

Section I Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE NO.: RULE TITLE:
64B7-32.003 Minimum Requirements for Board
Approved Massage Schools

PURPOSE AND EFFECT: The Board proposes the amendment to clarify the requirements.

SUBJECT AREA TO BE ADDRESSED: The rule language.

RULEMAKING AUTHORITY: 480.033(9), 480.035(7) FS.

LAW IMPLEMENTED: 480.033(9), 480.041(1)(b) 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: Kama Monroe, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3253.

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: RULE TITLE:
5J-23.001 Standards
5J-23.0015 Registration
5J-23.002 Registration
5J-23.003 Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: The changes proposed herein update specifications, amend the penalties, further clarify updated statutory requirements and add requisite form references. In addition, the recent passage of SB 740 amends the testing and registration requirements and allows for up to a two-year registration. The proposed amendments implement those recent changes.

SUMMARY: The proposed rules are being amended to update adopted versions of ASTM International Designations,

references to department forms and repealed rule chapters 5F-2 and 5F-10, F.A.C. The proposed changes will create uniform numbering within the rule chapter, will amend the penalty section for statutory compliance, and will update the incorporated department form to comply with ch. 2018-84, 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 of potential regulatory costs of the proposed rule did not exceed any of the criteria established in paragraph 120.541(2)(a), Florida Statutes. The proposed revisions update a form incorporated by reference, update several form references, and update standards incorporated by reference. They also renumber the registration section and revise the penalty section. There are no increased regulatory costs associated with these revisions. Moreover, changes to the registration requirements will significantly reduce the costs associated with first-time registrations by eliminating the need for applicants to submit product samples and to pay associated shipping fees. 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: 501.913, 501.921, 501.922, 570.07(23) FS.

LAW IMPLEMENTED: 501.913, 501.917, 501.918, 501.919, 501.921, 501.922, 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: Harold Prince, Chief, Bureau of Standards, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399 (850)921-1570.

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-23.001 Standards.

(1) The performance specifications and standards for all non-recycled antifreeze products are hereby incorporated by reference: ASTM International Designation D3306-1414 (approved April 15, 2014 November 1, 2014), "Standard Specification for Glycol Base Engine Coolant for Automobile and Light-Duty Service," with the following exceptions:

(a) ~~Antifreeze, Products, as defined in Section 501.912, F.S., that is are specifically designed for applications (according to the engine/equipment manufacturer) that prohibit the use of glycol, or contents of 50 percent or more glycol, in the engine coolant system may have a higher freezing point higher (and consequently a lower consequent boiling point lower) than that required by this subsection section, so long as all of the following conditions are met. All other product quality specifications listed in this subsection are must be met along with the following conditions:-~~

1. ~~Proof of the prohibition to use 50 percent or more glycol or mixtures containing 50 percent or more in the applicable engine coolant systems must be provided to the department.~~

2. A statement must be printed on the front label of the bottle in a conspicuous font indicating the maximum freezing point and minimum boiling point, if different from the required phase transition points established in ASTM International Designation D3306-1414, "Standard Specification for Glycol Base Engine Coolant for Automobile and Light-Duty Service," (approved April 15, 2014 November 1, 2014), as incorporated by reference in subsection (1) of this rule, and the label must clearly state the intended applications for its use.

3. No change.

4. The words "antifreeze", "antifreeze-coolant," "antifreeze and summer coolant," "summer coolant," or the like, ~~as defined in Section 501.912, F.S.;~~ may not be used on any label affixed to the bottle if there is less than ten percent glycol present in the product.

(b) ~~1,3 Propanediol base engine coolants for automobile and light-duty service: The performance specifications and standards for 1,3 Propanediol base engine coolants for automobile and light-duty service are hereby incorporated by reference: ASTM International Designation D7518-10(2015)e1 (approved May 1, 2015 April 1, 2010), "Standard Specification for 1,3 Propanediol (PDO) Base Engine Coolant for Automobile and Light-Duty Service." Products intended to meet this specification must be declared on the application by the registrant upon submission of the application for registration. The following statement (or similar definitive equivalent statement) must be printed in all capital letters on the front label or affixed to the front of the bottle in a conspicuous font: THIS PRODUCT CONTAINS 1,3-PROPANEDIOL. CONSULT WITH YOUR MECHANIC OR ENGINE OWNER'S MANUAL BEFORE USE This product contains~~

~~1,3 Propanediol. Consult with your mechanic or engine owner's manual before use.~~

(c) ~~Glycerin base engine coolants for automobile and light-duty service: The performance specifications and standards for Glycerin base engine coolants for automobile and light-duty service are hereby incorporated by reference: ASTM International Designation D7714-11(2016)e1 (approved April 1, 2016 October 1, 2014), "Standard Specification for Glycerin Base Engine Coolant for Automobile and Light-Duty Service." Products intended to meet this specification must be declared on the application by the registrant upon submission of the application for registration. The following statement (or similar definitive equivalent statement) must be printed in all capital letters on the front label or affixed to the front of the bottle in a conspicuous font: THIS PRODUCT CONTAINS GLYCERIN. CONSULT WITH YOUR MECHANIC OR ENGINE OWNER'S MANUAL BEFORE USE This product contains glycerin. Consult with your mechanic or engine owner's manual before use.~~

(d) ~~Low silicate ethylene glycol base engine coolants for heavy-duty engines: The performance specifications and standards for all low silicate ethylene glycol base engine coolants for heavy-duty applications are hereby incorporated by reference: ASTM International Designation D4985-10(2015) (approved May 1, 2015 April 1, 2010), "Standard Specification for Low Silicate Ethylene Glycol Base Engine Coolant for Heavy Duty Engines Requiring a Pre-Charge of Supplemental Coolant Additive (SCA).;" Products intended to meet this specification must be declared on the application by the registrant upon submission of the application for registration.~~

(e) ~~Glycol base engine coolants for heavy-duty engines: The performance specifications and standards for glycol base engine coolants for heavy-duty engines are hereby incorporated by reference: ASTM International Designation D6210-1740 (approved November 1, 2017 December 1, 2010), "Standard Specification for Fully-Formulated Glycol Base Engine Coolant for Heavy-Duty Engines." Products intended to meet this specification must be declared on the application by the registrant upon submission of the application for registration.~~

(f) ~~1,3 Propanediol base engine coolants for heavy-duty engines: The performance specifications and standards for 1,3-Propanediol base engine coolants for heavy-duty engines are hereby incorporated by reference: ASTM International Designation D7517-09(2014) (approved February 1, 2014 April 1, 2009), "Standard Specification for Fully-Formulated 1,3 Propanediol (PDO) Base Engine Coolant for Heavy-Duty Engines." Products intended to meet this specification must be declared on the application by the registrant upon submission of the application for registration. The following statement (or similar definitive equivalent statement) must be printed in all capital letters on the front label or affixed to the front of the~~

bottle in a conspicuous font: THIS PRODUCT CONTAINS 1,3-PROPANEDIOL. CONSULT WITH YOUR MECHANIC OR ENGINE OWNER'S MANUAL BEFORE USE ~~This product contains 1,3 Propanediol. Consult with your mechanic or engine owner's manual before use.~~

(g) Glycerin base engine coolants for heavy-duty engines: ~~The performance specifications and standards for Glycerin base engine coolants for heavy-duty engines are hereby incorporated by reference: ASTM International Designation D7715-12(2016)e1 (approved April 1, 2016 June 1, 2012), "Standard Specification for Fully-Formulated Glycerin Base Engine Coolant for Heavy-Duty Engines." ~~Products intended to meet this specification must be declared on the application by the registrant upon submission of the application for registration.~~ The following statement (or similar definitive equivalent statement) must be printed in all capital letters on the front label or affixed to the front of the bottle in a conspicuous font: THIS PRODUCT CONTAINS GLYCERIN. CONSULT WITH YOUR MECHANIC OR ENGINE OWNER'S MANUAL BEFORE USE ~~This product contains glycerin. Consult with your mechanic or engine owner's manual before use.~~~~

(h) The performance specifications and standards for waterless engine coolants are hereby incorporated by reference: ASTM International Designation D8085-17 (approved January 1, 2017), "Standard Specification for Non-Aqueous Engine Coolant for Automotive and Light-Duty Service."

(2) No change.

(3) As used in sections 501.91 – 501.923, F.S., ~~t~~The term "motor vehicle" shall mean any device that uses an internal combustion engine as its means of power. This shall include stationary and mobile devices that are used on or off-road. Specifically, this definition is not restricted to passenger or transportation vehicles only.

(4) No change.

(5) In accordance with sSection 501.919, F.S., any lot of antifreeze (including products falling under the exceptions in subsection (1) of this rule) that fails to meet applicable standards, as adopted in this rule, shall be placed under stop sale order by the department using FDACS-03206, Stop Sale Order, Rev. 02/17 12/12, as incorporated by reference in rule 5J-22.003, F.A.C. and FDACS-03537, "Warning" tag, Rev. 08/12, ~~prohibiting the sale of the antifreeze. Upon resolution of the violation, the lot of antifreeze shall be released by the department using FDACS-03209, Release, Rev. 02/17 04/09, as incorporated by reference in rule 5J-22.002, F.A.C. The documents referenced in this subsection are incorporated by reference in Rule 5F-2.001, F.A.C.~~

Rulemaking Authority 501.921, 570.07(23) FS. Law Implemented 501.913, 501.917, 501.919, 501.921 FS. History–New 10-6-93, Amended 7-5-95, 12-9-98, 6-25-00, 10-22-01, 12-9-02, 12-7-04, 2-5-07, 6-4-14, Formerly 5F-10.001, Amended.

5J-23.0015 Registration.

Rulemaking Authority 501.913, 570.07(23) FS. Law Implemented 501.913, 501.918, 501.919 FS. History–New 6-4-14, Formerly 5F-10.0015; Repealed.

5J-23.002 Registration.

(1) In accordance with section 501.913, F.S., each brand of antifreeze to be distributed in this state shall be registered annually or biennially with the department prior to distribution or expiration of prior registration certificate and registrant shall make application on FDACS-03211, Antifreeze Registration Application, Rev. 02/19, hereby incorporated by reference. Copies of this form may be accessed at <http://www.flrules.org/Gateway/reference.asp?No=Ref->. Application shall be made by the manufacturer, packager, or the person whose name appears on the label.

(a) A "manufacturer" is the person or entity producing the antifreeze.

(b) A "packager" is the person or entity that packages the antifreeze in sealed, unbroken packages.

(2) The department shall register a brand of antifreeze authorizing the distribution of the specified antifreeze brand in the state for the specified permit period if the registration requirements are met, pursuant to section 501.913, F.S., and this rule chapter.

(3) In accordance with section 501.918(1), F.S., any unregistered brand of antifreeze that was registered in the immediately preceding registration period and has not been renewed shall be disposed of within 90 days of registration expiration. Disposal shall be the responsibility of the registrant and in a manner as prescribed below. If the product has been placed under stop sale order by the department, it must be released by the department prior to the execution of any disposal method. Acceptable disposal methods are:

(a) Removal of all such unregistered antifreeze from this state, not to be distributed again in this state unless successful registration has been completed, or;

(b) Donation of product to a non-profit organization for consumption so long as all donated product is not adulterated and meets all specifications for quality and labeling, as prescribed in sections 501.91-501.923.

