

## CHAPTER 2012-31

### House Bill No. 7029

An act relating to the repeal of administrative rules; amending s. 120.536, F.S.; providing for repeal of administrative rules upon the repeal of the law implemented; creating s. 120.555, F.S.; providing a process for summary repeal of administrative rules that are no longer in effect; nullifying specific administrative rules adopted by the Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, South Florida Water Management District, the former Department of Commerce, the former Department of Health and Rehabilitative Services, Health Program Office, the former Advisory Council on Intergovernmental Relations, or the former Department of Labor and Employment Security; directing the Department of Health and the Department of Education to initiate necessary rulemaking before the effective date of specified rule nullifications; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) and (3) of section 120.536, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and a new subsection (2) is added to that section to read:

120.536 Rulemaking authority; repeal; challenge.—

(2) Unless otherwise expressly provided by law:

(a) The repeal of one or more provisions of law implemented by a rule that on its face implements only the provision or provisions repealed and no other provision of law nullifies the rule. Whenever notice of the nullification of a rule under this subsection is received from the committee or otherwise, the Department of State shall remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.

(b) The repeal of one or more provisions of law implemented by a rule that on its face implements the provision or provisions repealed and one or more other provisions of law nullifies the rule or applicable portion of the rule to the extent that it implements the repealed law. The agency having authority to repeal or amend the rule shall, within 180 days after the effective date of the repealing law, publish a notice of rule development identifying all portions of rules affected by the repealing law and if no notice is timely published the operation of each rule implementing a repealed provision of law shall be suspended until such notice is published.

(c) The repeal of one or more provisions of law that, other than as provided in paragraph (a) or paragraph (b), causes a rule or portion of a rule

to be of uncertain enforceability requires the Department of State to treat the rule as provided by s. 120.555. A rule shall be considered to be of uncertain enforceability under this paragraph if the division notifies the Department of State that a rule or a portion of the rule has been invalidated in a division proceeding based upon a repeal of law, or the committee gives written notification to the Department of State and the agency having power to amend or repeal the rule that a law has been repealed creating doubt about whether the rule is still in full force and effect.

Section 2. Section 120.555, Florida Statutes, is created to read:

120.555.—Summary removal of published rules no longer in force and effect.—When, as part of the continuous revision system authorized in s. 120.55(1)(a)1. or as otherwise provided by law, the Department of State is in doubt whether a rule published in the official version of the Florida Administrative Code is still in full force and effect, the procedure in this section shall be employed.

(1) The Department of State shall submit to the head of the agency with authority to repeal or amend the rule, if any, or if no such agency can be identified, to the Governor, a written request for a statement as to whether the rule is still in full force and effect. A copy of the request shall be promptly delivered to the committee and to the Attorney General. The Department of State shall publish a notice of the request together with a copy of the request in the Florida Administrative Weekly next available after delivery of the request to the head of the agency or the Governor.

(2) No later than 90 days after the date the notice required in subsection (1) is published, the agency or the Governor, notified pursuant to subsection (1), shall file a written response with the Department of State stating whether the rule is in full force and effect and under the jurisdiction of an agency with full authority to amend or repeal the rule. Failure to respond timely under this subsection constitutes an acknowledgement by the agency or the Governor that the rule is no longer in effect and is subject to summary repeal under this section.

(3) The Department of State shall publish a notice of the agency's or Governor's timely response or the acknowledgement determined under subsection (2) in the Florida Administrative Weekly next available after receipt of the response or the expiration of the response period, whichever occurs first.

(4) If the response states that the rule is no longer in effect, or if no response is filed timely with the Department of State, the notice required in subsection (3) shall also give notice of the following:

(a) Based on the agency's or Governor's written response or the acknowledgement determined under subsection (2), the rule will be repealed summarily pursuant to this section and removed from the Florida Administrative Code.

(b) Any objection to the summary repeal under this section must be filed as a petition challenging a proposed rule under s. 120.56 and must be filed no later than 21 days after the date the notice is published in the Florida Administrative Weekly.

(c) For purposes only of challenging a summary repeal under this section, the agency with current authority to repeal the rule under s. 120.54 shall be named as the respondent in the petition and shall be the proper party in interest. In such circumstances, the Department of State shall not be named as a party in a petition filed under paragraph (b) and this paragraph.

(d) If no agency currently has authority to repeal the rule under s. 120.54, the Department of State shall be named as the respondent in a petition filed under paragraph (b) and this paragraph. The Attorney General shall represent the Department of State in all proceedings under this paragraph.

(5) Upon the expiration of the 21-day period to file an objection to a notice of summary repeal published pursuant to subsection (4), if no timely objection is filed, or, if a timely objection is filed, on the date a decision finding the rule is no longer in effect becomes final, the Department of State shall update the Florida Administrative Code to remove the rule and shall provide historical notes identifying the manner in which the rule ceased to have effect, including the summary repeal pursuant to this section.

Section 3. The following rules of the Northwest Florida Water Management District are nullified and of no further force or effect:

(1) Rule 40A-1.1020, Florida Administrative Code, relating to General Procedures for Permit Applications.

(2) Rule 40A-1.1030, Florida Administrative Code, relating to Contract Bidding Resolution of Protest.

(3) Rule 40A-1.1040, Florida Administrative Code, relating to General Permits.

(4) Rule 40A-1.180, Florida Administrative Code, relating to Procedures for Contracting for Professional Services.

(5) Rule 40A-1.181, Florida Administrative Code, relating to Contracting Bidding-Reservation of Right.

