This application is incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>;

(b) A statement citing the relevant FDA Food Code section numbers pertaining to the special process approval request;

(c) Procedures that address potential public health hazards and nuisances as required by applicable sections of the FDA Food Code incorporated by reference in Rule 5K-4.002, F.A.C; and

(d) A Hazard Analysis and Critical Control Point (HACCP) plan if required as specified under Section 8-201.13(A) of the FDA Food Code that includes the information specified under 8-201.14 as it is relevant to the special process approval requested.

(3) If a special process approval application is granted by the Department, or a HACCP plan is otherwise required as specified under 8-201.13 of the FDA Food Code, the Food Establishment shall:

(a) Comply with the HACCP Plans and procedures that are submitted as specified under 8-201.14 and approved as a basis for the special process approval; and

(b) Maintain and provide to the Department upon request, records specified under 8-201.14 (D) and (E)(3) of the FDA Food Code that demonstrate that the following are routinely employed;

1. Procedures for monitoring the critical control points,

2. Monitoring of the critical control points,

3. Verification of the effectiveness of the operation or process, and

4. Necessary corrective actions if there is failure at a critical control point.

(c) Maintain a copy of the special process approval, and all associated documents required in this rule.

(d) Special process approvals are granted by the department only for one Food Establishment location and are not transferable to new owners or new locations. Once granted, a special process approval does not expire as long as the applicant holds a valid food permit. A separate application is required for each process the Food Establishment intend to implement.

(e) The Department may suspend or revoke a special process approval if the Food Establishment fails to comply with the conditions specified in this rule.

Rulemaking Authority 500.09, 570.07(23), FS. Law Implemented 500.09, 500.10, 500.11, 500.13, 500.169, FS. History—New _____.

5K-4.020 Food Permits; Requirements and Fees.

(1) As used in this rule, the following definitions shall apply in determining food permit fees:

(a) Bottling plant. A processor or packer or both of juices, drinks, carbonated beverages or non-carbonated beverages in hermetically sealed containers (excluding bottled drinking water).

(b) Canning plant. A processor or packer or both of fruit, vegetables, seafoods or other foods in hermetically sealed containers.

(c) Convenience store. A business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may offer food services limited to coffee from urns, or iced or frozen drinks, with no retail food processing.

(d) Convenience store with limited food service. A convenience store where food is prepared and intended for individual portion service but limited to the display of snack foods or pastries, and/or heating or cooking of hot dogs, sausages, prepackaged pizza or meat pastries, regardless of whether consumption is on or off the premises or whether there is a charge for the food, but without retail food processing.

(e) Convenience store with significant food service. A convenience store that has retail food processing activities consisting of on-site cooking or other preparation of hot entrees, chicken (fried, roasted or grilled), sandwiches, salads, or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet-style display.

(f) Food salvage center. A firm specializing in sorting, segregating and re-working damaged foods, primarily for wholesale distribution.

(g) Food storage warehouse. A cold storage warehouse, a dry storage warehouse, or a commercial food distribution center.

(h) Grocery store. A retail food store stocking a wide variety of foods and engaged in retail food processing which contains four or fewer check-out registers and less than 15,000 total square footage, including display, preparation and storage areas.

(i) Health food store. A retail food store engaged primarily in the sale of prepackaged vitamins, minerals, nutritional supplements and foods intended for health-conscious persons but with no food service or retail food processing.

(j) Health food store with food service. A health food store where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises, or whether there is a charge for the food, but with no retail food processing.

(k) Limited poultry and egg farm operation. A farm-based Food Establishment which directly produces and offers dressed poultry or whole shell eggs for sale. No additional processing or food preparation of such poultry or shell eggs is allowed under this permit category. For purposes of this rule, "farm" has the same meaning as provided in Section 823.14, F.S.

(l) Limited Sales. Any business fitting any of the definitions in this subsection with gross food sales less than \$15,000.00 annually.

(m) Meat market. A retail food store engaged primarily in the cutting, processing and selling of meats or poultry, or both. A limited number of other foods may be stocked, but inventory and sales are predominantly meat or poultry or both.

(n) Minor food outlet. Any retail establishment that sells groceries and may offer food service to the public limited to

coffee from urns, or iced or frozen drinks, but neither the grocery sales nor the food service is a major retail function based on allocated space or gross sales. No retail food processing may be performed.

(o) Minor food outlet, only non-perishable foods. A minor food outlet which sells, stores or offers only commercially prepackaged, non-potentially hazardous, non-perishable foods and at which there is no food processing activity, no food service or any activity related to repackaging of foods. Commercially prepackaged ice, not bagged on the premises, may be sold.

(p) Minor food outlet with limited food service. A minor food outlet where food is prepared and intended for individual portion service, but limited to the display of snack foods or pastries, and/or heating or cooking of hot dogs, sausages, prepackaged pizza or meat pastries, regardless of whether consumption is on or off the premises or whether there is a charge for the food, and without retail food processing.

(q) Minor food outlet with significant food service. A minor food outlet that has retail food processing activities consisting of on-site cooking or other preparation of hot entrees, chicken (fried, roasted or grilled), sandwiches, salads, or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet-style display.

(r) Mobile vendor. Persons selling foods other than fresh fruits or vegetables from trucks, trailers or similar self-propelled conveyances.

(s) Processor, other non-perishable foods. A processor or packager of grain products, snack foods, candy, table syrup, honey, coffee, tea, spices or other non-perishable foods not defined elsewhere in this section.

(t) Processor, other perishable foods. A processor of cheese, packaged sandwiches, bulk or packaged salads, or other perishable foods not defined elsewhere in this section.

(u) Rabbit or game processor. A processor of rabbits, quail, deer, or other bird or animal species normally considered game, excepting any equine, bovine, goat, sheep, swine, or chickens, turkeys, ducks, geese, squab, ratites or guineas.

(v) Retail bakery. A Food Establishment that bakes breads, pastries or other similar baked goods, primarily for retail sale on the premises.

(w) Retail bakery with food service. A retail bakery where food other than breads, pastries or other similar baked goods is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises, or whether there is a charge for the food.

(x) Retail food processing. The cutting, grinding, or slicing of meats or cheeses for bulk or packaged display; the preparation and wrapping or packaging of sandwiches, salads,

or other foods for retail display; the smoking or cooking of meat, poultry, or fish for retail display or on customer request; the steaming, cracking, or cooking of crustaceans or shellfish for retail display or on customer request; the on-premises baking of breads or pastries; or the peeling, cutting, or trimming and packing of fruit or vegetables for retail display.

(y) Salvage store. A retail food store specializing in salvage foods.

(z) Seafood market. A retail food store engaged primarily in the sale of seafood. A limited number of other foods may be stocked, but inventory and sales are predominantly fish, crustaceans, or shellfish.

(aa) Seafood processor. A processor of fresh or saltwater finfish, crustaceans, other forms of aquatic animal life (including, but not limited to, alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, where such animal life is intended for human consumption, primarily for wholesale distribution.

(bb) Semi-permanent vendor. Persons selling foods other than fresh fruits and vegetables from a pushcart, flea market stand, roadside stand, kiosk or similar structure and which may offer ancillary food service.

(cc) Supermarket. A retail food store stocking a wide variety of foods and engaged in retail food processing which contains five or more check-out registers or 15,000 or greater total square footage, including display, preparation and storage areas.

(dd) Tomato Packing House means any establishment that washes, packs, or otherwise treats tomatoes in their unpeeled, natural form before they are marketed.

(ee) Wholesale bakery. A Food Establishment that bakes breads, pastries or other similar baked goods, primarily for wholesale distribution.

(ff) Unattended Food Establishment (also known as micro markets). A Food Establishment that provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public.

(2) Food permits. The Department shall not issue a food permit to a Food Establishment until the following conditions are met:

(a) The Food Establishment submits a complete Food Permit Application, FDACS-14306 (Rev. 11/18) to the Department, either online or by mail as indicated on the form. Food Permit Application, FDACS-14306 (Rev. 11/18) is incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>;

(b) The Food Establishment submits the permit fee indicated in subsection (4) to the Department; and

(c) The Department conducts an inspection of the Food Establishment, its equipment, and methods of operation, and verifies that provisions of the Florida Food Safety Act, this rule chapter, and the Food Establishment Minimum Construction Standards (Rev. 1/17) have been met, and the Food Establishment submits to the Department a complete Interagency Coordination Of Regulated Establishments - DOH/DACS/DBPR/DCF/AHCA/APD Evaluation Of Onsite Sewage (SEPTIC) And Water Supply Capacity (Rev. 3/12) (SEPTIC Form) or provide proof that water quality requirements have been met as required by this rule. The Food Establishment Minimum Construction Standards (Rev. 1/17) are hereby incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>. The SEPTIC form is hereby incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(d) A permit number shall be issued to the Food Establishment by the Department after completion of Paragraphs (a) – (c) above and is not to be used on any label or in any advertisement of food. Permits shall be conspicuously displayed at locations for which issued and are not transferable. The provisions of this section do not apply to public food service establishments as defined in Chapter 509, F.S.

(e) No food permit shall be issued until all applicable fees required in by rule chapter have been submitted to the Department.

~~No food permit shall be issued until an inspection has been made of the establishment and its equipment and methods of operation, and these found to comply with the provisions of the Florida Food Safety Act and rules adopted thereunder. A permit number will be assigned by the department following receipt of the Annual Food Permit Application, DACS 14306, (Rev. 06/03), herein incorporated by reference, a copy of which can be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399 1650. The above application shall bear the signature of the applicant or applicant's agent, a satisfactory report of inspection, and a fee in the amount specified in subsection 5K 4.020(4), F.A.C. Said permit number shall not be used on any label or in any advertisement of food. Permits shall be conspicuously displayed at locations for which issued and are not transferable. The provisions of this section do not apply to public food service establishments as defined in Chapter 509, F.S.~~

(3) Any person violating this rule shall be subject to the injunction procedures of Section 500.171, F.S., and to the penalties provided in Section 500.177, F.S., and Rule 5K-4.035, F.A.C.

(4) Food Permit Fees.

(a) One food permit shall be issued to and one fee shall be charged to ~~a person~~ the Food Establishment for all food operations at a single location, regardless of whether the location may qualify under the definitions of this subsection for two or more permits. If a location qualifies for two or more permits, only the largest applicable fee shall be charged to that location, except that any location qualifying for a Limited Sales permit shall only be charged the fee applicable to a Limited Sales permit. If the ownership or physical location of a ~~firm~~ Food Establishment changes during a calendar year, a new food permit application, ~~satisfactory report of inspection an inspection meeting requirements~~, and a fee in the amount specified in subsection 5K-4.020(4), F.A.C., ~~is~~ are required before a food permit shall be issued. Other license or permit fees may apply to a business, however, are not voided by payment of the food permit fee. Fees charged to new food Food Establishment permit applicants shall be the entire applicable fee if the completed application is submitted January 1 through June 30, and shall be ~~fifty-sixty~~ percent (5060%) of the applicable permit fee if the completed application is submitted July 1 through December 31.

(b) The following schedule of fees is established for each food permit.

Bottling Plant	385
Bottled Water Plant	500
Canning Plant	490
Convenience Store	330
Convenience Store with Limited Food Service	430
Convenience Store with Significant Food Service	475
Food Salvage Center	470
Food Storage Warehouse	355
Grocery Store	540
Health Food Store	300
Health Food Store with Food Service	415
Limited Poultry and Egg Farm Operation	100
Limited Sales	130
Meat Market	455
Minor Food Outlet	300
Minor Food Outlet, Only Non-perishable Foods	190
Minor Food Outlet with Limited Food Service	415
Minor Food Outlet with Significant Food Service	470
Mobile Vendor	300
Packaged Ice Plant	250
Processor, Other Non-perishable Foods	335
Processor, Other Perishable Foods	490
Rabbit or Game Processor	390
Retail Bakery	355
Retail Bakery with Food Service	490
Salvage Store	470
Seafood Market	410
Seafood Processor	520

Semi-permanent Vendor	195
Supermarket	650
Tomato Packing House	100
Wholesale Bakery	530
<u>Unattended Food Establishment</u>	<u>175</u>
<u>Water Vending Machine</u>	<u>35</u>

(5) Late Fees.

(a) The renewal fee for all food permits shall be the same as the food permit fee required by subsection 5K-4.020(4), F.A.C., and shall be due annually ~~on~~ by January 1. ~~If the A Food Establishment will be assessed renewal fee is not received by the department within thirty days after its due date, a late fee in accordance with Chapter 500 F.S., if its renewal fee is received by the Department after December 31 must be paid. This fee is~~ in addition to the food permit fee required by subsection 5K-4.020(4), F.A.C. before the Department will issue the food permit.

~~(b) If a renewal fee is not paid in full by February 1, a late fee of \$100 shall be assessed against the establishment.~~

~~(b)(e) No Food Establishment establishment shall be issued a food permit until all applicable fees, including late fees, are received by the Department.~~

(6) Recovery of Cost for Reinspections.

(a) A ~~F~~ Food E ~~establishment~~ establishment shall pay a fee of \$135 to the ~~D~~ Department for recovery of the cost incurred to provide each reinspection of the ~~F~~ Food E ~~establishment~~ establishment. For the purposes of this section, a reinspection refers to any inspection conducted for the purpose of verifying compliance with Chapter 500, F.S., or the rules promulgated thereunder, following a previous ~~unsatisfactory inspection not meeting requirements. Such unsatisfactory inspection not meeting requirements~~ shall be indicated by issuance of an inspection report listing conditions which are not in compliance and which, when viewed as a whole, are more likely to contribute to food contamination, illnesses, or environmental health hazards.

(b) Nothing in this section shall prohibit the ~~D~~ Department from imposing additional sanctions for violations of Chapter 500, F.S., or the rules promulgated thereunder. The costs of reinspection will be billed by invoice of the ~~D~~ Department and the reinspection fee shall be paid within 21 days receipt thereof. Failure to timely pay a reinspection fee is a violation of this chapter and shall be grounds for suspension of the ~~Food Establishment's establishment's~~ Food Establishment's food permit.

(c) The fee established for a reinspection shall include the average cost per inspection for inspectors' salary, benefits, travel, training, equipment, supervision, and other costs or charges directly related to administration of the ~~F~~ Food E ~~establishment~~ establishment inspection program.

(d) The fee shall be applicable for each reinspection regardless of whether the reinspection ~~met requirements is satisfactory or did not meet requirements unsatisfactory.~~

Provided however, a fee for reinspection shall not be required when both of the following conditions are met:

1. ~~The conditions~~ Conditions ~~which were deemed unsatisfactory in the prior inspection are in compliance and the overall finding of the reinspection is satisfactory, and,~~

2. ~~No previous reinspection of the establishment has been conducted during the same calendar year.~~

(7) Food Establishments permitted pursuant to section 500.12 F.S., shall notify the department within 30 days after closure or dissolution of the business.

Rulemaking Authority 500.09, 500.12(1)(b), 500.12(1)(f), 570.07(23) FS. Law Implemented 500.04, 500.09, 500.10, 500.12(1)(a), (b), (c), (d), (f), 500.12(2), 500.12(7), 500.121, 500.171, 500.172, 500.177, 570.15 FS. History—New 1-10-93, Formerly 5E-6.020, Amended 8-8-95, 3-11-98, 3-6-01, 10-30-01, 1-1-03, 11-1-04, 11-5-07, 10-28-08, 3-1-09, 3-24-14, _____.

5K-4.021 Food Manager Training and Certification.

(1) Food Manager Certification. All Retail Food Establishments shall have a certified food protection manager in accordance with section 2-102.20 of the 2017 Food Code as incorporated by reference in subsection 5K-4.002(4), F.A.C., except for the following: Definitions. As used in this rule the definitions in Chapter 500, F.S., and the following shall apply:

(a) “Food service” means the preparation of food for individual portion service at a food establishment regulated by the department under Chapter 500, F.S., regardless of whether it is intended for consumption on or off the premises.

(b) “Food establishment operation” means the manufacturing, processing, packing, holding or preparing of food or selling food at wholesale or retail at a food establishment regulated by the department under Chapter 500, F.S. For purposes of this section, “food establishment operation” includes food service activities, where applicable, and in accordance with Section 500.12(5)(a), F.S. This term does not include specialized activities within a food establishment such as operation of eye care, pharmacy or film processing centers, nor does it include cashier, clerical, stocking or management functions which do not involve the stocking, holding or serving of food.

(c) “Food manager” means a person responsible for all aspects of food establishment operation at a food establishment regulated by the department under Chapter 500, F.S.

(d) “Qualified psychometrician” means a person with at least one year of professional experience in examination development or testing research and at least a bachelor’s degree, which includes two courses each in testing (measurement) theory and statistics, from a college or university accredited by an accrediting agency recognized by the United States Department of Education.

(2) Each food manager shall possess knowledge of food protection and food safety principles and practices as

~~demonstrated by passing a written examination acceptable to the department. Each food manager passing an acceptable examination shall receive a certificate valid for a period of five years from the date of issuance.~~

~~(3) Food establishments shall designate in writing its food manager or managers. The designation shall be posted in a conspicuous place within the food establishment. The following types of food establishments are not required to designate a certified food manager:~~

~~(a) Food Establishments that are not required to obtain a food permit in accordance with subparagraphs 500.12(1)(a)1-4., F.S. Sections 500.12(1)(a)1-3., F.S.;~~

~~(b) Food Establishments that store, sell, or store and sell and/or sell only pre-packaged, non-potentially hazardous foods that arrive at the Ffood Eestablishment in a pre-packaged state and that are not opened or otherwise further processed by the Ffood Eestablishment;~~

~~(c) Food establishments that only process seafood and that are in full compliance with the mandatory HACCP provisions in paragraph 5K 4.002(1)(a), F.A.C.~~

~~(c)(d) Tomato packing houses.~~

~~(d)(e) Limited poultry and egg farm operation.~~

~~(4) All food establishments that are required to designate a certified food manager and that have four or more employees present at the same time engaged in food establishment operations, shall have at least one certified food manager present in the food establishment during all phases of food establishment operation. The food manager shall be responsible for and shall actively oversee all food establishment operations. Food establishments with fewer than four employees engaged in food establishment operation, present at the same time, shall have a certified food manager responsible for all phases of food establishment operation who shall actively oversee all food establishment operations; however, the certified food manager need not be on the premises at all times.~~

~~(5) A food establishment shall have 90 days from the effective date of this rule amendment to have a certified food manager responsible for all food establishment operations in accordance with the provisions of this chapter. In the event the certified food manager leaves the employment of the food establishment or is relieved of food management responsibilities, the food establishment shall have 90 days from the date of the employment change to have a certified food manager.~~

~~(6) Persons holding a food service manager certificate issued by the Florida Department of Health and Rehabilitative Services or the Florida Department of Business and Professional Regulation shall be considered certified as a food manager under this rule until such certificate expires.~~

~~(7) The food manager certification examination shall be designed to assess the food manager’s knowledge of basic food~~

protection and food safety requirements as set forth in this chapter.

~~(8) Persons licensed as Dietitians or Nutritionists pursuant to the Dietetics and Nutrition Practices Act, Sections 468.501-518, (Part X, Chapter 468), F.S., shall be considered certified as food managers under this rule.~~

~~(9) Any test for certifying food managers must be established as set forth in this subsection. A written evaluation must be submitted to the department by a qualified psychometrician utilizing the following criteria: administrative independence, fairness, adherence to technical standards for test construction and evaluation, validity, reliability, measurement errors, test development and revision, scaling, norming, and score comparability and equating. Additional factors and criteria to be considered are: test publication, test administration, scoring and reporting of scores, information made available to the public, protection of the rights of persons taking the test, adherence to professional standards for test use for employment testing and professional and occupational certification, and adherence to related standards for testing linguistic minorities and handicapped persons.~~

~~(10)(a) Training and testing programs sponsored by persons, corporations or industry associations which meet the provisions of this chapter, and which are approved by the department, may be used to meet certification requirements of this rule.~~

~~(b) Persons, corporations or industry associations desiring department recognition of a privately sponsored training and testing program must provide to the department for review and approval the documentation required by subsection (9) above.~~

~~(2)(14) Training and certification of Department personnel. Any person performing required inspections of permitted Food Establishments for the Department or its agent must:~~

~~(a) Be standardized in accordance with the procedures of the federal Food and Drug Administration stated in Interim Document 10/1/96 9/30/97 Procedure for the Confirmation and Standardization and for the Certification of Retail Food Protection Program Personnel, published by the Food and Drug Administration;~~

~~(b) Pass the department's food manager certification examination; and~~

~~(a)(e) Pass a written examination to demonstrate knowledge of Chapter 500, F.S., and Chapter Part 5K-4, F.A.C., which regulate Food Establishments food establishments.~~

~~(b) Pass the basic food inspection training certification requirements as specified in the Manufactured Food Regulatory Program Standards revised as of September 2016, hereby incorporated by referenced and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>; or~~

(c) Pass the basic food inspection training certification requirements as specified in Standard 2 of the Voluntary National Retail Food Regulatory Program Standards revised as of January 2017, and the Conference for Food Protection Regulatory Retail Food Safety Inspection Officers Field Training Manual revised as of May 2013 hereby incorporated by referenced and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>; and

(d) Pass a certified food protection manager examination accredited in accordance with the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification.

Rulemaking Authority 500.12(6), 570.07(23) FS. Law Implemented 500.12(6) FS. History—New 1-11-94, Formerly 5E-6.021, Amended 1-23-97, 5-25-98, 3-1-09, 3-24-14, ____.

5K-4.023 Packaged Ice, Ice Vending Machines, and Water Vending Machines.

(1) In addition to the requirements in the general food products statute, Chapter 500, F.S. Florida Food Safety Act, and all applicable rules in Chapter 5K-4, F.A.C., packaged ice plant operators, water vending machines, and ice vending machines and packaged ice dealers shall comply with this rule.

(2) Definitions:

(a) Ice means food intended for human consumption that is formed from drinking water by freezing to a solid state.

(b) Imported means manufactured, processed, packaged, stored or distributed from a point outside of the state of Florida.

(c) Maximum contaminant level (MCL) means the maximum permissible level of a contaminant as set forth in Chapter 403, F.S., and Chapter 64E-8, F.A.C. (1/93), titled "Drinking Water Systems", and Chapter 62-550, F.A.C. (5/94), titled "Drinking Water Standards, Monitoring and Reporting".

(3) Requirements:

(a) Each person or public body that establishes, maintains, or operates a packaged ice plant must obtain a Packaged Ice Plant Operating/Food Permit from the department each year. Each packaged ice plant location must have a permit.

(b) Each packaged ice dealer must obtain a Packaged Ice Dealer/Food Permit from the department each year. Ice transported into the state and packaged either before or after importation into the state must meet all of the requirements of this section and must be packaged, labeled, handled, and otherwise processed and sold according to the provisions of this section.

(c) Any packaged ice plant operator who is also a packaged ice dealer shall be issued a combined Packaged Ice Plant Operating Dealer/Food Permit by the department. Such permit shall be issued each year upon compliance with all statutory and rule requirements for the issuance of a Packaged Ice Plant

Operating Permit and a Packaged Ice Dealer Permit. Each location must have a permit.

(d) Each packaged ice plant operator or packaged ice dealer who is engaged in the sale or distribution of any other food product and whose operation qualifies as a food establishment under Chapter 500, F.S., shall be issued a combined Food/Packaged Ice Permit by the department. Such permit shall be issued each year upon compliance with all statutory and rule requirements for the issuance of a Food Permit, a Packaged Ice Plant Operating Permit, a Packaged Ice Dealer Permit, or a combination thereof. Each location must have a permit as per Section 500.12(1)(a), F.S. and subsection 5K-4.020(2), F.A.C.

(e) All permits shall expire on December 31 of each year.

(f) Application for permits must be made in writing to the department on form IN 63, an Annual Food Permit Application, (Revised 10/94).

(4) Permit fees:

(a) Each packaged ice plant operator must pay the department an annual non-refundable fee of \$250.00 for each permit.

(b) Each packaged ice dealer must pay the department an annual non-refundable fee of \$100.00 for each permit.

(c) Each packaged ice plant operator who is also a packaged ice dealer must pay the department an annual, non-refundable fee for each permit. Such fee shall be the greater of the Packaged Ice Plant Operating or the Packaged Ice Dealer permit fee required in this subsection.

(d) Each packaged ice plant operator or packaged ice dealer who is engaged in the sale or distribution of any other food product and whose operation qualifies as a food establishment under Chapter 500, F.S., must pay the department an annual, non-refundable fee for each permit. Such fee shall be the greater of the Food Permit fee required by Rule 5K-4.020, F.A.C., or the applicable permit fee required by this subsection.

(e) Fees charged to applicants for new permits shall be prorated with the applicant paying 1/12th of the applicable fee for each month remaining in the calendar year, including the month of application.

(5) Source water and finished product quality:

(a) All water used for the manufacture of ice intended for human consumption and in preparation of brine solutions must be from an approved drinking water supply as described in Chapters 64E-8 or 62-550, F.A.C.

(b) Imported packaged ice product must be manufactured from source water that has been approved as a drinking water supply by the agency with jurisdiction in the state where the ice is manufactured and packaged.

(c) Packaged ice dealers importing product must submit to the department a copy of the current source certification or a letter from the agency with jurisdiction for approval of drinking

water supplies. This information must be submitted to the department with each annual permit application.

(d) Packaged ice must be in conformance with maximum contaminant levels that have been established for drinking water supplies in Chapters 64E-8 and 62-550, F.A.C.

(e) All packaged ice plants shall submit to an approved laboratory, once every three months, a sample of each type of finished product for microbiological analysis. A copy of the quarterly analytical results shall be forwarded to the department by out-of-state packaged ice dealers. In-state packaged ice plants shall maintain these records as required by Section 500.509, F.S., and make them available to the department upon request.

(f) The quarterly laboratory analysis must include testing for fecal and total coliform organisms and Heterotrophic Plate Count (HPC). Total coliforms shall not be greater than 2.2 organisms/100 ml. using the Most Probable Number (MPN) method or not greater than 1 organism/100 ml. using the Membrane Filtration (MF) method. The HPC shall not exceed 500 colonies/ml. Packaged ice shall have no fecal coliform-positive samples.

(g) Should finished product samples exceed the standards outlined in paragraph (f) of this subsection, the plant shall submit samples to an approved laboratory, on a weekly basis, until two (2) consecutive acceptable samples are obtained. Copies of weekly sample analyses shall be submitted to the department upon receipt by the packaged ice plant or packaged ice dealer.

(h) The department shall collect and analyze samples of source water and finished product when necessary to determine if the source water and/or finished product meet quality standards established in this rule. When indicated by reason of complaint or illness, the department may obtain and analyze or require the ice plant to obtain and have analyzed, by an approved laboratory, samples of source water and/or finished product.

(i) All records of sampling and analyses of source water and finished product shall be maintained by the plant for a period of not less than 2 years and shall be made available to the department upon request.

(6) Processing and packaging:

(a) Ice shall be processed and packaged using methods that preclude contamination of the product.

(b) Air used for water agitation shall be filtered or otherwise treated to render it free of oil, dust, dirt, insects and extraneous material.

(c) Manual packaging of product shall be performed in a manner that will preclude contamination of the packaging material and the product.

~~(d) Any spillage created during manufacture, packaging, transportation or storage shall be disposed of and shall not be packaged or re-packaged for sale for human consumption.~~

~~(e) Ice packaging material shall be of food grade quality and closures shall be designed to adequately protect its contents. Only pin holes or a butterfly vent that does not exceed ¼" inch in diameter shall be used in ice packaging material. Pin holes or butterfly vents must be located in the upper 1/3 portion of the bag.~~

~~(f) Packaging material shall be protected from contamination during storage and handling.~~

~~(7) Storage and transportation:~~

~~(a) Packaged ice plants producing product that is not to be used for human consumption shall store this product in a designated area that is clearly identified and separated from other packaged ice products.~~

~~(b) Packaged ice shall be stored above the floor protected from splash and shall not be located in areas susceptible to overhead dripping.~~

~~(c) Wooden platforms or pallets shall not be used for the purpose of transporting ice or storing ice above the floor unless platforms or pallets have been designed or covered with surfaces that protect the product from splintering. Such surfaces shall be easily cleaned and sanitized or shall be replaced between uses.~~

~~(d) Product shall be transported in an enclosed facility designed and equipped to protect the product from contamination and shall be maintained in a clean condition.~~

~~(e) Packaged ice shall be handled in such a manner to preclude contamination during transportation and delivery. At no time during transport or delivery shall the packaged ice product come into contact with the floor or ground.~~

~~(8) Labeling: Packaged ice plants producing product that is not to be sold for human consumption shall designate "Not for human consumption" on the package. This designation shall be clearly visible to the consumer.~~

~~(9) Notification to the department: The operator or manager of a packaged ice plant or dealer who knows or should know that a primary maximum contaminant level has been exceeded or believes or has reason to believe that circumstances exist such as source contamination, spills, accidents, natural disasters, breakdowns in the sanitary processing of ice or other similar problems that may adversely affect the safety of the packaged ice, shall immediately notify the department of the incident.~~

~~(10) Product recall procedures:~~

~~(a) If the department determines, based upon results of representative sample tests and risk analysis that an immediate hazard to the health, safety and welfare of the public is present in any packaged ice product, the department shall order the packaged ice plant or dealer to initiate a product recall to~~

~~effectively avoid or significantly minimize the threat to the public's health and if appropriate, issue a notification to customers. The plant or dealer shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.~~

~~(b) When a laboratory report reveals a maximum contaminant level (MCL) has been exceeded, but when investigation indicates that the condition causing the MCL to be exceeded was promptly corrected and that previously distributed product will not cause illness nor present any significant health hazard, a company recall and media notification shall not be necessary. In circumstances where a recall or media notification is not necessary but consumer complaints indicate problems regarding product taste or odor, the department shall order the plant to communicate the exceedance of the MCL and the implementation of corrective measures by direct mailings to affected customers.~~

~~(11) Department responsibilities and duties: Packaged ice plant operators and packaged ice dealers shall allow the department to examine records pertaining to the operation and maintenance of the plant or source water.~~

~~(12) Forms: Form IN 63, an Annual Food Permit Application (Revised 10/94), is hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Room 294, Tallahassee, Florida 32399 1650.~~

~~(2) Water Source.~~

~~(a) The source of the water supply used for packaged ice, vended ice, or vended water shall be an approved public water system as defined in Sections 403.850-403.864, F.S., Chapter 64E-8, F.A.C., and Chapter 62-550, F.A.C.~~

~~(b) Packaged ice, vended ice, or vended water shall be in conformance with maximum contaminant levels that have been established for drinking water supplies in Chapters 64E-8 and 62-550, F.A.C.~~

~~(3) Construction.~~

~~(a) Water vending machines and ice vending machines shall be made of materials that are free of substances which may render the final product injurious to health or which may adversely affect the flavor, color, odor, radiological, microbial, or chemical quality of the water.~~

~~1. Water vending machines and ice vending machines shall be designed and constructed to permit easy cleaning and maintenance of all exterior and interior surfaces and component parts in accordance with Chapter 6 of the FDA Food Code as incorporated by reference in subsection 5K-4.002(4), F.A.C.~~

~~2. Water vending machines and ice vending machines shall have a guarded corrosion resistant dispensing spout.~~

~~3. Water vending machines and ice vending machines shall have a backflow prevention device for all connections with the water supply.~~

4. Water vending machines and ice vending machines shall be equipped with a self-closing, tight-fitting door on the vending compartment so the unit is not accessible to the public.

(b) Water vending machines shall also comply with the following:

1. Use methods for treatment including distillation, ion-exchange, filtration, ultra-violet light, mineral addition, or reverse osmosis.

2. Be equipped with monitoring devices designed to shut down operation of the machine when the treatment or disinfectant unit fails to properly function.

3. Granular activated carbon, if used in the treatment process of vended water, shall comply with the specifications provided by the American Water Works Association for that substance (AWWA B604-74) revised as of November 1974, as incorporated by reference in 5K-4.002, F.A.C.

4. Water vending machines dispensing purified water shall meet the requirements for purified water as stated in 21 CFR 165 as adopted in 5K-4.002, F.A.C., and the requirements stated in Rule Chapter 62-550, F.A.C.

5. The vended water from each water vending machine utilizing silver-impregnated carbon filters in the treatment process shall be sampled once every six (6) months for silver and analyzed by an approved laboratory and the results made available for inspection by the Department.

(4) Operating Requirements.

(a) Packaged ice shall be made, packaged, and stored in a food facility in accordance with Chapter 6 of the FDA Food Code as adopted in subsection 5K-4.002(4), F.A.C.

(b) Water vending machines and ice vending machines shall comply with the following:

1. Have a written maintenance program available to the Department for inspection that includes:

a. Visits for cleaning, sanitizing and servicing of machines every two weeks;

b. Written servicing instructions;

c. Technical manuals for the machines; and

d. Technical manuals for the water treatment appurtenances involved.

2. Have chemically treated towelettes for handwashing available and accessible when needed, as required by Section 5-203.11(c) of the FDA Food Code as incorporated by reference in subsection 5K-4.002(4), F.A.C.

3. Have parts and surfaces of water vending machines and ice vending machines kept clean and maintained.

4. Have the water or ice vending machine chamber and the vending nozzle cleaned and sanitized each time the machine is serviced.

5. Be maintained in a clean and sanitary condition, free from dirt and vermin.

6. Be located in an area that can be maintained in a clean condition and in a manner that avoids insect and rodent harborage.

7. Have a record of cleaning and maintenance operations which shall be kept by the operator for each water or ice vending machine. These records shall be maintained in the unit and made available to the Department upon request.

(5) Packaged ice and products dispensed from a water vending machine or ice vending machine shall be processed and packaged using methods that prevent contamination of the product.

(a) Air used for water agitation shall be filtered or otherwise treated to render it free of oil, dust, dirt, insects and extraneous material.

(b) Manual packaging of ice or water products shall be performed in a manner that will prevent contamination of the packaging material and the product.

(6) Water vending machines and ice vending machines shall have the following information displayed in a conspicuous location on the machine as follows:

(a) Name and address of the owner;

(b) Source of water: either approved public water supply or licensed private water source;

(c) Method of treatment to water, if applicable;

(d) Method of post treatment to water, if applicable;

(e) Local or toll-free telephone number that may be called for obtaining further information, reporting problems or making complaints; and

(f) A valid decal furnished by the Department, which shall be affixed on each machine in a position clearly visible to the consumer.

(7) Packaged ice, water vending machine, and ice vending machine operators shall keep a record of all complaints received and shall make available upon request to the Department.

(8) Finished Product Quality.

(a) Operators of all packaged ice plants, water vending machines, and ice vending machines shall obtain and have analyzed by an Approved Laboratory, once every quarter of the calendar year, a sample of each type of finished product for microbiological analysis as specified in paragraph (b) below. A "quarter" is defined as one three-month period, four periods per year with at least 30 days between samples. Therefore, unless subject to paragraph (c) below, four (4) samples are required for every full year of operation.

(b) The laboratory analysis shall include testing for fecal and total coliform organisms. Total coliforms shall not be greater than 2.2 organisms/100 ml. using the Most Probable Number (MPN) method or not greater than 1 organism/100 ml. using the Membrane Filtration (MF) method. Ice and/or water shall have no fecal coliform-positive samples.

(c) Any vended water or vended ice sample that tests positive for total coliforms shall be considered unsatisfactory. If any sample collected from a machine is determined to be unsatisfactory by an Approved Laboratory, the machine shall be cleaned, sanitized, and resampled by the operator immediately. Prior to resuming operation, the machine shall be taken out of service until the source of contamination has been located and corrected. When the finished product samples exceed the standards outlined in this rule, samples shall be taken and submitted to an Approved Laboratory, on a weekly basis, until two (2) consecutive samples testing negative for total coliforms are obtained. Copies of weekly sample analyses shall be submitted to the Department upon receipt online at www.FoodInsp@FreshFromFlorida.com.

(d) For water vending machines and ice vending machines, when three consecutive quarterly samples are each found to contain zero coliform colonies per 100 milliliters of the finished product, microbiological sampling intervals shall be extended to a period not exceeding six months. Should a subsequent six-month sample test positive for total coliform, the required sampling frequency shall revert to the quarterly frequency until three consecutive samples again test negative for total coliform bacteria.

(e) The Department shall collect and analyze samples of finished product when necessary to determine if the product meets quality standards established in this rule. When indicated by reason of complaint or illness, the Department may obtain and analyze or require the packaged ice plant, water vending machine, or ice vending machine owner to obtain and have analyzed, by an Approved Laboratory, samples of source water and/or finished product.

(f) All records of sampling and analyses of source water and finished product shall be maintained for a period of not less than two (2) years after creation and shall be made available to the Department upon request.

(9) Processing and Packaging.

(a) Any spillage created during the manufacture, packaging, transportation, or storage of ice and water products shall be disposed of and shall not be packaged or re-packaged for sale for human consumption.

(b) Ice packaging material shall be constructed of durable, smooth, easily cleanable and nonabsorbent material, and closures shall be designed to protect its contents. Only pin holes or a butterfly vent that does not exceed 1/4 inch in diameter shall be used in ice packaging material. Pin holes or butterfly vents must be located in the upper 1/3 portion of the bag.

(c) Packaging material shall be protected from contamination during storage and handling.

(d) Packaged ice and vended ice shall be properly labeled according to Title 21 Code of Federal Regulation, Part 101 as incorporated by reference in Rule 5K-4.002, F.A.C.

(10) Storage and transportation of packaged ice.

(a) Packaged ice shall be stored above the floor protected from splash and shall not be located in areas susceptible to overhead dripping.

(b) Packaged ice products shall be transported in an enclosed facility designed and equipped to protect the product from contamination and shall be maintained in a clean condition.

(c) Packaged ice shall be handled in such a manner to preclude contamination during transportation and delivery. At no time during transport or delivery shall the packaged ice product come into contact with the floor or ground.

(11) Notification to the department. The owner or operator of a packaged ice plant, water vending machine, or ice vending machine who knows or has reason to believe that a primary maximum contaminant or microbiological level established in Rule Chapter 62-550, F.A.C., and/or paragraph 5K-4.023(2)(b), F.A.C., has been exceeded or believes or has reason to believe that circumstances exist such as source contamination, spills, accidents, natural disasters, breakdowns in the sanitary processing of ice or other similar problems that may adversely affect the safety of the finished product shall notify the Department.

(12) Department responsibilities and duties.

Packaged ice, water vending, and ice vending machine operators shall allow the Department to examine necessary records pertaining to the operation and maintenance of operations, and also provide access to the machines for inspection at reasonable hours.

