

(2) No change.

(3) A registered contractor may request inactive status. Inactive registrations not renewed in five renewal cycles from the date of inactivation shall be considered null and void. Persons wishing to renew an inactive registration must make application on Form DH 4076 and substantiate 12 ~~six~~ classroom hours of approved instruction for each year the registration was considered inactive. Application must be accompanied by necessary exhibits and renewal fees.

(4) through (6) No change.

(7) All materials incorporated herein may be obtained from the Bureau of Onsite Sewage Programs at www.MyFloridaEH.com or 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1713 by contacting the department.

Specific Authority ~~154.06, 381.0011, 381.006, 381.0065, 489.553(3), 489.557(1)~~ FS. Law Implemented ~~154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, 386.041, Part III 489.552, 489.553, 489.554~~ FS. History–New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.073, Amended 3-22-00, 4-21-02, 5-24-04,_____.

64E-6.025 Definitions.

Definitions in Chapter 64E-6, Parts I and II, are also applicable to Chapter 64E-6, Part IV.

(1) through (9) No change.

(10) Performance-based treatment system – a specialized onsite sewage treatment and disposal system designed by a professional engineer with a background in wastewater engineering, licensed registered in the state of Florida, using appropriate application of sound engineering principles to achieve specified levels of CBOD₅ (carbonaceous biochemical oxygen demand), TSS (total suspended solids), TN (total nitrogen), TP (total phosphorus), and fecal coliform found in domestic sewage waste, to a specific and measurable established performance standard. This term also includes innovative systems.

(11) through (15) No change.

Specific Authority ~~381.0011(4), (13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1)~~ FS. Law Implemented ~~154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.041, 489.553~~ FS. History–New 2-3-98, Amended 3-22-00, 6-18-03,_____.

64E-6.026 Applications for Innovative System Permits and System Construction Permits.

(1) Applications for innovative system permits – Applications for innovative system permits shall be made using form DH 3143 herein incorporated by reference. The application and all supporting information shall be signed, dated and sealed by an engineer, licensed registered in the State of Florida. Except as provided for in subsection 64E-6.028(3) F.A.C., alternative drainfield materials and designs shall not be approved which would result in a reduction in drainfield size

using the mineral aggregate drainfield system as described in Rule section 64E-6.014, F.A.C., and the total surface area of soil at the bottom of the drainfield as the criteria for drainfield sizing comparisons. Applications shall include:

(a) through (b) No change.

(2) No change.

(3) All materials incorporated herein may be obtained from the Bureau of Onsite Sewage Programs at www.MyFloridaEH.com or 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1713 by contacting the department.

Specific Authority ~~381.0011(4), (13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1)~~ FS. Law Implemented ~~154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, Part I 386, 489.553~~ FS. History–New 2-3-98, Amended 6-18-03,_____.

64E-6.030 Fees.

(1) No change.

(2) Except for the ~~time limited~~ research fee which is to be placed in a designated account, all fees collected pursuant to paragraphs ~~Rule~~ 64E-6.030(1)(a) through ~~(w)(v)~~, F.A.C., shall be deposited in an individual county health department trust fund to be used to meet the cost of administering the onsite sewage treatment and disposal program.

(3) No change.

Specific Authority ~~154.06(1), 381.0011(13), 381.006, 381.0065(3)(a), 381.0066, 489.553(3), 489.557(1)~~ FS. Law Implemented ~~154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0066, 381.0067, 386.041, 489.553, 489.554, 489.555, 489.557~~ FS. History–New 2-3-98, Amended 3-22-00, 4-21-02, 5-24-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dale Holcomb, Environmental Manager, Bureau of Onsite Sewage Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gerald Briggs, Chief, Bureau of Onsite Sewage Programs

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2006

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 3, 2005 and June 16, 2006

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

| | |
|-----------|------------------|
| RULE NO.: | RULE TITLE: |
| 12C-3.008 | Public Use Forms |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in accordance with subparagraph 120.54(3)(d)1., F.S., to the proposed amendments to Rule 12C-3.008 F.A.C. (Public Use Forms), published in Vol. 32, No. 2, pp. 123-124, January 13, 2006, issue of the Florida Administrative Weekly.

In response to written comments received from the Joint Administrative Procedures Committee, Form DR-301 (Preliminary Notice and Report), Form DR-308 (Request and Certificate for Waiver and Release of Florida Estate Tax Lien), Form DR-312 (Affidavit of No Florida Estate Tax Due), and Form F-706 (Florida Estate Tax Return) have been changed to revise the statement made under penalty of perjury by the personal representative or attorney for the estate on each form. Question 5 of the Instructions to Form DR-301 (Preliminary Notice and Report) has been changed to remove replace the word "etc." with the phrase "or similar document establishing Florida domicile" as one of the document copies that must be attached to establish the date of Florida domicile for the decedent. Technical changes have been made to Form DR-310 (Domicile Statement). Subsections (2) through (6) of Rule 12C-3.008, F.A.C. (Public Use Forms), have been amended so that, when adopted, those subsections will read as follows:

| Form Number | Title | Effective Date |
|-------------|---|----------------|
| (2) DR-301 | Preliminary Notice and Report (R. 08/06 09/04) | ___ 05/03 |
| (3) DR-308 | Request and Certificate for Waiver and Release of Florida Estate Tax Lien (R. 08/06 09/04) | ___ 05/03 |
| (4) DR-310 | Domicile Statement (R. 08/06 09/04) | ___ 05/03 |
| (5) DR-312 | Affidavit of No Florida Estate Tax Due (for decedents dying on or after January 1, 2000) (R. 08/06 08/02) | ___ 05/03 |
| (6) F-706 | Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (R. 08/06 01/03) | ___ 05/03 |

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE CHAPTER NO.: RULE CHAPTER TITLE:
59A-25 Minimum Standards for Home
Medical Equipment Providers

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 32, No. 33, August 18, 2006 issue of the Florida Administrative Weekly.

THE TIME OF THE ORLANDO RULE DEVELOPMENT WORKSHOP HAS BEEN CHANGED.

DATE AND TIME: September 14, 2006, 12:00 Noon – 2:30 p.m.

PLACE: Hurston Building, South Tower Conference Rooms A & B, 400 West Robinson Street, Orlando, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Noel Cronin Lawrence, Agency for Health Care Administration, Home Care Unit, 2728 Mahan Drive ñ Mail Stop 34, Tallahassee, FL 32308, or lawrencn@ahca.myflorida.com.

Agendas and copies of the preliminary draft rule revisions can be obtained by contacting this office.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: RULE TITLE:
61G15-21.007 Re-examination

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 32, No. 32, August 11, 2006 issue of the Florida Administrative Weekly.

The above proposed rule was published in the August 11, 2006 issue of the Florida Administrative Weekly, Vol. 32, No. 32. In the reference used for the Purpose and Effect of the Rule, the word "score" which appears there has subsequently been deemed inappropriate for clarity and is hereby substituted with the word "grade." The foregoing change does not affect the substance of the proposed rule.

THE PERSON TO BE CONTACTED REGARDING THE ABOVE CHANGE IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: RULE TITLE:
61G15-22.0105 Standard for Laws and Rules Course
Providers

NOTICE OF PUBLIC HEARING

The Board of Professional Engineers announces a hearing regarding the above rule, as noticed in Vol. 32, No. 31, August 4, 2006, Florida Administrative Weekly.

DATE AND TIME: October 25, 2006, 2:00 p.m.

PLACE: Sheraton Suites Cypress Creek, 555 N.W. 62nd Street, Ft. Lauderdale, FL 33309

GENERAL SUBJECT MATTER TO BE CONSIDERED: Public hearing on the above referenced rule notice.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-22.0105
RULE TITLE: Standard for Laws and Rules Course Providers

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 32, No. 31, August 4, 2006 issue of the Florida Administrative Weekly.

The above-proposed rule was published in the August 4, 2006 issue of the Florida Administrative Weekly, Vol. 32, No. 31. In the original notice of rule development, published in the May 20, 2005 issue of the Florida Administrative Weekly, Vol. 31, No. 20, page 10, the rule number was erroneously given as 61G15-22.015. The correct number is 61G15-22.0105. The foregoing change does not affect the substance of the proposed rule.

THE PERSON TO BE CONTACTED REGARDING THE ABOVE CHANGE IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy

RULE NO.: 64B4-5.009
RULE TITLE: Supervision by a Disciplined Practitioner

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 23, June 9, 2006 issue of the Florida Administrative Weekly.

The change is a substantial rewording of the rule in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

The Purpose and Effect section of the Rule Notice shall read as follows:

The Board proposes the substantial rewording of the rule to replace unnecessary language and clarify supervision by a disciplined practitioner.

The text of the rule shall read as:

64B4-5.009 Supervision by a Disciplined Practitioner.

Any licensee who is disciplined by a final order of this Board shall not serve as a "qualified supervisor" until the licensee has complied with all of the obligations imposed by the final order. Within 15 days after the filing of an administrative complaint against a "qualified supervisor" license, the "qualified supervisor" shall provide written notice of the administrative complaint to all his or her supervisees. Within 1 days of the filing of a final order against a "qualified supervisor's" license, the "qualified supervisor" shall provide written notice of the final order and shall terminate all supervisory relationships.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-54.0022
RULE TITLE: Applying for Active License after Period of Inactivity or Retirement
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 18, May 5, 2006 issue of the Florida Administrative Weekly.