(6) Rule 40A-1.182, Florida Administrative Code, relating to Contracting Bidding-Resolution of Protest.

(7) Rule 40A-2.311, Florida Administrative Code, relating to Competing Applications.

(8) Rule 40A-3.038, Florida Administrative Code, relating to Violations of Licensing Requirements.

(9) Rule 40A-4.061, Florida Administrative Code, relating to Mitigation Banks.

(10) Rule 40A-4.143, Florida Administrative Code, relating to Abandonment.

(11) Rule 40A-4.461, Florida Administrative Code, relating to Inspection.

(12) Rule 40A-4.471, Florida Administrative Code, relating to Abatement.

(13) Rule 40A-6.461, Florida Administrative Code, relating to Inspections.

(14) Rule 40A-6.491, Florida Administrative Code, relating to Unlawful Use.

(15) Rule 40A-44.143, Florida Administrative Code, relating to Abandonment.

Section 4. The following rules of the Suwannee River Water Management District are nullified and of no further force or effect:

(1) Rule 40B-1.100, Florida Administrative Code, relating to Uniform Rules of Procedure and Statement of District Organization and Operation.

(2) Rule 40B-1.510, Florida Administrative Code, relating to District Investigations and Probable Cause Determinations.

(3) Rule 40B-1.702, Florida Administrative Code, relating to Permits Required.

(4) Rule 40B-1.705, Florida Administrative Code, relating to Complaints.

(5) Rule 40B-1.801, Florida Administrative Code, relating to General provisions pertaining to procurement.

(6) Rule 40B-1.802, Florida Administrative Code, relating to Definitions.

(7) Rule 40B-1.804, Florida Administrative Code, relating to Certification and Competitive Selection for Professional Services.

(8) Rule 40B-1.805, Florida Administrative Code, relating to Competitive Negotiation.

(9) Rule 40B-1.808, Florida Administrative Code, relating to Applicability.

(10) Rule 40B-1.810, Florida Administrative Code, relating to Procurement of Commodities or Contractual Services.

(11) Rule 40B-1.811, Florida Administrative Code, relating to Prequalified Providers.

(12) Rule 40B-1.812, Florida Administrative Code, relating to Contract Bidding – Reservation of Rights.

(13) Rule 40B-1.813, Florida Administrative Code, relating to Contract Bidding – Resolution of Protests.

(14) Rule 40B-2.025, Florida Administrative Code, relating to Processing of Water Use Permit Applications.

(15) Rule 40B-2.201, Florida Administrative Code, relating to Permit Fees.

(16) Rule 40B-2.311, Florida Administrative Code, relating to Competing Applications.

(17) Rule 40B-2.341, Florida Administrative Code, relating to Revocation of Permits.

(18) Rule 40B-2.441, Florida Administrative Code, relating to Temporary Water Use Permits.

(19) Rule 40B-2.781, Florida Administrative Code, relating to Enforcement.

(20) Rule 40B-3.011, Florida Administrative Code, relating to Policy and Purpose.

(21) Rule 40B-3.031, Florida Administrative Code, relating to Implementation.

(22) Rule 40B-3.038, Florida Administrative Code, relating to Violations of Licensing Requirements.

(23) Rule 40B-3.039, Florida Administrative Code, relating to Penalties.

(24) Rule 40B-3.0391, Florida Administrative Code, relating to Enforcement.

(25) Rule 40B-3.0511, Florida Administrative Code, relating to Variances.

(26) Rule 40B-3.500, Florida Administrative Code, relating to Scope of Part II.

(27) Rule 40B-3.507, Florida Administrative Code, relating to Casing and Liner Pipe Standards.

(28) Rule 40B-3.525, Florida Administrative Code, relating to Explosives.

(29) Rule 40B-4.1050, Florida Administrative Code, relating to Permit Fees.

(30) Rule 40B-5.0021, Florida Administrative Code, relating to Definitions.

(31) Rule 40B-5.0051, Florida Administrative Code, relating to Exemptions.

(32) Rule 40B-5.0121, Florida Administrative Code, relating to Notice and Hearing Requirements.

(33) Rule 40B-5.0201, Florida Administrative Code, relating to Permit Processing Fee.

(34) Rule 40B-5.0351, Florida Administrative Code, relating to Transfer of Permits.

(35) Rule 40B-5.0751, Florida Administrative Code, relating to Enforcement and Penalties.

(36) Rule 40B-5.0901, Florida Administrative Code, relating to Forms and Instructions.

(37) Rule 40B-9.045, Florida Administrative Code, relating to Acquisition Procedures-Confiscation.

(38) Rule 40B-9.065, Florida Administrative Code, relating to Disclosure of Beneficial Interest.

(39) Rule 40B-9.081, Florida Administrative Code, relating to Disposition of Surplus Real Property.

(40) Rule 40B-21.031, Florida Administrative Code, relating to Elements of the Plan.

(41) Rule 40B-21.291, Florida Administrative Code, relating to Variances.

(42) Rule 40B-21.421, Florida Administrative Code, relating to Compliance.

(43) Rule 40B-21.511, Florida Administrative Code, relating to General provisions pertaining to classification of water users.

Section 5. The following rules of the St. Johns River Water Management District are nullified and of no further force or effect:

(1) Rule 40C-2.441, Florida Administrative Code, relating to Temporary Permits.

(2) Rule 40C-3.038, Florida Administrative Code, relating to Violations of Contractor Licensing Requirements.