Rulemaking Authority ~~500.09, 500.509, 500.12(1)(d), 570.07(23)~~ FS. Law Implemented ~~500.147, 500.459, 500.511, 500.453, 500.509~~ FS. History—New 1-19-95, Formerly 5E-6.023, Amended 8-8-95, ____.

5K-4.033 Limited Poultry and Egg Farm Operation.

(1) Purpose.

This rule establishes the regulatory parameters for a farm based Food Establishment, limited to the provision of whole shell eggs and dressed poultry products only. The basis for establishment of such parameters is the USDA Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act (revision date April 1, 2006), derived from language in Title 9, Code of Federal Regulations, Chapter 3, subsections 381.10(a)(5) and (b)(1) and (2) as administered by the USDA Food Safety Inspection Service and adopted by reference in paragraph 5K-4.002(1)(b), F.A.C., and, the Regulations Governing the Inspection of Eggs (Egg Products Inspection Act) as provided in Title 7, Code of Federal Regulations, Part 57, as administered by the USDA Food Safety Inspection Service and adopted by reference in paragraph 5K-4.002(1)(a), F.A.C.

~~(2) Definitions. Requirements—poultry.~~

(a) Limited Poultry and Egg Farm Operation means a farm-based Food Establishment which directly produces and offers dressed poultry or whole shell eggs for sale. No additional processing or food preparation of such poultry or shell eggs is allowed.

(b) For purposes of this rule, “farm” has the same meaning as provided in Section 823.14, F.S.

~~(3)(2) Requirements – poultry.~~

(a) For purposes of this rule, when the criteria for a Producer/Grower – 20,000 Limit Exemption as identified in the USDA Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act (revision date April 1, 2006) is met as determined by the USDA Food Safety Inspection Service (FSIS), a poultry grower that slaughters and minimally processes no more than 20,000 birds in a calendar year, grown on his or her own farm in the State of Florida, shall be permitted as a limited poultry and egg farm operation. Qualification for this exemption, as identified in the above guidance document, must be met in accordance with the Poultry and Poultry Product Inspection Act, Title 21, U.S. Code Chapter 10, subsection 464(c)(1)(C) & (c)(3) and Title 9, Code of Federal Regulations, Chapter 3, subsection 381.10(a)(5) and (b)(1) and (2) as administered by the USDA Food Safety Inspection Service and as adopted by reference in paragraph 5K-4.002(1)(b), F.A.C.

(b) Dressed poultry sold or offered for sale by a limited poultry and egg farm operation must also meet the applicable requirements of Chapter 583, F.S., and Chapter 5K-5, F.A.C. Sale of dressed poultry by a limited poultry and egg farm operator with a flock of 20,000 or less, shall be limited in accordance with the definition of a “Dealer” in Section 583.01(4), F.S. Poultry producers with flocks in excess of 20,000 poultry that seek to process poultry shall be permitted as a processer in accordance with Section 583.09, F.S. and paragraph 5K-4.020(1)(s), F.A.C.

~~(4)(3) Requirements – shell eggs.~~

(a) For purposes of this rule and in compliance with the Regulations Governing the Inspection of Eggs (Egg Products Inspection Act) as provided in Title 7, Code of Federal Regulations, Part 57, administered by the USDA Food Safety and Inspection Service, and adopted by reference in paragraph 5K-4.002(1)(a), F.A.C., a shell egg producer that maintains a flock of less than 1,000 poultry within any calendar year, on his or her own farm in the State of Florida, for the purpose of producing shell eggs for human consumption, is eligible to be permitted by this agency as a limited poultry and egg farm operation.

(b) A limited poultry and egg farm operation that sells or offers for sale whole shell eggs must also meet the applicable

requirements of Chapter 583, F.S., and Chapter 5K-6, F.A.C. Sale of shell eggs by a limited poultry and egg farm operator with a flock of less than 1,000 poultry shall be limited in accordance with the definition of a “Dealer” in Section 583.01(4), F.S. Shell egg producers with flocks in excess of 1,000 poultry shall be permitted as a shell egg processer in accordance with Section 583.09, F.S. and paragraph 5K-4.020(1)(s), F.A.C.

~~(5)(4) Requirements – general.~~

(a) Limited poultry and egg farm operation products shall only be sold within the State of Florida and must not be sold or offered for sale in interstate commerce.

(b) For purposes of this rule, a whole shell egg product or dressed poultry product includes chicken, turkey, duck, goose, guinea, or quail.

(c) A limited poultry and egg farm operation shall not sell poultry or egg farm products by mail order or at wholesale.

(d) Inspection of the premises of a limited poultry and egg farm operation to determine compliance with this rule will be to provide information during the opening inspection and permitting process or upon receipt of a valid complaint.

(e) No brokers or dealers in agricultural products as defined in Section 583.01(4) or 604.15(2), F.S., may be used to sell limited poultry and egg farm operation products. Only the permitted limited poultry and egg farm operator, family member or employee of the farm operation may sell limited poultry and egg farm operation products, deliver products, or serve as a sales representative for the permitted farm operation. A permitted limited poultry and egg farm operator may also use another permitted limited poultry and egg farm operator to facilitate delivery or sales of farm products at a roadside stand, farmer’s market or similar open-air market locations, or by direct delivery to the purchaser.

~~(6)(5) Materials adopted by reference. All documents and materials referenced in this rule are hereby adopted and incorporated by reference and are available as follows:~~

(a) The Poultry and Poultry Product Inspection Act, Title 21, U.S. Code Chapter 10, subsection 464(c)(1)(C) & (c)(3) revision date January 3, 2012, is accessible through the internet at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03706>.

(b) Title 9, Volume 1, Parts 1 to 199, Code of Federal Regulations, revised as of January 1, 2000, is accessible through the internet at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03709>.

(c) The USDA Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act; revision date April 1, 2006, is available through the internet at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03707>.

(d) Regulations Governing the Inspection of Eggs (Egg Products Inspection Act) as provided in Title 7 Code of Federal Regulations, Part 57, revision date April 12, 2006, is available through the internet at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03708>. Rulemaking Authority 500.09(3), (4), (8), 500.12(1)(a), (b), 570.07(23), 583.01, 583.04 FS. Law Implemented 500.09, 500.12, 583.09 FS. History—New 3-24-14, Amended, _____.

5K-4.035 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Chapter 500, F.S. The purpose of the guidelines is to give notice of the range of penalties that will be imposed for a single violation within a three-year period. The three-year period shall be based on the date of the last administrative enforcement action imposed against the violator. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum for a Class II category of \$5,000 for each violation as provided in Section 570.971, F.S., except for violations of Section 500.165, F.S., which have a statutory maximum for a Class III category of \$10,000 as provided in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The Department will enforce compliance with Chapters 500, F.S., and this rule chapter by issuing an administrative complaint, a stop-sale order, stop-use order, release order, destruction order, notice of non-compliance, permit suspension or revocation, or an immediate final order for violations of Chapters 500, F.S., and this rule chapter.

(3) Stop-Sale Stop-Use, Release or Destruction Orders. The Department shall issue a Stop-Sale, Stop-Use Release and/or Destruction Order FDACS-14402, (Rev. 03/18), as provided in Section 500.172, F.S., whenever necessary to effectuate the statutory duties of the Department in the interest of public health, safety, and welfare and as necessary to promote the safety of any food product, food-processing equipment, or areas within an entity operating as a Food Establishment in Florida. A Stop-Sale, Stop-Use Release and/or Destruction Order 14402, (Rev. 03/18), will be used to give notice that such a product, processing equipment or area is, or is suspected of, failing to comply with the requirements of Chapter 500, F.S., or this rule chapter, and shall prohibit the removal, use, or disposal of such item. The Stop-Sale, Stop-

Use Release and/or Destruction Order FDACS-14402, (Rev. 03/18) is incorporated by reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.

(4) Nothing in this rule shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(5) Rule Not All-Inclusive. This rule contains illustrative violations. It does not, and is not intended to, encompass all possible violations of statute or Department rule that might be committed by any person. The absence of any violation from this rule shall in no way be construed to indicate that the violation does not cause harm to the public or is not subject to a penalty. In any instance where the violation is not listed in this rule, the penalty will be determined by consideration of:

(a) The closest analogous violation, if any, that is listed in this rule; and

(b) The mitigating or aggravating factors listed in this rule.

(6) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining penalties for violations of Chapters 500, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors:

1. The violation caused, or has the potential to cause, harm to the public and the degree or extent of such harm.

2. The violation endangered the public safety or welfare.

3. Previous violations for the same or a similar offense that resulted in enforcement action, defined as follows:

a. First Offense. A violation of any law subject to penalty under Chapters 500, F.S., when no disciplinary administrative complaints involving the same permitholder have been filed with the Agency Clerk within the three years preceding the date the current administrative complaint is issued.

b. Second Offense. A violation of any law subject to penalty under Chapters 500, F.S., after one disciplinary administrative complaint involving the same permitholder has been filed with the Agency Clerk within the three years preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

c. Third and Any Subsequent Offense. A violation of any law subject to penalty under Chapters 500, F.S., after two disciplinary administrative complaint involving the same permitholder has been filed with the Agency Clerk within the three years preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

4. The length of time the business has been in operation and the violation history over the past three years.

5. The violation was repeated within one year.

6. The violator impeded, or otherwise failed to cooperate with, the Department's inspection and/or investigation.

7. Whether the violation resulted from negligence or an intentional act.

8. The cost of enforcement action.

9. The number of other violations proven in the same proceeding.

10. The benefit to the violator.

(b) Mitigating Factors:

1. Any documented efforts by the violator at rehabilitation.

2. Whether intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Acts of God or nature that impaired the ability of the violator to comply with Chapter 500, F.S., or this rule chapter.

4. The violation has a low risk of, or did not result in, harm to the public health, safety, or welfare.

5. The disciplinary history of the violator.

6. The violator expeditiously took affirmative or corrective action after it received written notification of the violation to rectify any financial damage or harm to the public.

7. If a repeat violation, whether three years has passed since the prior violation.

(7) The provisions of this rule chapter shall not be construed so as to prohibit or limit any other civil action or criminal prosecution that may be brought.

(8) In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(9) Penalties.

(a) Minor Violation. Any Department investigation or inspection which reveals violations of this Rule Chapter in which the Department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Non-Compliance as the Department's first response to the violation. For the purposes of this rule, the following violations shall be considered minor and shall result in the issuance of a notice of noncompliance:

1. Violations to subsection 5K-4.002(1), F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

2. Violations to subsection 5K-4.002(2), F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety,

or welfare; or creating a significant threat of such harm, if left uncorrected.

3. Violations to subsection 5K-4.002(3), F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

4. Violations to subsection 5K-4.002(4), F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

5. Violations to Rule 5K-4.004, F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

6. Violations to subsection Rule 5K-4.0041, F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

7. Violations to Rule 5K-4.0050, F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

8. Violations to Rule 5K-4.023, F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

(b) Major Violations. Any violation of Chapters 500, F.S., or this rule chapter that may result in economic or physical harm to a person or may adversely affect the public health, safety, or welfare or creates a significant threat of such harm shall be considered a major violation.

1. Tier I. Tier I major violations shall result in the issuance of a stop-sale order, stop-use order, and/or destruction order. For the purposes of this rule, the following violations shall be considered Tier I major violations:

a. Operating a Food Establishment with no hot water available.

b. Operating a Food Establishment while hot water is available, but the source is turned off.

c. Failure to provide copies of required microbiological and/or chemical analysis for review.

d. Failure to provide Water Vending Machine Relocation Form (WVMRF), FDACS-14809, (Rev. 11/18), in accordance with Section 500.459, F.S., when a water vending machine is relocated. The Water Vending Machine Relocation Form (WVMRF), FDACS-14809, (Rev. 11/18) is incorporated by

reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=RefXXXX>.

e. Operating a Food Establishment without the required service sink or curbed cleaning facility.

f. Failure to have an adequate or accurately maintained process control system including Hazards Analysis and Critical Control Points (HACCP), scheduled process, food safety plan, or any such other requirement in provided in by Rule 5K-4.002, F.A.C.

g. Failure to follow process control system such as, but not limited to, Hazards Analysis and Critical Control Points (HACCP), scheduled process, food safety plan, or any such other requirement provided in Rule 5K-4.002, F.A.C.

h. The manufacture, sale or delivery, holding or offering for sale any food that is deemed adulterated, as outlined in Section 500.10, F.S.

i. The manufacture, sale or delivery, holding or offering for sale any food that is misbranded as provided in Section 500.11, F.S, or in 21 CFR Part 101 as incorporated in Rule 5K-4.002.

j. Transporting food under conditions which may render the food to be deemed adulterated, as provided in Section 500.10, F.S.

k. Transporting food in a vessel contaminated by any substance that may pose a threat to human health as provided in Section 500.165, F.S.

l. Packaged ice found in violation of Rule 5K-4.023(5), F.A.C.

m. Vended water or ice sample found positive for coliforms or E. coli.

n. The presence of a pathogenic Escherichia Coli, Salmonella Enterica, or Listeria Monocytogenes found in the environment of a Food Establishment in a location where contamination of food is likely to occur from the presence of the organism(s). In case of such violation, a stop-use order(s) shall be issued and shall not be released by the Department until the Food Establishment has cleaned and/or repaired the affected areas and all test results following environmental sampling are observed by the Department and reported as “negative” from an ISO (International Organization of Standardization) 17025 based accredited laboratory certified to conduct testing for the microorganism of concern. Any and all cleaning, repairs, environmental sampling and testing shall be at the expense of the facility.

o. Violation of 21 CFR Part 117.20, as incorporated in Rule 5K - 4.002, F.A.C. Sewage is not conveyed to the point of disposal through an approved sanitary sewage system or another system constructed, maintained, and operated according to law, which may result in a way that a public health hazard or nuisance is created.

p. Violation of 21 CFR Part 117.20, as incorporated in Rule 5K-4.002, F.A.C. Premises are not maintained free of roaches and rodents.

2. Tier II. Tier II violations shall result in the issuance of a stop-sale, stop-use order, destruction order, and/or an administrative fine of \$500 up to the statutory maximum. Aggravating factors, as defined in paragraph (6)(a). of this rule, shall warrant the adjustment of the fine upward per violation per aggravating factor and mitigating factors, as defined in paragraph(6)(b). of this rule, shall warrant the adjustment of the fine downward per violation per mitigating factor, but no fine shall exceed the statutory maximum as outlined in Section 570.971, F.S., as applicable. If, three years after the day of the last violation under Chapters 500, F.S., or this rule chapter, no new violation has occurred, all previous fines shall be disregarded when administering a fine for the next violation. For the purposes of this rule, the following violations shall be considered Tier II major violations:

a. Violations that result in a second and any subsequent minor violation, or Tier I major violation for the same or similar offense, within a three-year period.

b. The receipt of two or more consecutive inspection reports not meeting requirements.

c. The receipt of an inspection report not meeting inspection requirements, followed by an inspection report meeting inspection requirements, followed by an inspection report not meeting inspection requirements, within a three-year period.

d. The person-in-charge does not exclude or restrict a food employee from an establishment as required in section 2-201.12 of the Food Code incorporated by reference in Rule 5K-4.002, F.A.C.

e. The misbranding of species identification.

f. Refusal to permit entry or inspection during operating hours as required by Section 500.147, F.S.

g. Operating as a Food Establishment without a valid food permit as provided in Section 500.12, F.S.

h. Any violation requiring an Immediate Final Order, as authorized by Chapter 500, F.S.

(10) Willfull Violations. Willful violations shall result in the imposition of an administrative fine of \$5,000 per violation, permit suspension, or permit revocation or any combination thereof. The following shall constitute a willful violation:

(a) The unauthorized breaking, cutting, or removal of any seal or tag applied by the Department.

(b) The sale or distribution, or offering for sale or distribution, of any commodity under stop sale order unless done so within the parameters of a conditional release.

(c) The use of any equipment under stop-use order unless done so within the parameters of a conditional release.

(d) Failure to comply with conditions stipulated in a release of a stop-sale, and/or stop-use order.

(e) The introduction of adulterated or misbranded products into commerce.

(f) The failure to comply with either a Final Order, Immediate Final Order, or a Default Final Order of the Department.

(h) Operating a Food Establishment that has been deemed an imminent threat to the public health, safety, and welfare by the Department for failure to comply with Chapter 500, F.S., this Rule, and/or Rule Chapter 5K-4, F.A.C.

(i) The falsification of any records required under Chapter 500, F.S., this Rule, and/or Chapter 5K-4, F.A.C.

(11) Resolution Of Violations, Settlement, And Additional Enforcement Remedies.

(a) The Department and person(s) charged with a violation may agree to resolve violations prior to an administrative hearing or enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule chapter shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120 or Chapter 500, F.S.

(b) Failure to respond to an administrative complaint shall result in the entry of a Default Final Order against the violator or entity responsible for the violation. The Department shall impose administrative fines in a Default Final Order equal to the maximum amount possible, not to exceed \$5,000 per violation.

(c) A violator’s failure to comply with either a Final Order or a Default Final Order of the Department shall result in additional enforcement actions as authorized by law.

(d) Fines resulting from multiple violations or Final Orders shall be assessed cumulatively.

Rulemaking Authority 500.09, 500.12, 570.07(23), FS. Law Implemented 500.04, 500.09, 500.121, 500.171, 500.172, 500.173, 500.174, 500.177, History–New, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Matt Colson, Chief of Food Inspection
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Nicole “Nikki” Fried, Commissioner of Agriculture
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 26, 2018

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NOS.:	RULE TITLES:
5K-11.001	Definitions
5K-11.002	Permits and Fees
5K-11.003	Inspection and Reinspection
5K-11.004	Permitting Requirements
5K-11.005	Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: Section 381.986, F.S., requires Medical Marijuana Treatment Centers (MMTC) electing to produce or manufacture edibles to hold a food permit pursuant to Chapter 500, F.S. The purpose of this rulemaking is to adopt a process by which MMTCs may be permitted to process and manufacture edibles; define applicable terms and food permitting requirements; and establish guidelines for administering penalties for violations of the proposed rule chapter and Chapter 500, F.S.

SUMMARY: This proposed rule will adopt food permitting requirements for Medical Marijuana Treatment Centers (MMTC) electing to produce and manufacture edibles; define terms; outline food permitting and inspection requirements; and establish guidelines for imposing administrative penalties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The department examined the number of MMTCs currently licensed by the Department of Health and the amount of fees the department proposes to charge MMTCs that wish to produce and manufacture edibles. Based on this information, the department determined there will be no adverse impact to small businesses and the potential regulatory costs of the proposed rule chapter does not exceed any of the criteria established in Section 120.541(2)(a), F.S. Additionally, no interested party submitted additional information regarding the economic impact.

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.

RULEMAKING AUTHORITY: 500.09, 500.12, 570.07(23), FS.

LAW IMPLEMENTED: 381.986(10), 500.03, 500.04, 500.09, 500.10, 500.12, 500.121, 500.147, 500.171, 500.172, 500.173, 500.174, 500.177, 500.80 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Matthew Colson by email at Matthew.Colson@FreshFromFlorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-11.001 Definitions.

For the purposes of this rule chapter, the definitions in Section 500.03, F.S., and the following shall apply:

(1) Department means the Florida Department of Agriculture and Consumer Services.

(2) Edibles is defined as in Section 381.986(d), F.S. to mean commercially produced food items made with Marijuana Oil, but no other form of marijuana, that are produced and dispensed by a Medical Marijuana Treatment Center.

(3) Marijuana Oil means oil derived from Low-THC Cannabis as defined in Section 381.986(e), F.S., or Marijuana as defined in Section 381.986(f), F.S.

(4) Medical Marijuana Treatment Centers (MMTC) are licensed by the Florida Department of Health as provided in Subsection 381.986(8), F.S., and are defined as in Art X, 29(b)(5), Fla. Const., to mean an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers. Rulemaking Authority 500.09, 570.07(23), FS. Law Implemented 500.03, FS. History—New

5K-11.002 – Permits and Fees.

(1) Pursuant to Subsection 381.986(8), F.S., MMTCs producing or manufacturing Edibles are required to be permitted as food establishments and are subject to the requirements of Chapter 500, F.S., and this rule chapter.

(2) Prior to applying for a food permit pursuant to this rule chapter, an MMTC shall undergo a plan review with the Department for the purpose of evaluating whether proposed construction or remodeling plans conform to current requirements established in Chapter 500, F.S., and this rule chapter including existing regulations adopted by reference. To

request a plan review, an MMTC shall submit a completed Medical Marijuana Treatment Center Plan Review Application, FDACS-14032 (Rev. 01/19), and any applicable fees as outlined in paragraph 5K-4.004(9)(b), F.A.C. An MMTC shall not apply for a food permit unless plans are approved by the Department. The Medical Marijuana Treatment Center Plan Review Application, FDACS-14032 (Rev. 01/19), is incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(3) Initial Permits. Prior to producing or manufacturing Edibles, an MMTC must obtain a food permit pursuant to Chapter 500, F.S., and in accordance with this rule. To apply for a food permit an MMTC shall:

(a) Complete a plan review pursuant to Subsection (2) and have approved plans by the Department;

(b) Submit to the Department a completed Medical Marijuana Treatment Center Food Permit Application, FDACS-14031, (Rev. 01/19), which is adopted and incorporated by reference and available as indicated in the form and _____ online _____ at <http://www.flrules.org/Gateway/reference.asp?No=Ref-xxxx>;

(c) Remit in full the required permit fee as described in Subsection (6);

(d) Provide to the Department a list of all Edibles the MMTC intends to produce or manufacture. This list shall be attached to the Medical Marijuana Treatment Center Food Permit Application, FDACS -14031 (Rev. 01/19); and

(e) Demonstrate through an initial inspection conducted by the Department that the facility where Edibles will be produced or manufactured meets inspection requirements established in Chapter 500, F.S., and Rule Chapter 5K-4, F.A.C.

(4) Permit renewal. Food permits must be renewed by the MMTC annually as prescribed in Subsection (3), with the exception of plan review in Paragraph (a) and initial inspection in Paragraph (e).

(5) Prior to implementation, MMTCs shall notify the Department in writing at foodinsp@freshfromflorida.com, of any changes or additions to: food products to be produced or manufactured; equipment to be used; or methods of processing. The Department will review the change to determine whether additional action is required by the MMTC to remain in compliance with Chapter 500, F.S., and this rule chapter. The Department shall notify the MMTC and schedule an inspection if further action is necessary.

(6) Food Permit Fees.

(a) Applications for an initial food permit received by the Department between January 1 through June 30 shall be assessed a permit fee of \$650.00, plus an epidemiology fee as prescribed in Section 381.006(10), F.S.

(b) Applications for an initial food permit received by the Department between July 1 through December 31 shall be assessed a permit fee of \$325.00, plus an epidemiology fee as prescribed in Section 381.006(10), F.S.

(c) The renewal permit fee shall be \$650.00, plus an epidemiology fee as prescribed in Section 381.006(10), F.S.

(d) Late Fees. A late fee of \$100.00 will be applied to all permit renewal applications not received by the Department as prescribed in Section 500.12, F.S. The Department shall not issue a food permit until all applicable fees, including late fees, are received by the Department.

(7) An MMTC may produce or manufacture Edibles in more than one physical location. An MMTC must complete the application requirements and receive an individual food permit for each physical location, by address, in which Edibles are produced or manufactured.

(8) Change in Ownership or Physical Location of an MMTC. An MMTC must complete the application requirements and receive a new food permit prior to manufacturing or producing edibles in a new location or after a change in ownership. Food permits are not transferable from one person or physical location to another.

(9) The permit or permit number shall not be used on any label or in any advertisement of Edibles. Permits shall be conspicuously displayed at the locations for which they were issued.

Rulemaking Authority 500.09, 500.12, 570.07(23) FS. Law Implemented 381.006(10), 500.12, 500.147, FS. History–New

5K-11.003 Inspections and Reinspections.

(1) Inspections. The Department shall inspect the areas where Edibles are produced or manufactured at an MMTC to ensure compliance with the requirements of Chapter 500, F.S., and this rule chapter.

(2) Reinspections. Any reinspection required for an MMTC shall be charged a fee of \$135.00 for recovery of the cost incurred to provide each reinspection. For the purposes of this section, a reinspection refers to any inspection conducted for the purpose of verifying compliance with Chapter 500, F.S., the rules promulgated thereunder, or this rule chapter following a previous inspection that requires a reinspection. Such inspection shall be indicated by issuance of an inspection report listing conditions that are not in compliance and which, when viewed as a whole, are more likely to contribute to food contamination, illnesses, or environmental health hazards.

Rulemaking Authority 500.09, 500.12, 570.07(23) FS. Law Implemented 500.12, 500.147, FS. History–New

5K-11.004 Permitting Requirements.

(1) Paragraphs 5K-4.002(1)(c) - (e), Subsection 5K-4.002(2), and Rule 5K-4.004, F.A.C., are incorporated by

reference and apply to MMTCs operating as food establishments.

(2) Edibles may not be manufactured, distributed, or sold under the Cottage Food Operations Law in Section 500.80, F.S.

(3) Food used to create Edibles shall be as defined in Paragraph 500.03(1)(n), F.S.

(4) Marijuana Oil shall not be considered an unapproved food additive as defined in Paragraph 500.03(1)(o), F.S., if used in the production and manufacture of Edibles by a licensed MMTC pursuant to Section 381.986, F.S., and in accordance with this rule chapter.

(5) Any person violating this rule chapter shall be subject to the injunction procedures of Section 500.171, F.S., and to the penalties provided in Sections 500.121, 500.172, 500.173, 500.174, and 500.177, F.S.

Rulemaking Authority 500.09, 570.07(23), FS. Law Implemented 500.04, 500.09, 500.10, 500.12, 500.80, FS. History–New

5K-11.005 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Chapter 500, F.S., relative to the production and manufacture of Edibles. The purpose of the guidelines is to give notice of the range of penalties that will be imposed for a single violation within a three-year period. The three-year period shall be based on the date of the last administrative enforcement action imposed against the violator. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum for a Class II category of \$5,000 for each violation as provided in Section 570.971, F.S., except for violations of Section 500.165, F.S., which have a statutory maximum for a Class III category of \$10,000 as provided in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The Department will enforce compliance with Chapters 500, F.S., and this rule chapter by issuing an administrative complaint, a stop-sale order, stop-use order, release order, destruction order, notice of non-compliance, permit suspension or revocation, or an immediate final order for violations of Chapters 500, F.S., and this rule chapter.

(3) Stop-Sale, Stop-Use, Release, or Destruction Orders. The Department shall issue a Stop-Sale, Stop-Use, Release, and/or Destruction Order FDACS-14215, (Rev. 03/18), as

provided in Section 500.172, F.S., whenever necessary to effectuate the statutory duties of the Department in the interest of public health, safety, and welfare and as necessary to promote the safety of any food product, food-processing equipment, or areas within an entity operating as a food establishment in Florida. A Stop-Sale, Stop-Use, Release, and/or Destruction Order 14215, (Rev. 03/18), will be used to give notice that such a product, processing equipment or area is, or is suspected of, failing to comply with the requirements of Chapter 500, F.S., or this rule chapter, and shall prohibit the removal, use, or disposal of such item. The Stop-Sale, Stop - Use, Release, and/or Destruction Order is incorporated by reference in Rule 5K-4.035, F.A.C.

(4) Nothing in this rule shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(5) Rule Not All-Inclusive. This rule contains illustrative violations. It does not, and is not intended to, encompass all possible violations of statute or Department rule that might be committed by any person. The absence of any violation from this rule shall in no way be construed to indicate that the violation does not cause harm to the public or is not subject to a penalty. In any instance where the violation is not listed in this rule, the penalty will be determined by consideration of:

(a) The closest analogous violation, if any, that is listed in this rule; and

(b) The mitigating or aggravating factors listed in this rule.

(6) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining penalties for violations of Chapters 500, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors:

1. The violation caused, or has the potential to cause, harm to the public and the degree or extent of such harm.

2. The violation endangered the public safety or welfare.

3. Previous violations for the same or a similar offense that resulted in enforcement action, defined as follows:

a. First Offense. A violation of any law subject to penalty under Chapters 500, F.S., when no disciplinary administrative complaints involving the same permitholder have been filed with the Agency Clerk within the three years preceding the date the current administrative complaint is issued.

b. Second Offense. A violation of any law subject to penalty under Chapters 500, F.S., after one disciplinary administrative complaint involving the same permitholder has been filed with the Agency Clerk within the three years preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

c. Third and Any Subsequent Offense. A violation of any law subject to penalty under Chapters 500, F.S., after two disciplinary administrative complaint involving the same permitholder has been filed with the Agency Clerk within the three years preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

4. The length of time the business has been in operation and the violation history over the past three years.

5. The violation was repeated within one year.

6. The violator impeded, or otherwise failed to cooperate with, the Department's inspection and/or investigation.

7. Whether the violation resulted from negligence or an intentional act.

8. The cost of enforcement action.

9. The number of other violations proven in the same proceeding.

10. The benefit to the violator.

(b) Mitigating Factors:

1. Any documented efforts by the violator at rehabilitation.

2. Whether intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Acts of God or nature that impaired the ability of the violator to comply with Chapters 500, F.S., or this rule chapter.

4. The violation has a low risk of, or did not result in, harm to the public health, safety, or welfare.

5. The disciplinary history of the violator.

6. The violator expeditiously took affirmative or corrective action after it received written notification of the violation to rectify any financial damage or harm to the public.

7. If a repeat violation, whether three years has passed since the prior violation.

(7) The provisions of this rule chapter shall not be construed so as to prohibit or limit any other civil action or criminal prosecution that may be brought.

(8) In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(9) Penalties.

(a) Minor Violation. Any Department investigation or inspection which reveals violations of this Rule Chapter in which the Department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Non-Compliance as the Department's first response to the violation. For the purposes

of this rule, the following violations shall be considered minor and shall result in the issuance of a notice of noncompliance:

1. Violations to paragraphs 5K-4.002(1)(c) - (e), F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

2. Violations to Subsection 5K-4.002(2), F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

3. Violations to Rule 5K-4.004, F.A.C., where the violation has a low potential for causing economic or physical harm to a person; adversely affecting the public health, safety, or welfare; or creating a significant threat of such harm, if left uncorrected.

4. Failure to notify the Department in writing of any changes or additions to food products to be produced or manufactured, equipment to be used, or methods of processing prior to implementation in accordance to Subsection 5K-11.002(4), F.A.C.

(b) Major Violations. Any violation of Chapters 500, F.S., or this rule chapter that may result in economic or physical harm to a person or may adversely affect the public health, safety, or welfare or creates a significant threat of such harm shall be considered a major violation.

1. Tier I. Tier I major violations shall result in the issuance of a stop-sale order, stop-use order, and/or destruction order. For the purposes of this rule, the following violations shall be considered Tier I violations:

a. Operating a food establishment with no hot water available.

b. Operating a food establishment while hot water is available, but the source is turned off.

c. Failure to provide copies of required microbiological and/or chemical analysis for review.

d. Operating a food establishment without the required service sink or curbed cleaning facility.

e. Failure to have an adequate or accurately maintained process control system including Hazards Analysis and Critical Control Points (HACCP), scheduled process, food safety plan, or any such other required by Rule 5K-4.002, F.A.C.

f. Failure to follow process control system such as Hazards Analysis and Critical Control Points (HACCP), scheduled process, food safety plan, or any such other required by Rule 5K-4.002, F.A.C.

g. The manufacture, sale or delivery, holding or offering for sale any Edible that is deemed adulterated as outlined in Section 500.10, F.S.

h. The manufacture, sale or delivery, holding or offering for sale any Edible that is misbranded as provided in Section

500.11, F.S. or in 21 CFR Part 101 as incorporated in Rule 5K-4.002.

i. Transporting food under conditions which may render the Edible to be deemed adulterated, as provided in Section 500.10, F.S.

j. The presence of a pathogenic *Escherichia coli*, *Salmonella enterica*, or *Listeria monocytogenes* found in the environment of a Food Establishment in a location where contamination of food is likely to occur from the presence of the organism(s). In case of such violation, a stop-use order(s) shall be issued and shall not be released by the Department until the Food Establishment has cleaned and/or repaired the affected areas and all test results following environmental sampling are observed by the Department and reported as "negative" from an ISO (International Organization of Standardization) 17025 based accredited laboratory certified to conduct testing for the microorganism of concern. Any and all cleaning, repairs, environmental sampling and testing shall be at the expense of the facility.

k. Violation of 21 CFR Part 117.20, as incorporated in Rule 5K - 4.002, F.A.C., where sewage is not conveyed to the point of disposal through an approved sanitary sewage system or another system constructed, maintained, and operated according to law, which may result in a way that a public health hazard or nuisance is created.

1. Violation of 21 CFR Part 117.20, as incorporated in Rule 5K-4.002, F.A.C., premises are not maintained free of roaches and rodents.

2. Tier II. Tier II violations shall result in the issuance of a stop-sale, stop-use order, destruction order, and/or an administrative fine of \$500 up to the statutory maximum. Aggravating factors, as defined in paragraph (6)(a) of this rule, shall warrant the adjustment of the fine upward per violation per aggravating factor and mitigating factors, as defined in paragraph (6)(b) of this rule, shall warrant the adjustment of the fine downward per violation per mitigating factor, but no fine shall exceed the statutory maximum as outlined in Section 570.971, F.S., as applicable. If, three years after the day of the last violation under Chapters 500, F.S., or this rule chapter, no new violation has occurred, all previous fines shall be disregarded when administering a fine for the next violation. For the purposes of this rule, the following violations shall be considered Tier II violations:

a. Violations that result in a second and any subsequent notice of non-compliance or Tier I major violation for the same or similar offense, within a three-year period.

b. The receipt of two or more consecutive inspection reports not meeting requirements.

c. The receipt of an inspection report not meeting inspection requirements, followed by an inspection report meeting inspection requirements, followed by an inspection

report not meeting inspection requirements, within a three-year period.

d. Refusal to permit entry or inspection during operating hours as required by Section 500.147, F.S.

e. Operating as a food establishment without a valid food permit, as provided in Section 500.12, F.S.

f. Any violation requiring an Immediate Final Order, as authorized by Chapter 500, F.S.

(10) Willful violations shall result in the imposition of an administrative fine of \$5,000 per violation, permit suspension, or permit revocation or any combination thereof. The following shall constitute a willful violation:

(a) The unauthorized breaking, cutting, or removal of any seal or tag applied by the department.

(b) The sale or distribution, or offering for sale or distribution, of any commodity under stop sale order unless done so within the parameters of a conditional release.

(c) The use of any equipment under stop use order unless done so within the parameters of a conditional release.

(d) Failure to comply with conditions stipulated in a release of a stop sale, and/or stop use order.

(e) The intentional introduction of adulterated or misbranded products into commerce.

(f) The failure to comply with either a Final Order, Immediate Final Order, or a Default Final Order of the Department.

(g) Operating a food establishment that has been deemed an imminent threat to the public health, safety, and welfare by the Department for failure to comply with Chapter 500, F.S., and this rule chapter.

(h) The falsification of any records required under Chapter 500, F.S., and this rule chapter.

(11) Resolution Of Violations, Settlement, And Additional Enforcement Remedies.

(a) The Department and person(s) charged with a violation may agree to resolve violations prior to an administrative hearing or enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule chapter shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120 or Chapter 500, F.S.

(b) Failure to respond to an administrative complaint shall result in the entry of a Default Final Order against the violator or entity responsible for the violation. The Department shall

impose administrative fines in a Default Final Order equal to the maximum amount possible, not to exceed \$5,000 per violation.

(c) A violator's failure to comply with either a Final Order or a Default Final Order of the Department shall result in additional enforcement actions as authorized by law.

(d) Fines resulting from multiple violations or Final Orders shall be assessed cumulatively.

Rulemaking Authority 500.09, 500.12, 570.07(23), FS. Law Implemented 500.04, 500.09, 500.121, 500.171, 500.172, 500.173, 500.174, 500.177, History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Matthew Colson, Chief of Food Inspection

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Nicole "Nikki" Fried, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 23, 2018

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.: 11B-20.001
11B-20.0014
RULE TITLES:
Definitions and Minimum Requirements for General Certification of Instructors
Minimum Requirements for High-Liability and Specialized Instructor Certifications

PURPOSE AND EFFECT: Sub-subparagraph 11B-20.001(3)(a)3.a., F.A.C.: Incorporates the revised Instructor Competency Checklist, form CJSTC-81, to clarify that a signature is required by the training center director, agency administrator, or designee.

Paragraph 11B-20.0014(1)(d), F.A.C.: Incorporates the revised Instructor Competency Checklist, form CJSTC-81, to clarify that a signature is required by the training center director, agency administrator, or designee.

SUMMARY: Revises Instructor Competency Checklist, form CJSTC-81.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described

herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), 943.14(3) FS.

LAW IMPLEMENTED: 943.12(3), (9), 943.13(6), 943.14(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at 850-410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-20.001 Definitions and Minimum Requirements for General Certification of Instructors.

- (1) through (2) No change.
- (3) General Instructor Certification.

(a) Instructor applicants shall comply with the following requirements to obtain General Instructor Certification:

- 1. through 2. No change.
- 3. After successful completion of the mandatory instructor training, instructor applicants shall complete an internship.

a. The instructor applicant shall be supervised by and have his or her instructional abilities evaluated by a training center director or agency administrator, who is currently an instructor, or a designee who is currently an instructor. The training center director, agency administrator, or designee shall complete the Instructor Competency Checklist, form CJSTC-81, revised _____, effective _____ ~~November 5, 2015, effective 9/2016,~~ hereby incorporated by reference [http://www.flrules.org/Gateway/reference.asp?No=Ref-~~http://www.flrules.org/Gateway/reference.asp?No=Ref 07383.~~](http://www.flrules.org/Gateway/reference.asp?No=Ref-http://www.flrules.org/Gateway/reference.asp?No=Ref 07383.)

Form CJSTC-81 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850)410-8615.

- b. through c. No change.
- 4. through 5. No change.
- (b) through (c) No change.
- (4) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 943.12(3), (9), 943.14(3) FS. History–New 7-21-82, Formerly 11B-20.01, Amended 10-26-88, 5-14-92, 12-8-92, 1-10-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15, 9-4-16, 7-19-17, 8-15-18, _____.

11B-20.0014 Minimum Requirements for High-Liability and Specialized Instructor Certifications.

(1) High-Liability Topics Instructor Certification. Instructor applicants shall comply with the following requirements for certification:

- (a) through (b) No change.
- (d) Be evaluated by his or her students. Student evaluation shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator and documented on the Instructor Competency Checklist form CJSTC-81, revised _____, effective _____ ~~November 5, 2015, effective 9/2016,~~ hereby incorporated by _____ reference [http://www.flrules.org/Gateway/reference.asp?No=Ref-~~http://www.flrules.org/Gateway/reference.asp?No=Ref 07384.~~](http://www.flrules.org/Gateway/reference.asp?No=Ref-http://www.flrules.org/Gateway/reference.asp?No=Ref 07384.)

