

RULEMAKING & REGULATION SUBCOMMITTEE MEETING

Wednesday, November 2, 2011

8:30 A.M. – 10:00 A.M.

306 House Office Building

MEETING PACKET

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Rulemaking & Regulation Subcommittee

Start Date and Time: Wednesday, November 02, 2011 08:30 am
End Date and Time: Wednesday, November 02, 2011 10:00 am
Location: 306 HOB
Duration: 1.50 hrs

Presentation by Department of Agriculture and Consumer Services on rule review practices and rulemaking perspectives.

Brief Report by staff on launch of the Florida Regulation Reform Survey on myfloridahouse.gov.

Brief Report by staff on Executive Order 11-211 relating to agency rulemaking oversight and accountability.

NOTICE FINALIZED on 10/26/2011 16:15 by Thompson.Sonja



FLORIDA HOUSE OF REPRESENTATIVES

Dean Cannon, Speaker

Rules & Calendar Committee Rulemaking & Regulation Subcommittee

Chris Dorworth
Chair

317 The Capitol
(850) 487-0608

AGENDA

Wednesday, November 02, 2011

8:30 A.M. – 10:00 A.M.

Room 306 House Office Building

Opening Remarks by Chair Dorworth

Roll Call by Sonja Thompson, CAA

Presentation by Department of Agriculture and Consumer Services on rule review practices and rulemaking perspectives

- Carol Forthman, Senior Attorney, Office of the General Counsel
- Bennett Miller, Board Counsel, Board of Professional Surveyors and Mappers
- Jim Karels, State Forester, Florida Forest Service

Brief Report by staff on launch of the Florida Regulation Reform Survey on myfloridahouse.gov

- Don Rubottom, Staff Director

Brief Report by staff on Executive Order 11-211 relating to agency rulemaking oversight and accountability

- Eric Miller, Staff Attorney

Closing Remarks

Meeting Adjourned

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Tab 1.d. (Pgs. 9-11): DACS Compliance Economic Review Template per s. 120.745(1)(b)

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TAB 2.....The Florida Regulation Reform Survey on myfloridahouse.gov

TAB 3.....Executive Order 11-211 relating to agency rulemaking oversight and Oversight and Accountability



FLORIDA HOUSE OF REPRESENTATIVES

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INDEX TO PRESENTATION BY DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Speakers

Carol Forthman, Senior Attorney, Office of the General Counsel

- Department's process for economic review of proposed rules.
- Progress of Department in reviewing existing rules and reporting under s. 120.745.
- Sufficiency and scope of Department's present rulemaking authorization.
- Rulemaking under Department's present authority over agricultural water policy.

Bennett Miller, Board Counsel, Board of Professional Surveyors and Mappers

- Impact of Department's authority over rulemaking by professional board.

Jim Karels, State Forester, Florida Forest Service (Available if there are questions)

Documents

Tab 1.a. (Pgs. 1-2): DACS Statement of Estimated Regulatory Costs Template per s. 120.541

Tab 1.b. (Pgs. 3-7): DACS Report Template for Enhanced Biennial Review pursuant to s. 120.745(2) and (3)

Tab 1.c. (Pg. 8): DACS Decision Tree to determine if a Compliance Economic Review is required pursuant to s. 120.745(3) and (5)

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Tab 1.e. (Pgs. 12-32): List of all statutes within the Department's jurisdiction authorizing rulemaking or directing the Department take specific rulemaking action



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

Proposed Rule Statement of Estimated Regulatory Cost

RULE NO: RULE TITLE:
(List all rules by number and title)

Division Contact

Division
Name, Title
Phone
Email

Summary

This Statement of Estimated Regulatory Costs has been prepared in accordance with the requirements of §120.541, Florida Statutes.

Rulemaking Authority: *(List all)*

Laws Implemented: *(List all)*

The proposed rule: *(provide a summary of the rulemaking)*

1. Provide an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule.
2. Provide an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule.

- 3. Provide an economic analysis showing whether the rule directly or indirectly is likely to increase the regulatory costs, including any transactional costs¹, in excess of \$1 million in the aggregate within five years after the implementation of the rule.**
- 4. Estimate (with explanation) number of individuals and entities likely to be required to comply with the rule.**
- 5. Provide a general description of the types of individuals likely to be affected by the rule.**
- 6. Estimate (with explanation) the cost to the Department of implementing and enforcing the proposed rule.**
- 7. Estimate (with explanation) the cost to any other state and local government entity of implementing and enforcing the proposed rule.**
- 8. Estimate (with explanation) the anticipated effect on Department or other state or local government revenue (if any).**
- 9. Estimate (with explanation) of the transactional² costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule.**
- 10. Provide an analysis of the impact of this rulemaking on small businesses³.**
- 11. Provide an analysis of the impact of this rulemaking on small counties and small cities⁴.**
- 12. Any useful additional information.**

¹ “Transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting. §120.541(2)(c), Florida Statutes.

² See footnote 1 above.

³ “Small business” means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments. §288.703(1), Florida Statutes.

⁴ “Small city” means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. “Small county” means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census. §120.52(18) and (19), Florida Statutes.

1	2a	2b	3	4	4a	4b	4c	4d	4e	4f	
Agency Name	Rule Designation		OFARR Reviewed (Y/N)	Revenue Rule/Fund or Account "N" for No OR identify the fund or account were the receipts are deposited. Provide statutory authority for collection.							
	Title (or Subtitle/Chapter)	Number		(Y/N)	Licensure Fees	Transportation Tolls	Other fees	Fines	Tax	Other Revenue	Authority (Florida Statutes)
DACS	5G	1.001	N	N	N	N	N	N	N	N	N/A
DACS	5G	1.003	N	Y (GIFT)	N	N	Inspection fee	N	N	N	570.48(2)(a), (b) & 570.481(1)(a), (b)
DACS	5G	1.004	N	N	N	N	N	N	N	N	N/A
DACS	5G	1.005	N	N	N	N	N	N	N	N	N/A
DACS	5G	2.001	N	N	N	N	N	N	N	N	N/A
DACS	5G	2.002	N	N	N	N	N	N	N	N	N/A
DACS	5G	2.003	N	N	N	N	N	N	N	N	N/A
DACS	5G	2.004	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.001	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.002	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.003	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.004	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.005	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.006	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.007	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.008	N	N	N	N	N	N	N	N	N/A
DACS	5G	3.009	N	N	N	N	N	N	N	N	N/A
DACS	5G	4.001	N	N	N	N	N	N	N	N	N/A
DACS	5G	5.001	N	N	N	N	N	N	N	N	N/A
DACS	5G	6.001	N	N	N	N	N	N	N	N	N/A
DACS	5G	6.003	N	N	N	N	N	N	N	N	N/A
DACS	5G	6.005	N	Y (GIFT)	N	N	Inspection fee	N	N	N	570.48(2)(e) & 570.481(1)(a), (b)
DACS	5G	6.007	N	Y (GIFT)	Y	N	N	N	N	N	500.70(2)(a), (6)
DACS	5G	6.009	N	N	N	N	N	N	N	N	N/A
DACS	5G	6.011	N	N	N	N	N	N	N	N	N/A
DACS	5G	6.013	N	Y (GIFT)	N	N	N	Y	N	N	500.09(3), 570.07(6), 570.07(23)

"GIFT" = General Inspection Trust Fund

Data Collection Rule Information per s. 120.745(2)(d), Florida Statutes.

