

## Notice of Proposed Rule

### DEPARTMENT OF TRANSPORTATION

RULE NO.: RULE TITLE:

14-46.005 Wireless Facilities

PURPOSE AND EFFECT: To establish permitting criteria for small wireless equipment installed in Department right-of-way.

SUMMARY: Provides criteria for permitting of small wireless equipment in Department right-of-way.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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.

RULEMAKING AUTHORITY: 334.044(2), 337.401(1), F.S.

LAW IMPLEMENTED: 337.251, 337.401, 337.402, 337.403, 339.041(1), 365.172(13)(f), F.S.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 2, 2019, 1:00 p.m.

PLACE: Burns Building Auditorium, 605 Suwannee Street, Tallahassee, FL 32399

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 7 days before the workshop/meeting by contacting: Susan Schwartz, (850) 414-5392, susan.schwartz@dot.state.fl.us. 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: Susan Schwartz, Assistant General Counsel, (850)414-5392, susan.schwartz@dot.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 14-46.005 Wireless Utilities

**(1) Purpose.** This rule is established to provide requirements for the installation, operation, maintenance, relocation, and adjustment of Small Wireless Equipment and Small Wireless Structures within the Florida Department of Transportation's (FDOT) rights-of-way in a manner that protects the safety of the travelling public, provides for the effective and orderly management of the right-of-way, and is consistent with the FDOT's contractual obligations under any leases entered into pursuant to Section 337.251, F.S.

**(2) Terms and Acronyms.** All terms in this rule shall have the same meaning as those in Section 334.03, F.S. Additionally, the following terms are defined:

**(a) Wireless Equipment:** means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber optic cable or other cables, and equipment associated with wireless communications. The term includes Small Wireless Equipment. The term does not include any structure or pole on which the equipment is attached, physical lines for backhaul facilities, physical lines between wireless structures, or technology installed as part of or in support of electric distribution pursuant to and consistent with UAM Section 2.3.1(8).

**(b) Small Wireless Equipment:** means Wireless Equipment that meets all the following conditions:

1. Each enclosed antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all its exposed elements can fit within an enclosure of no more than six (6) cubic feet in volume;

2. All other associated wireless equipment is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume:

- a. electric meters,
- b. concealment elements,
- c. telecommunications demarcation boxes,
- d. ground-based enclosures,
- e. grounding equipment,
- f. power transfer switches,
- g. cutoff switches,
- h. vertical cable runs for power and other services, and
- i. Small Wireless Structures.

3. Does not extend more than 10 feet above the Small Wireless Structure to which it is attached.

(c) Small Wireless Structure: means an existing, proposed, or new pole or other structure that has or is intended to have Small Wireless Equipment attached to it and is not taller than 50 feet above ground level at the location of installation.

(d) UAM: 2017 Utility Accommodation Manual, as incorporated in Rule 14-46.001, F.A.C.

(e) UAO: The Utility Agency/Owner of Small Wireless Equipment, a Small Wireless Structure, or both.

**(3) Utility Permits.** No Wireless Equipment other than Small Wireless Equipment attached to a Small Wireless Structure may be installed pursuant to a utility permit in FDOT right-of-way. This provision shall not preclude the right of a Department lessee to install, locate or maintain other wireless equipment in accordance with the terms of their lease with the Department.

(a) The UAO shall obtain a utility permit pursuant to the UAM prior to installing Small Wireless Equipment in FDOT's right-of-way. The UAO shall comply with this rule and the UAM. To the extent the UAM and this rule conflict, this rule shall control; however, if the conflict is one in which this rule is silent and the UAM addresses the specific circumstance at issue, the UAM shall control.

(b) An existing structure that is already authorized to be within FDOT's right-of-way may be used as a Small Wireless Structure provided it meets the requirements of this rule and the UAM. If the existing structure is owned by a third party, the UAO must obtain the owner's consent for attachment prior to applying for a permit.

**(4) Placement Limitations.** The UAO shall not install or maintain any Small Wireless Equipment pursuant to a utility permit that interferes with the function of, replaces, or is intended to replace any FDOT structure, transportation facility, or equipment, including Wireless Equipment.

**(5) Signal Interference.** The UAO shall comply with all applicable Federal Communication Regulations relating to signal interference. If, at any time, including after installation of the Small Wireless Equipment, the UAO's Small Wireless Equipment interferes with any existing, proposed, or new FDOT Wireless Equipment, the UAO shall immediately eliminate the interference. If the UAO's Small Wireless Equipment interferes with any previously permitted Wireless Equipment in FDOT's rights-of-way, the UAO shall immediately eliminate the interference.

**(6) Utility Permit Application Package.** Application for a wireless utility permit shall be made through the online One-Stop Permitting website available at: <https://osp.fdot.gov>. In addition to the submittals required in UAM Section 2.4, the UAO shall include the following:

(a) If the Small Wireless Equipment is attached to a Small Wireless Structure owned by a third-party, the UAO and third-party shall certify that the UAO is authorized to attach its Small Wireless Equipment to the third-party's Small Wireless Structure;

(b) Plans view drawings (to scale) showing the location of the proposed Small Wireless Equipment and Small Wireless Structure, including the power source; and

(c) An engineering analysis documenting the operational frequency band, any potential interference effects, and an RF interference survey.

Rulemaking Authority 334.044(2), 337.401(1), FS. Law Implemented 337.251, 337.401, 337.402, 337.403, 339.041(1), 365.172(13)(f) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick Overton, State Utility Engineer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Kevin Thibault, P.E.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2019  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 17, 2017