(3) Rule 40C-3.039, Florida Administrative Code, relating to Penalties.

(4) Rule 40C-3.040, Florida Administrative Code, relating to Scope of Part I.

(5) Rule 40C-3.201, Florida Administrative Code, relating to Permit Processing Fee.

(6) Rule 40C-3.321, Florida Administrative Code, relating to Duration of Permits.

(7) Rule 40C-3.525, Florida Administrative Code, relating to Explosives.

(8) Rule 40C-3.529, Florida Administrative Code, relating to Flowing Wells.

(9) Rule 40C-3.532, Florida Administrative Code, relating to Violations of Well Construction Standards.

(10) Rule 40C-4.011, Florida Administrative Code, relating to Policy and Purpose.

(11) Rule 40C-4.201, Florida Administrative Code, relating to Permit Processing Fee.

(12) Rule 40C-4.351, Florida Administrative Code, relating to Transfer of Permits.

(13) Rule 40C-4.751, Florida Administrative Code, relating to Enforcement.

(14) Rule 40C-9.001, Florida Administrative Code, relating to Purpose.

(15) Rule 40C-9.031, Florida Administrative Code, relating to Selection of Lands – Five Year Plan Pursuant to Section 373.199, Florida Statutes.

(16) Rule 40C-9.045, Florida Administrative Code, relating to Acquisition Procedures – Condemnation.

(17) Rule 40C-9.065, Florida Administrative Code, relating to Disclosure of Beneficial Interest.

(18) Rule 40C-9.071, Florida Administrative Code, relating to Use of Trust Funds.

(19) Rule 40C-9.081, Florida Administrative Code, relating to Disposition of Surplus Land.

(20) Rule 40C-9.115, Florida Administrative Code, relating to Land Management Review Team.

(21) Rule 40C-9.400, Florida Administrative Code, relating to Individuals Living on District Lands.

(22) Rule 40C-21.031, Florida Administrative Code, relating to Elements of the Plan.

(23) Rule 40C-24.001, Florida Administrative Code, relating to Policy and Purpose.

(24) Rule 40C-24.010, Florida Administrative Code, relating to Definitions.

(25) Rule 40C-24.020, Florida Administrative Code, relating to Incentive Program.

(26) Rule 40C-24.030, Florida Administrative Code, relating to Incentive Program - Qualifying.

(27) Rule 40C-40.011, Florida Administrative Code, relating to Policy and Purpose.

(28) Rule 40C-40.021, Florida Administrative Code, relating to Definitions.

(29) Rule 40C-40.031, Florida Administrative Code, relating to Implementation.

(30) Rule 40C-40.321, Florida Administrative Code, relating to Duration of Permit.

(31) Rule 40C-40.381, Florida Administrative Code, relating to Limiting Conditions.

(32) Rule 40C-40.900, Florida Administrative Code, relating to Forms and Instructions.

(33) Rule 40C-42.071, Florida Administrative Code, relating to Permit Processing Fee.

(34) Rule 40C-42.081, Florida Administrative Code, relating to General Provisions.

(35) Rule 40C-44.081, Florida Administrative Code, relating to Permit Processing Fee.

Section 6. The following rules of the Southwest Florida Water Management District are nullified and of no further force or effect:



(1) Rule 40D-1.902, Florida Administrative Code, relating to District Investigations and Probable Cause Determinations.

(2) Rule 40D-2.311, Florida Administrative Code, relating to Competing Applications.

(3) Rule 40D-2.511, Florida Administrative Code, relating to Declaration of Water Shortage.

(4) Rule 40D-3.011, Florida Administrative Code, relating to Policy and Purpose.

(5) Rule 40D-3.031, Florida Administrative Code, relating to Implementation.

(6) Rule 40D-3.038, Florida Administrative Code, relating to Violations of Contractor Licensing Requirements.

(7) Rule 40D-3.201, Florida Administrative Code, relating to Permit Processing Fee.

(8) Rule 40D-3.525, Florida Administrative Code, relating to Explosives.

(9) Rule 40D-3.529, Florida Administrative Code, relating to Flowing Wells.

(10) Rule 40D-4.031, Florida Administrative Code, relating to Implementation, Effective Date and Applicability.

(11) Rule 40D-4.054, Florida Administrative Code, relating to Alteration of Exempt Projects.

(12) Rule 40D-4.201, Florida Administrative Code, relating to Permit Processing Fee.

(13) Rule 40D-4.461, Florida Administrative Code, relating to Inspection.

(14) Rule 40D-40.011, Florida Administrative Code, relating to Policy and Purpose.

(15) Rule 40D-40.031, Florida Administrative Code, relating to Implementation, Effective Date and Applicability.

(16) Rule 40D-400.201, Florida Administrative Code, relating to Policy and Purpose.

(17) Rule 40D-9.101, Florida Administrative Code, relating to Recreational Land Use Policy.

(18) Rule 40D-9.110, Florida Administrative Code, relating to Scope and Applicability.

(19) Rule 40D-9.300, Florida Administrative Code, relating to Trespass After Notice.

(20) Rule 40D-9.310, Florida Administrative Code, relating to Penalties.

(21) Rule 40D-21.031, Florida Administrative Code, relating to Elements of the Plan.

(22) Rule 40D-21.441, Florida Administrative Code, relating to Public Supply Water Shortage Mitigation Plans.

Section 7. The following rules of the South Florida Water Management District are nullified and of no further force or effect:

(1) Rule 40E-0.103, Florida Administrative Code, relating to Procedures for Processing Permit Applications.

