

Deterding, Executive Director, Board of Orthotists and Prosthetists/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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 STATE

RULE NOS.:	RULE TITLES:
1-1.008	Rule Numbering and Rule Titles
1-1.009	Definitions
1-1.010	Style and Form for Filing Rules; Certification Accompanying Materials
1-1.011	Publication of Notices in the Florida Administrative Register (FAR)

PURPOSE AND EFFECT: The proposed rule will implement Chapter 2012-31, Laws of Florida by replacing the Florida Administrative Weekly with the Florida Administrative Register created by that chapter. It will describe the manner and timing of filing material to be noticed in the online Florida Administrative Register which will be published daily.

SUMMARY: The proposed rule explains that the Florida Administrative Register is published each business day of the year excluding holidays recognized by Section 110.117, F.S. and that notices to be published in the Register must be submitted to the Administrative Code and Register Section by 3:00 p.m. on the business day prior to the business day on which it is to be published in the Register. Notices that would have been published on business days that fall on a holiday will be published in the next business day following the holiday.

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 publication of the Florida Administrative Register does not have a direct or indirect adverse financial impact on small business. It has been determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the legislature.

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: 120.55(1)(c) FS.

LAW IMPLEMENTED: 120.55(1)-(6) 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: Liz Cloud, Program Administrator, Administrative Code and Weekly, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6271

THE FULL TEXT OF THE PROPOSED RULES IS:

1-1.008 Rule Numbering and Rule Titles.

(1) A decimal numbering system similar to that used in the Florida Statutes shall be used to designate all rules filed with the Administrative Code and ~~Register Weekly~~ Section, except emergency rules. Emergency Rules are numbered as specified in subsection (2) of this rule.

(a) The Administrative Code and ~~Register Weekly~~ Section of the Department of State shall assign each agency, or closely related group of state agencies, a title number. (Example: The title number assigned to the Department of State is 1).

(b) The following title numbers are assigned to the corresponding agencies:

- 1 – Department of State
- 2 – Department of Legal Affairs
- 3 – Department of Banking and Finance (Transferred to Title 69)
- 4 – Department of Insurance (Transferred to Title 69)
- 5 – Department of Agriculture and Consumer Services
- 6 – Department of Education
- 7 – Department of Business Regulation (Transferred to Title 61)
- 8 – Department of Commerce (Repealed by Section 3, Chapter 96-320, Laws of Florida)
- 9 – Department of Community Affairs
- 10 – Department of Health and Rehabilitative Services (Transferred to Titles 58, 59, 64 and 65)
- 11 – Department of Law Enforcement
- 12 – Department of Revenue
- 13 – Department of General Services (Transferred to Title 60)
- 14 – Department of Transportation
- 15 – Department of Highway Safety and Motor Vehicles
- 16 – Department of Natural Resources (Transferred to Titles 40, 49, 62, 66 and 68)
- 17 – Department of Environmental Regulation (Transferred to Title 62)
- 18 – Board of Trustees of the Internal Improvement Trust Fund

- 19 – State Board of Administration
- 20 – Department of Citrus
- 21 – Department of Professional Regulation
(Transferred to Titles 59, 61 and 64)
- 22 – Department of Administration (Transferred to
Title 60)
- 23 – Parole Commission
- 24 – Pardon Board
- 25 – Public Service Commission
- 26 – Assessment Administration Review Commission
- 27 – Executive Office of the Governor
- 28 – Administration Commission
- 29 – Regional Planning Councils
- 30 – Regional Transportation Authorities
- 31 – Loxahatchee River Environmental Control District
- 32 – State Fair Authority
- 33 – Department of Corrections
- 34 – Commission on Ethics
- 35 – Metropolitan Planning Organizations
- 36 – Englewood Water District
- 37 – Advisory Council on Inter-Governmental
Relations
- 38 – Department of Labor and Employment Security
(Dissolved pursuant to Chapter 2002-194, Laws of
Florida)
- 39 – Game and Fresh Water Fish Commission
(Transferred to Title 68)
- 40 – Water Management Districts
- 41 – Commission for the Transportation Disadvantaged
- 42 – Florida Land and Water Adjudicatory Commission
- 43 – Fiscal Accounting Information Board
- 44 – Information Resource Commission
- 45 – Expressway Authorities
- 46 – Marine Fisheries Commission (Transferred to Title
68)
- 47 – High Speed Rail Transportation Commission
- 48 – Florida Keys Aqueduct Authority
- 49 – Regional Utility Authorities
- 50 – Alligator Point Resource Board
- 51 – Hillsborough County Consolidated Taxicab
Commission
- 52 – Port of Palm Beach District
- 53 – Department of the Lottery
- 54 – Interlocal Agencies
- 55 – Department of Veterans’ Affairs
- 56 – Clean Florida Commission
- 57 – Spaceport Florida Authority
- 58 – Department of Elder Affairs
- 59 – Agency for Health Care Administration
- 60 – Department of Management Services
- 61 – Department of Business and Professional
Regulation
- 62 – Department of Environmental Protection
- 63 – Department of Juvenile Justice
- 64 – Department of Health
- 65 – Department of Children and Family Services
- 66 – Navigation Districts
- 67 – Florida Housing Finance Corporation

- 68 – Fish and Wildlife Conservation Commission
- 69 – Department of Financial Services
- 70 – Department of Military Affairs
- 71 – Agency for Enterprise Information Technology
- 72 – Board of Governors
- 73 – Department of Economic Opportunity

(c) If more than one major activity or division exists within an agency, an uppercase letter shall be added to the title number to distinguish the major activities or divisions. Individual agencies within a group of closely related agencies sharing a title number shall also be designated by an uppercase letter following the title number. Letters added to title numbers are considered a part of the title number. (Example: Department of State adding to title number 1 the letters A, B, etc., so that they read 1A, 1B, etc.).

(d) If a unit of government which has independent rulemaking authority performs a function within a major activity of an agency or is a part of an individual agency which is one of a closely related group of agencies sharing a common title number, the title number and letter shall be followed by an Arabic numeral which shall be part of the title number. (Example: 6C1, 6C2, etc.)

(e) If more than one function exists within a division, within a major activity of an agency or within an agency included in a group of closely related agencies sharing a title number, a hyphen followed by a separate chapter number shall be used to designate rules applicable to each function. (Example: 1A-1 and 6C1-2).

(f) A decimal point shall follow each chapter number. The digits immediately following the decimal point shall identify rules within a chapter. Each rule shall be numbered with a minimum of three digits after the decimal point. (Example: 1-1.008).

(g) Following is a description of each component of a rule citation for Rule 1-1.008: Title Number (1); Division (B); Chapter (30); and the three digit identification number (.001).

(2) The rule number for an emergency rule shall be designated as follows:

(a) Emergency rule numbers shall begin with the title number assigned to an agency as specified in paragraph (1)(b) of this rule. (Example: The title number assigned to the Department of State is 1).

(b) Alphabetical and numerical designations required by paragraphs (1)(c) and (1)(d) of this rule may be added to the title number. These alphabetical and numerical designations become part of the title number. (Example: 1A, 6C1, etc.).

(c) The letters “ER” and the last two digits of the calendar year in which the rule is filed shall immediately follow the title number. (Example: 1AER07 or 6C1ER07).

(d) A hyphen shall separate the last two digits of the calendar year and an additional numerical designation. The additional numerical designation indicates the number of

emergency rules promulgated by the agency for that calendar year. (Example: 1AER07-1 and 1AER07-2 or 6C1ER07-6 and 6C1ER07-7).

1. The numerical designation is cumulative, starting with the number one. The numerical designation is determined by calculating the total number of emergency rules adopted by all divisions, major activities, and units of government within an agency assigned to the same title number.

2. The numerical designation restarts on January 1 of each year.

(3) Sub-units of rules are indicated as follows:

(a) Subsections by an Arabic numeral in parentheses.

(b) Paragraphs within a subsection by a lowercase letter in parentheses.

(c) Subparagraphs within a paragraph by an Arabic numeral followed by a decimal point.

(d) Sub-subparagraphs within a paragraph by a lowercase letter followed by a decimal point.

(e) A new sub-unit of rule text shall not be created unless the new sub-unit contains two or more parts. (Example: subsection (1) shall not be added unless there is at least a subsection (2). Similarly, paragraph (a) shall not be added unless there is at least a paragraph (b)).

(4) The rule number and the first line of each sub-unit rule text shall be indented 0.25".

(5) The Administrative Code and Register Weekly Section may, upon proper notification, change the rule number or any sub-unit of a rule when the change is needed to preserve the overall integrity of the numbering system used in the Florida Administrative Code.

(6) The adopting agency shall submit a rule title for each rule, which shall immediately follow the rule number. The rule title is not part of the substantive language of the rule and may be altered by the Administrative Code and Register Weekly Section if it does not sufficiently indicate the content of the rule to make it useful for indexing purposes.