Rulemaking Authority 501.913, 570.07(23) FS. Law Implemented 501.913, 501.918 FS. History–New _____.

5J-23.003 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under §Sections 501.91-501.923, F.S. The purpose of the guidelines is to give notice of the range of penalties ~~that, which normally~~ will be imposed for a single violation within a three-year period. The three-year period shall be based on the date of issuance of the stop sale order. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. ~~No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$1,000 per violation for a first time offender or \$5,000 per violation for second time or repeat offender, or for a willful and intentional violation.~~ 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 an overall total penalty and will be grounds for enhancement of penalties.

(2) The department will enforce compliance with §Sections 501.91-501.923, F.S., and this rule chapter by issuing a stop sale order and administrative complaint, if applicable, for violations of §Sections 501.91-501.923, F.S., and this rule chapter.

(3) Nothing in this rule 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 chapter 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 chapter, the penalty will be determined by consideration of:

(a) through (b) No change.

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining penalties for violations of §Sections 501.91-501.923, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors shall include:

1. The violation caused or has the potential to cause harm to a person or property ~~and the degree or extent of such harm.~~

2. No change.

3. Previous enforcement actions ~~violations~~ for the same or a similar offense ~~that resulted in enforcement action.~~

4. ~~The length of time the business has been in operation and the violation~~ disciplinary history of the violator, over the past

three years including any disciplinary action imposed in this or any other jurisdiction.

~~5. The violation existed for more than one month.~~

~~5. 6. No change.~~

~~6. 7. No change.~~

~~8. Previous disciplinary action against the violator in this or any other jurisdiction and the deterrent effect of the penalty imposed.~~

~~7. 9. Undue delay in initiating or completing, or F failure to take or initiate,~~ affirmative or corrective action within 48 hours after receipt of the stop sale order for the violation.

~~8. 10. Whether T~~ the violation resulted from negligence or an intentional act.

~~11. The cost of enforcement action.~~

~~9. 12. No change.~~

~~10. 13. No change.~~

(b) Mitigating Factors shall include:

1. No change.

2. ~~Whether I~~ intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Documented F financial hardship.

4. Acts of God or nature that impaired the ability of the violator to comply with §Sections 501.91-501.923, F.S., or this rRule cChapter ~~5F 10, F.A.C.~~

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

~~5. 6. The violator expeditiously took or initiated~~ affirmative or corrective action within 48 hours after it received written notification of the violation, including costs incurred by the violator for rectifying any damage or harm to consumers' vehicles and/or property.

~~7. The number and seriousness of the counts in the administrative complaint.~~

~~6. 8. No change.~~

~~7. 9. If a repeat violation, whether three years have~~ has passed since the prior violation.

~~8. 10. A statement, in writing, provided to the department during an investigation~~ declaring acceptance of responsibility for a 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.~~

~~(6)(8)-Penalties.~~

(a) Minor Violations. ~~A violation of Sections 501.91-501.923, F.S., or this rule chapter 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 the issuance of a stop sale order using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in rule 5J-22.003, F.A.C. If a third stop sale order is issued within a three-year period a \$500 penalty shall be issued in accordance with Section 501.922(1), F.S. An additional penalty of \$500 shall be issued for each stop sale order issued for independent events thereafter. In addition, the department shall also revoke or suspend a registration for an unpaid fine and until such time that the fine has been paid. For the purposes of this rule, first time violations of Sections 501.918 (5), (6), (7), or (8), F.S., shall be considered minor violations.~~

(b) Major Violations: Tier I. ~~A Tier I violation shall result in the issuance of a stop sale order using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in rule 5J-22.003, F.A.C. If a second Tier I violation is discovered within a three-year period, a \$250 penalty shall be imposed. An additional penalty of \$250 shall be added to the fine amount for the previous violation and imposed for each Tier I violation discovered thereafter. Aggravating factors, as defined in paragraph (5)(a) of this section, shall warrant the adjustment of the fine upward from \$250 to \$2,500 per violation per aggravating factor and mitigating factors, as defined in paragraph (5)(b) of this section, shall warrant the adjustment of the fine downward from \$250 to \$2,500 per violation per mitigating factor. For the purposes of this rule, the following violations shall be considered Tier I violations:~~

- ~~1. Violations of section 501.916, F.S.~~
- ~~2. Violations of section 501.918(1), F.S.~~

~~3. Violations of rule 5J-23.002, F.A.C. If a complete registration package has been received by the department within 30 calendar days from the date of the stop sale order, the fine shall be mitigated to a warning letter for a first-time violation by a registrant if said registrant has never previously registered products subject to section 501.913, F.S. Subsequent violations by the same registrant for any brand within a three-year period shall not be mitigated under these provisions.~~

~~(c)(b) Major Violations: Tier II. A Tier II violation Any violation of Sections 501.91-501.923, F.S., or this rule chapter that 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 shall be considered a major violation. Major violations shall result in the issuance of a stop sale order using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in rule 5J-22.003, F.A.C., and imposition of an administrative fine of \$500 per violation, for first-time offenders of Sections 501.91-501.923, F.S., and/or~~

~~Rule Chapter 5J-23, F.A.C. within a three-year period. An additional penalty of \$500 shall be added to the fine amount for the previous violation and imposed for each Tier II violation discovered thereafter. An additional \$500 fine shall be issued for each subsequent violation within a three-year period for second-time or repeat offenders of Sections 501.91-501.923, F.S., and/or Rule Chapter 5J-23, F.A.C., not to exceed the statutory maximum of \$5,000, per violation, for second-time or repeat offenders of Chapter 501, Part V, F.S., and/or Rule Chapter 5J-23, F.A.C. Aggravating factors, as defined in paragraph (5)(a) of this section, shall warrant the adjustment of the fine upward from \$250 to \$500 per violation per aggravating factor for first-time offenders and from \$250 to \$2,500 per violation per aggravating factor for second and subsequent offenders and mitigating factors, as defined in paragraph (5)(b) of this section, shall warrant the adjustment of the fine downward from \$250 to \$500 per violation per mitigating factor for first-time offenders and from \$250 to \$2,500 per violation per mitigating factor for second and subsequent offenders, but no fine shall exceed the statutory maximum as outlined in Section 501.922(1)(b), F.S. If, three years after the day of issuance of the last stop sale order for a violation under this rule, no new violation has occurred pertaining to the specific brand of antifreeze, all previous fines shall be disregarded when administering a fine for the next violation. In addition, the department shall also revoke or suspend a registration for an unpaid fine and until such time that the fine has been paid. For the purposes of this rule, the following violations shall be considered Tier II major violations:~~

~~1. Violations of Section 501.916, F.S.~~

~~2. Violations of Section 501.918(1), (2), (3), (4) or (9), F.S.~~

~~3. Repeat violations, within a three-year period, of Section 501.918(5), (6), (7) or (8), F.S.~~

~~4. Violations of Rule 5J-23.001, F.A.C.~~

~~5. Violations of Rule 5J-23.0015, F.A.C. If a complete registration package has been received by the department within 30 calendar days from the date of the stop sale order, the fine shall be mitigated to a warning letter for a first-time violation by a registrant so long as said registrant has never previously registered products subject to this subsection in this state. Subsequent violations by same registrant for any brand within a three-year period shall not be mitigated under these provisions.~~

~~(e) Willful Violations. Any willful and intentional violation of Sections 501.91-501.923, F.S., or this rule chapter or of any requirement or standard adopted pursuant thereto, shall result in the imposition of an administrative fine of up to \$5,000 per violation and suspension of registration for a period of one year.~~

~~1. The unauthorized disposal, including the removal, transfer, or sale, of any antifreeze which is under a stop sale order;~~

~~2. Violations which result from a failure to comply with a Final Order, a notice of non compliance, a stop sale order, or any condition stipulated on a release of a stop sale order.~~

~~(7)(9) Resolution of Violations, Settlement, and Additional Enforcement Remedies.~~

~~(a) The department and person(s) charged with a violation may agree to resolve violations prior to an administrative hearing or to enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule chapter shall not be construed to limit the authority of the department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. 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 or Sections 501.91-501.923, F.S.~~

~~(b) 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 administrative fines in a Default Final Order equal to the maximum amount possible, not to exceed \$5,000 per violation.~~

~~(c) A failure to comply with either a Final Order or a Default Final Order of the department shall result in any applicable registration revocation and an administrative fine of up to \$1,000 per violation, for a first time offender and up to \$5,000 per violation, for a second or repeat offender. Additional penalties shall be sought through the enforcement of the order in circuit court.~~

~~Rulemaking Authority 501.922, 570.07(23) FS. Law Implemented 501.913, 501.918, 501.919, 501.922, 570.971 FS. History—New 6-4-14, Formerly 5F-10.003, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Harold Prince, Chief of Standards

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Nicole Fried
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 29, 2018

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-24.001	Performance Specifications and Standards for Motor Vehicle Brake Fluid
5J-24.002	Registration
5J-24.003	Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: The changes proposed herein update specifications, amend penalties, further clarify updated statutory requirements, and add requisite form references. In addition, the recent passage of SB 740 amends the testing and registration requirements and allows for up to a two-year registration. The proposed amendments implement those recent changes.

SUMMARY: The proposed rules adopt updated versions of the US Department of Transportation Motor Vehicle Safety Standards, No. 116, Motor Vehicle Brake Fluid specifications and update references to obtain copies. The proposed rules also incorporate new standards by adopting SAE International J1703 “Motor Vehicle Brake Fluid,” and SAE International J1704 “Motor Vehicle Brake Fluid Based Upon Glycols, Glycol Ethers and Corresponding Borates.” Finally, the proposed rules reflect current versions of incorporated department forms, including the registration application, which must be updated to comply with ch. 2018-84, 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 of potential regulatory costs of the proposed rule did not exceed any of the criteria established in paragraph 120.541(2)(a), Florida Statutes. The proposed revisions update a form incorporated by reference, update several form references, update standards incorporated by reference, and revise the penalty section. There are no increased regulatory costs associated with these revisions. Likewise, newly adopted standards reflect current industry practices and will not impose any increased regulatory costs. Moreover, changes to the registration requirements will significantly reduce the costs associated with first-time registrations by eliminating the need

for applicants to submit product samples and to pay associated shipping fees. 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: 526.52(1), 526.53(4), 570.07(23) FS.

LAW IMPLEMENTED: 526.51, 526.52, 526.53, (1), (2), 526.54, 526.55, 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: Harold Prince, Chief, Bureau of Standards, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399 (850)921-1570

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-24.001 Performance Specifications and Standards for Motor Vehicle Brake Fluid.

