

Section I
Notice of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NOS.:	RULE TITLES:
5M-8.001	Purpose
5M-8.002	Approved BMPs
5M-8.003	Presumption of Compliance
5M-8.004	Notice of Intent to Implement
5M-8.005	Record Keeping
5M-8.006	Previously Submitted Notices of Intent to Implement

PURPOSE AND EFFECT: The purpose of this proposed rule revision is to effect pollution reduction through the implementation of vegetable and agronomic crop best management practices which provide a presumption of compliance with applicable state water quality standards. The effect will be the adoption of an updated best management practices manual for Florida vegetable and agronomic crop producers.

SUBJECT AREA TO BE ADDRESSED: The proposed rule revision will address the development and implementation of updated best management practices for the Florida vegetable and agronomic crop industry.

RULEMAKING AUTHORITY: 403.067(7)(c)2., 570.07(10), 570.07(23) FS.

LAW IMPLEMENTED: 403.067(7)(c)2. 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 REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Bartnick, Office of Agricultural Water Policy, Mayo Building, 407 South Calhoun Street (MS E1), Tallahassee, Florida 32399. Telephone: (850)617-1705, FAX: (850)617-1701

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 Agricultural Water Policy

RULE NOS.:	RULE TITLES:
5M-17.001	Approved Florida Dairy Best Management Practices

5M-17.002	Presumption of Compliance
5M-17.003	Notice of Intent to Implement
5M-17.004	Record Keeping

PURPOSE AND EFFECT: The purpose of this proposed rule is to effect pollution reduction through the implementation of dairy best management practices which provide a presumption of compliance with applicable state water quality standards. The effect will be the adoption of a best management practices manual for the Florida dairy industry.

SUBJECT AREA TO BE ADDRESSED: The proposed rule will address the development and implementation of best management practices for the Florida dairy industry.

RULEMAKING AUTHORITY: 403.067(7)(c)2., 570.07(10), 570.07(23) FS.

LAW IMPLEMENTED: 403.067(7)(c)2. 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 REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Bartnick, Office of Agricultural Water Policy, Mayo Building, 407 South Calhoun Street (MS E1), Tallahassee, Florida 32399. Telephone: (850)617-1705, FAX: (850)617-1701

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DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NOS.:	RULE TITLES:
5M-18.001	Approved Florida Agriculture Wildlife Best Management Practices
5M-18.002	Presumption of Compliance
5M-18.003	Notice of Intent to Implement
5M-18.004	Record Keeping

PURPOSE AND EFFECT: The purpose of this proposed rule is to provide a presumption of compliance from incidental take of certain State Imperiled Species through the implementation of voluntary Florida Agriculture Wildlife Best Management Practices (WBMPs). The effect of the proposed rule is to establish a procedure for applicants submitting a "Notice of Intent to Implement" for the specified WBMPs. When the Notice of Intent to Implement is filed with the Florida Department of Agriculture and Consumer Services (FDACS) and the Florida Fish and Wildlife Conservation Commission (FWC), and WBMPs are implemented, the landowner receives a presumption of compliance from incidental take of State Imperiled Species. This proposed rule also provides that

applicants must preserve sufficient documentation to confirm implementation of the WBMPs identified in the Notice of Intent to Implement. All implementation activities and documentation related to WBMPs are subject to the FDACS and FWC inspection.

SUBJECT AREA TO BE ADDRESSED: The subject area for this proposed rule development is the adoption of Florida Agriculture Wildlife Best Management Practices for State Imperiled Species.

RULEMAKING AUTHORITY: 570.07(23), 570.94(2) FS.

LAW IMPLEMENTED: 570.94(2) 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 REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Bartnick, Office of Agricultural Water Policy, Mayo Building, 407 South Calhoun Street (MS E1), Tallahassee, Florida 32399, Telephone: (850)617-1705, FAX: (850)617-1701

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-4.004	Registration
5J-4.005	Exemption
5J-4.014	Security Requirements
5J-4.015	Enforcement Actions and Administrative Penalties

PURPOSE AND EFFECT: Amend the form incorporated by reference to implement statutory changes and establish a penalty structure consistent with others established within the department.

SUMMARY: The proposed rule updates FDACS-10300 Health Studio Registration Application and incorporates by reference the Health Studio Claim Affidavit to ensure statutory compliance with Ch. 2014-147, Laws of Florida. It also sets forth a range of administrative fines for violations of the health studios law to ensure statutory compliance with Ch. 2014-150, Laws of Florida.

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 proposed revisions adopt department forms that conform to recent statutory changes and provide penalty guidelines for violators. There are no regulatory costs associated with these revisions. Additionally, no interested party submitted additional information regarding the economic impact.

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

RULEMAKING AUTHORITY: 501.014(2), 501.016(1), (2), (3), 570.07(23) FS.

LAW IMPLEMENTED: 501.013, 501.015(1), (2), (3), (4), 501.016(1), (2), (3), 501.017, 501.019, 570.971(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Assistant Director, Division of Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, email: Amy.Topol@FreshFromFlorida.com or by phone: (850)410-3662

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-4.004 Registration.

Unless exempted pursuant to Section 501.013, F.S., any person who intends to open or operate as a health studio shall, prior to offering health studio services, register with the Department using FDACS-10300, Health Studio Registration Application, Rev. ~~12/14 08/13~~, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Health Studios, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: [http://www.flrules.org/Gateway/reference.asp?No=Ref-~~03501~~](http://www.flrules.org/Gateway/reference.asp?No=Ref-03501) <http://www.flrules.org/Gateway/reference.asp?No=Ref-03501>. At the time of registration, the registrant shall submit the applicable nonrefundable registration fee to the

Department for each health studio location. The registrant shall submit with FDACS-10300, Health Studio Registration Application, Rev. ~~12/14 08/13~~, a copy of each contract offered to the public relating to the sale of health studio services, as well as original security documents.

Rulemaking Authority 501.014(2) FS. Law Implemented 501.015(1), (2), (3), (4), 501.016(1), (2), 501.017 FS. History—New 2-9-93, Amended 7-10-94, 5-24-95, 1-20-03, 3-8-12, 1-19-14,_____.

5J-4.005 Exemption.

(1) Any person claiming an exemption from the health studio laws pursuant to Section 501.013, F.S., shall, prior to offering health studio services, file with the department the executed Affidavit of Exemption, included in FDACS-10300, Health Studio Registration Application, Rev. 12/14 08/13 incorporated by reference in Rule 5J-4.004, F.A.C.

(2) No change.

Rulemaking Authority 501.014(2) FS. Law Implemented 501.013 FS. History—New 2-9-93, Amended 7-10-94, 5-24-95, 1-20-03, 3-8-12, 1-19-14,_____.

5J-4.014 Security Requirements.

(1) If filing a bond, letter of credit, or assignment of certificate of deposit pursuant to Section 501.016, F.S., the applicant shall use the applicable forms included in FDACS-10300, Health Studio Registration Application, Rev. 12/14, incorporated by reference in Rule 5J-4.004, F.A.C.

(2) Claims against a bond, letter of credit, or certificate of deposit shall be submitted on FDACS-10303, Health Studio Claim Affidavit, Rev. 12/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Health Studios, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference>. Rulemaking Authority 501.014(2), 501.016(1), (2), (3) FS. Law Implemented 501.016(2) FS. History—New _____.

5J-4.015 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under Sections 501.012-501.019, F.S. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase the penalties to be imposed against the violator by the department. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$5,000 pursuant to the Class II category as provided in Section 501.019(4)(b)2., F.S. and in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count

violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine a total penalty and will be grounds for enhancement of penalties.

(2) The department will enforce compliance with Sections 501.012-501.019, F.S., and this rule chapter by issuing an administrative complaint, notice of noncompliance, or through civil litigation for violations of Sections 501.012-501.019, F.S., and this rule chapter.

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

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

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

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

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining penalties for violations of Sections 501.012-501.019, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation. In no event shall a fine for a single violation exceed the statutory maximum of \$5,000 pursuant to the Class II category as provided in Section 501.019(4)(b)2., F.S. and in Section 570.971, F.S. If a notice of noncompliance is imposed for an initial violation, a second violation within a three-year period shall result in a fine of at least \$1,000 not to exceed \$5,000. Both aggravating and mitigating factors, if present, shall be applied against each single count of the listed violation regardless of whether the violation is a minor violation or a major violation as described in subsection (8) below.

(a) Aggravating factors shall include, but not be limited to, the following:

1. The violation caused, or has the potential to cause, serious injury to a person.

2. The violation endangered the public safety or welfare.

3. Previous violations within the preceding three years for the same or a similar offense that resulted in imposition of administrative penalties, issuance of a Notice of Noncompliance, or suspension or revocation of license.

4. The violator impeded, or otherwise failed to cooperate with, the department's inspection or investigation.

5. The violation resulted from an intentional act.

6. The cost of the enforcement action.

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

8. The benefit to the violator.

(b) Mitigating factors shall include, but not be limited to:

1. Any documented efforts by the violator at rehabilitation.

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

3. Substantiated financial hardship.

4. Acts of God or nature that impair the ability of the violator to comply with Sections 501.012-501.019, F.S., or this rule chapter.

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

6. The violator took corrective action within twenty-four (24) hours of receiving written notification of the violation.

7. The disciplinary history of the person committing the violation.

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

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

(8) Penalties.

(a) Notice of Noncompliance. Any department investigation or inspection which reveals minor violations of this rule chapter in which the department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Noncompliance pursuant to Section 501.019(4)(b)1., F.S., as the department's first response to the violation. In addition, the following statutory violations shall result in the issuance of a Notice of Noncompliance for the first violation only: Violations of any provision contained in Section 501.018, F.S.