(7) Rule numbers and rule titles will be listed at the beginning of each rule chapter when published in the Florida Administrative Code.

(8) A rule section in its entirety, may be transferred, with no changes to the text, to a new location in the Florida Administrative Code and shall be renumbered accordingly by the agency by writing a letter to the Administrative Code and Register Weekly Section requesting such transfer of a rule section. Transferring a rule in this manner does not require notification in the Florida Administrative Register Weekly.

(9) An agency shall not reassign numbers of repealed or transferred rules.

PROPOSED EFFECTIVE DATE October 1, 2012.

Rulemaking Authority 120.55(1)(d) FS. Law Implemented 120.55(1)(c) FS. History—New 5-29-80, Formerly 1-1.01, Amended 10-1-84, 11-14-85, 4-10-90, 6-17-92, 4-1-96, 9-13-98, 6-20-02, Formerly 1S-1.001, Amended 3-8-09, Formerly 1B-30.001, Amended 10-1-12.

1-1.009 Definitions.

Definitions as used in Rule Chapter 1-1, F.A.C.

(1) "Amended Rule" means a rule which is being or has been altered by adding, deleting or rephrasing text currently published in the Florida Administrative Code.

(2) "Coding" is a method by which rule text is underlined to indicate that text is new and stricken through to indicate that text is deleted.

(3) "File for Adoption" means delivery of a signed certification packet to and acceptance by an official in the Administrative Code and Register Weekly Section who is authorized to file official rulemaking documents.

(4) "General Notice" means any notice published in the Florida Administrative Register Weekly not defined as a "Rule Notice."

(5) "Law Implemented" means the language of the enabling statute being carried out or interpreted by an agency through rulemaking.

(6) "Proposed Rule" is a rule which is not yet adopted, but is currently undergoing rulemaking.

(7) "Promulgate" is the formal term used to refer to the rulemaking process authorized by Chapter 120, F.S.

(8) "Repealed Rule" is a rule which has been or is currently being revoked or rescinded.

(9) "Rule Certification Form" is the form signed by the person authorized to certify that the agency has complied with the statutory time limitations, that all rulemaking requirements have been met and that there is no administrative determination pending on the rule being filed for adoption.

(10) "Rule Chapter" refers to a number that identifies a major group of similar rules relating to a particular function within a division, within a major activity of an agency or within an agency included in a group of closely related agencies sharing the same title number. For example, "1-1" is a rule chapter which contains several individual rules of the Department of State, relating to a particular function.

(11) "Rule Notice" refers to a Notice of Rule Development, Notice of Proposed Rulemaking, Notice of Intent to Adopt a Rule, Notice of Change, Notice of Withdrawal, Notice of Correction or a Notice of Emergency Rules.

(12) "Rule Number" is the entire rule number comprised of the title number, the chapter number, the decimal point with at least ~~and the~~ three digit identification number.

(13) "Rule Title" is the description of the rule which sufficiently indicates its content.

(14) "Rulemaking" means the adoption, amendment or repeal of a rule.

(15) "Rulemaking Authority" means the statutory language that explicitly authorizes or requires an agency to adopt, develop, establish, or otherwise create any statement coming within the definition of the term rule. (Notice: prior to July 1, 2008, this term was "Specific Authority." In the history notes for rules promulgated after the effective date of this rule, the term "Rulemaking Authority" should be used rather than "Specific Authority." History notes for rules promulgated prior to the effective date of this rule, using "Specific Authority," shall remain undisturbed, until and unless such rules are amended.)

(16) "Sub-unit" means a subsection, paragraph, subparagraph or sub-subparagraph of a rule.

(17) "Title Number" is the number assigned to each agency or closely related group of state agencies by the Department of State.

(18) "Transferred Rule" is a rule which has been renumbered and relocated from one rule chapter to another, with no changes in the text of the rule. The history note of the transferred rule includes the former rule number.

PROPOSED EFFECTIVE DATE October 1, 2012.

Rulemaking Authority 120.55(1)(d) FS. Law Implemented 120.55(1)(c) FS. History—New 9-2-93, Amended 4-1-96, Formerly 1S-1.0015, Amended 3-8-09, Formerly 1B-30.0015, Amended 10-1-12.

1-1.010 Style and Form for Filing Rules; Certification Accompanying Materials.

(1) An agency shall file a complete rule certification packet when filing a rule for adoption with the Administrative Code and Register Weekly Section.

(a) A complete rule certification packet for all rules, except emergency rules, shall consist of the following:

1. A cover letter designating the agency's contact person for the rule filed for adoption. The letter shall include the contact person's phone number, physical mailing address and email address.

2. One compact disc, DVD or a 3.5" diskette containing the coded text of the rule(s).

3. If materials incorporated are filed electronically in accordance with Rule 1-1.013, F.A.C., the submitting agency shall provide a copy of the email approval confirmation with the certification form required by this rule. If the agency determines that filing incorporated materials electronically will violate federal copyright laws, then the agency shall file one original certified copy of the materials incorporated by reference in accordance with Rule 1-1.013, F.A.C.

4. One original and two copies of the following:

a. The signed rule certification form.

b. The coded text of the rule, including the legal citations and history notes.

c. A summary of the rule.

d. A detailed written statement of the facts and circumstances justifying the rule.

e. A summary of any hearings held on the rule. A summary of any hearing held on the rule shall include the time, date and place of the hearing. When no public hearing is held, the summary shall include the following statement: "No timely request for a hearing was received by the agency, and no hearing was held".

(b) For emergency rules, a complete rule certification packet filed with the Administrative Code and Register Weekly Section shall consist of the following:

1. A cover letter designating the agency's contact person for the rule filed for adoption. The letter shall include the contact person's phone number, physical mailing address and email address.

2. One compact disc, DVD or 3.5" diskette containing the coded text of the rule, if the emergency rule filed by the agency is statutorily permitted to exceed the 90-day effective period specified in Section 120.54(4)(c), F.S. Emergency rules with a maximum effective period of 90 days, as permitted by Section 120.54(4)(c), F.S., are not required to submit a compact disc, DVD or 3.5" diskette containing the coded text of the rule.

3. If materials incorporated are filed electronically in accordance with Rule 1-1.013, F.A.C., the submitting agency shall provide a copy of the email approval confirmation with the certification form required by this rule. If the agency determines that filing incorporated materials electronically will violate federal copyright laws, then the agency shall file one original certified copy of the materials incorporated by reference in accordance with Rule 1-1.013, F.A.C.

4. One original and two copies of the following:

a. The signed rule certification form.

b. The coded text of the rule, including legal citations and history notes.

c. A statement of the specific facts and reasons for finding an immediate danger to the public health, safety or welfare.

d. A statement of the agency's reasons for concluding that the procedure used is fair under the circumstances.

(2) All documents, except the cover letter, required by subsection (1) of this rule shall be formatted as follows:

(a) Typed on white, letter-size (8 1/2" x 11") paper, double spaced.

(b) Margins shall be one inch at the top, bottom and on each side of the page.

(c) The font of the text shall be 10 point Times New Roman.

(3) An agency adopting a rule shall file the original and two copies of the rule certification form as specified in paragraphs (3)(a) through (e) of this rule. More than one rule may be listed on a rule certification form so long as the rules are from the same rule chapter, and so long as the adoption

packet includes ~~the rules that as they were~~ included in the same noticed in the Florida Administrative Register Weekly. A separate rule certification form shall be filed for each rule chapter affected.

