

Section I Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:

6A-1.0071 Fiscal Reporting Dates

PURPOSE AND EFFECT: The purpose of this rule development is to revise Forms ESE 348, Report of Financial Data to the Commissioner of Education; ESE 145, Superintendent’s Annual Financial Report; ESE 374, Schedule of Maturities of Indebtedness; and ESE 523, Information Concerning Authorized Obligations Under Sections 1011.14 and 1011.15, F.S.

SUBJECT AREA TO BE ADDRESSED: Annual financial reporting submission procedures.

RULEMAKING AUTHORITY: 1001.02(1), 2(n), 1011.60(1), (5) FS.

LAW IMPLEMENTED: 1011.01(3), 1011.60(1), (5) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Eggers, Bureau Chief, School Business Services, Department of Education, 325 West Gaines Street, Room 814, Tallahassee, Florida 32399, (850)245-0405. To request a rule development workshop, please contact Cathy Schroeder, Agency Clerk, Department of Education, (850)245-9661 or e-mail cathy.schroeder@fldoe.org or go to <https://app1.fldoe.org/rules/default.aspx>

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT: <https://app1.fldoe.org/rules/default.aspx>

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Florida Forest Service

RULE NOS.: RULE TITLES:

5I-8.001 Approved Florida Forestry Wildlife Best Management Practices

5I-8.002 Presumption of Compliance
5I-8.003 Notice of Intent to Implement
5I-8.004 Record Keeping

PURPOSE AND EFFECT: The purpose of this proposed rule is to provide a presumption of compliance from incidental take of state imperiled species through the implementation of voluntary Florida Forestry Wildlife Best Management Practices (WBMPs). The effect of the proposed rule is to establish a procedure for applicants submitting a “Notice of Intent to Implement” Florida Forestry WBMPs. When the Notice of Intent to implement Florida Forestry WBMPs is filed with the Florida Department of Agriculture and Consumer Services, Florida Forest Service (FFS), and the Florida Fish and Wildlife Conservation Commission (FFWCC), and the Florida Forestry WBMPs are implemented, the landowner has a presumption of compliance from incidental take of state imperiled species. This proposed rule also provides that when Florida Forestry WBMPs are not physically observable in the field, participants must preserve sufficient documentation to confirm implementation of the Florida Forestry WBMPs identified in the Notice of Intent to Implement. All field activities and documentation related to Florida Forestry WBMP implementation are subject to Florida Forest Service and Florida Fish and Wildlife Conservation Commission inspection.

SUMMARY: The proposed rule establishes a procedure for submitting a “Notice of Intent to Implement” Florida Forestry WBMPs for state imperiled species, that, when the Notice of Intent is filed with the Florida Department of Agriculture and Consumer Services, Florida Forest Service (FFS), and the Florida Fish and Wildlife Conservation Commission, and when WBMPs are implemented, provides a presumption of compliance from incidental take of state imperiled species through the implementation of voluntary Florida Forestry Wildlife Best Management Practices.

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: No fees will be incurred by using this process, and the Florida Forestry WBMP program is strictly voluntary.

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

RULEMAKING AUTHORITY: 570.07(23), 570.087(2) FS.

LAW IMPLEMENTED: 570.087(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Jeffery L. Vowell, Florida Forest Service, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, Telephone: (850)681-5943, FAX: (850)681-5801. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeffery L. Vowell, Florida Forest Service, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, Telephone: (850)681-5943, FAX: (850)681-5801

THE FULL TEXT OF THE PROPOSED RULE IS:

CHAPTER 5I-8

FLORIDA FORESTRY WILDLIFE BEST MANAGEMENT PRACTICES FOR STATE IMPERILED SPECIES

5I-8.001 Approved Florida Forestry Wildlife Best Management Practices.

The document titled Florida Forestry Wildlife Best Management Practices for State Imperiled Species, FDACS-01869, Rev. 1/16/14, is hereby incorporated and adopted by reference in this rule. Copies of the document may be obtained from the Department of Agriculture and Consumer Services, Florida Forest Service, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)681-5943 or Fax (850)681-5801 or by visiting: <http://www.dos.state.fl.us/>.

Rulemaking Authority 570.07(23), 570.087(2) FS. Law Implemented 570.087(2) FS. History—New _____.

5I-8.002 Presumption of Compliance.

To obtain the presumption of compliance authorized in paragraph 68A-27.007(2)(d), F.A.C., regarding incidental take of state imperiled species the applicant must:

(1) Submit a completed Notice of Intent to Implement Florida Forestry Wildlife Best Management Practices, FDACS-11319, Rev. 01/14, which is incorporated in Rule 5I-8.003, F.A.C.

(2) Implement the voluntary Florida Forestry Wildlife Best Management Practices as listed in the Notice of Intent to Implement Florida Forestry Wildlife Best Management

Practices FDACS-11319, Rev. 01/14, which is incorporated in Rule 5I-8003, F.A.C.

(3) Maintain documentation to verify the implementation of Florida Forestry Wildlife Best Management Practices for State Imperiled Species, FDACS-01869, Rev. 1/16/14, as identified in the Notice of Intent to Implement Florida Forestry Wildlife Best Management Practices, FDACS-11319, Rev. 01/14.

Rulemaking Authority 570.07(23), 570.087(2) FS. Law Implemented 570.087(2) FS. History—New _____.

5I-8.003 Notice of Intent to Implement.

(1) The form entitled Notice of Intent to Implement Florida Forestry Wildlife Best Management Practices, FDACS-11319, Rev. 01/14, shall be submitted to the Florida Forest Service, Attn: Florida Forestry Wildlife BMP Program, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)681-5943 or FAX (850)681-5801 or email at FFSsupport@freshfromflorida.com and to the Florida Fish and Wildlife Conservation Commission, Attn: Wildlife BMP Program, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-3831. The applicant shall identify the state imperiled species and the Florida Forestry Wildlife Best Management Practices the applicant intends to implement. This notice is a one-time notification for each property or parcel and is not required for each and every individual activity undertaken by the applicant.

(2) The Notice of Intent to Implement Florida Forestry Best Management Practices, FDACS-11319, Rev. 01/14, is hereby adopted and incorporated by reference and can be obtained at <http://www.dos.state.fl.us/>.

Rulemaking Authority 570.07(23), 570.087(2) FS. Law Implemented 570.087(2) FS. History—New _____.

5I-8.004 Record Keeping.

Where Florida Forestry Wildlife Best Management Practices (WBMPs) implementation is not physically observable in the field, participants must preserve sufficient documentation to confirm implementation of the Florida Forestry WBMPs identified in the Notice of Intent to Implement Florida Forestry Best Management Practices, FDACS-11319, Rev. 01/14, as incorporated in Rule 5I-8.003, F.A.C., that the applicant submitted to the Florida Forest Service and Florida Fish and Wildlife Conservation Commission. All field activities and documentation related to Florida Forestry WBMP implementation is subject to Florida Department of Agriculture and Consumer Services, Florida Forest Service and Florida Fish and Wildlife Conservation Commission inspection, upon demand.

Rulemaking Authority 570.07(23), 570.087(2) FS. Law Implemented 570.087(2) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
James R. Karels, Director, Florida Forest Service
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Commissioner of Agriculture Adam H.
Putnam
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 01, 2014
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAR: May 6, 2014

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-2.0010
RULE TITLE: Educational Facilities

PURPOSE AND EFFECT: The purpose of this rule revision is to update the State Requirements for Educational Facilities (SREF), a document incorporated by reference in the rule. The publication includes provisions related to the acquisition and disposal of real property and the establishment of depository accounts by district school boards and Florida College System institution boards of trustees. The proposed rule would affect how district school boards and Florida College System institution boards of trustees account for funds derived from proceeds of the sale of land or other real property that the boards deem are no longer needed for educational or ancillary uses.

SUMMARY: The proposal would amend SREF section 1.4 to create a new subsection (4) to require that boards deposit proceeds of the sale of land or other real property in a depository account established pursuant to SREF section 2.1(4)(a)-(h) and credit the proceeds to the fund source used for the original acquisition. The proposal would also require that, if the fund source for the original acquisition cannot be determined, the proceeds from the sale shall be credited to the fund source for proceeds from the sale of real property pursuant to SREF section 2.1(4)(h) and shall be expended only on capital outlay projects. The proposal would require the same if the acquisition was by private grant or donation, unless otherwise prescribed in writing by the grantor or donor. Finally, the proposal would provide that the new paragraph does not apply to the granting of easements, rights-of-way or leases of board property for no consideration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The rule is not expected to have an adverse effect on economic growth, job creation or business competitiveness. It is not expected to increase regulatory costs for the private sector. The proposal regulates how district school boards and Florida College System institution boards of trustees account for the proceeds from the sale of land or other real property that the boards deem are no longer needed for educational or ancillary purposes. Because the change in existing accounting practices would be minor, the rule is not expected to increase regulatory or operating costs for district school boards, Florida College System Institution boards of trustees, the Auditor General or the agency.

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

RULEMAKING AUTHORITY: Art. XII, § 9(d)(10), Fla. Const. 159.845, 1001.02(1), 1010.01, 1010.02, 1011.06, 1011.09, 1013.02(2), 1013.12(1), 1013.20, 1013.28, 1013.36, 1013.37 FS.

