

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ray Wenger, Financial Administrator, Bureau of Investigation, Division of Insurance Agent & Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0319, (850)413-5605

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

#### Office of Energy

RULE NOS.:	RULE TITLES:
50-1.001	General
50-1.005	Renewal Energy Technologies Investment Tax Credit
50-1.006	Forms
50-1.007	Florida ENERGY STAR Appliance Rebate Program

PURPOSE AND EFFECT: The Department is initiating rulemaking to repeal Rules 50-1.001 (General), 50-1.005 (Renewable Energy Technologies Investment Tax Credit), 50-1.006 (Forms), and 50-1.007 (Florida ENERGY STAR Appliance Rebate Program), F.A.C.

SUMMARY: The subjects addressed in this rulemaking include the repeal of the requirements governing the application process, review, and administration of the Renewable Energy Technologies Tax Credit and the Florida ENERGY STAR Appliance Rebate Program.

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#### 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: Based on the Department’s experiences with voluntary

rebate programs and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a Statement of Economic Regulatory Costs (SERC) as set forth 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: 377.6015, 377.801, 377.803, 377.804, 377.806, 220.192 FS.

LAW IMPLEMENTED: 377.6015, 377.801-377.806, 220.192 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: April Groover, 600 South Calhoun Street, Suite 251, Tallahassee, Florida 32399-0001 or telephone (850)617-7477

THE FULL TEXT OF THE PROPOSED RULES IS:

50-1.001 General.

Rulemaking Specific Authority 377.804(3), 377.806(7), 220.192(3) FS. Law Implemented 377.801, 377.802, 377.803, 377.804, 377.806, 220.192 FS. History–New 10-22-07, Formerly 62-16.100, 27N-1.100, Repealed.

50-1.005 Renewable Energy Technologies Investment Tax Credit.

Rulemaking Specific Authority 220.192(3) FS. Law Implemented 220.192 FS. History–New 10-22-07, Formerly 62-16.600, 27N-1.600, Repealed.

50-1.006 Forms.

Rulemaking Specific Authority 220.192(3), 377.804(3), 377.806(7) FS. Law Implemented 377.804, 377.806, 220.192 FS. History–New 10-22-07, Formerly 62-16.900, 27N-1.900, Repealed.

50-1.007 Florida ENERGY STAR Appliance Rebate Program.

Rulemaking Specific Authority 377.807 FS. Law Implemented 377.807 FS. History–New 3-11-10, Formerly 27N-3.001, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick Sheehan, Executive Director of the Office of Energy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2012

**DEPARTMENT OF CORRECTIONS**

RULE NO.:                    RULE TITLE:  
33-601.830                Death Row

**PURPOSE AND EFFECT:** The purpose and effect of the rulemaking is update and re-structure the rule. Permissible clothing is updated to include Croc-style shoes. The rulemaking adds language clarifying that clothing and bedding, as well as their exchange, will be provided to death row inmates on the same basis as the general inmate population with limited exceptions for the welfare of the inmate or institutional security. Products containing baby oil, mineral oil, cocoa butter or alcohol are prohibited. New provisions permit consulate visits. Finally, restrictions on the place and manner of outdoor exercise are provided for inmates documented to have been involved any major rule violation requiring heightened security measures. The term “major rule violation” is defined in the rulemaking.

**SUMMARY:** The rulemaking amends definitions, updates permissible clothing, specifies the manner in which clothing, bedding and linens are provided as well as exchanged, prohibits certain comfort items for Phase I and II inmates, provides for consulate visits, and authorizes restrictions on outdoor exercise for death row inmates documented to be involved in a major rule violation.

**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: upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S.

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:** 944.09 FS.

**LAW IMPLEMENTED:** 944.09 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Laura Gallagher 501 S. Calhoun Street, Tallahassee, Florida 32399-2500

**THE FULL TEXT OF THE PROPOSED RULE IS:**

33-601.830 Death Row.

(1) Definitions.

(a) No change.

