

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NO.: 5F-11.002
RULE TITLE : Standards of National Fire Protection Association Adopted

PURPOSE AND EFFECT: The proposed rule change is necessary to prevent conflict with a rule development notice published in the FAW on February 18, 2011. That Notice of Rule Development addressed changes to Chapter 5F-11, Florida Administrative Code, which included incorporating NFPA 58, Liquefied Petroleum Gas Code, 2011 Edition and NFPA 54, National Fuel Gas Code, 2006 Edition, and other code-related materials into a new section in Rule 5F-11.004, Florida Administrative Code, allowing all materials pertaining to compliance with Chapter 527, Florida Statutes, and Chapter 5F-11, Florida Administrative Code, to be listed and incorporated in one rule section. Current Rule 5F-11.002, adopts the 2008 version, of NFPA 58, and is in conflict with proposed Rule 5F-11.004, Florida Administrative Code.

The proposed rule development removes all references in Rule 5F-11.002, Florida Administrative Code, to a particular edition of both NFPA 58, Liquefied Petroleum Gas Code, and NFPA 54, National Fuel Gas Code. This language is not necessary in this section. It also removes reference to particular numbered sections in each standard that were not adopted in Florida.

SUBJECT AREA TO BE ADDRESSED: References to National Fire Protection Association Standards.

RULEMAKING AUTHORITY: 527.06 FS.

LAW IMPLEMENTED: 527.06 FS.

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 WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lisa M. Bassett, Chief, Bureau of Liquefied Petroleum Gas Inspection, Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650; telephone number: (850)921-8000

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE NOS.: 5I-4.002, 5I-4.005, 5I-4.006, 5I-4.008
RULE TITLES: Purpose and Definitions, Protection of Managed Lands, Recreational Activities and Facilities, Vendors; Authorizations; Fees

PURPOSE AND EFFECT: Modify the definition off-highway vehicle, and add two new definitions, modify two locations as the result of re-numbering for the new definitions, and add a new off-highway trail system as new recreational activity and facilities.

SUBJECT AREA TO BE ADDRESSED: Division of Forestry Managed Lands.

RULEMAKING AUTHORITY: 570.07(23), 589.011(4), 589.071, 589.12 FS.

LAW IMPLEMENTED: 589.011(3), 589.071 FS.

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 WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Steve Bohl, 3125 Conner Blvd., Tallahassee, FL 32399-1650, (850)414-9914

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

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.: 12A-1.018, 12A-1.074
RULE TITLES: Trade and Cash Discounts, Trade-Ins

PURPOSE AND EFFECT: Rule 12A-1.074, F.A.C. (Trade-Ins), provides that for a trade-in credit to be allowed against the sales price of an item, any used article to be taken in trade must be taken “at the time of sale.” In Department of Revenue v. Gamestop, Inc. (Case No. 1D10-2899, November 18, 2010), the appellate court affirmed that the phrase “at the time of sale” effectively negates Section 212.09, F.S., and is an invalid exercise of delegated legislative authority. The purpose of the proposed amendments to this rule is to remove the phrase “at the time of sale.”

The subject of the provisions of Rule 12A-1.018, F.A.C. (Trade and Cash Discounts), is discounts, not trade-ins. Consistent with the court’s ruling in Department of Revenue v. Gamestop, Inc., the purpose of the proposed amendments to this rule is to remove the unnecessary reference to the term “trade-ins.”

SUBJECT AREA TO BE ADDRESSED: The subject of the rule development workshop is the proposed removal of the provision of the rule which requires that for a trade-in credit to be allowed against the sales price of an item, the item taken in trade must be taken “at the time of sale.”

RULEMAKING AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(15), (16), 212.07(2), (3), 212.09, 212.12(9) FS.