(b) Minor Violations. A violation of Sections 501.012-501.019, F.S., is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in imposition of a fine ranging from \$1,000 to \$5,000. The following statutory violations shall be considered minor violations:

1. Failure to comply with Section 501.015(4), F.S.

2. Failure to comply with Section 501.015(5), F.S.

3. A subsequent occurrence of any of the violations enumerated in paragraph (8)(a), above.

(c) Major Violations. A violation of Sections 501.012-501.019, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare, or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine of \$2,500 to \$5,000, denial, suspension, or revocation of the license as prescribed in Section 501.019(4)(b)4., F.S., or any of the penalties as prescribed in Section 501.019(4)(b)2.-5., F.S. The following statutory violations shall be considered major violations:

1. Failure to comply with Section 501.015(1)-(3), F.S.

2. Failure to comply with Section 501.016(1)-(2), or (4)-(7), F.S.

3. Failure to comply with Section 501.017(1)-(3), or (5), F.S.

4. Any willful violation of Section 501.012-501.019, F.S.

(9) Nothing in this rule chapter shall prohibit the department and person charged with a violation from resolving violations prior to administrative hearing, or from entering into settlement pursuant to Section 120.57(4), F.S. The department is authorized to utilize all available remedies to ensure compliance including administrative action, civil actions, and referrals for criminal prosecution. The cost of any enforcement proceeding may be added to any penalty imposed. The department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120, F.S. or Sections 501.012-501.019, F.S.

(10) Failure to respond to an administrative complaint shall result in the entry of a default Final Order against the violator or entity responsible for the violation. The department shall impose the maximum administrative fine amount of \$5,000 per violation pursuant to a Class II violation as referenced in Section 501.019(4)(b)2., F.S. and in Section 570.971, F.S., for a default Final Order.

(11) A violator's failure to comply with a Final Order shall result in a registration denial or revocation pursuant to Section 501.019(4)(b)4., F.S. Additional penalties shall be sought through the enforcement of the order in circuit court.

Rulemaking Authority 501.014(2), 570.07(23) FS. Law Implemented 501.019, 570.971(4) FS. History--New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy Topol, Assistant Director, Division of Consumer Services
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Adam H. Putnam

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2014
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 24, 2014

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.: RULE TITLES:
 5J-6.005 Licensing Requirement, Commercial Telephone Seller, Salesperson
 5J-6.015 Security Requirements
 5J-6.016 Enforcement Actions and Administrative Penalties

PURPOSE AND EFFECT: Amend department forms incorporated by reference to implement statutory changes and establish a penalty structure consistent with others established within the department.

SUMMARY: The proposed rule updates FDACS-10001 Commercial Telephone Seller Business License Application and incorporates by reference the Telemarketing Claim Affidavit to ensure statutory compliance with Ch. 2014-147, Laws of Florida. It also sets forth a range of administrative fines for violations of the Florida Telemarketing Act to ensure statutory compliance with Ch. 2014-150, Laws of Florida.

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 proposed revisions adopt department forms that conform to recent statutory changes and provide penalty guidelines for violators. There are no regulatory costs associated with these revisions. Additionally, no interested party submitted additional information regarding the economic impact.

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

RULEMAKING AUTHORITY: 501.611(3), (5), 501.626, 570.07(23) FS.

LAW IMPLEMENTED: 501.605, 501.611, 501.612(1), (2)(d), 570.971 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida, 32399-6500, email: Amy.Topol@FreshFromFlorida.com or by phone: (850)410-3662

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-6.005 Licensing Requirement, Commercial Telephone Seller, Salesperson.

(1) No person may act as a commercial telephone seller or salesperson unless licensed by the Department of Agriculture and Consumer Services. All applicants for a license shall submit to the department FDACS-10001, Commercial Telephone Seller Business License Application, Rev. ~~12/14 08/13~~, hereby incorporated by reference, along with the required non-refundable fee. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at http://www.flrules.org/Gateway/reference.asp?No=Ref-_____
<http://www.flrules.org/Gateway/reference.asp?No=Ref-03519>.

(2) through (5) No change.
 Rulemaking Authority 501.626 FS. Law Implemented 501.605, 501.607, 501.608, 501.609 FS. History—New 4-12-92, Amended 2-15-93, 6-26-94, 5-15-95, 2-11-98, 1-20-03, 3-29-12, 1-19-14,_____.

5J-6.015 Security Requirements.

(1) If filing a bond, letter of credit, or assignment of certificate of deposit pursuant to Section 501.611, F.S., the applicant shall use the applicable forms included in FDACS-10001, Commercial Telephone Seller Business License Application, Rev. 12/14, incorporated by reference in Rule 5J-6.005, F.A.C.

(2) Claims against a bond, letter of credit, or certificate of deposit shall be submitted on FDACS-10984, Telemarketing Claim Affidavit, Rev. 12/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference>. Rulemaking Authority 501.611(3), (5), 501.626 FS. Law Implemented 501.611 FS. History—New_____.

5J-6.016 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under Sections 501.601-501.626, F.S. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase the penalties to be imposed against the violator by the department. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$10,000 pursuant to the Class III category as provided in Section 501.612(2)(b), F.S. and in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine a total penalty and will be grounds for enhancement of penalties.

(2) The department will enforce compliance with Sections 501.601-501.626, F.S., and this rule chapter by issuing an administrative complaint, notice of noncompliance, or through civil litigation for violations of Sections 501.601-501.626, F.S., and this rule chapter.

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

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

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

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

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining penalties for violations of Sections 501.601-501.626, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation. In no event shall a fine for a single violation exceed the statutory maximum of \$10,000 pursuant to the Class III category as provided in Section 501.612(2)(b), F.S., and in Section 570.971, F.S. If a Notice of Noncompliance is imposed for an initial violation, a second violation within a

three-year period shall result in a fine of at least \$1,000 not to exceed \$10,000. Both aggravating and mitigating factors, if present, shall be applied against each single count of the listed violation regardless of whether the violation is a minor violation or a major violation as described in subsection (8) below.

(a) Aggravating factors shall include, but not be limited to, the following:

1. The violation caused, or has the potential to cause, serious injury to a person.

2. The violation endangered the public safety or welfare.

3. Previous violations within the preceding three years for the same or a similar offense that resulted in imposition of administrative penalties, issuance of a Notice of Noncompliance, or suspension or revocation of license.

4. The violator impeded, or otherwise failed to cooperate with, the department's inspection or investigation.

5. The violation resulted from an intentional act.

6. The cost of the enforcement action.

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

8. The benefit to the violator.

(b) Mitigating factors shall include, but not be limited to:

1. Any documented efforts by the violator at rehabilitation.

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

3. Substantiated financial hardship.

4. Acts of God or nature that impair the ability of the violator to comply with Sections 501.601-501.626, F.S., or this rule chapter.

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

6. The violator took corrective action within twenty-four (24) hours of receiving written notification of the violation.

7. The disciplinary history of the person committing the violation.

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

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

(8) Penalties.

(a) Notice of Noncompliance. Any department investigation or inspection which reveals minor violations of this rule chapter in which the department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Noncompliance as the department's first response to the violation. A Notice of Noncompliance will be issued for a violation of Section 501.616(3), F.S.

(b) Minor Violations. A violation of Sections 501.601-501.626, F.S., is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in imposition of a fine ranging from \$1,000 to \$10,000. The following statutory violations shall be considered minor violations:

1. A violation of Section 501.613(1), F.S.
2. A violation of Section 501.614, F.S.
3. A violation of any provision of Section 501.616(6), F.S.
4. A subsequent occurrence of any of the violations enumerated in paragraph (8)(a), above.

(c) Major Violations. A violation of Sections 501.601-501.626, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare, or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine of \$5,000 to \$10,000, suspension or revocation of the license as prescribed in Section 501.612(2)(d), F.S., or any of the penalties as prescribed in Section 501.612(2)(b)-(e), F.S. The following violations shall be considered major violations:

1. A violation of Section 501.605(1), F.S.
2. Failure to comply with any requirement enumerated in Section 501.605(2)-(5), F.S.
3. A violation of Section 501.605(7), F.S.
4. Failure to comply with any requirement enumerated in Section 501.606(1), F.S.
5. Failure to comply with Section 501.606(2)-(3), F.S.
6. Failure to comply with Section 501.607(1), or (4), F.S.
7. Failure to comply with Section 501.608(1)(b), or (2) F.S.
8. Failure to comply with Section 501.609(1), or (3)-(4), F.S.
9. Failure to comply with Section 501.611, F.S.
10. A violation of any provision of s. 501.612(1)(a)-(k), F.S.
11. Failure to comply with Section 501.613(2), F.S.
12. Failure to comply with Section 501.615(1)-(8), F.S.

13. A violation of Section 501.616(1)-(2), (4), or (7) F.S.

14. Any violation of Sections 501.601-501.626, F.S., that occurred while the violator was concurrently operating in violation of a registration or exemption filing requirement pursuant to the Solicitation of Contributions Act, Chapter 496, F.S.

15. Any violation of Sections 501.601-501.626, F.S., that occurred while the violator was concurrently operating in violation of the Florida No Sales Solicitation Act, Section 501.059, F.S.

16. Any willful violation of Sections 501.601-501.626, F.S.

(9) Nothing in this rule chapter shall prohibit the department and person charged with a violation from resolving violations prior to administrative hearing, or from entering into settlement pursuant to Section 120.57(4), F.S. The department is authorized to utilize all available remedies to ensure compliance including administrative action, civil actions, and referrals for criminal prosecution. The cost of any enforcement proceeding may be added to any penalty imposed. The department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120, F.S. or Section 501.601-501.626, F.S.