(1) The performance specifications and standards for brake fluid adopted by the United States Department of Transportation and contained in Motor Vehicle Safety Standard No. 116, Motor Vehicle Brake Fluids, revised October 1, 2017 ~~2011~~, as referenced in 49 CFR 571.116, are hereby incorporated by reference ~~adopted~~ as rules of the Department of Agriculture and Consumer Services. Copies of this publication may be obtained from the Superintendent of Documents, U.S. Government Publishing Office, 732 N. Capitol Street NW, Washington, D.C. 20401, or at http://www.flrules.org/Gateway/reference.asp?No=Ref-_____.

(a) The performance specification and standard for brake fluid is hereby incorporated by reference: SAE International J1703 "Motor Vehicle Brake Fluid," revised July 14, 2016.

(b) The performance specification and standard for brake fluid is hereby incorporated by reference: SAE International J1704 "Motor Vehicle Brake Fluid Based Upon Glycols, Glycol Ethers and the Corresponding Borates," revised July 14, 2016.

~~(2) The violation of any provisions or standards of this rule is subject to penalties, provided in Chapter 526, Part II, F.S.~~

~~(2) (3) Materials.~~ The preceding materials are hereby incorporated by reference. Copies of the SAE publications referenced in this rule may be obtained at <http://standards.sae.org>, and are also available for public inspection during regular business hours at the Florida Department of Agriculture and Consumer Services, Bureau of Standards, 3125 Conner Boulevard, Tallahassee, FL 32399-

1650. Posting of this material on the internet for purposes of public examination would violate federal copyright law. this publication may be obtained from Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, S.E., Washington D.C. 20590 or <http://www.fmcsa.dot.gov/rules-regulations/administration/fmesr/fmesrruletext.aspx?reg=571-116>.<http://www.flrules.org/Gateway/reference.asp?No=Ref-03649>

~~(3) (4)~~ In accordance with §Section 526.53(2)(a), F.S., any brake fluid brand/formula sold, offered, or exposed for sale distributed in violation of §Sections 526.50 – 526.56, F.S., or this rule chapter shall be placed under stop sale order by the department using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in rule 5J-22.003, F.A.C., 42/42, and FDACS 03537, Warning Tag, Rev. 08/12, prohibiting the sale of the brake fluid brand/formula combination. Upon resolution of the violation, the brake fluid shall be released by the department, using FDACS-03209, Release, Rev. 02/17 as incorporated by reference in rule 5J-22.002, F.A.C. ~~The documents referenced in this subsection are incorporated by reference in Rule 5F 2.001, F.A.C.~~

Rulemaking Authority 526.52(1), 526.53(4), 570.07(23) FS. Law Implemented 526.52, 526.53(1), (2), 526.54 FS. History—New 5-8-78, Formerly 5F-6.01, Amended 12-9-98, 12-9-02, 6-21-04, 2-26-14, Formerly 5F-6.001, Amended _____.

5J-24.002 Registration.

(1) In accordance with section 526.51, F.S., ~~e~~Each brake fluid brand/formula combination ~~to be distributed in this state~~ shall be registered or renewed annually or biennially with the department prior to being sold, offered, or exposed for sale. ~~distribution and~~ Registrant shall make application on FDACS-03212, Brake Fluid Registration Application for Registration of Brake Fluid or Formula Addition to a Currently Registered Brand, Rev. 02/19 40/42, hereby incorporated by reference, ~~if not being renewed under the provisions of subsection (2) of this rule.~~ Copies of this form may be accessed at <http://www.flrules.org/Gateway/reference.asp?No=Ref-03647>. Application shall be made by the owner of the brand name or, pursuant to §Section 526.51(1)(a), F.S., by an applicant providing an affidavit from the brand name owner authorizing applicant to make application for registration. Upon successful registration, pursuant to §Section 526.51, F.S., and this rule chapter, the department shall permit the brake fluid brand/formula combination authorizing the sale, offering, or exposing for sale ~~distribution~~ of the specified brake fluid brand/formula combination in this state for the permit period year.

(2) Application for renewal shall be made on FDACS-03212, Brake Fluid Registration Application, Rev. 02/19, as incorporated in subsection (1) of this rule.~~In order to be~~

~~considered as a renewal and in addition to the requirements listed in Section 526.51, F.S., any brake fluid brand/formula combination previously registered for distribution in this state in the permit year immediately preceding the current permit year for which application is being made, must also have all associated application materials submitted to the department by the applicant prior to July 1 of the upcoming permit year for which applicant is seeking registration. Application for renewal shall be made on FDACS 03213, Application for Renewal of Registration of Brake Fluid, Rev. 10/12, hereby incorporated by reference. Copies of this form may be accessed at <http://www.flrules.org/Gateway/reference.asp?No=Ref 03648>. If any one or more components of the application package and/or associated registration elements are received after the current permit expiration date July 1, a late fee of \$25 shall be added applied to the renewal fee. Upon successful renewal of registration, pursuant to Section 526.51, F.S., and this rule chapter, the department shall permit the renewed brake fluid brand/formula combination authorizing the sale, offering, or exposing for sale distribution of the specified brake fluid brand/formula combination in this state for the permit period year.~~

(3) Any unregistered brand of brake fluid that was registered in the immediately preceding registration period and has not been or is not currently in the process of being renewed shall be disposed of by the registrant within 30 ~~90~~ days of registration expiration. Disposal shall be the responsibility of the registrant and in a manner as prescribed below. If the product has been placed under stop sale order by the department, it must be released by the department prior to the execution of any disposal method. Acceptable disposal methods:

(a) Removal of all unregistered brake fluid product from this state, not to be sold, offered, or exposed for sale distributed again in this state until successful registration has been completed, or;

(b) Donation of product to a non-profit organization for consumption may be allowed as ~~so~~ long as all donated product has not been adulterated and meets all specifications for quality, ~~adulteration,~~ and labeling for brake fluid products, as prescribed in ~~§~~Section 526.52 ~~526.53~~, F.S., and this rule chapter.

Rulemaking Authority 526.53(4), 570.07(23) FS. Law Implemented 526.51, 526.52, 526.53 FS. History—New 2-26-14, Formerly 5F-6.002., Amended _____.

5J-24.003 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the department will follow in imposing the penalties authorized under §Sections 526.51(3), 526.53 and 526.55, F.S. The purpose of the guidelines is to give notice of the range of penalties that, which

~~normally~~ will be imposed for a single violation within a three-year period. The three-year period shall be based on the date of issuance of the stop sale order. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. ~~No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$1,000 per violation for a first time offender or \$5,000 per violation for second time or subsequent offender, or for a willful and intentional violation.~~ 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 an overall total penalty and will be grounds for enhancement of penalties.

(2) No change.

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

(4) No change.

(5) Aggravating and Mitigating Factors. The department will consider aggravating and mitigating factors in determining penalties for violations of Chapter 526, Part II, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors shall include:

1. The violation caused or has the potential to cause harm to a person or property ~~and the degree or extent of such harm.~~

2. No change.

3. Previous enforcement actions ~~violations~~ for the same or a similar offense ~~that resulted in enforcement action.~~

4. The length of time the business has been in operation and the violation disciplinary history of the violator, over the past three years including any disciplinary action imposed in this or any other jurisdiction.

~~5. The violation existed for more than one month.~~

~~5. 6.~~ No change.

~~6. 7.~~ No change.

~~8. Previous disciplinary action against the violator in this or any other jurisdiction and the deterrent effect of the penalty imposed.~~

~~7. 9.~~ Failure to take or initiate affirmative or corrective action within 48 hours after receipt of the stop sale order for the violation.

~~8. 10.~~ Whether T the violation resulted from ~~negligence or~~ an intentional act.

~~11. The cost of enforcement action.~~

~~9. 12.~~ No change.

~~10. 13.~~ No change.

(b) Mitigating Factors shall include:

1. No change.

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

3. ~~Documented~~ Financial hardship.

4. Acts of God or nature that impaired the ability of the violator to comply with Chapter 526, Part II, F.S., or ~~this rule~~ Chapter 5J-24, F.A.C.

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

~~6.~~ The violator ~~expeditiously~~ took or initiated affirmative or corrective action within 48 hours after it received written notification of the violation, including costs incurred by the violator for rectifying any damage or harm to consumers vehicles and/or property.

~~7. The number and seriousness of the counts in the administrative complaint.~~

~~6.~~ ~~8.~~ No change.

~~7.~~ ~~9.~~ If a repeat violation, ~~whether~~ three years have has passed since the prior violation.

~~8.~~ ~~10.~~ A statement, in writing, provided to the department ~~during an investigation~~ declaring acceptance of responsibility for a 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.~~

~~(6)~~ ~~(8)~~ Penalties.

(a) Minor Violations. A violation of Chapter 526, Part II, F.S., or this rule chapter 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 the issuance of a stop sale order using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in rule 5J-22.003, F.A.C. If a third stop sale order for a minor violation is issued to a business within a three year period a \$500 penalty shall be issued in accordance with Section 526.55, F.S. An additional penalty of \$500 shall be issued for each stop sale order issued for independent events thereafter. In addition, the department shall also revoke or suspend a registration for an unpaid fine and until such time that the fine has been paid. For the purposes of this rule, the following violations shall be considered minor violations:

1. Violations of ~~s~~Section 526.52(3)(a), F.S.

2. Violations of ~~s~~Section 526.52(3)(b), F.S.

3. Violations of ~~s~~Section 526.53(5), F.S.

~~(b) Major Violations: Tier I. – A Tier I violation shall result in the issuance of a stop sale order using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in Rule 5J-22.003, F.A.C. If a second Tier I violation is discovered within a three-year period, a \$250 penalty shall be imposed. An additional penalty of \$250 shall be added to the fine amount for the previous violation and imposed for each Tier I violation discovered thereafter. Aggravating factors, as defined in paragraph (5)(a) of this rule, shall warrant the adjustment of the fine upward from \$250 to \$2,500 per violation per aggravating factor and mitigating factors, as defined in paragraph (5)(b) of this rule, shall warrant the adjustment of the fine downward from \$250 to \$2,500 per violation per mitigating factor. For the purposes of this rule, the following violations shall be considered Tier I violations:~~

~~1. Violations of subsection 5J-24.002(1), F.A.C. If a complete registration package has been received by the department within 30 calendar days from the date of the stop sale order, the fine shall be mitigated to a warning letter for a first time violation by a registrant if said registrant has never previously registered products subject to this subsection in this state. Subsequent violations by same registrant for any brand/formula combination within a three-year period shall not be mitigated under these provisions.~~