- (e) through (f) No change.
- (2) through (3) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 943.12(3), (9), 943.13(6), 943.14(3) FS. History–New 7-29-01, Amended 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 3-13-13, 5-29-14, 7-29-15, 9-4-16, 7-19-17, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2018

**DEPARTMENT OF LAW ENFORCEMENT
Criminal Justice Standards and Training Commission**

RULE NOS.:	RULE TITLES:
11B-27.002	Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers
11B-27.004	Probable Cause Determination
11B-27.014	Implementation of the Federal Law Enforcement Officers Safety Act of 2004

PURPOSE AND EFFECT: Paragraph 11B-27.002(1)(h), F.A.C.: Adds completion of Equivalency of Training as meeting the training requirement pursuant to Section 943.13(9), F.S., which specifies a person can be exempt from completing

a Basic Recruit Training Program by complying with s. 943.131(2), F.S., and Rule 11B-35.009 F.A.C.

Sub-paragraph 11B-27.002(3)(a)11., F.A.C.: Implements the mandates of CS/HB 333 by adding special operations forces members as eligible for Equivalency of Training class. Also, incorporates the revised Exemption-From-Training, form CJSTC-76, and the Exemption-From-Training Proficiency Demonstration, form CJSTC-76A, to update the rule references and add the training requirements for Special Operations Forces.

Sub-paragraph 11B-27.002(4)(b)1., F.A.C.: Implements the mandates of CS/HB 333 by adding the specific training required if a person qualifies for an Equivalency of Training as a special operations forces member.

Subsection 11B-27.004(12)-(13), F.A.C.: Removes unnecessary rule language regarding an obsolete procedure and renumbers Rule 11B-27.004(13), F.A.C.

Paragraph 11B-27.014(2)(b), F.A.C.: Clarifies that the qualification only applies to handguns and identifies the types of handguns.

SUMMARY: Adds special operations forces members as eligible for Equivalency of Training class; incorporates the revised Exemption-From-Training, form CJSTC-76, and the Exemption-From-Training Proficiency Demonstration, form CJSTC-76A; adds the specific training required if a person qualifies for an Equivalency of Training as a special operations forces member; and adds language to clarify what firearms can be used.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), 943.1395, FS.

LAW IMPLEMENTED: 943.12, 943.12(3), 943.13, 943.132, 943.133, 943.139, 943.1395, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-27.002 Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers.

(1) through (g) No change.

(h) Evidence that the applicant has successfully completed a Commission-approved Basic Recruit Training Program, pursuant to Rules 11B-35.002 and 11B-35.003, F.A.C., or is exempt, pursuant to Rule 11B-35.009, F.A.C., and has achieved a passing score on the State Officer Certification Examination for the discipline for which certification is being sought pursuant to Section 943.13(10), F.S.

(2) No change.

(3) Employment requirements pursuant to Sections 943.13, F.S., shall be documented on an Agency New Hire Report, form CJSTC-207, revised November 8, 2007, hereby incorporated by reference. Form CJSTC-207 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(a) The files of newly hired officers are subject to an on-site inspection by Commission staff to ensure compliance with the requirements of Chapter 943, F.S., and Rule Chapter 11B-27, F.A.C. All documents collected in conjunction with the background investigation shall be available for review. The following documents shall be reviewed for completeness:

1. through 10. No change.

11. An Exemption-From-Training, form CJSTC-76, revised _____, effective _____ ~~August 10, 2017, effective 8/2018~~, hereby incorporated by reference http://www.flrules.org/Gateway/reference.asp?No=Ref-_____ ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-09673>~~, and an Exemption-From-Training Proficiency Demonstration, form CJSTC-76A, revised _____, effective _____ ~~August 10, 2017, effective 8/2018~~, hereby incorporated by reference http://www.flrules.org/Gateway/reference.asp?No=Ref-_____ ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-09676>~~,

for previous Florida and out-of-state, federal, ~~or~~ military officers, or special operations forces as defined in s. 943.10(22), F.S., if the officer used this training option. Forms CJSTC-76 and CJSTC-76A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

12. through 15. No change.

(b) No change.

(4)(a) No change.

(b) An individual who fails to comply with the requirements in paragraph (4)(a) of this rule section for the discipline in which the training was completed, within four years of the date of beginning such training, shall as a condition for obtaining employment, comply with the following:

1. Successfully complete a Commission-approved Basic Recruit Training Program pursuant to Rule 11B-35.002, F.A.C., or qualify for an exemption from a Commission-approved Basic Recruit Training Program, pursuant to Section 943.131(2), F.S., to include demonstration of proficiency in the High-Liability Basic Recruit Training Courses pursuant to Rule 11B-35.0024, F.A.C., and, if applicable, completion of the Special Operations Forces Training Program, pursuant to Rule 11B-35.009, F.A.C.; and

2. No change.

(5) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.13, 943.133, 943.139, 943.1395 FS. History—New 10-6-82, Amended 4-26-84, 1-7-85, Formerly 11B-27.02, Amended 9-3-87, 3-29-89, 5-14-92, 12-13-92, 9-5-93, 1-19-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15, 9-4-16, 9-14-17, 8-15-18, _____.

11B-27.004 Probable Cause Determination.

At the conclusion of the preliminary investigation and when the reports and documents are received as directed by Sections 943.139 and 943.1395, F.S., a determination of probable cause shall be made before the Commission initiates proceedings to take disciplinary action against the certification of an officer.

(1) through (11) No change.

~~(12) Commission staff shall submit annually to the Commission, a listing of those agencies that fail to impose significant agency disciplinary action pursuant to subsections 11B-27.005(1)-(2), F.A.C.~~

~~(12)(13)~~ When the Probable Cause Panel has insufficient information to determine the existence of probable cause, but in good faith believes that Commission staff can obtain the information necessary to reach a decision, the panel shall enter a finding of “Insufficient Information.” The case shall be continued until reasonable efforts by Commission staff have been concluded to obtain the additional information requested

by the panel, at which time the case shall be scheduled before a Probable Cause Panel for further review.

Rulemaking Authority 943.03(4), 943.12(1), 943.1395 FS. Law Implemented 943.1395 FS. History—New 12-13-92, Amended 1-19-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 4-11-04, 11-30-04, 6-9-08, 6-3-10, 5-29-14, 9-4-16, _____.

11B-27.014 Implementation of the Federal Law Enforcement Officers Safety Act of 2004.

(1) No change.

(2) Requirements for administering the course of fire are as follows:

(a) No change.

(b) The range master shall issue a Commission-approved Firearms Proficiency Verification Card, form CJSTC-600, created on July 9, 2007, hereby incorporated by reference, to each retiree who successfully completes the course of fire as required on form CJSTC-86A using a revolver or a semi-automatic handgun.

(c) No change.

(3) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12, 943.132 FS. History—New 3-3-08, Amended 6-3-10, 3-13-13, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: February 26, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-30.006 State Officer Certification Examination
General Eligibility Requirements

PURPOSE AND EFFECT: Paragraph 11B-30.006(2)(b), F.A.C.: Incorporates the revised Exemption-From-Training, form CJSTC-76, to add the training requirements for Special Operations Forces.

Paragraph 11B-30.006(2)(c), F.A.C.: Implements the mandates of CS/HB 333 to allow special operations forces members to take the Equivalency of Training class.

SUMMARY: Revises Exemption-From-Training, form CJSTC-76, and adds training requirements for Special Operations Forces.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1) FS.
LAW IMPLEMENTED: 943.12(17), 943.131(2), 943.1397 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-30.006 State Officer Certification Examination General Eligibility Requirements.

- (1) No change.
- (2) The following individuals are eligible to take the State Officer Certification Examination (SOCE) for the requested criminal justice discipline:
 - (a) No change.
 - (b) Inactive Florida law enforcement, correctional, and correctional probation officers, defined in Section 943.1395(3), F.S., who comply with paragraph 11B-27.00212(12)(a), and Rule 11B-35.009, F.A.C., shall pass the SOCE within one year of notification of approval of the Exemption-From-Training, form CJSTC-76, revised _____, effective _____ ~~August 10, 2017, effective 8/2018~~, hereby incorporated by reference, http://www.flrules.org/Gateway/reference.asp?No=Ref-_____ ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-09674>~~.

Form CJSTC-76 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(c) Out-of-state, military, and federal law enforcement, correctional, and correctional probation officers or members of the special operations forces who comply with Rule 11B-35.009, F.A.C., shall pass the SOCE within one year of notification of approval of the Exemption-From-Training form CJSTC-76.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17), 943.131(2), 943.1397 FS. History— New 1-10-94, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, 5-21-12, 5-29-14, 7-29-15, 9-4-16, 7-19-17, 8-15-18, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.: RULE TITLES:
11B-35.001 General Training Programs; Requirements and Specifications
11B-35.009 Exemption from Basic Recruit Training
PURPOSE AND EFFECT: Paragraphs 11B-35.001(1)(b)-(d), F.A.C.: Renumbers the subparagraphs of Rule 11B-35.001(1), F.A.C., and implements the mandates of CS/HB 333 by adding the Special Operations Forces Training Programs as Commission-approved training programs.
Subsection 11B-35.001(3), F.A.C.: Implements the mandates of CS/HB 333 to clarify that Commission-certified instructors are required to teach the Special Operations Forces Training Programs.
Paragraph 11B-35.001(3)(b), F.A.C.: The defensive tactics curriculum was updated with different techniques which required new training for instructors.
Subsections 11B-35.001(7)-(8), F.A.C.: Implements the mandates of CS/HB 333.
Paragraph 11B-35.001(9)(a), F.A.C.: Implements the mandates of CS/HB 333.
Paragraph 11B-35.001(10)(b), F.A.C.: Implements the mandates of CS/HB 333 by adding the Special Operations Forces Training Program as a Commission-approved training program.
Paragraph 11B-35.001(10)(c), F.A.C.: Implements the mandates of CS/HB 333.
Subsection 11B-35.001(11), F.A.C.: Implements the mandates of CS/HB 333.

Paragraphs 11B-35.001(11)(a)-(b), F.A.C.: Implements the mandates of CS/HB 333.

Paragraph 11B-35.001(11)(d), F.A.C.: Implements the mandates of CS/HB 333.

Subsection 11B-35.001(12), F.A.C.: Adds the Special Operations Forces Training Program as a Commission-approved training program.

Paragraph 11B-35.001(12)(c), F.A.C.: Implements the mandates of CS/HB 333.

Sub-paragraph 11B-35.001(12)(c)2., F.A.C.: Implements the mandates of CS/HB 333.

Paragraph 11B-35.001(13)(a), F.A.C.: Implements the mandates of CS/HB 333.

Paragraph 11B-35.001(13)(b), F.A.C.: Implements the mandates of CS/HB 333.

Subsection 11B-35.001(16), F.A.C.: Implements the mandates of CS/HB 333.

Paragraph 11B-35.009(1)(h), F.A.C.: Revises the sentence structure to make the sections within this paragraph uniform.

Paragraph 11B-35.009(1)(i), F.A.C.: Implements the mandates of CS/HB 333 by adding a definition for Special Operations Forces.

Paragraph 11B-35.009(2)(c), F.A.C.: Implements the mandates of CS/HB 333 by adding Special Operations Forces service as a qualifier for an Equivalency of Training.

Subsection 11B-35.009(3), F.A.C.: Clarifies the requirements that out-of-state and federal officers must meet when requesting an Equivalency of Training; and implements the mandates of CS/HB 333.

Subsection 11B-35.009(4), F.A.C.: Implements the mandates of CS/HB 333.

Subsections 11B-35.009(5)-(11), F.A.C.: Renumbers paragraphs 11B-35.009(5)-(11), F.A.C., to implement the mandates of CS/HB 333.

Paragraphs 11B-35.009(5)(a)-(c), F.A.C.: Implements the training requirements and mandates of CS/HB 333.

Subsection 11B-35.009(6), F.A.C.: Implements the mandates of CS/HB 333 by adding the documentation requirements for Special Operations Forces and adds training center as an entity allowed to approve an Equivalency of Training. Also incorporates the revised Exemption-From-Training, form CJSTC-76, to add the training requirements for Special Operations Forces.

Subsection 11B-35.009(7), F.A.C.: Incorporates the revised Exemption-From-Training Proficiency Demonstration, form CJSTC-76A, to update the rule reference and update the instructions and allow training center directors to appoint a “designee” as an authorized signer on the form.

Subsection 11B-35.009(8), F.A.C.: Implements the mandates of CS/HB 333 by adding training requirements for Special Operations Forces.

Subsection 11B-35.009(10), F.A.C.: Implements the mandates of CS/HB 333 by defining the amount of time for a Special Operations Forces member who is exempt to gain employment.

SUMMARY: Adds the Special Operations Forces Training Programs as Commission-approved training programs; requirement for defensive tactics instructors; Equivalency of Training for Special Operations Forces; out-of-state and federal officers; documentation requirements for Special Operations Forces; revised Exemption-From-Training, form CJSTC-76; and the Exemption-From-Training Proficiency Demonstration, form CJSTC-76A.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), (2), 943.17 FS.

LAW IMPLEMENTED: 943.12, 943.131(2), 943.17 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-35.001 General Training Programs; Requirements and Specifications.

(1) Throughout this rule chapter “training programs,” “courses,” “instructors,” and “training schools” refer to Commission-approved training programs, courses, instructors,

and training schools. Commission-approved Basic Recruit, Advanced, and Specialized Training Programs are intended to provide job-related training to law enforcement, correctional, and correctional probation officers. The training programs are:

(a) No change.

(b) Special Operations Forces Training Programs that provide training for special operations forces members seeking officer certification.

(c)(b) Advanced Training Programs that maintain officer certification, enhance officer knowledge, skills, and abilities, and assist in an officer's promotion to a higher rank.

(d)(e) Specialized Training Programs that provide for officer post-basic or in-service training that enhance an officer's knowledge, skills, and abilities in a specific area.

(2) No change.

(3) Instructors who teach Commission-approved Basic Recruit, Advanced, ~~and~~ Specialized, and Special Operations Forces Training Program Courses at a training school shall:

(a) No change.

(b) Be required to hold additional certifications for specified areas of instruction in Commission courses pursuant to Rule 11B-20.0014, F.A.C. ~~Commission-certified defensive tactics instructors who instruct defensive tactics courses on or after July 1, 2020, must have completed the Defensive Tactics Instructor Course, effective May 2, 2019, as a part of their initial defensive tactics instructor certification or have completed the Defensive Tactics Instructor Update Course effective April 1, 2018.~~

(4) through (6) No change.

(7) The Commission shall approve new and revised curricula in the CJSTC basic recruit, advanced, specialized training programs pursuant to Section 943.17, F.S., and the Special Operations Forces Training Program, pursuant to Section 943.131(3), F.S.

(8) The Commission shall publish on the Active CJSTC Curricula web page the official list of approved and active Commission courses and programs for Basic Recruit, Advanced, ~~and~~ Specialized, and the Special Operations Forces Training Programs. The Active CJSTC Curricula web page can be accessed at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses.aspx>.

(9) Maintenance of training curricula.

(a) Training curricula shall be maintained for Commission approved Basic Recruit, Advanced, ~~and~~ Specialized, and the Special Operations Forces Training Programs within the Florida Department of Law Enforcement.

(b) through (d) No change.

(10) Student academic performance in courses.

(a) No change.

(b) The terms “successfully completed” and “successfully complete” are denoted with a “Pass” on the completed Training Report form CJSTC-67 and are defined as follows: A student enrolled in a Commission-approved Basic Recruit Training Program or a Special Operations Forces Training Program shall achieve a score of no less than 80% on each of the written end-of-course examinations, exclusive of demonstration of proficiency skills in the Basic Recruit Training Courses. A student enrolled in a Commission-approved Advanced or Specialized Training Program Course pursuant to paragraph (10)(d) of this rule section shall achieve a score of no less than 80% on the written end-of-course examination. A student enrolled in a Specialized Instructor Training Course shall achieve a score of no less than 85% on the written end-of-course examination, exclusive of demonstration of any proficiency skills.

(c) The training center director or designee is responsible for the development, maintenance, and administration of comprehensive end-of-course examinations. The training center director or designee is authorized to develop, maintain, and administer additional academic tests for courses and is not limited to only the utilization of a comprehensive end-of-course examination. Training schools shall maintain examinations for Commission-approved Basic Recruit, Special Operations Forces, Advanced, Specialized Instructor Training, and Specialized Training Program Courses, pursuant to paragraph (10)(d) of this rule section and in compliance with the administration, confidentiality, and security requirements of subsections 11B-35.0085(2)-(5), F.A.C.

(d) No change.

(e) End-of-course examinations shall be developed and administered for each course in a basic recruit training program and the Special Operations Forces Training Programs based on the learning objectives in each course, with the exception of the physical fitness ~~and~~ officer wellness courses, and proficiency demonstration courses, pursuant to Rule 11B-35.009(8), F.A.C.

(11) Reporting requirements for Commission-approved Basic Recruit, Advanced, ~~and~~ Specialized, and Special Operations Forces Training Program Courses are as follows:

(a) The training center director or designee shall determine the beginning and ending dates of each Basic Recruit Training Program and Special Operations Forces Training Program, and within thirty days following the class starting date shall forward a Training Report, form CJSTC-67, revised November 5, 2015, effective 9/2016, hereby incorporated by reference <http://www.flrules.org/Gateway/reference.asp?No=Ref-07376>, to Commission staff through the Commission's Automated Training Management System (ATMS). Form CJSTC-67 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(b) Following the completion of a Commission-approved Basic Recruit Training Program, Advanced Training Program Course, Special Operations Forces Training Program, or Instructor Training Course, the training center director or designee shall, within thirty days of the program or course completion date, electronically transmit a completed Training Report form CJSTC-67, or transmit an updated CJSTC-67 form through the Commission’s ATMS. Submission of the Academy Physical Fitness Standards Report, form CJSTC-67A, revised August 4, 2016, effective 7/2017, hereby incorporated by reference

<http://www.flrules.org/Gateway/reference.asp?No=Ref-08440>, is required for Law Enforcement, Correctional Probation, and Correctional Basic Recruit Training Programs within thirty days of the course completion. Submission of form CJSTC-67A is not required for the Law Enforcement Auxiliary and Cross-Over Basic Recruit Training Programs. Form CJSTC-67A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(c) No change.

(d) The training center director or designee shall ensure that the records for Commission-approved Basic Recruit, Advanced, ~~and~~ Specialized, and Special Operations Forces Training Program Courses are maintained in the course file within the training school. Each course shall be subject to audit by Commission staff. Such records shall, at a minimum, include:

1. through 16. No change.

(12) Student attendance requirements for Commission-approved Basic Recruit Training Programs outlined in subsection 11B-35.002, F.A.C., Specialized Training Programs outlined in subsection 11B-35.007(1), F.A.C., and Advanced Training Program Courses outlined in paragraph 11B-35.006(1), F.A.C., and the Special Operations Forces Training Program outlined in subsection 11B-35.009, F.A.C.

(a) through (b) No change.

(c) Competency-Based Instruction. The Commission approves competency-based instruction in the delivery of basic recruit training programs, specialized training program courses, specialized instructor training courses, the Special Operations Forces Training Program, and courses created from specialized goals and objectives, defined in subparagraph (12)(c)1., of this rule section.

1. No change.

2. Training schools are permitted to use competency-based instruction for courses within the basic recruit training programs except for the physical fitness and officer wellness courses and within the Special Operations Forces Training Program. The delivery of basic recruit training programs and

the Special Operations Forces Training Program shall adhere to total program hours.

3. No change.

(13) Student Re-examination Policy for Commission-approved Basic Recruit Training Program Courses.

(a) A student shall achieve a passing score, pursuant to subsection 11B-35.001(10), F.A.C., on all end-of-course examinations in a Commission-approved Basic Recruit Training Program or a Special Operations Forces Training Program to successfully complete a program. A student who has failed a written end-of-course examination may be granted a re-examination by the training center director if:

1. through 3. No change.

(b) Exclusive of the Commission’s Basic Recruit Training Courses or the Special Operations Forces Training Program courses requiring proficiency demonstration and re-examinations in paragraph (13)(a) of this rule section, a student may be granted one written end-of-course re-examination during a single Basic Recruit Training Program or Special Operations Forces Training Program. Students, who have failed the written end-of-course examination after a second attempt, shall be deemed to have failed the course.

(c) No change.

(14) through (15) No change.

(16) Proof of course completion. A training school shall, within thirty days following the completion of a Commission-approved Basic Recruit, Advanced, ~~or Specialized,~~ or Special Operations Forces Training Program Course, provide to a student who has successfully completed the program, a certificate, which shall contain at a minimum, the name of the training school, the student’s name, the dates of the program or course, the number of program or course hours, the title of the Basic Recruit, Advanced, ~~or Specialized,~~ or Special Operations Forces Training Program Course, and the current training center director’s signature. Basic Recruit Training Completion Certificates shall contain the Curriculum Version Number for the course taught. The training school shall provide a certificate to a student who has successfully completed a Commission-approved Basic Recruit Training Program, and the student shall be required to pass the State Officer Certification Examination.

(17) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 943.12, 943.17 FS. History—New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15, 9-4-16, 7-19-17, 8-15-18, _____.

11B-35.009 Exemption from Basic Recruit Training.

(1) Definitions. For the purpose of this rule section, the following definitions shall apply:

(a) through (g) No change.

(h) Pursuant to Section 943.1395(3), F.S., and subsection 11B-27.00212(11), F.A.C., an “Inactive Florida Officer” means an individual who has met the certification and employment requirements of Section 943.13, F.S., and has not been employed as an officer in the discipline for which the individual was a Florida certified officer for a period of four to eight years.

(i) “Special Operations Forces” means those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes, but is not limited to, service members of the United States Army Special Forces and the United States Army 75th Ranger Regiment; the United States Navy SEALs and Special Warfare Combatant-Craft Crewmen; the United States Air Force Combat Control; Pararescue, and Tactical Air Control Party specialists; the United States Marine Corps Critical Skills Operators; and any other component of the United States Special Operations Command approved by the Commission.

(2) An individual who applies for certification as a Florida officer shall qualify for exemption from completing a Commission-approved Basic Recruit Training Program if the applicant has:

(a) through (b) No change.

(c) Prior service as a special operations forces member for a minimum of five years with no more than a four-year break in service which is measured from the separation date of the most recent qualifying special operations forces service to the time a complete application is submitted for an exemption under this rule section.

(3) ~~Out-of-state or federal officers~~ For individuals who request an exemption from a Commission-approved Basic Recruit Training Program, the employing agency, training center, or Criminal Justice Selection Center shall:

(a) through (e) No change.

(4) Inactive Florida officers who have been separated from employment for a period of four to eight years, may apply for exemption from re-taking the Basic Recruit Training Program for which the officer has been previously certified as a sworn officer. There shall be no more than an eight-year break in employment, which is measured from the separation date of the most recent qualifying employment to the time a complete application is submitted, for an exemption under this rule section. The employing agency, training center, or Criminal Justice Selection Center shall verify that the applicant has:

(a) through (b) No change.

(5) Special operations forces members who served in special operations forces for at least five years and have not been separated from special operations forces for more than four years as measured from the separation date from the special operations forces to the time a complete application for an

exemption is received under this Rule section. The employing agency, training center, or Criminal Justice Selection Center shall:

(a) Verify that the applicant has served at least five years in special operations forces; and

(b) Verify that the applicant has not been separated from special operations forces for more than four years; and

(c) Document the specific training and experience the applicant received during his or her special operations forces service.

~~(6)(5)~~ Documentation requirements for out-of-state, federal, and inactive Florida Officers and special operations forces members. Upon verification of an individual’s request for exemption of training, pursuant to this rule section, an employing agency, training center, or Criminal Justice Selection Center shall submit to Commission staff a completed Exemption-From-Training, form CJSTC-76, revised ~~August 10, 2017, effective 8/2018,~~ hereby incorporated by reference ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-
http://www.flrules.org/Gateway/reference.asp?No=Ref-09675,~~ for out-of-state, federal, and inactive Florida Officers and special operations forces members. Form CJSTC-76 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/cms/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Supporting documentation verifying the individual’s compliance as a special operations forces member or with comparable basic recruit training and sworn criminal justice experience pursuant to this rule section shall be maintained on file by the employing agency, training center, or Criminal Justice Selection Center and submitted to Commission staff for review upon request. The agency shall be notified of the approval or denial of the requested exemption of certification in writing within 30 working days. Any appeal of denial of exemption is governed by Section 120.57, F.S.

~~(7)(6)~~ High-Liability Basic Recruit Training proficiency skills requirements for out-of-state, federal, or inactive Florida officers. Prior to applying for certification, an out-of-state or federal officer, or inactive Florida officer, who is exempt from completing a Commission-approved Basic Recruit Training Program, pursuant to Section 943.131(2), F.S., shall demonstrate proficiency in the required High-Liability Basic Recruit Training Proficiency Skills of vehicle operations, firearms, defensive tactics, and first aid, pursuant to Rule 11B-35.0024, F.A.C., for the discipline for which certification is sought. Such officers shall achieve a passing score on the State Officer Certification Examination, pursuant to Rule 11B-30.0062, F.A.C., and paragraph 11B-30.008, F.A.C. Demonstration of proficiency in the required High-Liability Basic Recruit Training Proficiency Skills and passing the State

Officer Certification Examination shall be completed within one year after notification of approval of the Exemption-From-Training form CJSTC-76. Individuals who do not complete the required demonstration of proficiency in the High-Liability Basic Recruit Training Proficiency Skills and achieve a passing score on the State Officer Certification Examination within one year, are permitted to apply for another exemption from training, pursuant to Section 943.131(2), F.S., provided they meet the eligibility requirements outlined in Section 943.131(2), F.S. Upon demonstration of proficiency in the required High-Liability Basic Recruit Training Proficiency Skills, the training school shall complete an Exemption-From-Training Proficiency Demonstration, form CJSTC-76A, revised _____, effective _____ August 10, 2017, effective 8/2018, hereby incorporated by reference <http://www.flrules.org/Gateway/reference.asp?No=Ref-09677>, and provide a copy to the officer of form CJSTC-76A. Form CJSTC-76A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/CJSTC/Publications/Forms.aspx>, or by contacting Commission staff at (850) 410-8615. The training center director or designee shall, within thirty days of course completion, electronically transmit a completed Training Report form CJSTC-67 through the Commission’s ATMS, or submit an updated form CJSTC-67.

(8) Training requirements for special forces operations members. Prior to applying for certification as a law enforcement, corrections, or correctional probation officer, a special forces operations member who is exempt from completing a Commission-approved Basic Recruit Training Program, pursuant to Section 943.131(2), F.S., shall complete the Commission-approved Special Operations Forces Training Program for the discipline for which certification is sought and demonstrate proficiency in the required High-Liability Basic Recruit Training Proficiency Skills of firearms, defensive tactics, and first aid, pursuant to Rule 11B-35.0024, F.A.C., at a Commission-certified training center. Such individuals shall achieve a passing score on the State Officer Certification Examination, pursuant to Rules 11B-30.0062, F.A.C., and 11B-30.008, F.A.C. Completion of the Special Operations Forces Training Program, demonstration of proficiency in the required High-Liability Basic Recruit Training Proficiency Skills, and passing the State Officer Certification Examination shall be completed within one year after notification of approval of the Exemption-From-Training form CJSTC-76. Individuals who do not complete the Special Operations Forces Training Program, the required demonstration of proficiency in the High-Liability Basic Recruit Training Proficiency Skills, and achieve a passing score on the State Officer Certification Examination within one year, are permitted to apply for another exemption

from training, pursuant to Section 943.131(2), F.S., provided they meet the eligibility requirements outlined in Section 943.131(2), F.S. Upon demonstration of proficiency in the required High-Liability Basic Recruit Training Proficiency Skills, the training school shall complete an Exemption-From-Training Proficiency Demonstration, form CJSTC-76A, and provide a copy to the officer of form CJSTC-76A. The training center director or designee shall, within thirty days of program completion, electronically transmit a completed Training Report form CJSTC-67 through the Commission’s ATMS, or submit an updated form CJSTC-67.

~~(9)(7)~~ Regardless of the number of exemptions from training an individual receives, the individual shall not take the State Officer Certification Examination more than three times without enrolling in and completing a Commission-approved Basic Recruit Training Program pursuant to Section 943.1397(2), F.S.

~~(10)(8)~~ Individuals, who have qualified for an exemption from a Commission-approved Basic Recruit Training Program, pursuant to this rule section, shall become employed within four years from the earlier of the beginning date of the required proficiency demonstration as entered on the Training Report form CJSTC-67 or the beginning date of the Special Operations Forces Training Program.

~~(11)(9)~~ Individuals applying for exemption from a Commission-approved Basic Recruit Training Program, outlined in this rule section, shall not engage in conduct that subverts or attempts to subvert the State Officer Examination process pursuant to Rule 11B-30.009, F.A.C. Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.131(2) FS. History—New 1-2-97, Amended 7-7-99, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 5-21-12, 3-13-13, 5-29-14, 7-29-15, 9-4-16, 7-19-17, 8-15-18, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bureau Chief Glen Hopkins
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE NO.: RULE TITLE:

11C-6.009 Sale and Delivery of Firearms

PURPOSE AND EFFECT: The rule is amended to be consistent with statutory changes and to allow FDLE to suspend electronic payment access to dealers who act unethically. If access is suspended, dealers may pay the invoice by check.

SUMMARY: The amendments to Rule 11C-6.009, F.A.C. include revising the rule due to statutory changes and providing language that authorizes FDLE to suspend electronic access to dealers who act unethically.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 790.065, 943.03(4) FS.

LAW IMPLEMENTED: 790.065 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rachel Truxell at (850)410-7100, or racheltruxell@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11C-6.009 Sale and Delivery of Firearms.

(1) through (5) No change.

(6) Based on the status of the criminal history record, FDLE will provide an approval or non-approval number to the dealer during the call when possible or by return call or within the specified time frame as contained in section 790.065, F.S. Unless compliance with the requirements of this section is excused as provided in section 790.065(10), F.S., if the dealer has not received an approval or non-approval number, ~~conditional or otherwise~~, from FDLE within the time frame specified, the dealer must contact FDLE to inquire about the status of the request for approval, prior to completing the transaction. ~~If a conditional non approval number is issued, FDLE will attempt to determine the status of the criminal~~

~~history record so as to respond to the dealer within the time frame contained in section 790.065, F.S., with an approval or non-approval number. At the termination of the time period specified in section 790.065(2)(e)5., F.S., if such a determination is not possible, the conditional non approval number will become a conditional approval number.~~ The approval number is valid for a single transaction and for a period not to exceed thirty calendar days after receipt of the number. Multiple firearms may be transferred in this transaction.

(7) No change.

(8) To any potential buyer or transferee intending to formally appeal a non-approval decision, the dealer will provide a Firearm Purchase Program Non-Approval Appeal Form (form number FDLE 40-020, September 2016), incorporated herein by reference, <https://www.flrules.org/Gateway/reference.asp?No=Ref-08463>, and on file with Secretary of State, that must be completed by the dealer and the potential buyer or transferee. The potential buyer or transferee must take the form to a law enforcement agency, be fingerprinted there, and return the Firearm Purchase Program Non-Approval Appeal form and fingerprints to FDLE within 60 calendar days. Using the procedures as described in Chapter 11C-8, F.A.C., FDLE will process the formal appeal request. A supply of the appeal forms will be provided by FDLE to dealers upon request. Such requests should be directed to:

Florida Department of Law Enforcement

Firearm Purchase Program

Post Office Box 1489

Tallahassee, Florida 32302-1489

Telephone Number: (850)410-8139

As an alternative to this procedure, if the non-approval is based on an erroneous record provided by the FBI, the potential buyer or transferee may at any time appeal his non-approval directly to the FBI, as authorized by Title 28, C.F.R., Section 25.10.

(9) through (10) No change.

(11) Payment returned for any reason will be subject to the service fee as provided by section 215.34, F.S. Failure to pay the amount of the returned payment plus the service fee by the date specified by FDLE will result in the termination of services provided by FDLE, until all outstanding fees are paid in full. Dealers who dispute electronic charges as a means of avoiding or delaying payment of an invoice, as evidenced by a pattern of this activity; dealers who are suspected of engaging in fraudulent use of credit card, debit card, or other electronic payment means; and dealers found using a customer's credit card, debit card or electronic fund transfer information to directly pay invoices from FDLE may have electronic payment privileges revoked.

(12) through (20) No change.

Rulemaking Authority 790.065, 943.03(4) FS. Law Implemented 790.065 FS., Title 18, U.S.C., Chapter 44, and Title 27, C.F.R., Part 178. History—New 6-2-91, Amended 7-7-99, 8-22-00, 12-18-00, 11-5-02, 7-29-15, 9-4-16, 7-19-17, 8-15-18.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Director Charles Schaeffer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE NOS.: RULE TITLES:

11C-7.006 Procedures on Court-Ordered Expunctions

11C-7.007 Procedures on Court-Ordered Sealings

11C-7.009 Procedures on Juvenile Diversion Expunctions

11C-7.010 Procedures on Early Juvenile Expunction

PURPOSE AND EFFECT: Rule 11C-7.006, F.A.C.: Amending rule to remove an obsolete form, deleting the verbiage incorporating forms, updating the effective date of forms and the website link, and clarifying language for the certification of the application.

Rule 11C-7.007, F.A.C.: Amending rule to remove an obsolete form and reference current forms.

Rule 11C-7.009, F.A.C.: Revising rule due to statutory changes, correcting website link and clarifying language for the certification of the application.

Rule 11C-7.010, F.A.C.: Revising rule to correct the website link and clarifying language for the certification of the application.

SUMMARY: Amending rules to remove an obsolete form, deleting the verbiage incorporating forms, updating the effective date of forms and the website link, providing a revision date for the Federal Bureau of Investigation (FBI) fingerprint card, and clarifying language for the certification of the application.

Rule 11C-7.006, F.A.C.: The rule change is requested to reflect changes to existing forms, reflect the correct website link, provide a revision date for the FBI fingerprint card, and clarify language related to the certification of the application.

Rule 11C-7.007, F.A.C.: The rule change is requested to reflect changes to existing forms, provide the correct website link, and include the revision date for the FBI fingerprint card.

Rule 11C-7.009, F.A.C.: The rule change is requested to be consistent with statutory language, reflect changes to existing forms, update the website link, provide a revision date for the

FBI fingerprint card, and to clarify language for the certification of the application.

Rule 11C-7.010, F.A.C.: The rule change is requested to reflect the correct website link, provide a revision date for the Federal Bureau of Investigation fingerprint card, and the clarify language for the certification of the application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.03(4), 943.0515(1), 943.058(2), 943.0582, 943.059(2), FS.

LAW IMPLEMENTED: 943.0515(1), 943.0582, 943.0585, 943.059, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rachel Truxell at (850)410-7100, or racheltruxell@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11C-7.006 Procedures on Court-Ordered Expunctions.

(1) Prior to petitioning the court to expunge a criminal history record, the subject must apply to the Department for a certificate of eligibility for expunction. The application for the certificate of eligibility must include:

(a) A money order, cashier’s check, or certified check for \$75.00 made payable to the Florida Department of Law Enforcement. This processing fee is non-refundable, regardless of the results of the certification review. A fee waiver may be granted by the Executive Director of the Department upon

submission of a written request and in his determination that the waiver is in the best interests of criminal justice.

(b) A completed Application for Certification of Eligibility. The subject must complete section A of the application. The Application for Certification of Eligibility (form number FDLE 40-021, rev. ~~October 2018~~ ~~December 2009~~), or for Lawful Self-Defense Expunction under Section 943.0585(5), F.S. (form number FDLE 40-026, rev. ~~May 2017~~ ~~created April 2014, effective date July 2015~~), both of which are hereby incorporated by reference, may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>
<http://www.fdle.state.fl.us/expunge>

(c) The appropriate state attorney or statewide prosecutor ~~should~~ may provide the required written certified statement by completing complete section B of the Application for Certification of Eligibility ~~and have it certified~~.

(d) A legible set of fingerprints recorded on an FBI Applicant Fingerprint Card (FD-258, rev. 03/10), ~~or Fingerprint form 40-024, (rev. February 2008) and incorporated here by reference~~. The fingerprinting must be done by a law enforcement agency. The law enforcement agency fingerprinting the subject should place the following statement in the “Reason Fingerprinted” section on the card or Fingerprint form “Application For Certification Of Eligibility For Expunction.” The subject must pay any fees required by the law enforcement agency for providing this service. If a copy of the Applicant Fingerprint Card is needed, it may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>
<http://www.fdle.state.fl.us/expunge>

(e) A certified copy of the disposition of the charge or charges to which the petition to expunge pertains. The subject should obtain this document from the Clerk of the Court in the appropriate jurisdiction. The subject must pay any fees required by the Clerk of the Court for providing this service.

(2) The complete application packet should be mailed or delivered to Florida Department of Law Enforcement, ATTN:

Expunge/~~Seal~~-Section, Post Office Box 1489, Tallahassee, Florida 32302-1489.

(3) through (4) No change.

(5) The Department will send the subject a Certificate of Eligibility (form number FDLE ~~40-023, 40-022, rev. July 2006~~ ~~created October 2017, effective December 2017~~), ~~or~~ (form number FDLE 40-027, ~~created October 2014, effective date July 2015~~ ~~rev. October 2017~~), or (form number FDLE 40-030, ~~created October 2017, effective December 2017~~), ~~both of which are incorporated here by reference, <https://www.flrules.org/Gateway/reference.asp?No=Ref-05634>, if the specified criminal history record meets the requirements for expunction. If the specified criminal history record does not meet the requirements for expunction, the Department will send the subject a letter stating the reason for ineligibility with an explanation of appeal rights.~~

(6) No change.

Rulemaking Authority 943.03(4), 943.058(2) FS. Law Implemented 943.0585 FS. History—New 8-5-92, Amended 7-7-99, 8-22-00, 6-9-08, 6-3-10, 7-29-15, _____.

11C-7.007 Procedures on Court-Ordered Sealings.

(1) Prior to petitioning the court to seal a criminal history record, the subject must apply to the Department for a certificate of eligibility for sealing. The application for the certificate of eligibility must include:

(a) A money order, cashier’s check, or certified check for \$75.00 made payable to the Florida Department of Law Enforcement. This processing fee is non-refundable, regardless of the results of the certification review. A fee waiver may be granted by the Executive Director of the Department upon submission of a written request and in his determination that the waiver is in the best interests of criminal justice.