The change is as follows so that the rule reads as:

64B8-54.0022 Applying for an Active License after Period of not practicing or Retirement.

Any person applying for an active status license who has been on retired status or otherwise inactive for more than 5 years; or, if licensed elsewhere and applying by endorsement, has been retired or not been actively employed as an electrologist for more than 5 years shall, as a condition of licensure, demonstrate that he or she is able to practice with the care and skill sufficient to protect the health, safety and welfare of the public.

(1) If not practicing for 7 years or more, retake the examination.

(2) If not practicing for more than 9 years, in addition to complying with subsection (1) take two (2) hours of CE in HIV and Blood-Borne Disease and two (2) hours in Medical Errors.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-45.007
 RULE TITLE: Blue Crab Effort Management Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 28, July 14, 2006 issue of the Florida Administrative Weekly.

The Fish and Wildlife Conservation Commission announces changes to the above-referenced proposed rule amendments, after the final public hearing on the rule, held on August 16, 2006, in Tampa, Florida. The proposed amendment to Rule 68B-45.004, F.A.C., has not been changed. The proposed amendments to subsections (3) and (6) only of Rule 68B-45.007, F.A.C., have been changed in response to comments from the staff of the Joint Administrative Procedures Committee, to read as follows:

68B-45.007 Blue Crab Effort Management ~~Limited Entry~~ Endorsement Program.

(3)(a) Except for those qualifying for a non-transferable blue crab effort management ~~limited entry~~ endorsement as specified in subsection (6), the Blue Crab Effort Management ~~Limited Entry~~ Endorsement Application must be received by the Commission no later than September 30, 2006. An applicant may be a person, firm, or corporation.

(b)(a) In order to qualify for a blue crab effort management limited entry endorsement number other than a V-N endorsement issued pursuant to subsection (6), an applicant must have held a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement pursuant to Section 370.135(2), F.S., at the time of application and establish landings qualify as specified in paragraph (3)(c)(b). ~~A limited entry blue crab endorsement number will not be issued to an applicant who did not hold a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement pursuant to Section 370.135(2), F.S., at the time of application.~~

~~(b) Except as specified in subsection (6), qualification for a blue crab limited entry endorsement number shall be determined by landings of blue crab reported on a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement, and as specified in paragraph (c).~~

(c) Qualified blue crab effort management ~~limited entry~~ endorsement number applicants must have documented blue crab landings in quantities as specified in subsection (4) or (5) pursuant to Commission trip ticket records generated under the provisions of Rule Chapter 68E-5, F.A.C., during at least one of the following three license years: July 1, 2000 through June

30, 2001, July 1, 2001 through June 30, 2002, or July 1, 2002 through June 30, 2003. Qualifying landings must have been received by the FWC by August 1, 2003; applicants lacking sufficient blue crab landings during the qualifying years may have their eligibility for a blue crab effort management ~~limited entry~~ endorsement considered by the blue crab effort management ~~limited entry~~ endorsement appeals board as specified in subsection (11)(40).

(6) Non-transferable blue crab effort management ~~limited entry~~ endorsement (V-N). Persons will qualify for the V-N endorsement if they held a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement pursuant to Section 370.135(2), F.S., at the time of application ~~meet the criteria set forth in paragraph (3)(a)~~, have had no convictions for violations associated with gears defined in subsection 68B-4.002(3) or (4), F.A.C., since July 1, 1995, and have documented landings using such gears pursuant to Commission trip tickets generated for the Marine Information System under Rule Chapter 68E-5, F.A.C., prior to July 1, 1995, or sold nets to the state according to the provisions of the net buy back program, Chapter 95-414, Laws of Florida. Qualifying landings must have been received by the Marine Information System no later than August 1, 1995.

(a) The non-transferable blue crab effort management ~~limited entry~~ endorsement cannot be sold or otherwise transferred to any other person as described in subsection (15) or (16).

(b) The holder of a non-transferable blue crab effort management ~~limited entry~~ endorsement number shall be entitled to purchase up to 100 hard shell blue crab trap tags that will allow them to deploy a like number of hard shell blue crab traps in any state waters where blue crab traps are allowed.

(c) Applicants qualifying for a V-N blue crab effort management ~~limited entry~~ endorsement number pursuant to this subsection may apply for the endorsement by completing and submitting application Form DMF-SL4570, Non-Transferable Blue Crab Effort Management ~~Limited Entry~~ Endorsement (09-06 ~~01-06~~), incorporated herein by reference.

(d) Applicants must submit their application to the Commission no later than September 30, 2007 ~~2006~~. An applicant may be a person, firm, or corporation.

(e) No change.

(f) Applicants initially denied a V-N endorsement number may appeal their denial by submitting a completed appeals application form (DMF-4580, Application for Appeal of the Non-Transferable Blue Crab Limited Entry Endorsement (09-06 ~~01-06~~), hereby incorporated by reference), to the Director of the Division of Marine Fisheries Management by March 31, 2007 ~~2006~~.

(g) through (h) No change.

(i) The holder of a V-N blue crab effort management limited entry endorsement number shall be subject to the same trap tag requirements described in subsection (7).

(j) The holder of a V-N blue crab effort management limited entry endorsement number shall be subject to the same renewal criteria described in subsection (9).

(k) The holder of a V-N blue crab effort management limited entry endorsement number shall be subject to the renewal criteria described in paragraph (10)(a).

(l) The holder of a V-N blue crab effort management limited entry endorsement number shall not be eligible to serve either on the blue crab limited entry appeals board described in subsection (11) or the advisory board described in subsection (12).

(m) No change.

(n) If the holder of a V-N blue crab effort management limited entry endorsement number purchases a V-H endorsement described in subsection (4) or a V-S endorsement described in subsection (5), the non-transferable endorsement shall be forfeited.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

| | |
|-------------------|---|
| RULE CHAPTER NO.: | RULE CHAPTER TITLE: |
| 69A-58 | Firesafety in Educational Facilities |
| RULE NOS.: | RULE TITLES: |
| 69A-58.002 | Scope: Existing Facilities |
| 69A-58.003 | Definitions |
| 69A-58.0031 | New Construction |
| 69A-58.004 | Firesafety Inspections |
| 69A-58.005 | Serious Life Safety Hazards |
| 69A-58.006 | Inspections in General |
| 69A-58.007 | Counties, Municipalities, and Special Districts Having Firesafety Responsibilities, Without Firesafety Inspectors |
| 69A-58.0081 | Means of Egress |
| 69A-58.0082 | Relocatable Buildings |
| 69A-58.0083 | Protection from Hazards |
| 69A-58.0084 | Seclusion Time Out Rooms |
| 69A-58.009 | Florida Firesafety School Evaluation System |
| 69A-58.010 | Other Applicable Codes and Standards |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 32, August 11, 2006 issue of the Florida Administrative Weekly.

UNIFORM FIRESAFETY STANDARDS FOR EDUCATIONAL FACILITIES

69A-58.002 Scope: New Construction and Existing Facilities.

(1) through (3) No change.

(4) Existing educational and ancillary facilities shall comply with the applicable provisions of NFPA 1 and NFPA 101, the Florida editions adopted in Rule 69A-3.012 Chapter 69A-60, F.A.C., except as modified by Chapter 1013, F.S., and this rule chapter.

(5) Any time NFPA 1 or NFPA 101 refers to any other NFPA standard that has not been adopted by the Division of State Fire Marshal in this rule chapter, the referenced standard shall be the Florida edition adopted in Rule 69A-3.012 Chapter 69A-60, F.A.C.

(6) Community colleges shall comply with the applicable chapters of NFPA 1 and NFPA 101, the Florida editions adopted in Rule 69A-3.012 Chapter 69A-60, F.A.C., in accordance with the following:

(a) through (c) No change.

(7) through (10) No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History—New 2-18-03, Formerly 4A-58.002, Amended _____.

69A-58.003 Definitions.

As used in this rule chapter, the following definitions apply:

(1) through (9) No change.

(10) "FISH" means Florida Inventory of School Houses.

(11)(10) "Florida Fire Prevention Code" means the Florida Fire Prevention Code as adopted in Rule 69A-3.012 Chapter 69A-60, F.A.C.

(12)(11) No change.

(13)(12) "New" facility means a facility that has not been occupied nor issued a building permit certificate of occupancy prior to the effective date of this edition of this rule chapter.

(14)(13) "NFPA 1" means the National Fire Protection Code 1, entitled the "Uniform Fire Code," the Florida edition as adopted in Rule 69A-3.012 Chapter 69A-60, F.A.C.

(15)(14) "NFPA 101" means the National Fire Protection Association Code 101, entitled the "Life Safety Code," the Florida edition as adopted in Rule 69A-3.012 Chapter 69A-60, F.A.C.

(15) through (17) renumbered (16) through (18) No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History—New 2-18-03, Formerly 4A-58.003, Amended _____.

69A-58.0031 New Construction.