LAW IMPLEMENTED: 159.834, 159.844, 163.31777, 381.006(16), 553.79, 553.80, 633.206, 1001.02, 1001.453, 1010.01, 1010.02, 1011.01(3), 1011.06, 1011.09, 1011.60(1), (5), 1011.74, 1013.01, 1013.03, 1013.12(1), 1013.14, 1013.15, 1013.20, 1013.28, 1013.31, 1013.33, 1013.35, 1013.36, 1013.37, 1013.371, 1013.372, 1013.38, 1013.40, 1013.45, 1013.60, 1013.61, 1013.64, 1013.735, 1013.736, 1013.737 FS.

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

DATE AND TIME: June 17, 2014, 8:30 a.m.

PLACE: Nassau County School Board, 1201 Atlantic Avenue, Fernandina Bch., FL 32034

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas H. Inserra, Director, Office of Educational Facilities, 325 West Gaines Street, Room 1014, Tallahassee, Florida 32399-0400, (850)245-0494 or tom.inserra@fldoe.org

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0010 Educational Facilities.
State Board of Education requirements adopted pursuant to Chapter 120, F.S., to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter

1013, F.S., are contained in Section 423 of the Florida Building Code and the Department of Education publication, "State Requirements for Educational Facilities 2014 2012" (SREF) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01898>), which is hereby incorporated by reference. All educational and ancillary facilities constructed by a school board or Florida college board shall comply with the SREF 2014 "State Requirements for Educational Facilities 2012". Copies of the SREF 2014 "State Requirements for Educational Facilities 2012" are available from the Office of Educational Facilities, Florida Department of Education, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400, at a cost to be determined by Commissioner, but which shall not exceed actual cost, or from the Department of Education's website at: <http://www.fldoe.org/edfacil> in PDF format. In addition, to the SREF 2014 State Requirements for Educational Facilities 2012, Rule 14-15.002, F.A.C. (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01654>) (effective June 2012), and the following manuals incorporated therein are incorporated by reference in this rule: Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, May 2011 Edition; AASHTO Load and Resistance Factor Design (LRFD) Bridge Design Specifications, 5th Edition (2010); Department of Transportation, Office of Maintenance, Bridge Load Rating Manual; and Department of Transportation Drainage Manual. Rule 14-15.002, F.A.C., may be obtained from the Department of Transportation, 605 Suwannee Street, Tallahassee, Florida 32399-0450 or from the web link provided above. In addition, the following documents and forms are also incorporated by reference as part of this rule: Chapter XVII – Occupational Safety and Health Administration, Department of Labor, 29 CFR Parts 1910 and 1926 (7-1-11 Edition) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01594>), OEF 110A – Project Implementation Information (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01899>), OEF 110B – Certificate of Occupancy (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01900>), OEF 208 – Letter of Transmittal (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01901>), OEF 208A – Facility Space Chart/Net and Gross Square Footage (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01902>), OEF 209 – Certificate of Final Inspection (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01903>),

OEF 216CC – Capital Outlay Bond Issue (COBI) Amendment (Florida Colleges) (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01904>), OEF 216PS – Capital Outlay Bond Issue (COBI) Amendment (Districts) (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01905>), OEF 217CC – Request to State Board of Education for Approval of Order of Priority for Expenditure of State Capital Outlay Funds (Florida Colleges) (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01906>), OEF 217PS – Request to State Board of Education for Approval of Order of Priorities for Expenditure of State Capital Outlay Funds (Public Schools) (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01907>), OEF 220 – Building Permit Application (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01908>), OEF 226 – Annual Facility Maintenance Permit (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01909>), OEF 352 – Capital Outlay Request Encumbrance Authorization (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01910>), OEF 400 – Qualified Public Educational Facility Bond – Application (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01911>), OEF 410 – Qualified Zone Academy Bond Program Application (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01912>), OEF 442 – DOE Project Disbursement Report (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01913>), OEF 564CC – 2011 Report of Cost of Construction – Florida Colleges (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01914>), OEF 564PS – 2011 Report of Cost of Construction – Public Schools (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01915>), OEF FISH CERT – Florida Inventory of School Houses Certification of Facilities Data (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01916>), OEF LCCA-1 - Life Cycle Cost Analysis (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01917>), OEF SCOA-ICC – Sample Resolution Requesting Issuance of Capital Outlay Bonds (COBI) for Florida Colleges (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01918>),

OEF SCOA-1PS – Sample Resolution Requesting Issuance of Capital Outlay Bonds (COBI) for Public Schools (effective November 2012)

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-01919>), and Charter School Capital Outlay Plan (effective November 2012) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01920>).

Rulemaking Authority Article XII, §9(d)(10), Fla. Const., 159.835, 159.845, 1001.02(1), 1010.01, 1010.02, 1011.06, 1011.09, 1013.02(2), ~~1013.03~~, 1013.12(1), 1013.20, 1013.28, 1013.36, 1013.37 FS. Law Implemented 159.834, 159.844, 163.31777, 381.006(16), 553.79, 553.80, 633.206 ~~633.022~~, 1001.02, 1001.453, 1010.01, 1010.02, 1011.01(3), 1011.06, 1011.09, 1011.60(1), (5), 1011.74, 1013.01, 1013.03, 1013.12(1), 1013.14, 1013.15, 1013.20, 1013.28, 1013.31, 1013.33, 1013.35, 1013.36, 1013.37, 1013.371, 1013.372, 1013.38, 1013.40, 1013.45, 1013.60, 1013.61, 1013.64, 1013.735, 1013.736, 1013.737 FS. History—New 10-30-94, Amended 4-28-97, Formerly 6A-2.0111, Amended 1-5-00, Formerly 6-2.001, Amended 8-22-05, 7-2-06, 2-12-08, 12-15-09, 11-19-12, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda Champion, Deputy Commissioner, Finance and Operations

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Pam Stewart, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 16, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 24, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NO.: RULE TITLE:

69W-100.007 Advertising and Sales Literature

PURPOSE AND EFFECT: The rule is proposed for amendment to update references to incorporated material. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendment would reference Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR.

SUMMARY: See above. The amendment updates the incorporation of FINRA Rule 2210, which was previously NASD Rule 2210.

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-100.007 Advertising and Sales Literature.

(1) No change.

(2) Every advertisement used in connection with an offering of securities registered pursuant to Section 517.081, F.S., must be authorized in writing by the Office of Financial Regulation before being published or circulated unless it is within the requirements of FINRA Rule 2210, which is incorporated by reference in Rule 69W-200.002, F.A.C., ~~NASD Rule 2210~~ concerning advertisements for use in newspapers or any other means of public communication, or contains no more than the following:

(a) through (g) No change.

(3) Any advertisement, except an offering circular or prospectus, intended to be used by a registered Florida dealer in connection with the public sale or offer for sale of any securities within the State of Florida shall be filed with the Office of Financial Regulation at least ten (10) days prior to publication or circulation if such advertisement contains more than the disclosure items listed in subsection (2), or does not meet the requirements of FINRA Rule 2210 ~~NASD Rule 2210~~.

(4) ~~NASD Rule 2210 (Feb. 5, 2009) is hereby incorporated by reference. Copies of the rule may be obtained through the Financial Industry Regulatory Authority's website (http://finra.complinet.com/en/display/display_viewall.html?fbid=2403&element_id=3617&record_id=10467) or by contacting the Florida Office of Financial Regulation, Division~~

of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399, (850)410-9500.

Rulemaking Authority 517.03 FS. Law Implemented 517.081 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-100.07, 3E-100.007, Amended 9-30-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Pamela Epting, Director, Division of Securities

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NO.: RULE TITLE:

69W-200.001 Definitions

PURPOSE AND EFFECT: The rule is proposed for amendment to: update references to incorporated material; amend the definition of an accredited investor to define it according to federal rule; remove one unused and one duplicative definition; and correct cross-references. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendment would reference Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR.

SUMMARY: See above.

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081, 517.12(4), 517.1215, 517.1217, 517.161(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-200.001 Definitions.

As used in the Rules and Regulations of the Financial Services Commission and Office of Financial Regulation, pursuant to Chapter 517, F.S., unless the context otherwise specifically requires:

(1) “Accredited Investor” is defined pursuant to S.E.C. Rule 501(a) of Regulation D (17 C.F.R. § 230.501(a)), which is incorporated by reference in Rule 69W-200.002, F.A.C., shall mean ~~any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:~~

~~(a) Any bank as defined in section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. § 77c (a)(2) (2006 & Supp. II)), or any savings and loan association or other institution as defined in section 3(a)(5)(A) of that Act (15 U.S.C. § 77c (a)(5)(A) (2006 & Supp. II)), whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. § 78o (2006 & Supp. II)); any insurance company as defined in section 2(13) of the Securities Act of 1933 (15 U.S.C. § 77b (2006 & Supp. II)); any investment company registered under the Investment Company Act of 1940 (15 U.S.C. §§ 80a 1 through 80a 64 (2006 & Supp. II)) or a business development company as defined in section 2(a)(48) of that Act (15 U.S.C. § 80a 2(a)(48) (2006 & Supp. II)); Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(e) of the Small Business Investment Act of 1958 (15 U.S.C. § 681(e) (2006 & Supp. II)) any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(3) (2006 & Supp. II)) if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act (29~~

~~U.S.C. § 1002(21) (2006 & Supp. II)), which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if a self-directed plan, with investment decisions made solely by persons that are accredited investors;~~

~~(b) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-2(a)(22) (2006 & Supp. II));~~

~~(c) Any organization described in section 501(c)(3) of the Internal Revenue Code (26 I.R.C. § 501(c)(3) (2006 & Supp. III)), corporation, Massachusetts or similar business trust or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;~~

~~(d) Any director, executor officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;~~

~~(e) Any natural person whose individual net worth or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;~~

~~(f) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent fiscal years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;~~

~~(g) Any trust, with total assets in excess of \$5,000,000, not formed for the purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Securities and Exchange Commission Regulation 230.506(b)(2)(ii) (17 C.F.R. § 230.506(b)(2)(ii) (2009)); and~~

~~(h) Any entity in which all of the equity owners are accredited investors.~~

(2) No change.