(10) Failure to respond to an administrative complaint shall result in the entry of a default Final Order against the violator or entity responsible for the violation. The department shall impose the maximum administrative fine amount of \$10,000 per violation pursuant to a Class III violation as referenced in Section 501.612(2)(b), F.S. and in Section 570.971, F.S., for a default Final Order.

(11) A violator's failure to comply with a Final Order shall result in a license denial or revocation pursuant to Section 501.612(2)(d), F.S. Additional penalties shall be sought through the enforcement of the order in circuit court. Rulemaking Authority 501.626, 570.07(23) FS. Law Implemented 501.612(1), (2)(d), 570.971(4) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy Topol, Assistant Director, Division of Consumer Services
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Commissioner of Agriculture Adam H.
Putnam

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 22, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAR: December 24, 2014

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-7.004	Registration
5J-7.009	Professional Fundraising Consultant Registration
5J-7.010	Professional Fundraising Solicitor Registration
5J-7.011	Notice of Commencement of Solicitations
5J-7.012	Financial Report of Campaign
5J-7.013	Disaster Relief

PURPOSE AND EFFECT: The proposed rule amendments and new rules will incorporate department Solicitation of Contributions forms by reference and provide an interim operating license to individual solicitors.

SUMMARY: The proposed rule amendments and additions are to address forms required by the department and to provide guidelines for an interim operating authority to individual's seeking a solicitor's license. Forms not previously adopted by rule have been incorporated. All forms are now compliant with recent statutory changes enacted by the Florida Legislature in Ch. 2014-122, Laws of Florida.

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes. With the exception of the fingerprinting fee individual solicitors will incur, there are no additional fees associated with the incorporation of these forms. The fee of approximately \$45 falls below the SERC criteria. Additionally, no interested party submitted additional information regarding the economic impact.

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

RULEMAKING AUTHORITY: 496.4101(7), 496.424, 570.07(23) FS.

LAW IMPLEMENTED: 496.405, 496.406, 496.4071, 496.4072, 496.409, 496.410, 496.4101, 496.426 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, email: Amy.Topol@FreshFromFlorida.com or by phone: (850)410-3662

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-7.004 Registration.

(1) A sponsor shall maintain a current record of its membership, which record shall be no more than 30 days old. A copy of the membership list shall be provided to the ~~d~~Department within ten days upon written demand by the ~~d~~Department. Failure to provide the membership list within the 10 day time period shall be basis for denial or revocation of the sponsor's registration.

(a) through (c) No change.

(2) Unless exempted pursuant to Section 496.406, F.S., every charitable organization or sponsor soliciting in or from this state shall file with the ~~d~~Department FDACS-10100, Solicitation of Contributions Registration Application, Rev. ~~11/14 08/13~~, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-
http://www.flrules.org/Gateway/reference.asp?No=Ref-03502.~~

(3) Charitable organizations and sponsors exempt from registration pursuant to Section 496.406(1)(d), F.S., shall file with the ~~d~~Department FDACS-10110, Small Exempt Charitable Organizations/Sponsors Application, 11/14 07/13, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-
http://www.flrules.org/Gateway/reference.asp?No=Ref-03507.~~

(4) Charitable organizations or sponsors having more than \$1 million in total revenue and spending less than 25 percent of the organizations or sponsor's total annual functional expenses on program service costs for the immediately preceding fiscal year are required to file with the department FDACS-10114, Solicitation of Contributions Supplemental Financial Disclosure, 11/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture

and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, FL 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference>.

(5) Charitable organizations or sponsors shall notify the department of all material changes in the information submitted in either the initial registration statement or the last renewal statement within 10 days of the material change. The charitable organization or sponsor shall utilize FDACS-10118, Solicitation of Contributions Material Change Form, 11/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, . Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <https://www.flrules.org/gateway/reference>. FDACS-10118 may also be completed and submitted online at: www.800helpfla.com/registeronline.

Rulemaking Authority 496.424 FS. Law Implemented 496.405, 496.406, 496.407, 496.409, 496.410, 496.426 FS. History–New 7-7-92, Amended 6-28-94, 3-13-95, 6-4-95, 11-6-95, 3-25-12, 1-19-14,_____.

5J-7.009 Professional Fundraising Consultant Registration.

(1) Every professional fundraising consultant shall file with the Department FDACS-10104, Professional Fundraising Consultant Registration Application, Rev. 11/14 08/13, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-> <http://www.flrules.org/Gateway/reference.asp?No=Ref-03504>.

(2) A professional fundraising consultant must notify the department of all material changes in the information filed with the department within 7 working days of the material change. For convenience, a sample material change form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500 or accessed online at www.800helpfla.com.

Rulemaking Authority 496.424 FS. Law Implemented 496.409 FS. History–New 3-25-12, Amended 1-19-14,_____.

5J-7.010 Professional Fundraising Solicitor Registration.

(1) Every professional fundraising solicitor providing fundraising services for an organization who will solicit funds in or from this state shall file with the Department FDACS-10101, Professional Solicitors Registration Application, Rev.

11/14 08/13, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-> <http://www.flrules.org/Gateway/reference.asp?No=Ref-03503>.

(2) Each officer, director, trustee, or owner of a professional solicitor and an employee of a professional solicitor conducting telephonic solicitations during which a donor’s or potential donor’s personal financial information is requested or provided must, before engaging in solicitation activities, file with the department FDACS-10120, Professional Solicitor Individual License Application 11/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference>.

(a) Applicants for an individual solicitor’s license will be allowed to engage in solicitation activities under an interim operating authority until such time as the department notifies the applicant of denial or approval of licensure. In no event shall the interim operating authority exceed a period of 90 days.

(b) In the event a license is denied, the interim operating authority shall immediately terminate and the applicant for an individual solicitor’s license shall immediately discontinue operating as a solicitor.

(3) Professional solicitors and individual solicitor licensees must notify the department of all material changes in the information filed with the department within 10 days of the material change. For convenience, a sample material change form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500 or accessed online at www.800helpfla.com.

Rulemaking Authority 496.424 FS. Law Implemented 496.410, 496.4101 FS. History–New 3-25-12, Amended 1-19-14,_____.

5J-7.011 Notice of Commencement of Solicitations.

No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department FDACS-10105, Notice of Commencement of Solicitation Rev. 11/14 08/13, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed

online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03505>.

Rulemaking Authority 496.424 FS. Law Implemented 496.410(6) FS. History—New 3-25-12, Amended 1-19-14.

5J-7.012 Financial Report of Campaign.

Within 45 days after a solicitation campaign has been completed and within 45 days after the anniversary of the commencement of a solicitation campaign lasting more than 1 year, the professional solicitor must provide to the charitable organization or sponsor and file with the department FDACS-10106, Professional Solicitors Financial Report of Campaign Rev. 11/14 0743, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03506>. Rulemaking Authority 496.424 FS. Law Implemented 496.410(8) FS. History—New 3-25-12, Amended 1-19-14.

5J-7.013 Disaster Relief.

Unless exempted pursuant to Section 496.4072, F.S., every charitable organization or sponsor that solicits contributions in this state for a charitable purpose related to a specific disaster or crisis and receives at least \$50,000 in contributions in response to such solicitation shall file quarterly disaster relief financial statements with the department. On the last day of the 3rd month following the accrual of at least \$50,000 in contributions the charitable organization or sponsor shall file FDACS-10121, Solicitation of Contributions Disaster Relief Quarterly Report, 11/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at <http://www.flrules.org/Gateway/reference>. Rulemaking Authority 496.424 FS. Law Implemented 496.4072 FS. History—New _____:

NAME OF PERSON ORIGINATING PROPOSED RULE: Amy Topol, Assistant Director, Division of Consumer Services
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Adam H. Putnam
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2014
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 24, 2014

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-9.002	Registration, Document Submission
5J-9.006	Security Requirement
5J-9.008	Enforcement Actions and Administrative Penalties

PURPOSE AND EFFECT: Amend the form incorporated by reference to implement statutory changes and establish a penalty structure consistent with others established within the department.

SUMMARY: The proposed rule updates FDACS-10200 Sellers of Travel Registration Package and incorporates by reference the Sellers of Travel Claim Affidavit to ensure statutory compliance with Ch. 2014-147, Laws of Florida. It also sets forth a range of administrative fines for violations of the Florida Sellers of Travel Act to ensure statutory compliance with Ch. 2014-150, Laws of Florida.

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 proposed revisions adopt department forms that conform to recent statutory changes and provide penalty guidelines for violators. There are no regulatory costs associated with these revisions. Additionally, no interested party submitted additional information regarding the economic impact.

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

RULEMAKING AUTHORITY: 559.929(2), (3), 559.9355(3), 570.07(23) FS.

LAW IMPLEMENTED: 559.928, 559.929, 559.9295(16), 559.935(3), 559.9355, 559.936, 570.971(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Assistant Director, Division of Consumer Services, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500,

email: Amy.Topol@FreshFromFlorida.com or by phone:
(850)410-3662

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-9.002 Registration, Document Submission.

(1) Any person who intends to operate as a seller of travel shall submit ~~FDACS-10200 DACS Form 10200~~, Sellers of Travel Registration Package, Rev. ~~12/14 07/14~~, hereby incorporated by reference, along with the applicable non-refundable registration fee specified by Section 559.928(2), F.S., ~~to the d~~Department at the time of registration. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-01055>. Businesses may also apply or renew their license online at www.800helpfla.com/registeronline.

(2) An independent agent claiming an exemption from registration shall file with the ~~d~~Department ~~FDACS-10211 DACS Form 10211~~, Sellers of Travel Independent Sales Agents Statement of Exemption, Rev. 07/11, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-01056>.