(1) New construction and new buildings are subject to and controlled by the Florida edition of NFPA 1, the edition as adopted in Rule 69A-3.012, F.A.C. 2003 edition, in Chapter 20, relating to "Educational occupancies" and the Florida

~~edition of NFPA 101, the edition as adopted in Rule 69A-3.012, F.A.C. 2003 edition, Chapter 14, "New educational occupancies," except where specifically otherwise provided in this rule chapter.~~

(2) Notwithstanding any rule or adopted code or standard in conflict herewith, the following procedures apply with respect to new construction and new buildings.

(a) Prior to commencement of any new construction or remodeling:

1. The board shall approve or cause to be approved the plans, drawings, designs, proposals, blueprints, and other construction or remodeling documents and evaluate the same for complete compliance with the Florida Fire Prevention Code in accordance with ~~Section Chapter~~ 1013.38(1)(2), F.S., or

2. No change.

(b) through (c) No change.

~~(d) The board shall provide to the fire fighting authority charged with responding to calls at the subject educational facility a copy of the site plan for each educational plant in which site conditions will be affected. Such local fire fighting authority shall review the site plans for compliance with Chapter 18 of the Florida Edition of NFPA 1, "Fire Department Access and Water Supply," and this rule chapter. The local fire fighting authority shall review and provide approval or comments to the board within 15 days of receipt. If the local fire fighting authority fails to provide approval or comments to the board within 15 days of receipt, the site plan shall be deemed compliant.~~

(3) through (4) No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.003, Amended _____.

69A-58.004 Firesafety Inspections.

(1) No change.

(a) through (b) No change.

(2) The inspections in subsection (1), paragraphs (a) and (b):

(a) through (b) No change.

(c) Shall be performed in accordance with any applicable firesafety code or standard, such as NFPA 101, the edition as adopted in Rule ~~69A-3.012 Chapter 69A-60~~, F.A.C., or any other applicable code or standard which has been adopted in this rule chapter; and

(d) through (5)(h) No change.

(i) A report of each deficiency noted during the inspection. Each deficiency report shall contain:

1. The building name or number and, if applicable, the FISH number of the room or building in which the violation was noted;

2. through 11. No change.

(6) The inspection reports required by subsection (1) shall be submitted to the division by June 30, of each year.

(a) The board shall either:

1. Forward one copy of the completed inspection report for each inspection conducted by the board to the division electronically by entering it into the "School Inspection Reporting System" database, or

2. Submit the report in any legible format with each violation coded in accordance with Form DFS-KL3-1674 (Rev. 02-06) the "School Inspection Reporting System" database schedule which is adopted herein by reference (~~Schedule A~~) and retain the original. A copy of the form can be obtained at the Department's website located at www.fldfs.com/SFM/, or by mailing a request to The Florida State Fire Marshall, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(b)The local fire official shall either:

1. Forward one copy of the completed inspection report for each inspection conducted by the board to the division electronically by entering it into the "School Inspection Reporting System" database, or

2. Submit the report in any legible format with each violation coded in accordance with Form DFS-KL3-1674 (Rev. 02-06) the "School Inspection Reporting System" database schedule which is adopted herein by reference (~~Schedule A~~) and retain the original. A copy of the form can be obtained at the Department's website located at www.fldfs.com/SFM/, or by mailing a request to The Florida State Fire Marshall, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(c) through (d) No change.

(7) Any firesafety inspector authorized by a unit of government who is certified in accordance with Section 633.081(2) or Section 633.081(3), F.S. may enter the "School Inspection Reporting System" via the internet at <http://app.bebr.ufl.edu/egroupware/login.php?cd=1>. You may also access the "School Inspection Reporting System" through the Division's website located at www.fldfs.com/SFM/.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.004, Amended _____.

69A-58.005 Serious Life Safety Hazards.

(1) No change.

(2)(a) Serious life safety hazards include:

1. A non-functional fire alarm system. A non-functional fire alarm system is one impaired to the extent that a significant portion is not in operation and the system any initiating device or any notification appliance is incapable of functioning as it was designed.

2. A non-functional fire sprinkler system; A non-functional fire sprinkler system occurs any time a significant portion of any one zone is impaired to the extent that the sprinkler system head component is incapable of automatic activation within the protected space or when any system component lacks an adequate water supply.

3. through 7. No change.

(b) Other conditions may be identified to the division by the board or local fire official for designation as a serious life safety hazard, including but not limited to:

1. The placement of a functional smoke and heat detector in a manner not consistent with NFPA 72, the edition as adopted in Rule 69A-3.012 Chapter 69A-60.005, F.A.C.;

2. through 3. No change.

(c) The criteria to be used by the division to determine whether such other condition shall be designated as a serious life safety hazard shall be either: ~~No change.~~

1. Those conditions located in subdivision 6.2, NFPA 101, the Florida edition as adopted in Rule 69A-3.012 Chapter 69A-60.004, F.A.C., to wit:

a. through c. No change.

2. Hazard of contents shall be determined by the board or local fire official on the basis of the character of the contents and the processes or operations conducted in the building or structure. For the purposes of these rules, where different degrees or hazard of contents exist in different parts of a building or structure, the most hazardous shall govern the classification unless hazardous areas are separated or protected as specified in subdivision 8.4 and the applicable subdivisions of Chapters 11 through 42 of NFPA 101, the edition as adopted in Rule 69A-3.012 Chapter 69A-60.004, F.A.C.; or

3. Upon a finding of a dangerous condition consistent with the ~~The~~ criteria located in NFPA 1 ~~of the Florida Fire Prevention Code~~, subdivision 3.3.32.1 2-28.1, the edition as adopted in Rule 69A-3.012 Chapter 69A-60.003, F.A.C., for extra high hazard hazardous ~~hazardous~~ occupancies based on; ~~to wit;~~ the total amount of Class A combustibles and Class B flammables present, in storage, production, use, finished product, or combination thereof, and when such material is over and above those expected in occupancies classed as ordinary (moderate) hazard. Those areas or occupancies could consist of woodworking, vehicle repair, cooking areas, product displays, and storage and manufacturing processes such as painting and coating, including flammable liquid handling. Also included is warehousing of or in-process storage of other than Class I and Class II commodities as defined by NFPA 13, *Standard for the Installation of Sprinkler Systems*, subdivision 10:1-5.3, the edition as adopted in Rule 69A-3.012 Chapter 69A-60.003, F.A.C.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History–New 2-18-03, Formerly 4A-58.005, Amended.

69A-58.006 Vacant and Abandoned Buildings.

~~(1) Returning Buildings to Use. Any existing building which has been removed from instructional use for more than 180 days shall be inspected for deficiencies, and remodeled, renovated, or have its deficiencies corrected in accordance with the new construction requirements of the Florida Building Code before returning it to instructional purposes.~~

~~(2) Abandoned Buildings. Board buildings no longer in use and abandoned shall be free of combustible waste and secured in such a manner as to prevent fire safety hazards and unauthorized or unlawful entry.~~

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History–New 2-18-03, Formerly 4A-58.006, Amended.

69A-58.007 Counties, Municipalities, and Special Districts Having Firesafety Responsibilities, Without Firesafety Inspectors.

(1) through (2) No change.

(3) Each such county, municipality, or special district having firesafety enforcement responsibilities shall employ or contract with a firesafety inspector certified under Section 633.081(2), F.S., pursuant to the requirement of Section 633.081(1), F.S., to fulfill the obligation imposed by Section 633.025 024(2), F.S.

(4) No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History–New 2-18-03, Formerly 4A-58.007, Amended.

69A-58.0081 Means of Egress.

(1) Doors.

(a) No change.

(b) Opposite swinging smoke stop doors in smoke partitions within the corridor shall comply with the requirements of section 8.4.3 of the edition of NFPA 101 as adopted in Rule 69A-3.012 ~~meet the smoke compartment separation requirements.~~

(c) through (e) No change.

(2) Existing smoke stop doors shall meet the requirements of subdivision 8.3.4 of NFPA 101, the edition as adopted in Rule 69A-3.012 ~~be 1 3/4 inch solid core wood, or equivalent.~~

(a) No change.

~~(b) View panels of clear fire rated glazing (including existing wire glass) mounted in steel frames shall be permitted in smoke stop doors.~~

(c) through (f) renumbered (b) through (e) No change.

(3) Special Function Doors.

(a) through (b) No change.

(c) Turnstiles shall comply with subdivision 7.2.1.11 of NFPA 101, the edition as adopted in Rule 69A-3.012, F.A.C. ~~be placed to allow free access through a means of egress or have an emergency break-away feature or other similar type feature.~~

(4) through (16) No change.

(17) Boiler Rooms.

(a) Boilers shall comply with Chapter 554, F.S., and Rule Chapter 69A-51, F.A.C. A valid boiler inspection certificate of compliance issued by the State Fire Marshal shall be displayed and clearly visible, when required.

(b) No change.

1. through 2. No change.

(18) No change.

(19) Stages and Platforms.

~~(a)~~ Stages, and platforms, including props and equipment, shall conform to the specific requirements of Chapter 13 of NFPA 101, the edition as adopted in Rule 69A-3.012, F.A.C this section.