(2) Rule 40E-0.105, Florida Administrative Code, relating to Consideration of Intended Agency Decision on Permit Applications.

(3) Rule 40E-1.100, Florida Administrative Code, relating to Uniform Rules of Procedure and Statement of District Organization and Operation.

(4) Rule 40E-1.1065, Florida Administrative Code, relating to Misuse of Public Position.

(5) Rule 40E-1.125, Florida Administrative Code, relating to Public Information and Inspection of Records.

(6) Rule 40E-1.200, Florida Administrative Code, relating to Procedures for Agendas and Scheduling of Meetings and Workshops.

(7) Rule 40E-1.208, Florida Administrative Code, relating to Procedure for Abstaining from Voting Conflicts of Interest.

(8) Rule 40E-1.300, Florida Administrative Code, relating to Rulemaking Procedures.

(9) Rule 40E-1.400, Florida Administrative Code, relating to Procedures Regarding Declaratory Statements.

(10) Rule 40E-1.500, Florida Administrative Code, relating to Procedures for Proceedings Which Determine Substantial Interests and Associated Mediation.

(11) Rule 40E-1.511, Florida Administrative Code, relating to Point of Entry Into Proceedings.

(12) Rule 40E-1.520, Florida Administrative Code, relating to Procedures Concerning Formal Proceedings.

(13) Rule 40E-1.521, Florida Administrative Code, relating to Initiation of Formal Proceedings.

(14) Rule 40E-1.564, Florida Administrative Code, relating to Exceptions to Recommended Order.

(15) Rule 40E-1.570, Florida Administrative Code, relating to Procedures Concerning Informal Proceedings.

(16) Rule 40E-1.601, Florida Administrative Code, relating to General provisions pertaining to administrative procedures applicable to permitting decisions.

(17) Rule 40E-1.608, Florida Administrative Code, relating to Denial of Permits.

(18) Rule 40E-1.611, Florida Administrative Code, relating to Emergency Action.

(19) Rule 40E-1.6115, Florida Administrative Code, relating to Emergency Authorization.

(20) Rule 40E-2.441, Florida Administrative Code, relating to Temporary Permits.

(21) Rule 40E-3.010, Florida Administrative Code, relating to Review of Water Well Permit Applications.

(22) Rule 40E-3.0511, Florida Administrative Code, relating to Exemptions and Variances for Well Construction Permits.

(23) Rule 40E-4.311, Florida Administrative Code, relating to Variances from Specified Review Criteria for Environmental Resource Permits.

(24) Rule 40E-7.201, Florida Administrative Code, relating to Policy and Purpose.

(25) Rule 40E-7.205, Florida Administrative Code, relating to Competitive Selection for Professional Services.

(26) Rule 40E-7.300, Florida Administrative Code, relating to Procedures Concerning Bid Protests of Solicitations or Contract Awards.

(27) Rule 40E-7.401, Florida Administrative Code, relating to District Transfer of Funds.

(28) Rule 40E-20.141, Florida Administrative Code, relating to Request for Additional Information.

(29) Rule 40E-20.341, Florida Administrative Code, relating to Revocation of General Water Use Permits.

(30) Rule 40E-20.391, Florida Administrative Code, relating to Publication.

(31) Rule 40E-21.031, Florida Administrative Code, relating to Elements of the Plan.

(32) Rule 40E-21.132, Florida Administrative Code, relating to Water Use Restrictions.

(33) Rule 40E-21.611, Florida Administrative Code, relating to Classification System.

(34) Rule 40E-22.082, Florida Administrative Code, relating to Minimum Flows.

(35) Rule 40E-22.112, Florida Administrative Code, relating to Permit Classification.

(36) Rule 40E-22.132, Florida Administrative Code, relating to Water Shortage Plan.

(37) Rule 40E-22.242, Florida Administrative Code, relating to Minimum Flow.

(38) Rule 40E-22.252, Florida Administrative Code, relating to Permit Classification.

(39) Rule 40E-22.272, Florida Administrative Code, relating to Water Use Restrictions.

(40) Rule 40E-23.011, Florida Administrative Code, relating to Policy and Purpose.

(41) Rule 40E-23.021, Florida Administrative Code, relating to Definitions.

(42) Rule 40E-23.023, Florida Administrative Code, relating to Boundaries.

(43) Rule 40E-23.031, Florida Administrative Code, relating to Implementation.

(44) Rule 40E-23.043, Florida Administrative Code, relating to Application.

(45) Rule 40E-23.053, Florida Administrative Code, relating to Criteria for Designation.

(46) Rule 40E-63.201, Florida Administrative Code, relating to Scope.

(47) Rule 40E-63.211, Florida Administrative Code, relating to Purpose.

(48) Rule 40E-63.212, Florida Administrative Code, relating to Definitions.

(49) Rule 40E-63.223, Florida Administrative Code, relating to Model to Quantify Annual Allocation of Replacement Water.

(50) Rule 40E-63.225, Florida Administrative Code, relating to Delivery of Average Annual Allocation of Replacement Water.

Section 8. The following rules of the former Department of Commerce are nullified and of no further force or effect:

(1) Rule 8K-1.001, Florida Administrative Code, relating to Purpose.

(2) Rule 8K-1.002, Florida Administrative Code, relating to Authority and Duties.

(3) Rule 8K-1.003, Florida Administrative Code, relating to Members, Officers and Employees.

(4) Rule 8K-1.004, Florida Administrative Code, relating to Meetings of the Board.