(b) Institutional Classification Team (ICT) – the team consisting of the warden; or assistant warden, classification supervisor, a correctional officer chief and other members as necessary when appointed by the warden or designated by rule that is responsible for making inmate status decisions and for making other recommendations to the state classification office, regional director, and warden.

(c) No change.

(d) State Classification Office (SCO) – A staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying, ~~or rejecting~~ ICT recommendations.

(e) Major Rule Violation – any assault, battery or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession or trafficking of weapons, ammunition, explosives, cell phones, unauthorized drugs, escape paraphernalia, or any other item that presents a threat to the safe and secure operation of the institution; and any escape or escape attempt.

(2) No change.

(3) Reviews.

(a) No change.

(b) ICT Reviews – The ICT shall conduct a review of a death row inmate when the inmate:

1. Is found guilty of a disciplinary report; or

2. Has had restrictions placed on his outdoor exercise pursuant to subparagraph (7)(j)~~(i)~~+3. This review shall be conducted every six months after imposition of the restriction.

(4) through (6) No change.

(7) Conditions and Privileges – The following conditions and privileges apply to all death row inmates except Phase I and Phase II inmates.

(a) Clothing and Bedding – No death row inmate will be issued a belt. “Croc” style shoes will be provided as regulation foot wear. Unless there is a clear indication of a security concern, death row inmates will be issued clothing and bedding similar to that issued to the general population, except that Death row inmates will be distinguished by designated different clothing that must be worn whenever they are out of the death row unit for the purpose of escort or transport. Otherwise, death row inmates shall be provided the same clothing and clothing exchange as the general inmate population unless there are facts to suggest that on an

individual basis exceptions are necessary for the welfare of the inmate or the security of the institution. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. The effective date of the form is 4-6-11. Under no circumstances shall an inmate be left without a means to cover himself or herself. Shower slides or personal canvas shoes will be provided as regulation foot wear. No death row inmate will be issued a belt.

(b) Bedding and linen – Bedding and linen shall be issued and exchanged for death row inmates shall be the same as is provided to the general inmate population, and any restrictions shall be based on potential harm to individuals or threat to the security of the institution. The senior correctional officer on duty must initially approve the decision to make an exception to the general bedding and linen exchange and shall document the action on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. The duty warden shall make the final decision regarding the appropriateness of the action no later than the next working day.

(c)(b) Comfort Items – Unless there is a clear indication of a security concern, inmates on death row shall be permitted personal hygiene items and other medically needed or prescribed items, such as eye glasses and hearing aids. Death row inmates shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol. At a minimum, death row inmates will be provided a toothbrush, toothpaste, a bar of soap, a towel or paper towels, toilet tissue, and feminine hygiene products for women.

(d)(e) Personal Property – Inmates on death row shall be allowed to possess personal property such as comfort items, watches, rings, stamps, envelopes, writing paper, and approved televisions, fans, walkman-type radios, MP3 players, headphones, and earbuds unless there is a clear indication of a security concern. Each inmate may possess no more than one approved television, fan, radio, MP3 player, set of headphones, and set of earbuds.

(e)(d) Canteen – Death row inmates shall be permitted to make authorized canteen orders in accordance with Rule 33-203.101, F.A.C once per week.

(f)(e) Writing Utensils – Inmates on death row shall possess only security pens, with a possession limit of four. If no security pens are available, an inmate will be allowed to sign out a regular pen from the assigned officer, which must be returned upon completion of preparation of the document. Care will be taken to ensure that an inmate who requests a pen in order to prepare legal documents or legal mail or to file a

grievance with the Department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances.

(g)(f) Reading Material – Inmates shall be provided access to admissible reading material as provided in Rule 33-501.401, F.A.C., unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is such a threat, the material will be removed. Removal of reading material shall be documented and reviewed in accordance with paragraph (7)(i)(h).

(h)(g) Televisions – An inmate on death row may possess a television in his cell. Approved televisions may be purchased from the institutional canteen; otherwise, televisions will be provided by the Department, if available, as follows:

1. through 6. No change.