~~(b) All curtains and flies on stages shall have attached labels verifying their flame resistance or equivalent documentation as approved by the AHJ.~~

~~(c) All scenery and stage props shall be free of any foam plastics.~~

~~(d) All steps leading to a stage shall have a minimum of 1 handrail.~~

(20) No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New_____.

69A-58.0082 Relocatable Buildings.

(1) Relocatable buildings: Relocatable buildings sited after March 1, 2002 shall be separated as required by the Florida Building Code.

(a) No change.

(b) Relocatable buildings sited within a cluster in accordance with this section are permitted to achieve emergency vehicle access by providing vehicular access to within 200 feet of the entrance of the most remote relocatable unit and shall be ~~either~~ provided with an independent fire alarm system with a manual pull station within 100 feet of each egress door ~~or provided with a fire alarm system tied to the main school facility.~~

Exception: When required by the board, a cluster shall be protected by a fire zone extended from the main educational facility's fire alarm control panel.

In addition, all of the following shall be met:

1. The minimum overhead open space within the perimeter of the cluster shall be 50% of the maximum ~~Maximum~~ conditioned gross area of the relocatable units within the in a cluster is 12,000 square feet,

2. The minimum ~~Minimum~~ separation between individual units shall be as approved by the building official in accordance with Chapter 553, Part IV, Florida Statutes (2005), the "Florida Building Code."

3. The nearest ~~Nearest~~ permanent building or cluster shall be a minimum of is 60 feet,

4. Any ~~Maximum~~ of 20% unprotected opening between adjacent wall spaces shall be as approved by the building official in accordance with Chapter 553, Part IV, Florida Statutes (2005), the "Florida Building Code," and,

5. Minimum overhead open space within the perimeter of the cluster is 50 percent, and

~~5.6. The minimum ~~Minimum~~ setback for non-combustible Type I, II or IV (non-combustible) relocatable buildings shall be as 25 feet or less if permitted by local zoning requirements.~~

(2) Egress doors in relocatable buildings shall be provided as follows:

(a) Classroom units of combustible Type III or Type V (combustible) construction shall have 2 remotely located doors opening directly to the outside.

(b) Multi-classroom units of non-combustible ~~Type I, II or IV (non-combustible)~~ construction shall have a primary exit door opening directly to the exterior or if served by interior corridors, shall have a primary exit door and an emergency rescue opening in each space designed to be occupied by 6 or more students.

1. through 2. No change.

(3) Fire Alarm Systems.

(a) In combustible ~~Type III and Type V (combustible)~~ construction, heat or smoke detectors connected to the building's fire alarms system shall be installed in every classroom, unsupervised space, storage space, and custodial closet.

(b) In non-combustible ~~Type I, II or IV (non-combustible)~~ construction, heat or smoke detectors connected to the buildings fire alarm system shall be installed in each is located in storage and custodial closet closets.

(c) No change.

(d) Drill switches shall not be permitted except where a computerized fire alarm system is specifically listed for this purpose.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New_____.

69A-58.0083 Protection from Hazards.

(1) through (3)(b) No change.

(c) There is posted a permanently affixed sign reading "FIRE EXTINGUISHER INSIDE." Exception: Exterior signage is not required when a fire extinguisher is installed inside of every relocatable building on a school or ancillary site.

(4) No change.

(5) High-Rise Buildings. All existing high-rise structures ~~and~~ buildings more than 4 stories or 45 feet in height shall be equipped with automatic fire sprinkler systems.

(6) through (7) No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New_____.

69A-58.0084 Seclusion Time Out Rooms.

(1) No change.

(2) Locking devices.

(a) No change.

~~(b) The use of a secured seclusion time-out room must be explicitly stated in the student's exceptional student educational (ESE) records and shall include parental notice for the use of a secured seclusion time-out room. The use of secured seclusion time-out rooms by the district must be expressly permitted by the action of the school board. Compliance with this section shall be certified by the school administrator or their designee.~~

~~(b)(e)~~ No change.

1. through 4. No change.

(3) through (5) No change.

~~(6) Students in a secured seclusion time-out room must be observed continuously by a teacher or trained staff member.~~

~~(6)(7)~~ No change.

~~(7)(8) During each unannounced inspection, the division or the local fire official is permitted to inspect secured seclusion time-out rooms, for compliance, interview staff, and review staff development activities, and conduct other activities as deemed appropriate to ensure compliance with this rule chapter.~~

~~(9) Permit Required.~~

~~(a) Any secured seclusion time-out room which is constructed following the effective date of this rule shall be allowed to become operational only after the issuance of a permit.~~

~~(b) Any secured seclusion time-out room which is in operation upon the effective date of this rule shall be allowed to continue in use provided a secured seclusion time-out room operational permit has been issued by the board on Form No. DFS XX-XXX.~~

~~(c) Each school wishing to use a secured seclusion time-out room shall apply to the board for a permit to operate a secured seclusion time-out room.~~

~~(d) Each secured seclusion time-out room must be constructed and operated in accordance with this rule chapter.~~

~~(e) A permit shall be issued only after an inspection by the board and a determination by the board that such secured seclusion time-out room has been designed and constructed in accordance with this rule chapter.~~

(f) Application for a permit need not be on any specific form and is permitted to be in the form of a letter, a memorandum, or a similar document; however, the application must be signed by the school administrator or his or her designee and must include the district's name, the school's name, the school's address, and contact information which must designate the name and phone number of the contact person at the school who is permitted to be the school administrator or anyone designated by the school administrator.

(g) Each permit shall be valid for a period of not more than one year from the date of issue.

~~(9)(10)~~ No change.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New_____.

69A-58.009 Florida Firesafety School Evaluation System.

(1) through (3) No change.

(4) For buildings occupied after January 1, ~~1985~~ 2085, boards and fire officials may use the equivalency provisions of Section 1.4 of the Florida Edition of NFPA 101, the edition as adopted in Rule ~~69A-3.012~~ Chapter ~~69A-60~~, F.A.C.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New. 2-18-03, Formerly 4A-58.009, Amended_____.

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NO.:

RULE TITLE:

69O-149.041

Marketing Communication Material and Marketing Guidelines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule as noticed in Vol. 30, No. 51, December 17, 2004, of the Florida Administrative Weekly, has been withdrawn.

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NO.:

RULE TITLE:

69W-600.013

Prohibited Business Practices for Dealers and Their Associated Persons

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the following proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 8, February 24, 2006, issue of the Florida Administrative Weekly. These changes are being made to address written comments by the Joint Administrative Procedures Committee.

WHEN AMENDED THE PROPOSED RULE WILL READ AS FOLLOWS:

69W-600.013 Prohibited Business Practices for Dealers and Their Associated Persons.

(1) The following are deemed demonstrations of unworthiness by a dealer under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

~~(a) Causing any unreasonable delay in the delivery of securities purchased by any of its customers, or in the payment upon request of free credit balances reflecting complete transactions of any of its customers;~~

~~(b) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;~~

~~(c) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after~~

reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the dealer;

~~(d) Executing a transaction on behalf of a customer without authority to do so;~~

~~(e) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;~~

~~(a)(f) Extending, arranging for, or participating in arranging for credit to a customer in violation of the provisions of Regulation T, Credit by Brokers and Dealers, 12 C.F.R. §§ 220.1-220.132 (2006), which is incorporated by reference. (12 CFR 220.1-220.131, inclusive) promulgated by the Federal Reserve Board, as such provisions existed on July 1, 2003;~~

~~(b)(g) Executing any transaction in a margin account without obtaining from its customer a written margin agreement prior to settlement date for the initial transaction in the account ;~~

~~(c)(h) Failing to segregate customers' free securities or securities in safekeeping.;~~

~~(d)(i) Hypothecating a customer's securities in violation of SEC Rule 8c-1, 17 C.F.R. § 240.8c-1 (2006), which is incorporated by reference. (17 CFR 240.8c-1), as such rule existed on July 1, 2003;~~

~~(j) Charging its customer an unreasonable commission or service charge in any transaction executed as agent for the customer;~~

~~(k) Entering into a transaction for its own account with a customer with an unreasonable mark-up or mark-down;~~

~~(l) Entering into a transaction with or for a customer at a price not reasonably related to the current market price;~~

~~(e)(m) Failing to execute a customer's order.;~~

~~(f)(n) Executing orders for the purchase by a customer of securities not registered under Section 517.081 or 517.082, F.S., unless the securities are exempted under Section 517.051, F.S., or the transaction is exempted under Section 517.061, F.S.;~~

~~(g)(o) Representing itself as a financial or investment planner, consultant, or advisor, when the representation does not fairly describe the nature of the services offered, the qualifications of the person offering the services, and the method of compensation for the services.;~~

~~(h)(p) With respect to any customer, transaction or business in this state, violating any of the following:~~

~~1. Conduct Rules, Marketplace Rules, or the Uniform Practice Code of the National Association of Securities Dealers (NASD). The foregoing NASD regulations, along with the interpretive materials for those regulations, are published in the NASD manual dated March 2006, which is incorporated by reference. Any by-law, schedule thereto, rule, or appendix thereto, of the National Association of Securities Dealers~~