(5) Rule 8K-1.005, Florida Administrative Code, relating to Notice of Meeting.

(6) Rule 8K-1.006, Florida Administrative Code, relating to Records; Public Information.

(7) Rule 8K-1.007, Florida Administrative Code, relating to Business Address and Hours.

(8) Rule 8K-1.008, Florida Administrative Code, relating to Seal.

(9) Rule 8K-2.001, Florida Administrative Code, relating to Purpose.

(10) Rule 8K-2.002, Florida Administrative Code, relating to Definitions.

(11) Rule 8K-2.003, Florida Administrative Code, relating to Application Procedure.

(12) Rule 8K-2.004, Florida Administrative Code, relating to Board Investments; Type and Conditions.

(13) Rule 8K-2.005, Florida Administrative Code, relating to Community Support.

(14) Rule 8K-2.006, Florida Administrative Code, relating to Accountability.

(15) Rule 8K-2.007, Florida Administrative Code, relating to Misuse of Funds; Penalty; Appeal.

(16) Rule 8K-2.008, Florida Administrative Code, relating to Local Impact Projects.

(17) Rule 8K-2.009, Florida Administrative Code, relating to Certified Corporations.

(18) Rule 8K-2.010, Florida Administrative Code, relating to Investment Agreements.

(19) Rule 8M-1.001, Florida Administrative Code, relating to Definitions.

(20) Rule 8M-1.002, Florida Administrative Code, relating to Grant Applications.

(21) Rule 8M-1.003, Florida Administrative Code, relating to Application Review.

(22) Rule 8M-1.004, Florida Administrative Code, relating to Award of Grants.

(23) Rule 8M-2.001, Florida Administrative Code, relating to Definitions.

(24) Rule 8M-2.002, Florida Administrative Code, relating to Grant Applications.

(25) Rule 8M-2.003, Florida Administrative Code, relating to Application Review.

(26) Rule 8M-2.004, Florida Administrative Code, relating to Award of Grants.

(27) Rule 8M-3.001, Florida Administrative Code, relating to Purpose.

(28) Rule 8M-3.002, Florida Administrative Code, relating to Definitions.

(29) Rule 8M-3.003, Florida Administrative Code, relating to Applications for Consideration.

(30) Rule 8M-3.004, Florida Administrative Code, relating to Criteria for the Determination of Grant Award.

Note.—The rulemaking authority for Rules 8K-1.001 through 8K-1.008 and 8K-2.001 through 8K-2.010 was abolished by section 3, chapter 2002-180, Laws of Florida. No agency appears to have clear authority to repeal such rules.

Note.—Rules 8K-1.001 and 8K-1.002 implemented ss. 288.707, 288.709, and 288.7091, Florida Statutes, which were repealed by section 487, chapter 2011-142, Laws of Florida, leaving the rules out of conformity with the law to be implemented.

Note.—Rules 8K-1.003, 8K-1.004, 8K-1.005, 8K-1.006, and 8K-1.007 implemented s. 288.707, F.S., which was repealed by section 487, chapter 2011-142, Laws of Florida, leaving the rules out of conformity with the law to be implemented.

Note.—Rule 8K-1.008 implemented s. 288.709(2), Florida Statutes, which was repealed by section 487, chapter 2011-142, Laws of Florida, leaving the rule out of conformity with the law to be implemented.

Note.—Rules 8K-2.001, 8K-2.006, and 8K-2.007 implemented s. 288.711, Florida Statutes, which was repealed by section 24, chapter 2007-157, Laws of Florida, leaving the rules out of conformity with the law to be implemented.

Note.—Rule 8K-2.002 implemented s. 288.707, Florida Statutes, which was repealed by section 487, chapter 2011-142, Laws of Florida, and s. 288.711, Florida Statutes, which was repealed by section 24, chapter 2007-157, Laws of Florida, leaving the rule out of conformity with the laws to be implemented.

Note.—Rules 8K-2.003, 8K-2.004, 8K-2.009, and 8K-2.010 implemented ss. 288.71 and 288.711, Florida Statutes, which were repealed by section 24, chapter 2007-157, Laws of Florida, and s. 288.7091, Florida Statutes, which was repealed by section 487, chapter 2011-142, Laws of Florida, leaving the rules out of conformity with the laws to be implemented.

Note.—Rules 8K-2.005 and 8K-2.008 implemented ss. 288.71 and 288.711, Florida Statutes, which were repealed by section 24, chapter 2007-157, Laws of Florida, leaving the rules out of conformity with the laws to be implemented.

Note.—The rulemaking authority for Rules 8M-1.001 through 8M-1.004 and 8M-2.001 through 8M-2.004 was abolished by section 154, chapter 96-320, Laws of Florida. No agency appears to have clear authority to repeal such rules.

Note.—Rules 8M-1.001 through 8M-1.004 implemented chapters 91-157 and 91-272, Laws of Florida, which were implementing bills for the 1991 General Appropriations Act. When those laws expired July 1, 1992, the rules became out of conformity with the laws to be implemented.

Note.—Rules 8M-2.001 through 8M-2.004 implemented s. 288.806, Florida Statutes, which was repealed by section 154, chapter 96-320, Laws of Florida, leaving the rules out of conformity with the laws to be implemented.