(3) No change.

Rulemaking Authority 559.9355(3) FS. Law Implemented 559.928, 559.929(16), 559.935(3), 570.07(23) FS. History—New 10-6-93, Amended 1-3-95, 6-4-95, 12-27-95, 2-11-98, 10-21-03, 3-29-12, _____.

5J-9.006 Security Requirement.

(1) Prior to engaging in any activities as a seller of travel, each seller of travel shall file with the ~~d~~Department an original performance bond in an amount determined by subsection (2) below. The applicant shall utilize the Surety Bond Form, ~~an example of which is included in FDACS-10200 form DACS 10200 Sellers of Travel Registration Package packet, Rev. effective 12/14 11/20/02~~, hereby incorporated by reference in 5J-9.002, F.A.C. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel Section, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.

(2) through (4) No change.

(5) If filing a bond pursuant to Section 559.929, F.S., the applicant shall use the form included in FDACS-10200, Sellers of Travel Registration Package, Rev. 12/14, incorporated by reference in Rule 5J-9.002, F.A.C.

(6) Claims against a bond shall be submitted on FDACS-10212, Seller of Travel Claim Affidavit, Rev. 12/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference>.

Rulemaking Authority 559.929(2), (3), 559.9355(3) FS. Law Implemented 559.929 FS. History—New 2-8-94, Amended 6-4-95, 11-6-95, 12-27-95, 2-11-98, 10-21-03, _____.

5J-9.008 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under Sections 559.926-559.939, F.S. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase the penalties to be imposed against the violator by the department. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$5,000 pursuant to the Class II category as provided in Section 559.9355(1)(b), F.S., and in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine a total penalty and will be grounds for enhancement of penalties.

(2) The department will enforce compliance with Sections 559.926-559.939, F.S., and this rule chapter by issuing an administrative complaint, notice of noncompliance, or through civil litigation for violations of Sections 559.926-559.939, F.S., and this rule chapter.

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

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

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

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

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining penalties for violations of Sections 559.926-559.939, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation. In no event shall a fine for a single violation exceed the statutory maximum of \$5,000 pursuant to the Class II category as provided in Section 559.9355(1)(b), F.S. and in Section 570.971, F.S. If a notice of noncompliance is imposed for an initial violation, a second violation within a three-year period shall result in a fine of at least \$1,000 not to exceed \$5,000. Both aggravating and mitigating factors, if present, shall be applied against each single count of the listed violation regardless of whether the violation is a minor violation or a major violation as described in subsection (8) below.

(a) Aggravating factors shall include, but not be limited to, the following:

1. The violation caused, or has the potential to cause, serious injury to a person.
2. The violation endangered the public safety or welfare.
3. Previous violations within the preceding three years for the same or a similar offense that resulted in imposition of administrative penalties, issuance of a Notice of Noncompliance, or suspension or revocation of license.
4. The violator impeded, or otherwise failed to cooperate with, the department's inspection or investigation.
5. The violation resulted from an intentional act.
6. The cost of the enforcement action.
7. The number of other violations proven in the same proceeding.
8. The benefit to the violator.

(b) Mitigating factors shall include, but not be limited to:

1. Any documented efforts by the violator at rehabilitation.
2. Intentional actions of another party prevented the violator from complying with the applicable laws or rules.
3. Substantiated financial hardship.
4. Acts of God or nature that impair the ability of the violator to comply with Sections 559.926-559.939, F.S., or this rule chapter.
5. The violation has a low risk of, or did not result in, harm to the public health, safety, or welfare.
6. The violator took corrective action within twenty-four (24) hours of receiving written notification of the violation.
7. The disciplinary history of the person committing the violation.

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

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

(8) Penalties.

(a) Notice of Noncompliance. Any department investigation or inspection which reveals minor violations of this rule chapter in which the department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Noncompliance as the department's first response to the violation. In addition, the following statutory violation shall result in the issuance of a Notice of Noncompliance for the first violation only: A violation of Section 559.9335(12), F.S.

(b) Minor Violations. A violation of Sections 559.926-559.939, F.S., is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in imposition of a fine ranging from \$1,000 to \$5,000. The following statutory violations shall be considered minor violations:

1. Failure to comply with Section 559.9295(1)-(16), F.S.
2. Violations of Section 559.9335(16), F.S.
3. A subsequent occurrence of any of the violations enumerated in paragraph (8)(a), above.

(c) Major Violations. A violation of Sections 559.926-559.939, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare, or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine of \$2,500 to \$5,000, refusing to register, suspension, or revocation of the license as prescribed in Section 559.9355(1)(d), F.S., or any of the penalties as prescribed in Section 559.9355(1)(c),(e)-(f), F.S. The following violations shall be considered major violations:

1. Failure to comply with any provision of Section 559.931, F.S.
2. Failure to comply with Section 559.932, F.S.
3. Violations of Section 559.933, F.S.
4. Violations of Section 559.9335(1)-(11), (13)-(15), or (17)-(26), F.S.
5. Any willful violation of Sections 559.926-559.939, F.S.

(9) Nothing in this rule chapter shall prohibit the department and person charged with a violation from resolving violations prior to administrative hearing, or from entering into settlement pursuant to Section 120.57(4), F.S. The department is authorized to utilize all available remedies to ensure

compliance including administrative action, civil actions, and referrals for criminal prosecution. The cost of any enforcement proceeding may be added to any penalty imposed. The department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120, F.S. or Sections 559.926-559.939, F.S.

(10) Failure to respond to an administrative complaint shall result in the entry of a default Final Order against the violator or entity responsible for the violation. The department shall impose the maximum administrative fine amount of \$5,000 per violation pursuant to a Class II violation as referenced in Section 559.9355(1)(b), F.S. and in Section 570.971, F.S., for a default Final Order.

(11) A violator's failure to comply with a Final Order shall result in a registration denial or revocation pursuant to Section 559.9355(1)(d), F.S. Additional penalties shall be sought through the enforcement of the order in circuit court. Rulemaking Authority 559.9355(3), 570.07(23) FS. Law Implemented 559.9355, 570.971(4) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy Topol, Assistant Director, Division of Consumer Services
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Adam H. Putnam
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2014
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 24, 2014

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-12.002	Registration
5J-12.004	Advertising
5J-12.006	Denials
5J-12.007	Enforcement Actions and Administrative Penalties

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend the form incorporated by reference, clarify the fee structure and amend the sign in Rule 5J-12.002, F.A.C.; amend a citation in Rule 5J-12.004, F.A.C.; provide criteria for denial of licensure in Rule 5J-12.006, F.A.C.; and provide guidelines for imposing administrative fines to comply with Section 56, Ch. 2014-150, L.O.F., in Rule 5J-12.007, F.A.C.

SUMMARY: The proposed rule updates FDACS-10900, Motor Vehicle Repair Registration Package to ensure statutory compliance and to make the registration process more efficient; clarifies when the registration fee is exempt; updates the sign to

be posted by all registered motor vehicle repair shops; amends inaccurate citation; and sets forth a range of administrative fines for violations of the Florida Motor Vehicle Repair Act.

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

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

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

RULEMAKING AUTHORITY: 559.92201, 570.07(23) FS.
LAW IMPLEMENTED: 559.904, 559.916, 559.921(4), 570.971(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, email: Amy.Topol@FreshFromFlorida.com or by phone: (850)410-3662

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 5J-12.002 follows. See Florida Administrative Code for present text.)

5J-12.002 Registration.

(1) Any person who intends to operate a motor vehicle repair shop shall, prior to offering motor vehicle repair services, apply for and obtain a registration certificate from the department using FDACS-10900, Motor Vehicle Repair Registration Package, Rev. 11/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Motor Vehicle Repair, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee,

Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway>.

(2) If the motor vehicle repair shop is located in a municipality or county that has an ordinance containing standards that the department has determined are at least equal to the requirements of the Florida Motor Vehicle Repair Act, no biennial registration fee is required, but the motor vehicle repair shop must register with the department and provide a copy of the current registration issued by the municipality or county.

(3) The department shall provide a 11" x 17" sign with 30 point type to each registered motor vehicle repair shop to be posted pursuant to Section 559.916, F.S. The sign, FDACS P-01516, Rev. 08/07, is hereby incorporated by reference. A sample copy of the sign may be accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref->

The registration certificate shall be attached to the sign by the registrant in the designated area. The sign with the accompanying registration certificate shall be conspicuously displayed at the customer service area in full view of the motor vehicle repair shop's customers.

(4) If the registrant has multiple customer service areas and the area is configured so that a single sign and accompanying registration certificate cannot be posted in full view of the motor vehicle repair shop's customers, the registrant may request from the department only such copies of the sign and registration certificate sufficient to comply with these rules.

Rulemaking Authority 559.92201, 570.07(23) FS. Law Implemented 559.904, 559.916 FS. History—New 1-18-95, Amended 5-24-95, 2-11-98, 1-20-03, 11-4-03, 6-27-05, 11-22-05, 3-8-12, _____.

5J-12.004 Advertising.

(1) No change.

(2) If registrants with more than one place of business utilize a single display advertisement, and a consecutive series of registration numbers has been issued to the registrants, the registrants may use a statement disclosing the range of registration numbers issued to the registrants named in the advertisement to satisfy the requirements of Section 559.916(2) 501.916(2), F.S.

Rulemaking Authority 570.07(23) FS. Law Implemented 559.916(2) FS. History—New 1-18-95, Amended _____.

5J-12.006 Denials.