(i)(h) Removal or Denial of Items – Any item may be denied an inmate or removed from a death row cell to prevent the inmate from inflicting injury to himself or others, to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security. The senior correctional officer on duty must initially approve the decision to deny or remove clothing, bedding, or any other items from the cell and document the action on Form DC6-229, Daily Record of Special Housing. Removal of any personal property item will also be documented by security staff on Form DC6-220, Inmate Impounded Personal Property List, and signed by the inmate designating what personal items were removed. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. The effective date of the form is 10-06. The original Form DC6-220 will be placed in the inmate's property file, and a copy of the form will be given to the inmate for his records. The duty warden shall make a final decision regarding the appropriateness of any removal no later than the next working day. ~~If an inmate's clothing is removed, a modesty garment shall be provided to the inmate immediately; if the inmate chooses not to wear the garment, it shall be left in the cell, and this action shall be documented on Form DC6-229. Under no circumstances will the inmate be left without a means to cover himself.~~ If items are removed from a death row cell pursuant to this paragraph, staff shall re-assess the need for continued restriction every 72 hours thereafter and document the assessment on Form DC6-229. The warden, based on this assessment, will make a final determination on the continued denial or return of the items and document the decision on Form DC6-229. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction is present.

(j)(i) Exercise – An exercise schedule shall be implemented to ensure a minimum of six hours per week of exercise out-of-doors. Such exercise periods shall be documented on Form DC6-229, Daily Record of Special Housing.

1. No change.

2. The ICT is authorized to deny exercise for an individual inmate when the inmate is found guilty of a major rule violation as defined in this rule Rule 33-601.800, F.A.C. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide; this shall be documented on Form DC6-229.

3. The ICT is authorized to restrict the place and manner of outdoor exercise, such as an inmate's ability to interact with other inmates or use exercise equipment, if the inmate has been convicted of or found guilty through the department's disciplinary process in Chapter 33-601-03, F.A.C. or an investigation sufficiently documents that the inmate was involved in:

a. Assault or battery, murder, or attempted murder of a correctional officer, volunteer, visitor, or other inmate within an institution; or

b. Escape or attempted escape; or

c. Possession of escape paraphernalia; or

d. Any major rule violation which requires heightened security measures to ensure the safety of staff, inmates and the public or the security of the institution.

4. Phase III inmates shall be restricted from exercise pursuant to subparagraph (15)(b)8.

~~(k)(j)~~ Telephone Privileges – When alternative means of access are not feasible, telephone privileges shall be allowed for emergency situations, such as notifications of family deaths, and when necessary to ensure the inmate's access to attorneys or the courts. The necessity of the telephone call may be verified before the inmate is allowed to make the call. Calls to attorneys will not be monitored.

~~(l)(k)~~ Visitation – Death row visits shall be contact visits unless security concerns indicate that a non-contact visit is necessary, in which case the non-contact visit shall be approved by the warden in advance. Visitation shall be on Saturday or Sunday (only one day of visitation per week per inmate) between the hours of 9:00 a.m. and 3:00 p.m. The visitation provisions of Chapter 33-601, F.A.C., otherwise apply. News media visits shall be in accordance with Rule 33-104.203, F.A.C.

~~(m)(l)~~ Library Services – Inmates shall be allowed to check out library books once weekly, with a possession limit of four books.

~~(n)(m)~~ Self-Improvement Programs – Inmates shall be permitted to participate in self-improvement programs unless participation poses a security threat to inmates or staff. Such programs shall take place in the inmate's housing area in a manner that conforms to the need for security.

(8) Personal Hygiene – Inmates on death row shall meet the same personal hygiene standards required of the general population.

(9) Correspondence – Correspondence shall be in accordance with Chapter 33-210, F.A.C.

(10) Attorney and Consulate Visits – Attorney visits shall be in accordance with Rule 33-601.711, F.A.C. and Consulate visits shall be in accordance with Rule 33-601.7115, F.A.C.