5G-2.003(7)	Statute(s) authorizing Collection of the data	601.61, F.S.
	Purposes for which the agency uses the data and any purpose for which the data is used by others	Federal Tax Purposes
	Policy supporting the reporting and retention of the data	Ensure that Citrus Bond Holders comply with Federal Tax Law
	Whether and to what extent the data is exempt from public inspection under Chapter 119, F.S.	Data is not stored by the department
5G-6.009	Statute(s) authorizing Collection of the data	500.70(2), (6), F.S.
	Purposes for which the agency uses the data and any purpose for which the data is used by others	Registration and Identification of Tomato Packinghouses and Farms
	Policy supporting the reporting and retention of the data	Safeguard the public health and promote the public welfare by protecting the consuming public from injury by product use and the purchasing public from injury by merchandising deceit, flowing from intrastate commerce of food
	Whether and to what extent the data is exempt from public inspection under Chapter 119, F.S.	No exempt data is collected pursuant to 5G-6.009

DRAFT

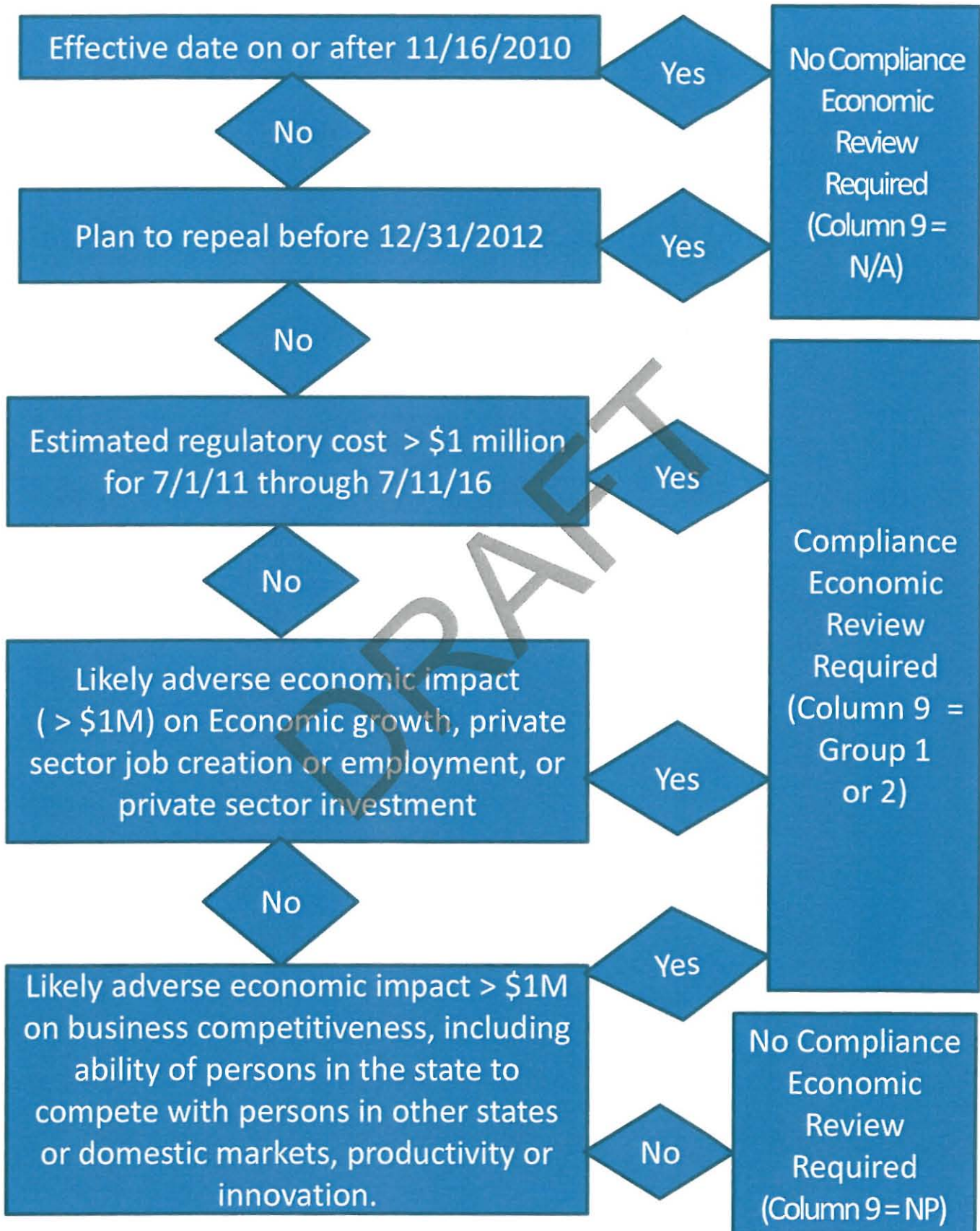
Rule Repeal Timetable			
Rule Number	Proposed Notice of Proposed Rule Date	Proposed Repeal Adoption Date	Proposed Effective Date
5G-1.001	4/20/2011	5/18/2011	6/7/2011

DRAFT

Rule Amendment to Substantially Reduce the Economic Impact of the Rule Timetable			
Rule (subparts if applicable)	Proposed Notice of Proposed Rule Date	Proposed Adoption Date	Proposed Effective Date
None			

DRAFT

Compliance Economic Review Decision Tree





FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

Compliance Economic Review

RULE NO: RULE TITLE:
(List all rules by number and title)

Division Contact

Division
Name, Title
Phone
Email

Summary

This Compliance Economic Review is a good faith economic analysis that has been prepared in accordance with the requirements of §120.745, Florida Statutes.

Rulemaking Authority: *(List all)*

Laws Implemented: *(List all)*

The rule: *(provide a summary of the rulemaking)*

-
1. Provide a justification for the rule summarizing the benefits of the rule.
 2. Provide an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment in excess of \$1 million, in the aggregate, from July 1, 2011 to July 1, 2016.
 3. Provide an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million, in the aggregate, from July 1, 2011 to July 1, 2016.

4. Provide an economic analysis showing whether the estimated regulatory costs, including any transactional costs¹, in the aggregate, from July 1, 2011 to July 1, 2016.

5. Estimate (with explanation) number of individuals and entities likely to be required to comply with the rule.

6. Provide a general description of the types of individuals likely to be affected by the rule.

7. Estimate (with explanation) the cost to the Department of implementing and enforcing the proposed rule.

8. Estimate (with explanation) the cost to any other state and local government entity of implementing and enforcing the proposed rule.

9. Estimate (with explanation) the anticipated effect on Department or other state or local government revenue (if any).

10. Estimate (with explanation) of the transactional² costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule.

11. Provide an analysis of the impact of this rulemaking on small businesses³.

12. Provide an analysis of the impact of this rulemaking on small counties and small cities⁴.

¹ “Transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting. §120.541(2)(c), Florida Statutes.

² See footnote 1 above.

³ “Small business” means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments. §288.703(1), Florida Statutes.

13. Provide an explanation of the methodology used to conduct the analysis⁵.

14. Any useful additional information.

DRAFT

⁴ “Small city” means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. “Small county” means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census. §120.52(18) and (19), Florida Statutes.

⁵ A technical methodology need not be used to develop the statement of estimated regulatory costs, if the agency uses routine regulatory communications or its Internet website to reasonably survey regulated entities, political subdivisions, and local governments and makes good faith estimates of regulatory costs in conformity with recommendations from the Office of Fiscal Accountability and Regulatory Reform (“OFARR”), or from one or more legislative offices if requested by the agency and such request is approved by the President of the Senate and the Speaker of the House of Representatives.

The following is a list of statutes authorizing rulemaking by the Department of Agriculture and Consumer Services with a short description of the subject.