(a) The following rule certification form shall be used in filing new, amended or repealed rules under the provisions of Section 120.54(3), F.S.:

CERTIFICATION OF (NAME OF AGENCY)
ADMINISTRATIVE RULES FILED WITH THE
DEPARTMENT OF STATE

I hereby certify:

[] (1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

[] (2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

[] (3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

[] (a) Are filed not more than 90 days after the notice; or

[] (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

[] (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

[] (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

[] (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

[] (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

[] (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

[] (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

(List in Columns)

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: _____
(month) (day) (year)

Signature, Person Authorized to Certify Rules

Title

Number of Pages Certified

(b) The following rule certification form shall be used in filing new, amended or repealed rules under the provisions of Section 120.54(6), F.S., entitled "Adoption of Federal Standards":

CERTIFICATION OF (NAME OF AGENCY)
ADMINISTRATIVE RULES FILED WITH THE
DEPARTMENT OF STATE
PURSUANT TO SECTION 120.54(6),
FLORIDA STATUTES
(ADOPTION OF FEDERAL STANDARDS)

I hereby certify:

[] (1) That the time limitations prescribed by Section 120.54(6), F.S., and all applicable rulemaking requirements of the Department of State have been complied with; and

[] (2) That there is no non-frivolous objection, under Section 120.54(6)(c), F.S., pending on those portions of any rule covered by this certification; and

[] (3) All rules covered by this certification are filed not less than 21 days after the notice required by Section 120.54(6)(a), F.S.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).
(List in Columns)
Under the provisions of Section 120.54(6)(b), F.S., the rule(s) take effect upon the date designated below (but not earlier than the date of filing):

Effective Date: _____
(month) (day) (year)

Signature, Person Authorized to Certify Rules

Title

Number of Pages Certified

(c) The following rule certification form shall be used in filing new, amended or repealed rules under the provisions of Section 120.54(1)(i)5., F.S.:

CERTIFICATION OF (NAME OF AGENCY)
ADMINISTRATIVE RULES FILED WITH THE
DEPARTMENT OF STATE
PURSUANT TO SECTION 120.54(1)(i)5.,
FLORIDA STATUTES

I hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., and all applicable rulemaking requirements of the Department of State have been complied with; and
- (2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and
- (3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and
- (a) Are filed not more than 90 days after the notice; or
- (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or
- (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

- (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or
- (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
- (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
- (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or
- (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or
- (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor ~~Small Business Regulatory Advisory Committee~~.

(4) All rules covered by this certification are filed within the time limitations of Section 120.54(1)(i)5., F.S., and no objection to the rules in the certification was filed with the Department by a substantially affected person with 14 days after the date of publication of the notice of intent pursuant to Section 120.54(1)(i)5., F.S.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).
(List in Columns)
Under the provision of Section 120.54(1)(i)5., F.S., the rules take effect 20 days from the date filed with the Department of State:

Effective Date: _____
(month) (day) (year)

Signature, Person Authorized to Certify Rules

Title

Number of Pages Certified

(d) The following rule certification form shall be used in filing new, amended or repealed rules under the provisions of Section 403.8055, F.S.:

CERTIFICATION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE PURSUANT TO SECTION 403.8055, FLORIDA STATUTES (ADOPTION OF FEDERAL STANDARDS)

I hereby certify:

[] (1) That the time limitations prescribed by Section 403.8055, F.S., and all applicable rulemaking requirements of the Department of State have been complied with; and

[] (2) That there is no non-frivolous objection, under Section 403.8055(4), F.S., pending on any rule covered by this certification; and

[] (3) All rules covered by this certification are filed not less than 21 days after the notice required by Section 403.8055(1), F.S.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

(List in Columns)

Under the provisions of Section 403.8055(2), F.S., the rule(s) take effect upon the date designated below (but not earlier than the date of filing):

Effective Date: (month) (day) (year)

Signature, Person Authorized to Certify Rules

Title

Number of Pages Certified

(e) The following rule certification form shall be used in emergency rules under the provisions of Section 120.54(4), F.S.:

CERTIFICATION OF (NAME OF AGENCY) EMERGENCY RULE FILED WITH THE DEPARTMENT OF STATE

I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further

certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with Section 120.54(4), F.S. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No(s).

(List in Columns)

Under the provision of Section 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing, is set out below:

Effective Date: (month) (day) (year)

Signature, Person Authorized to Certify Rules

Title

Number of Pages Certified

(4) An agency adopting a new rule pursuant to Section 120.54(3)(e), F.S., shall file the original and two coded copies of the new rule with the Administrative Code and Register Weekly Section. The text of the new rule shall be coded by underlining the rule number, rule title, rule text, legal citations and history notes. Each page shall be numbered.

(5) An agency adopting an amendment to an existing rule pursuant to Section 120.54(3)(e), F.S., shall file the original and two coded copies of the amended rule with the Administrative Code and Register Weekly Section. Each page shall be numbered.

(a) An amended rule shall be coded as specified in subparagraph 1-1.011(3)(c)2., F.A.C.

(b) Any subsection, paragraph, subparagraph or sub-subparagraph not being amended shall not be included and shall be noted as "No change", unless inclusion is necessary to make the publication of the amended rule complete and meaningful.

(c) If an amendment to a rule substantially rewords the rule, the rule shall be prepared and coded as described in subparagraph 1-1.011(3)(c)3., F.A.C.

(6) An agency repealing an existing rule pursuant to Section 120.54(3)(e), F.S., shall file the original and two copies of the existing rule with the Administrative Code and Register Weekly Section. Rules that repeal existing rules shall contain the words, "The following rules are hereby repealed:" followed by the rule number and title of the rule or rules being repealed and the complete text of each repealed rule with a diagonal line

drawn through the entire text of the rule. The text of repealed rules shall be provided by making a copy of the rule text as it appears in the Florida Administrative Code. Each page shall be numbered.

(7) An agency adopting an emergency rule pursuant to Section 120.54(4), F.S., shall file the original and two coded copies of the emergency rule with the Administrative Code and Register Weekly Section. Each page shall be numbered. The text of the emergency rule shall be coded as follows:

(a) When an emergency rule's requirements create a new rule, the emergency rule shall be coded as described in subsection (4) of this rule.

(b) When an emergency rule for the period in effect changes the requirements or text of an existing rule, it shall be coded in the same manner as an existing rule is coded pursuant to subparagraph 1-1.011(3)(c)2., F.A.C. The emergency rule shall cross-reference the existing rule number. If the change to the existing rule is substantial, it shall be coded in the same manner as described in subparagraph 1-1.011(3)(c)3., F.A.C.

(c) When an emergency rule for the period in effect supersedes or suspends in its entirety the effect or text of an existing rule, it shall be coded in the same manner as a repeal of an existing rule pursuant to subparagraph 1-1.011(3)(c)4., F.A.C., and subsection (6) of this rule. The emergency rule shall cross-reference the existing rule number.

(8)(a) If the effective date of a rule is later than 20 days after being filed, the effective date shall be stated in the rule text immediately following the final text. The effective date shall be preceded by the words, "PROPOSED EFFECTIVE DATE:". The effective date shall also be provided on the rule certification form if the effective date of the rule is later than 20 days after being filed. The effective date of the rule will not be published in the Florida Administrative Code as part of the rule text, but will appear in the history note.

(b) If the effective date of an emergency rule is other than immediately upon filing, the effective date of the emergency rule shall be stated in the rule text immediately following the text. The effective date shall be preceded by the words, "PROPOSED EFFECTIVE DATE:". The effective date shall also be provided on the rule certification form if the effective date of the emergency rule is other than immediately upon filing.

(9) The Administrative Code and Register Weekly Section shall reject any proposed rule filed for final adoption that does not comply with all statutory rulemaking requirements and/or the requirements of this chapter.

(10) Technical changes, such as non-substantive changes, errors in punctuation, misspellings, corrections of tense, changes of address or telephone number, or similar changes that do not affect the construction or meaning of the rule, may be accomplished by writing a letter to the Administrative Code and Register Weekly Section. Such changes do not require notification in the Florida Administrative Register Weekly.

PROPOSED EFFECTIVE DATE October 1, 2012.

Rulemaking Authority 20.10(3), 120.54(1)(i)6, 120.54(1)(j), 120.55(1)(d) FS. Law Implemented 120.54(1)-(4), (6), 120.55, 403.8055 FS. History—New 5-29-80, Formerly 1-1.02, Amended 12-30-81, 2-9-84, 10-1-84, 11-14-85, 10-19-86, 4-10-90, 6-17-92, 10-1-96, 9-13-98, 8-23-99, 6-20-02, Formerly 1S-1.002, Amended 3-8-09, 1-1-11, Formerly 1B-30.002, Amended 10-1-12.

1-1.011 Publication of Notices in the Florida Administrative Register Weekly (FAR FAW).

(1)(a) The Florida Administrative Register Weekly (FAR FAW) is published each business day of the week ~~Friday of the year~~ except those business days ~~Fridays~~ that are observed as official state holidays designated by Section 110.117, F.S. When a business day ~~Friday~~ is observed as a holiday, publication shall be on the next business last working day of the week ~~in which the Friday holiday is observed~~.

(b) All notices to be published in the FAR FAW must be received by the Administrative Code and Register Weekly Section, by 3:00 p.m. each business day to be published the next business day before 12:00 Noon Wednesday, the week prior to publication. ~~When Wednesday, Thursday, or Friday of the week of submission is observed as a holiday, the deadline for receiving notices shall be 12:00 Noon on Monday, the week prior to publication.~~

(2) All notices to be published in the FAR FAW must be submitted electronically through the Department of State's e-rulemaking website: www.flrules.org/agency/login.asp.

(a) Agencies shall contact the Administrative Code and Register Weekly Section to designate one or more agency administrator(s) to manage the agency's submissions on the e-rulemaking website. The agency administrator's duties include managing the agency submissions, payment profiles, rule notices, general notices, public comments and designating rule and chapter numbers on the e-rulemaking website.