Note.—The rulemaking authority for Rules 8M-3.001, 8M-3.002, 8M-3.003, and 8M-3.004 was abolished by section 133, chapter 96-320, Laws of Florida. These specific rules implemented s. 311.11, Florida Statutes, which was revised extensively by section 49, chapter 97-278, Laws of Florida, leaving the rules out of conformity with the laws to be

implemented. No agency appears to have clear authority to repeal such rules.

Section 9. (1) Effective July 1, 2013, the following rules of the former Department of Health and Rehabilitative Services, Health Program Office, are nullified and of no further force or effect:

(a) Rule 10D-116.001, Florida Administrative Code, relating to Purpose.

(b) Rule 10D-116.002, Florida Administrative Code, relating to Definitions.

(c) Rule 10D-116.003, Florida Administrative Code, relating to Department Responsibilities.

(d) Rule 10D-116.004, subsections (1), (2), and (3), Florida Administrative Code, relating to Provider Hospital Responsibilities.

(e) Rule 10D-116.005, Florida Administrative Code, relating to Practice Parameters.

(f) Rule 10D-116.006, subsections (1), (2), and (3), Florida Administrative Code, relating to Functions of Peer Review Boards.

(2) Before the effective date of this section, the Department of Health shall initiate rulemaking to readopt or revise those portions of the rules which are necessary to implement the affected statutes.

Note.—The rules in this section were adopted by the former Department of Health and Rehabilitative Services before the Type Two Transfer of responsibility for public health matters to the Department of Health by section 6, chapter 96-403, Laws of Florida. Rules 10D-116.001, 10D-116.002, 10D-116.003, 10D-116.004, 10D-116.005, 10D-116.006, and 10D-116.007 implemented s. 383.336, Florida Statutes, amended by section 77, chapter 99-8, Laws of Florida, to authorize rulemaking by the Department of Health. The abolition of responsibility for public health matters in the former Department of Health and Rehabilitative Services creates uncertainty about the continued validity of these rules. Therefore, the Department of Health should readopt or revise those portions of the rules which remain necessary to implement the agency's statutory authority.

Note.—Rules 10D-116.001, 10D-116.002(4), 10D-116.002(5), 10D-116.002(6), 10D-116.003, and 10D-116.004 reiterate or paraphrase provisions of s. 383.336, Florida Statutes, and do not conform with the requirements of ss. 120.536(1) and 120.545(1)(c), Florida Statutes.

Note.—Rules 10D-116.002(2) and 10D-116.004(3) interpret s. 383.336, Florida Statutes, with references to the former Department of Health and Rehabilitative Services or repealed statutes and do not conform with the specific law to be implemented.



Section 10. The following rules of the former Department of Health and Rehabilitative Services, Health Program Office, are nullified and of no further force or effect:

(1) Rule 10D-116.004, subsection (4), Florida Administrative Code, relating to Provider Hospital Responsibilities, directing the making of reports to the Agency for Health Care Administration.

(2) Rule 10D-116.006, subsection (4), Florida Administrative Code, relating to Functions of Peer Review Boards, stating the results of a review will not serve as evidence in certain proceedings.

(3) Rule 10D-116.007, Florida Administrative Code, assigning certain responsibilities to Agency for Health Care Administration.

Note.—Rules 10D-116.004(4), 10D-116.006(4), and 10D-116.007 exceed the authority delegated in the specific law to be implemented.

Section 11. (1) Effective July 1, 2013, the following rules of the former Department of Health and Rehabilitative Services, Health Program Office, are nullified and of no further force or effect:

(a) Rule 10D-124.003, Florida Administrative Code, relating to Payment of Scholarship Funds.

(b) Rule 10D-124.004, Florida Administrative Code, relating to Placement of Nursing Scholars.

(2) Before the effective date of this section, the Department of Health shall initiate rulemaking to readopt or revise those portions of the rules which are necessary to implement the affected statutes.

Note.—The rules in this section were adopted by the former Department of Health and Rehabilitative Services before the Type Two Transfer of responsibility for public health matters to the Department of Health by section 6, chapter 96-403, Laws of Florida. The abolition of responsibility for public health matters in the former Department of Health and Rehabilitative Services raises a question about the continued validity of these rules. Rules 10D-124.003 and 10D-124.004 implemented s. 240.4028, Florida Statutes, which was repealed by section 1058, chapter 2002-387, Laws of Florida. Therefore, the Department of Health should readopt or revise those portions of the rules which remain necessary to implement the agency's statutory authority.

Section 12. The following rules of the former Advisory Council on Intergovernmental Relations are nullified and of no further force or effect:

(1) Rule 37-1.001, Florida Administrative Code, relating to General Authority.

(2) Rule 37-1.002, Florida Administrative Code, relating to Composition of the Council.

(3) Rule 37-1.003, Florida Administrative Code, relating to Council Officers.

(4) Rule 37-1.004, Florida Administrative Code, relating to General Description of Council Organization and Operations.

(5) Rule 37-1.005, Florida Administrative Code, relating to Council Functions and Duties.

(6) Rule 37-1.006, Florida Administrative Code, relating to Council Recommendations.

(7) Rule 37-1.007, Florida Administrative Code, relating to General Information Concerning Council, Its Record and Proceedings.

(8) Rule 37-2.001, Florida Administrative Code, relating to Notice of Meeting.

(9) Rule 37-2.002, Florida Administrative Code, relating to Scheduling of Meetings.

(10) Rule 37-2.003, Florida Administrative Code, relating to Meetings, Hearings; Intergovernmental Cooperation.

(11) Rule 37-2.004, Florida Administrative Code, relating to Agenda of Meetings and Workshops.