(3) "Aggregate Indebtedness" is defined pursuant to S.E.C. Rule 15c3-1 (17 C.F.R. § 240.15c3-1), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 C.F.R. § 240.15c3-1 (2009)).

~~(4) "Allowable Assets" is defined pursuant to S.E.C. Rule 15c3-1 (17 C.F.R. § 240.15c3-1 (2009)).~~

~~(4)(5) The term "Applicant" shall mean a person natural or otherwise, executing or submitting an application for registration.~~

~~(5)(6) "Application" means all information required by the forms prescribed by the Financial Services Commission and any additional information required by the Financial Services Commission or Office of Financial Regulation together with all required statutory fees.~~

~~(6)(a) (7)(a) "Associated person" as defined in Section 517.021(2), F.S., shall include any person who for compensation refers, solicits, offers, or negotiates for the purchase or sale of securities and/or of investment advisory services. A person whose activities fall within this definition is required to register with the Office of Financial Regulation as an associated person pursuant to Sections 517.12(1) or (4), F.S.~~

~~(b) Notwithstanding the provisions of paragraph (a), an associated person registered with the Office of Financial Regulation and operating in compliance with subsection 69W-600.003(3), F.A.C., shall not be deemed an associated person of any investment adviser other than the investment adviser or dually registered dealer/investment adviser with which such associated person is registered.~~

~~(c) Any person acting in compliance with S.E.C. Rule 206(4)-3 (17 C.F.R. § 275.206(4)-3), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 C.F.R. § 275.206(4)-3 (2009)), shall not be deemed an associated person of an investment adviser.~~

~~(7)(8) "Bona Fide Employee" is deemed to be a partner, officer, director, or trustee of the issuer, or any employee of such partner, officer, director or trustee, who has not participated in the distribution or sale of any securities within the preceding twelve (12) months, and who primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of the issuer, other than in connection with transactions in securities.~~

~~(8)(a) (9)(a) Except as otherwise provided in this subsection, the term "Branch Office" shall mean any location in this state of a dealer or investment adviser at which one or more associated persons regularly conduct the business of rendering investment advice or effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security or any location that is held out as such. Pursuant to Section 517.021(4), F.S., the Financial Services Commission may adopt exceptions to this definition. The following locations shall not be deemed branch offices for purposes of Section 517.12(5), F.S., and are considered exceptions to the definition of a branch office under Section 517.021(4), F.S.:~~

~~1. Any location that is established solely for customer service or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;~~

~~2. Any location that is the associated person's primary residence; provided that:~~

~~a. through d. No change.~~

e. The associated person’s correspondence and communications with the public are subject to the firm’s supervision in accordance with NASD Rule 3010, as incorporated in Rule 69W-200.002, F.A.C. subparagraph 69W-600.013(1)(h)1., F.A.C.;

f. through i. No change.

3. Any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the registrant complies with the provisions of this rule in sub-subparagraphs ~~(8)(a)2.a. (9)(a)2.a.~~ through i. above;

4. through 9. No change.

(b) Notwithstanding the exclusions provided in subparagraph ~~(8)(a)2. (9)(a)2.~~ above, any location of a dealer that is responsible for supervising the activities of persons associated with the registrant at one or more non-branch locations of the registrant is considered to be a branch office.

(c) The term “business day” as used in subparagraph (8)(a)3. above NASD Rule 3010(g)(2)(A), which is incorporated by reference in subparagraph 69W-600.013(1)(h)1., F.A.C., shall not include any partial business day provided that the associated person spends at least four hours on such business day at his or her designated branch office during the hours that such office is normally open for business.

~~(9)(10)~~ “Carrying Dealer” means any dealer maintaining a fully/principally disclosed agreement/arrangement with an introducing dealer, whereby the carrying dealer is responsible for customer monies and securities, and confirms transactions to the customer accounts introduced; such dealer who carries accounts for Florida residents must be registered pursuant to the provisions of Section 517.12, F.S.

~~(11)~~ “Custody” means a person directly or indirectly holds customer funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them.

~~(10)(12)~~ “Developmental Stage Entities” shall be defined as those entities which are devoting substantially all of their efforts to establishing a new business and for which either of the following conditions exists:

(a) through (b) No change.

~~(11)(13)~~ “Dilution” for purposes of paragraph 69W-700.015(2)(b), F.A.C., shall be determined by subtracting the maximum sales commissions and expenses set forth in the prospectus from the gross proceeds of the offering and adding the net worth prior to the offering. Divide this sum by the total number of shares to be outstanding at the conclusion of the offering to determine book value. Subtract the book value from the proposed offering price and divide the result by the proposed offering price to arrive at the percentage of dilution. For the purpose of calculating “dilution” or “book value”, intangible assets such as patents, copyrights, franchises,

trademarks, operating rights and goodwill are deducted from total assets.

Dilution Formula:

NP = Gross Proceeds minus Maximum Sales Commissions and Expenses

NW = Net Worth prior to the offering

TS = Total Number of shares to be outstanding after a successful offering

BV = Book Value

OP = Offering Price

Example:

$$\frac{NP + NW}{TS} = BV$$

$$\frac{OP - BV}{OP} = \text{Dilution}$$

~~(12)(14)~~ “Established Market Price” for purposes of Rule 69W-700.015, F.A.C., shall be the OTC price for a security published in The Wall Street Journal in the Over-The-Counter Markets Section, Quotations from the NASDAQ System of such publication or the price for a security published on any stock exchange registered pursuant to the Securities Exchange Act of 1934.

~~(13)(15)~~ “Executing Dealer” means any dealer who executes transactions entered by another dealer; such dealer need not be registered under Section 517.12, F.S., unless such dealer confirms said transactions directly to Florida resident accounts, and/or maintains responsibility for such accounts as either introducing dealer or carrying dealer.

~~(14)(16)~~ “Fair Value of the Equity Investment” for purposes of subsection 69W-700.005(1), F.A.C., of the promoters or insiders shall mean the total of all sums contributed to the issuer in cash together with the reasonable value of all tangible assets contributed to the issuer, and as adjusted by the earned surplus or deficit of the issuer subsequent to the dates of contribution. In determining the reasonable value of tangible assets contributed, the Office of Financial Regulation may take into consideration any values as determined by independent appraisal or otherwise.

~~(15)(17)~~ “Independent Director” shall be defined as a member of the Issuer’s Board of Directors who:

(a) through (c) No change.

~~(16)(18)~~ “Introducing Dealer” means any dealer maintaining a formal agreement/arrangement with another dealer whereby the introducing dealer does not carry (i.e., holds funds or securities, or confirms transactions) customer accounts; such dealer who introduces Florida resident accounts must be registered pursuant to Section 517.12, F.S.

~~(17)(19)~~ “Issuer” in Rules 69W-400.001, 69W-500.005, 69W-500.006, and 69W-500.008, F.A.C., shall mean any person who proposes to issue or has issued or shall hereafter issue any securities. For purposes of this subsection only, the term “issuer” shall not include a promoter of the issuer for the purposes of these rules.

~~(18)(20)~~ “Issuers” Within the Meaning of Section 517.021(14), F.S.

(a) through (b) No change.

~~(19)(21)~~ “Issuer/Dealer” means any issuer who through either persons directly or indirectly compensated or controlled by the issuer engages, either for all or part of his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by said issuer.

~~(20)(22)~~ “Principal Office” or “Home Office” shall mean the place where the chief or principal affairs and business of the applicant or registrant are transacted.

~~(21)(23)~~ “Promotional Securities” for purposes of Rule 69W-700.015, F.A.C., shall mean securities that are to be issued or were issued:

(a) through (b) No change.

~~(22)(24)~~ “Publication” means advertising printed in any newspaper, magazine, periodical or other publication and mailed or delivered to its subscribers or addresses, or communicated by radio, television or similar means.

~~(23)(25)~~ “Qualified Institutional Buyer” for purposes of Section 517.061(7), F.S., shall be defined as provided in Securities and Exchange Commission rule 144A(a) (17 C.F.R. § 230.144A(a), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 C.F.R. § 230.144A(a) (2009)).

~~(24)(26)~~ “Reaffiliation” refers to those associated persons leaving one registered dealer or investment adviser and reaffiliating with another registered dealer or investment adviser.

~~(25)(27)~~ “Registrant” shall mean an applicant for whom a registration has been declared effective by the Office of Financial Regulation.

~~(26)(28)~~ “Reportable Act” shall mean:

(a) through (d) No change.

~~(27)(29)~~ “Renewal Applicant” shall mean an applicant who is a registrant who seeks a timely renewal of the license.

~~(28)(30)~~ “Securities Act of 1933”, 15 U.S.C. §§ 77a through 77mm ~~(2006 & Supp. II)~~, “Securities Exchange Act of 1934”, 15 U.S.C. §§ 78a through 78oo ~~(2006 & Supp. II)~~, “Investment Company Act of 1940”, 15 U.S.C. §§ 80a-1 through 80a-64 ~~(2006 & Supp. II)~~, “Investment Advisers Act of 1940”, 15 U.S.C. §§ 80b-1 through 80b-21 ~~(2006 & Supp. II)~~, and “Internal Revenue Code”, 26 U.S.C. Subtitles A through K ~~(2006 & Supp. III)~~, means the federal statutes of those names.