- Ch. 163 Intergovernmental Programs**
163.3163 Agricultural Land Acknowledgement Act
(4)(c) Act administration
- Ch. 220 Income Tax Code**
220.192 Renewable Energy Technologies Investment Tax Credit
(3) Authority to implement application process
- Ch. 259 Land Acquisition for Conservation or Recreation**
259.105 The Florida Forever Act
(3) Rural and Family Lands Protection Program Administration
- Ch. 373 Water Resources**
373.407 Determination of qualification for an agricultural-related exemption
Rulemaking authority to implement the section
- Ch. 377 Energy Resources**
377.6015 Department of Agriculture and Consumer Services; powers and duties
(2)(i) Rulemaking authority to implement the powers and duties
- 377.603 Energy data collection; powers and duties of the department
(3) Rulemaking authority to implement the Act
- 377.703 Additional functions of the Department of Agriculture and Consumer Services
(2)(g) Rulemaking authority to implement the Act
- 377.804 Renewable Energy and Energy-Efficient Technologies Grants Program
(3) Rulemaking authority to administer the program
- 377.806 Solar Energy System Incentives Program
(7) Rulemaking authority to administer the program
- 377.807 Energy-efficient appliance rebate program
(2) Rulemaking authority to administer the program
- 377.808 Florida Green Government Grants Act
(3) Rulemaking authority with required topics for rules
- Ch. 403 Environmental Control**

- 403.067 Establishment and implementation of total maximum daily loads
- (7)(c)(2) Authority to adopt BMP's to achieve agriculture water pollution reduction

Ch. 472 Land Surveying and Mapping

- 472.006 Department; powers and duties
 - (1) Biennial renewal of licenses
 - (5) Rulemaking authority to administer the chapter
 - (7) Procedures for the use of experts

- 472.007 Board of Professional Surveyors and Mappers
 - (4)(c) Attendance at Board meetings
 - (5) Establish a rule that defines "other business defining the board"

- 472.008 Rules of the board
 - (1) General Authority
 - (2) Professional titles for retired licensees
 - (3) Department can challenge the Board's rules
 - (5) JAPC objections

- 472.0101 Foreign-trained professionals; special examination and license provisions
 - (1) Exiled professionals
 - (1)(g) Approval procedure for CE providers
 - (3) Exam fees

- 472.011 Fees
 - (1) Fees (general)
 - (11) Advancement if operating a negative balance
 - (12) Assessments
 - (15) Duplicate license fee
 - (16) Public records

- 472.013 Examinations, prerequisites
 - (4) Approval of survey course at the college level

- 472.0131 Examinations; development; administration
 - (1)(b) Areas of competency for examination
 - (c) Competency of examiners
 - (d) National exam adopted for licensee candidates
 - (e) The security of the exam
 - (2) Re-examination of failed applicants

- 472.015 Licensure

- (3) Initial License Fee
- (12) Notice of liability insurance
- 472.016 Members of Armed Forces in good standing with the board
 - (2) Armed forces exemption from renewal
- 472.017 Renewal of license
 - (2) Biennial renewal process
- 472.018 Continuing education
 - (1) Continuing education requirements (general)
 - (7) Define "continuing education provider"
 - (11) CE provider biennial renewal fee
 - (12) Department and Board may adopt rules pursuant to this section
- 472.019 Reactivation; continuing education
 - (2) Renewal of inactive licenses
- 472.0201 Public inspection of information required from applicants; exceptions; examination hearing
 - (2) Applicant can review exam and their answers
- 472.0202
 - (3) Fee for inactive status
 - (5) Renewal application
 - (7) Fee for delinquency
 - (8) Request license change status fee (other than regular renewal)
 - (9) Requirements for licensees on inactive more than 2 biennials
- 472.0203
 - (2) Renewal and cancellation notices
- 472.0204 Inactive and delinquent status
 - (1) Address of record
- 472.025 Seals
 - (1) Prescribe form of seals used by registrant
- 472.027 Minimum technical standards for surveying and mapping
(Authority to adopt minimum technical standards)
- 472.033 Disciplinary proceedings

- (3)(a) Board establishes minor violations
- (4) Probable cause determination
- 472.0335 Classification of disciplinary actions
 - (2) Classifications of disciplinary actions
- 472.034 Mediation
 - (1) Mediation
 - (5) Ability to amend these rules
- 472.0345 Authority to issue citations
 - (1) Issue citations
 - (2) Violations that can be issued citations
 - (6) Ability to amend these rules
- 472.0351 Grounds for discipline; penalties; enforcement
 - (6) Requirements for reapplication for those who have had their license revoked
- 472.0355 Disciplinary guidelines
 - (1) Disciplinary guidelines
 - (3) Mitigating and aggravating factors
- 472.036 Unlicensed practice of professional surveying and mapping; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected
 - (1) Disciplinary guidelines for unlicensed cases
- Ch. 482 Pest Control**
- 482.051 Rules (authority to implement the Chapter with mandatory rulemaking for:)
 - (1) Labeling
 - (2) Marking vehicles and trailers
 - (3) Written contracts
 - (4) Notification prior to fumigation
 - (5) Using pesticide as preventative treatment for termites in new construction
 - (6) Stop use, stop work orders for fumigation performed in violation
- 482.07 Licenses
 - (2)(f) Application for pest control business license
- 482.0815 Permit to perform preventative termite treatment services for new construction.
 - (11) Rulemaking authority to implement the section
- 482.151 Special Identification Card (SPID) for Performance of Fumigation

- (2) Qualifications, privileges, duties of SPID holders
- (4) Qualifications for applicants; examination categories and times
- 482.1562 Limited Certification for Urban Landscape Fertilizer Application
 - (10) Rulemaking authority to implement the section
- 482.226 Wood Destroying Organism inspection report; notice of inspection or treatment; financial responsibility
 - (1) Adoption of Good Industry Practices and inspection report form
- Ch. 487 Pesticide Regulation and Safety**
- 487.041 Registration
 - (1)(d)1. Publication of pesticide active ingredients subject to the supplemental fee
- 487.046 Application; licensure
 - (1) Application for License
- 487.051 Administration; rules; procedure
 - (1)(a) Declare as a pest any form of plant or animal life or virus
 - (1)(b) Procedures for taking samples, establishing tolerances and deficiencies, assessing penalties, prohibiting sale or use of pesticides or devices detrimental to humans, environment, agriculture or otherwise of questionable value;
 - (1)(c) Determine whether pesticides and quantities of substances in pesticides are injurious to environment
 - (1)(d) Establish requirements governing aircraft used for application of pesticide
 - (1)(e) Establish requirements governing secure storage of pesticides used by aerial pesticide applicators.
 - (2) Adopt by rule pesticide standards of the US EPA
- 487.064 Antisiphon requirements for irrigation systems
 - (3) Requirements for antisiphon devices and mixing-loading site
- 487.071 Enforcement, inspection, sampling and analysis
 - (7)(b) Fee schedule for pesticide samples
- 487.081 Exemptions
 - Prescribe the format, content, and retention time for records
- 487.091 Tolerance, deficiencies, and penalties
 - (2) Procedures for assessing penalties
 - (3) Misbranding of pesticide penalty

- (4) Procedures to reimburse consumers
- 487.160 Records; report
Retention of pesticide application records
- Ch. 493 Private Investigative, Private security, and repossession Services**
- 493.6103 Authority to make rules
Rulemaking authority to administer the chapter
- 493.6105 Initial application for license
 - (3)(j) Authority to establish fingerprint fee based on state, federal, and department charges and processing costs of initial application for licensure
 - (5) Authority to establish minimum training criteria for firearms to initially obtain Class "G" Statewide Firearm License
- 493.6107 Fees
 - (1) Authority to establish examination and biennial license fees for Class "G," "K," and "M" licenses (with prescribed limits)
 - (2) Authority to establish fee for replacement or revision of a license (with prescribed limit)
- 493.6109 Reciprocity
 - (1) Authority to adopt rules for reciprocity agreements with other states
- 493.6113 Renewal application for licensure
 - (3)(b) Authority to establish minimum training criteria for firearms for renewal of Class "G" Statewide Firearm License
- 493.6115 Weapons and firearms
 - (8) Restates requirement for Class "G" Statewide Firearm License applicants to meet minimum training criteria for firearms in rule and s. 493.6105(5) FS
 - (10) Authority to promulgate minimum standards to issue licenses for non-firearm weapons
 - (11) Authority to establish requirement for periodic classroom training for firearms instructors
 - (16) Authority to establish standards for applicant's licensed employer to provide affidavit of applicant's suitability for licensure when FDLE background investigation process may be inoperable
- 493.6118 Grounds for disciplinary action
 - (1)(s) Authority to discipline licensee for failure to report violator of department rules