~~2. Violations of subsection 5J-24.002(3), F.A.C.~~

~~(c) (b) Major Violations: Tier II. A Tier II violation Any violation of Chapter 526, Part II, F.S., or this rule chapter that 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 shall be considered a major violation. Major violations shall result in the issuance of a stop sale order using FDACS-03206, Stop Sale Order, Rev. 02/17, as incorporated by reference in rule 5J-22.003, F.A.C., and imposition of an administrative fine of \$500 per violation for first-time offenders of Chapter 526, Part II, F.S., and/or ~~r~~Rule ~~c~~Chapter 5J-24, F.A.C., within a three-year period. An additional penalty of \$500 shall be added to the fine amount for the previous violation and imposed for each Tier II violation discovered thereafter. An additional \$500 fine shall be issued for each subsequent violation within a three year period for second time or repeat offenders of Chapter 526, Part II, F.S. and/or Rule Chapter 5J-24, F.A.C., not to exceed the statutory maximum of \$5,000 per violation. Aggravating factors, as defined in paragraph (5)(a) of this ~~rule~~ section, shall warrant the adjustment of the fine upward from \$250 to \$2,500 per violation per aggravating factor and mitigating factors, as defined in paragraph (5)(b) of this ~~rule~~ section, shall warrant the adjustment of the fine downward from \$250 to \$2,500 per violation per mitigating factor, ~~but no fine shall exceed the statutory maximum as outlined in Section 526.55. If, three years~~~~

~~after the day of the last violation under this rule, no new violation has occurred pertaining to the specific brand/formula combination of brake fluid, all previous fines shall be disregarded when administering a fine for the next violation. In addition, the department shall also revoke or suspend a registration for an unpaid fine and until such time that the fine has been paid. For the purposes of this rule, the following violations shall be considered Tier II major violations:~~

1. No change.

~~2. Violations of section 526.52(2), F.S. Violations of subsection 5J 24.002(1), F.A.C. If a complete registration package has been received by the department within 30 calendar days from the date of the stop sale order, the fine shall be mitigated to a warning letter for a first time violation by a registrant if said registrant has never previously registered products subject to this subsection in this state. Subsequent violations by same registrant for any brand/formula combination within a three-year period shall not be mitigated under these provisions.~~

~~3. Violations of subsection 5J 24.002(3), F.A.C.~~

~~3. 4. No change.~~

~~(c) Willful Violations. Willful violations shall result in the imposition of an administrative fine of \$5,000 per violation and suspension of registration for a period of one year. The following shall constitute a willful violation:~~

~~4. 1. Any willful and intentional violation of a stop sale order or the conditions stipulated on a release.~~

~~2. Failure to comply with either a Final Order or a Default Final Order of the department.~~

~~(9) Resolution of Violations, Settlement, and Additional Enforcement Remedies.~~

~~(a) The department and person(s) charged with a violation may agree to resolve violations prior to an administrative hearing or to enter into settlement pursuant to sSection 120.57(4), F.S. The penalties addressed in this rule chapter shall not be construed to limit the authority of the department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. 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 cChapter 120 and or cChapter 526, Part II, F.S.~~

~~(b) No change.~~

~~(c) A failure to comply with either a Final Order or a Default Final Order of the department shall result in any applicable registration revocation and an administrative fine of \$5,000 per violation. Additional penalties shall be sought through the enforcement of the order in circuit court.~~

Rulemaking Authority 526.53(4), 570.07(23) FS. Law Implemented 526.55, 570.971 FS. History—New 2-26-14, Formerly 5F-6.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Harold Prince, Chief of Standards

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Nicole Fried

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 29, 2018

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: RULE TITLE:

59A-6.020 Licensure Procedure

PURPOSE AND EFFECT: The Agency is proposing to amend Rule 59A-6.020, F.A.C., to implement changes to Section 483.294, F.S., which was amended to remove the annual inspection requirement for multiphasic health testing centers.

SUMMARY: Rule 59A-6.020, F.A.C., outlines the licensure procedure for multiphasic health testing centers. The proposed changes will update application forms incorporated by reference, align inspection requirements with s. 408.811, F.S., and clarify application requirements.

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: A SERC has not been prepared by the agency. For rules listed where no SERC was prepared, the Agency prepared a checklist for each rule to determine the necessity for a SERC. Based on this information at the time of the analysis and pursuant to section 120.541, Florida Statutes, the rule will not require legislative ratification.

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: 408.033, 408.819, 483.291, F.S.

LAW IMPLEMENTED: 408.033, 408.805, 408.806, 408.809, 408.810, 408.811, 483.285, 483.291, 483.30, 483.302, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, April 23, 2019, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room D, Tallahassee, FL 32308.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Josei Ponce, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, (850)412-4374. 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 are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Josei Ponce at (850)412-4374 or email at: Josei.Ponce@ahca.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-6.020 Licensure Procedure.

~~(1) A license from the agency is required to conduct, maintain or operate a multiphasic health testing center in this state, unless such center is exempt from licensure as specified in Section 483.285, F.S. The issuance of a multiphasic health testing center license shall be based upon compliance with Chapters 483, Part I, and 408, Part II, F.S., and Rule Chapters 59A-6 and 59A-35, F.A.C., as evidenced by a signed, complete and accurate Health Care Licensing Application, Multiphasic Health Testing Center, AHCA 3170-4001, April 2019, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX> and an inspection as required in Sections 483.294 and 408.806(7), F.S. Applicants for renewal of a multiphasic health testing center license may submit the Health Care Licensing Online Application, Multiphasic Health Testing Center, AHCA Form 3170-4001OL, April 2019, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>. The application forms are available online at <http://www.ahca.myflorida.com/HQALicensureforms> or, for online renewal submissions, at: <http://apps.ahca.myflorida.com/SingleSignOnPortal>.~~

(2) The following documents shall accompany the initial,

change of ownership, or renewal application:

~~(a) For a corporate applicant, a current certificate of status or authorization pursuant to Section 607.0128, F.S.~~

~~(b) Roster of personnel employed by the center including a listing of health care professionals performing fecal occult blood and dipstick urinalysis authorized in subsection 59A-6.022(15), F.A.C., which includes title, position held, and current certification number, if applicable.~~

~~(c) A statement of services offered including a list of equipment and test menu.~~

~~(d) Name and address of hospitals, providers of laboratory and electrocardiograph services, or other facilities or individuals providing services for the center.~~

~~(a) (e) Curriculum vitae for the medical director.~~

~~(b) (f) Evidence of certification by the American Board of Internal Medicine in Cardiology or the American Board of Radiology for the individual in the event such individual is designated by the medical director of a contract multiphasic health testing center to read and interpret electrocardiograms and x-rays.~~

~~(c) (g) Evidence of registration from the Department of Health to provide HIV testing as stipulated in Rule 64D-2.006, F.A.C., if HIV specimens are collected for analysis.~~

~~(d) (h) If a center performs waived testing as defined by Section 483.041, F.S., evidence of authorization under the federal Clinical Laboratory Improvement Amendments of 1988 to perform such testing must be submitted.~~

~~(e) (i) Evidence of current registration under Chapter 404, F.S., for all x-ray equipment.~~

~~(f) (j) Evidence of issuance of a current permit or exemption from such permitting pursuant to Section 381.0098, F.S.~~

~~(g) (k) Proof of liability insurance as defined in Section 624.605, F.S., shall be submitted at the time of application. The liability insurance policy shall contain the name and physical address of the facility and the dates of coverage and shall document that coverage is generally appropriate for the facility.~~

~~(h) Such other information requested on the Health Care Licensing Application, Multiphasic Health Testing Center, AHCA 3170-4001, July 2014, incorporated by reference. This form is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04588> and available from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop #32, Tallahassee, Florida 32308, or at the web address at: <http://ahca.myflorida.com/HQALicensureforms>.~~

~~(m) The license fee shall be \$652.64 per biennium and shall conform to the annual adjustment of Section 408.805, F.S.~~

~~(3) Each license is valid only for the person or entity to whom it is issued and may not be sold, assigned, or transferred voluntarily or involuntarily. A license is not valid for any~~

~~premises or mobile facility other than that for which originally issued. A center must be relicensed if a change of ownership occurs. Application for relicensure must be made to the agency 60 days prior to the change of ownership. When a multiphasic health testing center is leased by the owner to a second party for operation, said second party must apply for a new license. A copy of the lease agreement or signed statement showing which party is to be held responsible for the organization, operation and maintenance of the multiphasic health testing center shall be filed with the application. A license shall be returned to the agency immediately upon change of ownership or classification, suspension, revocation, or voluntary cessation of operations.~~

~~(3) (4) Upon receipt of the completed initial application, the agency shall conduct a survey pursuant to Section 408.811, F.S. The inspection shall be conducted on a biennial ~~an annual~~ basis thereafter.~~

~~(5) A separate license shall be required for each multiphasic health testing center when more than one (1) multiphasic health testing center, is operated under the same ownership or management.~~

~~(6) A licensee shall notify the agency by certified mail of impending closure of a licensed center, thirty (30) days prior to such closure. The license shall be surrendered to the agency immediately following cessation of operations.~~

Rulemaking Authority 408.033, 408.819, 483.291 FS. Law Implemented 408.033, 408.805, 408.806, 408.809, 408.810, 408.811, 483.285, 483.291, 483.30, 483.302 FS. History—New 3-20-94, Amended 5-1-96, 9-28-14, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Josei Ponce
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mary C. Mayhew
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2019
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 17, 2019

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: RULE TITLE:
59A-8.002 Definitions
59A-8.003 Licensure Requirements

PURPOSE AND EFFECT: The Agency is amending the rules related to home health agencies to delete definitions that are obsolete within the rule chapter or are defined elsewhere. The rule is also amended to update licensing application forms, modify application requirements for non-skilled home health agencies to add skilled services due to statutory changes, make technical changes and clarify requirements relating to surveys.

SUMMARY: The licensure requirements for home health agencies are being revised to conform to statutory changes in Chapter 400, Part III, F.S. that became effective on July 1, 2018. Rule 59A-8.002 is amended to delete definitions that are obsolete within the rule chapter or are defined in the authorizing statute, Chapter 408, Part II, Florida Statutes or 59A-35, Florida Administrative Code. Rule 59A-8.003, F.A.C. is amended to update the home health agency licensing application form, modify application requirements relating to the addition of skilled services by a non-skilled home health agency due to statutory changes, and to make technical changes to remove duplicative language found in the authorizing statute and in Chapter 408, Part II, Florida Statutes, and for clarification relating to surveys.

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: A SERC has not been prepared by the agency. For rules listed where no SERC was prepared, the Agency prepared a checklist for each rule to determine the necessity for a SERC. Based on this information at the time of the analysis and pursuant to section 120.541, Florida Statutes, the rule will not require legislative ratification.

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: 400.497, 408.819 FS.

LAW IMPLEMENTED: 400.462, 400.464, 400.471, 400.474, 400.484, 400.487, 400.497, 408.806, 408.807, 408.810 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: April 23, 2019, 10:00 a.m. - 11:00 a.m.

PLACE: Agency for Health Care Administration Ft. Knox Bldg. 3, Conference Room D, 2727 Mahan Drive, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: If you are hearing or speech impaired, please

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ruby Grantham, Laboratory and In-Home Services Unit, Bureau of Health Facility Regulation, Ruby.Grantham@ahca.myflorida.com or (850)412-4386

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-8.002 Definitions.

(1) "Accrediting organization" means the Community Health Accreditation Program, The Joint Commission, or Accreditation Commission for Health Care.