(12) Rule 37-2.005, Florida Administrative Code, relating to Emergency Meetings.

(13) Rule 37-2.006, Florida Administrative Code, relating to Model Rules Application.

(14) Rule 37-3.001, Florida Administrative Code, relating to Commencement of Proceeding.

(15) Rule 37-3.002, Florida Administrative Code, relating to Notice of Proceeding, and the Proposed Rules.

(16) Rule 37-3.003, Florida Administrative Code, relating to Petitions to Initiate Rule Making Proceedings.

(17) Rule 37-3.004 Florida Administrative Code, relating to Agency Action on Petitions to Initiate Rule Making Proceedings.

(18) Rule 37-3.005, Florida Administrative Code, relating to Rule Making Proceeding – Hearing.

(19) Rule 37-3.006, Florida Administrative Code, relating to Description of Publication by Reference.

(20) Rule 37-3.007, Florida Administrative Code, relating to Emergency Rule Hearing.

(21) Rule 37-3.008, Florida Administrative Code, relating to Model Rules Application.

(22) Rule 37-4.001, Florida Administrative Code, relating to General provisions pertaining to petition for declaratory statement.

(23) Rule 37-4.002, Florida Administrative Code, relating to Purpose and Use of Declaratory Statement.

(24) Rule 37-4.003, Florida Administrative Code, relating to Council Disposition.

(25) Rule 37-5.001, Florida Administrative Code, relating to Members Present Shall Vote.

(26) Rule 37-5.002, Florida Administrative Code, relating to Quorum; Majority Action.

(27) Rule 37-5.003, Florida Administrative Code, relating to Voting.

(28) Rule 37-5.004, Florida Administrative Code, relating to Change of Vote.

(29) Rule 37-5.005, Florida Administrative Code, relating to Casting Vote for Another.

(30) Rule 37-5.006, Florida Administrative Code, relating to Explanation of Vote.

(31) Rule 37-5.007, Florida Administrative Code, relating to Motions; How Made, Withdrawn.

(32) Rule 37-5.008, Florida Administrative Code, relating to Motions; Precedence.

(33) Rule 37-5.009, Florida Administrative Code, relating to Order of Questions.

(34) Rule 37-5.010, Florida Administrative Code, relating to Motions; Disposition.

(35) Rule 37-5.011, Florida Administrative Code, relating to Reconsideration: Generally.

(36) Rule 37-5.012, Florida Administrative Code, relating to Motion to Lay on Table.

(37) Rule 37-5.013, Florida Administrative Code, relating to Amendments; Manner of Consideration.

(38) Rule 37-5.014, Florida Administrative Code, relating to Amendments; Adoption.

(39) Rule 37-5.015, Florida Administrative Code, relating to Sequence of Amendments to Amendments.

(40) Rule 37-6.001, Florida Administrative Code, relating to Interpretation of Rules.

(41) Rule 37-6.002, Florida Administrative Code, relating to Waiver and Suspension of Rules.

(42) Rule 37-6.003, Florida Administrative Code, relating to General provisions pertaining to construction of rules.

Note.—The rules in this section, comprising Title 37 of the Florida Administrative Code, were adopted by the former Advisory Council on Intergovernmental Relations, which was abolished by section 9, chapter 96-311, Laws of Florida. The rulemaking authority for the above rules was abolished by section 9, chapter 96-311, Laws of Florida. The above rules variously implemented ss. 120.53 and 120.54, Florida Statutes, which were extensively revised by sections 9 and 10, chapter 96-159, Laws of Florida, eliminating certain provisions implemented by such rules, and ss. 163.703, 163.704, 163.705, 163.7055, 163.706, 163.707, and 163.708, Florida Statutes, which were repealed by section 9, chapter 96-311, Laws of Florida. The substance of these statutes was reenacted as s. 11.70, Florida Statutes, by section 1, chapter 96-311, Laws of Florida, which was repealed by section 3, chapter 2011-34, Laws of Florida, leaving the rules out of conformity with the law to be implemented. No agency appears to have clear authority to repeal such rules.

Section 13. The following rules of the former Department of Labor and Employment Security are nullified and of no further force or effect:

(1) Rule 38I-40.002, Florida Administrative Code, relating to Definitions.

(2) Rule 38I-40.003, Florida Administrative Code, relating to Identification of State-Owned Buildings and the Building Asbestos Contact Person for Each Building.

(3) Rule 38I-40.004, Florida Administrative Code, relating to Review and Approval of Building Asbestos Surveys Completed Prior to January 1, 1989.

(4) Rule 38I-40.005, Florida Administrative Code, relating to Review and Approval of Current Operation and Maintenance Plans Implemented Prior to January 1, 1989.

(5) Rule 38I-40.006, Florida Administrative Code, relating to Collection of Information Concerning Completed Asbestos Abatement Work.

(6) Rule 38I-40.007, Florida Administrative Code, relating to Standardization of Asbestos Management Activities.

(7) Rule 38I-40.008, Florida Administrative Code, relating to Completion of Asbestos Surveys.

(8) Rule 38I-40.009, Florida Administrative Code, relating to Preparation and Implementation of Asbestos Operation and Maintenance Plans.

(9) Rule 38I-40.010, Florida Administrative Code, relating to Agency Responsibilities for Management of Asbestos.

(10) Rule 38I-40.011, Florida Administrative Code, relating to Building Asbestos Contact Person.

(11) Rule 38I-40.012, Florida Administrative Code, relating to Asbestos Oversight Program Team.