(11) through (12) No change.

(13) Form DC6-228, Inspection of Special Housing Record, shall be maintained in each death row unit. Form DC6-228 is incorporated by reference in Rule 33-601.800, F.A.C. The effective date of the form is 2-01. Each staff person shall sign the form when entering and leaving the death row unit. Prior to departure, each staff member shall indicate any specific problems, including any inmate who requires special attention. Upon completion, Form DC6-228 will be maintained in the housing area and forwarded to the correctional officer chief on a weekly basis, where it will be maintained on file pursuant to the current retention schedule.

(14) Form DC6-229, Daily Record of Special Housing, shall be maintained for each inmate in the death row unit. ~~Form DC6-229 shall be maintained in the housing area~~ for 30 days, after which the form will be forwarded to the warden for review. Once reviewed, these forms will be forwarded to classification to be filed in each inmate's respective file. Form DC6-229 shall be utilized to document any and all activities, including cell searches, items removed, showers, recreation, haircuts, and shaves. Form DC6-229B, Daily Record of Special Housing – Supplemental, may be used if further writing space is needed. Form DC6-229B is incorporated by reference in Rule 33-601.800, F.A.C. The effective date of the form is 4-27-08. Additionally, staff shall fully and completely document when:

(a) through (j) No change.

(15) Death Warrants – Upon receipt of a death warrant signed by the Governor authorizing execution, the warden or designee will determine the housing location of the inmate. Inmates housed at Union Correctional Institution will be immediately transferred to Florida State Prison. Upon arrival, the warden will inform the inmate of the death warrant, and the inmate shall be allowed to contact his attorney and a family member at state expense. If the inmate is housed at Lowell Correctional Institution, the inmate shall not be transferred to Florida State Prison until Phase II. The warden at Lowell will inform the inmate of the death warrant and allow the inmate to contact her attorney and a family member at state expense.

(a) No change.

(b) Conditions and privileges for Phase I and Phase II inmates.

1. Phase I and Phase II inmates may possess the following state issued property:

a. through r. No change.

s. Form DC1-303, Request for Administrative Remedy or Appeal, and Form DC6-236, Inmate Request, as needed. Forms DC1-303 ~~is~~ and ~~DC6-236 are~~ incorporated by reference in Rule ~~33-103.006~~ ~~33-103.019~~, F.A.C. The effective date of the form is 2-05. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. The effective date of the form is 6-12.

2. through 4. No change.

5. Canteen privileges will be allowed in accordance with paragraph (7)(~~e~~)(~~d~~) above but may be restricted or denied if they pose a security threat. Canteen orders shall be reviewed by the administrative lieutenant prior to delivery.

6. through 7. No change.

8. Exercise for all inmates with signed death warrants, including Phase III inmates, shall be suspended. However, an inmate shall be permitted to resume exercise and recreation in accordance with subparagraphs (7)(~~j~~)(~~i~~)1.-3. if he remains in Phase III status longer than 90 days.

(16) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 11-22-10, Amended 9-27-11,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Director, Office of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2012

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.211  
 RULE TITLE: Restraint of Pregnant Inmates

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to prohibit the use of restraints on a prisoner who is known to be pregnant during labor, delivery, or postpartum recovery unless a corrections official makes an individualized determination that extraordinary circumstances exist requiring their use; defines extraordinary circumstances; regulates the use of restraints during the third trimester; provides that any restraint of a prisoner who is known to be pregnant must be done in the least restrictive manner necessary in order to mitigate the possibility of adverse medical consequences; prohibits the use of leg, ankle, or waist restraints during labor or delivery; and requires documentation if restraints are used due to an extraordinary circumstance.

SUMMARY: The proposed rule implements Ch. 1012-41, Laws of Florida. It generally prohibits the use of restraints on a prisoner who is known to be pregnant during labor, delivery, or

postpartum recovery unless a corrections official makes an individualized determination that extraordinary circumstances exist requiring their use. It regulates the use of restraints during the third trimester. The use of leg, ankle, and waist restraints are prohibited during labor or delivery.