(b) A billing profile shall be completed on the e-rulemaking website prior to the submission of notices for publication in the FAR FAW.

(3) The following applies to all rule notices submitted for publication in the FAR FAW:

(a) A single rule notice may contain more than one rule if the rules share the same chapter number.

(b) Rule notices shall not contain any markup revision, redlining or automatic numbering.

(c) All rule notices shall be coded as follows:

1. A new rule shall be coded by underlining all text, including spaces and punctuation. (Example: (1) The petitioner shall contact the agency.)

2. An amended rule shall be coded by underlining new text and by striking through deleted text. New text shall appear before deleted text. The space immediately before and immediately after the new text or deleted text shall not be coded. (Example: The petitioner party shall contact the agency)

head within 30 days.). New text inserted in an amended rule shall not immediately precede remaining text or stricken text. (Example of incorrect coding: The ~~petitioner~~party shall contact the agency head.). (Example of correct coding: The petitioner party shall contact the agency.)

a. Newly inserted subsections, paragraphs, subparagraphs or sub-subparagraphs shall be coded in the same manner as the following examples. (Example of incorrect coding: (1~~2~~) or (a) ~~1~~.) (Example of correct coding: (1)(~~2~~) or (a)1-).

b. A portion of a word shall not be amended without completely striking through existing text and inserting new text unless the amendment changes the capitalization of the word. (Examples of incorrect coding: ~~petitioner~~arty or ~~administrator~~ion). (Example of correct coding: petitioner party or administrator administration). A change in capitalization is coded by adding the newly inserted letter immediately before the deleted letter. (Example of correct coding: P~~p~~etitioner).

c. Any subsection, paragraph, subparagraph, or sub-subparagraph not being amended shall not be included and shall be noted as “No change”, unless inclusion is necessary to make the publication of the amended rule complete and meaningful.

3. If an amendment to a rule is so extensive that coding would hinder, rather than assist the understanding of the amendment, the notice shall only contain the underlined new text. The rule number and the existing rule title, legal citations and history note lines shall not be underlined. Amendments to the rule title, legal citations, or history notes shall be coded to indicate new or deleted text. The following directory line shall be inserted immediately before the rule number and rule title of the substantially reworded rule: “Substantial rewording of Rule _____ follows. See Florida Administrative Code for present text.” The present text of the rule shall not be included in the notice.

4. Rule repeals shall be coded by underlining the word “Repealed” in the history note. The full text of the rule is not required to be published in the FAR FAW. Only a reference to the rule number, rule title, legal citations and history notes must be published, provided that the rule summary portion of the notice fully describes the subject matter of the repealed rule text. Partial rule repeals will be treated in the same manner as an amendment.

(4) The following applies to all notices submitted for publication in the FAR FAW:

- (a) Margins shall be set at 1" at the top, bottom and sides.
- (b) Text shall be left justified.
- (c) The font shall be 10 point Times New Roman.
- (d) Indents shall be set at 0.25".

(5) The following templates containing the required format for notices to be published in the FAR FAW may be accessed from the e-rulemaking website: www.flrules.com/agency/login.asp:

(a) Except when the intended action is the repeal of a rule; negotiated rulemaking undertaken pursuant to Section 120.54(2)(d), F.S.; the adoption of an emergency rule pursuant to Section 120.54(4), F.S.; or the adoption of a rule pursuant to Section 120.54(1)(i)5., 120.54(6) or 403.8055, F.S., agencies shall provide notice of the development of proposed rules by publishing a Notice of Rule Development in the FAR FAW. If the text of the rule is included in the notice, the text shall be coded as described in subsection (3) of this rule. The following notice format shall be used, but only one of the rule development workshop alternatives and one of the preliminary text alternatives shall be selected for publication in the FAR FAW:

NOTICE OF RULE DEVELOPMENT

NAME OF AGENCY _____
 Division or Board _____

RULE NO.: _____ RULE TITLE: _____

PURPOSE AND EFFECT: _____

SUBJECT AREA TO BE ADDRESSED: _____

RULEMAKING AUTHORITY (formerly “Specific Authority”): _____

LAW IMPLEMENTED: _____

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

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

(or)

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

DATE AND TIME: _____

PLACE: _____

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: _____

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS: _____

(or)

NOT AVAILABLE

(or)

AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

(b) A Notice of Proposed Rule shall be published in the FAR FAW before filing any rule for adoption, except emergency rules adopted pursuant to Section 120.54(4), F.S., or rules adopted pursuant to Section 120.54(1)(i)5., 120.54(6) or 403.8055, F.S. Rule text included in the Notice of Proposed

Rule shall be coded as described in subsection (3) of this rule. The following format shall be used for a Notice of Proposed Rule, but only one of the alternatives listed in the hearing portion of the format should be selected for publication in the FAR FAW.

NOTICE OF PROPOSED RULE

NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

PURPOSE AND EFFECT:

SUMMARY:

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this rule will ___ or 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 ___ or has not ___ been prepared by the agency.

The Agency has determined that the proposed rule is ___ or 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:

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 (formerly "Specific Authority"):

LAW IMPLEMENTED:

___ 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 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):

(or)

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

DATE AND TIME:

PLACE:

(or)

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

THE FULL TEXT OF THE PROPOSED RULE IS:

(TEXT OF RULE)

NAME OF PERSON ORIGINATING PROPOSED RULE:

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR FAW:

(c) A Notice of Intent to Adopt a Rule shall be published in the FAR FAW before a rule adopted pursuant to Section 120.54(6), F.S., may be filed for adoption. Rule text shall be coded as described in subsection (3) of this rule. The following notice format shall be used:

NOTICE OF INTENT TO ADOPT A RULE PURSUANT TO SECTION 120.54(6), FLORIDA STATUTES (ADOPTION OF FEDERAL STANDARDS)

NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

PURPOSE, EFFECT AND SUMMARY:

RULEMAKING AUTHORITY (formerly "Specific Authority"):

LAW IMPLEMENTED:

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: (Name and address of contact person)

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

(d) A Notice of Intent to Adopt a Rule shall be published in the FAR FAW before a rule adopted pursuant to Section 120.54(1)(i)5., F.S., may be filed for adoption. Rule text shall be coded as described in subsection (3) of this rule. The following notice format shall be used:

NOTICE OF INTENT TO ADOPT A RULE PURSUANT TO SECTION 120.54(1)(i)5., FLORIDA STATUTES

NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

PURPOSE, EFFECT AND SUMMARY:

RULEMAKING AUTHORITY (formerly "Specific Authority"):

LAW IMPLEMENTED:

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(1)(i)5., F.S.

~~WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: (Name and address of contact person).~~

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY CLERK. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

(e) A Notice of Intent to Adopt a Rule shall be published in the ~~FAR FAW~~ before a rule adopted pursuant to Section 403.8055, F.S., may be filed for adoption. Rule text shall be coded as described in subsection (3) of this rule. The following notice format shall be used:

NOTICE OF INTENT TO ADOPT A RULE
PURSUANT TO SECTION 403.8055, FLORIDA STATUTES
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

PURPOSE, EFFECT AND SUMMARY:

RULEMAKING AUTHORITY (formerly "Specific Authority"):

LAW IMPLEMENTED:

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S.

~~WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: (Name and address of contact person)~~

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE ENVIRONMENTAL REGULATION COMMISSION, ADMINISTRATIVE ASSISTANT, DEP, MS 35, 3900 COMMONWEALTH BLVD., TALLAHASSEE, FL 32399-2000. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

(f) A Notice of Change pursuant to the requirements of Section 120.54(3)(d)1., F.S., shall be filed when changes are made to proposed rule text. The rule text published in the Notice of Proposed Rule shall be used as the basis for coding the additional rule changes included in the Notice of Change. Coding of rule text in the Notice of Change shall be as described in subsection (3) of this rule. The following notice format shall be used:

NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. ____, No. ____, (date), issue of the Florida Administrative ~~Register~~ Weekly.

(Text of proposed rule changes)

(g) A Notice of Withdrawal shall be used when withdrawing proposed rules. The following notice format shall be used:

NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. ____, No. ____, (date), Florida Administrative ~~Register~~ Weekly has been withdrawn.

(h) A Notice of Emergency Rule shall be published in the first available issue of the ~~FAR FAW~~ following filing the emergency rule for adoption. Emergency rules shall be coded as specified in subsection (3) of this rule. The following notice format shall be used:

NOTICE OF EMERGENCY RULE

NAME OF AGENCY

Division or Board

RULE NO.:

RULE TITLE:

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE:

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

SUMMARY OF THE RULE:

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:

THE FULL TEXT OF THE EMERGENCY RULE IS:

(TEXT OF RULE)

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE:

(i) The following format shall be used to notice a petition for variance or waiver:

NOTICE OF VARIANCE OR WAIVER

NAME OF AGENCY

NOTICE IS HEREBY GIVEN that on (date), the (name of agency) received a petition for a variance or waiver.

