

## Notice of Proposed Rule

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO: RULE TITLE

[62-704.400](#): Procedure for the Preliminary Examination of Resource Recovery Equipment

[62-704.410](#): Procedure for the Final Examination and Certification of Resource Recovery Equipment

[62-704.420](#): Criteria for Preliminary Examination and Certification of Resource Recovery Equipment

[62-704.600](#): Recycling Equipment List

**PURPOSE AND EFFECT:** In 1979, the Legislature established a sales tax exemption on the purchase of resource recovery equipment that is owned by or operated on behalf of a unit of local government. Resource recovery equipment is equipment that is integrally and exclusively used in the actual process of recovering material or energy resources from solid waste and specifically includes recycling equipment.

For the purpose of implementing the sales tax exemption provided by Section 212.08(7)(q), Florida Statutes (F.S.), Section 403.715, F.S., specifically authorizes the Department of Environmental Protection (“the Department”) to establish a system for the examination and certification of resource recovery and recycling equipment. The Department’s rules governing this process are found in Chapter 62-704, Florida Administrative Code (F.A.C.), while subsection 12A-1.001(5), F.A.C., governs the process in Department of Revenue.

In 2008, the Department of Revenue amended its rule to incorporate several substantive and procedural changes that clarified requirements that resource recovery equipment must be owned or operated exclusively on behalf of a unit of local government, requirements of certification to dealers and certifications for refund. These changes required conforming changes to Chapter 62-704, F.A.C., by the Department.

Rules 62-704.400 and .410, F.A.C., require that an applicant for the sales tax exemption certify that the equipment is installed and operational, submit documentation from a Professional Engineer that the equipment is integral to the recycling process and is owned and operated by or on behalf of a local government, and allow the Department to inspect the equipment. However, if the equipment is on the list in Rule 62-704.600, F.A.C., the requirements for documentation from a Professional Engineer are waived, and the Department is not required to inspect the equipment.

Rule 62-704.600, F.A.C., is being amended to include certain materials handling equipment. This will have the effect of reducing the burden and the costs to both the applicant and the Department and make it easier to qualify for the sales tax exemption.

**SUMMARY:** Rule 62-704.400, F.A.C., is being amended to properly incorporate a form by reference. It is also being amended to conform to the Department of Revenue’s subsection 12A-1.001(5), F.A.C., by requiring that equipment be owned and operated by or exclusively on behalf of a local government. Rule 62-704.410, F.A.C., is being amended to clarify that equipment must be installed and operational to qualify for the sales tax exemption. Rule 62-704.600, F.A.C., is being amended to add to the list of approved equipment materials handling equipment that is used exclusively to transfer or transport recyclable materials from the point of generation to the recycling facility, specifically including trucks, carts and bins. There are also several clerical changes and updated cross-references throughout the chapter.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. The SERC concludes that the primary impacts of this rule will be to reduce costs to applicants for the sales tax exemption.

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

**SPECIFIC AUTHORITY:** [403.704 FS.](#)

**LAW IMPLEMENTED:** [403.715](#), [212.08\(7\)\(q\) FS.](#)

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

**DATE AND TIME:** August 25, 2009, 10:00 a.m.

**PLACE:** Room 609, 2600 Blair Stone Road, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Jan Rae Clark at (850)245-8744. If you are hearing or speech impaired, please contact the agency using

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Rae Clark, 2600 Blair Stone Road, MS 4565, Tallahassee, Florida, 32399-2400, telephone (850)245-8744, email: jan.rae.clark@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-704.400 Procedure for the Preliminary Examination of Resource Recovery Equipment.