(2) "AHCA" means Agency for Health Care Administration.

(3) "Assistance with activities of daily living" means a certified nursing assistant or a home health aide provides to the patient individual assistance with activities of daily living, including the following:

(a) Ambulation. Providing physical support to enable the patient to move about within or outside of the patient's place of residence. Physical support includes holding the patient's hand, elbow, under the arm, or holding on to a support belt worn by the patient to assist in providing stability or direction while the patient ambulates.

(b) Bathing. Helping the patient in and out of the bathtub or shower being available while the patient is bathing. Can also include washing and drying the patient.

(c) Dressing. Helping patients, who require assistance in dressing themselves, put on and remove clothing.

(d) Eating. Helping with feeding patients who require assistance in feeding themselves.

(e) Personal hygiene. Helping the patient with shaving. Assisting with oral, hair, skin and nail care.

(f) Toileting. Reminding the patient about using the toilet, assisting him to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing of an adult brief. Also includes assisting with positioning the patient on the bedpan, and helping with related personal hygiene.

(g) Assistance with physical transfer. Providing verbal and physical cueing, physical assistance, or both while the patient moves from one position to another, for example between the following: a bed, chair, wheelchair, commode, bathtub or shower, or a standing position. Transfer can also include use of a mechanical lift, if a home health aide is trained in its use.

(h) Assistance with self-administered medication, as defined in subsection 59A-8.0095(5), F.A.C.

(4) "Caregiver" means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a disabled adult or an elderly person on a temporary or permanent basis and who has a commitment,

agreement, or understanding with that person or that person's guardian that a caregiver role exists. Caregivers include, for example, relatives, household members, guardians, friends, neighbors, and employees and volunteers of facilities.

(5) "Case management" means the initial assessment of the patient and caregiver for appropriateness of and acceptance for home health services; establishment and periodic review of a plan of care; implementation of medical treatment when ordered; referral, follow-up, provision of, evaluation of and supervision of care; coordination of services given by other health care providers; and documentation of all activities and findings.

(6) "DCF" means the Department of Children and Family Services.

(7) "Dietetics and nutrition practice" means assessing nutrition needs and status using appropriate data; recommending dietary regimens, nutrition support, and nutrient intake; improving the patient's health status through nutrition counseling and education.

(8) "Dietitian/Nutritionist" means a person licensed to engage in dietetics and nutrition practice pursuant to Chapter 468, F.S.

(9) "Drop-off site" means any location in any county within the geographic service area of the main office, pursuant to subsection 59A-8.003(9), F.A.C.

(10) "Emergency Management Plan" means a comprehensive plan developed by the home health agency describing how the agency will prepare for and respond in an emergency, pursuant to Rule 59A-8.027, F.A.C.

(11) "Employee leasing company" means a company licensed and regulated under Chapter 468, Part XI, F.S. A leasing company handles the payroll and taxes on leased employees. While an employee leasing company pays the withholding taxes, the employee is still considered a direct employee, as defined in Section 468.534, F.S., of the home health agency.

~~(12) "FBI" means the Federal Bureau of Investigation.~~

~~(13) "FDLE" means the Florida Department of Law Enforcement.~~

~~(14) "Financial instability" means the home health agency cannot meet its financial obligation. Evidence such as the issuance of bad checks or an accumulation of delinquent bills shall constitute prima facie evidence that the ownership of the home health agency lacks the financial ability to operate. Evidence also includes the Medicare or Medicaid program's indications or determination of financial instability or fraudulent handling of government funds by the home health agency.~~

~~(12) (15) "Full-time equivalent" means when an employee works between 37 to 40 hours per week.~~

~~(13) (16) "Geographic service area" means one or more~~

counties within a health service planning district defined in Section 408.032(5), F.S., as specified on the license, in which the home health agency may send its personnel to provide home health services to patients in their places of residence.

(14) ~~(17)~~ “Home infusion therapy services” means teaching, assessment, evaluation and clinical services related to the administration of intravenous substances provided by a professional licensed under Chapter 464, 458 or 459, F.S.

(15) ~~(18)~~ “Licensed nurse,” as defined in Sections 464.003(4) and 464.003(5), F.S., means a registered nurse licensed to practice professional nursing or a licensed practical nurse licensed to practice nursing under the direction of a physician or registered nurse pursuant to Chapter 464, F.S.

(16) ~~(19)~~ “Main office” means the primary office established in the county which houses all components of the home health agency including the administration, fiscal management, service provision and supplies.

(17) ~~(20)~~ “Nursing care” means treatment of the patient’s illness or injury by a registered nurse or a licensed practical nurse that is ordered as required in Section 400.487(2), F.S. and included in the plan of care.

(18) ~~(21)~~ “Nutrition assessment” means the evaluation of the nutrition needs of the patient using appropriate data to determine nutrient needs or status and make nutrition recommendations for the patient.

(19) ~~(22)~~ “Nutrition counseling” means advising and assisting the patient on appropriate nutrition intake by integrating information from the nutrition assessment.

(20) ~~(23)~~ “Occupational therapist” means a person licensed to practice occupational therapy pursuant to Chapter 468, F.S.

(21) ~~(24)~~ “Occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy pursuant to Chapter 468, F.S.

(22) ~~(25)~~ “Patient” means an individual who receives home health services in one’s place of residence.

(23) ~~(26)~~ “Plan of Care” means a coordinated plan, which includes the treatment orders, prepared by the case manager in collaboration with each professional discipline providing service to the patient and caregiver.

(24) ~~(27)~~ “Physical therapist” means a person licensed to practice physical therapy pursuant to Chapter 486, F.S.

(25) ~~(28)~~ “Physical therapy assistant” means a person licensed to assist in the practice of physical therapy pursuant to Chapter 486, F.S.

(26) ~~(29)~~ “Physician” means a doctor of medicine, osteopathy, podiatry, or chiropractic legally authorized to practice in the state pursuant to Chapter 458, 459, 460 or 461, F.S. Physicians working in Veterans Administration hospitals and clinics are exempt from state licensure according to Chapter 458, F.S.

(30) ~~“Providing one service directly” means the agency~~

~~must provide one service, in part, by direct employees.~~

(27) ~~(31)~~ “Quality assurance plan” means a plan which is developed and implemented by a home health agency to review and evaluate the effectiveness and appropriateness of service provision to patients and, upon identification of problems, requires specific action to correct the problems and deficiencies.

(28) ~~(32)~~ “Respiratory therapist” means a person licensed to practice respiratory therapy pursuant to Chapter 468, F.S.

(29) ~~(33)~~ “Satellite office” means a related office established in the same geographic service area as the main office, pursuant to subsection 59A-8.003(7), F.A.C.

(30) ~~(34)~~ “Social Worker” means a person who has a degree in social work and who works with patients and families to help them adjust to the social and emotional factors related to the patient’s health problems.

(31) ~~(35)~~ “Special needs patients” pursuant to Section 252.355, F.S., means those persons who have physical or mental conditions that require limited medical and nursing oversight during emergency evacuations. They are medically dependent individuals who are not acutely ill.

(32) ~~(36)~~ “Special needs registry” pursuant to Section 252.355, F.S., means a registry maintained by the local emergency management agency of persons who need assistance during evacuations and sheltering because of physical or mental handicaps.

(33) ~~(37)~~ “Speech pathologist” means a person licensed to practice speech pathology or audiology pursuant to Chapter 468, F.S.

(34) ~~(38)~~ “Treatment orders” means written orders signed by a physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, which authorizes the provision of care or treatment to a patient in his place of residence by licensed Nurses, Physical Therapists, Occupational Therapists, Speech Therapists, or Dietitians/Nutritionists.

Rulemaking Authority 400.497 FS. Law Implemented 400.462, 400.487 FS. History—New 4-19-76, Formerly 10D-68.02, Amended 4-30-86, 8-10-88, 5-30-90, 5-27-92, Formerly 10D-68.002, Amended 4-27-93, 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, 7-11-13, 7-27-16, _____.

59A-8.003 Licensure Requirements.

(1) The issuance of a home health agency license shall be based upon compliance with Chapters 400, Part III, and 408, Part II, F.S., and Rule Chapters 59A-8 and 59A-35, F.A.C., ~~as evidenced by a signed, complete and accurate Health Care Licensing Application, Home Health Agency, AHCA Form 3110 1011, March 2016, incorporated by reference and available _____ at http://www.flrules.org/Gateway/reference.asp?No=Ref_07060,~~ and an inspection as required in Sections 400.471(2) and

408.806(7), F.S. An application for initial, change of ownership, or renewal licensure, or for the addition of skilled services by a home health agency that is currently licensed to provide services other than skilled services, shall be submitted on the Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, April 2019, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>, and accompanied by the Health Care Licensing Application Addendum referenced in subsection 59A-35.060(1), F.A.C. Applicants for renewal of a home health agency license or for a change during the licensure period may submit the Health Care Licensing Online Application, Home Health Agency, AHCA Form 3110-1011OL, April 2019 ~~March 2016~~, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. The application forms are available online at <http://www.ahca.myflorida.com/HQALicensureforms> or, for online renewal or change during the licensure period submissions, at: <http://apps.ahca.myflorida.com/SingleSignOnPortal>.

~~(2) An application for renewal of the current license must be submitted to AHCA at least 60 days prior to the date of expiration of the license, pursuant to Section 408.806, F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license.~~

~~(2)~~ ~~(3)~~ Surveys of Home Health Agencies:

(a) Home health agencies will be surveyed by AHCA or an accrediting organization as defined in Rule 59A-8.002, F.A.C., pursuant to subsection 400.471(2) and Sections 408.806 and 408.811, F.S. Home health agencies will be surveyed prior to initial licensure, and at least every 36.9 months on an unannounced basis thereafter. Follow up surveys may be conducted to verify correction of deficiencies at any time on an unannounced basis.

(b) It is the responsibility of the home health agency to request exemption from state licensure surveys pursuant to Section 400.471(2), F.S., by submitting documentation of accreditation by an approved accrediting organization and the most recent accreditation survey report from the accrediting organization to the AHCA Laboratory and In-Home Services Home Care Unit.

(c) Home health agencies that complete paragraph (a), will not be subject to licensure surveys by AHCA except under the following circumstances:

1. The home health agency has been denied accreditation, has received a preliminary determination of denial of accreditation, or has received a provisional, conditional, or deferred accreditation report from the accrediting organization

on its most recent survey, or

2. The home health agency has received accreditation but has not authorized the release of the accreditation survey report to the AHCA, or has not ensured that AHCA has received the accrediting organization's survey report.

3. ~~The home health agency that provides only non-skilled services and is not Medicare or Medicaid certified is no longer required to be accredited as of July 1, 2014 pursuant to Section 400.471(2)(h), F.S.~~ If the home health agency elects to give up its accreditation, the home health agency will inform AHCA by providing a copy of the letter it sent to its accrediting organization that shows the accreditation termination date.

(3) ~~(4)~~ AHCA will conduct investigations of complaints regarding licensure violations as required in Section 408.811, F.S.