Petitioner's Name:

Rule No.:

Nature of the rule for which variance or waiver is sought:

A copy of the Petition for variance or waiver may be obtained by contacting:

Any interested person or other agency may submit written comments within 14 days after the publication of this notice.

(j) The following format shall be used to notice the disposition of a petition for variance or waiver:

NOTICE OF DISPOSITION OF VARIANCE OR WAIVER
 NOTICE IS HEREBY GIVEN that on (date), the (name of agency) has issued an order.

Petitioner's Name:

Date Petition Filed:

Rule No.:

Nature of the rule for which variance or waiver is sought:

Date Petition Published in the Florida Administrative Register Weekly:

General Basis for Agency Decision:

A copy of the Order may be obtained by contacting:

(k) The following format shall be used for preparing notices of public meetings, hearings, or workshops:

NOTICE OF PUBLIC MEETINGS, HEARINGS, OR WORKSHOPS

The (name of agency) announces a (public meeting, hearing or workshop) to which all persons are invited:

DATE AND TIME:

PLACE:

GENERAL SUBJECT MATTER TO BE CONSIDERED:

A copy of the agenda may be obtained by contacting:

(l) The following format shall be used for notices of petitions for declaratory statements:

NOTICE OF PETITION FOR DECLARATORY STATEMENT

NOTICE IS HEREBY GIVEN THAT (name of agency) _____, has received a petition for a declaratory statement from (name of petitioner). The petition seeks the agency's opinion as to the applicability of (statute, rule or order number) as it applies to the petitioner.

(m) The following format shall be used for notices of dispositions of declaratory statements:

NOTICE OF DISPOSITION OF DECLARATORY STATEMENT

NOTICE IS HEREBY GIVEN THAT (name of agency) has issued an order disposing of the petition for declaratory statement filed by (petitioner's name) on (date of petition). The following is a summary of the agency's disposition of the petition: (Insert a statement that the petition was denied and the reasons for the denial or that the petition was granted and set out a summary of the substance of the response.)

(n)1. The following format shall be used for notice of the invalidation of a proposed or effective rule:

NOTICE OF THE INVALIDATION OF A PROPOSED OR EFFECTIVE RULE

(name of agency) HEREBY GIVES NOTICE that an administrative law judge or a court has determined that (rule no.) is invalid. The time for filing an appeal of this decision expired (date). (If desired insert optional summary of the hearing officer's determination.)

2. If the rule declared invalid is a proposed rule, the rule number inserted in the notice shall be prefixed by the word "proposed."

(6) The department shall reject any notice that does not comply with the requirements specified in this rule.

PROPOSED EFFECTIVE DATE October 1, 2012.

Rulemaking Authority 120.55(1)(d) FS. Law Implemented 120.54(2), 120.542(6), (8), 120.55(1), (3) FS. History--New 5-29-80, Formerly 1-1.021, Amended 7-12-81, 12-30-81, 7-8-82, 2-9-84, 10-1-84, 11-14-85, 10-19-86, 4-10-90, 6-17-92, 9-2-93, 4-1-96, 10-1-96, 9-13-98, 6-20-02, Formerly 1S-1.003, Amended 3-8-09, Formerly 1B-30.003, Amended 10-1-12.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Liz Cloud, Administrative Code and Weekly Section

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Detzner, Secretary of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2012

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE NO.:

RULE TITLE:

2A-5.011

Enforcement

PURPOSE AND EFFECT: The proposed rule amendment is intended to update guidelines for enforcement of convenience store program violations.

SUMMARY: The proposed rule amendment will increase the extension of time which may be granted for correcting violations from 30 to 90 days.

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: During discussion of the economic impact of this rule the Department, based upon the expertise and experience of its

members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. This proposed rulemaking will not have an adverse impact or effect regulatory costs in excess of \$1 million within five years as established in Sections 120.541(2)(a)1., 2., and 3., 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: 812.176 FS.

LAW IMPLEMENTED: 120.57, 812.173 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: Rick Nuss, Chief, Bureau of Criminal Justice Programs, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2A-5.011 Enforcement.

(1) Before the Department may take action to enforce a provision of the "Convenience Business Security Act," Sections 812.1701-175, F.S., an inspection of a convenience business or businesses must be performed and properly documented on the form entitled "Convenience Business Security Inspection Form," CBS-2 (Revised 4/09), effective 8-4-09, which is incorporated by reference in these rules.

(2) The owner or principal operator of a convenience business must respond to a notice of violation and provide proof of compliance by submitting to the Office of the Attorney General a completed form entitled "Voluntary Compliance Agreement," CBS-3 (Revised 4/09), effective 8-4-09, which is incorporated by reference in these rules.

(3) Upon a showing that the owner or principal operator of a convenience business has a good faith intention to correct a violation and there is no evidence of unnecessary delay, the Office of the Attorney General may grant a 90 ~~30~~-day extension of time for correcting violations. However, if a violation is not timely corrected, civil fines may be imposed in the following amounts:

- (a) \$1,000 for violation of any of the security requirements of Section 812.173(1) and (2), F.S.;
- (b) \$2,000 for violation of the silent alarm requirements in Section 812.173(3), F.S.; or the employee training requirement in Section 812.174, F.S.;
- (c) \$5,000 for violation of any of the security requirements in Section 812.173(4), F.S.;

(d) \$5,000 for any violation of the requirements indicated in paragraphs (a)-(c) above if the violation is found during the investigation of any of the crimes specified in subsection 812.173(4), F.S.

(4) When a civil fine is imposed, the Office of the Attorney General shall issue a certified, return receipt requested letter to the owner or principal operator demanding payment to the State of Florida within 21 days of receipt.

(5) The allegations contained in a notice of civil fine will become binding and final, and the right to an administrative hearing will be deemed waived, unless a request for administrative hearing under Sections 120.569 and 120.57, F.S., is filed with the Office of the Attorney General within 21 days after receipt of the notice of civil fine.

Rulemaking Authority 812.176 FS. Law Implemented 120.57, 812.175 FS. History--New 4-20-93, Amended 6-25-96, 4-28-98, 8-4-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick Nuss, Chief, Bureau of Criminal Justice Programs
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Pam Bondi
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 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 repealing this section as the provision sunset on 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. The Department proposes repealing this section as the provision sunset on July 1, 2012.

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 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. For these reasons, a SERC has not been prepared by the agency and legislative ratification is not required.

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: Tuesday, September 4, 2012, 8:30 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 Mailea.Adams@dms.myflorida.com or (850)413-9503. 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 Phil.Spooner@dms.myflorida.com or (850)488-2445

THE FULL TEXT OF THE PROPOSED RULE IS:

60L-32.007 Selected Exempt Service Extraordinary Payment Plan.

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, Repealed.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Craig J. Nichols

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2012

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE NO.: 60L-32.0071
 RULE TITLE: Selected Exempt Service
 Extraordinary Payment Plan

PURPOSE AND EFFECT: The Department proposes reestablishing the provisions of Rule 60L-32.007, F.A.C., that sunset 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. The Department proposes reestablishing the provisions of Rule 60L-32.007, that sunset July 1, 2012.

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 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. For these reasons, a SERC has not been prepared by the agency and legislative ratification is not required.

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: Tuesday, September 4, 2012, 10:00 a.m.

PLACE: The 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 Mailea.Adams@dms.myflorida.com or (850)413-9503. 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 Phil.Spooner@dms.myflorida.com or (850)488-2445

THE FULL TEXT OF THE PROPOSED RULE IS:

60L-32.0071 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.

Rulemaking Authority 110.1055, 110.201(1), 110.602, 110.605(1), (2) FS. Law Implemented 110.201, 110.603 FS. History—New

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Scott Stewart
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2012

DEPARTMENT OF MANAGEMENT SERVICES

Division of Administrative Hearings

RULE NOS.:	RULE TITLES:
60Q-6.102	Definitions
60Q-6.103	Pleadings and Proposed Orders
60Q-6.104	Representation and Appearance of Counsel
60Q-6.106	Consolidation and Venue
60Q-6.107	Amendment and Dismissal of Petition for Benefits
60Q-6.108	Filing and Service
60Q-6.110	Mediation, Generally
60Q-6.113	Pretrial Procedure
60Q-6.114	Discovery
60Q-6.115	Motion Practice
60Q-6.116	Prosecution of Claims and Petitions for Benefits
60Q-6.117	Emergency Conferences
60Q-6.118	Expedited Hearings
60Q-6.120	Summary Final Order
60Q-6.122	Motion for Re-hearing and Amending or Vacating Order
60Q-6.123	Settlements Under Section 440.20(11), Florida Statutes
60Q-6.124	Payment of Attorney's Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes
60Q-6.125	Sanctions
60Q-6.126	Disqualification or Recusal of Judges
60Q-6.127	Procedure for Relief from Appellate Filing Fee and Costs

PURPOSE AND EFFECT: Procedural rules for adjudication of workers' compensation claims were implemented on February 23, 2003, pursuant to the mandate in Section 440.45, Florida Statutes, that the Division of Administrative Hearings adopt procedural rules. Amendments to the rules have previously been made in 2006 and 2010. Since Sections 440.015 and 440.44(2), Florida Statutes, require that the workers' compensation system be efficient and self-executing and that the Division of Administrative Hearings assume an active and forceful role in achieving that goal, it is necessary to amend the existing rules to conform with subsequent statutory changes and to incorporate changes that will improve the adjudicatory process based upon experience in utilizing the existing rules.