(b) A completed Application for Certification of Eligibility. The subject should complete section A of the application. The Application for Certification of Eligibility (form number FDLE 40-021, rev. ~~October 2018~~ ~~December 2009~~ and incorporated by reference) may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>
<http://www.fdle.state.fl.us/expunge>

(c) A legible set of fingerprints recorded on an FBI Applicant Fingerprint Card (FD-258, rev. 03/10), ~~or Fingerprint form (40-024, rev. February 2008)~~. The fingerprinting must be done by a law enforcement agency. The law enforcement

agency fingerprinting the subject should place the following statement in the “Reason Fingerprinted” section on the card or Fingerprint form: “Application For Certification of Eligibility For Sealing.” The subject must pay any fees required by the law enforcement agency for providing this service. If a copy of the Applicant Fingerprint Card is needed, it may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>
<http://www.fdle.state.fl.us/expunge>

(d) A certified copy of the disposition of the charge or charges to which the petition to seal pertains. The subject should obtain this document from the Clerk of the Court in the appropriate jurisdiction. The subject must pay any fees required by the Clerk of the Court for providing this service.

(2) The complete application packet should be mailed or delivered to Florida Department of Law Enforcement, ATTN: Expunge/~~Seal~~ Section, Post Office Box 1489, Tallahassee, Florida 32302-1489.

(3) through (4) No change.

(5) The Department will send the subject a Certificate of Eligibility (form number FDLE 40-022, rev. ~~October 2017~~ July 2006), or (form number FDLE 40-029, created October 2017, effective December 2017), if the specified criminal history record meets the requirements for sealing. If the specified criminal history record does not meet the requirements for sealing, the Department will send the subject a letter stating the reason for ineligibility with an explanation of appeal rights.

(6) No change.

Rulemaking Authority 943.03(4), 943.059(2) FS. Law Implemented 943.059 FS. History—New 8-5-92, Amended 7-7-99, 8-22-00, 6-9-08, 6-3-10, _____.

11C-7.009 Procedures on Juvenile Diversion Expunctions.

(1) A minor who has successfully completed a ~~pre-arrest or post-arrest~~ diversion program as authorized by Section ~~985.3065~~ 985.125, F.S., which program satisfies the requirements found at Section 943.0582, F.S., may apply directly to the Department for expunction of the minor’s juvenile nonjudicial arrest record. The application for the Juvenile Diversion Expunction must include:

(a) A completed Application for Juvenile Diversion Expunction. The subject must complete section A of the application. The Application for Juvenile Diversion Expunction, form number FDLE 40-025 (rev. 10/2018 ~~July 2013~~, effective 5/2014), hereby incorporated by reference

<https://web.fdle.state.fl.us/intakeweb/formrenderer.xhtml?pageId=se> ~~[http://www.fdle.state.fl.us/cms/Seal-and-Expunge-Process/Documents/JuvenileDiversionExpunctionApplication\(Final2013\).aspx](http://www.fdle.state.fl.us/cms/Seal-and-Expunge-Process/Documents/JuvenileDiversionExpunctionApplication(Final2013).aspx)~~, may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>
<http://www.fdle.state.fl.us/expunge>.

(b) The state attorney may provide the required written certification statement by completing ~~should complete~~ section B of the Application for Juvenile Diversion Expunction ~~and have it certified~~.

(c) A legible set of fingerprints recorded on an FBI Applicant Fingerprint Card (FD-258) (rev. 03/10). The fingerprinting must be done by a law enforcement agency. The law enforcement agency fingerprinting the subject should place the following statement in the “Reason Fingerprinted” section on the card or Fingerprint form: “Application For Juvenile Diversion Expunction.” The subject must pay any fees required by the law enforcement agency for providing this service. If a copy of the Applicant Fingerprint Card is needed, it may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>
<http://www.fdle.state.fl.us/expunge>

(2) The complete application packet should be mailed or delivered to Florida Department of Law Enforcement, ATTN: Expunge/~~Seal~~ Section, Post Office Box 1489, Tallahassee, Florida 32302-1489.

(3) If the application packet is incomplete the Department will not process it. The incomplete packet, ~~along with the processing fee~~, will be returned to the subject with an indication as to the reason for non-acceptance. It will be the subject’s responsibility to obtain the missing information and return the complete packet to the Department.

(4) No change.

(5) The Department will expunge the minor subject’s juvenile ~~diversion~~ arrest record if the application and the specified criminal history record meet the requirements for Juvenile Diversion Expunction, and will notify the minor

subject or his or her parent or legal guardian and the arresting agency of this action. Such expunction shall be as defined at Section 943.0582(2), F.S. If the application and the specified criminal history record do not meet the requirements for Juvenile Diversion Expunction, the Department will send the subject or his or her parent or legal guardian a letter stating the reason for ineligibility with an explanation of appeal rights.

(6) No change.

Rulemaking Authority 943.0582 FS. Law Implemented 943.0582 FS. History—New 11-5-02, Amended 6-9-08, 5-29-14, 7-20-17, _____.

11C-7.010 Procedures on Early Juvenile Expunction.

(1) A person who has not been committed to a juvenile correctional facility or juvenile prison under Chapter 985, F.S., may apply directly to the Department to have his or her juvenile criminal history record expunged, provided he or she is at least 18 years of age but less than 21 years of age. To be eligible for this form of expunction, the applicant must not have been charged by the state attorney with or found to have committed any criminal offense within the 5-year period before the application date. The application for the Early Juvenile Expunction must include:

(a) A money order, cashier’s check, or certified check for \$75.00 made payable to the Florida Department of Law Enforcement. This processing fee is non-refundable, regardless of whether the application for expunction is granted. A fee waiver may be granted by the Executive Director of the Department, upon submission of a written request, and in his or her determination that the waiver is in the best interests of criminal justice.

(b) A completed Application for Early Juvenile Expunction. The subject must complete section A of the application. The Application for Early Juvenile Expunction, form number FDLE 40-028, hereby incorporated by reference, <https://www.flrules.org/Gateway/reference.asp?No=Ref-08462>, may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>

~~<http://www.fdle.state.fl.us/cms/Seal-and-Expunge-Process/Seal-and-Expunge-Home>~~

(c) The state attorney for the circuit having jurisdiction over the arrest ~~should~~ may provide the required written certified statement by completing ~~complete~~ section B of the Application for Early Juvenile Expunction ~~and have it certified.~~

(d) A legible set of fingerprints recorded on an FBI Applicant Fingerprint Card (FD-258, rev. 03/10). The fingerprinting must be done by a law enforcement agency. The law enforcement agency fingerprinting the subject should place the following statement in the “Reason Fingerprinted” section on the card or Fingerprint form: “Application For Early Juvenile Expunction.” The subject must pay any fees required by the law enforcement agency for providing this service. If a copy of the Applicant Fingerprint Card is needed, it may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement
Expunge Section
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-7870
Website: <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx>

~~<http://www.fdle.state.fl.us/cms/Seal-and-Expunge-Process/Seal-and-Expunge-Home>~~

(e) A sworn, written statement from the applicant that he or she is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application pertains, and that he or she has not been charged with or found to have committed a criminal offense, in any jurisdiction of the state or within the United States, within the 5-year period before the application date.

(2) The complete application packet should be mailed or delivered, within the time frame prescribed by Section 943.0515(1)(b)2., F.S., to Florida Department of Law Enforcement, ATTN: Expunge/~~Seal~~ Section, Post Office Box 1489, Tallahassee, Florida 32302-1489.

(3) through (4) No change.

(5) The Department will expunge the subject’s juvenile criminal history record if the application and the specified criminal history record meet the requirements for Early Juvenile Expunction, and will notify the subject ~~or his or her parent or legal guardian~~. If the application and the specified criminal history record do not meet the requirements for Early Juvenile Expunction, the Department will send the subject a letter stating the reason for ineligibility with an explanation of appeal rights.

Rulemaking Authority 943.0515(1) FS. Law Implemented 943.0515(1) FS. History—New 7-20-17, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Director Charles Schaeffer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF LAW ENFORCEMENT

Division of Local Law Enforcement Assistance

RULE NOS.: RULE TITLES:
 11D-9.001 Definitions
 11D-9.002 Funds Availability
 11D-9.005 Application and Award Procedures
 11D-9.006 Forms and Instructions

PURPOSE AND EFFECT: Rule 11D-9.001, F.A.C.: Add new definitions for statewide planning requirements for the Edward Byrne Memorial Justice Assistance Grant (JAG) program.

Rule 11D-9.002, F.A.C.: Add new requirements for statewide planning for the Edward Byrne Memorial Justice Assistance Grant (JAG) program funding decisions.

Rule 11D-9.005, F.A.C.: Revise procedures and forms to incorporate changes with the electronic grant management system.

Rule 11D-9.006, F.A.C.: Revise procedures and forms to incorporate changes to the Department's grant management requirements.

SUMMARY: The amendments to Rule 11D-9 include revising definitions, requirements, procedures and forms for the Edward Byrne Memorial Justice Assistance Grant.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.25, 943.403, FS.

LAW IMPLEMENTED: 943.25, 943.403, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Bufano at (850)410-7676, or christopherbufano@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

11D-9.001 Definitions.

As used in these rules, except where the context clearly indicates a different meaning, the following terms shall have the meaning indicated:

(1) "Act" means the Omnibus Crime Control and Safe Streets Act of 1968, ~~34~~ 42 U.S.C. 3701, et. seq., as amended.

(2) "BJA" means the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice.

(3) "JAG" means the Edward Byrne Memorial Justice Assistance Grant Program.

(4) "JAG-Countywide" means the 60% funding stream ~~that~~ ~~was~~ formerly known as the Byrne Program.

(5) "JAG-Direct" means the 40% funding stream ~~that was~~ formerly known as the Local Law Enforcement Block Grant Program.

(6) "Criminal Justice System" means agencies established by state and local units of government to apprehend, prosecute, and adjudicate criminal offenders, including correctional agencies established to carry out the sentence imposed upon criminal offenders.

(7) "Department" means the Florida Department of Law Enforcement.

(8) "Eligible Application" is an application for Act funds, which meets the requirements of Rules 11D-9.001, 11D-9.002, 11D-9.005 and 11D-9.006, F.A.C.

(9) "Local Applicant" means any governing body of a city or county, however styled, including that of a consolidated or metropolitan government and including an Indian Tribe which performs law enforcement functions as determined by the Secretary of the Interior.

(10) "OCJG" means the Office of Criminal Justice Grants, Business Support Programs, Florida Department of Law Enforcement.

(11) "State Applicant" means any unit of the executive, legislative or judicial branches of state government which performs functions related to the purposes of the Act.

(12) "Statewide Strategic Plan" means a comprehensive plan developed in consultation with key stakeholders, as identified in the Omnibus Crime Control and Safe Streets Act, Section 502 (6)(a), detailing how grants administered under the JAG-Countywide and JAG-Direct Programs will be used to improve the criminal justice system.

~~(12) “Statewide Strategy for Drug Control, Violence Prevention, and System Improvement” means a policy designed to address the problems of illegal drug use and violent crime and to improve the efficiency and effectiveness of the criminal justice system in accordance with the Act.~~

(13) “Substance Abuse and Violent Crime Identification Matrix” means a set of statistical factors and values used by the Department to ascertain the degree of the drug problem or violent crime within any particular county relative to any other particular county.

~~(14) “PGI” means Program Generated Income.~~
 Rulemaking Authority 943.03(4), 943.403 FS. Law Implemented 943.25(1), 943.402 FS. History—New 2-6-90, Amended 4-2-92, 2-7-95, Formerly 9G-16.002, Amended 3-8-99, Formerly 9B-61.002, Amended 11-5-02, 3-27-06, 3-13-13, _____.

11D-9.002 Funds Availability for JAG-Countywide and JAG-Direct.

(1) JAG-Countywide. The amount of funds available shall be that amount allocated each federal fiscal year to the State of Florida by the federal government under the Act and appropriated by the legislature.

(2) The Department shall attempt to obligate all of the funds available in the current federal fiscal year, but may obligate part or all of the funds in a later federal fiscal year, when permitted by Federal law and applicable Florida Statutes.

(3) The Department shall establish a Substance Abuse and Violent Crime Identification Matrix, comprised of population and crime data, which shall be used, ~~in conjunction with population~~, to determine the amount of funds allocated to each county in accordance with paragraph 11D-9.002(4)(c), F.A.C., of this subsection. Through analysis of statewide databases, the Department shall determine the rate, trend and magnitude of the following group indices and their identified variables for the most recent five years of available data in each of Florida’s counties:

- (a) Violent Crime Index.
 - 1. Number of Burglary Offenses.
 - 2. Number of Larceny Offenses.
 - 3. Number of Robbery Offenses.
 - 4. Number of Murder Offenses.
- (b) Juvenile Involvement in Drugs Index.
 - 1. Number of juveniles arrested for sale and possession of marijuana.
 - 2. Number of juveniles arrested for sale and possession of cocaine.
 - 3. Drug Arrest Index. Number of arrests for sale and possession of any drug.
- (c) Cocaine Factor Index. Number of arrests for sale and possession of cocaine.

(4) Based on the rate, trend and magnitude of these indices in each county relative to every other county, the Department

shall generate a listing of the counties. Such listing shall be generated every two years.

(5) Each county shall be allocated a percentage of local share federal funds equal to one-half of the sum of that county’s percentage of statewide need as determined by the Substance Abuse and Violent Crime Identification Matrix plus that county’s percentage of the total state population.

~~(6) Each application for local share JAG Countywide Program funds shall represent agreement on expenditure of grant funds among at least 51% percent of the local units of government which also represent at least 51% percent of the population within the geographic boundaries of the applicant’s county.~~

~~(7) In the event that at least 51% percent of the units of government which also represent at least 51% percent of the population in any county are unable to agree upon the expenditure of funds by the application deadline established by the program announcement or are unable to expend all of their allocated funds by the end of the grant period, said funds shall be distributed at the discretion of the Department.~~

~~(6)(8)~~ JAG-Direct. BJA determines eligibility of JAG-Direct funds. Distribution of JAG-Direct funds will be determined by using the latest available UCR data and distributed to local units of government.

Rulemaking Authority 943.03(4), 943.403 FS. Law Implemented 943.25(1), 943.402 FS. History—New 2-6-90, Amended 4-2-92, 2-7-95, Formerly 9G-16.003, Amended 3-8-99, Formerly 9B-61.003, Amended 11-5-02, 3-27-06, _____.

11D-9.005 Application and Award Procedures for JAG-Countywide and JAG-Direct.

(1) Statewide Strategic Plan. The Department shall develop a Statewide plan to determine how grants received under the Edward Byrne Memorial Justice Assistance Grant Program will be used to improve the administration of the criminal justice system. The plan shall:

- (a) be designed in consultation with local governments and representatives of all segments of the criminal justice systems as outlined in the Act, Section 502(6)(A);
- (b) include a description of how the State will allocate funding within the JAG program areas identified in the Act, Section 501(a)(1);
- (c) describe the process used by State for gathering evidenced-based data and the use of such data in support of funding decisions; and
- (d) be updated every 5 years.

~~(2)(4)~~ JAG-Countywide Notification Process for State Applicants.

(a) The Department shall notify, in writing, state agencies that are appropriated a portion of the JAG-Countywide funds as determined by the Florida Legislature. Such notice shall identify the funding available, the purposes for which these

funds may be used and the procedures required for receipt of such funds.

(b) State agencies so notified shall be obligated the appropriated funds upon receipt of an application for such funds from the affected agency.

(c) Applicants who submit proposals to the Department for consideration shall submit ~~a two originals of the~~ completed application package ~~which is filled out~~ via the Department's electronic grants management system, ~~Subgrant Information ON line System (SIMON).~~

~~(3)(2)~~ JAG-Countywide Notification Process for Local Applicants.

~~(a)~~ To initiate a funding cycle, the Department shall notify all eligible agencies and jurisdictions through publication in the Florida Administrative Register. The funding cycle shall be advertised in the Florida Administrative Register at least 30 days prior to the deadline for submitting applications.

~~(a)(b)~~ In addition to the notice specified in paragraph ~~(1)(a)~~ of this section, The the Department shall send notice of the funding cycle ~~and a program announcement~~ to the Chairman ~~for the~~ Board of County Commissioners, in each county. The Department shall also provide a courtesy copy of said notice ~~and program announcement~~ to the Chief Elected Official of the governing body of each city located in each county so notified.

~~(b) (e)~~ The Chairman ~~for the~~ Board of County Commissioners, in each county so notified shall return to the Department within 30 days of receiving the funding notification, a statement of participation certification indicating the county's willingness to serve as the coordinating unit of government for at least 51% percent of the units of government which also represent at least 51% percent of the population located in said county. In the event the county declines to serve as the coordinating unit of government, the Department shall request the governing body of each municipality, in descending order of population, to serve as the coordinating unit of government. The county shall also identify a county coordinator. The Department shall provide an announcement code to access the application forms in "Subgrant Information Management On line System "SIMON," and any other needed information to the county coordinator.

(c) The county shall designate a county coordinator to serve as the primary point-of-contact for JAG-Countywide local application planning and coordination. The county coordinator shall be responsible for: coordinating the 51% process, coordinating the county's application submission, providing application instructions to approved agencies, and overseeing all applications within the county to ensure timely submission.

(d) Units of government receiving JAG Countywide funds must reach a written consensus on the use of those funds. This

written consensus shall be documented through submission of 51% letters which must:

1. Represent at least 51% of the units of government in the county;

2. Represent at least 51% of the population of the county;

3. Be signed by the chief official for the unit of government;

4. Identify each recipient, the amount, and the purpose for use of the funds; and

5. Include the total amount of the county's JAG Countywide allocation.

~~(d)~~ In the event the county declines to serve as the coordinating unit of government, the Department shall request the governing body of each municipality, in descending order of population, to serve as the coordinating unit of government.

~~(4)(3)~~ JAG-Countywide Local Application Process.

~~(a)~~ Each applicant is encouraged to appoint ~~an~~ a Substance Abuse and Violent Crime Policy Advisory Board, the membership of which shall include at a minimum the following persons or their authorized designee: Chief Circuit Judge, State Attorney, Public Defender, Sheriff, Chief of Police of each municipality within the county or a Chief of Police designated by those Chiefs of Police as their representative, Jail Administrator, Clerk of the Court, Superintendent of Education and a representative of local drug treatment programs. An existing Board or Council whose membership includes the listed representatives may be utilized in lieu of appointing a new Board or Council. The Substance Abuse and Violent Crime Policy Advisory Board shall serve as the primary body for identifying priority areas for funding to improve criminal justice within the local jurisdiction, coordinating drug abuse efforts undertaken with funds provided by the Act.

~~(b)~~ Each applicant is encouraged to designate an Office of Substance Abuse and Violent Crime Policy for the purposes of:

1. Providing administrative support to the Substance Abuse and Violent Crime Policy Advisory Board;

2. Preparing an application on behalf of at least 51 percent of the local units of government that also represents at least 51% percent of the population in the applicant's county;

3. Administering funds received from the OCJG, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustment, accounting, auditing and fund disbursements; and

4. Coordinating the drug control and violent crime prevention and enforcement activities of the county's criminal justice system, education system and drug treatment systems.

~~(c)~~ An office or agency performing other functions within the applicant unit of government may be designated as the Office of Substance Abuse and Violent Crime Policy.

~~(b) (d)~~ Applicants who submit proposals to the Department for consideration shall submit ~~a two originals of the~~ completed

application package which is filled out via the Department's electronic grant management system, Subgrant Information ON-line System (SIMON).

(c)(e) The Department shall review all applications for JAG-Countywide funds and shall reject any application not meeting the requirements of these rules and applicable federal and state laws.

(5)(4) JAG-Direct Notification Process for Local Applicants. To initiate a funding cycle, the Department shall send notice of the funding cycle ~~and a program announcement~~ to the Chief Elected Official of the governing body of each unit of government identified by BJA as eligible to receive JAG-Direct funds, city located in each county so notified, local agency head; being the mayor of the city or the chairman, in each county.

(6)(5) JAG-Direct Local Application Process.

(a) Applicants who submit proposals to the Department for consideration shall submit a two originals of the completed application package which is filled out via the Department's electronic grant management system, Subgrant Information ON-line System (SIMON).

(b) The Department shall review all applications for Act funds and shall reject any application not meeting the requirements of these rules and applicable federal and state laws.

Rulemaking Authority 943.03(4), 943.403 FS. Law Implemented 943.25(1), 943.402 FS. History—New 2-6-90, Amended 2-7-95, Formerly 9G-16.008, Amended 6-22-00, Formerly 9B-61.008, Amended 11-5-02, 3-27-06, 3-13-13, _____.

11D-9.006 Forms and Instructions.

Copies of the materials and forms required for the application process in Rule 11D-9.005, F.A.C., ~~are incorporated by reference herein~~ may be obtained through the electronic grants management system, the Office of Criminal Justice Grants website, by email to criminaljustice@fdle.state.fl.us, or by writing or calling: Office of Criminal Justice Grants, Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308, Telephone (850)617-1250.

Forms Required

- (1) Project Expenditure Report OCJG-001
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02283> (rev. June 2012)
- (2) Financial Closeout Audit OCJG-002
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02284> (rev. June 2012)
- (3) PGI Budget Request OCJG-003

- <https://www.flrules.org/Gateway/reference.asp?No=Ref-02285> (rev. June 2012)
- (4) PGI Earnings and Expenditure Report OCJG-004
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02287> (rev. June 2012)
- (5) Application for Funding Assistance OCJG-005
(rev. April 2005)
- (6) Confidential Funds Certification OCJG-008
(rev. October 2005)
- (7) Criminal Intelligence System Certification OCJG-009
(rev. October 2005)
- ~~(8) Automated Data Processing (ADP) Equipment and Software and Criminal Justice Information and Communication Systems Request for Approval Form~~ OCJG-010
(rev. October 2005)
- ~~(9) Sole Source Justification for Services and Equipment Request for Approval Form~~ OCJG-011
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02288> (rev. June 2012)
- (10) Certificate of Acceptance of Subgrant Award OCJG-012
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02289> (rev. June 2012)
- (11) Refund Form OCJG-018
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02290> (created June 2012)
- (12) Grant Adjustment Notice OCJG-020
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02314> (created June 2012)
- (13) Performance Report OCJG-023
<http://www.flrules.org/Gateway/reference.asp?No=Ref-02292> (created June 2012)
- (14) Certificate of Participation OCJG-024
<https://www.flrules.org/Gateway/reference.asp?No=Ref-02293> (created

(15) Request for Cash Advance
<https://www.flrules.org/Gateway/reference.asp?No=Ref-022315>

June 2012)
OCJG-025
(created

(16) PGI Budget Approval
<https://www.flrules.org/Gateway/reference.asp?No=Ref-022295>

June 2012)
OCJG-026
(created

(17) Certification as to Bulletproof Vest Purchase Requirements
<https://www.flrules.org/Gateway/reference.asp?No=Ref-022296>

June 2012)
OCJG-027
(created
June 2012)

Rulemaking Authority 943.03(4), 943.403 FS. Law Implemented 943.25(1), 943.402 FS. History—New 2-6-90, Amended 2-7-95, Formerly 9G-16.009, Amended 6-22-00, Formerly 9B-61.009, Amended 11-5-02, 3-27-06, 3-13-13, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Director Michelle Pyle
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 31, 2018

DEPARTMENT OF LAW ENFORCEMENT
Division of Local Law Enforcement Assistance

RULE NO.: 11D-10.003
RULE TITLE: Selection Committee
PURPOSE AND EFFECT: Subsection 11D-10.003(3), F.A.C.: Removes the specification of the January Cabinet meeting from the rule to allow nominations to be submitted at a subsequent Cabinet meeting.

SUMMARY: Removes the specific Cabinet meeting that the nominations will be submitted to the Governor and Cabinet for consideration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is

required, the information expressly relied upon and described herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 265.0041(5), FS.
LAW IMPLEMENTED: 265.0041, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Vickie Koenig at (850)410-8600, or vickiekoenig@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Law Enforcement Officers’ Hall of Fame, P. O. Box 1489, Tallahassee, Florida 32302-1489.

THE FULL TEXT OF THE PROPOSED RULE IS:

11D-10.003 Selection Committee,

(1) Nominations for induction into the Florida Law Enforcement Officers’ Hall of Fame will be reviewed to ensure nominations were received by the established deadline, nominees meet the eligibility requirements pursuant to subsection 11D-10.001(1), F.A.C., and the nomination package complies with the requirements of Rule 11D-10.002, F.A.C.

(2) A Florida Law Enforcement Officers’ Hall of Fame Selection Committee is established. The Selection Committee shall be comprised of an individual from each of the nominating organizations pursuant to subsection 11D-10.002(1), F.A.C.

(3) The Selection Committee shall deliberate and select no more than 5 nominees to be transmitted ~~in January~~ of each calendar year to the Governor and Cabinet for possible induction into the Florida Law Enforcement Officers’ Hall of Fame.

Rulemaking Authority 265.0041(5) FS. Law Implemented 265.0041 FS. History—New 7-29-15, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bureau Chief Vickie Koenig
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2018

DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General

RULE NOS.:	RULE TITLES:
11N-1.002	Criteria
11N-1.0021	Violent Crime Investigative Reimbursement and Emergency Funding
11N-1.0022	Matching Drug Control Investigative Funding
11N-1.003	Limitations on Violent Crime Investigative Reimbursement Funding
11N-1.0031	Limitations on Matching Drug Control Investigative Funding
11N-1.004	Procedures for Emergency Violent Crime Investigative Funding
11N-1.005	Procedures for Formal Funding Requests for Violent Crime Investigative Reimbursement Funding
11N-1.0051	Procedures for Funding Requests for Drug Control Investigative Funding
11N-1.006	Contributions
11N-1.009	Victim/Witness Protection Program

PURPOSE AND EFFECT: Rule 11N-1.002, F.A.C.: Amending to simplify procedure and process for funding. Rule 11N-1.0021, F.A.C.: Amending to clarify criteria. Rule 11N-1.0022, F.A.C.: Amended to Clarify Criteria. Rules 11N-1.003, 11N-1.0031, 11N-1.004, 11N-1.005, 11N-1.0051, 11N-1.006, 11N-1.009, F.A.C.: Repeal.

SUMMARY: The amendments to Rule 11N-1 include revising procedures and process for administering the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

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.

RULEMAKING AUTHORITY: 943.031; 943.042, FS.

LAW IMPLEMENTED: 943.031; 094.042; 914.25, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Bufano at (850)410-7676, or christopherbufano@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

CHAPTER 11N-1
**VIOLENT CRIME AND DRUG CONTROL
 INVESTIGATIVE ASSISTANCE AND EMERGENCY
 AND DRUG CONTROL STRATEGY IMPLEMENTATION
 ACCOUNT GRANT PROGRAMS**

- 11N-1.001 Definitions
- 11N-1.002 Purpose and Funding ~~Criteria~~
- 11N-1.0021 Criteria for Violent Crime Investigative ~~Reimbursement~~ Assistance and Emergency Funding
- 11N-1.0022 Criteria for ~~Matching~~ Drug Control Investigative Assistance and Emergency Funding
- 11N-1.003 Limitations on Violent Crime Investigative Reimbursement Funding (repeal)
- 11N-1.0031 Limitations on Matching Drug Control Investigative Funding (repeal)
- 11N-1.004 Procedures for Emergency Violent Crime Investigative Funding (repeal)
- 11N-1.005 Procedures for Formal Funding Requests for Violent Crime Investigative Reimbursement Funding (repeal)
- 11N-1.0051 Procedures for Funding Requests for Drug Control Investigative Funding (repeal)
- 11N-1.006 Contributions (repeal)
- 11N-1.007 Annual Audit
- 11N-1.008 Active Criminal Investigative and Active Criminal Intelligence (Repealed)
- 11N-1.009 Victim/Witness Protection Program (repeal)

11N-1.001 Definitions

As used in these rules, except where the context clearly indicates a different meaning, the following terms shall have the meaning indicated:

- (1) “Allowable Cost” means only those costs or expenditures submitted and approved by the Review Committee and Department that are eligible for funding from the Council.
- (2) “Council” means the Violent Crime and Drug Control Council
- (3) “Department” means the Florida Department of Law Enforcement, which is a “state awarding agency” for purposes of the Single Audit Act, Section 215.97, F.S.

(4) “Grant” means an award of financial assistance to a qualified eligible recipient pursuant to a written agreement and in accordance with the applicable provisions of the Council’s funding programs as authorized in 943.031, F.S.

(5) “Pre-qualification” means that Council staff or committee will conduct a review and approve an applicant’s funding request, overall capabilities, and/or eligibility to perform the duties and responsibilities required by the grant programs. The review may include, but is not limited to, consideration of experience, curriculum vitae, quality and timeliness of past performance, compliance with law enforcement, grant, and other standards and requirements, and professional accreditation of the applicant.

(6) “Recipient” is as defined in Section 215.97, F.S.

(7) “Review Committee” means a committee established within the Council responsible for completing the pre-qualification and approval of grant applications and funding requests.

(8) “Solicitation” means the written document or publication issued by Department in cooperation with the Council, incorporated by reference into this rule containing procedures and policies; announcing available grant funding, program criteria and requirements, eligibility, and application instructions, which shall govern the administration of the Council’s grant programs.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New _____.

11N-1.002 Purpose and Funding Criteria.

(1) Purpose. It is the intent of the Department and Council to administer financial assistance grant programs to eligible recipients pursuant to authority under Section 943.031 and 943.042, F.S.

(2) Funding Process.

(a) The amount of funds available shall be that amount allocated each state fiscal year to the Department as appropriated by the Legislature and allocated to each grant program by the Council.

(b) All funds will be used to support priorities and objectives, adhere to grant program criteria, and comply with solicitations as approved by the Council, incorporated by reference herein.

(c) The Department shall issue an annual grant solicitation and begin receiving applications by [date] of each calendar year.

(d) The Department and Council shall attempt to obligate all funds available in the current fiscal year, but may obligate part or all of the funds in a later fiscal year, when permitted by law.

(e) Applications for funding shall be submitted to the Department on application forms as specified by the Council

and Department signed by the chief official or head of the requesting agency that complies with Council program requirements.

(f) Applications received from local governmental entities that have not returned to the Department any unexpended or unaccounted-for funds from prior year grants shall be rejected by the Department and Review Committee. Applications from local governmental entities that have not met their obligations under the terms of any previous grant agreements for funds under this Rule or authorizing legislation shall also be rejected by the Department and Review Committee.

(g) Awarded grant funds shall be administered pursuant to a written financial assistance agreement between the Department and recipient, upon approval of the application by the Review Committee.

(h) All expenditures of Council grant funds must comply with the terms and conditions of the grant award and be expended in a manner approved by the Council or Review Committee.

(i) Rapid funds disbursement. The Review Committee and Department shall employ rapid funds disbursement procedures for violent crime investigative assistance and emergency funding as authorized in section 943.031(6).

(3) Allowable costs and limitations on use of funds.

1. Allowable costs for violent crime and drug control investigative assistance and emergency grant programs are case-related investigative expenses, salary and overtime for offices and employees directly linked to a funded investigation and other expenses related to investigations approved by the Council.

2. Allowable costs for violent crime emergency trial-related funding are limited to extraordinary violent crime trial-related expenses and salary overtime payments. Such funding shall not include the payment of salaries for permanent employees, or the purchase of furnishings and equipment. Examples of extraordinary trial-related expenses include expert witness fees, travel expenses of witnesses, extraordinary security measures, and salary payments to temporary security personnel under contractual agreements.

(c) Funding provided by the Council shall not be used to supplant, take the place of, or substitute for existing appropriations of state and local law enforcement agencies and units of government.

(d) Matching funds of ten percent cash or in-kind shall be required for all Council grant programs.

(e) The maximum funding provided by the Council on a single investigation shall be \$100,000. However, an approved investigative effort may consist of multiple investigations, each of which may receive funding up to \$100,000.

(f) No law enforcement agency as defined herein may receive more than \$200,000 in Council funds during the agency's fiscal year.

(g) Payment of overtime with Council funds shall not exceed \$10,000 per officer or employee dedicated to the funded investigative effort.

(h) As used herein, "beyond the resources" means that the expenses claimed by the agency seeking emergency funding assistance under this section are so extraordinary that they currently jeopardize the requester's ability to provide the services or duties required by law or have caused the requestor to terminate providing a service it would otherwise not be providing, and that the requester has demonstrated to the Council that all reasonable alternatives for funding the claimed expenses within the requesting agency's current fiscal year have been exhausted.

(4) Recipients of Council violent crime or drug control investigative assistance or emergency funding shall:

(a) Designate a lead investigative agency that will serve as the liaison between the Council and the participating agencies for the purposes of coordinating the collection of information and in disbursing funds approved by the Council.

(b) Each participating agency shall agree to promptly provide requested information to the Council, to provide regular performance reports and information related to funded investigations as required by the Council, retain documentation and proof of expenditures or personnel efforts as may be required by the Council, and submit to any audit or review of the use of received funds as may be required by the Council.

(c) If an additional agency is brought into the investigation after funding has already been appropriated and no additional monies are being sought and there is no change of focus of the investigation, a lead investigative agency is authorized to request that the additional agency be permitted to share in council funds for the investigation.

(d) The lead agency shall verify and endorse both that agency match funding is available from the new agency and that all requirements will be fulfilled by the new agency.

(e) The new agency shall guarantee its agreements are completed and obtain agency match funding before presenting its package, with the lead agency's endorsement, to the Chairperson of the Council.

The Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be used:

(1) To provide emergency supplemental funds to:

(a) State and local law enforcement agencies which are involved in complex and lengthy violent crime investigations, as provided for in subsection 11N-1.0021(1), F.A.C.

(b) State and local law enforcement agencies which are involved in violent crime investigations which constitute a

significant emergency within the state, as provided for in subsection 11N-1.0021(2), F.A.C.

(c) Counties which demonstrate a significant hardship or an inability to cover extraordinary expenses associated with a violent crime trial, as provided for in subsection 11N-1.0021(3), F.A.C.

(2) To provide matching funding, as provided for in Rule 11N-1.0022, F.A.C., to multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that:

(a) Significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control;

(b) Represent a significant illicit money laundering investigative effort; or

(c) Otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under Section 397.333, F.S.

(5)(3) Application information, funding criteria, and dates of scheduled Violent Crime & Drug Control Council (Council) meetings can be found at <http://www.fdle.state.fl.us/vcdcc/VCDCC.htm>.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, 10-25-01, 11-5-02, 3-21-07, 6-9-08, _____.

11N-1.0021 Criteria for Violent Crime Investigative Assistance Reimbursement and Emergency Funding.

(1) Eligibility and compliance. Applicants shall meet and comply with eligibility, application, limitations, instructions, and requirements as set forth in the grant guidelines as approved by the Council for this program and published on the Council website at <http://www.fdle.state.fl.us/VCDCC/VCDCC-Home.aspx>.

(2) Purpose for violent crime investigative funding. Provide financial assistance to local and state law enforcement agencies involved in complex and lengthy violent crime investigations. In determining whether requests from state and local law enforcement agencies relate to involvement in a complex and lengthy violent crime investigation, the Council shall consider whether:

(a) The crime under investigation involves multiple victims;

(b) The crime resulted in the death or serious bodily injury to one or more victims;

(c) The crime appears to be part of a pattern of serial or interrelated criminal events; or

(d) The crime evidences a heinous, wicked, or grossly disturbing method of commission; and shall consider the nature and extent of complexity and length of the investigative efforts and whether the expenses claimed are beyond the resources of

the investigative agency or agencies making the request for funding, as defined in subsection (4) of this section.

~~(3)~~⁽²⁾ In determining whether requests from state and local law enforcement agencies relate to a violent crime investigation which constitutes a significant emergency within the state, the Council shall consider whether:

(a) The nature and extent of the crime produces a heightened concern within the state for the safety and well-being of Florida's citizens and visitors;

(b) The crime is thought to involve one or more perpetrators who have traveled from one state or local jurisdiction to another committing similar or pattern crimes;

(c) The crime is such that absent successful apprehension and prosecution of the perpetrator, Florida's reputation for being a safe recreational, occupational, and residential location is being jeopardized or is suffering significant deterioration; and the expenses claimed are beyond the resources of the investigative agency or agencies making the request for funding.

~~(3) In determining whether a county has demonstrated a significant hardship or inability to cover extraordinary expenses associated with a violent crime trial, the Council shall consider whether:~~

~~(a) The expenses claimed as extraordinary expenses associated with a violent crime trial are such as to have been reasonably unpredictable, in that at the time its current budget was finalized, the county could not have anticipated and did not anticipate the claimed expenses in meeting its general obligations to the criminal justice system;~~

~~(b) Reasonable witness related expenses associated with a violent crime trial (such as travel and lodging expenses) have exceeded or are anticipated to exceed those incurred for similar trials in the trial's geographic location;~~

~~(c) Special security needs associated with a violent crime trial have generated expenses or are anticipated to generate expenses not regularly incurred in providing security for similar trials in the geographic location;~~

~~(d) A change of venue or jury selection or sequestration needs associated with a violent crime trial have generated expenses or are anticipated to generate expenses not regularly incurred for similar trials in the geographic location; and the extraordinary expenses claimed are beyond the resources of the county making the request for funding.~~

(4) As used herein, "beyond the resources" means that the expenses claimed by the agency seeking emergency supplemental funding under this section are so extraordinary that they currently jeopardize the requester's ability to provide the services or duties required by law or have caused the requestor to terminate providing a service it would otherwise not be providing, and that the requester has demonstrated to the Council that all reasonable alternatives for funding the claimed

~~expenses within the requesting agency's current fiscal year have been exhausted.~~

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Amended 11-5-02, _____.

11N-1.0022 Criteria for Drug Control Investigative Assistance and Emergency Funding.

(1) Eligibility and compliance. Applicants shall meet and comply with eligibility, application, limitations, instructions, and requirements as set forth in the grant guidelines as approved by the Council for this program and published on the Council website at <http://www.fdle.state.fl.us/VCDCC/VCDCC-Home.aspx>.

(2) Purpose for drug control investigative funding. Provide financial assistance to local and state law enforcement agencies involved in complex and lengthy drug control investigations. In determining whether requests for drug control funding relate to multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that:

~~(a)~~⁽¹⁾ Significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control;

~~(b)~~⁽²⁾ Represent a significant illicit money laundering investigative effort; or

~~(c)~~⁽³⁾ Otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council, and adhering to the following criteria shall be considered: approved by the Council in the grant program solicitation.