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

DATE AND TIME: April 4, 2011, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, Tallahassee, Florida

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: Tammy Miller at (850)617-8346. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: French Brown, Deputy Director, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6309

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS PUBLISHED ON THE DEPARTMENT’S INTERNET SITE AT: myflorida.com/dor/rules.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.:	RULE TITLES:
12B-5.130	Refunds
12B-5.150	Public Use Forms

PURPOSE AND EFFECT: Section 206.8745(6), F.S., grants a refund, as provided by rule, for undyed tax-paid diesel fuel that is consumed by a power take-off unit or engine exhaust for the purpose of unloading bulk cargo by pumping when the power take-off unit or engine exhaust is mounted on a motor vehicle that has no separate fuel tank. The purpose of this rulemaking is to provide the proposed standards for granting refunds of the tax paid on undyed diesel fuel that is consumed by a power take-off unit or engine exhaust for the purpose of unloading bulk cargo by pumping using a hydraulic, pneumatic, or any other kind of pump. When in effective, proposed subparagraph (2)(a)2. of Rule 12B-5.130, F.A.C., and the proposed revisions to Form DR-309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off-road or Other Exempt Purposes, will provide: (1) the types of vehicles that qualify for the

refund; (2) the information that will be required for each qualified vehicle; (3) the qualified vehicle’s percentage of fuel consumed for purposes of unloading bulk cargo by pumping; (4) how to determine the gallons of undyed diesel fuel that are eligible for refund; and (5) how to determine the amount of sales tax due on the eligible fuel.

SUBJECT AREA TO BE ADDRESSED: The subject area of the workshop is the proposed provisions of subparagraph (2)(a)2. of Rule 12B-5.130, F.A.C., and the proposed revisions to Form DR-309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off-road or Other Exempt Purposes, to provide for a refund of tax paid on undyed diesel fuel consumed by a power take-off unit or engine exhaust for the purpose of unloading bulk cargo by pumping.

RULEMAKING AUTHORITY: 206.14(1), 206.485(1), 206.59(1), 206.8745(6), 213.06(1), 213.755(8), 526.206 FS.

LAW IMPLEMENTED: 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.11, 206.404, 206.41(4), (5), 206.43(5), (6), 206.44, 206.485, 206.64, 206.86, 206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.97, 206.9835, 206.9865, 206.9931, 206.9942, 206.9943, 212.0501, 213.255, 213.755, 526.203 FS.

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

DATE AND TIME: April 4, 2011, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, Tallahassee, Florida

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: Tammy Miller at (850)617-8346. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6745

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS PUBLISHED ON THE DEPARTMENT’S INTERNET SITE AT: myflorida.com/dor/rules.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.:	RULE TITLE:
12C-1.013	Adjusted Federal Income Defined

PURPOSE AND EFFECT: Subsection 12C-1.013(5), F.A.C. (Adjusted Federal Income Defined), reflects the provisions of Section 220.13(1)(a)1., F.S., which requires an addition to federal taxable income equal to the amount of any tax upon or measured by income for Florida corporate income tax purposes. This rule subsection also provides that value-added taxes are not required to be added back to federal income for purposes of computing the Florida corporate income tax. The Michigan single business tax is included as an example of a value-added tax. On January 1, 2008, Michigan replaced its single business tax with a business tax based on income. The purpose of this rulemaking is to remove provisions regarding the now obsolete Michigan single business tax.

SUBJECT AREA TO BE ADDRESSED: The removal of the obsolete Michigan single business tax that was included as an example of a value-added tax that is not considered a tax upon or measured by income for purposes of Section 220.13(1)(a)1., F.S.

RULEMAKING AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 220.13 FS.

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

DATE AND TIME: April 4, 2011, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, Tallahassee, Florida

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: Tammy Miller at (850)617-8346. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Debra Gifford, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6752

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS PUBLISHED ON THE DEPARTMENT'S INTERNET SITE AT myflorida.com/dor/rules.

AGENCY FOR HEALTH CARE ADMINISTRATION

Cost Management and Control

RULE NO.:	RULE TITLE:
59B-9.032	Ambulatory and Emergency Department Data Reporting and Audit Procedures

PURPOSE AND EFFECT: The agency is proposing amendment to Rule 59B-9.032, F.A.C., to reinstate the reporting exemption option for ambulatory surgical centers having volumes less than 200.