- 493.6121 Enforcement; investigation
 (6) Authority to institute judicial proceedings to enforce department rules
- 493.6123 Publication to industry
 (2) Authority to publish rule changes to the private security, investigation, and recovery industries
- 493.6202 Fees
 (1) Authority to establish examination and biennial license fees for Class "A," "AA," "MA," "C," and "CC" licenses (with prescribed limits)
 (2) Authority to establish fee for replacement or revision of a license (with limit)
- 493.6203 License requirements
 (5) Authority to approve form of proof that applicant passed the required examination
 (5)(c) Authority to establish content, administration, and fee (with prescribed limit) for examination for Class "C," "M," and "MA" licensure
 (6)(b)1. Authority to establish form for certificate of successful completion of examination for Class "CC" licensure
 (6)(b)2. Authority to establish general content of professional training and examination criteria for Class "CC" licensure
- 493.6302 Fees
 (1) Authority to establish biennial license fees for Class "B," "BB," "D," "DI," "DS," and "MB" licenses (with prescribed limits)
 (2) Authority to establish fee for replacement or revision of a license (with prescribed limit)
- 493.6303 License requirements
 (4)(a) Authority to establish general content and number of hours for subject area training for Class "D" licensure
- 493.6304 Security officer school or training facility
 (1) Authority to establish application fee for Class "D" license (with prescribed limit)
 (3) Authority to establish criteria for approval of schools, training facilities, and instructors for Class "D" licensure
- 493.6402 Fees
 (1) Authority to establish biennial license fees for Class "E," "EE," "MR," "R," "RI," "RR," and "RS" licenses (with prescribed limits)
 (2) Authority to establish fee for replacement or revision of a license (with prescribed limit)

- 493.6403 License requirements
 - (2) Authority to establish general content of training for Class “E” and “EE” licensure

- 493.6406 Recovery agent school or training facility
 - (1) Authority to establish application fee for Class “E” and “EE” licenses (with prescribed limit)
 - (3) Authority to establish criteria for approval of schools, training facilities, and I instructors for Class “E” and “EE” licensure

- Ch. 496 Solicitation of Funds**
- 496.410 Registration and duties of professional solicitors
 - (2) Establish a registration or renewal application

- 496.414 Duties of commercial co-venturers
 - (2) Advertising disclosure for a charitable or sponsor sales promotion

- 496.424 Rulemaking authority
 - To implement 496.401-496.424 or 496.426

- 496.425 Solicitation of funds within public transportation facilities
 - (7)(b) Govern the activities of permit holders soliciting funds within public transportation facilities

- Ch. 500 Food Products**
- 500.09 Rulemaking; analytical work
 - (1)(a) Food Safety Information
 - (1)(b) Standard of Identity for Food Classification
 - (2)(a) Small open containers of fresh fruits and fresh vegetables
 - (2)(b) Repackaging of Food/labeling requirements
 - (3) Efficient enforcement of this chapter
 - (4) Requirements for the manufacturing, processing, packing, holding, or preparing of food; the selling of food at wholesale or retail; or the transporting of food by places of business

- 500.11 Food deemed misbranded
 - (1)(i)2. Food Labeling Exemptions

- 500.12 Food permits; building permits
 - (1)(b) Food Permit Fee
 - (1)(e) Food Permit Application
 - (1)(f) Food Safety Conditions
 - (6) Training and Certification of Food Managers

- 500.148 Reports and dissemination of information; confidentiality
(3)(b) Export Certificate Fee
- 500.165 Transporting shipments of food items; rules; penalty
(2) Standards for decontamination and exemptions; fines
- 500.303 Standards established by departmental rule
(1) Grain Products Standards
- 500.459 Water vending machines
(4) Permit Fee
(5)(g) Treatment and post-disinfection methods
(6)(a) Rulemaking Authority to implement the section
(6)(b) Secondary drinking water quality standards
(6)(c) Water quality standards; testing intervals
(6)(d) Testing intervals of silver-impregnated carbon filters
- 500.70 Tomato food safety standards; inspections; penalties; tomato good agricultural
practices; tomato best management practices
(2) Establish food safety standards for producing, harvesting, packing, and repacking of
tomatoes
(4)(a) Establish tomato good agricultural practices and tomato best management practices
(6) Annual registration fee
(7) Rulemaking authority to administer the section

Ch. 501 Consumer Protection

- 501.014 Health studios; powers and duties of the department
(2) To implement Health Studios Act
- 501.019 Health studios; penalties
(4)(b)(6) Establish conditions of probation
- 501.143 Dance Studio Act
(12) Rulemaking authority to implement the section
- 501.607 Licensure of salespersons (Florida Telemarketing Act)
(3) Allow certain salespersons to operate on an interim basis
- 501.626 Rulemaking power (Florida Telemarketing Act)
Rulemaking authority to implement the Act

- 501.921 Standards (Antifreeze)
Authority to adopt antifreeze standards
- Ch. 502 Milk and Milk Products**
- 502.014 Powers and duties
(6) Rulemaking authority to implement the Chapter
- 502.121 Future dairy farms and milk and frozen dessert plants
(1) Establish minimum specifications and requirements for new operations
- Ch. 507 Household Moving Services**
- 507.09 Administrative remedies; penalties
(3) Rulemaking authority to administer the Chapter
- Ch. 525 Gas & Oil Inspection**
- 525.14 Rules
Rulemaking authority to administer the Chapter
- Ch. 526 Sale of Liquid Fuels; Brake Fluid**
- 525.09 Department to enforce law; rules
Rulemaking authority to implement the Chapter
- 526.206 Rules
Rulemaking authority to implement the Act (Florida Renewable Fuel Standard Act)
- 526.53 Enforcement; inspection and analysis, stop-sale and disposition, regulations
(4) Rulemaking authority to implement the Part (Sale of Brake Fluid)
- Ch. 527 Sale of Liquefied Petroleum Gas**
- 527.02 License; penalty; fees
(4) Scope of work for specialty installer
(6) Acts that demonstrate lack of trustworthiness
- 527.0201 Qualifiers; master qualifiers; examinations
(1) General areas of competency
(3) Continuing education courses
(5) Documents to be supplied to the Department
(5)(c) Approved courses of continuing education
- 527.06 Rules
Rulemaking authority to implement the Chapter

- 527.067 Responsibilities of persons engaged in servicing liquefied petroleum gas equipment and systems and consumers, end users, or owners of liquefied petroleum gas equipment or systems.
- (2) Method of notification of alteration to LP gas equipment/systems
- 527.23 Marketing orders; referendum requirements; assessments
- (13) Administering, collection, reporting and payment of assessments
- Ch. 531 Weights, Measures, and Standards**
- 531.41
- (3) Rulemaking authority to implement the Chapter
- (4) Establish standards for weight, measure, and count
- (5) Establish exemptions from this chapter
- (14) Prescribe appropriate term or unit of weight or measure
- (15) Establish tolerances and specifications for grain moisture measuring devices
- (16) Voluntary registration of private weighing and measuring services
- 531.44 Misrepresentation of pricing; verification procedures
- (2) Sampling procedures for determining acceptable pricing practice
- 531.60 Permit for commercially operated or tested weights or measures instrument or devices
- (1) Provide a definition of “commercial purposes”
- 531.62 Permit application and renewal
- (1) Application requirements
- (2) Application fee
- 531.66 Forms; rules
- (2) Rulemaking authority to administer ss. 531.60-531.66, F.S.
- Ch. 534 Livestock; Marks and Brands; Stamping Beef**
- 534.071 Rules and regulations
- Rulemaking authority to implement the Chapter
- Ch. 535 Horse Sales, Shows, and Exhibitions**
- 535.02 Minimum requirements; rules
- Establish minimum requirements for financial responsibility and for sales facilities with respect to the public sale of thoroughbred horses
- 535.08 Thoroughbred sales; administration of medications prior to sale; testing