~~(5) In addition to any other penalties imposed pursuant to this rule, the agency may assess costs related to an investigation that results in a successful prosecution, pursuant to Section 400.484(3), F.S. The prosecution can be resolved by stipulation settlement or final hearing. The following costs may apply: travel costs related to the investigation; investigative time by AHCA's surveyor or surveyors including travel time; processing time by AHCA's professional staff and administrative support staff of Field Operations, and processing time for administrative support staff and professional staff of the AHCA Licensed Home Health Programs Unit in Tallahassee. The costs related to AHCA's professional staff and support staff will be determined according to the hourly rate of pay for those positions.~~

(4) ~~(6)~~ An application for a change of ownership shall be made on the forms prescribed by AHCA, as referenced in subsection (1) of this rule.

~~(a) The buyer or lessee must make application to AHCA for a new license at least 60 days before the date of the transfer of ownership as required by Sections 408.807(1) and (2), F.S.~~

~~(a)~~ ~~(b)~~ At the time of the transfer of ownership all patient or client records held by the current licensee shall be transferred to the applicant.

~~(b)~~ ~~(c)~~ AHCA will accept the most recent successful licensure inspection conducted no more than 36.9 months prior to the effective date of the change of ownership as satisfaction of the inspection requirement in Section 408.806(7), F.S. related to an application associated with a change in ownership of a licensed home health agency. Acceptance of the inspection does not alter the survey timeframes established in paragraph (3)(a).

~~(c)~~ ~~(d)~~ Failure to apply for a change of ownership of a licensed home health agency as required by Section 408.806(2)(b), F.S., shall result in a fine pursuant to subsection 400.474(1) and paragraphs (2)(a) and 408.813(3)(b), F.S. This is also applicable to owners who incorporate and do not report

this change of ownership to the home health agency.

(5) ~~(7)~~ A licensed home health agency may operate a satellite office. A satellite office must be located in the same geographic service area as the agency's main office and share administration, fiscal management, supervision, and service provision with the main office; it is not separately licensed. Supplies and records can be stored at a satellite office and phone business can be conducted the same as in the main office. The administrator at the main office is responsible for the staffing, patients, and operation of any satellite office. Signs and advertisements can notify the public of the satellite office location. If the agency wants to open an office outside of the geographic service area where the main office is located, the office must be separately licensed.

(6) ~~(8)~~ A home health agency that operates a satellite office must:

(a) Ensure coverage of the professional staff which takes into account the projected number of clients to be served at the satellite office;

(b) Coordinate care and services by staff;

(c) Ensure supervision of the staff and provision of services in the event of staff absenteeism;

(d) Maintain a system of communication and integration of services between the main office and the satellite office;

(e) Provide access to patient records at the satellite office;

(f) Monitor the daily activities (clinical and administrative) and the management of services, as well as personnel and administrative issues at the satellite office;

(g) Ensure periodic onsite visits to each satellite office by the home health agency's administrator;

(h) Make the satellite ~~office's~~ ~~offices~~ hours of operation available to the public if different than the hours of operation maintained by the main office.

(7) ~~(9)~~ A licensed home health agency may operate a drop-off site in any county within the geographic service area specified on the license. A drop-off site may be used for pick-up or drop-off of supplies or records, for agency staff to use to complete paperwork or to communicate with the main office, existing or prospective agency staff, or the agency's existing patients or clients. Prospective patients or clients cannot be contacted and billing cannot be done from this location. The drop-off site is not a home health agency office, but merely a work station for direct care staff in large areas where the distance is too great for staff to drive back frequently to the home health agency office. Training of home health agency staff can be done at a drop-off site. A drop-off site shall not require a license. No other business shall be conducted at these locations, including housing of records. The agency name cannot appear at the location, unless required by law or by the rental contract, nor can the location appear on agency letterhead or in advertising.

(8) ~~(10)~~ If a change of address is to occur, or if a home health agency intends to change the counties served within the geographic service area, or open or close a satellite office or drop-off site, the home health agency must complete and submit the Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, April 2019 ~~March 2016~~ or the Health Care Licensing Online Application, Home Health Agency, AHCA Form 3110-1011OL, April 2019, incorporated by reference in subsection (1) above, within the timeframe prescribed in paragraph 59A-35.040(2)(b), F.A.C. For an address change of the main office or satellite office, the ~~The~~ home health agency must submit to the AHCA ~~Home Care Unit~~ evidence that the location is zoned for a home health agency business for the new address ~~or satellite office~~ and evidence of legal right to occupy the property in accordance with Section 408.810(6), F.S. ~~To add or delete a drop-off site, the home health agency must complete and submit the Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, March 2016, incorporated by reference in subsection (1) above.~~

(9) ~~(11)~~ A home health agency has the following responsibility in terms of hours of operation:

(a) The home health agency administrator and director of nursing, or their alternates, must be available to the public for any eight consecutive hours between 7:00 a.m. and 6:00 p.m., Monday through Friday of each week, excluding legal and religious holidays. Available to the public means being readily available on the premises or by telecommunications.

(b) When the administrator and the director of nursing are not on the premises during designated business hours, a staff person must be available to answer the phone and the door and must be able to contact the administrator and the director of nursing by telecommunications. This individual can be a clerical staff person.

(c) If an AHCA surveyor arrives on the premises to conduct an unannounced survey and the administrator, the director of nursing, or a person authorized to give access to patient records, are not available on the premises they, or the designated alternate, must be available on the premises within an hour of the arrival of the surveyor. A list of current patients must be provided to the surveyor within two hours of arrival if requested.

(d) The home health agency shall have written policies and procedures governing 24 hour availability to licensed professional nursing staff by active patients of the home health agency receiving skilled care. These procedures shall describe an on-call system whereby designated nursing staff will be available to directly communicate with the patient. A home health agency that does not provide skilled services shall have ~~For agencies which provide only home health aide and homemaker, companion and sitter services and who provide no~~

skilled care, written policies and procedures which shall address the availability of a registered nurse supervisor during hours of patient service.

(e) Failure to be available or to respond during a survey or inspection will be grounds for denial or revocation of the agency license in accordance with Section 408.806(7)(d), F.S.

~~(12) The initial, change of ownership and renewal fee for home health licensure is \$1,705.~~

~~(13) If licensure application fee checks are returned by the financial institution due to insufficient funds, the issuance of a license may be delayed, denied or revoked.~~

~~(10)~~ (14) Upon revocation, suspension, voluntary or involuntary termination of a license, the home health agency shall return its license to AHCA. If the provider voluntarily chooses to terminate the license, the provider must notify AHCA, as required in paragraph 408.810(4)(a), F.S. This includes submitting a letter to the AHCA Laboratory and In-Home Services Home Care Unit, 2727 Mahan Drive, Mail Stop #32 #34, Tallahassee, Florida 32308, officially declaring the closure date of the home health agency.

Rulemaking Authority 400.497, 408.819 FS. Law Implemented 400.464, 400.471, 400.474, 400.484, 400.497, 408.806, 408.807, 408.810 FS. History—New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, 7-11-13, 6-16-15, 7-27-16, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Ruby Grantham
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mary C. Mayhew
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2019
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 5, 2019

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE NO.: 59C-1.002
 RULE TITLE: Definitions

PURPOSE AND EFFECT: The Agency is proposing to amend Rule 59C-1.002, F.A.C., to update language due to statutory changes.

SUMMARY: Rule 59C-1.002, F.A.C., outlines general definitions utilized by the Certificate of Need Program. The Agency is proposing to amend the rule to update language due to statutory changes. The changes include removing the definition of a mobile unit, removing adult cardiovascular services from the list of tertiary services, and removing outdated citations and duplicative definitions which are already in statute.

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 prepared a checklist for the rule to determine the necessity for a SERC.

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: A SERC has not been prepared by the agency. For rules listed where no SERC was prepared, the Agency prepared a checklist for each rule to determine the necessity for a SERC. Based on this information at the time of the analysis and pursuant to Section 120.541, Florida Statutes, the rule will not require legislative ratification.

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: 408.034(8) and 408.15 (8) FS.
 LAW IMPLEMENTED: 408.033(1)(a), 408.036 (1)(2), 408.037 (1), 408.039 (1) and (2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: April 19, 2019, 8:30 a.m. – 10:00 a.m.
 PLACE: Agency for Health Care Administration, Conference Room B, 2727 Mahan Drive, Building #3, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Marisol Fitch, Bureau of Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, (850)412-4346 or email at Marisol.fitch@ahca.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marisol Fitch, (850)412-4346, email: Marisol.fitch@ahca.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.002 Definitions.

(1) “Acute care bed” means a patient accommodation or space licensed by the Agency pursuant to Chapter 395, Part I, F.S., ~~and regulated under Rule 59C-1.038, F.A.C.~~ Acute care beds exclude neonatal intensive care beds, comprehensive medical rehabilitation beds, hospital inpatient psychiatric beds, hospital inpatient substance abuse beds, beds in distinct part skilled nursing units, and beds in long term care hospitals licensed pursuant to Chapter 395, Part I, F.S.

(2) ~~(27)~~ No changes.

~~(28) “Long term care hospital” means a hospital licensed under Chapter 395, Part I, F.S., which meets the requirements of Part 412, subpart B, paragraph 412.23(e), Code of Federal Regulations (1994), and seeks exclusion from the Medicare prospective payment system for inpatient hospital services.~~

~~(29) “Mental health services” means inpatient services provided in a hospital licensed under Chapter 395, F.S., and listed on the hospital license as psychiatric beds for adults; psychiatric beds for children and adolescents; intensive residential treatment beds for children and adolescents; substance abuse beds for adults; or substance abuse beds for children and adolescents.~~

~~(30) “Mobile unit” means an object with the ability by structure, function or design to move or be moved from one health care facility to another, such that upon arriving at a facility the object is not permanently fixed but is temporarily secured for the purpose of providing a health service to inpatients.~~

~~(28)~~ (31) “Nongovernmental health care consumer” means an individual who is not a health care provider or a health care purchaser as defined in subsections (20) and (21) of this section. Nongovernmental health care consumers include but are not limited to elected government officials, members of the general public and representatives of consumer organizations.

~~(29)~~ (32) “Nursing home” means a health care facility licensed under Chapter 400, Part I, F.S.

~~(30)~~ (33) “Operate” means to have the legal responsibility, pursuant to the appropriate licensure statute where licensure is required, for the proper functioning of all aspects of a health care facility or service.

~~(31)~~ (34) “Shared service” means a health service which is operated by or on behalf of two or more health care facilities or health care providers.

~~(32)~~ (35) “Shared service project” means the act of two or more health care facilities or health care providers entering into an arrangement to jointly offer an existing, approved or proposed health service for a pre-determined period of time.

~~(33)~~ (36) “Sheltered nursing home beds” means nursing home beds configured into a nursing home facility licensed pursuant to Chapter 400, Part I, F.S., which are located within a continuing care retirement community certified under Chapter

651, F.S., for which a Certificate of Need has been issued as sheltered beds, and which are regulated under Rule 59C-1.037, F.A.C.

