

SEP 25 2019

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Commission on Ethics Regulatory Plan for July 1, 2019-June 30, 2020

Section 120.74, Florida Statutes, requires:

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare a regulatory plan.

(a) The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. If the Governor or the Attorney General provides a letter to the committee stating that a law affects all or most agencies, the agency may exclude the law from its plan. For each law listed by an agency under this paragraph, the plan must state:

1. Whether the agency must adopt rules to implement the law.
2. If rulemaking is necessary to implement the law:
 - a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.
 - b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

3. If rulemaking is not necessary to implement the law, a concise written explanation of the reasons why the law may be implemented without rulemaking.

(b) The plan must also include a listing of each law not otherwise listed pursuant to paragraph (a) which the agency expects to implement by rulemaking before the following July 1, except emergency rulemaking. For each law listed under this paragraph, the plan must state whether the rulemaking is intended to simplify, clarify, increase efficiency, improve coordination with other agencies, reduce regulatory costs, or delete obsolete, unnecessary, or redundant rules.

(c) The plan must include any desired update to the prior year's regulatory plan or supplement published pursuant to subsection (7). If, in a prior year, a law was identified under this paragraph or under subparagraph (a)1. as a law requiring rulemaking to implement but a notice of proposed rule has not been published:

1. The agency shall identify and again list such law, noting the applicable notice of rule development by citation to the Florida Administrative Register; or
2. If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency shall identify such law, reference the citation to the applicable notice of rule development in the Florida Administrative Register, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

Subsection (1)(a): New laws

Ch. 2019-40 provides public records exemption for login credentials associated with the to-be implemented electronic filing system for financial disclosures provided for in HB 7021 (Ch. 2019-97). It is not necessary for the agency to adopt rules to implement this law because the law

itself is clear and precise as to what it will affect and what it provides for, and because the electronic filing system to which the login credentials will apply will not be existent until January 1, 2022.

Ch. 2019-060 repeals s. 112.31425, F.S., relating to qualified blind trusts, effective January 1, 2020. Rulemaking is necessary to implement this law because Rule 34-7.010(1)(j), F.A.C., which refers to qualified blind trusts, will need to be amended to repeal or remove references to qualified blind trusts, along with repeal or removal of Form 40 (Certification by Trustee of Qualified Blind Trust), which was adopted by reference in Rule 34-7.010(1)(j), F.A.C. A notice of rule development has not been published. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a) is April 1, 2020.

Ch. 2019-097 provides for an electronic filing system for financial disclosure, revises the definition of "disclosure period," revises the listing of positions required to file financial disclosure, affected other portions of the financial disclosure statutes, and renumbers portions of ss. 112.3144 and 112.3145, F.S. Rulemaking is necessary to implement portions of this law. As noticed in the Florida Administrative Register on June 26, 2019, the agency held a public hearing on July 26, 2019, to consider proposed amendments to Chapter 34-8, F.A.C. Thereafter, the agency unanimously approved the proposed amendments to Chapter 34-8, F.A.C., with an effective date of January 1, 2020. Rules 34-8.002, 34-8.008, and 34-8.009, F.A.C., which implement Section 112.3144, Florida Statutes, and the forms incorporated by reference in the rules, were updated to clarify language and change the dates reflected on the forms. Further, pursuant to notice in the Florida Administrative Register on June 26, 2019, the agency held a public hearing on July 26, 2019, to consider proposed amendments to Chapter 34-8, F.A.C., which implement Section 112.3145, Florida Statutes. Thereafter, the agency unanimously approved the proposed amendments to Chapter 34-8, F.A.C., with an effective date of January 1, 2020. Rules 34-8.202, 34-8.208, and 34-8.209, F.A.C., which implement Section 112.3145, Florida Statutes, and the forms incorporated by reference in the rules, were updated to change the dates reflected on the forms. Rules 34-8.202 and 34-8.208, F.A.C., were amended to omit from the instructions for CE Form 1 and CE Form 1F assistant bureau chiefs from the definition of those required to file those forms and to clarify that the threshold amount provided for in Section 287.017, Florida Statutes, for purchasing agents required to file those forms was raised from CATEGORY ONE (\$20,000) to CATEGORY TWO (\$35,000). In addition, Rule 34-8.202, F.A.C., was amended to clarify as to CE Form 1 that the disclosure period (as defined in Section 112.312(10), Florida Statutes) is the calendar year. Inasmuch as the law provides that the agency shall procure and test an electronic filing system by January 1, 2022, no rulemaking is necessary at this time to implement the electronic filing portions of this law.