SUBJECT AREA TO BE ADDRESSED: Ambulatory and Emergency Department Data Collection Chapter 59B-9, F.A.C.
RULEMAKING AUTHORITY: 408.15(8) FS.

LAW IMPLEMENTED: 408.061, 408.062 FS.

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:

DATE AND TIME: April 11, 2011, 10:00 a.m.

PLACE: Agency for Health Care Administration, First Floor Conference Room B, Building 3, 2727 Mahan Drive, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Patrick Kennedy, (850)412-3757. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Patrick Kennedy, (850)412-3757

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59B-9.032 Ambulatory and Emergency Department Data Reporting and Audit Procedures.

(1) through (2) No change

(3) All ambulatory centers performing the services set forth in Rules 59B-9.030 through 59B-9.039, F.A.C., shall submit ambulatory patient data as set forth in Rules 59B-9.037 and 59B-9.038, F.A.C., unless the reporting entity meets the criteria listed in subsection 59B-9.032(5), F.A.C., below.

(4) Any Ambulatory Surgical Center (ASC) receiving 200 or more patient visits during the reporting quarter periods outlined in Rule 59B-9.033, F.A.C., are required to report data as specified in Rules 59B-9.037 and 59B-9.038, F.A.C.

(5) Ambulatory Surgical Centers (ASC) receiving fewer than 200 patient visits during the reporting quarter periods outlined in Rule 59B-9.033, F.A.C., may request an exemption from a quarters reporting requirement. To request an exemption, the ASC shall send a letter on facility letterhead stating the number of patient visits for the reporting quarter and signed by the entity's chief executive officer or director. The exemption letter shall be received at the Agency office in

Tallahassee on or prior to the deadline for submission of the quarterly report. This is not a onetime letter, but must be submitted for each quarter with fewer than 200 visits.

(6)(4) No change.

~~Proposed Effective Date 7-1-2011~~

Rulemaking Authority 408.15(8) FS. Law Implemented 408.061, 408.062, 408.063, 408.07, 408.08, 408.15(11) FS. History--New 1-1-10, Amended 12-5-10,_____.

Editorial note: see former rule 59B-9.011.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-14.004
RULE TITLE: Recreational Amberjack Season
PURPOSE AND EFFECT: The purpose and effect of this rule development notice is to address possible rule changes for reef fish in the 2011 calendar year as a result of stock assessments, federal regulatory actions or other management or enforcement requirements.

SUBJECT AREA TO BE ADDRESSED: The subject area addressed in this rule development notice is a recreational closed season to harvest of amberjacks.

RULEMAKING AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

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 WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mr. Mark Robson, Director, Division of Marine Fisheries Management, Florida Fish and Wildlife Conservation Commission, 2590 Executive Center Circle E, Station 201, Tallahassee, Florida 32301, (850)487-0554

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

**Section II
Proposed Rules**

DEPARTMENT OF REVENUE

RULE NO.: 12-24.011
RULE TITLE: Public Use Forms
PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), is to adopt, by reference, updates to forms used by the Department in its e-Services Program.

SUMMARY: The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), adopt, by reference, updates to Form DR-600, Enrollment and Authorization for e-Services Program, to include municipalities and counties for purposes of remitting the red light camera penalties imposed under Section 5, Chapter 2010-80, L.O.F.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

LAW IMPLEMENTED: 119.071(5), 202.30, 206.485, 212.08(5)(q), 213.755, 220.21(2), (3), 443.1317, 443.163 FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, Tallahassee, Florida

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: Tammy Miller at (850)617-8346. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7610

THE FULL TEXT OF THE PROPOSED RULE IS:

12-24.011 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department for the purposes of the e-Services Program and are hereby incorporated by reference in this rule.

(b) Copies of the forms may be obtained, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street Distribution Center, 168A Blountstown Highway, Tallahassee,