The purpose of this rule part is to implement Section 559.904(10)(b), (c) and (d), F.S. It is a ground for denial of registration if the department finds that the applicant, or any of its directors, officer, owners, or general partners:

(1) Has not satisfied a civil fine, administrative fine, or other penalty arising out of any administrative or enforcement action brought by any governmental agency based upon conduct involving fraud or dishonest dealing, or any violation of the Florida Motor Vehicle Repair Act;

(2) Has had against them any civil, criminal, or administrative adjudication in any jurisdiction within the last five (5) years based upon conduct involving fraud, dishonest dealing, or any violation of the Florida Motor Vehicle Repair Act;

(3) Has had a judgment entered against them within the last five (5) years in any action brought by the department or the state attorney pursuant to the Florida Deceptive and Unfair Trade Practices Act or the Florida Motor Vehicle Repair Act. Rulemaking Authority 559.92201, 570.07(23) FS. Law Implemented 559.904(10) FS. History—New _____.

5J-12.007 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under Sections 559.901-559.9221, F.S. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase the penalties to be imposed against the violator by the department. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$1,000 pursuant to the Class I category as provided in Section 559.921(4)(b)2., F.S. and in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine a total penalty and will be grounds for enhancement of penalties.

(2) The department will enforce compliance with Sections 559.901-559.9221, F.S., and this rule chapter by issuing an administrative complaint, notice of noncompliance, or through civil litigation for violations of Sections 559.901-559.9221, F.S., and this rule chapter.

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

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

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

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

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining

penalties for violations of Sections 559.901-559.9221, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation. In no event shall a fine for a single violation exceed the statutory maximum of \$1,000 pursuant to the Class I category as provided in Section 559.921(4)(b)2., F.S. and in Section 570.971, F.S. If a notice of noncompliance is imposed for an initial violation, a second violation within a three-year period shall result in a fine of at least \$100 not to exceed \$1,000. Both aggravating and mitigating factors, if present, shall be applied against each single count of the listed violation regardless of whether the violation is a minor violation or a major violation as described in subsection (8) below.

(a) Aggravating factors shall include, but not be limited to, the following:

1. The violation caused, or has the potential to cause, serious injury to a person.
2. The violation endangered the public safety or welfare.
3. Previous violations within the preceding three years for the same or a similar offense that resulted in imposition of administrative penalties, issuance of a Notice of Noncompliance, or suspension or revocation of license.
4. The violator impeded, or otherwise failed to cooperate with, the department's inspection or investigation.
5. The violation resulted from an intentional act.
6. The cost of the enforcement action.
7. The number of other violations proven in the same proceeding.
8. The benefit to the violator.

(b) Mitigating factors shall include, but not be limited to:

1. Any documented efforts by the violator at rehabilitation.
2. Intentional actions of another party prevented the violator from complying with the applicable laws or rules.
3. Substantiated financial hardship.
4. Acts of God or nature that impair the ability of the violator to comply with Sections 559.901-559.9221, F.S., or this rule chapter.
5. The violation has a low risk of, or did not result in, harm to the public health, safety, or welfare.
6. The violator took corrective action within twenty-four (24) hours of receiving written notification of the violation.
7. The disciplinary history of the person committing the violation.

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

(7) In addition to the penalties established in this rule, the department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection

costs, and costs resulting from a payment that is returned for insufficient funds to the department.

(8) Penalties.

(a) Notice of Noncompliance. Any department investigation or inspection which reveals minor violations of this rule chapter in which the department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Noncompliance as the department's first response to the violation. In addition, the following statutory violations shall result in the issuance of a notice of noncompliance for the first violation only: Violations of any provision contained in Section 559.916, F.S.

(b) Minor Violations. A violation of Sections 559.901-559.9221, F.S., is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in imposition of a fine ranging from \$100 to \$1,000. The following statutory violations shall be considered minor violations:

1. Failure to comply with Section 559.905(1), (2) or (4), F.S.
2. Failure to comply with Section 559.911(1)-(6), F.S.
3. Failure to comply with Section 559.915(1) or (2), F.S.
4. Violations of Section 559.920(11), (14)-(15), F.S.
5. A subsequent occurrence of any of the violations enumerated in paragraph (8)(a), above.

(c) Major Violations. A violation of Sections 559.901-559.9221, F.S., is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare, or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine of \$1,000, denial, suspension, or revocation of the license as prescribed in Section 559.904, F.S., or any of the penalties as prescribed in Section 559.921(4)(b)2.-5., F.S. The following violations shall be considered major violations:

1. Violations of Section 559.907(2), F.S.
2. Violations of Section 559.909(3) or (4), F.S.
3. Violations of Section 559.920(1)-(10), (12), (16)-(17), F.S.
4. Any willful violation of Sections 559.901-559.9221, F.S.

(9) Nothing in this rule chapter shall prohibit the department and person charged with a violation from resolving violations prior to administrative hearing, or from entering into settlement pursuant to Section 120.57(4), F.S. The department is authorized to utilize all available remedies to ensure compliance including administrative action, civil actions, and referrals for criminal prosecution. The cost of any enforcement proceeding may be added to any penalty imposed. The department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the

penalties and remedies provided in the agreement and as authorized by Chapter 120, F.S. or Sections 559.901-559.9221, F.S.

(10) Failure to respond to an administrative complaint shall result in the entry of a default Final Order against the violator or entity responsible for the violation. The department shall impose the maximum administrative fine amount of \$1,000 per violation pursuant to a Class I violation as referenced in Section 559.921(4)(b)2., F.S. and in Section 570.971, F.S., for a default Final Order.

(11) A violator’s failure to comply with a Final Order shall result in a registration denial or revocation pursuant to Section 559.904(10)(b), F.S., and the posting of a “Closed by Order of the Department” sign pursuant to Section 559.904(11), F.S. Additional penalties shall be sought through the enforcement of the order in circuit court.

Rulemaking Authority 559.92201, 570.07(23) FS. Law Implemented 559.904(10)(b), (11), 559.921(4), 570.971(4) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy Topol, Assistant Director, Division of Consumer Services
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Adam H. Putnam
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2014
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 18, 2014

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.: RULE TITLES:
5J-13.002 Licensing Requirements
5J-13.003 Security Requirements
5J-13.004 Enforcement Actions and Administrative Penalties

PURPOSE AND EFFECT: Amend the form incorporated by reference to implement statutory changes and establish a penalty structure consistent with others established within the department.

SUMMARY: The proposed rule updates FDACS-10111 Pawnbroking Registration Application and incorporates by reference the Pawnshop Claim Affidavit to ensure statutory compliance with Ch. 2014-147, Laws of Florida. It also sets forth a range of administrative fines for violations of the Florida Pawnbroking Act to ensure statutory compliance with Ch. 2014-150, Laws of Florida.

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 proposed revisions adopt department forms that conform to recent statutory changes and provide penalty guidelines for violators. There are no regulatory costs associated with these revisions. Additionally, no interested party submitted additional information regarding the economic impact.

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

RULEMAKING AUTHORITY: 539.001(4)(a)(2), (21), 570.07(23) FS.

LAW IMPLEMENTED: 539.001(4)(a), (5)(a), (c), (7)(b)4, (8)(a), 570.971(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, email: Amy.Topol@FreshFromFlorida.com or by phone: (850)410-3662

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-13.002 Licensing Requirements.

(1) Any person who intends to operate as a pawnbroker shall, prior to offering pawnbroking services, annually submit a licensing fee of \$300 to the dDepartment, for each pawnshop location.

(2) A person applying for a license as a pawnbroker must submit with the license application a copy of the Pawnbroker Transaction Form. Applicants for licensure shall use FDACS-10111 ~~DACS Form 10111~~, Pawnbroking Registration Application, Rev. 12/14 ~~07/11~~, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Attention: Pawnshops, Tallahassee, Florida 32399-6500,

or accessed online at:
<http://www.flrules.org/Gateway/reference.asp?No=Ref-00985>.
<http://www.flrules.org/Gateway/reference.asp?No=Ref-00985>.
 Rulemaking Authority 539.001(21), 570.07(23) FS. Law Implemented 539.001(5)(a), (c), (8)(a) FS. History—New 12-10-96, Amended 3-8-12, _____.

5J-13.003 Security Requirements.

(1) Any person claiming to have a net worth of \$50,000 pursuant to Section 539.001(4)(a)2., F.S., shall file with the Department, at the time of applying for a license, a copy of their current financial statement prepared by a Florida licensed accountant. In lieu of the financial statement, a person may file a copy of their most recently filed federal income tax return.

(2) If filing a bond, letter of credit, or assignment of certificate of deposit pursuant to Section 539.001(4), F.S., the applicant shall use the application forms included in FDACS-10111, Pawnbroking Registration Application, Rev. 12/14, incorporated by reference in Rule 5J-13.002, F.A.C.

(3) Claims against a bond, letter of credit, or certificate of deposit shall be submitted on FDACS-10986, Pawnshop Claim Affidavit, Rev. 12/14, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Attention: Pawnshops, Tallahassee, Florida 32399-6500, or accessed online at: <http://www.flrules.org/Gateway/reference>.
 Rulemaking Authority 539.001(21), 570.07(23) FS. Law Implemented 539.001(4)(a)2. FS. History—New 12-10-96, Amended 3-8-12, _____.

5J-13.004 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under Chapter 539, F.S. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase the penalties to be imposed against the violator by the department. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$5,000 pursuant to the Class II category as provided in Section 539.001(7)(b)2., F.S., and in Section 570.971, F.S. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine a total penalty and will be grounds for enhancement of penalties.

(2) The department will enforce compliance with Chapter 539, F.S., and this rule chapter by issuing an administrative

complaint, notice of noncompliance, or through civil litigation for violations of Chapter 539, F.S., and this rule chapter.