- (3)(e) Establish a list of forbidden substances; procedures for the collection, handling, and storage of blood samples; and the type of test to be used.
- 535.14 Rules
Rulemaking authority to implement 535.11 and 535.12, F.S.
- 535.16 Sale and purchase of horses; unfair or deceptive trade practices
(1) Establish rules to prevent unfair or deceptive trade practices for horse sales
- Ch. 539 Pawnbroking**
- 539.001 The Florida Pawnbroking Act
(21) Rulemaking authority to implement the Act
- Ch. 559 Regulation of Trade, Commerce, and Investments, Generally**
- 559.802 Franchises; exemption (Sale or Lease of Business Opportunities)
(4) Rulemaking authority to implement this section
- 559.813 Remedies; enforcement (Sale or Lease of Business Opportunities)
(8) Rulemaking authority to implement this Part
- 559.916 Required disclosure; signs; notice to customers (Repair of Motor Vehicles)
(1) Prescribe motor vehicle repair shop sign posting specifications
- 559.922 Motor vehicle repair training; financial assistance (Repair of Motor Vehicles)
Provide financial assistance for motor vehicle repair training
- 559.92201 Rulemaking power (Repair of Motor Vehicles)
Rulemaking authority to implement this part
- 559.9285 Certification of business activities
(3) Form of certification
- 559.9355 Administrative remedies; penalties
(3) Rulemaking authority to implement specified sections this Part
- Ch. 570 Department of Agriculture and Consumer Services**
- 570.07 DACS functions, powers, and duties
(10) BMP's for Agriculture Production and Food Safety
(21) Emergency Rule Authority
(23) Department's Rulemaking Authority
(24) Inspection of Quality and Branding
(39) Governing Aircraft used in aerial spraying

- (40) Aerial Applicator's secure storage of pesticides
- 570.076 Environmental Stewardship Certification Program
Establish Environmental Stewardship Certification Program
- 570.085 DACS Agricultural Water Conservation
(2) Development and implement voluntary interim measures or BMP's
- 570.15 Access to places of business and vehicles
(5) Conditions/criteria by which non-agency vehicles may pass inspection stations
- 570.247 Promulgation of rules
Procedures for Agricultural Economic Development Grants
- 570.481 Fruit and vegetable inspection fees; penalty
(1)(a) Inspection fee
- 570.53 Division of Marketing and Development; powers and duties
(7) Promulgate rules relating to contracts to renovate or construct marketing facilities
- 570.71 Conservation easements and agreements
(10) Application for conservation easements and agreements
- 570.903 Direct-support organization
(1)(c) Budgets and audit for direct support organizations
(8) Archival procedures for museum artifacts
- Ch. 571 Agricultural Advertising**
- 571.05 Rules
Seal of quality for promotion; minimum standards of quality and grade of agriculture products for such seal; name and define market packages of agriculture products; promotion fee for market packages.
- 571.24 Purpose; duties of the department
(1) Develop logos and authorize their use.
(8) Implement statutory provisions regarding agricultural promotional campaigns.
- 571.25 Registration and fees
(2) Establish registration and renewal fees for agriculture promotional campaigns.
- 571.27 Rules

Rulemaking authority to implement the Florida Agricultural Promotional Campaign Act; for entering into contracts; procedures for negotiating cost; determine logos used in advertising; necessary for participant registration; other aspects of membership

Ch. 573 Marketing of Agriculture Commodities

573.119 Department; powers and duties

(2) Administration and enforcement for each marketing order or marketing agreement

Ch. 574 Sale of Leaf Tobacco

574.14 Rules

Rulemaking authority to implement the chapter

Ch. 576 Agriculture Fertilizers

576.041 Inspection fees; records; bond

(6) Regiments for security bonds or certificate of deposits

(7) Require licensee, manufactures, registrants and dealers reporting

576.045 Nitrogen and phosphorus; findings and intent; fees; purpose; best management practices; waiver of liability; compliance; rules; exclusions; expiration

(6)(a) Specify interim measures and BMP's

(6)(b) Procedures for notice of intent

(6)(c) Establish implementation schedules

(6)(d) Establish system to insure implementation of BMP's

576.051 Inspection, sampling, analysis

(7) Collection and analysis of official fertilizer samples

(8) Limitations on number of samples at request of customer

576.055 Deconing

Procedures to avoid coning in loading bulk fertilizers into transport vehicles

576.085 Minimum plant nutrient content

Establishing premium plant nutrient content

576.181 Administration; rules; procedure

(2) General registration of fertilizers

(3) Rules for aircraft in aerial applications of fertilizers

(4) Secure storage of fertilizers used by aerial applicators

Ch. 578 Seed

578.11 Duties, authority, and rules of the department

(1)(h) Fee for analyzing samples at request of consumer

- (1)(i) Rulemaking authority to implement the chapter
- (1)(j) Requirements regarding aircraft used for aerial application of seed

- 578.26 Complaint, investigation, hearings, findings, and recommendation prerequisite to legal action
 - (4) Government investigations and hearings

- 578.28 Seed in hermetically sealed containers
 - (2)(b) Establish moisture levels of agricultural or vegetable seed

- Ch. 580 Commercial Feed and Feedstuff**
- 580.036 Powers and duties
 - (2) Rulemaking authority to implement the chapter
 - (2)(a) Definitions and standards for commercial feed and tolerances for pesticides, additives, non nutrients or drugs
 - (2)(b) Standards for manufacture and distribution of medicated feed
 - (2)(c) Standards for certifying laboratories
 - (2)(d) Establish product labeling for distributors
 - (2)(e) Limit drugs in commercial feed and prescribe feeding directions
 - (2)(f) Standards for evaluating QA/QC plans

- 580.051 Labels; requirements; penalty
 - (1)(d) Label for manufacture or expiration date at retail
 - (1)(e)1. Guarantee analysis requirements

- 580.065 Laboratory certifications; application; fees; requirements; reporting; refusal or cancellation of certification
 - (1)(a) Standards for laboratories certified in: Nutrients; Mycotoxins; Microbiological organisms; Pesticides residues; Drugs
 - (2)(a) Information required for laboratory certification
 - (2)(d) Compliance information to be reported

- 580.091 Inspection; sampling; analysis; exemption
 - (2) Feed sampling frequency and analysis requirements
 - (3)(a) Official testing
 - (4) Methods where not nationally established

- 580.131 Penalty payable to consumer
 - (6) Enforceable variations for short weight

- Ch. 581 Plant Industry**
- 581.031 Department; powers and duties

- (1) Governing nurseries and nursery stock
- (2) Set standard grades for nursery stock
- (3) Governing grading, packing, sale, and distribution of nursery stock
- (4) Governing importation of plants and plant products
- (5) Prevent introduction or dissemination of plant pest and noxious weeds by transit
- (6) Declare plant pest, noxious weed, arthropod or infected plant a nuisance
- (7) Prescribe method and manner for moving prohibited articles
- (8) Governing certificates of registration and inspection
- (17) Governing procedures for treatment, cutting and destruction of plants, etc. capable of harboring pest in proximity to know infestation
- (23)(a) To waive fees for governmental agencies for service provided by the Department