When tax may become or has become due pursuant to Chapter 212, F.S., on equipment ~~that~~ ~~which~~ may be resource recovery equipment and such equipment is not available for inspection by the Department, the prospective purchaser or purchaser of such equipment may apply to the department for a preliminary examination report based on a review of plans, specifications, equipment lists, and other descriptions in the application. The preliminary examination report of proposed resource recovery equipment may be considered by the Department of Revenue as a prerequisite for delay of tax due on such equipment as indicated in rules promulgated by the Department of Revenue. The Department shall use the following procedure when preliminarily examining resource recovery equipment:

(1) Application for preliminary examination of resource recovery equipment shall be submitted to the Department on a Form 62-701.900(9)(~~6~~), Application for Preliminary Examination and Final Examination and Certification of Resource Recovery Equipment, effective date [eff. date], hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. All supporting documentation shall be submitted with the application. The application shall include the following information:

(a) No change;  
 (b) Identity of county or municipality that will eventually own or exclusively benefit from the resource recovery equipment;  
 (c) A list and brief description of resource recovery equipment and the estimated cost thereof ~~that~~ ~~which~~ the applicant declares is subject to this exemption.

(d) through (e) No change.

(2) An application for preliminary examination of resource recovery equipment ~~that~~ ~~which~~ includes only recycling equipment may include equipment appearing on the list in Rule 62-704.600, F.A.C.

(a) No change.

(b) For equipment not appearing on the list in 62-704.600, F.A.C., or for listed equipment ~~that~~ ~~which~~ has auxiliary equipment also being certified as recycling equipment, certification by a Professional Engineer that the equipment meets the requirements in Rule 62-704.420, F.A.C., shall be included in the application.

(3) To provide the certification required in this subsection for preliminary examination of resource recovery equipment that is recycling equipment, a Professional Engineer shall examine the plans, drawings, and descriptions of the facility and process, and the attached equipment list. The Professional Engineer shall certify that the equipment is:

(a) No change.

(b) Owned and operated by or exclusively on behalf of a unit of local government.

(4) through (5) No change.

Rulemaking Specific Authority 403.704 403.703 FS. Law Implemented 212.08(7)(q)(~~p~~), 403.715 FS. History—New 5-24-79; Formerly 17-7.42, 17-7.420, Amended 8-14-90, Formerly 17-704.400, Amended 12-17-96, \_\_\_\_\_.

62-704.410 Procedure for the Final Examination and Certification of Resource Recovery Equipment.

Final examination and certification of resource recovery equipment shall be a requirement for sales tax exemptions as indicated in Section 212.08(7)(q) 212.08(7)(~~p~~), F.S. The Department shall use the following procedure in granting or denying certification of resource recovery equipment:

(1) After the equipment is installed, an application for final examination and certification of resource recovery equipment shall be submitted to the Department on Form 62-701.900(9) ~~62-701.900(6)~~. The application shall include the information required for preliminary examination in subsection 62-704.400(1), F.A.C., and the Department shall request additional information if required for proper completion of the application. If the applicant has previously submitted the required information on a preliminary examination application form, then an updated copy of that preliminary examination application form shall satisfy this requirement.

(2) An application for final examination and certification of resource recovery equipment ~~that~~ ~~which~~ includes only recycling equipment may or may not include equipment appearing on the list in Rule 62-704.600, F.A.C.

(a) For equipment appearing on the list in Rule 62-704.600, F.A.C., the purchaser shall include with the application a certification that:

1. The equipment meets the criteria in Rule 62-704.420, F.A.C., and
2. The listed equipment is installed and operational.

(b) For equipment not appearing on the list in Rule 62-704.600, F.A.C., or for listed equipment that ~~which~~ has auxiliary equipment also being certified as recycling equipment, the application shall include a certification by a Professional Engineer that:

1. The equipment meets the criteria in Rule 62-704.420, F.A.C., and
2. The equipment is installed and operational.

(c) If the applicant has previously submitted the required information on a preliminary examination application form, then an updated copy of that preliminary examination application form shall satisfy this requirement.

(3) To provide the certification required in this subsection for final examination and certification of resource recovery equipment, that is recycling equipment, a Professional Engineer shall examine the plans, drawings, and descriptions of the facility and process and the attached equipment list. The Professional Engineer shall inspect the installed equipment. The Professional Engineer shall certify that the equipment is:

- (a) Integral to the recycling process;
- (b) Owned and operated by or on behalf of a unit of local government; and
- (c) Installed and operational.