**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: upon review of the terms and requirements of the proposed rule, the department has determined that implementation of the rule will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S.

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: 944.09 FS., Ch. 2012-41, Laws of Fla.

LAW IMPLEMENTED: Ch. 2012-41, Laws of Fla.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.211 Restraint of Pregnant Inmates.

(1) Definitions.

(a) Extraordinary circumstance: means that the inmate poses a substantial flight risk or that there is some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, the unborn child or the public.

(b) Restraints: refers to any physical restraint or mechanical device used to control the movement of a prisoner's body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

(c) Third trimester: refers, for the purposes of this rule, to the period of time from the start of the 28th week of pregnancy.

(2) Prior to the start of a pregnant inmate’s labor, the correctional officer chief will individually evaluate each pregnant inmate to determine if the inmate presents a documentable extraordinary circumstance requiring the use of restraints during labor, delivery or postpartum recovery. If the correctional officer chief determines that extraordinary circumstances exist, the circumstances and the specific restraints recommended will be documented on Form DC6-210, Incident Report. The report will be forwarded to the warden. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C. The effective date of the form is \_\_\_\_\_.

(3) The warden will make the final determination of whether an extraordinary circumstance exists, noting the approval or disapproval of the specific restraints recommended by the correctional officer chief. A copy of the finalized incident report will be placed in the inmate’s file.

(4) Any restraint of a pregnant prisoner must be done in the least restrictive manner necessary in order to mitigate the possibility of adverse clinical consequences. Treating physicians may request that restraints not be used for documentable medical purposes; however, if the correctional officer, correctional institution employee, or other officer accompanying the pregnant prisoner determines that there is an extraordinary safety risk, the officer is authorized to apply restraints in the least restrictive manner necessary and in compliance with the restrictions set forth below.

(5) Unless there is a documentable extraordinary circumstance:

(a) Pregnant inmates will not be restrained with their hands behind their back nor will leg irons be utilized due to the possibility of a fall.

(b) Leg, ankle and waist restraints will not be used during the third trimester.

(6) When restraints are authorized as described herein, inmates will remain restrained during transport and at the medical facility unless removal of the restraints is required for medical reasons and then, except for emergency situations, only after the shift supervisor has been apprised of the situation and has given her/his approval to remove the restraints.

(7) Unarmed escort officers will maintain close supervision of pregnant inmates providing a custodial touch with the hand firmly grasped around the inmate’s triceps or elbow when necessary to prevent falls.

(8) Pregnant inmates will not be restrained in any manner during labor, delivery, or postpartum recovery unless the warden makes an individualized determination that the prisoner presents an extraordinary circumstance. However, under no circumstances shall leg, ankle, or waist restraints be used on any prisoner who is in labor or delivery, as defined in Chapter 2012-41, Laws of Florida.

(9) Staff utilizing restraints on a compliant pregnant inmate under extraordinary circumstances during labor, delivery, or postpartum recovery will document the application of restraints in the inmate’s file on Form DC6-210, Incident Report. If the inmate is noncompliant, the use of restraints will be documented on Form DC6-230, Institutions Report of Force Used. In either case, such documentation shall be prepared within 10 days. Form DC6-230 is incorporated by reference in Rule 33-602.210, F.A.C. The effective date of the form is \_\_\_\_\_.

Rulemaking Authority 944.09 FS., ch. 2012-41, Laws of Fla. Law Implemented ch. 2012-41, Laws of Fla. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Upchurch, Director, Office of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2012  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2012

**DEPARTMENT OF MANAGEMENT SERVICES**

**Personnel Management System**

RULE NO.: 60L-32.007  
RULE TITLE: Selected Exempt Service Extraordinary Payment Plan

PURPOSE AND EFFECT: The Department proposes to remove the provision that this section will expire July 1, 2012.