~~("NASD"), interpreted in accordance with the guidelines, policies, and interpretations of the NASD or SEC, including: the Conduct Rules; the Marketplace Rules; and the Uniform Practice Code, as published in the NASD Manual as of July 1998 and any amendments as existed on July 1, 2003;~~

~~2. For members of the New York Stock Exchange, Rule 405, 412, or 435, or 445 of the New York Stock Exchange, as such rules existed on May 31, 2006. The foregoing New York Stock Exchange rules, including the interpretative supplementary materials, are incorporated by reference. July 1, 2003, interpreted in accordance with the guidelines, policies, and interpretations of the NYSE or SEC.;~~

~~3. Sections 2, 4, 5, or 6 of the Securities Act of 1933, 15 U.S.C.A. §§ 77b, 77d, 77e, or 77f (Thomson/West 2006 (current through P.L. 109-229)), or SEC Rules 134, 134a, 135a, 144, 144A, 156, 419, 481, or 482, 17 C.F.R. §§ 230.134, 230.134a, 230.135a, 230.144, 230.144A, 230.156, 230.419, 230.481 or 230.482 (2006). The foregoing sections of the Securities Act of 1933 and rules of the SEC are incorporated by reference. 134, (17 CFR 230.134); 134a (17 CFR 230.134a); 135a (17CFR 230.135a); 144 (17 CFR 230.144); 144A (17 CFR 230.144A); 156 (17 CFR 230.156); 419 (17 CFR 230.419); 481 (17 CFR 230.481); or 482 (17 CFR 230.482) promulgated pursuant thereto, as such provisions existed on July 1, 2003, interpreted in accordance with the guidelines, policies, and interpretations of the NASD or SEC;~~

~~4. Section 15(b)(4)(E) of the Securities Exchange Act of 1934, 15 U.S.C.A. § 78o(b)(4)(E) (Thomson/West 2006 (current through P.L. 109-229)); Regulation SHO, Regulation of Short Sales, 17 C.F.R §§ 242.200 - 242.203 (2006); or NASD Conduct Rule 3210. The foregoing provisions of the Securities Exchange Act of 1934 and Regulation SHO, Regulation of Short Sales, are incorporated by reference. NASD Conduct Rule 3210, as it existed on July 3, 2006, is incorporated by reference, as it existed on July 1, 2003; or~~

~~5. Section 15B of the Securities Exchange Act of 1934, 15 U.S.C.A. § 78o-4 (Thomson/West 2006 (current through P.L. 109-229)), or the following rules of the Municipal Securities Rulemaking Board (MSRB), which have been promulgated under Section 15B: MSRB Definitional Rules D-1 to D-12, inclusive, and General Rules G-1 to G-34, inclusive, as those rules existed on May 31, 2006. Section 15B of the Securities Act of 1934 and the foregoing MSRB rules, including the MSRB interpretative letters and notices construing those rules, are incorporated by reference. Any rule of the Municipal Securities Rulemaking Board ("MSRB") including the Definitional Rules (Rules D-1 through D-11, inclusive), and the General Rules with the exception of Rule G-35 (Rules G-1 through G-34, inclusive), promulgated pursuant to section 15B of the Securities Exchange Act of 1934, as such rules existed on July 1, 2003, interpreted in accordance with the guidelines, policies, and interpretations of the MSRB, NASD, or SEC;~~

6. To the extent that any of the rules described in subparagraphs 1. through 5. of this section or their interpretation by the NASD, NYSE, MSRB, or SEC, as appropriate, conflict or are inconsistent with other provisions of the Florida Securities and Investor Protection Act or rules promulgated pursuant thereto, this paragraph of this rule shall not be deemed controlling.;

~~(i)(+)~~ Failing to furnish to a customer purchasing securities in an offering, not later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus.;

~~(j)(+)~~ Introducing customer transactions on a “fully disclosed” basis to another dealer that is not registered under Chapter 517, F.S., unless the customer is a person described in Section 517.061(7), F.S.;

~~(k)(+)~~ Recommending to a customer that the customer engage the services of an investment advisor that is not registered or exempt from registration under Chapter 517, F.S., unless the customer is a person described in Section 517.061(7), F.S.;

~~(l)(+)~~ Recommending to a customer that the customer engage the services of an investment advisor in connection with which the dealer receives a fee or remuneration (other than directed business) from the investment advisor, except as permitted in Rule 69W-600.003, F.A.C.;

~~(m)(+)~~ Selling or offering for sale any security in a transaction exempt from registration pursuant to Section 517.061(17)(a)1., F.S., where the issuer of such securities has not filed with the SEC within the specified period of time all reports required by Sections 13 or ~~15D~~ ~~45(d)~~ of the Securities Exchange Act of 1934, 15 U.S.C. A. §§ 78m, 78o-6 (Thomson/West 2006 (current through P.L. 109-229)). The foregoing sections of the Securities Exchange Act of 1934 are incorporated by reference, as such sections existed on July 1, 2003;

~~(n)(+)~~ Giving false or otherwise misleading customer information to any financial institution or regulatory agency.

(2) The following are deemed demonstrations of unworthiness by an associated person of a dealer under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) Borrowing money or securities from a customer, except when persons are in compliance with NASD Conduct Rule 2370(a)(1), (a)(2)(A)-(C) only, and NASD Conduct Rule 2370(b)-(c), which are incorporated by reference in subparagraph (1)(h)1.; customer;

(b) Acting as a custodian for money, securities or an executed stock power of a customer;

(c) Effecting transactions in securities, or investments as defined by Section 517.301(2), F.S., not recorded on the regular books or records of the dealer, which the associated

person represents, unless the transactions are disclosed to, and authorized in writing by, the dealer prior to execution of the transactions;

(d) Operating an account under a fictitious name, unless disclosed to the dealer, which the associated person represents;

(e) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the dealer, which the associated person represents;

(f) Dividing or otherwise splitting commissions, profits or other compensation in connection with the purchase or sale of securities in this state with any person not also licensed as an associated person for the same dealer, or for a dealer under direct or in indirect common control;

(g) Failing to furnish to each offeree of a Small Corporate Offering Registration (SCOR) SCOR registration a copy of the “Florida Guide to Small Business Investments”, OFR-S-13-97, revised May 1, 2004, which is incorporated by reference; and

(h) Engaging in any of the practices specified in paragraph (1) (a), (b), (e), (f), (g), (h), (i), (k), (l), (m), or (n). ~~(1)(b), (e), (d), (e), (f), (g), (m), (n), (o), (p), (q), (s), (t), (u), or (v).~~

(3) All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374.

Specific Authority 517.03(1), 517.1217 FS. Law Implemented 517.081, 517.1217, 517.161(1) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.13, Amended 8-1-91, 6-16-92, 1-11-93, 11-7-93, 5-5-94, 9-9-96, 10-20-97, 1-25-00, 10-30-03, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Andrea Moreland, Executive Senior Attorney, Office of Financial Regulation, 200 E. Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9662, andrea.moreland@fldfs.com.

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

| | |
|-------------------|--|
| RULE NOS.: | RULE TITLES: |
| 69W-600.0131 | Prohibited Business Practices for Investment Advisers and Their Associated Persons |
| 69W-600.0132 | Custody Requirements for Investment Advisers |
| 69W-600.014 | Books and Records Requirements |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the following proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 8, February 24, 2006, issue of the Florida Administrative Weekly. These changes are being made to address written comments by the Joint Administrative Procedures Committee.

WHEN AMENDED THE PROPOSED RULES WILL READ AS FOLLOWS:

69W-600.0131 Prohibited Business Practices for Investment Advisers and Their Associated Persons.

(1) The following are deemed demonstrations of unworthiness by an investment adviser or an associated person of an investment adviser under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) With respect to any customer, transaction or business in, to or from this state, engaging in any conduct prohibited by, or failing to comply with the requirements of, the following:

Sections 204, 204A, 205, 206, 207, 208 of the Investment Advisers Act of 1940, 15 U.S.C.A. §§ 80b-4, 80b-4a, 80b-5, 80b-6, 80b-7, 80b-8 (Thomson/West 2006 (current through P.L. 109-237)), or SEC Rules 204-3, 205-1, 205-2, 205-3, 206(3)-1, 206(3)-2, 206(4)-1, 206(4)-3, and 206(4)-4, 17 C.F.R. §§ 275.204-3, 275.205-1, 275.205-2, 275.205-3, 275.206(3)-1, 275.206(3)-2, 275.206(4)-1, 275.206(4)-3, and 275.206(4)-4 (2006), promulgated under the Investment Advisers Act of 1940. The foregoing provisions of the Investment Advisers Act of 1940 and rules of the SEC are incorporated by reference. ~~204-3 (17 CFR 275.204-3); 205-1 (17 CFR 275.205-1); 205-2 (17 CFR 275.205-2); 205-3 (17 CFR 275.205-3); 206(3)-1 (17 CFR 275.206(3)-1); 206(3)-2 (17 CFR 275.206(3)-2); 206(4)-1 (17 CFR 275.206(4)-1); 206(4)-2 (17 CFR 275.206(4)-2); 206(4)-3 (17 CFR 275.206(4)-3); and 206(4)-4 (17 CFR 275.206(4)-4) of the Investment Advisers Act of 1940 promulgated pursuant thereto, as such provisions existed on July 1, 2003, interpreted with the guidelines, policies, no action letters, and interpretations of the SEC;~~