(12) Rule 38I-40.013, Florida Administrative Code, relating to Regional Asbestos Program Managers.

(13) Rule 38I-40.014, Florida Administrative Code, relating to Training Requirements.

(14) Rule 38I-40.015, Florida Administrative Code, relating to Safety and Health Requirements.

(15) Rule 38I-40.016, Florida Administrative Code, relating to Standard Technical Specifications and Guides.

Note.—The rulemaking authority for the above rules was abolished by section 35, chapter 2011-213, Laws of Florida. No agency appears to have clear authority to repeal such rules.

Note.—Rules 38I-40.002 and 38I-40.003 implemented s. 255.554, Florida Statutes, which was repealed by section 10, chapter 99-5, Laws of Florida, and ss. 255.552 and 255.553, Florida Statutes, which were repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rules out of conformity with the laws to be implemented.

Note.—Rule 38I-40.004 implemented s. 255.554, Florida Statutes, which was repealed by section 10, chapter 99-5, Laws of Florida, and ss. 255.552, 255.553, and 255.556, Florida Statutes, which were repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the laws to be implemented.

Note.—Rules 38I-40.005, 38I-40.008, and 38I-40.009 implemented ss. 255.552 and 255.557, Florida Statutes, which were repealed by section

35, chapter 2011-213, Laws of Florida, leaving the rules out of conformity with the laws to be implemented.

Note.—Rule 38I-40.006 implemented s. 255.552, Florida Statutes, which was repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the law to be implemented.

Note.—Rules 38I-40.007 and 38I-40.010 implemented ss. 255.552, 255.553, 255.555, 255.556, and 255.557, Florida Statutes, which were repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rules out of conformity with the laws to be implemented.

Note.—Rule 38I-40.011 implemented s. 255.554, Florida Statutes, which was repealed by section 10, chapter 99-5, Laws of Florida, and ss. 255.552, 255.553, 255.555, and 255.557, Florida Statutes, which were repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the laws to be implemented.

Note.—Rule 38I-40.012 implemented s. 255.565, Florida Statutes, which was repealed by section 15, chapter 2001-89, Laws of Florida, leaving the rule out of conformity with the law to be implemented.

Note.—Rule 38I-40.013 implemented s. 255.554, Florida Statutes, which was repealed by section 10, chapter 99-5, Laws of Florida, and ss. 255.552, 255.553, 255.557, 255.561, and 255.562, Florida Statutes, which were repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the laws to be implemented.

Note.—Rule 38I-40.014 implemented s. 255.565, Florida Statutes, which was repealed by section 15, chapter 2001-89, Laws of Florida, and s. 255.552, Florida Statutes, which was repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the laws to be implemented.

Note.—Rule 38I-40.015 implemented s. 255.561, Florida Statutes, which was repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the law to be implemented.

Note.—Rule 38I-40.016 implemented ss. 255.552, 255.553, 255.557, 255.558, 255.559, 255.56, 255.561, and 255.562, Florida Statutes, which were repealed by section 35, chapter 2011-213, Laws of Florida, leaving the rule out of conformity with the laws to be implemented.

Section 14. (1) Effective July 1, 2013, the following rules of the former Department of Labor and Employment Security are nullified and of no further force or effect:

(a) Rule 38J-1.001, Florida Administrative Code, relating to Recovery From Third Parties.

(b) Rule 38J-1.002, Florida Administrative Code, relating to Definitions.

(c) Rule 38J-1.003, Florida Administrative Code, relating to Right to Make Informed Choice.

(d) Rule 38J-1.004, Florida Administrative Code, relating to Division Services – General.

(e) Rule 38J-1.005, Florida Administrative Code, relating to Additional Requirements for Providing Certain Services.

(f) Rule 38J-1.006, Florida Administrative Code, relating to Division Decisions and Appeal Procedures.

(g) Rule 38J-1.007, Florida Administrative Code, relating to Case Closure due to individual's actions.

(h) Rule 38J-1.008, Florida Administrative Code, relating to Destruction of Records.

(i) Rule 38J-1.009, Florida Administrative Code, relating to Forms and Documents.

(2) Before the effective date of this section, the Department of Education shall initiate rulemaking to readopt or revise those portions of the rules which are necessary to implement the affected statutes.

Note.—The rules in this section were adopted by the former Department of Labor and Employment Security, which was abolished by section 69, chapter 2002-194, Laws of Florida. The Division of Vocational Rehabilitation was placed under the Department of Education by section 1, chapter 2002-22, Laws of Florida, without a clear accompanying transfer of these rules, leaving the rules out of conformity with the law to be implemented. While no agency appears to have clear authority to repeal such rules, the laws implemented remain under the jurisdiction of the Department of Education. Therefore, the Department of Education should readopt or revise those portions of the rules which remain necessary to implement the agency's statutory authority.

Section 15. Upon this act becoming a law, its enactment and effective dates shall be noted in the Florida Administrative Code or the Florida Administrative Weekly or both, as appropriate with an appropriate notice that the rules listed in sections 3-14 of this act have been repealed by law. The administrative rules nullified by this act shall be treated as repealed for purposes of all future editions of the Florida Administrative Code. The provisions of sections 3-14 of this act serve no other purpose and shall not be codified in the Florida Statutes. This act does not alter rulemaking authority delegated or withdrawn by previous law.

Section 16. This act shall take effect 60 days after becoming a law.

Approved by the Governor March 28, 2012.

Filed in Office Secretary of State March 28, 2012.