(a) Mandatory Factors:

~~1. The investigative effort focuses on a drug trafficking operation shown to have, or reasonably believed of having, activities such that involvement of multiple investigative agencies is necessary; and,~~

~~2. At least two agencies of the State of Florida, counties, cities, or combination thereof within the State of Florida are involved; and,~~

~~3. The investigative effort demonstrates a commitment of participating agencies to cooperate with one another in a collaborative investigative effort; and,~~

~~4. The operation to be investigated has, or is reasonably believed to have, a structure that directs, finances, and engages in illegal drug trafficking and related crimes (such as money-laundering, tax violations, corruption of public officials and employees, illegal immigration, weapons violations, and crimes of violence) that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents; and,~~

~~5. The proposed investigative effort demonstrates a specific strategy;~~

a. To achieve successful prosecutions of those within the organization who hold a position of organizer, supervisor, or any other position of management or who obtains substantial assets or resources from the illegal acts of the operation being investigated as they may become identified; and,

b. To utilize a multi-agency and cross-discipline approach to disrupt and dismantle the criminal operation, such as licensure action, charter revocation, regulatory sanctions and tax assessments.

6. The proposed investigative plan demonstrates a level of participating agency resource commitment that suggests a substantial likelihood of investigative and prosecution success; and,

7. The proposed effort includes a commitment from one or more State Attorneys in Florida, U.S. Attorneys in Florida, or Florida's Statewide Prosecutor having jurisdiction over the activities of the organization under investigation to assist and support the investigation, through efforts such as issuance of subpoenas, use of grand juries, obtaining search warrants, securing court orders regarding the interception of communications, coordinating multiple prosecutions, assisting in securing plea agreements with those in the organization in return for cooperation and testimony, and certifying witnesses for witness protection under applicable law and a commitment to cooperate with other prosecuting entities having jurisdiction over activities of the organization to maximize the success of the investigative effort.

8. The proposed investigative effort shall provide that all known targets in a drug investigation proposed to be funded by the Council funds shall be entered into the "InSite" database maintained by the Florida Department of Law Enforcement. The funding request shall indicate that such entry has been accomplished. All targets becoming known after application to the Council or after funding by the Council or both shall be promptly entered into "InSite." All drug seizures related to drug control Council funded investigations shall be entered into "InSite." Upon failure to make such entry, the Council is authorized to suspend funding not yet provided and to direct refund of all unexpended funds previously provided by the Council.

(b) Non-Mandatory Factors Enhancing the Significance of the Proposed Effort:

1. The activities of the operation under investigation are responsible for known specified significant criminal activity in multiple regions of the State;

2. The activities of the operation are primarily associated with, and the investigative plan focuses upon, the illicit trafficking of cocaine, heroin, or other controlled substances of current major state concern, including substances commonly referred to as "rave drugs" or "designer drugs" such as "Ecstasy" (3,4-methylenedioxymethamphetamine "MDMA"),

gamma-hydroxy-butyrate ("GHB"), methamphetamine ("Meth"), lysergic acid diethylamide ("LSD"); and other substances;

3. The proposed investigative plan has identified the types and methods of money laundering violations under state or federal law actually, or suspected to be, occurring, and articulates a dedicated strategy to identify, trace, and address persons, institutions or other entities that are likely involved;

4. The operation under investigation is known to have and identifies, or is reasonably believed to have, assets and property that constitute contraband under Florida or other law that may be seized and forfeited and the investigative plan contains a strategy to identify such assets and property and to use forfeiture options to disrupt the underlying organization;

5. Persons in the operation under investigation are, upon successful prosecution, likely to receive sentences involving substantial terms of incarceration in state or federal prisons (as specified in Section 893.135, F.S., or Title 21, U.S.C. for drug trafficking offenses), paying a substantial fine (as specified in Section 893.135, F.S., or Title 21, U.S.C., for drug trafficking offenses), or both;

6. The proposed investigative effort appears to be likely to be lengthy and complex (as specified in Rule 11N-1.0021, F.A.C.), and will likely require sophisticated electronic, undercover or other investigative techniques;

7. The operation under investigation is such that if investigation and prosecutions are successful it is likely that seizures or reductions in trafficking quantities of illegal controlled substances within the State of Florida will result; or

8. The proposal presents an innovative plan with a likelihood of success for addressing a significant drug trafficking organization. In determining what constitutes a significant drug trafficking organization, the Council shall, in conjunction with its review of factors found at paragraph 11N-1.0022(1)(c), F.A.C., consider the following factors related to the organization under investigation as may be demonstrated in the request:

a. The trafficking amounts of illicit controlled substances believed to be involved in the organization's activities;

b. The amounts of currency or other means of exchange, and the amount of money laundering activity as prohibited by Chapter 896, F.S., Title 18 or 31, U.S.C., that are believed to be involved in the organization's activities;

c. The number of persons believed to be involved in the organization's illicit activities;

d. The regional, statewide, national, or multi-national impact expected to occur if the investigation successfully disrupts the organization under investigation;

e. The perceived potential or propensity of the organization for violence, injury to innocent persons, or for any activity reasonably believed to be hazardous to persons or property;

~~f. Known or suspected links of the organization or its members to individuals or organizations suspected to be or known to be involved in acts of terrorism as defined at Section 775.30, F.S., or in promoting, planning, or executing acts of violence to further political or other beliefs;~~

~~g. The numbers of users of illicit controlled substances whose source of supply to such estimated substances will be curtailed or restricted if the investigation successfully disrupts the organization under investigation; and,~~

~~h. The contraband, as defined in Section 932.701, F.S., or Title 18, 21, or 31, U.S.C., believed to be subject to forfeiture if the investigation is successful.~~

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Amended 11-5-02, 12-3-03, 3-27-06, Repealed.

11N-1.003 Limitations on Violent Crime Investigative Reimbursement Funding.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, 10-25-01, 12-3-03, Repealed.

11N-1.0031 Limitations on Drug Control Investigative Funding.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Amended 12-3-03, 3-27-06, 3-21-07, Repealed.

11N-1.004 Procedures for Emergency Violent Crime Investigative Funding.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, 8-22-00, 10-25-01, 12-3-03, 3-21-07, 6-9-08, Repealed.

11N-1.005 Procedures for Formal Funding Requests for Violent Crime Investigative Reimbursement Funding.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, 10-25-01, 12-3-03, 3-27-06, 3-21-07, 6-9-08, Repealed.

11N-1.0051 Procedures for Funding Requests for Drug Control Investigative Funding.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Amended 12-3-03, 3-27-06, 3-21-07, 6-9-08, Repealed.

11N-1.006 Contributions.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, 10-25-01, 3-27-06, Repealed.

11N-1.008 Active Criminal Investigative and Active Criminal Intelligence.

Rulemaking Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Repealed 5-21-12.

11N-1.009 Victim/Witness Protection Program.

Rulemaking Authority 943.03(4) FS. Law Implemented 943.031(6), 914.25 FS. History—New 12-3-03, Amended 3-27-06, 3-21-07, 6-9-08, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Bureau Chief Sherry Gomez

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 31, 2018

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.: RULE TITLES:

62-761.200	Definitions
62-761.210	Reference Guidelines
62-761.300	Applicability
62-761.400	Facility Registration
62-761.405	Notification
62-761.420	Financial Responsibility
62-761.430	Incidents
62-761.500	Storage Tank System Requirements
62-761.700	Repairs, Operation and Maintenance
62-761.800	Out-of-Service and Closure Requirements
62-761.850	Alternative Procedures, Equipment Registration and Registration of Operator Training Providers
62-761.900	Storage Tank Forms

PURPOSE AND EFFECT: Revising language for clarification in certain Underground Storage Tank Systems rules.

SUMMARY: In the “Definition” section, correcting federal rule citation and clarifying language. In “Reference Guidelines”, updating reference guidance documents to current editions. In "Applicability", updating reference guidelines. In “Facility Registration”, adding clarifying language. In "Notification", updating form date. In “Financial Responsibility”, clarifying language and sentence structure, and revising forms. In “Incidents”, clarifying language is included and removal of conflicting timeline. In the “Storage Tank System Requirements”, including clarifying language and updating reference guideline editions. Also revising the overfill protection subsection to be consistent with federal suggested interpretation that reduces regulatory burden on industry without lowering environmental standards or safeguards. In “Repairs, Operation and Maintenance”, adding clarifying language and updating reference guideline editions. Also clarifying ambiguous integrity testing requirements for equipment over the surface waters of the state due to the revision of a term. In "Alternative Procedures, Equipment Registration and Registration of Operator Training Providers",

updating form. In "Out-of-Service and Closure Requirements", adding clarifying language, updating reference guideline editions, and rearranging sentence structure for clarity. In "Alternative Procedures, Equipment Registration and Registration of Operator Training Providers", updating Equipment Registration form. In "Storage Tank Forms", updating forms.

OTHER RULES INCORPORATING THIS RULE: 40C-3.411, 40C-3.502, 40C-3.517, 40C-3.521, 40D-3.502, 40D-3.521, 40E-3.411, 40E-3.502, 62-521.400, 62-555.312, 62-555.520, 62-701.300, 62-710.401, 62-713.600, 62-740.030, 62-740.100, 62-740.200, 62-740.300, 62-762.421, 62-780.210, and 62-780.600.

EFFECT ON THOSE OTHER RULES: Amendments to Chapter 62-761, F.A.C., in this Notice of Proposed Rule are not expected to have any significant impact on the following rules: 40C-3.411, 40C-3.502, 40C-3.521, 40D-3.502, 40D-3.521, 40E-3.411, 40E-3.502, 62-521.400, 62-555.312, 62-555.520, 62-701.300, 62-710.401, 62-713.600, 62-740.030, 62-740.100, 62-740.200, 62-740.300, 62-762.421, 62-780.210, and 62-780.600. Amendments to Chapter 62-761, F.A.C., will have an impact to Rules 62-555.312 and 62-555.520, F.A.C. which need to be updated to reflect that Chapters 62-761 and 62-762, F.A.C., were separated into two rules effective June 21, 2004. Rule 40C-3.517 cites repealed rule 62-761.640, and should cite 62-761.600, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Revisions to the rules are based on updates and clarifications. The proposed revisions are not expected to incur costs to industry stakeholders.

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.

RULEMAKING AUTHORITY: 376.303, FS.

LAW IMPLEMENTED: 376.30, 376.301, 376.303, 376.30716, 376.3073, 376.3077, 376.308, 376.309, 403.077, 403.091, 403.141, 403.161, 489.133, 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: April 22, 2019, 9:00 a.m. until no later than 11:30 a.m.

PLACE: Room 609, Bob Martinez Building, 2600 Blair Stone Road, Tallahassee, FL

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: William E. Burns, Jr., Department of Environmental Protection, 2600 Blair Stone Rd., Tallahassee, FL 32399. bill.burns@floridadep.gov or (850)245-8842. 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: William E. Burns, Jr., Department of Environmental Protection, 2600 Blair Stone Rd., Tallahassee, FL 32399. bill.burns@floridadep.gov or (850)245-8842. Copies of the proposed draft documents are available at <https://floridadep.gov/waste/permitting-compliance-assistance/content/compliance-assistance-program-announcements>.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-761.200 Definitions.

All words and phrases defined in section 376.301, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See section 376.301, F.S., for definitions of the following terms: "Contaminant," "Department," "Discharge," "Facility," "Flow-through process tank," "Hazardous substances," "Operator," "Owner," "Petroleum," "Petroleum product," and "Pollutants." The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meaning:

(1) through (9) No change.

(10) "Closure Integrity Evaluation" is an assessment of storage tank system integrity that is performed by a third-party inspection or testing entity at closure, replacement, or change in service from a tank containing regulated substance to a non-regulated substance. The evaluation is a physical test of interstitial tightness or visual inspection of the interstice of a secondarily contained storage tank system, secondarily contained storage tank system component, or a primary integrity test of a single-walled storage tank, or containment integrity test of a single-walled piping sump, dispenser sump, or spill containment system.

(11) No change.

(12) “Closure Report” is a report prepared in accordance with *Instructions for Conducting Sampling During Underground Storage Tank Closure*, December 2018 April 2016 Edition.

(13) through (41) No change.

(42) “Pesticides” means any substance or mixture of substances, ~~as defined in section 487.021, F.S.,~~ intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of 21 U.S.C. § 321(v) s.201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) No change.

(c) Is an animal feed within the meaning of 21 U.S.C. § 321(w) s.201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection.

(43) No change.

(44) “Piping sump” ~~or~~ means a storage tank system component installed as secondary containment or a monitoring port at the lowest point in the integral piping to detect releases. Piping sumps do not include impervious pits or trenches which contain integral or bulk product piping so long as such pits or trenches are open on the top or have grating on the top that allow the integral or bulk product piping to be visually inspected.

(45) through (58) No change.

(59) “Sump” means a storage tank system component installed as secondary containment to prevent discharges of regulated substances. Sumps include dispenser sumps, piping sumps, spill containment systems and hydrant sumps. Hydrant sumps or hydrant pits are any secondary containment system associated with hydrant piping, including hydrant pits, isolation valve pits, valve access pits, and control pits but excludes double-walled piping.

(59) through (61) renumbered (60) through (62) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.301, 376.303, 489.133 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04, 1-11-17.

62-761.210 Reference Guidelines.

(1) No change.

(2) Titles of documents. References to the following documents listed in paragraphs 62-761.210(2)(a) through (n), F.A.C., are made throughout this chapter. Each document or part thereof is adopted and incorporated by reference only to the

extent that it is specifically referenced in this chapter. To the extent that the provisions contained in the following reference guidelines conflict with this chapter, the Department’s requirements as stated in this chapter shall control.

(a) No change.

(b) American Petroleum Institute (API). Copies of the following documents are available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, D.C. 20005, (202)682-8000, or the publisher’s website at <http://www.api.org/>:

1. *Closure of Underground Petroleum Storage Tanks*, API Recommended Practice 1604 (R2010), 3rd Edition, March 1996 (~~Reaffirmed, November 2001~~),

2. No change.

3. *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*, API Recommended Practice 1632 (R2010), 3rd Edition, May 1996, (~~Reaffirmed, June 2002~~); and,

4. *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals*, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006 (~~Reaffirmed, May 2012~~). Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.

(c) ASME International (founded as the American Society of Mechanical Engineers). A copy of the following document is available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at ASME International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800)843-2763, or the publisher’s website at <http://www.asme.org/>: *Process Piping*, ASME B31.3, 2016 2014 Edition.

(d) No change.

(e) Florida Department of Environmental Protection (DEP). A copy of the following document is available at the Department located at 2600 Blair Stone Road, Tallahassee, Florida 32399, (850)245-8705, or the Department’s website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>, or at the following website location: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07662>. *Instructions for Conducting Sampling During Underground Storage Tank Closure*, December 2018 April 2016 Edition.

(f) No change.

(g) National Fire Protection Association (NFPA). Copies of the following documents are available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy,

Massachusetts 02169-7471, (800)344-3555, or at the publisher's website at www.nfpa.org/:

1. *Flammable and Combustible Liquids Code*, NFPA 30, 2018 ~~2015~~ Edition;

2. *Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks*, NFPA 30 (Annex C), 2018 ~~2015~~ Edition; and,

3. *Motor Fuel Dispensing Facilities and Repair Garages*, NFPA 30A, 2018 ~~2015~~ Edition.

(h) through (i) No change.

(j) Petroleum Equipment Institute (PEI). Copies of the following documents are available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or the publisher's website at www.pei.org/:

1. *Recommended Practices for Installation of Underground Liquid Storage Systems*, PEI/RP100-17 ~~14~~, 2017 ~~2014~~ Edition; and,

2. *Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities*, PEI/RP1200-17 ~~12~~, 2017 ~~2012~~ Edition.

(k) No change.

(l) Steel Tank Institute (STI). Copies of the following documents are available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at STI, 944 Donata Court, Lake Zurich, Illinois 60047, (847) 438-8265, or from the publisher's website at <https://www.steel-tank.com/>:

1. *sti-P3[®] Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks*, sti-P3[®], Revised May 2018 ~~November 2015~~. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.,

2. *Specification for External Corrosion Protection of FRP Composite Steel USTs – ACT-100[®]*, STI F894, Revised May 2018 ~~November 2015~~. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.,

3. *Cathodic Protection Testing Procedures for sti-P3[®] UST's*, STI R051-17 ~~06~~, (R051), Revised April 2017 ~~January 2006~~,

4. through 5. No change.

(m) Underwriters' Laboratories Standards (UL). Copies of the following documents are available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois

60062-2096, (847)272-8800, or from the publisher's website at www.ul.com/:

1. *Steel Underground Tanks for Flammable and Combustible Liquids*, UL 58, July 1998, Revised January 2018, 10th ~~9th~~ Edition. Secondary references to this guideline can be found here:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.,

2. *Non-metallic Underground Piping for Flammable Liquids*, UL 971, October 1995, Revised March 2006, 1st ~~2nd~~ Edition. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.,

3. *Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures*, UL 1316, January 1994, Revised November 2018 ~~May 2006~~, 2nd Edition. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.,

4. *External Corrosion Protection Systems for Steel Underground Storage Tanks*, UL 1746, January 2007, Revised December 2014, 3rd Edition. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.; and,

5. *Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems*, UL 1856, June 2013, 1st Edition. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07649>, or the Department address listed in subsection 62-761.210(1), F.A.C.

(n) United States Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations. Copies of the following documents are available at U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202)512-1800, or from the publisher's website at <http://www.ecfr.gov/cgi-bin/ECFR?SID=dbbcbc9f2acd236910a67035e0e599bd&page=browse>:

1. *Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)*, 40 CFR Part 280, July 15, 2015; published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, N.W., Washington, DC 20401-0001, or

<http://www.flrules.org/Gateway/reference.asp?No=Ref-07664>, or <https://www.ecfr.gov/cgi-bin/text-idx?SID=fc39ac52f9d11adfed71beee374f05d&pitd=20150715&node=pt40.27.280&rgn=div5> <https://www.ecfr.gov/cgi-bin/ECFR?page=browseprevious&pitd=00000000&SID=b4aa1b4450ced422e899ad31b3659274>; and,

- 2. No change.
- (3) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.210, Amended 7-13-98, 6-21-04, 1-11-17, _____.

62-761.300 Applicability.

- (1) No change.
- (2) Exemptions: The following underground systems are exempt from the requirements of this chapter:
 - (a) through (b) No change.
 - (c) Any pesticide waste degradation system ~~regulated under Chapter 62-660, F.A.C.;~~
 - (d) through (l) No change.

(m) Any residential storage tank system used solely for residential purposes. However, under *Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)*, 40 ~~CFR C.F.R.~~ Part 280, July 15, 2015, residential tanks greater than 1,100 gallons containing motor fuels are subject to federal underground storage tank rules. This document is hereby adopted and incorporated by reference and available from the publisher at the Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07664>, or <https://www.ecfr.gov/cgi-bin/text-idx?SID=fc39ac52f9d11adfed71beee374f05d&pitd=20150715&node=pt40.27.280&rgn=div5> <http://www.ecfr.gov/cgi-bin/text-idx?SID=77a4ede7eedef2edb918eb52715a2d55&node=sp40.27.280&rgn=div6>, or the Department address located in subsection 62-761.210(1), F.A.C.

- (n) through (r) No change.
- (s) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 ~~CFR C.F.R.~~ Part 50, Appendix A;
- (t) through (u) No change.

(v) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 28 of *Flammable and Combustible Liquids Code, Bulk Loading and Unloading Facilities for Tank Cars and Tank Vehicles*, NFPA 30, ~~2015~~ 2018 Edition, hereby adopted and incorporated by reference and available from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800)344-3555, or at the

publisher’s website at www.nfpa.org/, or the Department address located in subsection 62-761.210(1), F.A.C. Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04, 1-11-17, _____.

62-761.400 Facility Registration.

- (1) For installations:
 - (a) No change.

(b) For new facilities, which are facilities that began construction after January 11, 2017, a completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, Form Date January 2017, hereby adopted and incorporated by reference, shall be submitted in electronic or paper format to the Department no later than 30 days prior to installation. For facilities with existing registered storage tank systems, a completed Registration Form shall be submitted in electronic or paper format to the Department no later than seven days prior to regulated substances being put into any new storage system. The Department encourages the electronic submittal of the Registration Form available online here: <http://www.fldepportal.com/go/submit-registration/>, or the form can be obtained at <http://www.flrules.org/Gateway/reference.asp?No=Ref-07654>, or the Department’s website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>.

(c) A completed Form 62-761.900(5), Underground Storage System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, Form Date January 2017, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 21 days after installation of a storage tank system, storage tank, or integral piping. To obtain copies of this form see Rule 62-761.900, F.A.C., or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07656>, or the Department’s website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

- (a) No change.
- (b) A completed Certified Contractors Form shall be submitted to the county in paper or electronic format no later than 21 days after replacement or removal of a storage tank system, including system components in contact with the soil.
- (3) through (5) No change.
- (6) Revocation of Registration Placard.

The Department may revoke a registration placard for noncompliance violation(s) for the failure to:

(a) through (d) No change.

The Department shall provide written notice to the owner and operator of the underground storage tank system facility 30 business days prior to denying or revoking a registration placard. Owners of facilities shall give written notice to the Department when such deficiencies are corrected and the county or Department shall re-inspect the facility, or otherwise determine if the deficiencies have been corrected, within two business days of receiving such notice. The Department shall release revoked registration placards within three business days of the re-inspection, or other confirming activity, if all deficiencies have been corrected to the Department's satisfaction. The Department shall establish, maintain, and post on its website web site a list of previously registered facilities that do not have a valid registration placard. This list will not include previously registered facilities for which all storage tank systems have been closed or removed in accordance with Department rules.

(7) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.3077, 489.133 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, 8-7-14, 1-11-17.

Editorial Note: Portions of this rule were relocated to Rule 62-761.420, F.A.C.

62-761.405 Notification.

(1) No change.

(2) For change in service status and closure:

(a) through (b) No change.

(c) A Closure Integrity Evaluation Report Form for USTs 62-761.900(7), (Closure Integrity Report), effective date, Form Date January 2017, hereby adopted and incorporated by reference, as prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the county with the notification of closure or change in service from a regulated substance to a non-regulated substance. To obtain copies of this form see Rule 62-761.900, F.A.C., or http://www.flrules.org/Gateway/reference.asp?No=Ref-07658, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>.

(d) No change.

(3) through (4) No change.

(5) In addition to providing the Discharge Report Form in accordance with subsection 62-761.405(4), F.A.C., facility owners or operators may be required to provide notice through the State Watch Office pursuant to Section 403.077, F.S.

Rulemaking Authority 376.303 FS. Law Implemented 376.30, 376.303, 403.077 FS. History—New 1-11-17, Amended.

Editorial Note: Portions of this rule were copied from 62-761.450, Formerly 17-761.450, F.A.C.

62-761.420 Financial Responsibility.

(1) No change.

(2) Financial responsibility shall be maintained and demonstrated to the county or Department for all storage tank systems until the storage tank systems are properly closed pursuant to subsections 62-761.800(2) and (3), F.A.C., and the Closure Report or the Limited Closure Report Form for USTs 62-761.900(8), effective date, Form Date January 2017, hereby adopted and incorporated by reference, is submitted to and approved by the county or the Department. To obtain copies of Form 62-761.900(8), see Rule 62-761.900, F.A.C., or http://www.flrules.org/Gateway/reference.asp?No=Ref-07659, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>. Pursuant to section 376.309(1), F.S., the facility owner is required to establish and maintain evidence of financial responsibility and is liable in event of noncompliance. If the facility owner, facility operator, tank owner, and tank operator are separate persons, then evidence of financial responsibility may be demonstrated if one of those persons obtains financial responsibility on behalf of the facility owner.

(3) The demonstration of financial responsibility for storage tank systems shall be made in accordance with reference guideline *Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST), Financial Responsibility*, 40 CFR C.F.R. Part 280, Subpart H, July 15, 2015, incorporated by reference in paragraph 62-761.300(2)(m), F.A.C., and obtained in paragraph 62-761.210(2)(n), F.A.C. However, Department Form 62-761.900(3), effective date, Form Date January 2017, Financial Mechanisms for Storage Tanks, hereby adopted and incorporated by reference, and available in Rule 62-761.900, F.A.C., or http://www.flrules.org/Gateway/reference.asp?No=Ref-07661, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>, shall ~~can~~ be used in lieu of the United States Environmental Protection Agency's financial wording mechanisms. Holders of financial responsibility mechanisms and facility owners are encouraged to permanently maintain evidence of financial responsibility and all correspondence with respect to coverage and claims.

(4) The appropriate part(s) of Form 62-761.900(3) shall be completed and maintained used when demonstrating proof of financial responsibility under this rule, and Form 62-761.900(3) Part P will satisfy the Certification of Financial Responsibility

requirements of 40 ~~CFR~~ C.F.R. 280.111(b)(11). Facility owners shall ensure that copies of the current financial responsibility document(s) are available for inspection at the facility where the storage tank system(s) is located or at their place of business. Records kept off-site shall be made available for inspection by the Department or County within five business days from the receipt of the Department's or county's request. Facility owners are required to maintain evidence of financial responsibility mechanisms in accordance with paragraph 62-761.710(3)(h), F.A.C., and are encouraged to maintain all correspondence associated with coverage and claims.

(5) Financial requirements for the purpose of this rule, regardless of the date of installation of storage tank systems, shall comply with this Rule 40 C.F.R. Part 280, Subpart H, July 15, 2015.

(6) through (7) No change.

(8) Government-owned facilities demonstrating proof of financial responsibility using a financial test or government fund must prepare the relevant parts of Form 62-761.900(3), within 180 days after the close of each succeeding fiscal year. Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.308, 376.309, 403.091, 403.141, 403.161 FS. History—New 1-11-17, Amended.

Editorial Note: Portions of this rule were copied from Rule 62-761.400, F.A.C.

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. No change.

2. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid has been detected by a sensor in a normally dry interstice or a dispenser, piping or containment sump,

3. through 7. No change.

8. Any instance where a monitoring device has shut off the pump; ~~and,~~

9. Liquid in excess of one inch in an out-of-service storage tank; ~~and,~~

10. Any visual inspection of any part of a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals uncontrolled pitting corrosion, structural damage, leakage, or other similar problems.

(b) through (f) No change.

(2) through (3) No change.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the prior written approval of the

Department or county. ~~However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system or system component shall be placed out of service until such time the investigation is completed and resolved.~~

(5) through (8) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 1-11-17, Amended.

Editorial Note: Portions of this rule were copied from Rule 62-761.820, Formerly 17-761.820, F.A.C.

62-761.500 Storage Tank System Requirements.

(1) General requirements.

(a) No change.

(b) Secondary containment.

1. through 3. No change.

4. If factory-made single-walled spill containment systems or single-walled sumps are installed on the system, a containment integrity test shall be performed before the component is placed into service in accordance with the manufacturer's testing requirements. For system components without manufacturer containment integrity testing specifications, PEI/RP1200-17, 2017 Edition shall be used. PEI RP1200-17 is the Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, hereby adopted and incorporated by reference, and available at the Department address located in subsection 62-761.210(1), F.A.C., or the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or the publisher's website at www.pei.org/. For field-fabricated components the tests shall be at least for 24 hours in accordance with manufacturer's requirements.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements. For storage tanks without manufacturer's interstitial integrity testing specifications, PEI/RP100-17, 2017 Edition shall be used. PEI/RP100-17 is ~~or with the following document~~ hereby adopted and incorporated by reference, and available at the Department address located in subsection 62-761.210(1), F.A.C., or the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or the publisher's website at www.pei.org/; *Recommended Practices for Installation of Underground Liquid Storage Systems*, PEI/RP100-17 ~~44~~, 2017 2011 Edition; and PEI/RP1200-17 ~~42~~, 2017 2012 Edition.

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-17 ~~44~~, 2017 2011 Edition, and PEI/RP1200-17 ~~42~~, 2017 2012 Edition, before the integral piping is placed into service.

7. If double-walled spill containment systems or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with the manufacturer's testing requirements. For system components without manufacturer interstitial integrity testing specifications, PEI/RP1200-17 42, 2017 2012 Edition; shall be used before the component is placed into service.

(c) through (e) No change.

(f) All storage tank systems shall be installed in accordance with the following reference guidelines, hereby adopted and incorporated by reference, and available from the Department's address given in subsection 62-761.210(1), F.A.C.:

1. No change.

2. *Flammable and Combustible Liquids Code, Storage of Liquids in Tanks – Underground Tanks*, Chapter 23 of NFPA 30, 2018 2015 Edition, incorporated by reference in paragraph 62-761.300(2)(v), F.A.C. To obtain this reference from the publisher, see paragraph 62-761.210(2)(g), F.A.C.;

3. *Motor Fuel Dispensing Facilities and Repair Garages*, NFPA 30A, 2018 2015 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(g), F.A.C.;

4. *Process Piping*, ASME B31.3, 2016 2014 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(c), F.A.C.; and

5. *Recommended Practices for Installation of Underground Liquid Storage Systems*, PEI/RP100-17 44, 2017 2014 Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(j), F.A.C.

(g) Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with the following manufacturer's specifications, hereby adopted and incorporated by reference, and available from the Department address in subsection 62-761.210(1), F.A.C.:

1. *Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems*, UL 1856, June 2013, 1st Edition. To obtain this reference from the publisher, see paragraph 62-761.210(2)(m), F.A.C.; and,

2. No change.

(h) through (i) No change.

(2) Storage tank installation.

(a) No change.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document: *Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures*, UL 1316, January 1994, Revised November 2018 May 2006, 2nd Edition, available from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)272-8800, or from the publisher's website at www.ul.com/, or the Department address listed in subsection 62-761.210(1), F.A.C.; or these tanks shall be certified by a Nationally Recognized

Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

(c) Cathodically protected double-walled steel tanks shall be registered in accordance with subsection 62-761.850(2), F.A.C., and shall be:

1. Constructed in accordance with the following documents: *Steel Underground Tanks for Flammable and Combustible Liquids*, UL 58, July 1998, Revised January 2018, 10th 9th Edition, and *External Corrosion Protection Systems for Steel Underground Storage Tanks*, UL 1746, January 2007, Revised December 2014, 3rd Edition, hereby adopted and incorporated by reference, and are available from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)272-8800, or from the publisher's website at www.ul.com/, or the Department address listed in subsection 62-761.210(1), F.A.C.;

2. Constructed in accordance with the following document: *sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks*, sti-P3®, Revised May 2018 November 2015, Steel Tank Institute (STI), hereby adopted and incorporated by reference, and is available from the publisher at STI, 944 Donata Court, Lake Zurich, Illinois 60047, (847)438-8265, or from the publisher's website at <https://www.steeltank.com/>, or the Department address listed in subsection 62-761.210(1), F.A.C.;

3. through 4. No change.

(d) Double-walled steel tanks coated with fiberglass reinforced plastic shall be constructed in accordance with UL 58, July 1998, Revised January 2018, UL 1746, January 2007, Revised December 2014, and *Specification for External Corrosion Protection of FRP Composite Steel USTs – ACT-100®*, STI F894, Revised May 2018 November 2015, or these tanks shall be certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C. STI F894, Revised May 2018 November 2015, is hereby adopted and incorporated by reference, and available from the publisher at STI, 944 Donata Court, Lake Zurich, Illinois 60047, (847)438-8265, or from the publisher's website at <https://www.steeltank.com/>, or the Department address listed in subsection 62-761.210(1), F.A.C.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, January 2007, Revised December 2014, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

(f) through (h) No change.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil, shall have secondary containment, with the exception of vertical fill piping ~~equipped with a drop tube~~.

(b) through (c) No change.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of *Non-metallic Underground Piping for Flammable Liquids*, UL 971, October 1995, Revised March 2006, 1st ~~2nd~~ Edition, or shall be certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C. UL 971, October 1995, Revised March 2006, is hereby adopted and incorporated by reference, and is available from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)272-8800, or from the publisher's website at www.ul.com/, or the Department address listed in subsection 62-761.210(1), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3, 2016 ~~2014~~ Edition. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*, API Recommended Practice 1632, (R2010) 3rd Edition, May 1996, (~~Reaffirmed, June 2002~~); *Control of External Corrosion on Underground or Submerged Metallic Piping Systems*, NACE Standard SP0169-2013 (formerly RP0169), 2013 Edition; and *Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems*, STI R892, Revised January 2006, hereby adopted and incorporated by reference, and available from the Department or individual addresses given in subsections 62-761.210(1) and (2), F.A.C.

3. Metallic double-walled integral piping constructed of nonferrous materials, such as copper, does not require cathodic protection and shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, 2018 ~~2015~~ Edition, *Flammable and Combustible Liquids Code, Piping System*.

4. Metallic single-walled vertical fill piping does not require cathodic protection and shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, 2018 ~~2015~~ Edition, *Flammable and Combustible Liquids Code, Piping Systems*.

5. No change.

(e) No change.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, 2018 ~~2015~~ Edition, *Motor Fuel Dispensing Facilities and Repair Garages, Requirements for Dispensing Devices*. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be

tested in accordance with PEI/RP1200-17 ~~42~~, 2017 ~~2012~~ Edition, at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tank systems located at an elevation that produces a gravity head on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, 2018 ~~2015~~ Edition, *Flammable and Combustible Liquids Code, Tank Openings Other Than Vents*, and located as close as practical to the storage tank, regardless of the date of installation of the storage tank system. In addition, anti-siphon valves shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, 2018 ~~2015~~ Edition, *Motor Fuel Dispensing Facilities and Repair Garages, Marine Fueling – Storage*, regardless of the date of installation of the storage tank system.

(h) through (i) No change.

(j) Bulk product piping, on-site integral piping with an internal diameter greater than three inches utilized for transporting regulated substances, associated with underground storage tank systems shall meet the bulk product piping requirements in Chapter 62-762, F.A.C., *Aboveground Storage Tank Systems*, pursuant to subsection 62-762.502(4), F.A.C., hereby adopted and incorporated by reference.

(4) Spill containment systems.

(a) No change.

(b) Fillbox covers, regardless of the date of installation of the storage tank system, shall be marked or the fill connection tagged and facility signage shall be prominently displayed in accordance with the following documents hereby adopted and incorporated by reference: *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals*, API Recommended Practice 1637, (R2012), 3rd Edition, July 2006 (~~Reaffirmed, May 2012~~), available from the publisher at API, 1220 L Street, N.W. Washington, D.C. 20005, (202)682-8000, or the publisher's website at <http://www.api.org/>; or *Identification Markings for Dedicated Aviation Fuel Manufacturing and Distribution Facilities, Airport Storage and Mobile Fuelling Equipment*, EI 1542, 9th Edition, July 2012, available from the publisher at Energy Institute, 62 New Cavendish Street, London W1G 7AR, United Kingdom, +44 (0)20 7467 7100, or the publisher's website at <https://www.energyinst.org/home>, or the Department's address located in subsection 62-761.210(1), F.A.C.; or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) through (d) No change.

(5) Dispensers and dispenser sumps.

(a) The dispensers used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30, 2018 2015 Edition, incorporated by reference in paragraph 62-761.300(2)(v), F.A.C., and Chapter 6, *Fuel Dispensing Systems*; Chapter 9, *Operational Requirements*; and Chapter 11, *Motor Fuel Dispensing Facilities and Repair Garages, Marine Fueling* of NFPA 30A, 2018 2015 Edition.

(b) through (c) No change.

(6) No change.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling, and no storage tank shall be filled beyond 95 percent capacity.

(b) Storage tank systems shall be equipped with an overfill device that meets one of the following:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95 percent full;

2. Restricts flow to the storage tank when the storage tank is no more than 90 percent full and does not fill the storage tank beyond 95 percent capacity. Flow restrictors, such as ball float valves, used in vent lines may not be used when overfill protection is installed or replaced after January 11, 2017. Flow restrictors installed before January 11, 2017, may only be used if the storage tank system meets the requirements of Section 7 of PEI/RP100-17 ~~44~~, 2017 2014 Edition, *Recommended Practices for Installation of Underground Liquid Storage Systems, UST Overfill Equipment Verification, Inspection and Testing*; or

3. Alerts the transfer operator when the tank is no more than 90 percent full by triggering an alarm that is visible, audible, or both, and the transfer operator is to ensure does not fill the tank is not filled beyond 95 percent capacity.

(c) Effective (effective date of Rule), owners and operators shall:

1. Designate a primary overfill protection device used to meet the requirements in paragraph 62-761.500(7)(b), F.A.C., and any additional overfill devices shall not interfere with the designated primary device; and,

2. Ensure the designated primary overfill protection device is registered pursuant to registration of storage tank system equipment and release detection systems and methods, subsection 62-761.850(2), F.A.C. ~~Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.~~

(d) An annual operability test shall be performed on the designated primary overfill protection device used to meet the Department's overfill protection requirement at intervals not

exceeding 12 months to ensure proper operation. Storage tank systems with capacities of 2,000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80 percent capacity.

(e) Storage tank systems with capacities of 2,000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser may use calibrated stick measurements for overfill protection, and are not required to be equipped with one of the devices specified in paragraph 62-761.500(7)(b), F.A.C., provided that an inches to gallons tank chart is posted at the tank fill area or readily available to the delivery driver. Such tanks shall not be filled beyond 95 percent capacity. Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C., and an operability test shall be performed annually at intervals not exceeding 12 months to ensure proper operation.

(f) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, 1-11-17, ____.

62-761.700 Repairs, Operation and Maintenance.

(1) Repairs.

(a) Repairs shall be performed, ~~as necessary~~, if any component of a storage tank system has:

1. through 2. No change.

(b) The storage tank system shall immediately cease operating, dispensing, and accepting deliveries if:

1. No change.

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shutdown of electrical generating units serviced by the storage tank system; and,

3. The condition of the system component results in an on-going discharge, pursuant to Rule 62-761.440, F.A.C.

(c) through (d) No change.

(e) A storage tank system that requires repair but cannot be repaired within 90 days to operate in accordance with the requirements of this Chapter shall be taken out-of-service in accordance with subsection 62-761.800(1), F.A.C. If the system cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed pursuant to subsection 62-761.800(2), F.A.C.

- (2) Cathodic protection.
 - (a) No change.
 - (b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2013, incorporated by reference in subparagraph 62-761.500(3)(d)2., F.A.C., and SP0285-2011, incorporated by reference in subparagraph 62-761.500(2)(c)4., F.A.C.; or STI R051-17 ~~06~~ *Cathodic Protection Testing Procedures for sti-P3[®] UST's, (R051), Revised April 2017 January 2006*, as applicable, regardless of the date of installation of the storage tank system. STI R051-17 ~~06~~, Revised April 2017 January 2006, is hereby adopted and incorporated by reference, and available from the publisher at NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906, (800)797-6223, or the publisher's website at <http://www.nace.org/>, or the Department address listed in subsection 62-761.210(1), F.A.C. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding 60 days. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1,440 hours in one year shall be immediately taken out-of-service and assessed within 30 days by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria before being returned to service.