Ch. 2019-163, Section 1, amended Section 112.3142, Florida Statutes, to require commissioners of community redevelopment agencies to complete four hours of ethics training each calendar year, beginning January 1, 2020. Rulemaking is necessary to implement this law because Rule 34-7.025, F.A.C., needs to be amended to include such commissioners as among those required to complete such training. A notice of rule development has not been published. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a) is April 1, 2020.

Ch. 2019-169 created the Greater Miami Expressway Agency, dissolved the Miami-Dade County Expressway Authority, and addressed various other transportation-related subjects. The only rulemaking by the agency necessary to implement this law (adding members of an "expressway agency" to the listing of required filers of CE Form 6, "Full and Public Disclosure of Financial Interests," and the CE Form 6F, "Final Full and Public Disclosure of Financial Interests," effective January 1, 2020) has already been accomplished. The notice of rule development was published on June 25, 2019, and the citation to such notice in the Florida Administrative Register is Volume 45, Number 123. The notice of proposed rulemaking was published on June 26, 2019, in Volume 45, Number 124, of the Florida Administrative Register. Thereafter, the agency unanimously approved the amendments to Rules 34-8.002 and 34-8.008, F.A.C., with an effective date of January 1, 2020. Rulemaking is not necessary to implement other portions of this law concerning ethics and the Commission on Ethics; the law may be implemented without rulemaking because the law itself is clear and precise as to what existing statutory ethics standards of conduct will apply to what persons, and as to the jurisdiction of the Commission on Ethics as to such standards and persons. (Note: This law is/has been the subject of litigation).

"Amendment 12," to the Florida Constitution, approved by the voters in November 2018, created Article II, Section 8(h)(2), Florida Constitution, and required the agency, in accordance with the statutory procedures governing administrative rulemaking, to define the term "disproportionate benefit," as used in that particular Constitution subsection, and to prescribe the requisite intent for finding a violation of the prohibition contained in that particular subsection. A notice of rule development concerning the Amendment's requirement was published in the Florida Administrative Register on December 5, 2018 (Volume 44, Number 235), and a notice of proposed rulemaking was published in the Florida Administrative Register on May 16, 2019 (Volume 45, Number 96). The agency held a public hearing on the draft rule on June 7, 2019, and unanimously approved language for the rule during a subsequent public hearing on July 26, 2019. A notice of change reflecting the approved language was published in the Florida Administrative Register on July 30, 2019 (Volume 45, Number 147). The Joint Administrative Procedures Committee issued a certification letter on September 3, 2019, and the rule was filed for adoption at the Department of State on September 10, 2019.

Subsection (1)(b): Laws not listed pursuant to paragraph (a) which the Commission expects to implement by rulemaking before July 1, 2019

Section 112.3147, F.S.

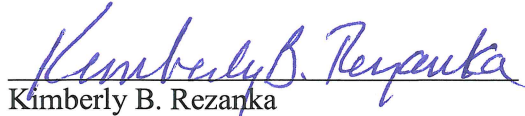
Rulemaking is intended to simplify, clarify, and update forms.

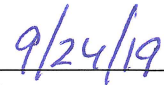
Subsection (1)(c): Updates to prior year's plan

None.


CERTIFICATION

I verify that I have reviewed the Commission on Ethics Regulatory Plan for July 1, 2019-June 30, 2020, and that the Commission regularly reviews all of its rules to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented. The period during which all rules have most recently been reviewed is July 31, 2018 through July 31, 2019.


Kimberly B. Rezanka
Chair, Florida Commission on Ethics


Date


C. Christopher Anderson, III
General Counsel, Florida Commission on Ethics


Date