SUMMARY: The procedural rule revisions improve definitions, implement mandatory electronic filing, streamline the service of pleadings, promote the timely resolution of attorney's fees and costs, discourage duplication and unnecessary filings, encourage timely orders, streamline mediation, provide for voluntary mediation, promote timely discovery and entry of discovery orders, streamline motion practice, allow JCCs to approve stipulations, and streamline the appointment of expert medical advisors, with a resulting more efficient and self-executing adjudicatory process.

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: During a six-city rule development workshop conducted via video teleconferencing on July 6, 2012, numerous participants representing business and individual interests within the workers' compensation industry, as well as the experience of the Chief Judge and Deputy Chief Judge, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the amendments to the rules will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time or by the date the record was left open to receive comments, July 16, 2012. The proposed rule amendments will largely result in a streamlining of the workers' compensation appeals program that should save the participating parties money when proceeding through the process.

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: 61.14(8)(a), 440.25(4)(h), 440.25(4)(i), 440.45(1)(a), 440.45(4) FS.

LAW IMPLEMENTED: 61.14(8)(a), 440.105(3)(c), 440.192, 440.20(11), 440.25(1)-(4), 440.271, 440.29(2), 440.30, 440.32, 440.33(1), 440.34, 440.345, 440.442, 440.45(1)(a), 440.45(4), 440.45(5) FS.

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

DATE AND TIME: Wednesday, August 22, 2012, 8:00 a.m. – 9:30 a.m.

PLACE: Room (TBD), Marriott World Center, 8701 World Center Drive, Orlando, Florida 32821

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 five days before the workshop/meeting by contacting: Lisa Mustain, Administrative Services Director, (850)488-9675. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert S. Cohen, Director and Chief Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, (850)488-9675

THE FULL TEXT OF THE PROPOSED RULES IS:

60Q-6.102 Definitions.

(1) "Claim" means each assertion of a legal right or benefit under Chapter 440, F.S.:

(2) through (3) No change.

(4) "Office of the Judges of Compensation Claims" (OJCC) means the office within the Department of Management Services, Division of Administrative Hearings, where the ~~Deputy Chief Judge~~ ~~deputy chief judge~~ and judges of compensation claims preside.

(5) "~~Electronic transmission~~" or "Electronic electronic filing" means uploaded to the appropriate case docket using the electronic judges of compensation claims' e-filing system (e-JCC) accessed through a link on the OJCC website at www.jcc.state.fl.us.

(6) through (9) No change.

(10) "Petition for benefits" means a pleading invoking the jurisdiction of the OJCC and subject to the requirements of ~~Section Sections~~ 440.192(1) through (4), F.S.

(11) "Pleading" means a petition for benefits or an amended petition, a motion, a response to a petition or a motion, a voluntary dismissal, a voluntary agreement to provide benefits, a pretrial stipulation, a stipulation changing the issues pending in a case, or a notice.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.192(1), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.103 Pleadings and Proposed Orders.

(1) No change.

(a) Be typewritten or printed on 8 1/2" by 11" white paper, unless electronically filed by electronic transmission;

(b) through (f) No change.

(2) through (3) No change.

(4) Proposed Orders. Except as provided in Rule 60Q-6.115(3), F.A.C., proposed orders shall not be submitted unless requested by the judge. They shall be clearly identified as proposed orders and shall be sent to all other parties or, if

represented, their attorneys of record prior to being submitted to the judge. Proposed orders shall be a separate document and not be included as a part of a motion.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.192(1), (2)(a), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.104 Representation and Appearance of Counsel.

(1) through (2) No change.

(a) No change.

(b) A motion to substitute or to withdraw, which reflects that it has been served on the client and all other parties or, if represented, their attorneys ~~the party's attorney~~ of record, is granted.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.106 Consolidation and Venue.

(1) The judge, on the judge's own initiative or on the motion of any party, may consolidate any claims or petitions pending before the judge for the purpose of a hearing or for any other purpose, except for a claim for reimbursement from the Special Disability Trust Fund.

(2) through (4) No change.

(5) For accidents occurring outside of the state, the Deputy Chief Judge's ~~deputy chief judge's~~ initial determination of venue may be changed by order of the assigned judge.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(d), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.107 Amendment and Dismissal of Petition for Benefits.

(1) A petition that does not contain the information required by Section ~~Sections~~ 440.192(2) through (4), F.S., shall be dismissed.

(2) through (3) No change.

~~(4) Upon motion by the employer or carrier, the judge may require the claimant to file a verified motion for attorney's fees and costs and adjudicate the verified motion for attorney's fees and costs.~~

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, ~~440.25(4)(d), (i), 44.44(2)~~, 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.108 Filing and Service.

(1) No change.

(a) No change.

(b) Any pleading or other paper filed in a proceeding shall be served on all other parties or, if represented, their attorneys of record at the time the document is filed. Petitions for benefits shall be served on the parties as provided in Section

440.192(1), and copies of the petitions shall be served on counsel for the opposing parties, if known, at the time the petition is filed as provided in this rule. Service shall be by electronic mail, facsimile, or U.S. mail. The use of electronic mail by parties or attorneys is approved only when the serving party or attorney uses the opposing party's or attorney's e-mail address registered with the OJCC, as listed in e-JCC. Electronic mail sent by the OJCC on behalf of the serving party through the e-JCC program shall be the only approved alternative to certified U.S. mail for service of petitions for benefits and responses to petitions for benefits. In the event a represented party files a pleading or other paper with the OJCC by electronic means, that party shall be required to serve the other party or parties, or their designated representative, with a copy of that pleading or paper simultaneously by electronic means, if available.

(c) The following documents shall not be filed with the OJCC unless relevant to an issue to be heard and not more than 10 ~~ten~~ days but at least two days before the scheduled hearing: requests or notices to produce and objections or responses thereto, deposition transcripts, correspondence between counsel or parties, correspondence to the judge or the judge's staff, subpoenas and returns of service.

(d) Except for filing using e-JCC, electronic mail or facsimile transmission of documents to the judge shall be used only when the judge authorizes such use for that document; otherwise, the document will not be considered.

(e) No change.

(f) Any attorney, party, or other person who electronically files any document ~~by electronic transmission~~ shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed as a result.

(g) through (i) No change.

(2) No change.

(a) through (c) No change.

(d) Placing the document in the U.S. United States mail, except when the original pleading or paper was filed with the OJCC by electronic means, in which case simultaneous electronic service on the other party or parties must be made, as referenced in paragraph (1)(b) above; or

(e) Transmitting the document by facsimile or ~~by electronic transmission, including~~ electronic mail. Service by electronic mail on a party or attorney is only effective if the serving party or attorney uses the opposing party's or attorney's e-mail address registered with the OJCC, as listed in e-JCC. Service of a petition for benefits or response to a petition for benefits sent by electronic mail shall be effectuated, and deemed received by the opposing party at the same time that service is effectuated, upon electronic mailing if

sent by the OJCC on behalf of the serving party through the e-JCC program to the registered e-mail address of the opposing party as listed in e-JCC.

(f) All documents served by e-mail must be attached to an e-mail message containing the subject line beginning with the words “SERVICE OF OJCC DOCUMENT” in all capital letters followed by the name of the injured worker, employer, and OJCC number, if any.

(3) Service by delivery, ~~by facsimile transmission, or by electronic mail transmission~~ after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.

(4) When service is made by U.S. mail, the copy shall be mailed ~~by United States mail~~, postage prepaid, to the last known address of the party or, if represented, the party’s attorney of record.

(5) Service by U.S. mail shall be complete upon mailing.

(6) When service of any pleading other than a petition is made by U.S. mail, five 5 days shall be added to the time allowed for the performance of any act required to be done, or allowed to be done, within a certain time after service.

(7) All orders shall be electronically filed with the OJCC in Tallahassee on the same day that the order is transmitted to the parties by electronic ~~mail transmission~~ or U.S. mail.