- (c) through (d) No change.
- (3) Operation and maintenance.
 - (a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces, regardless of the date of installation of the storage tank system or storage tank system component, shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications. For storage tank systems or system components without manufacturer integrity or containment testing specifications, or PEI/RP1200-17 42, 2017 2012 Edition, incorporated by reference in subparagraph 62-761.500(1)(b)5., F.A.C., shall be

used. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

- a. Double-walled storage tanks and piping shall be tested at the time of installation and at the time of any subsequent repair,
- b. ~~Below grade P~~iping sumps shall be tested by October 13, 2018, and every three years thereafter, not to exceed 36 months.
- c. ~~Below grade D~~ispenser sumps shall be tested by October 13, 2018, and every three years thereafter, not to exceed 36 months.
- d. Piping and dispenser sumps over the surface waters of the state shall be tested within one year of (effective date of the rule), and every three years thereafter, not to exceed 36 months.
- e. Double-walled spill containment systems shall be tested by October 13, 2018, and every three years thereafter, not to exceed 36 months.
- f. All single-walled spill containment systems shall be tested by January 11, 2018 within one year of the January 11, 2017, and at intervals not exceeding every 12 months thereafter; and,

- g. No change.
- 2. No change.
 - (b) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 403.091, 489.133 FS. History—New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04, 1-11-17,_____.

62-761.800 Out-of-Service and Closure Requirements.

- (1) Out-of-service storage tank systems.
 - (a) No change.
 - (b) Facility owners and operators of out-of-service storage tank systems shall:
 - 1. through 3. No change.
 - 4. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank; ~~and,~~
 - 5. Secure or close off the system to outside access; ~~and,~~
 - 6. Register the storage tank system out-of-service in accordance with Rule 62-761.400, F.A.C.
 - (c) No change.
 - (d) The following inspections and testing requirements are not required while the storage tank system is properly out-of-service:
 - 1. Monthly visual inspections in accordance with paragraph 62-761.600(1)(e), F.A.C..

2. Semiannual inspections of piping and dispenser sumps that use electronic release detection methods in accordance with paragraph 62-761.600(1)(e), F.A.C..

3. Monthly inspection of electronic release detection devices in accordance with paragraph 62-761.600(1)(g), F.A.C.; and,

4. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overflow protection device testing; however, are not required while the system is properly out of service. All aforementioned testing shall be up-to-date in accordance with this chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after January 11, 2017, that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system.

(e) Storage tank systems with secondary containment, not requiring repairs pursuant to Rule 62-761.700, F.A.C., shall only be designated as out-of-service for a maximum of 10 continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2)(b), F.A.C.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed in accordance with the provisions of this subsection:

1. A storage tank system that fails to meet or, if required, is not modified to meet the Storage Tank System Requirements of Rule 62-761.500, F.A.C., within 90 days of discovery.

2. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but is not ~~cannot~~ repaired within 90 days to operate in accordance with the requirements of this chapter shall be taken out-of-service. If the system is not ~~cannot~~ repaired within 365 days after being taken out-of-service, it shall be permanently closed.

3. No change.

(b) Closure of storage tank systems shall be performed by:

1. through 3. No change.

4. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents, hereby adopted and incorporated by reference, and available from the addresses given, regardless of the date of installation of the storage tank system: *Closure of Underground Petroleum Storage Tanks*, API Recommended Practice 1604, (R2010) 3rd Edition, March 1996 (~~Reaffirmed, November 2001~~), available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at API, 1220 L Street, N.W. Washington, DC 20005, (202)682-8000, or the publisher's website at <http://www.api.org/>; and

Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2018 ~~2015~~ Edition, available at the Department address listed in subsection 62-761.210(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800)344-3555, or at the publisher's website at www.nfpa.org/. In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API Recommended Practice 1604, (R2010) 3rd Edition, March 1996 (~~Reaffirmed, November 2001~~). Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and,

5. No change.

6. Once a storage tank system has been properly closed pursuant to subsections 62-761.800(2) and (3), F.A.C., and the Closure Report or the Limited Closure Report Form for USTs 62-761.900(8), incorporated by reference in subsection 62-761.420(2), F.A.C., has been submitted to and approved by the county or the Department, the facility owner shall update the facility's registration status to indicate the storage tank system as closed in accordance with subsection 62-761.400(2), F.A.C.

(3) Closure Integrity Report, Closure Report, and Limited Closure Report Requirements.

(a) Closure Integrity Report.

1. No change.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. For storage tank system components where the interstitial space cannot be visually inspected, ~~o~~Other methods approved by the manufacturer, PEI RP1200-17, or the Department such as vacuum, pressure, or inert gases may be used instead of visual observations.

3. through 4. No change.

5. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with subsection 62-761.405(3), F.A.C., and the investigation of the incident in accordance with subsection 62-761.430, F.A.C. If sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted during closure in accordance with *Instructions for Conducting Sampling During Underground Storage Tank Closure*, December 2018 ~~April 2016~~ Edition, hereby adopted and incorporated by reference, and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-07662>, or the Department address given in paragraph 62-761.210(1)(e), F.A.C., or the Department's website at

<https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>, regardless of the date of installation of the storage tank system or system component being closed.

6. The owner or operator who does not or elects not to conduct a Closure Integrity Evaluation, in accordance with paragraph 62-761.800(3)(a), F.A.C., before the storage tank system or system component has been removed or closed in place, regardless of the date of installation of the storage tank system or system component, shall conduct an investigation at the time of closure in accordance with *Instructions for Conducting Sampling During Underground Storage Tank Closure*, December 2018 April 2016 Edition.

(b) Closure Report. In cases where an investigation is conducted at the time of closure in accordance with *Instructions for Conducting Sampling During Underground Storage Tank Closure*, December 2018 April 2016 Edition, a Closure Report shall be submitted in writing or electronic format to the County within 60 days of completion of the system or system component closure, replacement, or change in service from a regulated substance to a non-regulated substance. The Closure Report shall be prepared in accordance with *Instructions for Conducting Sampling During Underground Storage Tank Closure*, December 2018 April 2016 Edition.

(c) Limited Closure Report. ~~In cases where a Closure Integrity Evaluation passed or where a failed Closure Integrity Evaluation was investigated prior to closure and it was demonstrated that a discharge did not occur,~~ Form 62-761.900(8), Limited Closure Report Form for USTs; ~~incorporated by reference in subsection 62-761.420(2), F.A.C.,~~ shall be submitted in writing or electronic format to the county within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance in cases where:-

1. A Closure Integrity Evaluation passed,
2. A failed Closure Integrity Evaluation was investigated prior to closure and it was demonstrated that a discharge did not occur; or,
3. A Closure Integrity Evaluation or Closure Report were not required because the closure only involved storage tank system components that were not in contact with the soil.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, ~~376.30716~~ 376.0716 FS. History—New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, 1-11-17, _____.

62-761.850 Alternative Procedures, Equipment Registration and Registration of Operator Training Providers.

- (1) No change.
- (2) Registration of storage tank system equipment and release detection systems and methods.
- (a) No change.

(d) Only the storage tank system equipment as stated in this ~~Chapter~~ shall be registered by the equipment manufacturer using Form 62-761.900(9), Storage Tank System Equipment Registration Form, (Equipment Registration Form) effective date, Form Date January 2017, hereby adopted and incorporated by reference. To obtain copies of this form see Rule 62-761.900, F.A.C., or http://www.flrules.org/Gateway/reference.asp?No=Ref-07660, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>. The following storage tank system equipment is exempt from registration:

1. through 7. No change.
- (e) through (j) No change.
- (3) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, 1-11-17, _____.

62-761.900 Storage Tank Forms.

Storage Tank Forms are listed by form number, subject title, effective date, and include the rule where the form is incorporated by reference. Copies of forms are available by writing to the Division of Waste Management, Florida Department of Environmental Protection, 2600 Blair Stone Road, M.S. 4500, Tallahassee, Florida 32399-2400, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>. For electronic submittal of the Storage Tank Facility Registration Form go to <http://www.fldeportal.com/go/submit-registration/>, Storage Tank Registration.

- (1) No change.
- (2) Form 62-761.900(2) Storage Tank Facility Registration Form, Form Date January 2017, incorporated by reference in paragraph 62-761.400(1)(b), F.A.C., and referenced in subsections 62-761.200(39) and (47), F.A.C., and is also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07654>.
- (3) Form 62-761.900(3) Financial Mechanisms for Storage Tanks, Form Date January 2017, incorporated by reference in subsection 62-761.420(3), F.A.C., and is also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07661>.
- (4) No change.
- (5) Form 62-761.900(5) Underground Storage System Installation and Removal Form for Certified Contractors, Form Date January 2017, incorporated by reference in paragraph 62-761.400(1)(c), F.A.C., and referenced in subsection 62-

761.200(5), F.A.C., and is also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07656>.

(6) No change.

(7) Form 62-761.900(7) Closure Integrity Evaluation Report Form for USTs, Form Date January 2017, incorporated by reference in paragraph 62-761.405(2)(c), F.A.C., and referenced in subsection 62-761.200(11), and subparagraph 62-761.800(2)(b)1., F.A.C., and is also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07658>.

(8) Form 62-761.900(8) Limited Closure Report Form for USTs, Form Date January 2017, incorporated by reference in subsection 62-761.420(2), F.A.C. and referenced in subsection 62-761.200(34), F.A.C., and is also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07659>.

(9) Form 62-761.900(9) Storage Tank System Equipment Registration Form, Form Date January 2017, incorporated by reference in paragraph 62-761.850(2)(d), F.A.C., and is also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07660>. Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.900, Amended 9-30-96~~98~~, 7-13-98, Repromulgated 6-21-04, Amended 1-11-17,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: William E. Burns, Jr., Department of Environmental Protection, 2600 Blair Stone Rd., Tallahassee, FL 32399. bill.burns@floridadep.gov or (850)245-8842

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Noah Valenstein, Secretary, Florida Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: May 31, 2018

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-762.201	Definitions
62-762.211	Reference Guidelines
62-762.301	Applicability
62-762.401	Facility Registration
62-762.411	Notification
62-762.421	Financial Responsibility
62-762.431	Incidents
62-762.501	Storage Tank System Requirements for Shop Fabricated Storage
62-762.502	Storage Tank System Requirements for Field Erected Storage Tanks
62-762.701	Repairs, Operation and Maintenance of Shop Fabricated Storage Tanks
62-762.702	Repairs, Operation and Maintenance of Field Erected Storage Tanks
62-762.801	Out-of-Service and Closure Requirements

62-762.802 for Shop Fabricated Storage Tanks Out-of-Service and Closure Requirements for Field Erected Storage Tanks

62-762.851 Alternative Procedures and Equipment Registration

62-762.901 Storage Tank Forms

PURPOSE AND EFFECT: Revising language for clarification in certain Aboveground Storage Tank Systems rules. SUMMARY: In “Definitions”, correcting federal rule citation updating reference guideline editions and adding clarifying language. In “Reference Guidelines”, updating reference guidance documents to current editions. In “Applicability”, removing language. In “Facility Registration”, updating form. In “Notification”, updating reference guidelines. In “Financial Responsibility”, clarifying language and sentence structure, and revising forms. In “Incidents”, clarifying language is included and removal of conflicting timeline. In “Storage Tank System Requirements for Shop Fabricated Storage Tanks” and in “Storage Tank System Requirements for Field Erected Storage Tanks”, removing redundant title language, added clarifying language and updating reference guideline editions. Also revising the overfill protection subsection to be in line with Chapter 62-761, F.A.C., that reduces department regulatory burden on industry without lowering environmental standards or safeguards. In “Repairs, Operation and Maintenance of Shop Fabricated Storage Tanks” and “Repairs, Operation and Maintenance of Field Erected Storage Tanks”, adding clarifying language and updating reference guideline editions. Also clarifying ambiguous integrity testing requirements for equipment over the surface waters of the state due to the revision of a term. In “Out-of-Service and Closure Requirements for Shop Fabricated Storage Tanks” and “Out-of-Service and Closure Requirements for Field Erected Storage Tanks”, adding clarifying language, updating reference guideline editions. In "Alternative Procedures and Equipment Registration", updating Equipment Registration Form. In “Storage Tank Forms”, updating forms.

OTHER RULES INCORPORATING THIS RULE: 62-521.400, 62-710.401, 62-740.030, 62-740.100, 62-740.200, 62-740.300, 62-780.210, and 62-780.600.

EFFECT ON THOSE OTHER RULES: Amendments to Chapter 62-762, F.A.C., in this Notice of Proposed Rule are not expected to have any significant impact on the following rules: 62-521.400, 62-710.401, 62-740.030, 62-740.100, 62-740.200, 62-740.300, 62-780.210, and 62-780.600.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within

one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Revisions to the rules are based on updates and clarifications. The proposed revisions are not expected to incur costs to industry stakeholders.

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.

RULEMAKING AUTHORITY: 376.303, 376.322(3),FS.

LAW IMPLEMENTED: 376.031, 376.30, 376.301, 376.303, 376.308, 376.309, 376.320, 376.321, 376.322, 376.323, 403.091, 403.141, 403.161, 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: April 22, 2019, 1:00 p.m. until no later than 4:00 p.m.

PLACE: Room 609, Bob Martinez Building, 2600 Blair Stone Road, Tallahassee, FL

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: . 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: William E. Burns, Jr., Department of Environmental Protection, 2600 Blair Stone Rd., Tallahassee, FL 32399. bill.burns@floridadep.gov or (850)245-8842. Copies of the proposed draft documents are available at <https://floridadep.gov/waste/permitting-compliance-assistance/content/compliance-assistance-program-announcements>.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-762.201 Definitions.

All words and phrases defined in Sections 376.031 and 376.301, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.031 and 376.301, F.S., for definitions of the following terms: “Bulk product facility,” “Compression vessel,” “Contaminant,” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Flow-through process tank,”

“Hazardous substances,” “Operator,” “Owner,” “Petroleum products,” “Pollutants,” “Transfer,” or “transferred,” and “Vessel.” The following words and phrases used in this chapter shall, unless the context indicates otherwise, have the following meaning:

(1) through (7) No change.

(8) “Closure Integrity Evaluation for shop fabricated storage tank systems” is an assessment of shop fabricated storage tank system integrity for storage tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil, that is performed by a third-party inspection or testing entity at closure or replacement. The evaluation is a physical test of interstitial tightness or visual inspection of the interstice of a secondarily contained storage tank system, secondarily contained storage tank system component, or a primary integrity test of a single-walled storage tank, or containment integrity test of a single-walled piping sump, dispenser sump, or spill containment system.

(9) through (10) No change.

(11) “Closure Report” is a report prepared in accordance with *Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition.*

(12) through (35) No change.

(36) “Industrial occupancy building” is an enclosed structure that contains a storage tank system that is used in association with an industrial or manufacturing process, or for electric power generating utilities, provided that the building was constructed and is used primarily for industrial, manufacturing, or electric power generating purposes, and not solely for the purpose of storing regulated substances. An industrial occupancy building is a structure that has an impervious floor (without valves, drains, or other openings) that prevents regulated substances from being discharged. Industrial occupancy buildings constructed between July 13, 1998, and January 11, 2017, must meet the applicable regulatory requirements in this chapter in effect at that time. Industrial occupancy buildings constructed after January 11, 2017, must:

(a) Be constructed in accordance with *Flammable and Combustible Liquids Code, Storage Tank Buildings*, Chapter 24 of NFPA 30, 2018 ~~2015~~ Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169, (617)770-3000, or at www.nfpa.org/;

(b) Have at least Type II construction in accordance with *Standard on Types of Building Construction*, NFPA 220, 2018 ~~2015~~ Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169, (617)770-3000, or at www.nfpa.org/;

(c) Be ventilated in accordance with *Standard on Explosion Protection by Deflagration Venting*, NFPA 68, ~~2018~~ 2013 Edition; and *Standard on Explosion Prevention Systems*, NFPA 69, 2014 Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169, (617)770-3000, or at www.nfpa.org/; and,

(d) No change.

(37) through (45) No change.

(46) “Mobile tank” is a shop fabricated storage tank that is:

(a) Moved to a different location at least once every 180 days; and,

1. Has a current valid vehicle registration with the Florida Department of Highway Safety and Motor Vehicles and has current test and inspection markings in accordance with 49 CFR C.F.R. §180.415, or

2. No change.

(b) through (c) No change.

(47) through (53) No change.

(54) “Pesticides” means any substance or mixture of substances, ~~as defined in Section 487.021, F.S.~~, intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of 21 U.S.C. § 321(v) s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) No change.

(c) Is an animal feed within the meaning of 21 U.S.C. § 321(w) s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection.

(55) through (56) No change.

(57) “Piping sump” means a storage tank system component installed as secondary containment or a monitoring port at the lowest point in the integral piping to detect releases. Piping sumps do not include impervious pits or trenches which contain integral or bulk product piping so long as such pits or trenches are open on the top or have grating on the top that allow the integral or bulk product piping to be visually inspected.

(58) through (66) No change.

(67) “Secondary containment” means a release detection and discharge prevention system that meets the performance requirements of paragraphs 62-762.501(1)(b) and 62-762.502(1)(b), F.A.C., as applicable. Secondary containment

includes dispenser sumps, piping sumps, spill containment systems, the outer wall of double-walled tanks, and integral piping, or the liner or impervious containment for single-walled tanks or integral piping. A Release Prevention Barrier, as specified in API Std Standard 650, 12th Edition, March 2013 Annex I, *Welded Tanks for Oil Storage, Undertank Leak Detection and Subgrade Protection*, includes Errata 1 (2013), Errata 2 (2014), ~~and~~ Addendum 1 (2014), and Addendum 2 (2016) March 2013, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202)682-8000, or at <http://www.api.org/>, is considered secondary containment for field-erected storage tank bottoms.

(68) through (74) No change.

(75) “Sump” means a storage tank system component installed as secondary containment to prevent discharges of regulated substances. Sumps include dispenser sumps, piping sumps, spill containment systems and hydrant sumps.

(75) through (77) renumbered (76) through (78) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.031, 376.301, 376.303 FS. History—New 6-21-04, Amended 1-11-17, _____.

62-762.211 Reference Guidelines.

(1) No change.

(2) Titles of documents. References to documents listed in paragraphs 62-762.211(2)(a) through (n), F.A.C., below are made throughout this chapter. Each document or part thereof is adopted and incorporated by reference only to the extent that it is specifically referenced in this chapter. To the extent that the provisions contained in the following reference guidelines conflict with this chapter, the Department’s requirements as stated in this chapter shall control.

(a) No change.

(b) American Petroleum Institute (API). Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202)682-8000, or at <http://www.api.org/>:

1. *Specification for Fiberglass Reinforced Plastic Tanks*, API Spec 12P, ~~4th 3rd~~ Edition, February 2016 October 2008,

2. *Piping Inspection Code: In-service Inspection, Repair, and Alteration of Piping Systems*, API 570, ~~4th 3rd~~ Edition, February 2016 November 2009, includes Addendum 1 (2017),

3. *Design and Construction of Large, Welded, Low-Pressure Storage Tanks*, API Std 620, 12th Edition, October 2013, Includes Addendum 1 (2014),

4. *Welded Tanks for Oil Storage*, API Std 650, 12th Edition, March 2013. Includes Errata 1 (2013), Errata 2 (2014), and Addendum 1 (2014), and Addendum 2 (2016) March 2013, 5. through 6. No change.

7. *Welding of Pipelines and Related Facilities*, API Std 1104, 21st Edition, September 2013. Includes Errata 1 (2013), Errata 2 (2014), Errata 3 (2014), Errata 5 (2018), and Addendum 1 (2014), Addendum 2 (2016) September 2013,

8. No change.

9. *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*, API RP 1632, (R2010), 3rd Edition, May 1996, (Reaffirmed, June 2002),

10. *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals*, API RP 1637, (R2012), 3rd Edition, July 2006 (Reaffirmed, May 2012). Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>; and,

11. No change.

(c) ASME International (founded as the American Society of Mechanical Engineers). A copy of the following document is available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at ASME International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800)843-2763, or the publisher's website at <http://www.asme.org/>:

1. *Process Piping*, ASME B31.3, 2016 2014 Edition; and,

2. *Pipeline Transportation Systems for Liquids and Slurries*, ASME B31.4, 2016 2012 Edition.

(d) No change.

(e) Florida Department of Environmental Protection (DEP). A copy of the following document is available at the Department located at 2600 Blair Stone Road, Tallahassee, Florida 32399, (850)245-8705, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>, or at the following website location: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07699>, *Instructions for Conducting Sampling During Aboveground Storage Tank Closure*, December 2018 April 2016 Edition.

(f) Geosynthetic Institute. A copy of the following document is available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at Geosynthetic Institute, 475 Kedron Avenue, Folsom, Pennsylvania 19033-1208, (610)522-8440, or at <http://www.geosynthetic-institute.org/>. *Test Methods, Test Properties and Testing Frequency for High Density Polyethylene (HDPE) Smooth and Textured Geomembranes*, GRI Test Method GM13, Rev. 13, January 2016 November

2015. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>.

(g) NACE International. Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906, (800)797-6223, or at <http://www.nace.org/>:

1. *External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms*, NACE Standard SP0193-2016-SG (formerly RP0193-2001), 2016 2004 Edition,

2. through 4. No change.

(h) National Fire Protection Association (NFPA). Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169, (617)770-3000, or at www.nfpa.org/:

1. *Flammable and Combustible Liquids Code*, NFPA 30, 2018 2015 Edition,

2. *Motor Fuel Dispensing Facilities and Repair Garages*, NFPA 30A, 2018 2015 Edition,

3. *Standard on Explosion Protection by Deflagration Venting*, NFPA 68, 2018 2013 Edition,

4. No change.

5. *Standard on Types of Building Construction*, NFPA 220, 2018 2015 Edition.

(i) No change.

(j) Petroleum Equipment Institute (PEI). Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or at www.pei.org/:

1. *Recommended Practices for Installation of Underground Liquid Storage Systems*, PEI/RP100-17 44, 2017 2011 Edition,

2. No change.

3. *Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities*, PEI/RP1200-17 42, 2017 2012 Edition.

(k) No change.

(l) Steel Tank Institute (STI). Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at STI, 944 Donata Court, Lake Zurich, IL 60047, (847)438-8265, or at <https://www.steeltank.com/>:

1. *Flameshield® Standard for Fire Tested Tanks*, STI F001, April 2017 October 2014. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>,

2. *Generator Base Tanks: Standard for Aboveground Tanks Used as a Generator Base Tank*, STI F011, April 2017

~~October 2014~~. Secondary references to this guideline can be found here:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>,

3. *Standard for Aboveground Tanks with Integral Secondary Containment*, STI F921®, Revised June 2016 ~~October 2014~~,

4. *Fireguard: Specification for Fireguard Protected Aboveground Storage Tanks*, STI F941, June 2016 ~~May 2015~~.

Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>,

5. through 6. No change.

7. *Standard for the Inspection of Aboveground Storage Tanks*, STI SP001, 6th 5th Edition, January 2018 ~~Revised 2014~~; and,

8. *Standard for Repair of Shop Fabricated Aboveground Tanks*, STI SP031, 5th 4th Edition, January 2018 ~~November 2008~~.

(m) Underwriters' Laboratories Standards (UL). Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)272-8800, or at www.ul.com/:

1. *Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids*, UL 142, December 2006, Revised August 2014, 9th Edition. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>,

2. *Nonmetallic Underground Piping for Flammable Liquids*, UL 971, October 1995, Revised March 2006, 1st 2nd Edition. Secondary references to this guideline can be found here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07688>; and,

3. *Standard for Protected Aboveground Tanks for Flammable and Combustible Liquids*, UL 2085, December 1997, Revised September 2010, 2nd Edition.

(n) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations. Copies of the following documents are available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202)512-1800, or at www.gpo.gov/:

1. *Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)*, 40 ~~CFR~~ ~~C.F.R.~~ Part 280, July 15, 2015, published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07664>, or <https://www.ecfr.gov/cgi-bin/text-idx?SID=fc39ac52f9d11adfed71beee374f05d&pid=2015071>

~~5&node=pt40.27.280&rgn=div5~~ <https://www.ecfr.gov/cgi-bin/ECFR?page=browseprevious&pid=00000000&SID=b4aa1b4450eed422e899ad31b3659271>; and,

2. No change.

(3) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 6-21-04, Amended 1-11-17,___.

62-762.301 Applicability.

(1) General Requirements.

(a) No change.

(b) Owners and operators of compression vessels and hazardous substance storage tank systems with capacities of greater than 110 gallons and containing hazardous substances above reportable quantities under Designation of Hazardous Substances 40 ~~CFR~~ ~~C.F.R.~~ Section 302.4, August 1989, published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, N.W., Washington, DC 20401-0001, hereby adopted and incorporated by reference, and available at the address given, or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07663>, or http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr302_main_02.tpl, or at the Department address listed in subsection 62-762.211(1), F.A.C., are only required to comply with Rule 62-762.401, F.A.C. ~~Owners and operators of storage tanks that contain hazardous substances consisting of ammonia and chlorine are required to comply with paragraph (1)(a), above.~~

(c) No change.

(2) Exemptions: The following systems are exempt from the requirements of this chapter:

(a) through (b) No change.

(c) Any pesticide waste degradation system ~~regulated under Chapter 62-660, F.A.C.~~;

(d) through (u) No change.

(v) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 28 of NFPA 30, 2018 2015 Edition, *Flammable and Combustible Liquids Code, Bulk Loading and Unloading Facilities for Tank Cars and Tank Vehicles*, incorporated by reference in paragraph 62-762.201(36)(a), F.A.C.;

(w) through (ee) No change.

Rulemaking Authority 376.303, 376.322(3) FS. Law Implemented 376.303, 376.321, 376.322(3) FS. History—New 6-21-04, Amended 1-11-17,_____.

62-762.401 Facility Registration.

(1) For installations:

(a) No change.

(b) For new facilities, which are facilities that began construction after January 11, 2017, a completed Form 62-762.901(2), Storage Tank Facility Registration Form

(Registration Form), effective date, Form Date January 2017, hereby adopted and incorporated by reference, shall be submitted in electronic or paper format to the Department no later than 30 days prior to installation. For facilities with existing registered storage tank systems, a completed Registration Form shall be submitted in electronic or paper format to the Department no later than seven days prior to regulated substances being put into any new storage system. The Department encourages the electronic submittal of the Registration Form available online here: <http://www.fldepportal.com/go/submit-registration/>, or to obtain copies of the form see Rule 62-762.901, F.A.C., or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07695>, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>.

(2) through (5) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 6-21-04, Amended 1-11-17, _____.

Editorial Note: Portions of this rule were relocated to Rule 62-762.421, F.A.C.

62-762.411 Notification.

(1) No change.

(2) For change in service status and closure:

(a) through (b) No change.

(c) A Closure Integrity Evaluation Report Form for ASTs 62-762.901(7), (Closure Integrity Report), effective date, Form Date January 2017, hereby adopted and incorporated by reference, as prepared in accordance with paragraph 62-762.801(3)(a) or 62-762.802(4)(a), F.A.C., must be provided to the county with the notification of closure. To obtain copies of this form see Rule 62-762.901, F.A.C., or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07693>, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>.

(3) Internal Inspections. Notification shall be received by the county in writing or electronic format between 10 and 25 days before the initiation of the work unless the county agrees to a shorter time period for inspections in accordance with *Tank Inspection, Repair, Alteration, and Reconstruction*, API Std 653, 5th Edition, November 2014, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202)682-8000, or at <http://www.api.org/>; and for piping integrity testing pursuant to *Piping Inspection Code: In-service Inspection, Repair, and Alteration of Piping Systems*, API 570, 4th 3rd Edition, February 2016 November 2009, includes

Addendum 1 (2017), hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202)682-8000, or at <http://www.api.org/>. Smaller field erected tanks with capacities less than 250,000 gallons shall be inspected in accordance with API Std 653, November 2014; or *Standard for the Inspection of Aboveground Storage Tanks*, STI SP001, 6th 5th Edition, January 2018 Revised 2014, hereby adopted and incorporated by reference and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at STI, 944 Donata Court, Lake Zurich, IL 60047, (847)438-8265, or at <https://www.steeltank.com/>. Notification is not required for any STI SP001, January 2018 Revised 2014, API Std 653, November 2014, and API 570, February 2016 November 2009, includes Addendum 1 (2017), inspection work or activities where the tank or piping will remain in service or will not be empty, or for routine maintenance.

(4) through (6) No change.

(7) In addition to providing the Discharge Report Form in accordance with subsection 62-762.411(5), F.A.C., facility owners or operators may be required to provide notice through the State Watch Office pursuant to Section 403.077, F.S.

Rulemaking Authority 376.303 FS. Law Implemented 376.30, 376.303, 403.077 FS. History—New 1-11-17, _____.

Editorial Note: Portions of this rule were copied from Rule 62-762.451, F.A.C.

62-762.421 Financial Responsibility.

(1) No change.

(2) Financial responsibility shall be maintained and demonstrated to the County or Department for all storage tank systems until the storage tank systems are properly closed pursuant to subsections 62-762.801(2) and (3), and 62-762.802(3) and (4), F.A.C., and the Closure Report or the Limited Closure Report Form for ASTs 62-762.901(8), effective date, Form Date January 2017, hereby adopted and incorporated by reference, is submitted to and approved by the County or the Department. To obtain copies of Form 62-762.901(8), see Rule 62-762.901, F.A.C., or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07696>, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>. Pursuant to Section 376.309(1), F.S., the facility owner is required to establish and maintain evidence of financial responsibility and is liable in event of noncompliance. If the facility owner, facility operator, tank owner, and tank operator are separate persons, then evidence of financial responsibility may be demonstrated if one of those persons obtains financial responsibility on behalf of the facility owner.

(3) The demonstration of financial responsibility for storage tank systems shall be made in accordance with reference guideline *Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Financial Responsibility*, 40 ~~CFR C.F.R.~~ Part 280, Subpart H, July 15, 2015, hereby adopted and incorporated by reference and available from the publisher at the Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, N.W., Washington, DC 20401-0001, or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07664>, or <https://www.ecfr.gov/cgi-bin/text-idx?SID=fc39ac52f9d11adfed71beee374f05d&pitd=20150715&node=pt40.27.280&rgn=div5> ~~http://www.ecfr.gov/cgi-bin/ECFR?page=browseprevious&pitd=00000000&SID=b4aa4b4450ced422e899ad31b3659274~~, or the Department address located in subsection 62-762.211(1), F.A.C. However, Department Form 62-761.900(3) effective date, Form Date January 2017, Financial Mechanisms for Storage Tanks, hereby adopted and incorporated by reference, and available in Rule 62-761.900, F.A.C., or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07661>, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>, shall ~~can~~ be used in lieu of the United States Environmental Protection Agency's financial wording mechanisms; except that:

(a) All references to underground storage tank(s) (UST) shall mean aboveground storage tank(s) (AST).

(b) 40 CFR Part 280.90(c) is not adopted as part of this rule.

(c) Owners or operators of petroleum or petroleum product aboveground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum or petroleum product aboveground storage tanks in at least the following per-occurrence and annual aggregate amounts:

1.(a) For a facility with a storage tank system or systems with a cumulative capacity greater than 550 gallons and less than or equal to 10,000 gallons, the demonstration of financial responsibility for cleanup of a discharge and third-party liability shall be a minimum of \$500,000.00 per incident and \$1 million annual aggregate.

2.(b) For a facility with a storage tank system or systems with a cumulative capacity greater than 10,000 gallons and less than or equal to 30,000 gallons, the demonstration of financial responsibility for cleanup of a discharge and third-party liability shall be a minimum of \$1 million per incident and \$1 million annual aggregate.

3.(c) For a facility with a storage tank system or systems with a cumulative capacity greater than 30,000 gallons and less

than or equal to 250,000 gallons the demonstration of financial responsibility for cleanup of a discharge and third-party liability shall be a minimum of \$1 million per incident and \$2 million annual aggregate.

~~4.(d) For a facility with a storage tank system or systems with a cumulative capacity greater than 250,000 gallons, the demonstration of financial responsibility for cleanup of a discharge and third-party liability shall be a minimum of \$3 million per incident and \$6 million annual aggregate. Holders of financial responsibility mechanisms and facility owners are encouraged to permanently maintain evidence of financial responsibility and all correspondence with respect to coverage and claims.~~

(4) The appropriate part(s) of Form 62-761.900(3) shall be completed and maintained used when demonstrating proof of financial responsibility under this Rule, and Form 62-761.900(3) Part P will satisfy the Certification of Financial Responsibility requirements of 40 ~~CFR C.F.R.~~ 280.111(b)(11); ~~July 15, 2015~~. Facility owners shall ensure that copies of the current financial responsibility document(s) are available for inspection at the facility where the storage tank system(s) is located or at their place of business. Records kept off-site shall be made available for inspection by the Department or County within five business days from the receipt of the Department's or County's request. Facility owners are required to maintain evidence of financial responsibility mechanisms in accordance with paragraph 62-762.711(3)(j), F.A.C., and are encouraged to maintain all correspondence associated with coverage and claims.

(5) Financial requirements for the purpose of this rule, regardless of the date of installation of storage tank systems, shall comply with this Rule 40 C.F.R. Part 280, Subpart H, July 15, 2015.

(6) through (7) No change.

(8) Government-owned facilities demonstrating proof of financial assurance using a financial test or government fund must prepare the relevant parts of Form 62-761.900(3) within 180 days after the close of each succeeding fiscal year.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.308, 376.309, 403.091, 403.141, 403.161 FS. History-New 1-11-17.

Editorial Note: Portions of this rule were copied from Rule 62-762.401, F.A.C.

62-762.431 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rules 62-762.601 and 62-762.602, F.A.C.:

1. through 2. No change.

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained; or that liquid, other

than condensate, has been detected by a sensor in a normally dry interstice or a dispenser, piping, hydrant, or containment sump.

4. through 9. No change.

(b) through (f) No change.

(2) through (3) No change.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the prior written approval of the Department or the county. ~~However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system or system component shall be placed out of service until such time the investigation is completed and resolved.~~

(5) through (8) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 1-11-17, _____.

Editorial Note: Portions of this rule were copied from Rule 62-762.821, F.A.C.

62-762.501 ~~Storage Tank~~ System Requirements for Shop Fabricated Storage Tanks.

(1) General requirements.

(a) No change.

(b) Secondary containment.

1. No change.

2. Synthetic liners, unless previously approved by the Department, shall be designed and tested in accordance with *Test Methods, Test Properties and Testing Frequency for High Density Polyethylene (HDPE) Smooth and Textured Geomembranes*, GRI Test Method GM13, Rev. ~~14 13, January 2016 November 2015~~, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at Geosynthetic Institute, 475 Kedron Avenue, Folsom, Pennsylvania 19033-1208, (610)522-8440, or at <http://www.geosynthetic-institute.org/>, and be registered with the Department in accordance with subsection 62-762.851(2), F.A.C. Liners shall not be constructed or consist of naturally occurring in-situ soils.

3. Secondary containment constructed of concrete shall be:

a. Designed and constructed in accordance with *Control of Cracking in Concrete Structures* (Reapproved 2008), ACI 224R-01, (Reapproved 2008), incorporated by reference in paragraph 62-762.201(33)(b), F.A.C., and *Design Considerations for Environmental Engineering Concrete Structures*, ACI 350.4R-04, 2004 Edition, American Concrete Institute (ACI), incorporated by reference in paragraph 62-762.201(33)(b), F.A.C., ~~and be registered with the Department in accordance with subsection 62-762.851(2), F.A.C., or~~

b. No change.

c. Designed, evaluated, and certified by a professional engineer licensed in the State of Florida that the concrete secondary containment system meets the ~~gGeneral cConstruction rRequirements~~ specified in subparagraph 62-762.501(1)(b)1., F.A.C. this section.

4. through 7. No change.

8. If factory-made single-walled spill containment systems or single-walled sumps are installed on the system, a containment integrity test shall be performed before the component is placed into service in accordance with the manufacturer's testing requirements. For system components without manufacturer containment testing specifications, PEI/RP1200-17, 2017 Edition shall be used. PEI/RP1200-17 is the Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, hereby adopted and incorporated by reference, and available at the Department address located in subsection 62-762.211(1), F.A.C., or the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or the publisher's website at www.pei.org/. For field-fabricated components the tests shall be at least for 24 hours in accordance with manufacturer's requirements.

9. An interstitial integrity test shall be performed on each double-walled or double-bottomed storage tank with a closed interstice after it is delivered to the facility, and before the storage tank is placed into service. This test shall be performed in accordance with the manufacturer's testing specifications. For storage tanks without manufacturer interstitial integrity testing requirements, PEI/RP200-13, 2013 Edition, shall be used. PEI/RP200-13 is the Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling, PEI/RP200-13, 2013 Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or at www.pei.org/. For closed top dike double-walled UL 142 storage tanks with an open interstice not capable of being pressurized, manufacturer's inspection instructions in accordance with the UL 142 storage tank's equipment registration pursuant to subsection 62-762.851(2), F.A.C., must be performed for structural or other damage to the storage tank after it is delivered to the facility, and before the storage tank is placed into service. If manufacturer instructions are unavailable, a visual inspection must be performed for structural or other damage to the storage tank after it is delivered to the facility, and before the storage tank is placed into service.

10. Before integral piping is placed into service, an interstitial integrity test shall be performed on double-walled small diameter integral piping in contact with the soil, or that

transports regulated substances over surface waters of the state, in accordance with *Recommended Practices for Installation of Underground Liquid Storage Systems*, PEI/RP100-17 ~~44~~, 2017 ~~2011~~ Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at PEI, Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918)494-9696, or at www.pei.org/, and PEI/RP1200-17 ~~42~~, 2017 ~~2012~~ Edition.

11. If double-walled spill containment systems ~~buckets~~ are installed, an interstitial integrity test shall be performed in accordance with the manufacturer's testing requirements. For system components without manufacturer interstitial integrity testing specifications. PEI/RP1200-17 ~~42~~, 2017 ~~2012~~ Edition, shall be used before the spill containment system ~~bucket~~ is placed into service.

(c) through (g) No change.

(h) All storage tank systems shall be installed in accordance with the applicable provisions of:

1. *Flammable and Combustible Liquids Code, Storage of Liquids in Tanks – Aboveground Storage Tanks* ~~Storage Tank Buildings, Chapter 22 of~~ NFPA 30, 2018 ~~2015~~ Edition, incorporated by reference in paragraph 62-762.201(36)(a), F.A.C.,

2. *Motor Fuel Dispensing Facilities and Repair Garages*, NFPA 30A, 2018 ~~2015~~ Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169, (617)770-3000, or at www.nfpa.org/,

3. *Process Piping*, ASME B31.3, 2016 ~~2014~~ Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at ASME International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800)843-2763, or the publisher's website at <http://www.asme.org/>; and,

4. No change.

(i) No change.

(2) Storage tank installation.

(a) No change.

(b) Storage tank construction requirements.