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

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

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

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

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining penalties for violations of Chapter 539, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation. In no event shall a fine for a single violation exceed the statutory maximum of \$5000 pursuant to the Class II category as provided in Section 539.001(7)(b)2., F.S., and in Section 570.971, F.S. If a Notice of Noncompliance is imposed for an initial violation, a second violation within a three-year period shall result in a fine of at least \$1,000 not to exceed \$5,000. Both aggravating and mitigating factors, if present, shall be applied against each single count of the listed violation regardless of whether the violation is a minor violation or a major violation as described in subsection (8) below.

(a) Aggravating factors shall include, but not be limited to, the following:

1. The violation caused, or has the potential to cause, serious injury to a person.

2. The violation endangered the public safety or welfare.

3. Previous violations within the preceding three years for the same or a similar offense that resulted in imposition of administrative penalties, issuance of a Notice of Noncompliance, or suspension or revocation of license.

4. The violator impeded, or otherwise failed to cooperate with, the department's inspection or investigation.

5. The violation resulted from an intentional act.

6. The cost of the enforcement action.

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

8. The benefit to the violator.

(b) Mitigating factors shall include, but not be limited to:

1. Any documented efforts by the violator at rehabilitation.

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

3. Substantiated financial hardship.

4. Acts of God or nature that impair the ability of the violator to comply with Chapter 539, F.S., or this rule chapter.

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

6. The violator took corrective action within twenty-four (24) hours of receiving written notification of the violation.

7. The disciplinary history of the person committing the violation.

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

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

(8) Penalties.

(a) Notice of Noncompliance. Any department investigation or inspection which reveals minor violations of this rule chapter in which the department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a Notice of Noncompliance as the department's first response to the violation.

(b) Minor Violations. A violation of Chapter 539, F.S., is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in imposition of a fine ranging from \$1,000 to \$5,000. The following statutory violations shall be considered minor violations:

1. Violations of any provision of, or failure to comply with, any requirement enumerated in, Section 539.001(8), F.S., Pawn Transaction Form, unless the violation occurred in the commission of a violation of Section 539.001(12)(n), F.S.

2. A subsequent occurrence of any of the violations enumerated in paragraph (8)(a), above.

(c) Major Violations. A violation of Chapter 539, F.S., is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare, or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine of \$2500 to \$5000, denial, suspension, or revocation of the license as prescribed in Section 539.001(7)(b)4., F.S., or any of the penalties as prescribed in Section 539.001(7)(b)3., F.S. or Section 539.001(7)(b)5., F.S. The following violations shall be considered major violations:

1. Violations of Section 539.001(12), F.S.

2. Violations of the provisions of Section 539.001(16), F.S.

3. Any willful violation of Chapter 539, F.S.

(9) Nothing in this rule chapter shall prohibit the department and person charged with a violation from resolving violations prior to administrative hearing, or from entering into settlement pursuant to Section 120.57(4), F.S. The department is authorized to utilize all available remedies to ensure compliance including administrative action, civil actions, and referrals for criminal prosecution. The cost of any enforcement proceeding may be added to any penalty imposed. The department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120, F.S. or Chapter 539, F.S.

(10) Failure to respond to an administrative complaint shall result in the entry of a default Final Order against the violator or entity responsible for the violation. The department shall impose the maximum administrative fine amount of \$5,000 per violation pursuant to a Class II violation as referenced in Section 539.001(7)(b)2., F.S., and in Section 570.971, F.S., for a default Final Order.

(11) A violator's failure to comply with a Final Order shall result in a license denial or revocation pursuant to Section 539.001(7)(b)4., F.S. Additional penalties shall be sought through the enforcement of the order in circuit court. Rulemaking Authority 539.001(21), 570.07(23) FS. Law Implemented 539.001(7)(b)4., 570.971(4) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy Topol, Assistant Director, Division of Consumer Services
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Commissioner of Agriculture Adam H. Putnam

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 19, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAR: December 24, 2014

Section III Notice of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:
12-24.004 Enrollment

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 40, No. 225, November 19, 2014 issue of the Florida Administrative Register.

These changes are in response to written comments received from the staff of the Joint Administrative Procedures Committee, requesting that the Department provide in the rule language the information requested via the Department’s online application for e-services, or that the Department promulgate the online application as a form. This list of information was removed from the rule for simplification purposes in the proposed amendments to the rule. The changes in this Notice add back the stricken language which lists the information requested by the Department when a taxpayer applies for e-services, whether the taxpayer applies online or by paper. The language being modified is in revised subsection (2) of Rule 12-24.004, F.A.C., and will now read as follows:

12-24.004 Enrollment.

~~(2)(3)~~ Enrollment for the e-Services Program requires the submission of the following information:

(a) The taxpayer’s or reemployment ~~unemployment~~ tax agent’s business entity name;

(b) The taxpayer’s or reemployment ~~unemployment~~ tax agent’s tax identification numbers assigned by the federal government and the Department, including tax account number if different from the tax identification numbers. Social Security Numbers are used by the Department as unique identifiers for the administration of Florida’s taxes. Social Security Numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and not subject to disclosure as public records.

(c) Tax type;

(d) The name, mailing address, telephone number, fax number, and e-mail address of a contact person who is responsible for electronic payments and/or electronic filing of returns for the taxpayer’s or reemployment ~~unemployment~~ tax agent’s business;

(e) Whether the contact person is an employee of the business or an independent tax preparer;

(f) If completed by an independent tax preparer or an reemployment ~~unemployment~~ tax agent, the preparer’s taxpayer identification number or reemployment ~~unemployment~~ tax agent number;

(g) The tax and/or fee type(s) for which the taxpayer or reemployment ~~unemployment~~ tax agent is enrolling;

(h) The filing and payment method the taxpayer or reemployment ~~unemployment~~ tax agent requests; and

(i) The taxpayer’s banking information, including the taxpayer’s bank name, the bank routing number(s), the taxpayer’s bank account number(s), and information stating whether the account is a savings or checking account and whether the account is a business account or a personal account (this information is not required if the taxpayer is requesting the ACH-credit method); ~~and~~.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NO.: RULE TITLE:

65G-2.017 Health Safety Standards

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1, F.S., published in Vol. 39, No. 126, June 28, 2013 issue of the Florida Administrative Register.

65G-2.017 Health Safety Standards for Licensed Facilities

(1) Food. Food received or used in licensed facilities shall be clean, wholesome, free from spoilage, adulteration and misbranding, and safe for human consumption. A violation of this provision shall constitute a Class II violation.

(a) Food while being transported, stored, prepared, displayed, or served within licensed facilities shall be protected from dust, flies, rodents or other vermin, toxic materials, unclean equipment and utensils, ~~unnecessary handling, coughs and sneezes,~~ flooding, by sewage, overhead leakage and all other sources of contamination. A violation of this paragraph shall constitute a Class II violation.

(b) No change.

(c) Potentially hazardous food shall be stored at such temperatures as will protect against spoilage. All potentially hazardous food shall be kept at safe temperatures, either below 41 degrees Fahrenheit or above 135 degrees Fahrenheit, except during necessary periods of preparation and service. “Potentially hazardous food” means food which requires refrigeration or freezing to prevent spoilage while it is in storage. A violation of this paragraph shall constitute a Class II violation.

(d) Potentially hazardous foods which are to be served without further cooking (ready to eat foods) and will require refrigeration ~~refrigeration~~, shall not be allowed to remain between 41 degrees and 135 degrees Fahrenheit for a period in excess of four hours. A violation of this paragraph shall constitute a Class II violation.

(e) Frozen potentially hazardous food shall be thawed in refrigerated units at a temperature not to exceed 41 degrees Fahrenheit; or under cold potable running water ~~with sufficient water velocity to agitate and float off loosened food particles into the overflow for a period of time that does not allow thawed portions of ready to eat food to rise above 41 degrees Fahrenheit;~~ or in a microwave if it will be cooked immediately upon thawing; or as part of the cooking process. A violation of this paragraph shall constitute a Class III violation.

(f) through (g) No change.

(h) Food shall be stored a minimum of 6 inches above the floor, on clean shelves, racks, dollies or other clean surfaces in

such a manner as to be protected from splash and other contamination. Food must be stored in a manner which permits unobstructed ~~unobstructed to permit~~ free air circulation in and around food. A violation of this paragraph shall constitute a Class II violation.

(i) Prior to the food being placed into the freezer, the container must be clearly marked to indicate the date of freezing. Food must be date marked if not consumed upon initial preparation and held for more than 24 hours. Potentially hazardous foods shall be kept for no more than seven days after its initial cooking. A violation of this paragraph shall constitute a Class III violation.

(j) Potentially hazardous food must be stored in a refrigerator or freezer as appropriate upon being received ~~After purchasing and when receiving food into the facility, refrigerator or freezer~~ foods as soon as possible in order to maintain correct temperatures. A violation of this paragraph shall constitute a Class III violation.

(k) Hot food shall be cooled within 4 hours to 41 degrees Fahrenheit or below. Cooling food to safe storage temperatures shall include two stage cooling. Hot food should be cooled from 135 degrees to below 70 degrees Fahrenheit within two hours and then cooled from 70 degrees to below 41 degrees Fahrenheit within an additional four hours. The total time for both stages combined shall not exceed six hours. A violation of this paragraph shall constitute a Class III violation.

(2) Food Equipment.

(a) No change.

(b) Cleaned and sanitized utensils and equipment and all single-use single-service articles shall be stored at least 6 inches above the floor in a clean, dry location and in a way that protects them from contamination by splash, dust and other means. A violation of this paragraph shall constitute a Class II violation.

(c) No change.

