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#### NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 48, December 1, 2006 issue of the Florida Administrative Weekly has been withdrawn.

## Section IV Emergency Rules

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

### DEPARTMENT OF CITRUS

RULE NOS.:	RULE TITLES:
20ER08-2	Processed Form
20ER08-3	Fruit Handled by Express and Gift Package Shippers
20ER08-4	Requirements to Guarantee Payment of Excise Tax
20ER08-5	Late Filing of Returns and Inadequacy of Bond
20ER08-6	Fresh Form

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Section 120.54(4)(b), F.S., states that those rules pertaining to perishable agricultural commodities shall be included in the definition of rules relating to the public health, safety, or welfare.

In June 2008, Governor Crist signed into law a statutory amendment to Section 601.15, F.S. authorizing the Florida Citrus Commission to set the tax rates no later than November after the release of more accurate crop estimates.

The amendment changed the deadline for the Commission setting the tax rate from August 1 to November 1 requiring the Department to amend certain parts of Chapter 20-9, F.A.C. related to the logistics of taxpayers' filings of their excise tax returns.

Following the standard rulemaking time periods outlined in Section 120.54, F.S., would have created an impermissible gap whereby no amended rule complying with the amended statute would have been in place.

This "gap" would have created uncertainty in the industry, and could have undermined the ability of the Department to collect legislatively authorized excise taxes, potentially crippling the Department and its research and promotion programs.

Therefore emergency rulemaking is justified, especially in light of the concurrent initialization of rulemaking with an identical rule.

After taking testimony and discussing the matter at a regular public meeting and hearing in Lakeland, Florida on June 18, 2008, the Florida Citrus Commission found that there exists unusual circumstances and voted to adopt Emergency Rules 20ER08-2, 20ER08-3, 20ER08-4, 20ER08-5, and 20ER08-6

deferring reporting of early season fruit and payment of taxes until the tax rate is approved by the Florida Citrus Commission.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** Adequate notice procedures were used by the Department of Citrus to inform the public and the Florida citrus industry of the pending adoption of Amendment A(1) to Department of Citrus Rule Chapter 20-9 in that notice was made via mail on June 10, 2008 of the meeting to members of the Florida Citrus Commission, all industry organizations, the Florida Press Corps and other interested persons. The Florida Citrus Commission was requested to pursue emergency rulemaking by interested persons and parties who would be affected by the regular rulemaking in order to more clearly communicate the changes to the industry before the beginning of the Florida citrus season on August 1, 2008.

**SUMMARY:** Emergency Rules 20ER08-2, 20ER08-3, 20ER08-4, 20ER08-5, and 20ER08-6 defer the reporting of early season fruit and payment of taxes until after the tax rate is approved by the Florida Citrus Commission at its regularly scheduled meeting in October, with reporting and payment to begin on November 10.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULES IS:** Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P O Box 148, Lakeland, Florida 33802-0148 or awiggins@citrus.state.fl.us

**THE FULL TEXT OF THE EMERGENCY RULES IS:**

**20ER08-2 (20-9.002) Processed Form.**

(1) Filing excise tax returns effective July 12, 2008: All excise tax returns required by law to be filed by handlers of citrus fruit sold or delivered for processing in the State shall be filed on forms furnished by the Department of Citrus (incorporated by reference in Rule 20-100.004, F.A.C.), and shall be filed with the Department of Citrus each week with the first cumulative report due by November 10. Returns shall state stating the number of standard packed boxes of 1-3/5 bushels, or equivalent thereof in other containers or in bulk, received during the preceding week. Excise taxes shall be due and payable at the time of delivery of such fruit to the handler, allowing a deferral for fruit handled prior to November until the November 10 deadline.

(2) All persons or entities required to file excise tax returns pursuant to Section 601.155, Florida Statutes, shall file, each week, an excise tax return on forms furnished by the Department of Citrus (incorporated by reference in Rule 20-100.004, F.A.C.).

(a) No change.

(b) Equalizing excise taxes shall be due and payable within 61 days after the first of the taxable privileges is exercised in this state. Taxes related to taxable privileges exercised during August are due and payable by November 10, after the tax rate has been established in October.

(c) through (d) No change.

(3) through (4) No change.

Specific Authority 601.10(1), 601.15(1),(10)(a), 601.155(3),(7) FS. Law Implemented 601.15(5),(6), 601.155 FS. History—Formerly 105-1.15(2), Revised 1-1-75, § (2), Amended 11-21-77, 8-1-80, § (3), 2-1-81, 8-1-83, Formerly 20-9.02, Amended 7-21-86, 8-30-89, 8-27-91, 7-13-94, 10-22-95, 8-1-97, 8-3-00, 11-27-01, 7-23-03, 7-25-06, 7-12-08.

**20ER08-3 (20-9.004) Fruit Handled by Express and Gift Package Shippers.**

(1) Filing excise tax returns effective July 12, 2008:

(a) Every shipper of express or gift packages shall file, as directed by the Department of Citrus, weekly returns of all fruit shipped in the preceding week with remittance attached for total excise taxes due, with the first cumulative report due by November 10.

(b) through (c) No change.

(d) The advertising excise taxes shall be due and payable at the time of offering such fruit for shipment allowing a deferral for fruit handled prior to November until the November 10 deadline.

(2) through (3) No change.

Specific Authority 601.10(1), 601.15(1),(10)(a) FS. Law Implemented 601.15(3),(5),(6), 601.152, 601.154 FS. History—Formerly 105-1.15(4), Revised 1-1-75, Formerly 20-9.04, Amended 12-10-95, 4-14-96, 11-27-01, 7-12-08.