1. Storage tanks shall be constructed in accordance with one of the following requirements hereby adopted and incorporated by reference, and available from the Department address given in subsection 62-762.211(1):

a. *Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids*, UL 142, December 2006, Revised August 2014, 9th Edition. To obtain this reference from the publisher, see paragraph 62-762.211(2)(m), F.A.C.;

b. *Welded Tanks for Oil Storage*, API Std 650, 12th Edition, ~~Includes Errata 1 (2013), Errata 2 (2014), and Addendum 1 (2014)~~, March 2013, incorporated by reference in

subsection 62-762.201(67), F.A.C. To obtain this reference from the publisher, see paragraph 62-762.211(2)(b), F.A.C.;

c. *Specification for Fiberglass Reinforced Plastic Tanks*, API Spec 12P, 4th 3rd Edition, February 2016 ~~October 2008~~. To obtain this reference from the publisher, see paragraph 62-762.211(2)(b), F.A.C.;

d. *Standard for Aboveground Tanks with Integral Secondary Containment*, STI F921[®], Revised June 2016 ~~October 2014~~. To obtain this reference from the publisher, see paragraph 62-762.211(2)(l), F.A.C.;

e. *Standard for Protected Aboveground Tanks for Flammable and Combustible Liquids*, UL 2085, December 1997, Revised September 2010, 2nd Edition. To obtain this reference from the publisher, see paragraph 62-762.211(2)(m), F.A.C.,

f. *Flameshield[®] Standard for Fire Tested Tanks*, STI F001, April 2017 ~~October 2014~~. To obtain this reference from the publisher, see paragraph 62-762.211(2)(l), F.A.C.;

g. *Fireguard: Specification for Fireguard Protected Aboveground Storage Tanks*, STI F941, June 2016 ~~May 2015~~. To obtain this reference from the publisher, see paragraph 62-762.211(2)(l), F.A.C., or

h. *Generator Base Tanks: Standard for Aboveground Tanks Used as a Generator Base Tank*, STI F011, April 2017 ~~October 2014~~. To obtain this reference from the publisher, see paragraph 62-762.211(2)(l), F.A.C.

2. No change.

(c) Cathodic and corrosion protection. Steel tanks in contact with the soil shall have a cathodic or corrosion protection system meeting the following requirements:

1. The cathodic protection system shall be designed, constructed, and installed in accordance with *Cathodic Protection of Aboveground Petroleum Storage Tanks*, API RP 651, 4th Edition, September 2014, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, D.C. 20005, (202)682-8000, or at <http://www.api.org/>; and *External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms*, NACE Standard SP0193-2016-SG (formerly RP0193-2001), 2016 ~~2004~~ Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906, (800)797-6223, or at <http://www.nace.org/>,

2. through 5. No change.

(d) Secondary containment.

1. through 2. No change.

3. Dike field areas with secondary containment shall:

a. Conform to the requirements of Chapter 22 of NFPA 30, 2018 2015 Edition, Flammable and Combustible Liquids Code, Storage of Liquids in Tanks – Aboveground Storage Tanks,

b. through d. No change.

(e) Overfill protection.

1. No change.

2. All storage tanks shall be equipped with at least one of the following overfill protection devices or containment method:

a. A level gauge or other measuring device that accurately shows the level of regulated substances in the storage tank, and ~~that is visible to the transfer operator person who is monitoring the filling that shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months to ensure proper operation,~~

b. A high level (at 90 percent tank capacity) warning alarm that is either visible, audible, or both to the transfer operator and the transfer operator is to ensure the tank is not filled beyond 95 percent capacity shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months to ensure proper operation,

c. A high level (at ~~95~~ 90 percent tank capacity) liquid flow cutoff controller ~~that shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months,~~ or

d. No change.

3. Effective (effective date of Rule), owners and operators shall:

a. Designate a primary overfill protection device used to meet the requirements in subparagraph 62-762.501(2)(e)2., F.A.C., and any additional overfill devices shall not interfere with the designated primary device; and,

b. Ensure the designated primary overfill protection device is registered pursuant to registration of storage tank system equipment and release detection systems and methods, subsection 62-762.851(2), F.A.C. Storage tanks with capacities of 15,000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80 percent capacity.

4. An annual operability test shall be performed on the designated primary overfill protection device used to meet the Department's overfill protection requirement at intervals not exceeding 12 months to ensure proper operation. Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

5. Storage tanks with capacities of 15,000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser may use calibrated stick measurements for overfill protection, and are not required to be equipped with one of the devices specified in subparagraph 62-762.501(2)(e)2., F.A.C., provided that an inches to gallons chart is posted at the tank fill areas or readily available to the delivery driver. Such tanks shall not be filled beyond 95 percent capacity.

6. Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(f) Spill containment systems.

1. No change.

2. Fillbox covers, regardless of the date of installation of the storage tank system, shall be marked or the fill connection tagged and facility signage shall be prominently displayed in accordance with *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals*, API RP 1637, (R2012), 3rd Edition, July 2006 (~~Reaffirmed, May 2012~~), hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202)682-8000, or at <http://www.api.org/>; or *Identification Markings for Dedicated Aviation Fuel Manufacturing and Distribution Facilities, Airport Storage and Mobile Fuelling Equipment*, EI 1542, 9th Edition, July 2012, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at Energy Institute, 62 New Cavendish Street, London W1G 7AR, United Kingdom, +44 (0) 20 7467 7100, or the publisher's website at <https://www.energyinst.org/home>, or with an equivalent method approved by the Department in accordance with subsection 62-762.851(1), F.A.C.

3. No change.

(g) Dispensers and dispenser sumps.

1. The dispenser used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30, 2018 2015 Edition; and Chapter 6, *Fuel Dispensing Systems*; Chapter 9, *Operational Requirements*; and Chapter 11, *Marine Fueling of NFPA 30A Motor Fuel Dispensing Facilities and Repair Garages*, 2018 2015 Edition.

2. Dispensers shall be installed with a dispenser sump, except those within an impervious dike field area with secondary containment, meeting the performance requirements of paragraph 62-762.501(1)(b), F.A.C., and registered in accordance with subsection 62-762.851(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if

applicable. Dispensers mounted directly upon the storage tank or that are otherwise associated with storage tank systems that do not have underground integral piping are exempt from this requirement unless the dispensers are located over the surface waters of the state.

3. No change.

(h) through (i) No change.

(j) Relocation of storage tanks. Storage tanks that have been removed and reinstalled at a different property shall be re-registered with the Department in accordance with subsection 62-762.401(1), F.A.C. They shall be reinstalled in accordance with manufacturer's specifications and inspected in accordance with STI SP001, January 2018 Revised 2011, incorporated by reference in subsection 62-762.411(3), F.A.C., and with the requirements in Rule 62-762.501, F.A.C.

(3) Small diameter integral piping.

(a) Installation.

1. All integral piping installed after January 11, 2017, shall be installed in accordance with the manufacturer's instructions, if applicable, and according to the applicable provisions of PEI/RP200-13, 2013 Edition; Chapter 27 of NFPA 30, 2018 2015 Edition, *Flammable and Combustible Liquids Code, Piping Systems*; NFPA 30A, 2018 2015 Edition; and *Pipeline Transportation Systems for Liquids and Slurries*, ASME B31.4, 2016 2012 Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at ASME International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800)843-2763, or the publisher's website at <http://www.asme.org/>.

2. An interstitial integrity test shall be performed on double-walled integral piping that is in contact with the soil, or that transports regulated substances over surface waters of the state in accordance with PEI/RP100-17 14, 2017 2014 Edition and PEI/RP1200-17 12, 2017 2012 Edition, before the integral piping is placed into service.

3. through 4. No change.

5. All new pressurized small diameter integral piping that is in contact with the soil must be installed with line leak detectors meeting the requirements of paragraph 62-762.601(4)(b), F.A.C. The line leak detectors must be tested annually at intervals not exceeding 12 months in accordance with paragraph 62-762.601(1)(b), F.A.C., and be installed in accordance with manufacturer's instructions. For line leak detectors without manufacturer's instructions, the installation must be in accordance with Section 7 of PEI/RP200-13, *Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling, Pumps and Valves*, 2013 Edition.

6. All pressurized small diameter integral piping installed prior to January 11, 2017, that is in contact with the soil must

be installed with line leak detectors meeting the requirements of paragraph 62-762.601(4)(b), F.A.C., by January 11, 2018 ~~within one year of January 11, 2017~~. The line leak detectors must be tested annually at intervals not exceeding 12 months in accordance with paragraph 62-762.601(1)(b), F.A.C., and be installed in accordance with manufacturer's instructions. For line leak detectors without manufacturer's instructions, the installation must be in accordance with Section 7 of PEI/RP200-13, 2013 Edition. ~~Line leak detectors must be located downstream from the anti siphon or solenoid valve.~~ Line leak detectors are not required for piping that is not in contact with the soil.

(b) No change.

(c) Construction.

1. Fiberglass reinforced plastic piping, semi-rigid non-metallic, or other non-rigid piping installed in contact with the soil shall be installed in accordance with *Non-metallic Underground Piping for Flammable Liquids*, UL 971, October 1995, Revised March 2006, 1st 2nd Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at UL, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)272-8800, or at www.ul.com/, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-762.851(2), F.A.C.

2. Rigid metallic integral piping shall be constructed in accordance with ASME B31.3, 2016 2014 Edition, or PEI/RP200-13, 2013 Edition. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*, API RP 1632, (R2010), 3rd Edition, May 1996, ~~(Reaffirmed, June 2002)~~, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202) 682-8000, or at <http://www.api.org/>; *Control of External Corrosion on Underground or Submerged Metallic Piping Systems*, NACE Standard SP0169-2013 (formerly RP0169), 2013 Edition, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906, (800)797-6223, or at <http://www.nace.org/>; and *Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems*, STI R892, Revised January 2006, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at STI,

944 Donata Court, Lake Zurich, IL 60047, (847)438-8265, or at <https://www.steeltank.com/>.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, 2018 2015 Edition.

4. through 5. No change.

(d) Valves.

1. Shear valves. Pressurized small diameter integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, *Motor Fuel Dispensing Facilities and Repair Garages, Requirements for Dispensing Devices*, 2018 2015 Edition. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-17 42, 2017 2012 Edition, at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly, and that the valve is properly anchored.

2. Isolation block valves. Any storage tank system, regardless of the date of installation of the storage tank system, located at an elevation that produces a gravity head on small diameter integral piping positioned below the product level in the tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, 2018 2015 Edition, *Flammable and Combustible Liquids Code, Tank Openings Other Than Vents*.

3. Anti-siphon valves. For storage tank systems that produce a gravity head on small diameter integral piping positioned below the product level in the tank, anti-siphon valves shall be installed and maintained in accordance with Section 7 of PEI/RP200-13, 2013 Edition, and Section 11.2 of NFPA 30A, *Marine Fueling, Storage*, 2018 2015 Edition. For such storage tank systems installed prior to January 11, 2017, anti-siphon valves shall be installed within one year of January 11, 2017. Integral piping located within an impervious dike field area does not require anti-siphon valves.

(4) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 6-21-04, Amended 1-11-17,_____.

~~62 762.502 Storage Tank System Requirements for Field Erected Storage Tanks.~~

(1) General requirements.

(a) No change.

(b) Secondary containment.

1. No change.

2. Synthetic liners, unless previously approved by the Department, shall be designed and tested in accordance with GRI Test Method GM13, Rev. 14 43, January 2016 November

~~2015~~, incorporated by reference in subparagraph 62-762.501(1)(b)2., F.A.C., and be registered with the Department in accordance with subsection 62-762.851(2), F.A.C. Liners shall not be constructed or consist of naturally occurring in-situ soils.

3. Secondary containment constructed of concrete shall be:

a. Designed and constructed in accordance with ACI 224R-01, (Reapproved 2008), and ACI 350.4R-04, 2004 Edition, both incorporated by reference in paragraph 62-762.201(33)(b), F.A.C., ~~and be registered with the Department in accordance with subsection 62-762.851(2), F.A.C., or~~

b. No change.

c. Designed, evaluated, and certified by a professional engineer licensed in the State of Florida that the concrete secondary containment system meets the general construction requirements specified in subparagraph 62-762.502(1)(b)1., F.A.C. this section.

4. through 7. No change.

8. If factory-made containment systems or single-walled sumps are installed on the system, a containment integrity test shall be performed in accordance with manufacturer's requirements. For system components without manufacturer containment integrity testing specifications, PEI/RP1200-17 42, 2017 2012 Edition, incorporated by reference in subparagraph 62-762.501(1)(b)8., F.A.C., shall be used before the component is placed into service. For field-fabricated components the tests shall be at least for 24 hours in accordance with manufacturer's requirements.

9. An interstitial integrity test shall be performed on each double-walled or double-bottomed storage tank with a closed interstice after it is constructed at the facility, and before the storage tank is placed into service. This test shall be performed in accordance with Annex I.6, Testing and Inspection, located in API Std 650, March 2013, incorporated by reference in subsection 62-762.201(67), F.A.C.

10. An interstitial integrity test shall be performed on double-walled small diameter integral piping in contact with the soil, or that transports regulated substances over surface waters of the state, in accordance with PEI/RP100-17 44, 2017 2011 Edition, incorporated by reference in subparagraph 62-762.501(1)(b)10., F.A.C., and PEI/RP1200-17 42, 2017 2012 Edition, before the small diameter integral piping is placed into service.

(c) through (g) No change.

(h) All storage tank systems shall be installed in accordance with the applicable provisions of API Std 650, March 2013, incorporated by reference in subsection 62-762.201(67), F.A.C.; NFPA 30, 2018 2015 Edition, incorporated by reference in paragraph 62-762.201(36)(a), F.A.C.; NFPA 30A, 2018 2015 Edition, incorporated by reference in subparagraph 62-762.501(1)(h)2., F.A.C.; ASME

B31.3, 2016 ~~2014~~ Edition, incorporated by reference in subparagraph 62-762.501(1)(h)3., F.A.C.; and PEI/RP200-13, 2013 Edition, incorporated by reference in subparagraph 62-762.501(1)(b)9., F.A.C.

(i) No change.

(2) Storage tank installation.

(a) All storage tank systems shall be installed in accordance with the applicable provisions of Chapter 22 of NFPA 30, 2018 ~~2015~~ Edition.

(b) Storage tank construction requirements.

1. Storage tanks shall be constructed in accordance with one of the following:

a. No change.

b. API Std 650, March 2013, incorporated by reference in subsection 62-762.201(67), F.A.C.

2. No change.

(c) Cathodic and corrosion protection. Steel tanks in contact with the soil shall have a cathodic or corrosion protection system meeting the following requirements:

1. The cathodic protection system shall be designed, constructed, and installed in accordance with API RP 651, 4th Edition, September 2014, incorporated by reference in paragraph 62-762.501(2)(c), F.A.C., or NACE Standard SP0193-2016-SG (formerly RP0193-2001), 2016 ~~2001~~ Edition, incorporated by reference in subparagraph 62-762.501(2)(c)1., F.A.C. Storage tanks that have been upgraded with secondary containment consisting of a new steel bottom that is not in contact with the soil are not required to have cathodic protection on the new steel bottom,

2. through 5. No change.

(d) Secondary containment.

1. through 2. No change.

3. Dike field areas with secondary containment shall:

a. Conform to the requirements of Chapter 22 of NFPA 30, 2018 ~~2015~~ Edition,

b. through d. No change.

4. No change.

5. Instead of installing secondary containment in the entire dike field area in accordance with this subsection, an alternative dike field secondary containment system registered in accordance with subsection 62-762.851(2), F.A.C., may be used. Alternative dike field secondary containment systems are not allowed in public wellhead protection areas. The alternative dike field secondary containment system, regardless of the date of installation of the storage tank system, must provide:

a. through g. No change.

h. For new tanks, a release prevention barrier underneath the tank in accordance with API Std 650, March 2013, Annex I, incorporated by reference in subsection 62-762.201(67), F.A.C., or an equivalent system registered as a release

prevention barrier or secondary containment in accordance with subsection 62-762.851(2), F.A.C.

6. No change.

7. Release prevention barriers for dike field containment systems shall be impervious and be designed and constructed in accordance with API Std 650, March 2013, or be registered as a release prevention barrier or secondary containment in accordance with subsection 62-762.851(2), F.A.C.

(e) Overfill protection.

1. through 2. No change.

3. All storage tanks, not subject to API 2350, 4th Edition, May 2012, shall not be filled beyond 90 percent capacity and shall be equipped with at least one of the following overfill protection devices or containment method:

a. A level gauge or other measuring device that accurately shows the level of regulated substances in the storage tank, and ~~that is visible to the person who is monitoring the filling that shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months to ensure proper operation,~~

b. A high level warning alarm that is either visible, audible, or both to the person monitoring the filling shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months to ensure proper operation,

c. A high level liquid flow cutoff controller ~~that shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months to ensure proper operation,~~ or

d. No change.

4. Effective (*effective date of Rule*), owners and operators shall:

a. Designate a primary overfill protection device used to meet the requirements in subparagraph 62-762.502(2)(e)3., F.A.C., and any additional overfill devices shall not interfere with the designated primary device; and,

b. Ensure the designated primary overfill protection device is registered pursuant to registration of storage tank system equipment and release detection systems and methods, with subsection 62-762.851(2), F.A.C.

5. An annual operability test shall be performed on the designated primary overfill protection device used to meet the Department's overfill protection requirement at intervals not exceeding 12 months to ensure proper operation.

(f) through (i) No change.

(3) No change.

(4) Bulk product piping.

(a) Installation.

1. Bulk product piping shall be constructed and installed in accordance with the applicable provisions of Chapter 27 of NFPA 30, 2018 2015 Edition; and either ASME B31.3, 2016 2014 Edition; or B31.4, 2016 2012 Edition, incorporated by reference in subparagraph 62-762.501(3)(a)1., F.A.C.; or Welding of Pipelines and Related Facilities, API Std 1104, 21st Edition, September 2013. Includes Errata 1 (2013), Errata 2 (2014), Errata 3 (2014), Errata 5 (2018), and Addendum 1 (2014), Addendum 2 (2016) September 2013, hereby adopted and incorporated by reference, and available at the Department address listed in subsection 62-762.211(1), F.A.C., or from the publisher at API, 1220 L Street, N.W., Washington, DC 20005, (202)682-8000, or at <http://www.api.org/>.

2. No change.

3. An integrity test shall be performed for underground bulk product piping for high viscosity products in accordance with Chapter 27 of NFPA 30, 2018 2015 Edition, before the piping system is placed into initial use. An interstitial integrity test shall be performed for underground bulk product piping with secondary containment in accordance with subsection 62-762.702(4), F.A.C., or Chapter 27 of NFPA 30, 2018 2015 Edition, before the piping is placed into initial use.

(b) Secondary containment.

1. No change.

2. Single-walled bulk product piping that was installed before June 30, 1992, and that had an initial structural evaluation performed in accordance with API 570, 4th Edition, February 2016 November 2009, includes Addendum 1 (2017), incorporated by reference in subsection 62-762.411(3), F.A.C., before January 1, 2000, is exempt from this requirement if the evaluation indicated that the bulk product piping had remaining useful life. The piping shall be repaired or upgraded with secondary containment or closed when a periodic API 570, 4th Edition, February 2016 November 2009, includes Addendum 1 (2017), inspection indicates that repair, upgrading or closure is necessary.

3. through 4. No change.

5. Bulk product piping in contact with the soil containing high viscosity products may be converted to non-high viscosity product service without having to install secondary containment if an API 570, 4th Edition, February 2016 November 2009, includes Addendum 1 (2017), integrity assessment, incorporated by reference in subsection 62-762.411(3), F.A.C., is performed and confirms that the piping has remaining useful life. The piping shall be repaired or upgraded with secondary containment or closed when a periodic API 570, 4th Edition, February 2016 November 2009, includes Addendum 1 (2017), inspection indicates that repair, upgrading or closure is necessary.

(c) Construction.

1. New steel bulk product piping shall be constructed in accordance with ASME B31.3, 2016 2014 Edition; or ASME B31.4, 2016 2012 Edition; or API STD 1104, 21st Edition, September 2013. Includes Errata 1 (2013), Errata 2 (2014), Errata 3 (2014), Errata 5 (2018), and Addendum 1 (2014), Addendum 2 (2016) September 2013. Bulk product steel integral piping in contact with the soil shall be cathodically protected in accordance with API RP 1632, 3rd Edition (R2010) May 1996, (Reaffirmed June 2002), incorporated by reference in subparagraph 62-762.501(3)(c)2., F.A.C.; NACE Standard SP0169-2013, 2013 Edition, incorporated by reference in subparagraph 62-762.501(3)(c)2., F.A.C.; or STI R892, Revised January 2006, incorporated by reference in subparagraph 62-762.501(3)(c)2., F.A.C. Corrosion Protection can also be provided using vapor corrosion inhibitors registered in accordance with subsection 62-762.851(2), F.A.C. Bulk product piping using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with subsection 62-762.851(2), F.A.C., shall be designed and installed under the direction of a Corrosion Professional.

2. through 3. No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 1-11-17,_____.

62-762.701 Repairs, Operation and Maintenance of Shop Fabricated Storage Tanks.

(1) Repairs.

(a) No change.

(b) The storage tank system shall immediately cease operating, dispensing, and accepting deliveries, if:

1. No change.

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shutdown of electrical generating units serviced by the storage tank system; and,

3. The condition of the component results in an on-going discharge, pursuant to Rule 62-762.441, F.A.C.

(c) No change.

(d) Repairs shall be evaluated and performed in accordance with *Standard for Repair of Shop Fabricated Aboveground Tanks*, STI SP031, 5th 4th Edition, January 2018 November 2008, hereby adopted and incorporated by reference, and available from the address listed in subsection 62-762.211(1), F.A.C., or from the publisher at STI, 944 Donata Court, Lake Zurich, IL 60047, (847)438-8265, or at <https://www.steeltank.com/>, or other equivalent procedures,

regardless of the date of installation of the storage tank system or storage tank system component.

(e) through (f) No change.

(g) A storage tank system that requires repair, but cannot be repaired within 90 days to operate in accordance with the requirements of this chapter, shall be taken out-of-service in accordance with subsection 62-762.801(1), F.A.C. If the system cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed pursuant to subsection 62-762.801(2), F.A.C.

(2) Cathodic and corrosion protection.

(a) No change.

(b) Inspection and testing requirements.

1. No change.

2. Storage tank systems equipped with impressed current systems shall be inspected at intervals not exceeding once every 60 days. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 2,976 hours in one year shall be assessed within 30 days by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria ~~or be taken out-of-service and assessed by a Corrosion Professional~~ before being returned to service.

(c) through (d) No change.

(3) No change.

(4) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces, regardless of the date of installation of the storage tank system or storage tank system component, shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications. For storage tank system or system components without manufacturer integrity or containment testing specifications, ~~or PEI/RP1200-17 42, 2017 2012~~ Edition, incorporated by reference in subparagraph 62-762.501(1)(b)8., F.A.C., shall be used. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

a. Double-walled storage tanks and ~~below-grade~~ double-walled piping in contact with the soil or over surface waters of the state, shall be tested at the time of installation and at the time of any subsequent repair,

b. ~~Below-grade~~ Piping sumps in contact with the soil shall be tested by October 13, 2018, and every three years thereafter, not to exceed 36 months.

c. ~~Below-grade~~ Dispenser sumps in contact with the soil shall be tested by October 13, 2018, and every three years thereafter, not to exceed 36 months.

d. Piping and dispenser sumps over surface waters of the state shall be tested within one year of *(the effective date of the rule)*, and every three years thereafter, not to exceed 36 months.

~~ed~~ Below-grade spill containment systems shall be tested ~~by within one year of~~ January 11, ~~2018~~ 2017, and at intervals not exceeding every three years thereafter, not to exceed 36 months; and,

~~fe.~~ Below-grade Hydrant sumps in contact with the soil shall be tested ~~by within one year of~~ January 11, ~~2018~~ 2017, and every three years thereafter, not to exceed 36 months.

2. No change.

(b) through (c) No change.

(5) through (6) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 403.091 FS. History—New 6-21-04, Amended 1-11-17,_____.

62-762.702 Repairs, Operation and Maintenance of Field Erected Storage Tanks.

(1) Repairs.

(a) No change.

(b) The storage tank system shall immediately cease operating and accepting deliveries, if:

1. No change.

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shutdown of electrical generating units serviced by the storage tank system; and.

3. The condition of the component results in an on-going discharge, pursuant to Rule 62-762.441, F.A.C.

(c) through (e) No change.

(f) A storage tank system that requires repair, but cannot be repaired within 90 days to operate in accordance with the requirements of this chapter, shall be taken out-of-service in accordance with subsection 62-762.802(2), F.A.C. If the system cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed pursuant to subsection 62-762.802(3), F.A.C.

(2) Cathodic and corrosion protection.

(a) No change.

(b) Inspection and testing requirements.

1. No change.

2. Storage tank systems equipped with impressed current systems shall be inspected at intervals not exceeding 60 days. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 2,976 hours in one year shall be assessed within 30 days by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria ~~or taken out of service and assessed by a Corrosion Professional~~ before being returned to service.

(c) through (d) No change.

(3) No change.

(4) Operation and maintenance.

(a) Integrity testing

1. The integrity of secondary containment systems and interstitial spaces shall be verified by performing an interstitial or containment integrity test in accordance with API Std 653, November 2014, incorporated by reference in subsection 62-762.411(3), F.A.C.; API 570, 4th Edition, February 2016 ~~November 2009, includes Addendum 1 (2017)~~, incorporated by reference in subsection 62-762.411(3), F.A.C.; or PEI/RP1200-17 ~~42, 2017 2012~~ Edition, incorporated by reference in subparagraph 62-762.501(1)(b)8., F.A.C., as applicable, regardless of the date of installation of the storage tank system. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection and suction piping systems are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

a. Double-walled storage tanks and ~~below-grade~~ double-walled piping, in contact with the soil, shall be tested at the time of installation and at the time of any subsequent repair,

b. ~~Below-grade~~ Piping sumps in contact with the soil shall be tested by October 13, 2018, and every three years thereafter, not to exceed 36 months,

c. Below-grade spill containment systems shall be tested by January 11, 2018 ~~within one year of January 11, 2017~~, and at intervals not exceeding every three years thereafter, not to exceed 36 months; and,

d. ~~Below-grade~~ Hydrant sumps in contact with the soil shall be tested by January 11, 2018 ~~within one year of January 11, 2017~~, and every three years thereafter, not to exceed 36 months.

2. No change.

(b) through (c) No change.

(5) No change.

(6) Evaluation and testing. Tanks shall be evaluated and the re-testing frequency established and implemented in accordance with API Std 653, November 2014, incorporated by reference in subsection 62-762.411(3), F.A.C. Storage tanks shall be evaluated at the time of installation. Evaluations shall be certified by a professional engineer licensed in the State of Florida, or approved by an API Std 653 certified inspector. Non-destructive testing shall be performed by qualified personnel as specified in API Std 650, March 2013, incorporated by reference in subsection 62-762.201(67), F.A.C., and API Std 653, November 2014. All field erected tanks shall be repaired in accordance with API Std 653, November 2014. Field erected tanks with storage capacities of less than 250,000 gallons may be evaluated in accordance with STI SP001, January 2018 ~~Revised 2014~~, incorporated by reference in subsection 62-762.411(3), F.A.C., in lieu of API Std 653, November 2014.

(7) Evaluation and testing of single-walled metallic bulk product and hydrant piping systems. Single-walled metallic bulk product and hydrant piping systems in contact with the soil, excluding those containing high viscosity products, shall be evaluated and the re-testing frequency established and implemented in accordance with API 570, 4th Edition, February 2016 ~~November 2009, includes Addendum 1 (2017)~~, incorporated by reference in subsection 62-762.411(3), F.A.C. Evaluations shall be certified by a professional engineer licensed in the State of Florida or by an API 570 certified inspector. Non-destructive testing shall be performed by qualified personnel as specified in API 570, 4th Edition, February 2016 ~~November 2009, includes Addendum 1 (2017)~~. All single-walled metallic bulk product and hydrant piping systems in contact with the soil shall be repaired in accordance with API 570, 4th Edition, February 2016 ~~November 2009, includes Addendum 1 (2017)~~.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 403.091 FS. History—New 1-11-17, _____.

62-762.801 Out-of-Service and Closure Requirements for Shop Fabricated Storage Tanks.

(1) Out-of-service storage tank systems.

(a) Storage tank systems that are taken out-of-service, as required in this subsection shall continue to be maintained in accordance with this ~~chapter unless otherwise noted herein rule~~.

(b) Facility owners and operators of out-of-service storage tank systems shall:

1. through 3. No change.

4. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of the regulated substances remains in the storage tank; ~~and,~~

5. Secure or close off the system to outside access; and,

6. Register the storage tank system out-of-service in accordance with Rule 62-762.401, F.A.C.

(c) The following inspections and testing requirements are not required while the storage tank system is properly out-of-service:

1. Monthly visual inspections in accordance with paragraph 62-762.601(1)(e), F.A.C.,

2. Semiannual inspections of piping and dispenser sumps that use electronic release detection methods in accordance with paragraph 62-762.601(1)(e), F.A.C.,

3. Monthly inspection of electronic release detection devices in accordance with paragraph 62-762.601(1)(g), F.A.C.; and

4. Release detection device annual operability testing, containment and integrity testing, and annual overflow protection device testing; however, are not required while the system is properly out of service. ~~a~~All aforementioned testing shall be up-to-date in accordance with this chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems that have been out-of-service for more than 365 days must be evaluated in accordance with the following prior to being returned to service:

a1. STI SP001, January 2018 Revised 2014, incorporated by reference in subsection 62-762.411(3), F.A.C., regardless of the date of installation of the storage tank system; and,

b2. No change.

(d) Storage tank systems with secondary containment, not requiring repairs pursuant to Rule 62-762.701, F.A.C., shall only be designated as out-of-service for a maximum of 10 continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with paragraph 62-762.801(2)(b), F.A.C.

(e) Storage tank systems without secondary containment, not requiring repairs pursuant to Rule 62-762.701, F.A.C., shall not remain in a continuous out-of-service status for more than five years. Upon expiration of this time period, the storage tank system must be closed in accordance with paragraph 62-762.801(2)(b), F.A.C.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection:

1. through 2. No change.

3. A storage tank system that requires repair pursuant to Rule 62-762.701, F.A.C., but is not cannot be repaired within 90 days to operate in accordance with the requirements of this chapter shall be taken out-of-service. If the system is not # cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed.

4. No change.

(b) Closure of storage tank systems shall be performed by:

1. through 3. No change.

4. Removing and disposing of a storage tank, or in-place closure by rendering the storage tank free of regulated substances and vapors at the time of closure to prevent hazardous explosive conditions, by maintaining the storage tank to prevent future explosive conditions, and by protecting the storage tank from flotation in accordance with Chapter 22 of NFPA 30, 2018 2015 Edition, incorporated by reference in paragraph 62-762.201(36)(a), F.A.C. In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities,

5. For single-walled storage tanks and single-walled integral piping in contact with the soil, regardless of the date of installation of the storage tank system or storage tank system component, an investigation shall be conducted during closure in accordance with *Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 April 2016* Edition, or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07699>, or the Department's website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>, hereby adopted and incorporated by reference, and available at the address given in paragraph 62-762.211(2)(e), F.A.C.; and,

6. through 7. No change.

8. Once a storage tank system has been properly closed pursuant to subsections 62-762.801(2) and (3), F.A.C., and the Closure Report or the Limited Closure Report Form for ASTs 62-762.901(8), incorporated by reference in subsection 62-762.421(2), F.A.C., has been submitted to and approved by the county or the Department, the facility owner shall update the facility's registration status to indicate the storage tank system as closed in accordance with subsection 62-762.401(2), F.A.C.

(3) Closure Integrity Report, Closure Report, and Limited Closure Report.

(a) Closure Integrity Report.

1. No change.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled storage tanks, double-walled integral piping, double-walled piping sumps, double-walled dispenser sumps, and double-walled spill containment systems that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. For storage tank system components where the interstitial space cannot be visually inspected, other methods approved by the manufacturer, PEI RP1200-17, or the Department such as

vacuum, pressure, or inert gases may be used instead of visual observations.

3. through 5. No change.

6. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with paragraph 62-762.431(1)(f), F.A.C., and the investigation of the incident in accordance with Rule 62-762.431, F.A.C. If sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted during closure in accordance with *Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition*, regardless of the date of installation of the storage tank system or system component being closed.

7. The owner or operator who does not, or elects not to conduct a Closure Integrity Evaluation, ~~as required~~ in accordance with ~~sub~~paragraph 62-762.801(3)(a)~~+~~, F.A.C., before the storage tank system or system component has been removed or closed in-place, regardless of the date of installation of the storage tank system or system component, shall conduct an investigation at the time of closure in accordance with *Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition*.

(b) Closure Report. In cases where an investigation is conducted at the time of closure in accordance with *Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition*, a Closure Report shall be submitted in writing or electronic format to the county within 60 days of completion of the system or system component closure or replacement. The Closure Report shall be prepared in accordance with *Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition*.

(c) Limited Closure Report. Form 62-762.901(8), Limited Closure Report Form for ASTs, ~~incorporated by reference in subsection 62-762.421(2), F.A.C.~~, shall be submitted in writing or electronic format to the county within 60 days of completion of the closure or replacement in cases where the following instances:

1. ~~Where Aa~~ Closure Integrity Evaluation passed,
2. ~~Where Aa~~ failed Closure Integrity Evaluation was investigated prior to closure and it was demonstrated that a discharge did not occur; ~~or,~~
3. ~~Where Aa~~ Closure Integrity Evaluation or Closure Report were not required because the closure only involved a storage tank system or system components that were not in contact with the soil.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History—New 6-21-04, Amended 1-11-17, _____.

62-762.802 Out-of-Service and Closure Requirements for Field Erected Storage Tanks.

(1) No change.

(2) Out-of-service storage tank systems.

(a) No change.

(b) Facility owners and operators of out-of-service storage tank systems shall:

1. through 3. No change.

4. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of the regulated substances remains in the storage tank; ~~and,~~

5. Secure or close off the system to outside access; ~~and,~~

6. Register the storage tank system out-of-service in accordance with Rule 62-762.401, F.A.C.

(c) No change.

(d) The following inspections and testing requirements are not required while the storage tank system is properly out-of-service:

1. Monthly visual inspections in accordance with paragraph 62-762.602(1)(e), F.A.C..

2. Monthly inspection of electronic release detection devices in accordance with paragraph 62-762.602(1)(g), F.A.C., and

3. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overflow protection device testing; however, are not required while the system is properly out-of-service. ~~a~~All aforementioned testing shall be up-to-date in accordance with this chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, before being returned to service, storage tank systems that have been out-of-service for more than 365 days must be:

a1. Structurally evaluated in accordance with API Std 653, November 2014, for field erected tanks, incorporated by reference in subsection 62-762.411(3), F.A.C.; and,

b2. Integrity tested in accordance with Rule 62-762.702, F.A.C., for integral piping.

(e) Storage tank systems with secondary containment, not requiring repairs pursuant to 62-762.702, F.A.C., shall only be designated as out-of-service for a maximum of 10 continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with paragraph 62-762.802(3)(b), F.A.C.

(f) Storage tank systems without secondary containment, not requiring repairs pursuant to 62-762.702, F.A.C., shall not remain in a continuous out-of-service status for more than five years. Upon expiration of this time period, the storage tank system must be closed in accordance with paragraph 62-762.802(3)(b), F.A.C.

(g) No change.

(3) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection:

1. through 2. No change.

3. A storage tank system that requires repair pursuant to Rule 62-762.702, F.A.C., but ~~is not~~ ~~cannot be~~ repaired within 90 days to operate in accordance with the requirements of this chapter shall be taken out-of-service. If the system is not ~~it cannot be~~ repaired within 365 days after being taken out-of-service, it shall be permanently closed.

4. No change.

(b) Closure of storage tank systems shall be performed by:

1. through 3. No change.

4. Removing and disposing of a storage tank, or in-place closure by rendering the storage tank free of regulated substances and vapors at the time of closure to prevent hazardous explosive conditions, by maintaining the storage tank to prevent future explosive conditions, and by protecting the storage tank from flotation in accordance with Chapter 22 of NFPA 30, 2018 2015 Edition, incorporated by reference in paragraph 62-762.201(36)(a), F.A.C. In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities,

5. For single-walled storage tanks, and single-walled integral piping in contact with the soil, regardless of the date of installation of the storage tank system or storage tank system component, an investigation shall be conducted during closure in accordance with Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition,

6. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes; ~~and,~~

7. No change.

8. Once a storage tank system has been properly closed pursuant to subsections 62-762.802(3) and (4), F.A.C., and the Closure Report or the Limited Closure Report Form for ASTs 62-762.901(8), incorporated by reference in subsection 62-762.421(2), F.A.C., has been submitted to and approved by the county or the Department, the facility owner shall update the facility's registration status to indicate the storage tank system as closed in accordance with subsection 62-762.401(2), F.A.C.

(4) Closure Integrity Report, Closure Report, and Limited Closure Report.

(a) Closure Integrity Report.

1. No change.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled and double-bottomed storage tanks, double-walled integral piping, and double-walled hydrant sumps that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. For storage tank system components where the interstitial space cannot be visually inspected, o~~Other~~ methods approved by the manufacturer, API Std 653, November 2014, PEI RP1200-17, or the Department such as vacuum, pressure, or inert gases may be used instead of visual observations.

3. through 5. No change.

6. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with paragraph 62-762.431(1)(f), F.A.C., and the investigation of the incident in accordance with Rule 62-762.431, F.A.C. If sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted during closure in accordance with Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition, regardless of the date of installation of the storage tank system or system component being closed.

7. The owner or operator who does not, or elects not to ~~as required~~ conduct a Closure Integrity Evaluation, in accordance with ~~subparagraph 62-762.802(4)(a)4,~~ F.A.C., before the storage tank system or system component has been removed or closed in-place, regardless of the date of installation of the storage tank system or system component, shall conduct an investigation at the time of closure in accordance with Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition.

(b) Closure Report. In cases where an investigation is conducted at the time of closure in accordance with Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition, a Closure Report shall be submitted in writing or electronic format to the County within 60 days of completion of the system or system component closure or replacement. The Closure Report shall be prepared in accordance with Instructions for Conducting Sampling During Aboveground Storage Tank Closure, December 2018 Edition.