~~(29)(31)~~ “State” means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

~~(30)(32)~~ “Total Equity Investment” for purposes of subsection 69W-700.005(1), F.A.C., shall mean the total of (1) par or stated values of all equity securities offered or proposed to be offered; and (2) the amount of surplus of any kind, regardless of description and whether or not restricted.

~~(31)(33)~~ “Wholesaler” is defined as any dealer conducting business exclusively with other dealers in this State, and such dealer need not be registered as a dealer under Section 517.12, F.S.

~~(34) The federal statutes and regulations referenced in this rule are hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>. Rulemaking Authority 517.03(1) FS. Law Implemented 517.07, 517.12, 517.021, 517.061, 517.051, 517.081, 517.161 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-200.01, Amended 12-8-87, 10-14-90, 7-31-91, 6-16-92, 1-10-93, 5-5-94, 10-20-97, 8-9-98, 8-19-99, 10-30-03, Formerly 3E-200.001, Amended 5-15-07, 9-30-10, 11-11-13,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Pamela Epting, Director, Division of Securities
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NO.: 69W-200.002
 RULE TITLE: General Industry Standards Incorporated by Reference

PURPOSE AND EFFECT: The Office of Financial Regulation (OFR) proposes to adopt new Rule 69W-200.002, F.A.C., to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into this rule. The proposed new rule will conform with Section 120.54(1)(i), F.S., identifying each material, its date, the effective date of incorporation, the referencing rule(s), and hyperlinks where the material can be accessed via the FAR or inspected at the OFR.

SUMMARY: See above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in

the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081, 517.12(4), 517.1215, 517.1217, 517.161(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-200.002 General Industry Standards Incorporated by Reference.

(1) The following general industry standards as expressed in the statutes, rules and regulations of the various federal and self-regulatory agencies and regulatory associations and referenced in Chapter 69W, F.A.C., are hereby incorporated by reference and adopted by this rule.

<u>Material (with version/edition date)</u>	<u>Effective date of incorporation</u>	<u>Referencing rule(s)</u>	<u>Hyperlink to material</u>
<u>FINRA Rule 2210 (2-4-13)</u>		<u>69W-100.007(4)</u>	http://www.flrules.org/ ____
<u>S.E.C. Rule 501(a) of Regulation D (17 C.F.R. § 230.501(a)) (9-23-13)</u>		<u>69W-200.001(1)</u>	http://www.flrules.org/ ____
<u>SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1) (10-21-13)</u>		<u>69W-200.001(3),</u> <u>69W-200.001(4),</u> <u>69W- 300.002(4)</u>	http://www.flrules.org/ ____
<u>SEC Rule 206(4)-3 (17 C.F.R. § 275.206(4)-3) (9-13-10)</u>		<u>69W-200.001(7)(c),</u> <u>600.014(3)</u>	http://www.flrules.org/ ____
<u>NASD Rule 3010 (2-4-13)</u>		<u>69W-200.001(9)(a)2.e.</u>	http://www.flrules.org/ ____
<u>SEC Rule 144A(a) (17 C.F.R. § 230.144A(a)) (9-23-13)</u>		<u>69W-200.001(25),</u> <u>69W-700.008(4)(m)</u>	http://www.flrules.org/ ____
<u>Regulation S-X (17 C.F.R. Part 210) (C.F.R. 2013 edition)</u>		<u>69W-300.002(1)</u>	http://www.flrules.org/ ____
<u>SEC Rules 17a-5 (17 C.F.R. § 240.17a-5) (12-31-13) and 17a-10 (17 C.F.R. § 240.17a-10) (9-9-81)</u>		<u>69W-300.002(3)(d);</u> <u>69W-600.015(2)(c)</u>	http://www.flrules.org/ ____
<u>Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. §78o-3) (10-1-10)</u>		<u>69W-300.002(3)(e)</u>	http://www.flrules.org/ ____
<u>Regulation A of the Securities Act of 1933 (17 C.F.R. §§230.251 through 230.263) (C.F.R. 2013 edition)</u>		<u>69W-300.002(6)(a),</u> <u>700.002(2)</u>	http://www.flrules.org/ ____
<u>SEC Rule 144 (17 C.F.R. § 230.144) (2-27-12)</u>		<u>69W-500.008(1)</u>	http://www.flrules.org/ ____
<u>Section 642(c)(5) of the Internal Revenue Code of 1954 (26 U.S.C. §642(c)(5) (2012)</u>		<u>69W-500.012(1)(a)</u>	http://www.flrules.org/ ____
<u>Regulation S (17 C.F.R. §§ 230.901 through 230.905) (C.F.R. 2013 edition)</u>		<u>69W-500.015</u>	http://www.flrules.org/ ____
<u>Section 4(a)(2) of the Securities Act of 1933 (15 U.S.C. § 77d(a)(2)) (2012)</u>		<u>69W-500.016</u>	http://www.flrules.org/ ____
<u>SEC Rule 701 (17 C.F.R. 230.701) (3-4-08)</u>		<u>69W-500.017(1)(a),</u> <u>500.017(2)</u>	http://www.flrules.org/ ____
<u>Section 3(a) of the Securities Act of 1933 (15 U.S.C. §77c(a)) (2012)</u>		<u>69W-500.017(1)(b)</u>	http://www.flrules.org/ ____
<u>Securities Act of 1933 Section 5 (15 U.S.C. §77e); Section 6 (15 U.S.C. §77f); Section 7 (15 U.S.C. §77g); Section 8 (15 U.S.C. §77h) (2012)</u>		<u>69W-500.017(1)(c)</u>	http://www.flrules.org/ ____
<u>SEC Rule 17f-2 (17 C.F.R. § 240.17f-2) (12-1-82)</u>		<u>69W-600.006(2), (3), (4)</u>	http://www.flrules.org/ ____

<u>SEC Rule 10b-10 (17 CFR § 240.10b-10) (8-29-05)</u>		<u>69W-600.012(1)(d)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 17a-3 (17 CFR § 240.17a-3) (10-21-13)</u>		<u>69W-600.012(1)(d)</u>	<u>http://www.flrules.org/</u>
<u>MSRB Rules G-8 and G-15 (3-31-14)</u>		<u>69W-600.012(1)(d)</u>	<u>Due to copyright restrictions, see paragraph (2) below for access information.</u>
<u>Securities Exchange Act of 1934 Section 9 (15 U.S.C. §78i); Section 10 (15 U.S.C. §78j); Section 11A (15 U.S.C. §78k-1); Section 15(c) and 15(g) (15 U.S.C. §78o(c) and 78o(g)) (2012)</u>		<u>69W-600.012(5)(a)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 9b-1 (17 CFR § 240.9b-1) (1-2-03)</u>		<u>69W-600.012(5)(b)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rules 10b-1, 10b-3, 10b-5, 10b5-1, 10b5-2, 10b-9, 10b-10, 10b-16, 10b-17, 10b-18, and 10b-21 (17 CFR §§ 240.10b-1, 240.10b-3, 240.10b-5, 240.10b5-1, 240.10b5-2, 240.10b-9, 240.10b-10, 240.10b-16, 240.10b-17, 240.10b-18, and 240.10b-21) (C.F.R. 2013 edition)</u>		<u>69W-600.012(5)(c)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rules 15c1-1 through 15c1-3 and 15c1-5 through 15c1-9 (17 CFR §§ 240.15c1-1 through 240.15c1-3 and 240.15c1-5 through 240.15c1-9) (C.F.R. 2013 edition)</u>		<u>69W-600.012(5)(d)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rules 15c2-1, 15c2-4, 15c2-5, 15c2-7, 15c2-8, 15c2-11, and 15c2-12 (17 CFR §§ 240.15c2-1, 240.15c2-4, 240.15c2-5, 240.15c2-7, 240.15c2-8, 240.15c2-11, and 240.15c2-12) (C.F.R. 2013 edition)</u>		<u>69W-600.012(5)(e)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rules 15g-1 through 15g-6, 15g-8, and 15g-9 (17 CFR §§ 240.15g-1 through 240.15g-6, 240.15g-8 and 240.15g-9) (C.F.R. 2013 edition)</u>		<u>69W-600.012(5)(f)</u>	<u>http://www.flrules.org/</u>
<u>Regulation M (17 CFR §242.100 (8-28-05); 17 CFR §242.101 (9-23-13); 17 CFR §242.102 (9-23-13); 17 CFR §242.103 (8-29-05); 17 CFR §242.104 (9-23-13); 17 CFR §242.105) (10-9-07)</u>		<u>69W-600.012(5)(g)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 601 (17 C.F.R. § 242.601) (8-29-05)</u>		<u>69W-600.012(5)(h)</u>	<u>http://www.flrules.org/</u>
<u>Regulation T, Credit by Brokers and Dealers, (12 C.F.R. §§ 220.1 through 220.12, 220.101, 220.103, 220.105, 220.108, 220.110, 220.111, 220.113, 220.117, 220.118, 220.119, 220.121, 220.122, 220.123, 220.124, 220.127, 220.128, 220.131, 220.132); and 12 C.F.R. § 221.125</u>		<u>69W-600.013(1)(a)</u>	<u>http://www.flrules.org/</u>