(b) Borrowing money or securities from a customer unless the customer is a dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds;

(c) Loaning money to a customer unless the investment adviser is a financial institution engaged in the business of loaning funds or the customer is an affiliate of the investment adviser;

(d) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the investment adviser;

(e) Exercising any discretionary power in placing an order for the purchase or sale of securities for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the execution of orders;

(f) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account;

(g) Placing an order to purchase or sell a security on behalf of a customer without authority to do so;

(h) Placing an order to purchase or sell a security for a customer's account upon instruction of a third party without first having obtained a written third-party trading authorization from the customer;

(i) Misrepresenting the qualifications of the investment adviser or any employee of the investment adviser to a client or prospective client when the representation does not fairly describe the nature of the services offered, the qualifications of the person offering the services, and the method of compensation for the services or omitting to state a material fact;

(j) Charging a customer an unreasonable advisory fee;

(k) Failing to disclose to customers in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

1. Compensation arrangements connected with advisory services to customers which are in addition to compensation from such customers for such services; and

2. Charging a customer an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees;

(l) Guaranteeing a customer that a specific result will be achieved with the advice to be rendered;

(m) Recommending to a customer that the customer engage the services of a dealer that is not registered or exempt from registration under Chapter 517, F.S., unless the customer is a person described in Section 517.061(7), F.S.;

(n) Recommending to a customer that the customer engage the services of a dealer in connection with which the investment adviser receives a fee or remuneration from the dealer, except as permitted in Rule 69W-600.003, F.A.C.;

(o) Disclosing the identity, affairs, or investments of any customer unless required to do so by law or consented to by the customer;

(p) Giving false or otherwise misleading customer information to any financial institution or regulatory agency;

(q) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser and that no

assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract; ~~and~~

(r) Entering into, extending or renewing any investment advisory contract contrary to the provisions of Section 205 of the Investment Advisers Act of 1940, 15 U.S.C.A. § 80b-5 (Thomson/West 2006 (current through P.L. 109-237)), which is incorporated by reference in paragraph (a) of this subsection. This provision shall apply to all advisers and investment adviser representatives registered or required to be registered under this Act, notwithstanding whether such adviser or representative would be exempt from federal registration pursuant to Section 203(b) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(b) (Thomson/West 2006 (current through P.L. 109-237)), which is incorporated by reference.

(s) ~~(r)~~ Including, in an advisory contract, any condition, stipulation, or provisions of Chapter 517, F.S., or with any provision of, or with any rule, regulation, or order issued under, the Investment Advisers Act of 1940, which is incorporated by reference of the Investment Advisers Act of 1940 or any other practice contrary to the provisions of Section 215 of the Investment Advisers Act of 1940.

(t) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Rule 69W-600.0132, F.A.C.

(2) The federal statutory and regulatory provisions referenced herein shall apply to investment advisers, investment adviser representatives and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996.

(3) All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374.

Specific Authority 517.03(1), 517.1215 FS. Law Implemented 517.12(4), 517.161(1), 517.1215 FS. History--New 1-25-00, Amended 7-31-04, _____.

69W-600.0132 Custody Requirements for Investment Advisers.

(1) Definitions. For purposes of this section: "Custody" means holding directly or indirectly, client funds or securities, or having any authority to obtain possession of them or has the ability to appropriate them.

1. Custody includes:

a. Possession of client funds or securities unless received inadvertently and returned to the sender promptly, but in any case within three business days of receiving them;

b. Any arrangement (including a general power of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and

c. Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or the investment adviser's supervised person legal ownership of or access to client funds or securities.

2. Receipt of checks drawn by clients and made payable to unrelated third parties will not meet the definition of custody if forwarded to the third party within 24 hours of receipt and the adviser maintains the records required under subsections 69W-600.014(3)-(7), F.A.C.:

(b) "Independent representative" means a person who:

1. Acts as agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners of a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners (or members, or other beneficial owners);

2. Does not control, is not controlled by, and is not under common control with the investment adviser; and

3. Does not have, and has not had within the past two years, a material business relationship with the investment adviser.

(c) "Qualified custodian" means the following independent institutions or entities that are not affiliated with the adviser by any direct or indirect common control and have not had a material business relationship with the adviser in the previous two years:

1. A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

2. A registered broker-dealer holding the client assets in customer accounts;

3. A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act (7 U.S.C. § 6f), holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

4. A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

(2) Safekeeping required. If the investment adviser is registered or required to be registered, it is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice or course of business for the investment adviser to have custody of client funds or securities unless:

(a) Notice to Office. The investment adviser notifies the Office of Financial Regulation promptly in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.:

(b) Qualified Custodian. A qualified custodian maintains those funds and securities in a separate account for each client under that client's name or in accounts that contain only the investment adviser's clients' funds and securities, under the investment adviser's name as agent or trustee for the clients:

(c) Notice to Clients. If the investment adviser opens an account with a qualified custodian on their client's behalf, either under the client's name or under the investment adviser's name as agent, the investment adviser must notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information.

(d) Account statements must be sent to clients, either:

1. By a qualified custodian for which the investment adviser has a reasonable basis for believing that the qualified custodian sends an account statement, at least quarterly, to each of the adviser's clients for which it maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period; or

2. By the adviser who sends an account statement, at least quarterly, to each client for whom the adviser has custody of funds or securities, identifying the amount of funds and of each security of which the adviser has custody at the end of the period and setting forth all transactions during that period; and an independent certified public accountant verifies all client funds and securities by actual examination at least once during each calendar year at a time chosen by the accountant without prior notice or announcement to the adviser and that is irregular from year to year, and files a copy of the auditors report and financial statements with the Office of Financial Regulation within 30 days after the completion of the examination, along with a letter stating that it has examined the funds and securities and describing the nature and extent of the examination; and the independent certified public accountant, upon finding any material discrepancies during the course of the examination, notifies the Office of Financial Regulation within one business day of the finding, by means of a facsimile transmission or electronic mail, followed by first class mail, directed to the attention of the Office of Financial Regulation;

3. If the investment adviser is a general partner of a limited partnership (or managing member of a limited liability company, or hold a comparable position for another type of pooled investment vehicle), the account statements required under paragraph (d) of this subsection must be sent to each limited partner (or member or other beneficial owner or their independent representative).

(e) Independent Representative. A client may designate an independent representative to receive, on his behalf, notices and account statements as required under paragraphs (c) and (d) of this subsection.

(f) Direct Fee Deduction. An adviser who has custody as defined in sub-subparagraph (1)(a)1.b. of this rule by having fees directly deducted from client accounts must also provide the following safeguards:

1. Written Authorization. The adviser must have written authorization from the client to deduct advisory fees from the account held with the qualified custodian;

2. Notice of fee deduction. Each time a fee is directly deducted from a client account, the adviser must concurrently:

a. Send the qualified custodian an invoice of the amount of the fee to be deducted from the client's account; and

b. Send the client an invoice itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under managements the fee is based on, and the time period covered by the fee.

3. Notice of Safeguards. The investment adviser notifies the Office of Financial Regulation in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.

4. Waiver of Net Capital Requirement. An investment adviser having custody solely because it meets the definition of custody as defined in sub-subparagraph (1)(a)1.b. of this rule and who complies with the safekeeping requirements in paragraphs (2)(a)-(f) of this rule will not be required to meet the financial requirements for custodial advisers as set forth in paragraph 69W-600.016(3)(a), F.A.C.

(g) Pooled Investments. An investment adviser who has custody as defined in sub-subparagraph (1)(a)1.c. of this rule and who does not meet the exception provided under paragraph (3)(c) of this rule must, in addition to the safeguards set forth in paragraphs (a) through (e) of this subsection, also comply with the following:

1. Engage an Independent Party. Hire an independent party to review all fees, expenses and capital withdrawals from the pooled accounts;

2. Review of Fees. Send all invoices or receipts to the independent party, detailing the amount of the fee, expenses or capital withdrawal and the method of calculation such that the independent party can determine that the payment is in accordance with the pooled investment vehicle standards

(generally the partnership agreement or membership agreement) and forward, to the qualified custodian, approval for payment of the invoice with a copy to the investment adviser.

3. For purposes of this rule section, an Independent Party means a person that: is engaged by an investment adviser to act as a gatekeeper for the payment of fees, expenses and capital withdrawals from the pooled investment; does not control and is not controlled by and is not under common control with the investment adviser; and does not have, and has not had within the past two years, a material business relationship with the investment adviser. This shall not prohibit renewal of contracts with an existing independent third party.

4. Notice of Safeguards. The investment adviser notifies the Office of Financial Regulation in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.

5. Waiver of Net Worth or Bonding requirements and Audited Financial Statement. An Investment adviser having custody solely because it meets the definition of custody as defined in sub-subparagraph (1)(a)1.c. of this rule and who complies with the safekeeping requirements under paragraphs (2)(a)-(e) and (g) of this rule, will not be required to meet the financial requirements as set forth in paragraph 69W-600.016(3)(a), F.A.C.