(c) Limited Closure Report. Form 62-762.901(8), Limited Closure Report Form for ASTs, ~~incorporated by reference in subsection 62-762.421(2), F.A.C.,~~ shall be submitted in writing or electronic format to the County within 60 days of completion of the closure or replacement in cases where the following instances:

1. ~~Where A~~ Closure Integrity Evaluation passed,

2. ~~Where A~~ failed Closure Integrity Evaluation was investigated prior to closure and it was demonstrated that a discharge did not occur; ~~or,~~

3. ~~Where Aa~~ Closure Integrity Evaluation or Closure Report were not required because the closure only involved a storage tank system or system components that were not in contact with the soil.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New 1-11-17,_____.

62-762.851 Alternative Procedures and Equipment Registration.

(1) No change.

(2) Registration of storage tank system equipment and release detection systems and methods.

(a) through (c) No change.

(d) Only the storage tank system equipment as stated in this chapter shall be registered by the equipment manufacturer using Form 62-762.901(9), Storage Tank System Equipment Registration Form, (Equipment Registration Form) effective date Form Date January 2017, hereby adopted and incorporated by reference. To obtain copies of this form see Rule 62-762.901, F.A.C., or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07697>, or the Department’s website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>. The following storage tank system equipment is exempt from registration:

1. through 9. No change.

(e) through (i) No change.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History–New 6-21-04, Amended 1-11-17,_____.

62-762.901 Storage Tank Forms.

Storage Tank Forms are listed by form number, the subject title, effective date, and include the rule where the form is incorporated by reference. Copies of forms are available by writing to the Division of Waste Management, Florida Department of Environmental Protection, 2600 Blair Stone Road, M.S. 4500, Tallahassee, Florida 32399-2400, or available online at www.flrules.org, or on the Department website at <https://floridadep.gov/waste/permitting-compliance-assistance/content/storage-tank-system-rules-forms-and-reference>. For electronic submittal of the Storage Tank Facility Registration Form go to <http://www.fldepportal.com/go/submit-registration/>, Storage Tank Registration.

(1) No change.

(2) Form 62-762.901(2) Storage Tank Facility Registration Form, Form Date January 2017, incorporated by reference in paragraph 62-762.401(1)(b), F.A.C., and referenced in subsections 62-762.201(51), (61) and (76), F.A.C., and paragraph 62-762.891(3)(a), F.A.C., and also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07695>.

(3) through (4) No change.

(5) Form 62-762.901(7) Closure Integrity Evaluation Report Form for ASTs, Form Date January 2017, incorporated by reference in paragraph 62-762.411(2)(c), F.A.C., and referenced in subsection 62-762.201(11), and subparagraphs 62-762.801(2)(b)1., and 62-762.802(3)(b)1., F.A.C., and also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07693>.

(6) Form 62-762.901(8) Limited Closure Report Form for ASTs, Form Date January 2017, incorporated by reference in subsection 62-762.421(2), F.A.C., and referenced in subsection 62-762.201(43), and paragraphs 62-762.801(3)(c), and 62-762.802(4)(c), F.A.C., and also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07696>.

(7) Form 62-762.901(9) Storage Tank System Equipment Registration Form, Form Date January 2017, incorporated by reference in paragraph 62-762.851(2)(d), F.A.C., and also available online here: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07697>. Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.320, 376.322, 376.323 FS. History–New 1-11-17,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: William E. Burns, Jr., Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399, bill.burns@floridadep.gov or (850) 245-8842

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Noah Valenstein, Secretary, Florida Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: May 31, 2018

Section III
Notice of Changes, Corrections and
Withdrawals

NONE

Section IV
Emergency Rules

NONE

Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE NO.: RULE TITLE:

58A-5.036 Emergency Environmental Control for Assisted Living Facilities

NOTICE IS HEREBY GIVEN that on March 14, 2019, the Florida Department of Elder Affairs, received a petition for temporary waiver of Rule 58A-5.036, F.A.C., requiring an alternate energy source for emergency environmental control, from business name DR PHILLIPS RESIDENTIAL LIVING INC. Any interested person or other agency may submit written comments on the petition within 14 days after this notice to alfrulecomment@elderaffairs.org.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Djanet Cannady at doeapublicrecords@elderaffairs.org, (850)414-2114, Office of the General Counsel, DOEA, 4040 Esplanade Way, Tallahassee, FL 32399.

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE NO.: RULE TITLE:

58A-5.036 Emergency Environmental Control for Assisted Living Facilities

NOTICE IS HEREBY GIVEN that on March 26, 2019, the Florida Department of Elder Affairs, received a petition for a notice of withdrawal from AJR Loving Care Assisted Living Inc. of its petition for a temporary variance from Rule 58A-5.036, F.A.C., requiring an alternate energy source for emergency environmental control.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Djanet Cannady at doeapublicrecords@elderaffairs.org, (850)414-2114, Office of the General Counsel, DOEA, 4040 Esplanade Way, Tallahassee, FL 32399.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: RULE TITLE:

61G4-16.005 Duration of Validity

NOTICE IS HEREBY GIVEN that on March 26, 2019, the Construction Industry Licensing Board, received a petition for variance or waiver filed by Adrienne Lathrop. Petitioner is seeking a variance or waiver of Rule 61G4-16.005, Florida Administrative Code, that requires for the purpose of certification, a passing grade shall be valid only for a period of four (4) years from the date of the most recently passed portion of the exam.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Daniel Biggins, Executive Director, Construction Industry Licensing Board, at above address or telephone: (850)487-1395, or by electronic mail to Donald.Shaw@myfloridalicense.com. Comments on this petition should be filed with the Construction Industry Licensing Board within 14 days of publication of this notice.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: RULE TITLE:

61G4-16.005 Duration of Validity

NOTICE IS HEREBY GIVEN that on March 4, 2019, the Construction Industry Licensing Board, received a petition for variance or waiver filed by John Anderson. Petitioner is seeking a variance or waiver of Rule 61G4-16.005, Florida Administrative Code, that requires for the purpose of certification, a passing grade shall be valid only for a period of four (4) years from the date of the most recently passed portion of the exam.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Daniel Biggins, Executive Director, Construction Industry Licensing Board, at above address or telephone: (850)487-1395, or by electronic mail to Donald.Shaw@myfloridalicense.com. Comments on this petition should be filed with the Construction Industry Licensing Board within 14 days of publication of this notice.

Section VI
Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF LEGAL AFFAIRS

The Criminal Justice Committee of the Statewide Council on Human Trafficking announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, April 12, 2019, 9:00 a.m. until conclusion

PLACE: Pasco-Hernando State College, Porter Campus/Wiregrass Ranch, 2727 Mansfield Boulevard, Wesley Chapel, FL 33543

GENERAL SUBJECT MATTER TO BE CONSIDERED: Committee Business

A copy of the agenda may be obtained by contacting: Lynn Guyton at Lynn.Guyton@myfloridalegal.com or by accessing the board’s website at:

http://myfloridalegal.com/__85256CC5006DFCC3.nsf/0/8AE A5858B1253D0D85257D34005AFA72?Open&Highlight=0,s tatewide,council,meeting

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 7 days before the workshop/meeting by contacting: The Office of the Attorney General Ashley Moody at (850)414-3300. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Lynn Guyton at Lynn.Guyton@myfloridalegal.com by telephone at 1(813)287-7950.

DEPARTMENT OF EDUCATION

State Board of Education

The Blind Services Foundation of Florida and The Division of Blind Services announces a telephone conference call to which all persons are invited.

DATE AND TIME: April 10, 2019, 2:30 p.m.

PLACE: Phone: 1(888)585-9008, Conference Room: 319 035 377

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board Meeting

A copy of the agenda may be obtained by contacting: The Division of Blind Services, 325 West Gaines Street, Turlington

Bldg. Room 1114, Tallahassee, FL 32399, Selena Sickler, (850)245-0329, Email: Selena.Sickler@dbs.fldoe.org.

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 7 days before the workshop/meeting by contacting: The Division of Blind Services, 325 West Gaines Street, Turlington Bldg. Room 1114, Tallahassee, FL 32399, Selena Sickler, (850)245-0329, Email: Selena.Sickler@dbs.fldoe.org. 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).

For more information, you may contact: The Division of Blind Services, 325 West Gaines Street, Turlington Bldg. Room 1114, Tallahassee, FL 32399, Selena Sickler, (850)245-0329, Email: Selena.Sickler@dbs.fldoe.org.

DEPARTMENT OF EDUCATION

Division of Florida Colleges

The Florida State College at Jacksonville District Board of Trustees (DBOT) announce the following meetings, which are open to the public.

DATE: Wednesday, April 3, 2019

PLACE: FSCJ Administrative Offices, 501 West State Street, Jacksonville, FL 32202, Board Room 405

SPECIAL MEETING:

TIME: 8:30 a.m. – 10:00 a.m.

PLACE: Board Room 405

GENERAL SUBJECT MATTER(S) TO BE CONSIDERED: DBOT Interview of College Presidential Finalist

SPECIAL MEETING:

TIME: 10:30 a.m. – 12:00 Noon

PLACE: Board Room 405

GENERAL SUBJECT MATTER(S) TO BE CONSIDERED: DBOT Interview of College Presidential Finalist

PRESIDENTIAL SEARCH INFORMATION GATHERING SESSION:

TIME: 12:45 p.m. – 1:15 p.m.

PLACE: Conference Room 403A

GENERAL SUBJECT MATTER(S) TO BE CONSIDERED: Presidential Search information gathering session with Board members and FSCJ Governance Group Leaders and the President of the United Faculty of Florida – FSCJ.

SPECIAL MEETING:

TIME: 1:30 p.m. – 3:00 p.m.

PLACE: Board Room 405

GENERAL SUBJECT MATTER(S) TO BE CONSIDERED: DBOT Interview of College Presidential Finalist

SPECIAL MEETING:

TIME: 3:30 p.m. – 4:00 p.m.

PLACE: Board Room 405

GENERAL SUBJECT MATTER(S) TO BE CONSIDERED:
 DBOT Review and Deliberation of the College Presidential Finalists

Agenda copies may be obtained by contacting: District Board of Trustees Project Coordinator Kimberli Sodek at (904)632-3205 or Kim.Sodek@fscj.edu.

Copies of the agenda for the meetings will be available for inspection beginning Wednesday, March 27, 2019, and copies will be provided upon written request and the payment of approved duplicating charges. If any person decides to appeal any decision made by the Board with respect to any matter considered at the meetings, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to attend these meetings is asked to advise the agency at least 24 hours before the meetings by contacting: The Office of the College President, District Board of Trustees Project Coordinator Kimberli Sodek at (904)632-3205 or Kim.Sodek@fscj.edu. 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).

Florida State College at Jacksonville, hereby reaffirms the principle of equal opportunity for all persons regardless of race, disability, color, ethnicity, national origin, religion, gender, age, sex, sexual orientation/expression, marital status, veteran status, pregnancy or genetic information. Equal opportunity principle applies with regard to employment, delivery of educational programs and services, and all other appropriate areas in which the College is involved.

For more information, you may contact: District Board of Trustees Project Coordinator Kimberli Sodek at 9904)632-3205 or Kim.Sodek@fscj.edu

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

The Central Florida Water Initiative (CFWI) Regional Water Supply Plan Team announces a workshop to which all persons are invited.

DATE AND TIME: Thursday, April 18, 2019, 10:00 a.m.

PLACE: Oakland Meeting Hall, 221 N. Arrington Street, Oakland, FL 34760

GENERAL SUBJECT MATTER TO BE CONSIDERED: This notice serves as a correction to the address provided in the Notice of Public Workshop published on March 27, 2019 in FAR Volume 45 No. 60.

A copy of the agenda may be obtained by contacting: Tammy Bader-Gibbs, St. Johns River Water Management District, P.O. Box 1429, Palatka, FL 32178, (386)329-4500, tbader@sjrwmd.com or <http://cfwiwater.com> seven days before the meeting.

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: Lynn Dattolo, Facility Rentals Coordinator, Town of Oakland, (407)656-1117, ext. 2101. 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).

For more information, you may contact: Mike Register, Director, Division of Water Supply Planning and Assessment, St. Johns River Water Management District, P.O. Box 1429, Palatka, FL 32178-1429, (386)329-4212, mregister@sjrwmd.com, Mark Elsner Chief of Water Supply Bureau, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (561)682-6156, melsner@sfwmd.gov, or Joseph Quinn, Water Supply Project Manager, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, joe.quinn@swfwmd.state.fl.us.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

The Southwest Florida Water Management District (SWFWMD) announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, April 10, 2019, 1:30 p.m.

PLACE: SWFWMD Tampa Service Office, 7601 Highway 301 N, Tampa, FL 33637

GENERAL SUBJECT MATTER TO BE CONSIDERED: Well Drillers Advisory Committee (WDAC) Meeting. Some members of the District's Governing Board may also attend the meeting.

A copy of the agenda may be obtained by contacting: teri.rhodes@watermatters.org, 1(800)836-0797 (FL only), or 1(813)985-7481, ext. 4476.

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: SWFWMD Human Resources, 1(800)423-1476 (FL only), or (352)796-7211, ext. 4702. 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).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**Florida Mobile Home Relocation Corporation**

The Florida Mobile Home Relocation Corporation announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 16, 2019, 9:00 a.m.

PLACE: via-telephone only. To attend the meeting by telephone, please call 1(888)909-7654 and enter pass code 128126 when prompted.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Board will address official business of the Florida Mobile Home Relocation Corporation which will include, among other matters, a review of mobile home owner applications for compensation for relocation and/or abandonment due to change in land use and such other business as may come before the Board. A schedule for future meetings will be determined.

A copy of the agenda may be obtained by contacting: Vicky Krentz at 1(888)862-7010.

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: Vicky Krentz at 1(888)862-7010. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Vicky Krentz, Executive Director, FMHRC, PO Box 7848, Clearwater, FL, 33758, 1(888)862-7010. Ms. Krentz may be reached by email at vicky@fmhrc.org.

DEPARTMENT OF HEALTH

Division of Emergency Preparedness and Community Support
The Florida Department of Health/Florida Trauma System Advisory Council announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 16, 2019, 9:00 a.m. ET

PLACE: Embassy Suites by Hilton Boca Raton, 661 NW 53rd Street, Boca Raton, Florida 33487

A conference line has been established: 1(888)585-9008 then 325-223-031

GENERAL SUBJECT MATTER TO BE CONSIDERED: General business of the Florida Trauma System Advisory Council.

A copy of the agenda may be obtained by contacting: Michael Leffler at (850)558-9535 or michael.leffler@flhealth.gov.

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 3 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).

For more information, you may contact: Michael Leffler at (850)558-9535 or michael.leffler@flhealth.gov.

DEPARTMENT OF ECONOMIC OPPORTUNITY

The Department of Economic Opportunity announces a public meeting to which all persons are invited.

DATES AND TIMES: April 12, 2019, 2:00 p.m. Eastern Standard Time (ET); May 13, 2019, 2:00 p.m. ET

PLACE: 1317 Winewood Blvd., Building 3-201, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: A workshop meeting will be held on April 12, 2019, at 2:00 p.m., to discuss the draft version of the 2019 Annual Action Plan. A public meeting will be conducted on May 13, 2019, to accept and review public comments on the 2019 Annual Action Plan. The thirty-day comment period will begin on April 12, 2019, 8:00 a.m., ET and will end on May 13, 2019, 5:00 p.m., ET.

On April 12, 2019, the draft 2019 Annual Action Plan will be available for review on the Department's website: <http://www.floridajobs.org/Annual-Action-Plan>.

Written comments on the drafted Annual Action Plan are encouraged. They may be made at the public meeting, emailed to ginger.waters@deo.myflorida.com or mailed to 107 E. Madison Street, MSC 400, Tallahassee, FL, 32399.

A copy of the agenda may be obtained by contacting: Ginger Waters at (850)717-8410, or by e-mail at ginger.waters@deo.myflorida.com.

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: Ginger Waters at (850)717-8410, or by e-mail at ginger.waters@deo.myflorida.com. 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).

FLORIDA ASSOCIATION OF COURT CLERKS

The Florida Trust announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday April 24, 2019, 3:00 p.m.

PLACE: Offices of Nabors, Giblin and Nickerson, 2502 Rocky Point Drive, Suite 1060, Tampa, FL 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Administrative Operations.

A copy of the agenda may be obtained by contacting: Bryant Gries at bgries@flclerks.com.

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 3 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).

For more information, you may contact: Bryant Gries at bgries@flclerks.com.

FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY

The Florida Atlantic Research and Development Authority announces a public meeting to which all persons are invited.

DATE AND TIME: April 10, 2019, 11:00 a.m.

PLACE: FAU Administration building, 777 Glades Road, Boca Raton, FL 33431

GENERAL SUBJECT MATTER TO BE CONSIDERED: Authority Meeting

A copy of the agenda may be obtained by contacting: jwales@research-park.org.

WILLIAM W. "BILL" HINKLEY CENTER FOR SOLID AND HAZARDOUS WASTE MANAGEMENT

The Hinkley Center For Solid and Hazardous Waste Management announces a public meeting to which all persons are invited.

DATES AND TIMES: Wednesday, May 15, 2019, 8:00 a.m. – 4:00 p.m.; Thursday May, 16, 2019, 8:00 a.m. – 4:00 p.m.; Friday, May 17, 2019, 9:00 a.m. – 12:00 Noon

PLACE: Hyatt Place Orlando/Lake Buena Vista, 8688 Palm Pkwy, Orlando, FL 32836

GENERAL SUBJECT MATTER TO BE CONSIDERED: May 15, 2019 and May 16, 2019 The Hinkley Center Research Selection Committee will meet to hear research presentations from principal investigators who submitted proposals and were selected to present their proposals in person.

May 17, 2019 The Hinkley Center Advisory Board will meet. The chair of the Research Selection Committee will present the principal investigators and their research that the Research Selection Committee is recommending for funding. Additionally, the Advisory Board will discuss new/old business, and they vote to approve new research.

A copy of the agenda may be obtained by contacting: John Schert, jschert@ufl.edu, (352)392-6264.

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: John Schert, jschert@ufl.edu, (352)392-6264. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: John Schert, jschert@ufl.edu, (352)392-6264.

**Section VII
Notice of Petitions and Dispositions
Regarding Declaratory Statements**

NONE

**Section VIII
Notice of Petitions and Dispositions
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

FLORIDA'S CHILDREN FIRST, INC., Petitioner, vs. STATE OF FLORIDA, DEPARTMENT OF CHILDREN AND FAMILIES, Respondent. CASE NO.: 19-1604RX

FLORIDA'S CHILDREN FIRST, INC., Petitioner, vs. STATE OF FLORIDA, DEPARTMENT OF CHILDREN AND FAMILIES, Respondent.; CASE NO.: 19-1603RU

Notice of Disposition of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Section IX
Notice of Petitions and Dispositions
Regarding Non-rule Policy Challenges

NONE

Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee

NONE

Section XI
Notices Regarding Bids, Proposals and
Purchasing

DEPARTMENT OF EDUCATION

Florida State University

JOB ORDER CONTRACTING SERVICES FOR GENERAL CONSTRUCTION AND MECHANICAL / ELECTRICAL CONSTRUCTION

Florida State University (FSU) has issued a Request for Qualifications (RFQ) to pre-qualify Contractors for the Job Order Contracting program. FSU is seeking to pre-qualify Contractors for general construction services and mechanical / electrical services. There is a separate pre-qualification for the Tallahassee campus and the Panama City campus.

To obtain the Request for Qualification document, go to the FSU Public Procurement Portal and select Competitive Solicitations. The web address is as follows: <https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=FSU>

The selection process for the Job Order Contracts shall be a two-phase process involving Phase 1 Request for Qualifications of potential Contractors followed by Phase 2 solicitation of cost proposals from the pre-qualified Contractors.

Interested Contractors must submit a complete and submit a pre-qualification package by the Pre-Qualification Phase 1 submission deadline. Any vendor seeking to pre-qualify for both the general construction contract and the mechanical/electrical construction contract must submit a separate pre-qualification application package for each contract.

By utilizing the Job Order Contracting procurement system, FSU expects a collaborative process of project procurement that combines the commitment, expertise and skills of FSU and the Contractor to achieve the completion of a large number of projects with a single competitive solicitation. JOC provides an effective means of reducing total lead-time for public works projects.

It is FSU's intent to award separate contracts for general construction work and mechanical / electrical construction work for the repair and rehabilitation of sites and facilities under the jurisdiction of the University on the main campus in Tallahassee, FL. The work of this Contract will be set forth in the Detailed Scopes of Work referenced in the individual Job Orders. The Contractor is required to complete each Detailed Scope of Work for the Job Order Price within the Job Order Completion Time.

The calendar of events includes:

- Friday, March 29, 2019: FSU Releases RFQ (FSU Public Procurement Portal Open Date)
- Tuesday, April 9, 2019 at 2:00 p.m. Central Time: Pre-Qualification Conference – Panama City Campus, Holley Academic Center, Room B211, 750 Collegiate Dr., Panama City, Florida, 32405 (Parking is in front of campus in visitor location)
- Wednesday, April 10, 2019 at 10:00 a.m. Eastern Time: Pre-Qualification Conference – Tallahassee Campus, Oglesby Union, Room 203, 75 N. Woodward Ave, Tallahassee FL, 32306
- Monday, April 15, 2019 by 5:00 p.m. Eastern Time: Question and Answer Submission due date
- Thursday, April 18, 2019: FSU Issues Response to Questions
- Friday, April 26, 2019: RFQ Responses Due (FSU Public Procurement Portal Close Date) from Contractors no later than 3:00 p.m. Eastern Time (ET)
- Friday May 3, 2019: FSU Posts Intent to Pre-Qualify on or about

SOLE POINT OF CONTACT:

James C. Johnson, Category Manager for Facilities/MRO, Procurement Services, 969 Learning Way, Mendenhall Bldg. A, Tallahassee, FL 32306-4153, Phone: (850)645-0407, Email: jcjohnson@fsu.edu.

Please use the Question & Answer Board within the RFQ event of FSU's Public Procurement Portal to ask any questions. See the Calendar of Events for the last day to submit questions. At all times it shall remain the responsibility of the Contractor participating in the RFQ to check the RFQ event for any addenda, notices or award decisions and the Question and Answer Board. No further notice will be given.

Section XII
Miscellaneous

64B8-10.003	12/9/2015	**/**/****
69L-3.009	12/5/2018	**/**/****

DEPARTMENT OF STATE

Index of Administrative Rules Filed with the Secretary of State

Pursuant to subparagraph 120.55(1)(b)6. – 7., F.S., the below list of rules were filed in the Office of the Secretary of State between 3:00 p.m., Friday, March 22, 2019 and 3:00 p.m., Thursday, March 28, 2019.

Rule No.	File Date	Effective Date
59A-5.003	3/28/2019	4/17/2019
61K1-3.043	3/26/2019	4/15/2019
64B8-51.002	3/27/2019	4/16/2019
64B9-2.022	3/25/2019	4/14/2019
64B9-2.017	3/25/2019	4/14/2019
68A-12.002	3/27/2019	7/1/2019
68A-12.003	3/27/2019	7/1/2019
68A-12.004	3/27/2019	7/1/2019
68A-13.003	3/27/2019	7/1/2019
68A-13.008	3/27/2019	7/1/2019
68A-15.004	3/27/2019	7/1/2019
68A-15.062	3/27/2019	7/1/2019
68A-15.064	3/27/2019	7/1/2019
68A-15.065	3/27/2019	7/1/2019
68A-17.004	3/27/2019	7/1/2019
68A-17.005	3/27/2019	7/1/2019
69O-137.001	3/22/2019	4/11/2019
69O-138.001	3/22/2019	4/11/2019
69O-203.201	3/22/2019	4/11/2019
69O-203.202	3/22/2019	4/11/2019
69O-203.203	3/22/2019	4/11/2019
69O-203.204	3/22/2019	4/11/2019
69O-203.205	3/22/2019	4/11/2019
69O-203.210	3/22/2019	4/11/2019
69O-238.001	3/22/2019	4/11/2019
69O-238.002	3/22/2019	4/11/2019
LIST OF RULES AWAITING LEGISLATIVE APPROVAL SECTIONS 120.541(3), 373.139(7) AND/OR 373.1391(6), FLORIDA STATUTES		
Rule No.	File Date	Effective Date
60FF1-5.009	7/21/2016	**/**/****

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

Notice of Extension under Section 120.74(5), Florida Statutes

RULE NO.: RULE TITLE:

40E-61.011 Policy and Purpose

40E-61.020 Scope of Part I

40E-61.021 Definitions

40E-61.023 Basin and Sub-Basin Boundaries

40E-61.024 Works of the District within the Lake Okeechobee Basin

40E-61.031 Implementation

40E-61.041 Permits Required

40E-61.042 General Permits for Use of Works of the District Within the Lake Okeechobee Basin

40E-61.051 Exemptions

40E-61.101 Content of Application for Individual and Collective Permits

40E-61.201 Permit Application Processing Fee

40E-61.301 Conditions for Issuance for Individual and Collective Permits

40E-61.321 Duration of Permits

40E-61.331 Modification

40E-61.351 Transfer

40E-61.381 Limiting Conditions

The South Florida Water Management District (District) hereby provides notice of extension of the deadline set forth in subsection 120.74(5), Fla. Stat., requiring publication of a Notice of Proposed Rule by April 1 for the above rules listed on the District’s 2018/2019 Regulatory Plan.

1. Concise statement identifying issues causing the delay in rulemaking: The District included in its 2018/2019 Regulatory Plan, rules from Chapter 40E-61, Fla. Admin. Code, pertaining to Works of the District Basins. These rules are needed to implement the 2016 Water Bill codified in Section 373.4595, Fla. Stat. The 2016 Water Bill directs the District and the Florida Department of Environmental Protection (FDEP) to provide a water quality monitoring program for nonpoint dischargers not implementing Best Management Practices in the Northern Everglades Watersheds. The water quality monitoring program in Chapter 40E-61, Fla. Admin. Code, must be consistent with Section 403.067, Fla. Stat., and FDEP’s statewide rule. Since FDEP has adopted its statewide rule, the District needs additional time to consider how FDEP’s rule will affect amendments to Chapter 40E-61, Fla. Admin. Code.

2. Applicable notice as published in the Florida Administrative Register: A Notice of Rule Development was published on November 1, 2016 (Vol. 42/No. 213). Two

Notices of Extension were published on March 24, 2017 (Vol. 43/No. 58), and March 23, 2018 (Vol. 44/No. 58).

3. Expiration: Pursuant to subsection 120.74(5), Fla. Stat., this extension expires on October 1, 2019.

AGENCY FOR HEALTH CARE ADMINISTRATION
 Certificate of Need
 NOTICE OF FIXED NEED POOLS FOR COMMUNITY NURSING HOME BEDS

The Agency for Health Care Administration has projected a fixed bed need pool for community nursing home beds for January 2022 pursuant to the provisions of subsection 408.034(5), Florida Statutes and Rules 59C-1.008 and 59C-1.036, F.A.C. Net bed need projections for community nursing home beds have been adjusted according to occupancy rate thresholds as prescribed by the above-mentioned rules. Letters of intent to apply for Certificates of Need pursuant to this notice must be filed with the Certificate of Need Program Office, 2727 Mahan Drive, Building 1, Room 229, MS 28, Tallahassee, Florida, 32308, on or before 5pm, April 15, 2019.

Any person who identifies an error in the fixed need pool numbers must advise the agency of the error within ten (10) days of publication of the number. If the agency concurs with the error, the fixed need pool number will be adjusted and republished in the first available edition of the Florida Administrative Register. Failure to notify the agency of the error during this ten day time period will result in no adjustment to the fixed need pool number for this cycle and a waiver of the person's right to raise the error at subsequent proceedings. Any other adjustments will be made in the first cycle subsequent to identification of the error including those errors identified through administrative hearings or final judicial review.

Any person whose substantial interest is affected by this action and who timely advised the agency of any error in the action has a right to request an administrative hearing pursuant to Section 120.57, Florida Statutes. In order to request a proceeding under Section 120.57, Florida Statutes, your request for an administrative hearing must state with specificity which issues of material fact or law are in dispute. All requests for hearings shall be made to the Agency for Health Care Administration and must be filed with the agency clerk at 2727 Mahan Drive, Building 3, Room 3431, MS 3, Tallahassee, Florida 32308. All requests for hearings must be filed with the agency clerk within 21 days of this publication or the right to a hearing is waived.

Community Nursing Home Bed Need

	<u>Bed Need</u>
District 1	
Subdistrict 1	25
Subdistrict 2	59

Subdistrict 3	0
District 2	
Subdistrict 1	57
Subdistrict 2	0
Subdistrict 3	0
Subdistrict 4	0
Subdistrict 5	0
District 3	
Subdistrict 1	0
Subdistrict 2	0
Subdistrict 3	32
Subdistrict 4	0
Subdistrict 5	34
Subdistrict 6	0
Subdistrict 7	0
District 4	
Subdistrict 1	11
Subdistrict 2	0
Subdistrict 3	92
Subdistrict 4	0
District 5	
Subdistrict 1	0
Subdistrict 2	46
District 6	
Subdistrict 1	119
Subdistrict 2	0
Subdistrict 3	0
Subdistrict 4	0
Subdistrict 5	0
District 7	
Subdistrict 1	0
Subdistrict 2	0
Subdistrict 3	0
Subdistrict 4	0
District 8	
Subdistrict 1	0
Subdistrict 2	0
Subdistrict 3	0
Subdistrict 4	8
Subdistrict 5	0
Subdistrict 6	0
District 9	
Subdistrict 1	16
Subdistrict 2	0
Subdistrict 3	0
Subdistrict 4	0
Subdistrict 5	0
District 10	0
District 11	
Subdistrict 10	

Subdistrict 20	
Total Statewide	499

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

NOTICE OF HOSPICE PROGRAM FIXED NEED POOL

The Agency for Health Care Administration has projected a fixed need pool for hospice programs, defined in accordance with Sections 400.601 - 400.602, Florida Statutes (F.S.) and 408.031-408.045, F.S. Fixed need pool projections are for hospice programs planned for July 2020, pursuant to the provisions of Rule 59C-1.0355 and 59C-1.008, Florida Administrative Code. Letters of intent to apply for Certificates of Need pursuant to this notice must be filed with the Certificate of Need Program Office, 2727 Mahan Drive, Building 1, Room 229, MS 28, Tallahassee, Florida 32308, on or before 5:00 p.m., April 15, 2019.

Any person who identifies an error in the fixed need pool numbers must advise the agency of the error within ten (10) days of the publication. If the agency concurs with the error, the fixed need pool number will be adjusted and republished in the first available edition of the Florida Administrative Register. Failure to notify the agency of the error during this ten day period waives a person's right to raise the error at subsequent proceedings. Any other adjustments will be made in the first cycle subsequent to identification of the error including those errors identified through administrative hearings or final judicial review.

Any person whose substantial interest is affected by this action and who timely advised the agency of an error in the action has a right to request an administrative hearing pursuant to Section 120.57, F.S. In order to request a proceeding under Section 120.57, F.S., a request for an administrative hearing must state with specificity which issues of material fact or law are in dispute. All requests for hearings shall be made to the Agency for Health Care Administration and must be filed with the agency clerk at 2727 Mahan Drive, Building 3, Room 3431, MS 3, Tallahassee, Florida 32308. All requests for hearings must be filed with the agency clerk within 21 days of this publication or the right to a hearing is waived.

Hospice Program Net Need

Service Area	Net Need	Service Area	Net Need
District 1	0	Subdistrict 6C	0
Subdistrict 2A	0	Subdistrict 7A	0
Subdistrict 2B	0	Subdistrict 7B	0
Subdistrict 3A	0	Subdistrict 7C	0
Subdistrict 3B	0	Subdistrict 8A	0
Subdistrict 3C	0	Subdistrict 8B	0
Subdistrict 3D	0	Subdistrict 8C	0
Subdistrict 3E	0	Subdistrict 8D	0

Subdistrict 4A	0	Subdistrict 9A	0
Subdistrict 4B	0	Subdistrict 9B	0
Subdistrict 5A	0	Subdistrict 9C	0
Subdistrict 5B	0	District 10	0
Subdistrict 6A	0	District 11	0
Subdistrict 6B	0	Total	0

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

NOTICE OF PEDIATRIC OPEN HEART SURGERY PROGRAMS AND PEDIATRIC CARDIAC CATHETERIZATION PROGRAMS FIXED NEED POOLS

The Agency for Health Care Administration has projected fixed need pools for pediatric open heart surgery programs and pediatric cardiac catheterization programs for July 2021, pursuant to the provisions of Rules 59C-1.008, 59C-1.032 and 59C-1.033, F.A.C. Letters of intent to apply for Certificates of Need pursuant to this notice must be filed with the Certificate of Need Program Office, 2727 Mahan Drive, Building 1, Room 229, MS 28, Tallahassee, Florida, 32308, on or before 5:00 P.M., April 15, 2019.

Any person who identifies an error in the fixed need pool numbers must advise the agency of the error within ten (10) days of publication of the number. If the Agency concurs with the error, the fixed need pool numbers will be adjusted and republished in the first available edition of the Florida Administrative Register. Failure to notify the agency of the error during this ten day time period will result in no adjustment to the fixed need pool number for this cycle and a waiver of the person's right to raise the error at subsequent proceedings. Any other adjustments will be made in the first cycle subsequent to identification of the error including those errors identified through administrative hearings or final judicial review.

Any person whose substantial interest is affected by this action and who timely advised the agency of an error in the action has a right to request an administrative hearing pursuant to Section 120.57, Florida Statutes. In order to request a proceeding under Section 120.57, Florida Statutes, your request for an administrative hearing must state with specificity which issues of material fact or law are in dispute. All requests for hearings shall be made to the Agency for Health Care Administration and must be filed with the agency clerk at 2727 Mahan Drive, Building 3, Room 3431, MS 3, Tallahassee, Florida, 32308. All requests for hearings must be filed with the agency clerk within 21 days of this publication or the right to a hearing is waived.

Pediatric Cardiac Catheterization Programs - Pediatric Open Heart Surgery Programs Net Need

	Net		Net
Service Area	Need	Service Area	Need
1	0	4	0
2	0	5	0

3 0 Total 0

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Clean Water State Revolving Fund Program
 NOTICE OF AVAILABILITY
 FLORIDA CATEGORICAL EXCLUSION NOTICE
 CITY OF CAPE CANAVERAL

The Department of Environmental Protection has determined that the City of Cape Canaveral's proposed projects to improve wastewater transmission and stormwater facilities will not have a significant adverse impact on the environment. The total project cost is estimated at \$6,675,250. The project is expected to qualify for a State Revolving Fund loan composed of federal and state matching funds. DEP will consider public comments about the environmental impacts of the proposed project that are postmarked or delivered at the address below within 30 days of this notice. A full copy of the Florida Categorical Exclusion Notice can be obtained by writing to: Pankaj Shah, State Revolving Fund Program, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #3505, Tallahassee, Florida 32399-3000 or by calling 850/245-2962.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Division of Resource Management
 NOTICE OF EXTENSION UNDER SECTION 120.74(5),
 FLORIDA STATUTES

In accordance with subsection 120.74(5), F.S., the Department of Environmental Protection (Department) extends the April 1 deadline to publish Notice of Proposed Rule for rules required by 2013-205, Laws of Florida, regarding natural gas storage facilities. The Department is continuing its technical research and review related to Florida specific issues for facilities covered by this law.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Office of the Secretary
 Florida State Clearinghouse

The state is coordinating reviews of federal activities and federally funded projects as required by subsection 403.061(42), F.S. This includes Outer Continental Shelf activities and other actions subject to federal consistency review under the Florida Coastal Management Program. A list of projects, comments and deadlines, and the address for providing comments, are available at: <https://fldep.dep.state.fl.us/clearinghouse/>. For information, call (850)717-9076. This public notice fulfills the requirements of 15 CFR 930.

HARDEE COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Hardee County Economic Development Authority
 The Hardee County Economic Development Authority will accept grant applications for projects that provide economic development, job creation, or infrastructure within the geographic boundaries of Hardee County. The Authority shall rank applications to the extent of estimated available program funds based on criteria relating to administrative capacity, public benefit, economic benefits, and public use. Applications and Program Guidelines are available at the Hardee County Board of County Commissioners Office, 412 W. Orange Street, Room 103, Wauchula, FL 33873; Phone: 1(863)773-9430; Fax: 1(863)773-0958; e-mail: bcc@hardeecounty.net.

Applications will be accepted from May 1, 2019 – May 31, 2019, 8:00 a.m. – 5:00 p.m.

IN ORDER FOR APPLICATION TO BE CONSIDERED APPLICANTS MUST ATTEND PRE-APPLICATION MEETING ON APRIL 30, 2019, AT 8:30 A.M. IN THE HARDEE COUNTY COMMISSION CHAMBERS, 412 WEST ORANGE STREET, ROOM 102, WAUCHULA.

Please Note: Site of benefiting business for consideration of these funds must be located entirely within Hardee County.

For more information, please call 1(863)773-9430.

DAVIS & ASHTON, P.A.

Village of Tequesta

The Village of Tequesta, Florida gives notice pursuant to paragraph 337.401(3)(d) Florida Statutes, that it intends to adopt a proposed ordinance which governs telecommunications companies placing or maintaining telecommunications facilities in its rights-of-way. The title of said ordinance reads as follows:

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES AT CHAPTER 63. ARTICLE II. RIGHT-OF-WAY REGULATIONS, TO RE-NAME THIS ARTICLE AS “PLACEMENT AND MAINTENANCE OF UTILITY AND COMMUNICATION SERVICE FACILITIES IN VILLAGE RIGHTS-OF-WAY”; TO UPDATE AND ADD CERTAIN DEFINITIONS IN COMPLIANCE WITH FEDERAL AND FLORIDA LAW; TO RECOGNIZE WIRELESS COMMUNICATIONS FACILITIES THAT MAY BE PLACED IN RIGHTS OF WAY AND ACKNOWLEDGE THE “ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT”; TO PROVIDE NEW AESTHETIC REQUIREMENTS AND PROCEDURAL REQUIREMENTS FOR PLACEMENT OF CERTAIN FACILITIES IN RIGHTS-OF-WAY; TO RECOGNIZE PASS-THROUGH PROVIDERS AS

SEPARATE AND DISTINCT ENTITIES, AND TO PROVIDE FOR THE COLLECTION OF PASS-THROUGH PROVIDER FEES IN ACCORDANCE WITH STATE LAW; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 63. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Related documents are available for inspection and copying in the office of the Village Clerk in the Village Hall, 345 Tequesta Drive, Tequesta, Florida 33469 Monday through Friday, from 8:30 a.m. – 5:00 p.m. All interested parties may submit written or oral comments before or at the public hearing.

If a person decides to appeal any decision made by the Village Council with respect to any matter considered at such meeting or hearing, that person will need a record of the proceedings, and for such purpose, that person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The Village of Tequesta does not provide such a record.

Section XIII

Index to Rules Filed During Preceding Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