<u>of Regulation U (C.F.R. 2013 edition)</u>			
<u>SEC Rule 8c-1, (17 C.F.R. § 240.8c-1)(11-3-98)</u>		<u>69W-600.013(1)(d)</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 2000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 3000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.;</u> <u>600.013(2)(a) (FINRA Rule 3240)</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 4000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 5000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 6000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 7000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>NASD Conduct Rule 2000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>NASD Conduct Rule 3000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.;</u> <u>600.013(1)(h)4. (NASD Rule 3210);</u> <u>69W-600.014(1)</u>	<u>http://www.flrules.org/</u>
<u>NASD Uniform Practice Code Rule 11000 Series (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)1.</u>	<u>http://www.flrules.org/</u>
<u>NYSE Rules 405, 412, and 435 (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)2.</u>	<u>http://www.flrules.org/</u>
<u>Section 2, 3, 4, 5, and 6 of the Securities Act of 1933, (15 U.S.C.A. §§ 77b, 77c, 77d, 77e, or 77f) (2012)</u>		<u>69W-600.013(1)(h)3.</u>	<u>http://www.flrules.org/</u>
<u>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) (C.F.R. 2013 edition)</u>		<u>69W-600.013(1)(h)3.</u>	<u>http://www.flrules.org/</u>
<u>Section 15(b)(4)(E) of the Securities Exchange Act of 1934 (15 U.S.C. § 78o(b)(4)(E)) (2012)</u>		<u>69W-600.013(1)(h)4.</u>	<u>http://www.flrules.org/</u>
<u>Regulation SHO, Regulation of Short Sales, (17 C.F.R. §§ 242.200-242.203) (C.F.R. 2013 edition)</u>		<u>69W-600.013(1)(h)4.</u>	<u>http://www.flrules.org/</u>
<u>Section 15B of the Securities Exchange Act of 1934, (15 U.S.C. § 78o-4) (2012)</u>		<u>69W-600.013(1)(h)5.</u>	<u>http://www.flrules.org/</u>
<u>MSRB Definitional Rules D-1 to D-14, and General Rules G-1 to G-43 (existing as of 3-28-14)</u>		<u>69W-600.013(1)(h)5.;</u> <u>69W-600.014(1) (Rules G-7, G-8, G-9);</u> <u>69W-600.014(7)(a) (Rule G-9);</u> <u>69W-600.020(3) (Rule G-3(h))</u>	<u>Due to copyright restrictions, see paragraph (2) below for access information.</u>

<p><u>Sections 13 and 15D of the Securities Exchange Act of 1934, (15 U.S.C. §§ 78m, 78o-6)</u></p>		<p><u>69W-600.013(1)(m)</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>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 (2012))</u></p>		<p><u>69W-600.0131(1)(a);</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>SEC Rule 204-3 (17 C.F.R. §275.204-3) (10-12-10);</u> <u>Rule 205-1(17 C.F.R. §275.205-1) (8-29-72);</u> <u>Rule 205-2 (17 C.F.R. §275.205-2) (11-22-72);</u> <u>Rule 205-3 (17 C.F.R. §275.205-3) (5-22-12);</u> <u>Rule 206(3)-1 (17 C.F.R. §275.206(3)-1) (8-27-75);</u> <u>Rule 206(3)-2 (17 C.F.R. §275.206(3)-2 (5-22-97);</u> <u>Rule 206(4)-1 (17 C.F.R. §275.206(4)-1 (5-22-97)</u> <u>Rule 206(4)-3 (17 C.F.R. §275.206(4)-3 (9-13-10);</u> <u>Rule 206(4)-4 (17 C.F.R. §275.206(4)-4 (10-12-10)</u></p>		<p><u>69W-600.0131(1)(a)</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>The Investment Advisers Act of 1940 (15 U.S.C. § 80b-1 through 80b-21) (2012)</u></p>		<p><u>69W-600.0131(1)(r)</u> <u>(Sections 203(b) and 205 (15 U.S.C. §§80b-3(b) and 80b-5)),</u> <u>69W-600.0131(1)(s),</u> <u>69W-700.008(4)(f), (g),</u> <u>(k) (Section 202(a)(22)</u> <u>(15 U.S.C. §80b-2(a)(22),</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>National Securities Markets Improvement Act of 1996 (Pub. L. 104-290) (10-11-96)</u></p>		<p><u>69W-600.0131(2)</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>Section 4f(a) of the Commodity Exchange Act (7 U.S.C. § 6f) (2012)</u></p>		<p><u>69W-600.0132(1)(c)3.</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>Investment Company Act of 1940 (15 U.S.C. § 80a-1 through 80a-64) (2012)</u></p>		<p><u>69W-600.0132(3)(a)</u> <u>(§80a-5(a)(1)),</u> <u>69W-600.0132(3)(d),</u> <u>69W-600.0133(4)(b)</u> <u>(§§80a-2 and 80a-3),</u> <u>69W-700.008(2)(b)</u> <u>(Section 2(a)(48) §80a-</u> <u>2(a)(48)),</u> <u>69W-700.008(4)(d)e</u></p>	<p><u>http://www.flrules.org/</u></p>
<p><u>SEC Rules 17a-3 and 17a-4 (17 C.F.R. §§ 240.17a-3 and 240.17a-4) (10-21-13)</u></p>		<p><u>69W-600.014(1),</u> <u>600.014(2)(c),</u> <u>600.014(7)(a),</u> <u>600.016(2)(b)</u></p>	<p><u>http://www.flrules.org/</u></p>

<u>SEC Rule 204-2 (17 C.F.R. §275.204-2) (9-19-11)</u>		<u>69W-600.014(3), 600.014(4), 600.014(7)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 204-3 (17 C.F.R. §275.204-3) (10-12-10)</u>		<u>69W-600.014(3)(e)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 15c3-1 and appendices: 17 C.F.R. §240.15c3-1 (10-21-13); 17 C.F.R. §240.15c3-1a (10-21-13); 17 C.F.R. §240.15c3-1b (8-9-84); 17 C.F.R. §240.15c3-1c (12-2-92); 17 C.F.R. §240.15c3-1d (6-5-08); 17 C.F.R. §240.15c3-1e (1-8-14); 17 C.F.R. §240.15c3-1f (1-8-14); 17 C.F.R. §240.15c3-1g (1-8-14)</u>		<u>69W-600.016(2), 600.016(3)</u>	<u>http://www.flrules.org/</u>
<u>17 C.F.R. § 240.17a-11 (10-21-13)</u>		<u>69W-600.016(2)(a)</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 15c3-3 and Exhibit A (17 C.F.R. § 240.15c3-3 and 240.15c3-3a) (10-21-13)</u>		<u>69W-600.017</u>	<u>http://www.flrules.org/</u>
<u>FINRA Rule 1250 (existing as of 3-28-14)</u>		<u>69W-600.020(1)</u>	<u>http://www.flrules.org/</u>
<u>NYSE Rule 345A (existing as of 3-28-14)</u>		<u>69W-600.020(2)</u>	<u>http://www.flrules.org/</u>
<u>NYSE MKT LLC Rule 341A (existing as of 3-28-14)</u>		<u>69W-600.020(1)(d)</u>	<u>http://www.flrules.org/</u>
<u>Article VI, Rule 11 of the Chicago Stock Exchange (existing as of 3-28-14)</u>		<u>69W-600.020(1)(e)</u>	<u>Due to copyright restrictions, see paragraph (2) below for access information.</u>
<u>Section 422 of the Internal Revenue Code (26 U.S.C. §422) (2012)</u>		<u>69W-700.008(2)(b)3.</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 15a-6(b)(4)(i) (17 C.F.R. §240.15a-6) (11-2-07)</u>		<u>69W-700.008(4)(n)</u>	<u>http://www.flrules.org/</u>
<u>Sections 856, 857 and 858 of the Internal Revenue Code of 1954 (26 U.S.C. §§ 856, 857, 858) (2012)</u>		<u>69W-700.014</u>	<u>http://www.flrules.org/</u>
<u>Securities Exchange Act of 1934 (15 U.S.C. §§ 78a through 78pp) (2012)</u>		<u>69W-700.015</u>	<u>http://www.flrules.org/</u>
<u>SEC Rule 415 (17 C.F.R. § 230.415) (2-4-08)</u>		<u>69W-800.001(1)(d); 900.001(1)(c)</u>	<u>http://www.flrules.org/</u>
<u>Section 10(a) of the Securities Act of 1933 (15 U.S.C. § 77j(a) (2012)</u>		<u>69W-900.001(1)(a)</u>	<u>http://www.flrules.org/</u>

(2) The material incorporated by reference in this rule may also be obtained from the Florida Office of Financial Regulation, Division of Securities' website at <http://www.flofr.com/StaticPages/DivisionOfSecurities.htm>, except where noted in subsection (1) above for copyright restrictions. Materials subject to copyright restrictions may be inspected and examined by contacting the Florida Office of Financial Regulation, Division of Securities, at 200 E. Gaines Street, Tallahassee, Florida 32399, (850)410-9500. Rulemaking Authority 517.03(1), 517.1215(2), 517.1217 FS. Law Implemented 517.081, 517.12(4), 517.1215, 517.1217, 517.161(1) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pamela Epting, Director, Division of Securities
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 13, 2014
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NO.: RULE TITLE:

69W-300.002 Financial Statements and Reports

PURPOSE AND EFFECT: The rule is proposed for amendment to update references to incorporated material. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendment references Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR.

SUMMARY: See above.

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081, 517.12 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-300.002 Financial Statements and Reports.

(1) All financial statements required for registration of securities, or registration of dealers and investment advisers, shall be prepared in accordance with United States generally accepted accounting principles. Financial statements required to be prepared in accordance with Regulation S-X (17 C.F.R. Part 210), which is incorporated by reference in Rule 69W-200.002, F.A.C., (~~17 C.F.R. Part 210 (2009)~~) will be acceptable to the Office of Financial Regulation unless otherwise required by these rules.