(8) All attorneys filing documents in workers’ compensation proceedings before the OJCC shall register to use the e-JCC electronic filing system. Each such attorney shall register an e-mail address and thereby consent to receive documents from other counsel and the OJCC at that address. Each attorney shall be responsible for amending that e-mail address as necessary for it to remain current.

(9) Only attorneys, mediators, adjusters, and parties are permitted to register with the e-JCC system.

(10) The OJCC will maintain a list of all e-JCC registrants and their e-mail addresses.

(11) All self-insurers, third-party administrators, and carriers shall register a single, general delivery, e-mail address with the OJCC for receipt of all electronically served documents, including petitions for benefits. The e-JCC system will maintain a list of all registered companies, and their e-mail addresses. Each such self-insurers, third-party administrators, and carrier shall be responsible for amending that e-mail address as necessary for it to remain current.

(12) Any other party may register an e-mail address with the OJCC.

(13) The OJCC will maintain a list of all registered parties and counsel and their respective e-mail addresses.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.25(1), (4)(a), (4)(c), (4)(e), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.110 Mediation, Generally.

(1) through (2) No change.

(a) through (c) No change.

(d) Parties to a workers’ compensation claim may jointly request voluntary mediation services from the OJCC. Such requests will be considered as individual state mediator calendars permit. Any voluntary mediation will be conducted only if all parties so stipulate. Any voluntary mediation will be governed by these rules. Failure to appear at a voluntary mediation shall not be a basis for the imposition of sanctions.

(3) No change.

(4) If the parties settle all issues, or all issues except for attorney’s fees, prior to the scheduled mediation conference, the attorney or unrepresented claimant who has filed a petition for benefits ~~shall must~~ file a pleading in order to cancel the corresponding mediation. The pleading must be filed prior to the scheduled mediation and shall indicate the manner in which each issue was resolved.

(5) The following persons shall attend the mediation conference: the claimant; the claims representative of the carrier/servicing agent, which representative must have full authority to settle the issues; the employer, if uninsured; the insured or self-insured employer, if the employer/servicing agent does not have full authority to settle the issues; and the attorneys for the parties. The appearance of an attorney for a party does not dispense with the required attendance of the party. No party shall appear at the mediation conference by telephone unless such appearance is approved in advance by the mediator. Any party appearing by telephone has stipulated to be bound by that party’s attorney of ~~record’s record~~ signature on the mediation report.

(a) The mediator shall have discretion to allow any party and/or that party’s attorney of record to appear at the mediation conference by telephone upon the party’s written request furnished to the mediator and the opposing party or, if represented, the party’s attorney of record no fewer than five 5 days prior to the mediation conference. The expense of telephonic attendance shall be borne by the person or party attending by telephone.

(b) No change.

(6) Failure to attend the mediation conference without a showing of having shown good cause, or the failure to appear at the mediation conference with full authority to resolve the issues, shall subject the party or the attorney to sanctions.

(7) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(1)-(4), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.113 Pretrial Procedure.

(1) No change.

(2) The parties or, if represented, their attorneys of record shall confer and complete a written pretrial stipulation and file it no later than two 2 business days before the pretrial hearing.

The judge may cancel the pretrial hearing if the stipulation is timely filed. In pretrial stipulations and at any pretrial hearing, the parties shall:

(a) No change.

(b) State each party's position regarding ~~on~~ the date of accident, jurisdiction over the subject matter and over the parties, the injuries alleged; venue, and timely notice of the pretrial hearing and of the final hearing;

(c) No change.

(d) Identify all exhibits, including impeachment and rebuttal exhibits;

(e) through (g) No change.

(3) No change.

(4) Where mediation has been waived by the Deputy Chief Judge ~~deputy chief judge~~, the parties shall file a pretrial stipulation that conforms to the requirements of subsection (2) of this rule no later than 30 days following the waiver order.

(5) through (7) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(2)-(4), 440.29(2), 440.33(1), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.114 Discovery.

(1) Any party may commence with discovery methods specifically authorized by statute, including depositions, issuance of subpoenas and requests for production, prior to or after invoking the jurisdiction of the judge.

(2) through (5) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.30, 440.33(1), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.115 Motion Practice.

(1) Any request for an order or for other relief shall be by motion and shall have a title describing the relief requested. The judge may treat any non-standard request for relief from an unrepresented party as a motion. All motions shall be in writing unless made on the record during a hearing and shall fully state the relief requested and the grounds relied upon. Any document referenced in any motion shall either have been filed prior to the motion or be attached to the motion.

(2) through (3) No change.

(4) If the motion has not been amicably resolved, the movant shall file the motion. When time allows, the other parties may, within 15 fifteen days of service of the written motion, file a response in opposition. Written motions may be ruled on by the judge before the expiration of the response period and provide for filing an objection to the order within 10 days of the order, or the judge shall rule will normally be disposed after the response period has expired, based on the motion, together with any supporting or opposing memoranda.

The judge shall not hold hearings on motions except in exceptional circumstances and for good cause shown in the motion or response.

(5) No change.

(6) Motions to expedite discovery or the final hearing shall set forth good cause and shall be served by electronic mail, ~~or~~ facsimile ~~transmission~~, hand delivery, or overnight delivery. Any opposition to the motion must be filed within four days from the date the motion is served.

Rulemaking Authority 440.25(4)(h), 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(h), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.116 Prosecution of Claims and Petitions for Benefits.

(1) No change.

(2) A claim or petition may be dismissed by the claimant or petitioner without an order by filing or announcing on the record, a ~~notice of~~ voluntary dismissal at any time before the conclusion of the final hearing. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a second notice of voluntary dismissal shall operate as an adjudication of denial of any claim or petition for benefits previously the subject of a voluntary dismissal.

(3) through (4) No change.

(5) ~~Except as authorized by statute~~, The judge may enter an order reflecting the terms of any written stipulation or agreement between the parties ~~only where one of the parties to the stipulation or agreement alleges that another party has failed or refused to comply with the stipulation or agreement and an order is necessary for immediate enforcement; otherwise, the parties shall not request that the judge approve a stipulation or agreement or reduce it to an order.~~

(6) Any attorney or unrepresented claimant who has filed a petition for benefits must file a pleading with the judge in order to cancel the corresponding final hearing. The pleading must be filed prior to the scheduled final hearing and shall indicate the manner in which each issue was resolved. Upon receipt of such cancellation pleading, the judge shall change the status of the affected petition or petitions in the OJCC database. Cases with no currently pending issues scheduled for mediation or hearing shall be reflected in the OJCC database as "inactive." Upon changing a case status from active to inactive, the OJCC central clerk shall issue an order documenting such status change.

(7) No more than 10 days but no less than at least two business days prior to the final hearing, each party is required to file a brief memorandum consisting of a statement of relevant facts and written argument. All depositions and documentary evidence, including known impeachment and rebuttal evidence a party intends to offer into evidence, shall be filed with the memorandum. In the event of a re-scheduling or continuance, documents timely filed pursuant to this rule need

not be re-filed prior to the re-scheduled or continued hearing. Documentary evidence not timely filed may be excluded from evidence, absent a written stipulation of the parties or an order extending the deadline for filing for good cause shown.

(8) Any party calling a witness in need of translation services shall be responsible to provide therefor. The OJCC will not provide translation services except in exceptional circumstances and upon written request filed with the Deputy Chief Judge ~~deputy chief judge~~ at least 10 ~~ten~~ days prior to the mediation or hearing for which such services are sought and for good cause shown.

(9) through (10) No change.

(11) ~~Unless otherwise ordered by the judge, w~~Within 10 ~~ten~~ days of the order appointing an expert medical advisor, the parties shall jointly submit to the appointed advisor a composite of all documents and records which the parties agree the advisor will review. Any party may move for an order to permit submission of additional or non-stipulated records.

(12) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4), 440.29(2), 440.33(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.117 Emergency Conferences.

(1) A written request for an emergency conference shall be filed and served by electronic ~~mail transmission~~ or facsimile on all other parties or, if represented, their attorneys of record. It shall set forth in detail the facts giving rise to the request, its legal basis, the factual or medical basis for the claim that there is a bona fide emergency involving the health, safety, or welfare of an employee, and the specific relief sought. Any documents relied upon should be specifically referenced or attached.

(2) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(g), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.118 Expedited Hearings.

(1) through (3) No change.