SUMMARY: An agency may propose, for Department approval, an agency-wide plan to compensate excluded Selected Exempt Service (SES) employees below the bureau chief or bureau chief comparable level who are directed to work hours in excess of the contracted hours in the regular work period in response to an unforeseen extraordinary event or occurrence to provide agency mission critical services to the public.

**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.

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: 110.1055, 110.201(1), 110.602, 110.605(1), (2) FS.

LAW IMPLEMENTED: 110.201, 110.603 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: August 7, 2012, 10:00 a.m.

PLACE: Department of Management Services, 4050 Esplanade Way, Room 101, Tallahassee, FL 32399-0950

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: Ms Mailea Adams at (850)413-9503 or by email at Mailea.Adams@dms.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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Phil Spooner at (850)922-5449 or by email at Phil.Spooner@dms.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

60L-32.007 Selected Exempt Service Extraordinary Payment Plan.

Notwithstanding the provisions of subsection 60L-34.0031(3), F.A.C., an agency may propose, for Department approval, an agency-wide plan to compensate excluded Selected Exempt Service (SES) employees below the bureau chief or bureau chief comparable level who are directed to work hours in excess of the contracted hours in the regular work period in response to an unforeseen extraordinary event or occurrence to provide agency mission critical services to the public subject to the following:

(1) The plan must be activated in writing by the agency head or designee and must document how the unforeseen extraordinary event or occurrence impacts recipients of agency mission critical services to justify plan activation.

(2) Plan activation shall be contingent upon the availability of adequate budget and funds for the compensation payments and shall include a beginning and ending date.

(3) The agency head or designee shall notify the Executive Office of the Governor, the President of the Senate, the Speaker of the House and the Department immediately upon each plan activation or extension by providing a copy of the activation or extension letter and any supporting documentation.

(4) Payment shall be made at the employee's straight time hourly regular rate of pay on an hour-for-hour basis for any hours worked in excess of the contracted hours during the regular work period.

(5) All hours worked in excess of the contracted hours in the regular work period and compensated as a result of a plan activation for an extraordinary event or occurrence shall be recorded in the State Personnel System Human Resource Information System using the code designated for SES Extraordinary Pay unless otherwise instructed by the Department.

(6) A record must be maintained of all hours worked and payments made in connection with each plan activation.

~~The provisions of this rule section shall expire effective July 1, 2012.~~

Rulemaking Authority 110.1055, 110.201(1), 110.602, 110.605(1), (2) FS. Law Implemented 110.201, 110.603 FS. History--New 5-21-09, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon D. Larson, Division Director of Human Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Scott Stewart

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 07, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2012

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE NO.: 61-34.001  
 RULE TITLE: Purpose

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to repeal Rule 61-34.001, F.A.C., which was identified during the comprehensive rule review required by Executive Order 11-01 as not statutorily authorized.

SUMMARY: The elimination of Rule 61-34.001, F.A.C., which was identified during the comprehensive review as not statutorily authorized.

**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.

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: 455.201(1), 455.203(5) FS.  
 LAW IMPLEMENTED: 455.2235 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: R. Kathleen Brown-Blake, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)488-0062

THE FULL TEXT OF THE PROPOSED RULE IS:

61-34.001 Purpose.

Rulemaking Specific Authority 455.201(1), 455.203(5) FS. Law Implemented 455.2235 FS. History–New 7-12-95, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: R. Kathleen Brown-Blake, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)488-0062

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Lawson, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2012

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Consumer Services**

RULE NOS.:	RULE TITLES:
69J-7.004	Participating Contractors – Application and Participation Agreement
69J-7.005	My Safe Florida Home Program, Forms For Use Regarding Grants
69J-7.007	Grants – Medical Condition Exception

PURPOSE AND EFFECT: These rules are being repealed since the Legislature stopped funding the My Safe Florida Home (MSFH) Program in 2009 and the Department stopped providing MSFH inspections and grants on June 30, 2009 due to the lack of funds.