Ch. 583 Classification and Sale of Eggs and Poultry

583.04 Rulemaking

Rulemaking authority to implement the chapter

583.051 Power of department to bill and collect moneys due under poultry or egg programs
 Authority to establish payment periods

583.17 Grades and standards for fowl
 (2) Authority to implement the section

583.181 Disposal of dead poultry and hatchery residue; inspection and quarantine; penalties
 (3)(a) Establishing requirements for the disposal of dead birds and hatchery residue

Ch. 585 Animal Industry

585.002 Department control; continuance of powers, duties, rules, orders, etc.

- (4) Rulemaking authority to implement the chapter
- (5) Feed Schedule

585.08 General powers of the department; rules
 (2) Rulemaking authority

585.11 Cooperation with United States authorities and United States Department of Agriculture accredited private veterinarians
 (3) Rulemaking Authority to implement the National Poultry Improvement Plan and the National Turkey Improvement Plan in Florida

585.145 Control of animal diseases
 (2) Certificates and documents required to import animals
 (4) Rules to deny a veterinarian the authority to issue health certificates

- 585.15 Dangerous transmissible disease or pest a public nuisance
Declare that a certain pest or disease of animals is a public nuisance; develop a dangerous transmissible disease list requiring mandatory reporting
- 585.19 Duty of practitioners of veterinary medicine and owners of animals to report dangerous transmissible diseases or pests; penalty
(3) Reporting of dangerous transmissible diseases or pests
- 585.50 Garbage feeding prohibited unless sterilized
Methods for treating garbage prior to feeding to animals
- 585.52 Requirement regarding the collection, transportation, and distribution of garbage
Rulemaking authority to implement ss. 585.48-585.59, F.S.
- 585.61 Animal disease diagnostic laboratories
(3) User rules/fees for services of the diagnostic laboratories
- 585.671 Control and eradication of equine infectious anemia and equine piroplasmiasis
(1) Rulemaking authority to implement the section
- Ch. 586 Honey Certification and Honeybees**
- 586.045 Certificates of registration and inspection
(2) Registration Fee
- 586.10 Powers and duties of department
(2) Rulemaking authority to implement the chapter
(3) Standard grades for honey and other honeybee products
(6) Movement and sale of prohibited articles in a quarantine area
- Ch. 589 Forestry**
- 589.011 Use of state forest lands; fees; rules
(3) User Fees
(4) Protection, utilization, occupancy, and development of state forest lands
- 589.071 Traffic control within state forest or division-assigned lands
To control traffic within state forests
- 589.12 Rules and regulations
Rulemaking authority to implement ss. 589.07-589.11, F.S.
- 589.19 Creation of certain state forests; naming of certain state forests
(4) Designation and management of "Wounded Warrior Special Hunt Areas"

- 589.277 Tree planting programs
 (3) Procedures for tree planting programs for urban and rural reforestation
- Ch. 590 Forest Protection**
- 590.02 Division powers, authority, and duties; liability; building structures; Florida Center for Wildfire and Forest Resources Management Training
 (1) Rulemaking authority to implement the Chapter
- 590.091 Designation of railroad rights-of-way as wildfire hazard areas
 (2) Regulation of the condition of railroad rights-of-way so as to prevent the ignition of fires.
- 590.125 Open burning authorized by the division
 (3) For the use of prescribed burning and for certifying and decertifying certified prescribed burn managers.
 (4) Procedures and criteria for certifying and decertifying certified pile burn managers
- Ch. 593 Agricultural Commodity Insect Control**
- 593.103 Powers and duties of department
 (2) Rulemaking authority to implement the Part
- 593.106 Quarantine; regulation of articles within eradication zone
 (1) Movement of regulated articles in the quarantine zone
- 593.107 Regulation of collection, transportation, distribution, and movement of cotton
 Required information from growers
- 593.109 Authority to designate eradication zones, prohibit planting of cotton, and require participation in eradication program
 (1) Designation of eradications zones; prohibit planting of non-commercial cotton; requiring all growers in the zone to participate
 (2) Penalty Fees
- 593.21 Monitoring of health complaints by Department of Health; hotline; rulemaking authority
 Adopt standards for determining when the use of a particular pesticide should be discontinued
- Ch. 597 Aquaculture**
- 597.004 Aquaculture certificate of registration
 (2)(a)1. Requiring BMP's to be implemented by certificate holders

- (2)(a)2. Procedures to submit notice of intent to implement BMP's
- (2)(a)3. Schedules for implementation of BMP's
- (2)(a)4. Recordkeeping of BMP's

- 597.0045 Cultured shellfish theft reward program
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- 597.010 Shellfish regulation; leases
 - (7) Implement surcharge for improvement or rehabilitation
 - (8)(d) Water column over shellfish leases

- 597.020 Shellfish processors; regulation
 - (1) Regulation of licensing, handling, processing, packaging, preserving, canning, smoking, and storing of oysters, clams, mussels, scallops, and crabs; License fee; define adulterated or misbranded shellfish products

- Ch. 599 Viticulture**
- 599.004 Florida Farm Winery Program; registration; logo; fees
 - (2)(a) Florida Farm winery logos; emblems and signs

- Ch. 601 Florida Citrus Code**
- 601.28 Inspection fees
 - (3)(a) Inspection fees
 - (4)(b) Reporting of nits of citrus fruit and processed citrus products subject to fees
 - (5) Special Inspection Fees for non-regular work time inspections

- 601.29 Powers of Department of Agriculture and Consumer Services
 - (4) Adoption of USDA standard grades for citrus fruit or canned or concentrated citrus products

- 601.60 Issuance of dealers' licenses
 - (1) Requirements for renewal of a provisional license

- 601.74 Adoption of rules; fees for licensing and analysis of processing materials
 - Licensing and analysis of materials and composition used on or in the packing of citrus fruits; set fees

- 601.75 Dyes and coloring matter for citrus fruit to be certified prior to use
 - Permitting and certification of dyes and coloring matter for citrus fruit prior to use on any citrus fruit

- 601.76 Manufacturer to furnish formula and other information

Requirements for information which must be furnished by manufacturers of coloring matter for use on citrus fruit

601.77 Subsequent analysis of coloring matter; inspection of packinghouses for application
Subsequent analysis of coloring matter, for inspection of packinghouses or other places where coloring matter is applied to citrus fruit, and for grounds for revocation of a license to use coloring matter on fruit.

601.78 Manufacturer to post bond.—
Require cash or surety bonds to be posted by manufacturers of coloring matter used on citrus fruit; amount and form of such bonds and the grounds and procedures for forfeiture of same

Ch. 603 Fruits and Vegetables

603.11 Grades of fruits; vegetables; nuts; grains; and other agricultural products
(2) Grades and sizes on any fruits or vegetables in this state (except citrus)

603.151 Enforcement of Federal Marketing Agreement Act by state as to certain vegetables
(3) Rulemaking authority to implement the section

603.152 Maturity standard for limes; applicability; testing of limes; rules and regulations
(3) Sampling manner; method; cost and expense
(7) Rulemaking authority to implement the section

Ch. 604 General Agricultural Laws

604.19 License; fee; bond; certificate of deposit; penalty (Dealers in Agricultural Products)
Set licensing and late fees for dealers in agricultural products.