(4) When the proposed resource recovery equipment is installed, a representative of the Department shall inspect the equipment within thirty (30) days of receipt of a properly completed application. However, the Department shall accept certification of equipment and installation specified in subsection (2) of this section above in lieu of inspecting such recycling equipment when the Department finds that such certification is sufficient to determine that the recycling equipment meets the criteria of this rule.

(5) Within thirty (30) days of such inspection or receipt of a complete and sufficient certification of equipment and installation as specified in subsection (2) of this section above, the Department shall issue a written decision granting or denying certification. A copy of the certification shall be sent to the Department of Revenue and the Applicant.

~~Rulemaking Specific Authority 403.704 403.703~~ FS. Law Implemented ~~212.08(5)(c); 212.08(7)(q)(r)~~, 403.715 FS. History— New 5-24-79, Formerly 17-7.43, 17-7.430, Amended 8-14-90, Formerly 17-704.410, Amended 12-17-96, \_\_\_\_\_.

62-704.420 Criteria for Preliminary Examination and Certification of Resource Recovery Equipment. The Department shall use the following criteria when determining whether equipment shall be certified as resource recovery equipment.

(1) Resource recovery equipment includes all equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste. Resource recovery equipment does not include:

(a) No change.

(b) Land or buildings. A building includes the walls, roof, ceiling, floor, and all other necessary supporting structures to enclose an area. However, extraordinary foundations and structural members used exclusively for the support of resource recovery equipment shall be considered resource recovery equipment. Buildings or structures ~~that which~~ are integral to the process shall be considered resource recovery equipment if they:

1. through 2. No change.

(c) No change.

(2) Resource recovery equipment shall be a unit ~~that which~~ by itself provides a significant function in the resource recovery process. Examples of such equipment include, ~~but are not limited to~~, conveyors, pumps, and fans. The Department shall not certify spare parts or maintenance items of resource recovery or recycling equipment such as nuts, bolts, and drive belts.

(3) Resource recovery equipment may include fixed pieces of equipment exclusively and integrally used in the actual process of recovering material or energy resources from solid waste. Examples of such equipment include; ~~but are not limited to~~, bridge cranes and fixed storage bins.

(4) No change.

~~Rulemaking Specific Authority 403.704~~ FS. Law Implemented ~~212.08(5)(c); 212.08(7)(q)(r)~~, 403.715 FS. History—New 5-24-79, Formerly 17-7.44, 17-7.440, Amended 8-14-90, Formerly 17-704.420, Amended \_\_\_\_\_.

62-704.600 Recycling Equipment List.

Recycling equipment ~~that which~~ appears on the list below is considered presumed to be recycling equipment and shall be certified by the Department as recycling equipment if other requirements for equipment eligibility, pursuant to Rules 62-704.420 ~~and 62-704.510~~, F.A.C., are certified.

(1) No change.

- (2) Separation equipment or machinery ~~that which~~ is used for removing contaminants from recyclable materials:
    - (a) through (e) No change.
  - (3) Materials handling equipment ~~that which~~ is exclusively used to move recyclable materials to or from other recycling equipment within the recycling facility or plant site:
    - (a) through (d) No change.
  - (4) Materials handling equipment that is used exclusively to transfer or transport recyclable materials from the point of generation to the recycling facility:
    - (a) Trucks delivered with specially designed recycling bodies;
    - (b) Carts specially designed to store recyclables prior to transfer to a recyclable collection vehicle;
    - (c) Bins specially designed to store recyclables prior to transfer to a recyclable collection vehicle;
- Rulemaking Specific Authority 403.704 FS. Laws Implemented 212.08(7)(g), 403.715, ~~212.08(5)(c)~~ FS. History–New 8-14-90, Formerly 17-704.600, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jan Rae Clark

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 10, 2009