

NOTICE OF PROPOSED RULE DEVELOPMENT WORKSHOP

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0193 Florida Renewable Energy Production Credit

12C-1.051 Forms

PURPOSE AND EFFECT: The purpose of the creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), is to provide for the administration of Section 220.193, F.S. (Florida Renewable Energy Production Credit), created by s. 13, Chapter 2006-230, L.O.F. When adopted, this rule will provide the procedures for applying for an allocation of the Florida renewable energy production credit, for claiming the Florida renewable energy production credit on a Florida Corporate Income Tax Return, and for transferring the Florida renewable energy production credit.

The purpose of proposed Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, new Form F-1193 (Application for Florida Renewable Energy Production Credit Allocation) and new Form F-1193T (Notice of Intent to Transfer Florida Renewable Energy Production Tax Credit), which, effective January 2008, will be used by the Department in the administration of the Florida Renewable Energy Production Credit for corporate income tax purposes.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is proposed procedures and requirements being developed by the Department for purposes of the Florida renewable energy production credit, as provided in Section 220.193, F.S.

SPECIFIC AUTHORITY: 213.06(1), 220.193, 220.51, F.S.

LAW IMPLEMENTED: 213.35, 213.755, 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131,

220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.193, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, F.S.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: October 8, 2007, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT WORKSHOP IS: Gary Moreland, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4831.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
CREATING RULE 12C-1.0193
AMENDING RULE 12C-1.051

12C-1.0193 Florida Renewable Energy Production Credit.

(1) A Florida Renewable Energy Production Credit is provided in Section 220.193, F.S., for the sale of electricity from a new Florida renewable energy facility operationally placed in service after May 1, 2006, and for increases of more than five percent (5%) in the production and sale of electricity from renewable energy sources at an existing Florida renewable energy facility. To claim the credit, an Application for Florida Renewable Energy Production Credit Allocation (Form F-1193, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department on or before February 1 of each year for an allocation of available credit. The allocation of the available credit is based upon the applicant's increased production and sales of electricity and the increased production and sales of all applicants during the previous calendar year.

(2) Corporations that increase both production and sales of renewable electrical energy by more than five percent (5%) over the 2005 calendar year for each new or expanded Florida renewable energy facility may submit one application each year for each qualifying facility. For a new Florida renewable energy facility, the credit is based on the corporation's sale of the facility's entire electrical production. A corporation may not transfer its right to apply for a

credit to another corporation. Florida Renewable Energy Production credits may only be taken once against the Florida corporate income tax, may not be carried back to an earlier tax year, and must be taken in the order prescribed in Section 220.02(8), F.S. A corporation claiming the credit on its Florida corporate income tax return must add back the amount of the credit to its Florida net income. Credit amounts that are not granted in full or in part due to the annual \$5 million limitation are not eligible for a Florida Renewable Energy Production credit in later years.

(3) The Florida Renewable Energy Production Credit may be transferred in a merger or acquisition. In addition, unused credits may be transferred one time (outside a merger or acquisition) to another corporation in whole or in increments of not less than twenty-five percent (25%) of the remaining credit. Taxpayers are required to file a Notice of Intent to Transfer Florida Renewable Energy Production Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer the unused renewable energy production credits available for transfer. The transfer must be [verified approved](#) by the Department [prior to the transferor claiming the credit](#). The transferor and the transferee must execute a written agreement detailing the transfer of the available credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed. The transfer of a credit does not affect the time for taking the credit, and the credit is subject to the same limitations imposed on the transferor.

(4) Every corporation claiming a Florida Renewable Energy Production Credit must retain a copy of the letter received from the Department granting the credit and a schedule reconciling all credit carryovers, transfers, and sales until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(5) Corporations that are required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must file Form F-1193 (Application for Florida Renewable Energy Production Credit Allocation) and Form F-1193-T (Notice of Intent to Transfer Florida Renewable Energy Production Credit) electronically with the Department by using the Department's Internet site at www.myflorida.com/dor. Taxpayers who are not required to file returns and remit payments by electronic means are encouraged, but not required, to file these forms electronically, using the Department's Internet site.

Specific Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 213.35, 213.755, 220.02(8), 220.03(1), 220.131, 220.193 ~~220.44~~ FS. History-New _____.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
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(2) through (13) No change.

<u>(14) F-1193</u>	<u>Application for Florida Renewable Energy</u>	
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Production Credit Allocation (N. 01/08) _____

(15) F-1193T Notice of Intent to Transfer Florida Renewable

Energy Production Tax Credit (N. 01/08) _____

(14) through (15) renumbered (16) through (17) No change.

Specific Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.193, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History-New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05 5-1-06, 4-5-07, _____.

CORRECTED 9/20/07