(h) Investment Adviser or Investment Adviser as Trustee. When a trust retains an investment adviser, investment adviser representative or employee, director or owner of an investment adviser as trustee and the investment adviser acts as the investment adviser to that trust, the investment adviser will instruct the qualified custodian of the trust as follows:

1. Payment of fees. The qualified custodian will not deliver trust securities to the investment adviser, any investment adviser representative or employee, director or owner of the investment adviser, nor will the investment adviser instruct the qualified custodian to transmit any funds to the investment adviser, any investment adviser representative or employee, director or owner of the investment adviser, except that the qualified custodian may pay trustees' fees to the trustee and investment management or advisory fees to investment adviser, provided that:

a. The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than the investment adviser, investment adviser representative or employee, director or owner of the investment adviser), or a defined beneficiary of the trust has authorized the qualified custodian in writing to pay those fees;

b. The statements for those fees show the amount of the fees for the trustee and, in the case of statements for investment management or advisory fees, show the value of the trust assets on which the fee is based and the manner in which the fee was calculated; and

c. The qualified custodian agrees to send to the grantor of the trust, the attorneys for a testamentary trust, the co-trustee (other than the investment adviser, investment adviser representative or employee, director or owner of the investment adviser), or a defined beneficiary of the trust, at least quarterly, a statement of all disbursements from the account of the trust, including the amount of investment management fees paid to the investment adviser and the amount of trustees' fees paid to the trustee.

2. Distribution of Assets. Except as otherwise set forth in sub-subparagraph a. below, the qualified custodian may transfer funds or securities, or both, of the trust only upon the direction of the trustee (who may be the investment adviser, investment adviser representative or employee, director or owner of the investment adviser), who the investment adviser has duly accepted as an authorized signatory. The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than the investment adviser, investment adviser representative or employee, director or owner of the investment adviser), or a defined beneficiary of the trust, must designate the authorized signatory for management of the trust. The direction to transfer funds or securities, or both, can only be made to the following:

a. To a trust company, bank trust department or brokerage firm independent of the investment adviser for the account of the trust to which the assets relate;

b. To the named grantors or to the named beneficiaries of the trust;

c. To a third person independent of the investment adviser in payment of the fees or charges of the third person including, but not limited to:

(I) Attorney's accountant's or custodian's fees for the trust; and

(II) Taxes, interest, maintenance or other expenses, if there is property other than securities or cash owned by the trust;

d. To third persons independent of the investment adviser for any other purpose legitimately associated with the management of the trust; or

e. To a dealer in the normal course of portfolio purchases and sales, provided that the transfer is made on payment against delivery basis or payment against trust receipt.

3. Statements. If the qualified custodian agrees to these instructions and is authorized to pay the fees, the investment adviser will send to the grantor of the trust, the attorney of the trust if it is a testamentary trust, the co-trustee (other than the investment adviser, investment adviser representative or employee, director or owner of the investment adviser), or a defined beneficiary of the trust, at the same time that it sends

any statement to the qualified custodian, a statement showing the amount of the trustees' fees or investment management or advisory fee, the value of the assets on which the fees were based, and the specific manner in which the fees were calculated.

4. Notice of Safeguards. The investment adviser notifies the Office of Financial Regulation in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.

5. Waiver of Net Capital Requirements. An investment adviser having custody solely because it meets the definition of custody as defined in sub-subparagraph (1)(a)1.c. of this rule and who complies with the safekeeping requirements under paragraphs (2)(a)-(e) and (h) of this rule, will not be required to meet the financial requirements for custodial advisers as set forth in paragraph 69W-600.016(3)(a), F.A.C.

(3) Exceptions.

(a) Shares of mutual funds. With respect to shares of an "open-end company" as defined in Section 5(a)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-5(a)(1), ("mutual fund"), the investment adviser may use the mutual fund's transfer agent in lieu of a qualified custodian for purposes of complying with subsection (2) of this rule:

(b) Certain privately offered securities.

1. The investment adviser is not required to comply with subsection (2) of this rule with respect to securities that are:

a. Acquired from the issuer in a transaction or chain of transactions not involving any public offering;

b. Uncertificated, and ownership thereof is recorded only on books of the issuer or its transfer agent in the name of the client; and

c. Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

2. Notwithstanding subparagraph (b)1. of this subsection, the provisions of paragraph (b) of this subsection are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if the limited partnership is audited, the audited financial statements are distributed, as described in paragraph (c) of this subsection and the investment adviser notifies the Office of Financial Regulation in writing that the investment adviser intends to provide audited financial statements, as described above. Such notification is required to be given on Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(c) Limited partnerships subject to annual audit. The investment adviser is not required to comply with paragraph (2)(d) of this rule with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) that is subject to audit at least

annually and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) within 120 days of the end of its fiscal year. The investment adviser must also notify the Office of Financial Regulation in writing that the investment adviser intends to employ the use of the audit safeguards described above. Such notification is required to be given on Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(d) Registered investment companies. The investment adviser is not required to comply with this rule with respect to the account of an investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 to 80a-64].

(e) Beneficial Trusts. The investment adviser is not required to comply with safekeeping requirements of subsection (2) of this rule or the net capital requirements of paragraph 69W-600.016(3)(a), F.A.C., if the investment adviser has custody solely because the investment adviser, investment adviser representative or employee, director or owner of the investment adviser is the trustee for a beneficial trust, if all of the following conditions are met for each trust:

1. The beneficial owner of the trust is a parent, a grandparent, a spouse, a sibling, a child or a grandchild of the trustee. These relationships shall include "step" relationships.

2. For each account under subparagraph 1. the investment adviser complies with the following:

a. Provide a written statement to each beneficial owner of the account setting forth a description of the requirements of subsection (2) of this rule and the reasons why the investment adviser will not be complying with those requirements;

b. Obtain from each beneficial owner a signed and dated statement acknowledging the receipt of the written statement required under sub-subparagraph a. above;

c. Maintain a copy of both documents described in sub-subparagraphs a. and b. above until the account is closed or the investment adviser is no longer trustee.

(f) Any investment adviser who intends to have custody of client funds or securities, but does not utilize a qualified custodian as defined in subsection (1) of this rule must obtain approval from the Office of Financial Regulation before conducting business in this manner. Any investment adviser who seeks to conduct business in this manner must submit such request to the Office using OFR Form IA-CF-01, Application to Maintain Custody of Client Funds or Securities Without Utilizing a Qualified Custodian, effective _____, 2006, which is incorporated by reference. The Office will approve the request if the investment adviser agrees to comply with all of the applicable safekeeping provisions under subsection (2) of this rule, including taking responsibility for those provisions that are designated to be performed by a qualified custodian.

(4) All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374.

Specific Authority 517.03(1), 517.1215 FS. Law Implemented 517.1215 FS. History—New

69W-600.014 Books and Records Requirements.

Except as otherwise provided herein, every dealer, investment adviser, branch office, and associated person conducting business in this state shall prepare and maintain on a current basis, and preserve for the periods of time specified, such records, prescribed herein, as are appropriate for said dealer's, investment adviser's, branch office's, or associated person's course of business, and are sufficient to provide an audit trail of all business transactions by said dealer, investment adviser, associated person, or branch office. Associated persons who conduct business from a registered branch office in this state shall be exempt from the provisions of this rule.

(1) All dealers are required to prepare and maintain appropriate books and records relating to their business as described in either SEC Rules 17a-3 or 17a-4, 17 C.F.R. §§ 240.17a-3, 240.17a-4 (2006), ~~(17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4)~~ or MSRB Rules G-7, G-8 and G-9; ~~and G-8, as such rules existed on May 2, 2003;~~ and records evidencing compliance with NASD Conduct rule 3000. SEC Rules 17a-3 and 17a-4 are incorporated by reference. MSRB Rules G-7, G-8, and G-9 are incorporated by reference in subparagraph 69W-600.013(1)(h)5., F.A.C. NASD Conduct Rule 3000 is incorporated by reference in subparagraph 69W-600.013(1)(h)1., F.A.C. as published in the NASD Manual as of July 2002, and any amendments as existed on May 2, 2003.

(2) All issuer/dealers are required to maintain at least the following records:

(a) Ledgers, journals (or other records) reflecting all assets, liabilities, income and expenses, and capital accounts properly maintained in accordance with generally accepted accounting principals;

(b) Copies of all promotional sales materials and correspondence used in connection with the sales of all securities as distributed;

(c) A record of all sales of securities made by, or on behalf of, the issuer as described in and in compliance with SEC Rule 17a-3(a)(1), 17 C.F.R. § 17a-3(a)(1) (2006), which is incorporated by reference in subsection (1), said issuer, including but not necessarily limited to name and address of purchaser, date of transaction, money amount involved, and name of agent or principal executing such transaction;

(d) Securities certificate and securities holder records reflecting names and addresses of all holders of record, certificates issued to such holders, number of shares or bonds issued, and full details as to transfers or cancellations;

(e) In lieu of the issuer/dealer preparing and maintaining such records as detailed in paragraph (d) above, a qualified transfer agent/registrar may be appointed, provided such information is accessible to the issuer/dealer.