(d) All sinks shall be of sufficient adequate size and depth to accommodate the utensils being washed.

(e) After sanitization, all equipment and utensils shall be air-dried before storage. Cleaned and sanitized equipment and utensils and all single-use single-service articles shall be handled in a way that protects them from contamination.

(f) No change.

(g) Dishwashers ~~These machines and devices~~ shall be properly installed and maintained in good repair. ~~Machines and devices~~ shall be operated in accordance with the manufacturer's instructions and specifications, which must be retained by the facility attached to the machine.

(h) through (i) No change.

(3) Insect, Rodent and Vermin control. Effective measures shall be utilized to minimize the presence of rodents, flies, cockroaches and other insects on the premises.

(a) No change.

(b) All outside openings shall be effectively sealed or screened to prevent entry of insects, rodents, ~~or other vectors~~ and vermin.

(c) No change.

(4) Animal Health and Safety.

(a) Animals must be kept ~~in good health and~~ free from disease or under treatment by a licensed veterinarian. A violation of this paragraph shall constitute a Class III violation.

(b) Animals being kept indoors or having access to the indoors must be treated for flea control throughout the year to prevent infestations. A violation of this paragraph shall constitute a Class II violation.

(c) Animals requiring rabies vaccination must be vaccinated for rabies and their vaccinations must be current at the time of inspection. ~~Animals requiring rabies vaccination would include dogs and cats.~~ Proof of rabies vaccination or veterinary certification of vaccination exemption shall be kept on the premises at all times. A violation of this paragraph shall constitute a Class III violation.

(5) Housing.

(a) Floor surfaces shall be ~~of non-slip type and~~ maintained free of loose or broken tiles and boards, holes, uneven projections, protruding nails, tears, splinters, water spillage and other tripping hazards.

(b) No change.

(c) All areas of the facility occupied by residents, including bedrooms ~~sleeping rooms~~, common areas, hallways, bathrooms, and dining areas shall have natural or mechanical ventilation.

(d) A violation of this subsection shall constitute a Class III violation.

(6) Response to Client Sickness.

(a) through (c) No change.

(d) Soiled linens, soiled clothes or other soiled items shall be carefully removed and kept separated from uncontaminated items. Soiled linens, soiled clothes or other soiled items that are contaminated shall be washed separately from uncontaminated items using in a pre-wash cycle, then use a regular wash cycle at high temperature with using detergent or regular wash cycle with detergent and bleach or other sanitizer and then dried separately from uncontaminated items at a high temperature.

(e) A violation of this paragraph shall constitute a Class II violation.

(7) Agency staff shall review facilities for food safety and environmental health standards using APD ~~2012~~ Health Facility Checklist (effective January 1, 2015 ~~October, 2012~~), which is hereby incorporated by reference. A copy of this form may be obtained by contacting the Regional office.

Rulemaking Authority ~~393.067(1), 393.067(7), 393.067(8),~~
 393.501(1) FS. Law Implemented ~~393.067, F.S.(1), 393.067(7),~~
~~393.067(8)~~ FS. History--New _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NO.: RULE TITLE:
 65G-2.017 Health Safety Standards
 NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 39, No. 126, June 28, 2013 issue of the Florida Administrative Register.

The Notice of Proposed Rule did not state what information was relied upon in determining that the proposed rule is not expected to require legislative ratification. The information expressly relied upon is the analysis conducted by the Agency to determine whether a SERC was required and the nature of the rule.

**Section IV
 Emergency Rules**

NONE

**Section V
 Petitions and Dispositions Regarding Rule
 Variance or Waiver**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Licensing (Formerly 1C)

RULE NO.: RULE TITLE:
 5N-1.140 Security Officer, Recovery Agent and Private Investigative Intern School Curriculum; Examinations; Retention of Records

NOTICE IS HEREBY GIVEN that on December 23, 2014, the Department of Agriculture and Consumer Services, Division of Licensing, received a petition for a permanent variance from paragraph (1)(b) of Rule 5N-1.140, Florida Administrative Code, filed by The Safety & Intelligence Institute, Inc. Paragraph (1)(b) requires that a minimum one-hour final examination be given at the end of each course, with Course A's exam consisting of 100 questions, and Course B's exam consisting of 70 questions. Petitioner asks that it be allowed to administer examinations at various intervals, with such examinations still subject to Department approval, and consisting of not less than a total 2 hours and 170 questions.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Whitney Shiver, Government Analyst I, Post Office Box 5647, Tallahassee, Florida 32314, by telephone: (850)245-5459 or by email: Whitney.Shiver@FreshFromFlorida.com.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.: RULE TITLE:
 40E-6.011 Policy and Purpose

NOTICE IS HEREBY GIVEN that on December 29, 2014, the South Florida Water Management District (District) received a petition for waiver from Brad Witt, Application No. 14-1223-1M, for utilization of Works or Lands of the District known as the Hillsboro Canal, for existing facilities consisting of a paver patio deck, fence/brick wall, shrubs and trees, within the north right of way, Section 35, Township 47 South, Range 42 East, Palm Beach County. The petition seeks relief from subsections 40E-6.011(4) and (6), and paragraph 40E-6.221(2)(j), Fla. Admin. Code, which governs the placement of above-ground permanent and/or semi-permanent encroachments within 40' top of canal bank within the works or lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Juli Russell at (561)682-6268 or email: jurussel@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Juli Russell, Office of Counsel.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:
 61C-5.001 Safety Standards

NOTICE IS HEREBY GIVEN that on December 29, 2014, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Tampa Theatre Office Building. Petitioner seeks an emergency variance of the requirements of an unspecified Section of A17.3, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators operations which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW2014-473).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-21.003 Application and Selection Process for Developments

NOTICE IS HEREBY GIVEN that on December 23, 2014, the Florida Housing Finance Corporation received a petition for waiver from Marianna Gardens Preservation, L.P., requesting a waiver of paragraph 67-21.003(8)(f), F.A.C., to allow a change in the Development Category listed in the Non-Competitive Application of "Acquisition/Preservation" to match what is stated within the Competitive Application of "Acquisition/Rehabilitation".

A copy of the Petition for Variance or Waiver may be obtained by contacting: Ashley Marie Black, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The Petition has also been posted on Florida Housing's website at floridahousing.org. Florida Housing will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m., Eastern Standard Time, on the 14th day after publication of this notice at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

Section VI

Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

Division of Library and Information Services

The Division of Library and Information Services announces a meeting of the Multitype Library Cooperatives and the Bureau of Library Development. All persons are invited.

DATE AND TIME: Thursday, January 22, 2015, 9:00 a.m. – 4:00 p.m., EST

PLACE: Room 307, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

GENERAL SUBJECT MATTER TO BE CONSIDERED: The meeting will provide an introduction and overview of each of the organizations. Other topics to be discussed include shifting funding priorities, the Florida Statewide Digital Action Plan and cooperative purchasing.

A copy of the agenda may be obtained by visiting: dos.myflorida.com/library-archives/meetings-and-notice/upcoming-meetings/.

Any person requiring special accommodations or assistance due to a disability or physical impairment should contact the agency a minimum of five (5) days prior to the meeting by calling (850)245-6600 or TDD (850)922-4085.

To request copies of meeting materials associated with this agenda but not included herein, contact Brad Ward with the Northeast Florida Library Information Network at brad@neflin.org.

EXECUTIVE OFFICE OF THE GOVERNOR

RULE NO.: RULE TITLE:

27-10.001 Direct Support Organization Function, Bylaws And Services Contract

The Governor's Commission on Community Service (Volunteer Florida) announces a telephone conference call to which all persons are invited.

DATE AND TIME: January 12, 2015, 1:00 p.m.

PLACE: 1(888)670-3525, passcode: 3360784946#

GENERAL SUBJECT MATTER TO BE CONSIDERED: Executive Committee to consider a funding proposal.

A copy of the agenda may be obtained by contacting: Kimm Harvey at (850)414-7400 or kimm@volunteerflorida.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Kimm Harvey at (850)414-7400 or kimm@volunteerflorida.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

The Suwannee River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: January 13, 2015, 9:00 a.m.

PLACE: Dixie Plantation, 1583 Livingston Road, Greenville, Florida 32331

GENERAL SUBJECT MATTER TO BE CONSIDERED: Governing Board meeting to consider District business and conduct public hearings on regulatory, real estate, and other various matters. A public hearing will be held on the Strategic Plan and the Florida Forever Work Plan update. A workshop will follow the Board meeting.

A copy of the agenda may be obtained by contacting: Lisa Cheshire at (386)362-1001 or 1(800)226-1066 (Florida only); or on the District's website: www.mysuwanneeriver.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Lisa Cheshire at (386)362-1001 or 1(800)226-1066 (Florida only). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

The Southwest Florida Water Management District (SWFWMD) announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, January 5, 2015, 3:30 p.m. – CANCELLED

PLACE: District Headquarters, 2379 Broad St., Brooksville, FL 34604

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is to publish notice of cancellation for the meeting of the Hernando County Task Force.

A copy of the agenda may be obtained by contacting: WaterMatters.org – Boards, Meetings & Event Calendar; 1(800)423-1476 (FL only) or (352)796-7211.

For more information, you may contact: Veronica.craw@watermatters.org, 1(800)423-1476 (FL only) or (352)796-7211, ext. 4267 (Ad Order EXE0374).

DEPARTMENT OF VETERANS' AFFAIRS

The Florida is for Veterans, Inc. Board of Directors announces a public meeting to which all persons are invited.

DATE AND TIME: January 12, 2015, 8:00 a.m. – 5:00 p.m.