**20ER08-4 (20-9.005) Requirements to Guarantee Payment of Excise Tax.**

To qualify to guarantee to the Department of Citrus payment of any excise tax imposed by law:

(1) No change.

(2) The total amount of such cash bond, surety bond or certificate of deposit shall be in an amount based upon the following formula:

(a) To determine the total estimated tax liability of the handler, multiply the number of boxes or equivalent boxes utilized in the prior season, or estimated utilization during the current season, including the exercised privileges of imported products, whichever is greater, times the total average tax rate from the prior season for fresh form and processed form for the period covered by the bond.

(c) through (d) No change.

Specific Authority 601.10(1), 601.15(1),(5),(6),(10)(a) FS. Law Implemented 601.15(1),(5),(6), 601.152, 601.154, 601.155 FS. History—Formerly 105-1.15(5), Revised 1-1-75, Amended 11-21-77, 8-1-80, 2-1-81, 8-1-83, Formerly 20-9.05, Amended 11-27-01, 7-12-08.

20ER08-5 (20-9.006) Late Filing of Returns and Inadequacy of Bond.

Effective July 12, 2008 all AH excise taxes levied and imposed on citrus fruit or product shall be paid or the amount thereof guaranteed at the time the fruit is first handled in the primary channel of trade, allowing a deferral for fruit handled prior to November until the November 10 deadline. Payments not made the week following entry into the primary channel of trade become delinquent for payments due after November 10. Payment shall be made in accordance with Rules 20-9.001, 20-9.002, 20-9.003 and 20-9.004, F.A.C.

(1) through (2) No change.

Specific Authority 601.10(1),(7), 601.15(1),(5),(6),(10)(a) FS. Law Implemented 601.15(5),(6),(9), 601.152, 601.154, 601.155(6),(7),(9), 601.27 FS. History—Formerly 105-1.15(6), Revised 1-1-75, Formerly 20-9.06, Amended 12-13-92, 10-17-93, 11-27-01, 7-12-08.

20ER08-6 (20-9.001) Fresh Form.

(1) Filing excise tax returns effective July 12, 2008: All excise tax returns required to be filed by handlers of citrus entering the primary channel of trade in fresh form shall be filed with the Department of Citrus each week with the first cumulative report due by November 10. ~~Returns shall state stating~~ the number of standard shipping boxes of 4/5 bushels, or equivalent, of each variety of citrus fruit handled during the preceding period or week. Excise taxes shall be filed on forms furnished by the Department of Citrus (incorporated by reference in Rule 20-100.004, F.A.C.) and shall be due and payable, or the amount guaranteed as hereinafter provided, when the citrus fruit is first handled in the primary channels of trade allowing a deferral for fruit handled prior to November until the November 10 deadline. Payment of taxes shall be remitted with the excise tax return for a period reported unless other payment schedules are prescribed in Chapter 20-9, F.A.C.

(2) No change.

Specific Authority 601.10(1), 601.15(1),(10)(a) FS. Law Implemented 601.15(5),(6) FS. History—Formerly 105-1.15(1), Revised 1-1-75 §(2), Amended 2-1-81, Formerly 20-9.01, Amended 7-21-92, 11-27-01, 7-12-08.

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: July 12, 2008

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

## Section V

### Petitions and Dispositions Regarding Rule Variance or Waiver

#### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

#### WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on June 23, 2008, the Suwannee River Water Management District, received a petition for variance from John & Cheryl Tyrone, 3918 S. W. 92nd Terrace, Gainesville, FL 32608, pursuant to Section 120.542, F.S. Petitioner is seeking a variance from paragraph 40B-4.3030(12)(b), F.A.C., to the 75-foot setback requirement. The permit applicant is proposing an addition to an existing structure partially located within the 75-foot setback of the Suwannee River, in Township 10 South, Range 14 East, Section 31, Dixie County. These rules are intended to set forth criteria for development activities within a Work of the District. Comments on this petition should be filed with: Jon Dinges, District Clerk, SRWMD, 9225 CR 49, Live Oak, FL 32060, within 14 days of publication of this notice. The petition has been assigned ERP Number 08-0230.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Robin Lamm, Administrative Assistant, Suwannee River Water Management District, 9225 CR 49, Live Oak, FL 32060, (386)362-1001 or 1(800)226-1066 in Florida only.

NOTICE IS HEREBY GIVEN THAT on July 8, 2008, the St. Johns River Water Management District has issued an order.

The St. Johns River Water Management District (District) intends to grant a variance from paragraph 40C-4.302(1)(c), Florida Administrative Code (F.A.C.), and the associated portions of the Applicant's Handbook: Management and Storage of Surface Waters (July 1, 2007), including Sections 10.1.1(c), 12.1.1(d), and 12.2.5(c), to Robert E. W. McMillan of Edgewater Harbor, LLC, for the construction of a fishing pier and a docking structure for the temporary staging of watercraft associated with an upland dry storage facility. The project is located in Sections 13 and 24, Township 18 South, Range 34 East, Volusia County, Florida. Paragraph 40C-4.302(1)(c), F.A.C., and the associated portions of the Applicant's Handbook: Management and Storage of Surface Waters (July 1, 2007), including Sections 10.1.1(c), 12.1.1(d), and 12.2.5(c), are designed to protect Class II or Class III waters which are classified as approved, restricted, conditionally approved or conditionally restricted for shellfish