(2) No change.

(3) Requirements for Dealers.

(a) through (c) No change.

(d) The Office of Financial Regulation shall deem those financial statements and reports, prepared and filed in accordance with the provisions of SEC Rule 17a-5 (17 C.F.R. § 240.17a-5) (~~17 C.F.R. § 240.17a-5 (2009)~~) and SEC Rule 17a-10 (17 C.F.R. § 240.17a-10), which are incorporated by reference in Rule 69W-200.002, F.A.C. (~~17 C.F.R. § 240.17a-10 (2009)~~), to be in compliance with, and fulfill the requirements of, this rule as applicable to a dealer.

(e) The financial statements and reports required by paragraphs (a) through (d) are not required to be filed with the Office of Financial Regulation, unless specifically requested by the Office of Financial Regulation, by a dealer applicant or registrant if the dealer registrant is a current member of a securities association registered pursuant to section 15A of the Securities Exchange Act of 1934 (15 U.S.C. § 78o-3), which is incorporated by reference in Rule 69W-200.002, F.A.C., (~~15 U.S.C. § 78o-3 (2006 & Supp. II)~~) and such association requires financial reports to be filed with it.

(4) Requirements for Investment Advisers.

(a) Investment adviser applicants shall file financial statements as of a date within ninety (90) days prior to the date of filing for registration, which statements may be unaudited financial statements defined in paragraph (2)(d) of this rule. However, each investment adviser who has custody or possession of client’s funds or securities; requires prepayment of advisory fees six months or more in advance and in excess of \$500 per client; or computes net capital pursuant to SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1), which is incorporated by reference in Rule 69W-200.002, F.A.C., (~~17 C.F.R. § 240.15c3-1 (2009)~~) for purposes of compliance with subsection 69W-600.016(3), F.A.C., shall file financial statements as required by paragraphs (3)(a) and (3)(b) of this rule.

(b) Investment adviser registrants shall provide the Office of Financial Regulation with written notification of such investment adviser’s fiscal year end or annual audit date, and thereafter file annually financial statements as of said date in accordance with the provisions of subsection 69W-600.015(3), F.A.C. Such financial statements may be unaudited as defined in paragraph (2)(d) of this rule. However, each investment adviser who has custody or possession of client’s funds or securities; requires prepayment of advisory fees six months or more in advance and in excess of \$500 per client; or computes net capital pursuant to SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1) (~~17 C.F.R. § 240.15c3-1 (2009)~~) for purposes of compliance with subsection 69W-600.016(3), F.A.C., shall file audited financial statements as defined by paragraph (2)(a) of this rule. Accompanying all audited financial statements shall be a written statement from the independent certified public accountant verifying compliance with subsection 69W-600.016(3), F.A.C.

(c) No change.

(5) No change.

(6) Requirements for Securities Registration.

(a) All applicants for Registration of Securities pursuant to Section 517.081, F.S., shall file audited financial statements. An applicant offering securities pursuant to Regulation A of the Securities Act of 1933 (17 C.F.R. §§ 230.251 through 230.263), which is incorporated by reference in Rule 69W-200.002, F.A.C., is not required to file audited financial statements unless audited statements have been prepared and submitted to the Securities and Exchange Commission in perfecting the Regulation A exemption.

(b) through (d) No change.

(7) No change.

~~(8) The federal statutes and regulations referenced in this rule are hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online~~

~~through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>~~

Rulemaking Authority 517.03 FS. Law Implemented 517.081, 517.12 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-300.02, Amended 6-28-93, 11-22-93, 12-24-95, 9-19-00, 10-30-03, Formerly 3E-300.002, Amended 5-15-07, 9-30-10.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela Epting, Director, Division of Securities

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NOS.:	RULE TITLES:
69W-500.005	Disclosure Requirements of Section 517.061(11)(a)3., F.S.
69W-500.008	Unsolicited Purchase or Sale of Securities Pursuant to Section 517.061(13), F.S.
69W-500.012	Exemption/Charitable Contributions to Pooled Income Funds
69W-500.015	Exemption for Offers and Sales of Securities of Foreign Issuers to Non-U.S. Persons in Offshore Transactions
69W-500.016	Exemption for Issuers of Section 4(2) Offerings
69W-500.017	Compensatory Benefit Plan Exemption

PURPOSE AND EFFECT: The rules are proposed for amendment to update references to incorporated material. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendments would reference Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR. Rule 69W-500.016, F.A.C., is also amended to update a cross-reference due to a numbering change in a federal statute.

SUMMARY: See above.

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

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

herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.061(11), 517.061(13), 517.061(19) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-500.005 Disclosure Requirements of Section 517.061(11)(a)3., F.S.

(1) through (5) No change.

(6) In the case of an issuer that is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m, 78o(d)), the provisions of paragraph (5)(b) of this rule shall be deemed satisfied by providing the following:

(a) The information contained in the annual report required to be filed under the Securities Exchange Act of 1934 or a registration statement on Form S-1 under the Securities Act of 1933, whichever filing is the most recent required to be filed, and the information contained in any definitive proxy statement required to be filed pursuant to section 14 of the Securities Exchange Act of 1934 (15 U.S.C. § 78n) and in any reports or documents required to be filed by the issuer pursuant to section 13(a) (15 U.S.C. § 78m(a)) or 15(d) (15 U.S.C. § 78o(d)) of the Securities Exchange Act of 1934, since the filing of such annual report or registration statement; and

(b) No change.

(7) No change.

Specific Authority 517.03(1) FS. Law Implemented 517.061(11) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-500.05, Amended 10-14-90, 7-31-91, Formerly 3E-500.005, Amended _____.

69W-500.008 Unsolicited Purchase or Sale of Securities Pursuant to Section 517.061(13), F.S.

(1) For purposes of Section 517.061(13), F.S., the offer or sale of securities in a transaction meeting the requirements of SEC Rule 144 (17 C.F.R. § 230.144), which is incorporated by reference in Rule 69W-200.002, F.A.C. (~~17 C.F.R. § 230.144 (2009)~~), which is hereby incorporated by reference, shall be deemed an unsolicited purchase or sale of securities on order of and as agent for another. ~~Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>.~~

(2) through (3) No change.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.061(13) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-500.08, Amended 10-14-90, Formerly 3E-500.008, Amended 9-30-10, _____.

69W-500.012 Exemption/Charitable Contributions to Pooled Income Funds.

(1) Transactions involving the offer and sale of certificates of interest or participation in pooled income funds operated, maintained and controlled by, and for the ultimate benefit of, charitable corporations as described in Section 517.051(9), F.S., are hereby exempted from the registration provisions of Section 517.07, F.S., provided such certificates or participation interests and the issuers, promoters or sponsors of such fund meet and comply with the following criteria:

(a) That the fund qualifies as a recipient of tax deductible contributions under section 642(c)(5) of the Internal Revenue Code of 1954 (26 U.S.C. § 642(c)(5)), which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(b) through (c) No change.

(2) No change.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.061(19) FS. History—New 2-28-83, Formerly 3E-500.12, 3E-500.012, Amended _____.

69W-500.015 Exemption for Offers and Sales of Securities of Foreign Issuers to Non-U.S. Persons in Offshore Transactions.

(1) Any offer or sale of securities of a foreign issuer made to a person, other than a U.S. person, in an offshore transaction that is exempt from registration pursuant to Regulation S (17 C.F.R. §§ 230.901 through 230.905 (~~2009~~)), which is incorporated by reference in Rule 69W-200.002, F.A.C., is hereby exempted from the registration requirements of Section 517.07, F.S.

(2) For purposes of this rule, the terms “foreign issuer,” “offshore transaction,” and “U.S. person” shall have the meanings prescribed in rule 902 of Regulation S (17 C.F.R. § 230.902) (~~17 C.F.R. § 230.902 (2009)~~).

~~(3) The federal regulations referenced in this rule are hereby incorporated by reference. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>. Rulemaking Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History—New 7-30-98, Formerly 3E-500.015, Amended 9-30-10, _____.~~

69W-500.016 Exemption for Issuers of Section 4(a)(2) 4(2) Offerings.

Securities offered or sold in a transaction exempt under a rule or regulation issued by the Securities and Exchange Commission under Section 4(a)(2) 4(2) of the Securities Act of 1933 (15 U.S.C. § 77d(a)(2)) (~~15 U.S.C. § 77d(2) (2006 & Supp. II)~~), are hereby exempted from the filing requirements of Section 517.07, F.S. An issuer of such securities and each of its bona fide employees who satisfy the criteria set forth in Section 517.021(6)(b)6., F.S., and through whom the issuer elects to sell such securities, shall be exempted from the registration requirements of Section 517.12(1), F.S. ~~The federal statute cited in this rule is hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Rulemaking Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History—New 1-1-02, Formerly 3E-500.016, Amended 9-30-10, _____.~~

69W-500.017 Compensatory Benefit Plan Exemption.