604.20 Bond or certificate of deposit prerequisite; amount; form
(1) Set maximum amount of bond required in order to be licensed as a dealer

604.27 Rules
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604.33 Security requirements for grain dealers
Set day of month by which grain dealers must make report to the Department

Ch. 616 Public Fairs and Expositions

616.12 Licenses upon certain shows; distribution of fees; exemptions
(1) Rulemaking authority to implement the section

616.15 Permit from Department of Agriculture and Consumer Services required

- (2) Requirements for application for fair permit
- 616.165 Rules
 - Rulemaking authority to implement the chapter
- 616.241 Trade standards for operation at public fairs and expositions
 - (10) Listing of rules which may be exhibited at a public fair; including operating standards and procedures
- 616.242 Safety standards for amusement rides
 - (3)(q) Required Qualifications of a "Qualified Inspector"
 - (4)(a) Adoption of national standards for amusement rides
 - (4)(b) Adoption of rules for amusement rides to promote patron safety
 - (4)(c) Adoption of rules for go-karts; water parks; and bungee jumps
 - (4)(d) Adoption of rules for accidents and unforeseen events on amusement rides
 - (5) Form of annual permit application
 - (5)(c) Annual permit application fee
 - (7)(a)3. Capacity of "kiddie" rides
 - (7)(b) Request for Inspection form
 - (7)(c) Late fee (permanent rides)
 - (7)(d) Late fee (temporary rides)
 - (7)(f) Reinspection request form; fee
 - (7)(g) Inspection certificate
 - (8) Establish fees
 - (10)(a)1. Affidavit of Annual Inspection
 - (10)(b) Exemptions from the section
 - (14)(b) Closed ride written report
 - (15) Inspection report
 - (16) Employee training form
- Ch. 849 Gambling (Game Promotions)**
- 849.094 Game promotion in connection with sale of consumer products or services
 - (8)(a) Rulemaking authority to implement the section



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Contact:

Lyndsey Cruley, (850) 487-5632

Ryan Duffy, (850) 487-8148

Florida Legislature Announces “YourVoice” for Florida Businesses

Online tool will survey business stakeholders in effort to make Florida more business-friendly

Tallahassee, Fla. – As part of ongoing efforts to improve Florida’s business climate, the Florida Legislature today announced the availability of “[YourVoice](#)” – an online tool that will survey business owners and stakeholders to collect feedback on any potential burdensome rules and regulations for businesses.

“At a time when one out of every ten Floridians is looking for work, the last thing our state needs is for government to come between a business and the creation of new jobs,” said House Rulemaking & Regulations Subcommittee Chairman Chris Dorworth (R-Lake Mary). “This online tool will help lawmakers determine how we can best reduce the burden state government is placing on businesses and continue to help make Florida a destination for new business.”

“The Florida Legislature wants to hear directly from Floridians about any potential rules and regulations that may impose unnecessary and burdensome regulation on our state’s citizens so that we can work to remove barriers to economic growth during the upcoming session,” said Senate Committee on Governmental Oversight and Accountability Chairman Senator Jeremy Ring (D- Margate). “Our state’s citizens are our best source to identify whether or not our state’s rules and regulations impose unacceptable burdens and this tool gives lawmakers the ability to directly connect with Floridians across the state.”

Those interested in completing the survey can [access it online](#).

The Florida Legislature is the representative branch of Florida government and has the responsibility to supervise the power of agencies and local governments to adopt rules and regulations that may control private and commercial conduct. As part of the Legislature's effort to discover how rules and regulations may hinder productivity and job growth, “[YourVoice](#)” will seek to gather important information from current and potential Florida business owners and stakeholders that can be used to enhance or revise existing rules and regulations.

Starting today, users can access “[YourVoice](#)” online and complete a survey. The results of the survey will be collected by the House Rulemaking & Regulations Subcommittee and the Senate

Committee on Governmental Oversight and Accountability and be considered as ideas for future legislation.

The information gathered will be used to inform members of the House Rulemaking & Regulations Subcommittee and the Senate Committee on Governmental Oversight and Accountability and may be used to adopt rules and regulations to protect the health, safety and welfare of Floridians.

###

STATE OF FLORIDA

**OFFICE OF THE GOVERNOR
EXECUTIVE ORDER NUMBER 11-211
(Superseding Executive Order 11-72;
Office of Fiscal Accountability and Regulatory Reform)**

WHEREAS, government must be held accountable for efficient and effective performance; and

WHEREAS, no person, profession, occupation, or business should be subject to regulation by the State unless regulation is necessary to protect the public from harm or to promote the general welfare; and

WHEREAS, the people of the State of Florida deserve a regulatory process that is efficient, effective, understandable, responsive, and open to the public; and

WHEREAS, State regulations may impose duplicative, obsolete, and unnecessarily burdensome requirements on Florida's citizens and businesses; and

WHEREAS, continual review and assessment of existing and proposed regulations is necessary to ensure that the laws of the State are faithfully executed without unduly burdening the State's economy and imposing needless costs and requirements on citizens, businesses, and local governments; and

WHEREAS, fiscal accountability by all agencies is necessary to ensure integrity in State government; and

WHEREAS, while agency heads and personnel bring expertise to a particular subject matter, they are not directly accountable to the electorate and do not necessarily have an

incentive to take a systemic approach to regulatory problems, to budget constraints, or to the overall regulatory burden imposed by the State on citizens and businesses; and

WHEREAS, the elected Governor has a democratic mandate, is directly answerable to the people, and has the duty and power to assess the overall legality, efficiency, and operation of government;

WHEREAS, at the federal and state levels, chief executives have recognized the need for centralized, democratically accountable oversight and leadership respecting disparate agency rulemaking, as reflected in dozens of executive orders by presidents, governors of other states, and prior governors of Florida; and

WHEREAS, review and oversight of agency rulemaking is encompassed by the Governor's powers and duties under the Constitution of the State of Florida to "take care that the laws be faithfully executed" and to serve as "the chief administrative officer of the state responsible for the planning and budgeting for the state"; and

WHEREAS, the Constitution of the State of Florida and the Florida Statutes establish that many agencies of State government are administered by an officer "appointed by and serving at the pleasure of the governor," and in order to determine whether an officer shall continue to serve at the Governor's pleasure, it is necessary for the Governor to set expectations and standards for that officer, and to measure agency performance against those expectations and standards; and

WHEREAS, pursuant to the Constitution of the State of Florida, the Governor must transact all necessary business with officers of government, and may require information in writing from all executive or administrative State officers upon any subject relating to the duties of their offices; and

WHEREAS, pursuant to section 14.06, Florida Statutes, the Governor is authorized to employ such persons as may be required from time to time to make such investigations as may, in the judgment of the Governor, be necessary or expedient to efficiently conduct the affairs of the State government; and

WHEREAS, Executive Orders 11-01 and 11-72 established the Office of Fiscal Accountability and Regulatory Reform (OFARR) to ensure that agency rules (proposed and existing) are efficient, are not overly burdensome, and faithfully adhere to statutes as enacted by the Legislature; and

WHEREAS, upon establishment of OFARR, all agencies under the direction of the Governor were required to obtain OFARR review and approval before developing new rules or amending or repealing existing rules; and

WHEREAS, OFARR's review process has facilitated the Governor's exercise of the power and duty to serve as the chief executive and administrative officer of the State; and

WHEREAS, the Legislature has determined that OFARR review of existing regulations may exempt an agency from the enhanced biennial review and compliance economic review otherwise mandated by section 120.745, Florida Statutes; and

WHEREAS, OFARR's review process has facilitated the Governor's planning and budgeting for the State; and

WHEREAS, OFARR has reviewed thousands of rules and regulations and helped agencies identify over one thousand unnecessary and unauthorized rules and regulations for repeal; and

WHEREAS, since January 4, 2011, OFARR has reviewed hundreds of proposed agency rulemaking actions; and

WHEREAS, OFARR's review process has thus far been successful in helping to ensure efficient and effective performance by State government; and

WHEREAS, the Supreme Court of Florida, in the case of *Whiley v. Scott*, No. SC11-592, issued an unsigned opinion joined by five Justices, which held that Executive Orders 11-01 and 11-72 "impermissibly suspended agency rulemaking to the extent that [they] included a requirement that [OFARR] must first permit an agency to engage in the rulemaking which has been delegated by the Florida Legislature"; and