SUMMARY: The rules are repealed.

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 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 conducted an economic analysis of the proposed rule’s potential impact and determined that it did not exceed any of the criteria set forth in Section 120.541(2)(a), F.S.

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: 215.5586(6) FS.

LAW IMPLEMENTED: 215.5586 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: August 6, 2012, 10:00 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, 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: Tasha Carter at (850)413-5800 or Tasha.Carter@MyFloridaCFO.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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tasha Carter, Director, Division of Consumer Services, 200 E. Gaines Street, Tallahassee, FL 32399, (850)413-5800 or Tasha.Carter@MyFloridaCFO.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69J-7.004 Participating Contractors – Application and Participation Agreement.

Rulemaking Specific Authority 215.5586(6) FS. Law Implemented 215.5586(2)(g) FS. History–New 12-30-08, Repealed \_\_\_\_\_.

69J-7.005 My Safe Florida Home Program, Forms For Use Regarding Grants.

Rulemaking Specific Authority 215.5586(6) FS. Law Implemented 215.5586 FS. History–New 12-8-08, Repealed \_\_\_\_\_.

69J-7.007 Grants – Medical Condition Exception.

Rulemaking Specific Authority 215.5586(6) FS. Law Implemented 215.5586 FS. History–New 10-8-08, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tasha Carter, Director, Division of Consumer Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2012

### Section III Notices of Changes, Corrections and Withdrawals

**REGIONAL PLANNING COUNCILS**

**East Central Florida Regional Planning Council**

RULE NO.:                   RULE TITLE:  
 29F-1.108                   Officers, Term of Office and Duties  
                                   NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 51, December 22, 2011 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF CORRECTIONS**

RULE NOS.:                RULE TITLES:  
 33-103.016                Follow Through on Approved  
                                   Grievances  
 33-103.018                Evaluation of the Grievance  
                                   Procedure  
                                   NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 25, June 22, 2012 issue of the Florida Administrative Weekly has been withdrawn.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:                RULE TITLES:  
 40D-21.031                Elements of the Plan  
 40D-21.441                Public Supply Water Shortage  
                                   Mitigation Plans  
                                   NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 10, March 9, 2012 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

**Construction Industry Licensing Board**

RULE NO.:                   RULE TITLE:  
 61G4-15.018                Certification of Glass and Glazing  
                                   Specialty Contractors

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 20, May 18, 2012 issue of the Florida Administrative Weekly.

The change is in response to comments submitted by the Joint Administrative Procedures Committee in a letter dated May 29, 2012. The correction is as follows:

61G4-15.018(2) line 4 through 5 shall read as: “...of glass holding or supporting mullions or horizontal bars; the installation of structurally anchored impact-resistant opening protection attached to existing building walls, floors, columns or other structural members of the building; and ....”

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Drew Winters, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257

**FISH AND WILDLIFE CONSERVATION  
 COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.:                   RULE TITLE:  
 68A-4.009                   Florida Black Bear Conservation  
                                   NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 15, April 13, 2012 issue of the Florida Administrative Weekly.

Proposed rule 68A-4.009 has been changed as follows:

(1) No change.

(2) The Commission will ~~may~~ issue permits authorizing intentional take of bears when it determines such authorization furthers ~~for~~ scientific or conservation purposes which will benefit the survival potential of the species. For purposes of this rule, a scientific or conservation purpose shall mean activities that further the conservation or survival of the species, including:

(a) Collection of scientific data needed for conservation or management of the species; and

(b) Removing bears from situations that constitute a human safety risk or a risk to the well being of the bear.

(3) The Commission will provide technical assistance to land owners and comments to permitting agencies in order to minimize and avoid potential negative human-bear interactions or impacts of land modifications on the conservation and management of black bears. The Commission will base its comments and recommendations on the goals and objectives of the approved Florida Black Bear Management Plan. The plan can be obtained at <http://MyFWC.com/bear/>.

No other changes were made to the rule amendments as proposed.