(1) Transactions involving the offer or sale of a security pursuant to a written compensatory benefit plan (or a written compensation contract) or similar plan established by the issuer, its parent, its majority-owned subsidiaries or majority-owned subsidiaries of the issuer’s parent, for the participation of their employees, directors, general partners, trustees, officers, or consultants and advisors, and their family members who acquire such securities from such persons through gifts or domestic relations orders, are exempt from the registration provisions of Section 517.07, F.S., if:

(a) The sale of the security meets all of the requirements of SEC Rule 701 (17 C.F.R. 230.701), which is incorporated by reference in Rule 69W-200.002, F.A.C. (~~17 C.F.R. 230.701 (2009)~~);

(b) The security is sold pursuant to a plan of a type exempt under section 3(a) of the Securities Act of 1933 (15 U.S.C. § 77c(a)), which is incorporated by reference in Rule 69W-200.002, F.A.C.; or

(c) The security is effectively registered under sections 6 to 8 of the Securities Act of 1933; (15 U.S.C. §§ 77f through h) ~~15 U.S.C. §§ 77f through h (2006 & Supp. II)~~, and is offered and sold in compliance with the provisions of section 5 of the Securities Act of 1933; (15 U.S.C. § 77e), which are incorporated by reference in Rule 69W-200.002, F.A.C. ~~15 U.S.C. § 77e (2006 & Supp. II)~~.

(2) For the purposes of this rule, the terms “compensatory benefit plan” and “family member,” shall have the same meanings as defined in SEC Rule 701 (17 C.F.R. § 230.701) (~~17 C.F.R. § 230.701 (2009)~~).

(3) through (4) No change.

~~(5) The federal statutes and regulations referenced in this rule are hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>. Rulemaking Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History—New 11-25-01, Formerly 3E-500.017, Amended 9-30-10, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Pamela Epting, Director, Division of Securities
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NOS.:	RULE TITLES:
69W-600.006	Fingerprint Requirements
69W-600.012	Rules of Conduct
69W-600.013	Prohibited Business Practices for Dealers and Their Associated Persons
69W-600.0131	Prohibited Business Practices for Investment Advisers and Their Associated Persons
69W-600.0132	Custody Requirements for Investment Advisers

- 69W-600.0133 Use of Senior – Specific Certifications and Professional Designations by Associated Persons and Investment Advisers
- 69W-600.014 Books and Records Requirements
- 69W-600.015 Financial Reporting Requirements - Statement of Financial Condition – Dealers and Investment Advisers
- 69W-600.016 Net Capital Requirements for Dealers and Investment Advisers
- 69W-600.017 Customer Protection Rule – Reserve Requirements and Custody of Customer Funds and Securities
- 69W-600.020 Continuing Education Requirements

PURPOSE AND EFFECT: The rules are proposed for amendment to: update references to incorporated material; correct cross-references; adopt FINRA 3240 in whole in Rule 69W-600.013, F.A.C. (previously adopted only in part); adopt MSRB Definitional Rules D-13, D-14, G-42, and G-43; adopt appendices E, F, and G to SEC Rule 15c3-1 in Rule 69W-600.016, F.A.C.; and adopt Exhibit A of SEC Rule 15c3-3 in Rule 69W-600.017, F.A.C. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendments would reference Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR.

SUMMARY: See above.

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081, 517.12(4), 517.1215, 517.1217, 517.161(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-600.006 Fingerprint Requirements.

(1) No change.

(2) The requirement to submit fingerprints is waived for those associated persons pending registration in Florida with a Financial Industry Regulatory Authority (FINRA) member firm and such fingerprints have been submitted and processed by FINRA on behalf of the member firm with which said associated person is pending registration, pursuant to the provisions of SEC rule 17f-2 (17 C.F.R. § 240.17f-2), which is incorporated by reference in Rule 69W-200.002, F.A.C. (~~17 C.F.R. § 240.17f-2 (2010)~~).

(3) Notwithstanding any exemptions found in SEC rule 17f-2 (17 C.F.R. § 240.17f-2) (~~17 C.F.R. § 240.17f-2 (2010)~~), any direct owner, principal, or indirect owner that is required to be reported on Form BD, Uniform Application for Broker-Dealer Registration, or Form ADV, Uniform Application for Investment Adviser Registration, pursuant to Section 517.12(7), F.S., who is not currently registered in Florida with the firm they are seeking to join or act as a direct owner, principal, or indirect owner shall submit fingerprints to the Office through a live scan vendor approved by FDLE and published on FDLE’s website for submission to FDLE and the FBI for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(4) The requirement to submit fingerprints is waived for any direct owner, principal, or indirect owner that is required to be reported on Form BD, Uniform Application for Broker-Dealer Registration, or Form ADV, Uniform Application for Investment Adviser Registration, pursuant to Section 517.12(7), F.S., if fingerprints have been submitted and processed by FINRA on behalf of the member firm with which the owner or principal is affiliated, pursuant to the provisions of SEC Rule 17f-2 (17 C.F.R. § 240.17f-2) (~~17 C.F.R. § 240.17f-2 (2010)~~).

(5) ~~The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available~~

online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Authority 215.405, 517.03 FS. Law Implemented 517.12(7), 943.053 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.06, Amended 8-1-91, Formerly 3E-600.006, Amended 5-15-07, 12-24-07, 12-25-08, 11-22-10, 5-29-12, 11-11-13,_____.

69W-600.012 Rules of Conduct.

(1) Confirmation of Transactions: Every dealer registered in this state, including those defined as issuer/dealers under Rule 69W-200.001, F.A.C., shall give or send to the customer a written confirmation at or before completion of each transaction. Such confirmation shall set forth at least the following:

(a) through (c) No change.

(d) Compliance with SEC Rule 10b-10 (17 CFR § 240.10b-10), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 CFR § 240.10b-10 (2010)) and the confirmation, preparation and disclosure requirements of SEC Rule 17a-3 (17 CFR § 240.17a-3) (17 CFR § 240.17a-3 (2010)) or MSRB Rules G-8 and G-15, which are incorporated by reference in Rule 69W-200.002, F.A.C. as those rules existed on June 23, 2010, shall be deemed compliance with this rule.

(2) through (4) No change.

(5) It shall be a violation of Section 517.301(1), F.S., for any dealer or associated person to engage in any “device, scheme, or artifice to defraud” which shall include selling or effecting the purchase of any security into, in, or from offices in this state in violation of:

(a) Sections 9, 10, 11A, 15(c) or 15(g) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78i, 78j, 78k-1, 78o(c) or 78o(g)), which are incorporated by reference in Rule 69W-200.002, F.A.C. (15 U.S.C. §§ 78i, 78j, 78k-1, 78o(c) or 78o(g) (2006 & Supp. III));

(b) SEC Rule Rules 9b-1 (17 CFR § 240.9b-1), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 CFR § 240.9b-1 (2010));

(c) SEC Rules 10b-1, 10b-3, 10b-5, 10b5-1, 10b5-2, 10b-9, 10b-10, 10b-16, 10b-17, 10b-18, and 10b-21 (17 CFR §§ 240.10b-1, 240.10b-3, 240.10b-5, 240.10b5-1, 240.10b5-2, 240.10b-9, 240.10b-10, 240.10b-16, 240.10b-17, 240.10b-18, and 240.10b-21), which are incorporated by reference in Rule 69W-200.002, F.A.C. (17 CFR §§ 240.10b-1, 240.10b-3, 240.10b-5, 240.10b5-1, 240.10b5-2, 240.10b-9, 240.10b-10, 240.10b-16, 240.10b-17, 240.10b-18, and 240.10b-21 (2010));

(d) SEC Rules 15c1-1 through 15c1-3 and 15c1-5 through 15c1-9 (17 CFR §§ 240.15c1-1 through 240.15c1-3 and 240.15c1-5 through 240.15c1-9) (2010));

(e) SEC Rules 15c2-1, 15c2-4, 15c2-5, 15c2-7, 15c2-8, 15c2-11, and 15c2-12 (17 CFR §§ 240.15c2-1, 240.15c2-4, 240.15c2-5, 240.15c2-7, 240.15c2-8, 240.15c2-11, and 240.15c2-12), which are incorporated by reference in Rule 69W-200.002, F.A.C. (17 CFR §§ 240.15c2-1, 240.15c2-4, 240.15c2-5, 240.15c2-7, 240.15c2-8, 240.15c2-11, and 240.15c2-12 (2010));

(f) SEC Rules 15g-1 through 15g-6, 15g-8, and 15g-9 (17 CFR §§ 240.15g-1 through 240.15g-6, 240.15g-8 and 240.15g-9), which are incorporated by reference in Rule 69W-200.002, F.A.C. (17 CFR §§ 240.15g-1 through 240.15g-6, 240.15g-8 and 240.15g-9 (2010));

(g) Regulation M (17 CFR 242.100 through 242.105), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 CFR 242.100 through 242.105 (2010)); or

(h) SEC Rule 601 (17 C.F.R. § 242.601), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 C.F.R. § 242.601 (2010)).

~~(6) All federal statutes, federal regulations, and Municipal Securities Rulemaking Board (MSRB) rules referenced in this rule are incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.121, 517.301(1) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.12, Amended 12-25-89, 10-14-90, 8-1-91, 6-16-92, 1-11-93, 4-11-94, 1-3-99, 8-19-99, 10-30-03, Formerly 3E-600.012, Amended 11-22-10,_____.

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) Extending, arranging for, or participating in arranging for credit to a customer in violation of Regulation T, Credit by Brokers and Dealers, (12 C.F.R. §§ 220.1 through 220.12, 220.101, 220.103, 220.105, 220.108, 220.110, 220.111, 220.113, 220.117, 220.118, 220.119, 220.121, 220.122, 220.123, 220.124, 220.127, 220.128, 220.131, and 220.132) (2010) and 12 C.F.R. § 221.125 of Regulation U. (2010)). The foregoing rules are incorporated by reference in Rule 69W-200.002, F.A.C.

(b) through (c) No change.