(3) All investment advisers, notwithstanding the fact that the investment adviser is not registered or required to be registered under the Investment Advisers Act of 1940, shall prepare and maintain true, accurate and current records relating to their business as described in SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006), which is incorporated by reference; (17 CFR 275.204-2) as it existed on July 1, 2003 and general rules and regulations promulgated by the Securities and Exchange Commission; and have available for the Department at least the following records:

(a) All trial balances, financial statements prepared in accordance with generally accepted accounting principles, and internal audit working papers relating to the investment adviser's business as an investment adviser. For purposes of this paragraph, "financial statements" means balance sheets, income statements, cash flow statements and net worth computations as required by Rule 69W-300.002, F.A.C.

(b) A list or other record of all accounts with respect to the funds, securities, or transactions of any client.

(c) A copy in writing of each agreement entered into by the investment adviser with any client.

(d) A file containing a copy of each record required by SEC Rule 204-2(11), 17 C.F.R. § 275.204-2(11) (2006), which is incorporated by reference in this subsection, (17 CFR 275.204-2(11)) as it existed on July 1, 2003 including any communication by electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons, other than persons connected with the investment adviser.

(e) A copy of each written statement and each amendment or revision given or sent to any client or prospective client of the investment adviser in accordance with the provisions of SEC Rule 204-3, 17 C.F.R. § 275.204-3 (2006), which is incorporated by reference in paragraph 69W-600.0131(1)(a), F.A.C. (17 CFR 275.204-3) as it existed on July 1, 2003 and a record of the dates that each written statement, and each amendment or revision was given or offered to be given to any client or prospective client who subsequently becomes a client.

(f) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser, records required by SEC Rule 206(4)-3, 17 C.F.R. § 275.206(4)-3 (2006), which is incorporated by reference in paragraph 69W-600.0131(1)(a), F.A.C. (17 CFR 275.206(4)-3) as it existed on July 1, 2003.

(g) All records required by SEC Rule 204-2(16), 17 C.F.R. § 275.204-2(16) (2006), which is incorporated by reference in this subsection, (17 CFR 275.204-2(16)) as it existed on July 1, 2003, including but not limited to electronic media that the

~~investment adviser circulates or distributes, directly or indirectly, to two or more persons, other than persons connected with the investment adviser.~~

(h) A file containing a copy of all communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employee, and regarding any customer or client complaint.

(i) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

(j) Written procedures to supervise the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

(k) A file containing a copy of each document, other than any notices of general dissemination, that was filed with or received from any state or federal agency or self regulatory organization and that pertains to the registrant or its investment adviser representatives. Such file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(4) Notwithstanding other record preservation requirements of this Rule, the following records or copies shall be required to be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services:

(a) Records required to be preserved under paragraphs (a)(3), (a)(7)-(11), (a)(14)-(15), (b) and (c) inclusive, of SEC Rule 204-2 of the Investment Advisers Act of 1940, 17 C.F.R. § 275.204-2 (2006), which is incorporated by reference in subsection (3); and

(b) Records or copies required under the provision of paragraphs (a)(11) and (a)(16) of SEC Rule 204-2 of the Investment Advisers Act of 1940, which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006), is incorporated by reference in subsection (3).

~~(5)(4)~~ No provisions of this rule, unless specifically designated as a required form, shall be deemed to require the preparation, maintenance, or preservation of a dealer's or investment adviser's books and records in a particular form or system, provided that whatever form or system utilized by such dealer's or investment adviser's course of business is sufficient to provide an audit trail of all business transactions.

~~(6)(5)~~ Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is licensed in such state and is in compliance with that state's record keeping requirements.

~~(7)(6)~~ All books and records described in this rule shall be preserved in accordance with the following:

(a) Those records required under subsection (1) of this rule shall be preserved for such periods of time as specified in either SEC Rule 17a-4, 17 C.F.R. § 240.17a-4 (2006), which is incorporated by reference in subsection (1), ~~(17 CFR 240.17a-4)~~, or MSRB Rule G-9, which is incorporated by reference in paragraph 69W-600.13(1)(h), F.A.C. as such rules existed on July 1, 2003.

(b) Those records required under subsections (2) of this rule shall be preserved for a period of not less than five (5) years while effectively registered with the Department, nor for less than five (5) years after withdrawal or expiration of registration in this State.

(c) Books and records required to be prepared under the provisions of subsection (3) shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment adviser.

(d) Books and records required to be made under the provisions of subsection (3), shall be maintained and preserved for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record or for the time period during which the investment adviser was registered or required to be registered in the state, if registered less than five years.

(e) Each investment adviser registered or required to be registered in this state and which has a business location in this state shall maintain at such business location:

1. The records or copies required under the provisions of paragraphs (a)(3), (a)(7)-(10), (a)(14)-(15), (b), and (c) of SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006), which is incorporated by reference in subsection (3); ~~(17 CFR 275.204-2)~~; and

2. The records or copies required under the provisions of paragraphs (3)(a)-(j) above related to customers or clients for whom the investment adviser representative provides or has provided investment advisory services; and,

3. The records or copies required under the provisions of paragraphs (a)(11) and (a)(16) of SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006), ~~(17 CFR 275.204-2)~~ which records or related records identify the name of the investment adviser representative or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in subsections (d) and (e) of SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006) ~~(17 CFR 275.204-2)~~. The investment adviser shall be responsible for ensuring compliance with the provision of this subsection. SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006), is incorporated by reference in subsection (3).

~~(7) To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules of the Investment Advisers Act of 1940, investment advisers in compliance with such rules as amended shall not be subject to enforcement action by the Department for violation of this rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.~~

(8) All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374.

Specific Authority 517.03(1), 517.121(1), 517.1215 FS. Law Implemented 517.121(1), 517.1215 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.14, Amended 10-14-90, 8-1-91, 6-16-92, 1-11-93, 9-9-96, 6-22-98, 1-25-00, 10-30-03, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Andrea Moreland, Executive Senior Attorney, Office of Financial Regulation, 200 E. Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9662, andrea.moreland@fldfs.com.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

The Department of Law Enforcement, Criminal Justice Standards and Training has taken action at its August 3, 2006, meeting on a petition for waiver received from Collier County Public Schools, on June 6, 2006. Notice of receipt of this petition was published in the F.A.W., Vol. 32, No. 27, July 7, 2006. No public comment was received. Petitioner has petitioned for a waiver of subsection 11B-21.002(3), F.A.C., pursuant to Section 120.542, F.S. Petitioner has requested that

the Department waive the requirement that an entity wishing to create an officer training school present the proposal to the proper Regional Training Council. Petitioner has petitioned that the CJSTC make the determination to grant or deny Petitioner's proposal. On August 3, 2006, the Criminal Justice Standards and Training Commission granted a waiver of this rule to Collier County Public Schools, in a final order, OGC File No.: VAR 06-8. This rule waiver was granted because the petitioner demonstrated that a strict application of the rule would result in undue hardship to it or would affect it differently than other similarly situated applicants and because they could successfully fulfilled the requirements of Section 943.14, F.S., by other means.

For a copy of the final order write or call: Grace A. Jaye, Florida Department of Law Enforcement, Box 1489, Tallahassee, FL 32302-1489, (850)410-7687.

The Department of Law Enforcement, Criminal Justice Standards and Training has taken action at its August 3, 2006, meeting on a petition for waiver received from Frederick Bulanda, on May 9, 2006. Notice of receipt of this petition was published in the F.A.W., Vol. 32, No. 22, June 2, 2006. No public comment was received. Petitioner has petitioned for a waiver of subsection 11B-27.0021(1) and 11B-27.0021(2)(a), F.A.C., pursuant to Section 120.542, F.S. Petitioner has requested that the Department waive the requirement that a recruit possess a "standard" high school diploma prior to becoming certified. On August 3, 2006, the Criminal Justice Standards and Training Commission granted a waiver of this rule to Frederick Bulanda, in a final order, OGC File No.: VAR 06-5. This rule waiver was granted because the petitioner demonstrated that a strict application of the rule would result in undue hardship to him or would affect him differently than other similarly situated applicants and because he had successfully fulfilled the requirements of Section 943.13(3), F.S., by other means.

For a copy of the final order write or call: Grace A. Jaye, Florida Department of Law Enforcement, Box 1489, Tallahassee, FL 32302-1489, (850)410-7687.

The Department of Law Enforcement, Criminal Justice Standards and Training has taken action at its August 3, 2006, meeting on a petition for waiver received from Monroe County Sheriff's Office, on July 24, 2006. Notice of receipt of this petition was published in the F.A.W., Vol. 32, No. 31, August 4, 2006. No public comment was received. Petitioner has petitioned for a waiver of subsection 11B-27.00212(15), F.A.C., pursuant to Section 120.542, F.S. Petitioner has requested that the Department waive the requirement that officers make shots from the fifteen yard line. Petitioner has petitioned that the CJSTC make the determination to grant or deny Petitioner's proposal. On August 3, 2006, the Criminal Justice Standards and Training Commission denied a waiver of