PLACE: Room 28, House Office Building, 402 South Monroe Street, Tallahassee, FL 32399 or dial: 1(888)670-3525, enter the participant code: 3244965172 then #

GENERAL SUBJECT MATTER TO BE CONSIDERED: Strategic Planning Session.

A copy of the agenda may be obtained by contacting: Colleen Krepstekies at (850)487-1533.

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: Colleen Krepstekies at (850)487-1533. If you are hearing or speech impaired, please contact the agency using the

Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

The Florida Real Estate Commission announces a public meeting to which all persons are invited.

DATE AND TIME: January 12, 2015, 9:00 a.m.

PLACE: 400 W. Robinson Street, Hurston Building, North Tower, Suite N901, Orlando, Florida 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of the workshop is to review the Real Estate Examination Syllabus for brokers.

A copy of the agenda may be obtained by contacting: Lori Crawford at lori.crawford@myfloridalicense.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Division of Real Estate, (407)481-5662. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

The Probable Cause Panel of the Florida Real Estate Commission announces a hearing to which all persons are invited.

DATE AND TIME: Monday, January 12, 2015, 2:30 p.m., EST
PLACE: Zora Neale Hurston Building, North Tower, Suite N901, 400 West Robinson Street, Orlando, Florida 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Probable Cause Panel will meet to conduct a private meeting to review cases to determine probable cause and to conduct a public meeting to review cases where probable cause was previously found. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of the Probable Cause Panel or its counsel.

A copy of the agenda may be obtained by contacting: Deputy Clerk, Florida Real Estate Commission, 400 W. Robinson Street, Suite N801, Orlando, Florida 32801-1772. Only public portions of the agenda are available upon request.

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: Division of Real Estate, (407)481-5662. If you are hearing or speech impaired, please contact the agency using the

Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

The Florida Real Estate Commission announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, January 13, 2015, 8:30 a.m., EST; meeting will reconvene on Wednesday, January 14, 2015, 8:30 a.m., EST

PLACE: Zora Neale Hurston Building, North Tower, Suite N901, 400 West Robinson Street, Orlando, Florida 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED:

Official business of Commission – topics include, but are not limited to, proposed legislation affecting Chapter 475, Part I, F.S., Chapter 61J2 rule discussion, budget discussions, escrow disbursement requests, recovery fund claims, education issues, petitions for declaratory statement, petitions for rule variance/waiver, disciplinary actions and real estate applications. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of the Commission members or its counsel.

A copy of the agenda may be obtained by contacting: Lori Crawford at lori.crawford@myfloridalicense.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Division of Real Estate, (407)481-5662. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

The Bureau of Emergency Medical Oversight/Injury Prevention Section announces telephone conference calls to which all persons are invited.

DATES AND TIMES: Friday, January 9, 2015, 11:00 a.m. – 12:00 Noon; Monday, January 12, 2015, 10:00 a.m. – 11:00 a.m., Eastern Standard Time

PLACE: Bureau of Emergency Medical Oversight/Injury Prevention Section, 4042 Bald Cypress Way, Second Floor, Tallahassee, Florida 32399, United States: 1(888)670-3525 toll-free, access code: 6082454114

GENERAL SUBJECT MATTER TO BE CONSIDERED: New coalition contracts with Safe Kids Worldwide, Safe Kids Day activities, Buckle-Up Liability Insurance, Coordinator Updates.

A copy of the agenda may be obtained by contacting: Mary Crew by email: mary.crew@flhealth.gov or by telephone: (850)245-4982.

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Mary Crew by email: mary.crew@flhealth.gov or by telephone: (850)245-4982.

DEPARTMENT OF FINANCIAL SERVICES

The Department of Financial Services announces a public meeting to which all persons are invited.

DATE AND TIME: January 14, 2015, 2:00 p.m. – 4:00 p.m., Eastern Time

PLACE: 412K Knott Building, Tallahassee, FL 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED:

The Department of Financial Services invites prospective vendors to attend a vendor forum which will provide an overview of the plans for the FLAIR and CMS Replacement Project and anticipated procurements. Interested participants must attend the vendor forum in person, as a conference call option will not be available.

Notice of any changes or additional meetings will be posted within the Vendor Bid System (VBS) in accordance with Section 287.042(3), Florida Statutes, and will not be re-advertised in the Florida Administrative Register (FAR). The VBS can be accessed at: http://vbs.dms.state.fl.us/vbs/main_menu.

A copy of the agenda may be obtained by contacting: Jenifer Hartsfield, FLAIR & CMS Replacement Project, Pepper Bldg., G-08, 111 West Madison Street, Tallahassee, FL 32399, jenifer.hartsfield@myfloridacfo.com, (850)410-9025.

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: Jenifer Hartsfield at (850)410-9025 or VendorForum@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If you have any questions regarding the vendor forum, please feel free to contact VendorForum@myfloridacfo.com.

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

The Reemployment Assistance Appeals Commission announces a public meeting to which all persons are invited.

DATE AND TIME: January 7, 2015, 9:00 a.m.
 PLACE: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151
 GENERAL SUBJECT MATTER TO BE CONSIDERED: Deliberation for cases pending before the Reemployment Assistance Appeals Commission that are ready for final review and the Chairman’s report. No public testimony will be taken. A copy of the agenda may be obtained by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

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 24 hours before the workshop/meeting by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

MOFFITT CANCER CENTER & RESEARCH INSTITUTE
 The Florida Cancer Control & Research Advisory Council announces a telephone conference call to which all persons are invited.

DATE AND TIME: January 27, 2015, 4:00 p.m. – 5:00 p.m., EST

PLACE: 1(800)206-6032, passcode: 7451520#

GENERAL SUBJECT MATTER TO BE CONSIDERED: A General Membership call.

For more information, you may contact: Laura.Lenhart@Moffitt.org.

MARION SOIL AND WATER CONSERVATION DISTRICT

The Marion Soil and Water Conservation District announces public meetings to which all persons are invited.

DATES AND TIMES: Second and fourth Tuesdays, monthly, 2015, 9:00 a.m.

PLACE: USDA Ocala Service Center, 2441 NE 3rd St., Suite 204-2, Ocala, FL 34470

GENERAL SUBJECT MATTER TO BE CONSIDERED: Second Tuesdays: General Business; fourth Tuesdays: Workshop, only meet if necessary.

A copy of the agenda may be obtained by contacting: (352)622-3971, ext. 3.

Section VII

Notice of Petitions and Dispositions Regarding Declaratory Statements

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

The Construction Industry Licensing Board hereby gives notice that the petition filed by the City of Orlando on July 22, 2014, seeking a declaratory statement regarding Sections 489.105(e) and 489.113(3), Florida Statutes, has been withdrawn. The Notice of Petition was published in Vol. 40, No. 146, of the July 29, 2014, issue of the Florida Administrative Register.

The person to be contacted regarding this petition is: Dan Biggins, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783, (850)487-1395 or by email: Amanda.Wynn@myfloridalicense.com.

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: RULE TITLE:

64B2-15.001 Deceptive and Misleading Advertising Prohibited; Policy; Definition

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Medicine has received the petition for declaratory statement from David Otto, D.C., filed on December 30, 2014. The petition seeks the agency’s opinion as to the applicability of Section 460.403, Florida Statutes, and Rule 64B2-15.001, Florida Administrative Code, as it applies to the petitioner.

The Petitioner is seeking the Board’s interpretation of Section 460.403, Florida Statutes, and Rule 64B2-15.001, Florida Administrative Code, regarding questions outlined in the petition concerning the definition of expert and whether petitioner has the ability to advertise as a nutrition expert; and/or Functional Medicine Clinic/Natural Medicine Clinic. In addition Petitioner requests a list of words approved for advertising. Except for good cause shown, motions for leave to intervene must be filed within 21 days after the publication of this notice.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Adrienne Rodgers, Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3257 or by email: info@floridaschiropracticmedicine.gov.

**Section VIII
Notice of Petitions and Dispositions
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

NONE

**Section IX
Notice of Petitions and Dispositions
Regarding Non-rule Policy Challenges**

NONE

**Section X
Announcements and Objection Reports of the
Joint Administrative Procedures Committee**

NONE

**Section XI
Notices Regarding Bids, Proposals and
Purchasing**

DEPARTMENT OF MANAGEMENT SERVICES

Advertisement for General Contractors

PUBLIC ANNOUNCEMENT REQUESTING BIDS

FROM QUALIFIED GENERAL CONTRACTORS

PROPOSALS ARE REQUESTED FROM QUALIFIED GENERAL CONTRACTORS BY THE DEPARTMENT OF MANAGEMENT SERVICES.

PROJECT NUMBER: HSMV-14003000

PROJECT NAME: Renovations to Call Center/Office Space, Kissimmee Motorist Services Facility

PROJECT LOCATION: Kissimmee, Florida

MANDATORY PRE-BID MEETING: January 7, 2015

BID OPENING: January 21, 2015

ESTIMATED CONSTRUCTION BUDGET: \$280,000.00

PREQUALIFIED BIDDERS: Refer to DMS website (below) for further details

Please visit the Department’s website, http://www.myflorida.com/apps/vbs/vbs_www.main_menu, and click on “Search Advertisements” – “Division of Real Estate Development and Management”; look for “Opportunities for Design and Construction Firms” and click on link.

The award will be made in accordance with Section 255.29, Florida Statutes, and the procedures and criteria of the Departments Division of Real Estate Development and Management.

Section XII Miscellaneous

DEPARTMENT OF HEALTH
Board of Medicine

Notice of Emergency Action

On December 16, 2014, State Surgeon General issued an Order of Emergency Suspension of License with regard to the license of Paul Kazuhiko Awa, M.D., License #: ME 88109. This

Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2014). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

Section XIII Index to Rules Filed During Preceding Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