(4) Stipulated Pretrial Outline. ~~The pretrial process will be as described in Rule 60Q-6.113, F.A.C. At least 15 days before the final hearing, a joint stipulated pretrial outline shall be filed and shall include the following:~~

- ~~(a) A concise statement of the nature of the controversy;~~
- ~~(b) A brief, general statement of each party’s position;~~
- ~~(c) A list of all exhibits including impeachment and rebuttal exhibits to be offered at the hearing, noting any objections thereto, and the grounds for each objection. No additional documentary evidence will be admitted at the hearing;~~

~~(d) A list of the names and addresses of all witnesses, including impeachment and rebuttal witnesses, to be called at the hearing by each party, with expert witnesses being so designated, together with a summary of the expected testimony;~~

~~(e) A concise statement of those facts which are admitted and will require no proof at hearing, together with any reservations directed to any such admission;~~

~~(f) A list of all pending motions or other matters which require action by the judge; and~~

~~(g) A composite of all documentary evidence relied upon.~~

(5) The trial memoranda process shall be as described in subsection 60Q-6.116(7), F.A.C.

Rulemaking Authority 440.25(4)(i), 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(i), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.120 Summary Final Order.

(1) No change.

(2) Any party may file a motion for a summary final order when there is no genuine issue as to any material fact and the granting of the motion would be dispositive of the issues raised by the subject petition. A summary final order shall be rendered if the judge determines from the pleadings and depositions, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order may be rendered on the issue of entitlement to a benefit alone, although there is a genuine issue as to the amount of the benefits. No motion for summary final order may be filed less than 45 days prior to a scheduled final hearing.

(3) No change.

(4) When a motion for summary final order is denied, the judge shall impose sanctions pursuant to subsections 60Q-6.125(5) and (6), F.A.C., if the judge determines that the motion violates subsection 60Q-6.125(2), F.A.C.

(5) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(h), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, 10-31-10,_____.

60Q-6.122 Motion for Re-hearing and Amending or Vacating Order.

(1) through (2) No change.

(a) To challenge rulings that were outside the scope of the issues presented; or

(b) No change.

(3) through (5) No change.

(6) Notwithstanding subsection 60Q-6.115(4), F.A.C., if the motion for re-hearing is directed to an appealable order, the moving party may schedule a hearing on the motion.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.123 Settlements Under Section 440.20(11), Florida Statutes.

(1) No change.

(a) No change.

1. through 4. No change.

5. A status statement from the Department of Revenue, unless such information is available to the OJCC directly, through data exchange with the Department of Revenue, and a status statement from the Clerk of the Circuit and County Courts, Central Depository, unless such information is available to the OJCC directly, through data exchange with the applicable county Clerk, from the county in which the claimant resides at the time the settlement documents are filed and the county in which the claimant resided on the date of accident as to whether the claimant has or owes any child support arrearage and, if so, the amount thereof;

6. If the claimant is not a Florida resident, or was not a Florida resident on the date of accident, the judge may require the substantial equivalent of the status statements in subparagraph (1)(a)5. from the equivalent authorities in the state or county of residence at either the time of settlement or on the date of accident;

~~7.6.~~ A sworn statement by the employee that all existing child support obligations have been disclosed in the joint petition;

~~8.7.~~ A letter or statement in the settlement stipulation from counsel stating that the carrier will issue a check in the amount of the arrearage or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Clerk of the Circuit and County Courts, Central Depository;

~~9.8.~~ Any other documents in the possession of the parties or their attorneys, including any prior attorney's fee lien, that is material to the disposition of the settlement, and a certificate from claimant's counsel that diligent efforts have been made to identify any liens and the position of any lienholder(s) regarding settlement;

~~10.9.~~ For settlements under Section 440.20(11)(a), F.S., the notice(s) of denial; and

~~11.10.~~ For settlements under Section 440.20(11)(b), F.S., the required notice to the employer, a maximum medical improvement report establishing overall physical maximum medical improvement and psychiatric maximum medical improvement if the latter applies, available information concerning the need for future medical care or an explanation as to why the information cannot be reasonably obtained, and other essential medical information.

(b) through (d) No change.

(2) Settlements under ~~Section Sections~~ 440.20(11)(c), (d), and (e), F.S.

(a) No change.

1. through 4. No change.

5. An attorney's fee data sheet setting forth the benefits obtained by claimant's counsel and the value of those benefits, and, depending upon the date of accident and the type of benefit involved, if the claimant's attorney seeks a fee in excess of the statutory percentage, an affidavit specifying the particular statutory criteria forming the basis for the variance; ~~and~~

6. A status statement from the Department of Revenue, unless such information is available to the OJCC directly, through data exchange with the Department of Revenue, and a status statement from the Clerk of the Circuit and County Courts, Central Depository, unless such information is available to the OJCC directly, through data exchange with the applicable county Clerk, from the county in which the claimant resides at the time the settlement documents are filed and the county in which the claimant resided on the date of accident as to whether the claimant has an arrearage or owes past due child support and, if so, the amount thereof; a sworn statement by the employee that all existing child support obligations have been disclosed in the joint petition; and a letter from counsel stating that the carrier will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge or that claimant's counsel will deposit the settlement proceeds in a trust account and will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Clerk of the Circuit and County Courts, Central Depository;

7. If the claimant is not a Florida resident, or was not a Florida resident on the date of accident, the judge may require the substantial equivalent of the status statements in subparagraph (2)(a)6. from the equivalent authorities in the state or county of residence at either the time of settlement or on the date of accident; and

8. The OJCC may obtain child support arrearage data from the Florida Department of Revenue and the Clerk of the various Circuit and County Courts. The OJCC shall list the counties for which such information is available to the OJCC on the internet. For those agencies/counties listed, parties may obtain child support arrearage information through written inquiry to the OJCC.

~~(3)(b)~~ No change.

~~(4)(3)~~ No change.

~~(5)(4)~~ The judge shall consider the disclosed costs to the extent necessary to ~~determine conclude~~ that they do not include the attorney's overhead or other fees. A claim for cost reimbursement in the amount of \$250 or less need not be set forth with specificity or detail.

Rulemaking Authority 61.14(8)(a), 440.45(1)(a), (4) FS. Law Implemented 61.14(8)(a), 440.105(3)(c), 440.20(11), 440.34, 440.345, 440.45(1)(a), (4), (5) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.124 Payment of Attorney’s Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes.

- (1) through (2) No change.
- (3) No change.

(a) Any motion for attorney’s fees/or for costs shall be verified and filed, and shall include:

1. A statement of the facts relied on in support of the motion;_;
2. The statutory and legal basis relied upon;_;
3. A recitation of all benefits secured for the claimant through the attorney’s efforts, including projected future benefits reduced to present valu;_;
4. The statutory fee based on the benefit secured;_;
5. A detailed chronological listing of all time devoted to the claim, if applicable;_; and
6. No change.

(b) Within 30 days after the motion is served, the opposing party or parties shall file a verified response to the motion, which includes a detailed recitation of all matters which are disputed in the form outlined in subparagraphs (3)(a)1.-6. Failure to file a timely and specific response to a motion for attorney’s fees and costs detailing matters that are disputed shall, absent good cause, result in acceptance of the allegations in the motion as true.

- (c) No change.
- (d) Unless the judge orders otherwise, the parties shall exchange exhibits and written witness lists no later than 10 days before the date of the attorney’s fee and/or cost hearing.
- (e) No change.

(4) Upon motion by any party, the judge may require the claimant to file a verified motion for attorney’s fees and costs and adjudicate the verified motion for attorney’s fees and costs.

- ~~(5)(4)~~ No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.32, 440.34, 440.345, 440.45(1)(a), (4), (5) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.125 Sanctions.

- (1) No change.
- (2) Representations to the Judge. By filing a pleading or other document or presenting argument ~~argument~~ before the judge at hearing, an attorney or unrepresented party is certifying to the best of that person’s knowledge, information, and belief, formed after inquiry reasonable under the circumstances, that:
 - (a) through (b) No change.

(c) The allegations and other factual contentions are true and have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

- (d) No change.
- (3) through (6) No change.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.32, 440.33(1), (2), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, 10-31-10, _____.

60Q-6.126 Disqualification or Recusal of Judges.

- (1) No change.
- (2) Upon entry of an order of disqualification or after the ~~voluntary~~ recusal of a judge, the Deputy Chief Judge ~~deputy chief judge~~ shall re-assign the case to another judge.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.442, 440.45(1)(a), (4) FS. History—New 2-23-03, Amended _____.

60Q-6.127 Procedure for Relief from Appellate Filing Fee and Costs.

The procedure for relief from payment of the appellate filing fee and from the costs of the preparation of the record on appeal for the review of any order of a judge on the ground ~~grounds~~ of indigency shall be in accordance with Fla. R. App. P. 9.180.

Rulemaking Authority 440.45(1)(a), (4) FS. Law Implemented 440.271 FS. History—New 11-1-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David W. Langham, Deputy Chief Judge of Compensation Claims
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Robert S. Cohen, Director and Chief Judge
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2012

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NO.: 5M-15.001
RULE TITLE: Purpose