~~(34)~~ (37) “State Agency Action Report” means the single written document prepared by the Agency after reviewing a Certificate of Need application, or applications where more than one ~~4~~ Certificate of Need application is accepted by the Agency in the same batching cycle, which sets forth the evaluation of the Agency with respect to the application or applications.

~~(35)~~ (38) “Subdistricts” mean a subdivision of a district designated by the local health council as established under Rules 59C-2.100 and 59C-2.200, F.A.C.

~~(36)~~ (39) “Substantial change in health services” means:

(a) The offering by a health care facility, through conversion of beds or other means, of a new institutional health service or a health service which has not been offered on a continuing basis by or on behalf of the health care facility within the 12-month period prior to the time such service would be offered, excluding obstetrical services; or

(b) The designation of acute care beds in a health care facility as beds regulated under Rule 59C-1.036, F.A.C., or the redesignation of such beds returning back to acute care beds; or

(c) The conversion of a general acute care or specialty hospital licensed under Chapter 395, Part I, F.S., to a long term care hospital.

~~(37)~~ (40) “Termination of an inpatient health service” means the cessation of a health service which currently requires a Certificate of Need. It does not include the temporary cessation of a service lasting 6 months or less.

~~(38)~~ (41) “Tertiary health service” means a health service which, due to its high level of intensity, complexity, specialized or limited applicability, and cost, should be limited to, and concentrated in, a limited number of hospitals to ensure the quality, availability, and cost effectiveness of such service. Examples of such service include, but are not limited to, organ transplantation, ~~specialty burn units~~, neonatal intensive care units, comprehensive rehabilitation, and medical or surgical services which are experimental or developmental in nature to the extent that the provision of such services is not yet contemplated within the commonly accepted course of diagnosis or treatment for the condition addressed by a given service. The types of tertiary services to be regulated under the Certificate of Need Program in addition to those listed in Florida Statutes include:

- (a) Heart transplantation;
- (b) Kidney transplantation;
- (c) Liver transplantation;
- (d) Bone marrow transplantation;
- (e) Lung transplantation;
- (f) Pancreas and islet cells transplantation;

- (g) Heart/lung transplantation;
 - ~~(h) Adult open heart surgery;~~
 - ~~(h) (i) Neonatal and pediatric cardiac and vascular surgery;~~
- and,
- ~~(i) (j) Pediatric oncology and hematology.~~

In order to determine whether services should be added or deleted, the listing of tertiary services shall be reviewed annually by the Agency.

~~(39) (42)~~ “Transfer of a Certificate of Need” means the conveyance of a Certificate of Need which has been issued and remains valid from one person to another person.

~~(40) (43)~~ “Transfer costs” means any expense actually incurred by the transferor, ~~and, as provided for in Section 408.04, F.S., the expense was incurred in obtaining the initial Certificate of Need which authorized the project.~~ Costs incurred in implementing the Certificate of Need subsequent to its award are project costs, not transfer costs.

Rulemaking Authority 408.034(8), 408.15(8) FS. Law Implemented 408.033(1)(a), 408.036(1), (2), 408.037(1), 408.039(1), (2), ~~651.118~~ FS. History—New 1-1-77, Joint Administrative Procedures Committee Objection Filed—See F.A.R. Volume 3, No. 10, March 11, 1977, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81, 3-31-82, 7-29-82, 12-23-82, Formerly 10-5.02, Amended 11-24-86, 11-17-87, 12-5-90, 1-31-91, 1-1-92, Formerly 10-5.002, Amended 12-14-92, 2-27-94, 6-23-94, 10-18-95, 10-8-97, 12-12-00, Amendment resolved Joint Administrative Procedures Committee objection, 10-27-77, Florida Administrative Register Vol. 35, No. 27, July 10, 2009.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Marisol Fitch
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mary C. Mayhew
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2019
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 19, 2018

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: RULE TITLE:
 61B-35.001 Purpose and Effect
 PURPOSE AND EFFECT: To repeal Rule 61B-35.001, F.A.C.
 SUMMARY: The proposed rulemaking repeals rule 61B-35.001, F.A.C., because this rule is no longer valid as the law implementing has been repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

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

RULEMAKING AUTHORITY: 723.006(9), F.S.
 LAW IMPLEMENTED: 723.006, F.S.

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: Rikki Anderson, Government Analyst I, Division of Florida Condominiums, Timeshares and Mobile Homes, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399, (850)717-1415.

THE FULL TEXT OF THE PROPOSED RULE IS:
 61B-35.001 Purpose and Effect.
Specific Authority 723.006(9) FS. Law Implemented 723.006 FS. History—New 12-3-98, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Boyd McAdams, Director, Division of Florida Condominiums, Timeshares and Mobile Homes, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399, (850)488-1631.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2019

Section III Notice of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.: RULE TITLE:
5B-40.003 Obtaining a Permit to Harvest Plants on the Endangered and Commercially Exploited Plant Lists

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 45 No. 56, March 21, 2019 issue of the Florida Administrative Register.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 11, 2019

Section IV Emergency Rules

NONE

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:
61C-1.004 General Sanitation and Safety Requirements

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice: On March 13, 2019 the Division of Hotels and Restaurants received a Petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code and Paragraph 5-202.11(A), 2009 FDA Food Code from Waffle Bite Inc. located in Pembroke Pines. The above referenced F.A.C. addresses the requirement that each establishment have an approved plumbing system installed to transport potable water and wastewater. They are requesting to utilize holding tanks to provide potable water and to collect wastewater at the handwash sink and the three compartment sink.

The Petition for this variance was published in Vol. 45/51 on March 14, 2019. The Order for this Petition was signed and approved on March 21, 2019. After a complete review of the variance request, the Division finds that the application of this Rule will create a financial hardship to the food service

establishment. Furthermore, the Division finds that the Petitioner meets the burden of demonstrating that the underlying statute has been achieved by the Petitioner ensuring the wastewater holding tank for the handwash sink and the three compartment sink is emptied at a frequency as to not create a sanitary nuisance; and potable water provided must come from an approved source and be protected from contamination during handling. The Petitioner shall also ensure that the handwash sink and the three compartment sink is provided with hot and cold running water under pressure, and that the handwash sink is provided with soap, an approved hand drying device and a handwashing sign.

A copy of the Order or additional information may be obtained by contacting: Daisy.Lee@myfloridalicense.com, Division of Hotels and Restaurants, 2601 Blair Stone Road, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:
61C-4.010 Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on March 22, 2019, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for subparagraph 3-305.11(A)(2), 2009 FDA Food Code, Section 3-305.14, 2009 FDA Food Code, Section 6-202.15, 2009 FDA Food Code, Section 6-202.16, 2009 FDA Food Code, subsection 61C-4.010(1), Florida Administrative Code, and subsection 61C-4.010(6), Florida Administrative Code from Ximenas Food Truck Services LLC located in Temple Terrace. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk time/temperature control for safety foods from an open air mobile food dispensing vehicle.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 5 days from the date of publication of this notice. To be considered, comments must be received before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Daisy.Lee@myfloridalicense.com, Division of Hotels and Restaurants, 2601 Blair Stone Road, Tallahassee, Florida 32399-1011.

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:
67-48.0072 Credit Underwriting and Loan Procedures

The Florida Housing Finance Corporation hereby gives notice: On March 22, 2019, the Florida Housing Finance Corporation issued an order granting waiver of paragraph 67-48.0072(4)(c) F.A.C., for Woodland Park Redevelopment I, LLC, extending

the SAIL loan closing deadline to September 4, 2019. Florida Housing determined that the Petitioner had demonstrated that it would suffer a substantial hardship if the waiver was not granted. The petition was filed on March 1, 2019 and notice of the receipt of petition was published on March 5, 2019 in Vol. 45, Number 44, F.A.R.

A copy of the Order or additional information may be obtained by contacting: Ana McGlamory, Corporation Clerk, Florida Housing Finance Corporation, 227 N. Bronough St., Ste. 5000, Tallahassee, FL 32301-1329.

Section VI Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF TRANSPORTATION

The Florida Department of Transportation, District 2 announces a hearing to which all persons are invited.

DATE AND TIME: April 1, 2019, 4:30 p.m. – 6:30 p.m.

PLACE: Regency Square Branch Library, 9900 Regency Square Blvd., Jacksonville, FL 32225

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Department of Transportation invites you to a public hearing to discuss Financial Project Number 439368-1, which includes proposed changes to the roadway, signalization, striping and medians on Beach Boulevard (State Road 212) from State Road 115 to Eve Drive in Jacksonville. The hearing will begin with an open house from 4:30 p.m. – 6:30 p.m., followed by a public comment period at 6:30 p.m. Public participation is sought without regard to race, color, religion, sex, age, national origin, disability or family status.

A copy of the agenda may be obtained by contacting: Peter Osborne, Florida Department of Transportation District 2, 2198 Edison Avenue, Jacksonville, Florida 32204, (904)360-5608 or peter.osborne@dot.state.fl.us.

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 7 days before the workshop/meeting by contacting: Sara Pleasants, 2198 Edison Avenue, Jacksonville, Florida, 32204, (904)831-3368 or sara.pleasants@dot.state.fl.us. 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).

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

The Agency for Health Care Administration announces a public meeting to which all persons are invited.

DATE AND TIME: March 29, 2019, 10:30 a.m. – 11:30 a.m.

PLACE: AHCA Headquarters, 2727 Mahan Drive, Building 2, Tallahassee, FL 32308

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Agency will host the first public meeting in a series of statewide meetings to introduce proposed changes to related to provider enrollment prior authorization, and payment, of behavior analysis services covered under the Florida Medicaid program. A copy of the agenda may be obtained by contacting: Matt Brackett, Bureau of Medicaid Policy.

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: Matt Brackett at 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4151 e-mail: Matt.Brackett@ahca.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

The Board of Pilot Commissioners Deputy Pilot Advancement Committee announces a telephone conference call to which all persons are invited.

DATE AND TIME: April 2, 2019, 9:30 a.m.

PLACE: 1(888)585-9008, participant pass code: 241687833

GENERAL SUBJECT MATTER TO BE CONSIDERED: Deputy Pilot Advancements.

A copy of the agenda may be obtained by contacting: Board of Pilot Commissioners, 2601 Blair Stone Rd., Tallahassee, FL 32399, (850)717-1982.

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: Board of Pilot Commissioners, 2601 Blair Stone Rd., Tallahassee, FL 32399, (850)717-1982. 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.

For more information, you may contact: Board of Pilot Commissioners, 2601 Blair Stone Rd., Tallahassee, FL 32399, (850)717-1982.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

The Board of Accountancy announces a telephone conference call to which all persons are invited.

DATE AND TIME: April 23, 2019, 9:00 a.m.

PLACE: Conference call dial-in number: 1(888)585-9008, conference pass code is 772-068-630

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Education Advisory Committee to consider items relating to the education requirements to sit for the CPA examination.