WHEREAS, the majority opinion in *Whiley*:

- (1) failed to address and apply the plain meaning of the first and sixth sections of Article IV of the Constitution of the State of Florida, and thereby unreasonably restrains the power of the Governor with respect to the supervision of agency heads;
- (2) failed to address the implications of the Court's precedent in *Jones v. Chiles*, 638 So. 2d 48 (Fla. 1994), which recognized the proper scope of executive power under the Constitution of the State of Florida;
- (3) failed to address the persuasive caselaw from the United States Supreme Court and the highest courts of other states;
- (4) failed to address the precedent set by dozens of executive orders issued by prior governors of Florida;
- (5) failed to address the Court's holding that "[t]he principles underlying the governmental separation of powers antedate our Florida Constitution and were collectively adopted by the union of states in our federal constitution," *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260, 263 (Fla. 1991), and in light of that

precedent, failed to consider that Executive Orders 11-01 and 11-72 cannot be meaningfully distinguished from similar executive orders issued by the last four presidents of the United States and the governors of at least twenty-nine other states;

(6) relied on a 1983 Opinion of the Attorney General Opinion, which the Attorney General distinguished and limited to its facts in an amicus brief in *Whiley*; and

WHEREAS, the dissenting opinions of two Justices in the *Whiley* case state the correct interpretation of the Constitution of the State of Florida and present persuasive reasoning and arguments in support of that interpretation; and

WHEREAS, notwithstanding the above, the majority opinion in *Whiley* is to be afforded the deference due a judgment of the Supreme Court of the State of Florida.

NOW, THEREFORE, I, RICK SCOTT, as Governor of Florida, by virtue of the authority vested in me by Article IV of the Florida Constitution, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

Section 1. Pursuant to the Governor's inherent constitutional powers and sections 14.06 and 120.745, Florida Statutes, OFARR, created by Executive Order 11-01, shall continue to operate within the Executive Office of the Governor. OFARR, as my designee, to the extent permitted by law, including without limitation chapter 120, Florida Statutes, shall have the following responsibilities and delegated powers, which I deem necessary to executing my responsibilities as the chief executive and administrative officer of the State and to making such investigations as are necessary and expedient to conduct the affairs of State government:

1. Review proposed and existing agency rules and regulations to ensure that they do not:

- a. unnecessarily restrict entry into a profession or occupation;
 - b. adversely affect the availability of professional or occupational services to the public;
 - c. unreasonably affect job creation or job retention;
 - d. place unreasonable restrictions on individuals attempting to find employment;
 - e. impose unjustified costs on business;
 - f. impose an unjustified overall cost and economic impact, including indirect cost to consumers; or
 - g. contravene statutory rulemaking directives.
2. Analyze, or review the agency's analysis of, the impact of proposed and existing rules on matters of public health, public safety, public welfare, job creation, and other matters that may have an impact on the creation, expansion, or retention of business interests in the State.
 3. Make recommendations for altering or simplifying proposed or existing regulations or regulatory processes of State agencies.
 4. Require agencies to prepare a statement of estimated regulatory costs analyzing the economic impact of agency rules, including an analysis of the effect of such rules on the creation and retention of jobs within the State.
 5. Work with other appropriate State officials and entities to identify rules and regulations, particularly those relating to small businesses, that have an adverse or disproportionate impact on business, and make recommendations for actions that would alleviate those effects.

6. Review actions taken by State agencies to improve program performance, meet program standards, and promote economy and efficiency. Identify the most successful actions taken by agencies and set such activities as benchmarks for other agencies. Recommend actions where no actions are currently being taken to address performance and efficiency.
7. Using the agencies' measurements related to the core agency functions necessary to implement each agency's statutory duties, design performance metrics that agencies should meet, and measure expectations against results annually.

Section 2. Pursuant to the Governor's constitutional power to "require information in writing from all executive or administrative state ... officers upon any subject relating to the duties of their respective offices," I hereby direct all agencies headed by an officer serving at the pleasure of the Governor to submit in writing to OFARR all proposed rulemaking notices, along with the complete text of any proposed rule or amendment, and to make this written submission at least one week prior to the time such notices will otherwise be submitted for official publication. Such agencies shall also submit any other written documentation required by OFARR at such times as required by OFARR, consistent with law, including without limitation, chapter 120, Florida Statutes.

Section 3. For State agencies not under the direction of the Governor, OFARR shall make itself available to conduct analyses of existing rules or proposed rulemaking, rule amendment, or rule repeal, as requested by agency heads.

Section 4. For each agency headed by an official serving at the pleasure of the Governor, the agency head shall designate a Fiscal Accountability Officer and a Regulatory Reform Officer. The Fiscal Accountability Officer shall be responsible for coordinating agency efforts

regarding fiscal accountability and performance accountability. The Regulatory Reform Officer shall be responsible for coordinating agency efforts regarding the evaluation and reduction of regulatory burdens. Both officers shall serve as liaisons between the agency and OFARR. Each agency shall provide to OFARR, in writing and in a timely manner, the names of its Fiscal Accountability Officer and Regulatory Reform Officer and any change in such designations.

Section 5. For each agency headed by an official serving at the pleasure of the Governor, the agency head is directed to:

1. Identify the following:
 - a. actions taken by the agency to evaluate program performance, meet program standards, and promote economy and efficiency;
 - b. all types of measurements collected by the agency to evaluate those actions;
 - c. methods of capturing the measurements used by the agency; and
 - d. actions taken by the agency to improve program performance, meet program standards, and promote economy and efficiency.
2. Review and evaluate the measurements identified in 1.b. above. Identify which measurements relate to the agency's core functions necessary to implement the agency's statutory duties.
3. Report the above information as directed by OFARR within sixty days of this Order.
4. Consider OFFAR's recommendations and proposed benchmarks relating to program performance, program standards, and economy and efficiency.

Section 6. Consistent with Executive Order 11-01, and in order (i) to reduce the regulatory burden on the citizens of Florida, (ii) to determine whether existing rules and regulations remain justified and necessary, and (iii) to determine whether such existing rules and regulations are duplicative or unnecessarily burdensome, each agency headed by an official serving at the pleasure of the Governor shall, beginning July 1, 2013; and by July 1 of each successive year, submit to OFARR in writing an annual review of existing rules and regulations, along with recommendations as to whether any rules and regulations should be modified or eliminated.

For any rule or regulation that an agency identifies as duplicative, unnecessarily burdensome, or no longer necessary, the agency shall coordinate with OFARR to pursue the repeal or amendment of such rule or regulation in a timely and orderly manner.

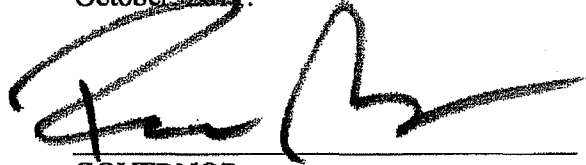
Each agency is further directed to identify any legislative mandates that require the agency to continue to impose rules that the agency believes have a negative impact on business, job creation, or job retention in Florida.

Section 7. No later than July 1, 2012, and on July 1 of each successive year, each agency headed by an official serving at the pleasure of the Governor shall submit to OFARR in writing an annual regulatory plan that shall identify and describe each rule that the agency expects to begin promulgating during the next twelve-month period. OFARR may describe and require other information to be included in this submission.

Section 8. The recommendations of OFARR shall constitute the strongly held views of the Governor regarding agency regulatory matters, and agency performance in light of OFARR's recommendations and benchmarks will be factors in the Governor's continual evaluation of his Administration.

Section 9. This Order supersedes Executive Order 11-72.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 19th day of October 2011.


GOVERNOR

ATTEST:


SECRETARY OF STATE

FILED
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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