A copy of the agenda may be obtained by contacting: Barbara Whitney, (352)313-6615 / Barbara.Whitney@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 2 days before the workshop/meeting by contacting: Barbara Whitney, (352)313-6615 / Barbara.Whitney@myfloridalicense.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 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.

For more information, you may contact: Barbara Whitney, (352)313-6615 / Barbara.Whitney@myfloridalicense.com.

DEPARTMENT OF HEALTH

Board of Athletic Training

The Department of Health, Board of Athletic Training, announces a CANCELLATION of the telephonic meeting which was published in the Florida Administrative Register on February 5, 2019 in volume 45/24.

DATE AND TIME: April 9, 2019, 7:30 a.m. ET

LOCATION: 1(888)585-9008 when prompted, enter conference room, 599196982#

PURPOSE: To conduct general board business.

The above meeting has been cancelled. For questions, please contact the Board Office at (850)245-4474.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

The Florida Fish and Wildlife Conservation Commission announces a public meeting to which all persons are invited.

DATE AND TIME: March 25, 2019, 9:00 a.m.

PLACE: Ernie Lee Magaha Government Complex, 1st Floor Board of County Commission Chambers, 221 Palafox Place, Pensacola, FL 32502

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Fish and Wildlife Conservation Commission (FWC) announces that the PUBLIC HEARING for the FWC Lead Managed Portions of Lake Stone Fish Management Area located in Escambia County, Florida HAS BEEN CANCELED. THIS MEETING WILL BE RESCHEDULED AND POSTED AT A LATER DATE

For questions please contact the Florida Fish and Wildlife Conservation Commission, Land Conservation and Planning Department, 620 South Meridian Street, Tallahassee, Florida 32399-1600. Telephone: (850)487-9102 or by email at Dylan.Imlah@myfwc.com.

A copy of the agenda may be obtained by contacting: NA For more information, you may contact: Telephone: (850)487-9102 or by email at Dylan.Imlah@myfwc.com.

CREATIVISION MEDIA

The Florida Department of Transportation (FDOT), District Six announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, April 3, 2019, 6:00 p.m. – 8:00 p.m.

PLACE: Arcola Lakes Library, Multipurpose Room, 8240 NW 7 Avenue, Miami, FL 33150

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Department of Transportation (FDOT), District Six, is holding the final Project Advisory Group (PAG) Meeting for the SR 934/NE/NW 79 Street Project Development & Environmental (PD&E) Study (FM Number: 410646-4-22-01) from NW 13 Court to N Bayshore Drive in Miami-Dade County, Florida. The study is evaluating strategies to improve capacity deficiencies, traffic operations, and multimodal use along SR 934/NE/NW 79 Street and NE/NW 81/82 Street. Participating members will be asked to review and provide feedback on the recommended alternative.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

A copy of the agenda may be obtained by contacting: NA 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 7 days before the workshop/meeting by contacting: Hong Benitez, P.E., at (305)470-5219; in writing at FDOT, 1000 NW 111 Avenue, Miami, FL 33172; or by email at Hong.Benitez@dot.state.fl.us. 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: Project Manager Auraliz Benitez, P.E., Department of Transportation, District Six at (305)470-5471; in writing at FDOT, 1000 NW 111 Avenue, Miami, FL 33172; or by email at Auraliz.Benitez@dot.state.fl.us.

The Valerin Group, Inc.

The Florida Department of Transportation (FDOT) District Five announces a hearing to which all persons are invited.

DATE AND TIMES: Tuesday, April 2, 2019, 5:00 p.m. Open House; 6:00 p.m. formal presentation

PLACE: Family Christian Academy/Genesis Church, 15060 Old Cheney Hwy., Orlando, FL 32828

GENERAL SUBJECT MATTER TO BE CONSIDERED: Financial Project Identification (FPID) No.: 991900-4

The Florida Department of Transportation (FDOT) will hold a public hearing about proposed plans to improve safety on East Colonial Drive (State Road (S.R.) 50) at the intersection with Sherman Street. Based on the recommendations of a study conducted in November 2018, FDOT is proposing to modify the existing full median opening at this intersection to a westbound directional opening. This will allow westbound vehicles to still turn left onto Sherman Street, but will only allow right turns out of Sherman Street onto East Colonial Drive. This modification improves safety in the area by reducing the number of conflict points at this location

The public hearing will be Tuesday, April 2, 2019, at the Family Christian Academy/Genesis Church, 15060 Old Cheney Hwy., Orlando, FL 32828. The hearing will begin as an informational open house at 5 p.m. where displays and other project information will be available for review. Staff also will be available to discuss the project and answer questions. A presentation will begin at 6 p.m., followed by public comments. A court reporter will be present to record proceedings, and assist with comments, as part of the project record. Written comments can be submitted at the hearing, sent by mail to Dave Mixon, Florida Department of Transportation, 719 S. Woodland Boulevard M.S. 562, DeLand, FL 32720; or emailed to Dave.Mixon@dot.state.fl.us no later than Friday, April 12, 2019. All written and oral comments will become part of the project's public record.

Persons with disabilities who require accommodations under the Americans with Disabilities Act, or persons who require translation services (free of charge), should contact Kelly Hiden, Public Involvement Specialist, by phone at (407)508-0839, or via email at kelly@valerin-group.com at least seven (7) days prior to the meeting. If you are hearing or speech impaired, please contact us by using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status. Persons wishing to express their concerns relative to FDOT compliance with Title VI may do so by contacting Jennifer Smith, FDOT District Five Title VI Coordinator, at Jennifer.Smith2@dot.state.fl.us.

A copy of the agenda may be obtained by contacting: There is no agenda.

For more information, you may contact: Dave Mixon at (386)943-5DOT, or email Dave.Mixon@dot.state.fl.us. Project information is also available online at www.CFLRoads.com. Search by the FPID number 991900-4.

Section VII

Notice of Petitions and Dispositions Regarding Declaratory Statements

NONE

Section VIII

Notice of Petitions and Dispositions Regarding the Validity of Rules

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

NONE

Notice of Disposition of Petition for Administrative Determination has been filed 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

OTHER AGENCIES AND ORGANIZATIONS
Pasco County Board of County Commissioners
IFB-ML-19-126: AS-NEEDED GENERAL TRAFFIC
CONSTRUCTION SERVICES
NOTICE OF INVITATION FOR BID: The Pasco County
Board of County Commissioners, Purchasing Department is
soliciting formal, competitive, sealed bids from contracts for
bid number IFB-ML-19-126, As-Needed General Traffic
Construction Services; Closing 04/09/2019 at 2:00 p.m. More
information at www.BidNetDirect.com.

Section XII Miscellaneous

DEPARTMENT OF STATE
Index of Administrative Rules Filed with the Secretary of State
Pursuant to subparagraph 120.55(1)(b)6. – 7., F.S., the below
list of rules were filed in the Office of the Secretary of State
between 3:00 p.m., Monday, March 18, 2019 and 3:00 p.m.,
Friday, March 22, 2019.

Rule No.	File Date	Effective Date
5P-3.003	3/18/2019	4/7/2019
5P-3.006	3/18/2019	4/7/2019
64B1-4.0015	3/21/2019	4/10/2019
65C-28.020	3/18/2019	4/7/2019
69I-25.001	3/20/2019	4/9/2019
69I-25.002	3/20/2019	4/9/2019
69I-25.003	3/20/2019	4/9/2019
69O-137.001	3/22/2019	4/11/2019
69O-138.001	3/22/2019	4/11/2019
69O-203.201	3/22/2019	4/11/2019
69O-203.202	3/22/2019	4/11/2019
69O-203.203	3/22/2019	4/11/2019
69O-203.204	3/22/2019	4/11/2019
69O-203.205	3/22/2019	4/11/2019

69O-203.210	3/22/2019	4/11/2019
69O-238.001	3/22/2019	4/11/2019
69O-238.002	3/22/2019	4/11/2019
LIST OF RULES AWAITING LEGISLATIVE APPROVAL SECTIONS 120.541(3), 373.139(7) AND/OR 373.1391(6), FLORIDA STATUTES		
Rule No.	File Date	Effective Date
60FF1-5.009	7/21/2016	**/**/****
64B8-10.003	12/9/2015	**/**/****
69L-3.009	12/5/2018	**/**/****

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Office of the Secretary
Notice of Evaluation of CPI Grant Applications
The State of Florida Department of Environmental Protection,
Florida Coastal Management Program, announces the results of
the evaluation of eligible Coastal Partnership Initiative
applications. Twelve eligible applications were received in
response to the Request for Applications published in the
Florida Administrative Register on 9/12/2018 and were
reviewed and evaluated per the process described in Rule 62S-
4.007, F.A.C. The applications have been ranked in the
following order, beginning with the highest score.

Rank	Project Title	Applicant	FCMP Funds Requested
1.	City Point Living Shoreline, Brevard County	Brevard County Natural Resources Management Department	\$19,030.00
2.	Clifton S. Perry Park Public Access Facilities	Martin County Board of County Commissioners, Public Works Department	\$50,000.00
3.	Jones' Pier Conservation Area Wetland and Hammock Restoration Project	Indian River County Board of County Commissioners	\$50,000.00

4.	Improved Beach Access for Disabled Visitors	Riviera Beach Community Redevelopment Agency	\$10,338.00
5.	Archie Glover Boat Ramp Coastal Access Improvements	Santa Rosa County Board of County Commissioners	\$75,000.00
6.	Increasing Access, Stewardship and Resiliency of Fernandina Beach Coastal Resources	City of Fernandina Beach	\$10,000.00
7.	Groundwork Jacksonville McCoys Creek Restoration Community Engagement and Stewardship Plan	Groundwork Jacksonville, Inc. / City of Jacksonville Department of Parks, Recreation and Community Services	\$25,000.00
8.	Restoring Coastal Miami	City of Miami	\$30,000.00
9.	Town of Longboat Key Sea Level Rise and Recurrent Flooding Vulnerability Assessment Phase 2	Town of Longboat Key	\$25,000.00
10.	Design of Phase 2 Beach Master Plan	City of Dania Beach	\$25,000.00
11.	Flagler Beach Pepper Picking Project	City of Flagler Beach	\$13,000.00
12.	Key Tree Cactus Preserve, Phase III	Islamorada, Village of Islands	\$75,000.00

and Coastal Protection will seek to fund the next highest ranked projects. Any Person whose substantial interests are affected may request a hearing pursuant to Section 120.569, Florida Statutes, within 21 days of publication of this notice. Failure to request a hearing within the period shall constitute a waiver of the right to a hearing. Questions regarding the CPI evaluation process should be directed to Ms. Toni R. Clanton at (850)245-2184 or by email to toni.r.clanton@dep.state.fl.us.

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.

NONE

Funding of any application is subject to the amount of federal coastal zone management funds awarded to the FCMP and the amount allocated to the CPI by the Office of Resilience and Coastal Protection. The final decision whether or not to fund these projects is expected to be made by NOAA by summer of 2019. Should additional existing funds be identified prior to the FY19 Request for CPI applications, the Office of Resilience