(d) Hypothecating a customer's securities in violation of SEC Rule 8c-1, (17 C.F.R. § 240.8c-1), which is incorporated by reference in Rule 69W-200.002, F.A.C. (17 C.F.R. § 240.8c-1 (2010)).

(e) through (g) No change.

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

1. Financial Industry Regulatory Authority (FINRA) rules contained in the Rule 2000 Series (Duties and Conflicts), Rule 3000 Series (Supervision and Responsibilities Relating to Associated Persons), Rule 4000 Series (Financial and Operational Rules), Rule 5000 Series (Securities Offering and Trading Standards and Practices), Rule 6000 Series (Quotation and Transaction Reporting Facilities), or Rule 7000 Series (Clearing, Transaction and Order Data Requirements, and Facility Charges), as such rules existed on June 28, 2010; National Association of Securities Dealers (NASD) Conduct Rules contained in the Rule 2000 Series (Business Conduct) or Rule 3000 Series (Responsibilities Relating to Associated Persons, Employees, and Others' Employees), as such rules existed on June 28, 2010; or NASD Uniform Practice Code rules contained in the Rule 11000 Series, as such rules existed on June 28, 2010. The foregoing rules are incorporated by reference in Rule 69W-200.002, F.A.C.

2. For members of the New York Stock Exchange, Rule 405, 412, or 435 of the New York Stock Exchange, which are incorporated by reference in Rule 69W-200.002, F.A.C. as such rules and interpretative supplementary materials existed on June 23, 2010.

3. Section 2, 3, 4, 5, or 6 of the Securities Act of 1933, (15 U.S.C.A. §§ 77b, 77c, 77d, 77e, or 77f (2006 & Supp. III)), 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 (2010)), which are incorporated by reference in Rule 69W-200.002, F.A.C.

4. Section 15(b)(4)(E) of the Securities Exchange Act of 1934, (15 U.S.C. § 78o(b)(4)(E) (2006 & Supp. III)); Regulation SHO, Regulation of Short Sales, (17 C.F.R. §§ 242.200-242.203 (2010)); or NASD Conduct Rule 3210, which are incorporated by reference in Rule 69W-200.002, F.A.C. as it existed on June 28, 2010.

5. Section 15B of the Securities Exchange Act of 1934, (15 U.S.C.A. § 78o-4 (2006 & Supp. III)), or the following rules of the Municipal Securities Rulemaking Board (MSRB), MSRB Definitional Rules D-1 to ~~D-14~~ ~~D-12~~, and General Rules G-1 to ~~G-43~~ ~~G-41~~, as those rules existed on June 23, 2010. The foregoing are incorporated by reference in Rule 69W-200.002, F.A.C.

6. No change.

(i) through (l) No change.

(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 of the Securities Exchange Act of 1934, (15 U.S.C. §§ 78m, 78o-6), which are incorporated by reference in Rule 69W-200.002, F.A.C. (15 U.S.C. §§ 78m, 78o-6 (2006 & Supp. III)).

(n) through (o) No change.

(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 FINRA Rule 3240, which is incorporated by reference in Rule 69W-200.002, F.A.C. ~~FINRA Rule 3240(a)(1), (a)(2)(A) (C) only, and FINRA Conduct Rule 3240(b) (c), as these rules existed on June 28, 2010;~~

(b) through (h) No change.

(3) ~~The federal statutes, federal regulations, Financial Industry Regulatory Authority (FINRA) rules, National Association of Securities Dealers (NASD) rules, New York Stock Exchange rules, and Municipal Securities Rulemaking Board (MSRB) rules referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/efr/index.html>.~~

~~Rulemaking 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, Formerly 3E-600.013, Amended 10-23-06, 1-18-09, 11-22-10, _____.~~

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 (~~2006 & Supp. III~~)), 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 (~~2010~~)), which are incorporated by reference in Rule 69W-200.002, F.A.C.

(b) through (q) No change.

(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. § 80b-5 (~~2006 & Supp. III~~). 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) (~~2006 & Supp. III~~)), which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(s) Including, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision 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 (15 U.S.C. § 80b-1 through 80b-21 (~~2006 & Supp. III~~)), which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(t) through (u) No change.

(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 (Pub. L. 104-290), which is incorporated by reference in Rule 69W-200.002, F.A.C.

~~(3) The federal statutes and federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

Rulemaking Authority 517.03(1), 517.1215 FS. Law Implemented 517.12(4), 517.1215, 517.161(1) FS. History—New 1-25-00, Amended 10-30-03, Formerly 3E-600.0131, Amended 10-23-06, 1-18-09, 11-22-10,_____.

69W-600.0132 Custody Requirements for Investment Advisers.

(1) Definitions. For purposes of this section:

(a) through (b) No change.

(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 (~~2006 & Supp. III~~)), which is incorporated by reference in Rule 69W-200.002, F.A.C., 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) No change.

(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) (~~2006 & Supp. III~~)), (“mutual fund”), which is incorporated by reference in Rule 69W-200.002, F.A.C., 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) through (c) No change.

(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 through 80a-64 (~~2006 & Supp. III~~)), which is incorporated by reference in Rule 69W-200.002, F.A.C.

(e) through (f) No change.

~~(4) The federal statutes referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Rulemaking Authority 517.03(1), 517.1215 FS. Law Implemented 517.1215 FS. History—New 10-23-06, Amended 11-22-10, _____.~~

69W-600.0133 Use of Senior-Specific Certifications and Professional Designations by Associated Persons and Investment Advisers.

(1) through (3) No change.

(4) For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(a) Indicates seniority or standing within the organization; or

(b) Specifies an individual's area of specialization within the organization.

For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates brokers, dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-2, 80a-3, which is incorporated by reference in Rule 69W-200.002, F.A.C. (2006). The cited sections of the Investment Company Act of 1940 are hereby incorporated by reference.

(5) Nothing in this rule shall limit the Office of Financial Regulation's authority to enforce existing law.

~~(6) This rule is based on the model rule adopted on March 20, 2008, by the North American Securities Administrators Association (NASAA) regarding the use of senior specific certifications and professional designations. The NASAA model rule is hereby incorporated by reference.~~

~~(7) All materials incorporated by reference in this rule may be obtained by writing to: Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Specific Authority 517.03(1), 517.1215(2), 517.1217 FS. Law Implemented 517.1215(2), 517.1217, 517.161 FS. History—New 1-18-09, _____.~~

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 branch office notice-filed 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 ~~(2010)~~), or MSRB Rules G-7, G-8 and G-9, ~~as such rules existed on June 23, 2010~~; and records evidencing compliance with NASD Rule Series 3000 NASD Conduct rule 3000, as such rule existed on June 23, 2010. The foregoing rules are incorporated by reference in Rule 69W-200.002, F.A.C. 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.

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

(a) through (b) No change.

(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) ~~(2010)~~), which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(d) through (e) No change.

(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 ~~(2010)~~), which is incorporated by reference in Rule 69W-200.002, F.A.C.; and have available for the Office of Financial Regulation at least the following records:

(a) through (c) No change.

(d) A file containing a copy of each record required by SEC Rule 204-2(11), (17 C.F.R. § 275.204-2(11) ~~(2010)~~), 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 ~~(2010)~~), which is incorporated by reference in Rule 69W-200.002, F.A.C. which is incorporated by reference in paragraph 69W-600.013(1)(a), F.A.C., 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 ~~(2010)~~), which is incorporated by reference in Rule 69W-200.002, F.A.C. ~~which is incorporated by reference in paragraph 69W-600.0131(1)(a), F.A.C.~~

(g) All records required by SEC Rule 204-2(16), (17 C.F.R. § 275.204-2(16) ~~(2010)~~).

(h) through (k) No change.

(4) Notwithstanding other record preservation requirements of this rule, the following records or copies shall be required to be maintained in 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 ~~(2010)~~), ~~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 (17 C.F.R. § 275.204-2 ~~(2010)~~), 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 location's physical address, mailing address, electronic mailing address, or telephone number.

(5) through (6) No change.

(7) 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 ~~(2010)~~), or MSRB Rule G-9, ~~as such rule existed on June 23, 2010, which is incorporated by reference in paragraph 69W-600.013(1)(h), F.A.C.~~

(b) through (d) No change.

(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 ~~(2010)~~); and

2. The records or copies required under the provisions of paragraphs (3)(a)-(k) 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 ~~(2010)~~), which records or related records identify the name of the investment adviser representative or which identify the business location's 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 ~~(2010)~~). 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 ~~(2010)~~).

~~(8) The federal regulations, federal statutes, and Municipal Securities Rulemaking Board (MSRB) rules referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

Rulemaking 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, Formerly 3E-600.014, Amended 10-23-06, 5-15-07, 11-22-10, 11-11-13, _____.

69W-600.015 Financial Reporting Requirements – Statement of Financial Condition – Dealers and Investment Advisers.

(1) No change.

(2) Every dealer registered pursuant to Section 517.12, F.S., and rules thereunder shall file annually with the Office of Financial Regulation, within ninety (90) days after the conclusion of said registrant's fiscal year, audited financial statements as prepared by an independent outside auditor, unless exempted under Rule 69W-300.002, F.A.C.

(a) No change.

(b) Every dealer defined as a broker/dealer under Rule 69W-300.002, F.A.C., shall be required to include in such audited financial statements filed verification of said broker/dealer's compliance with the provisions of Rules 69W-600.016 and 69W-600.017, F.A.C.

(c) In lieu of the provisions of paragraph (b) above, the Office of Financial Regulation will accept those statements prepared and filed by a dealer in accordance with the provisions of SEC Rule 17a-5 (17 C.F.R. § 240.17a-5 ~~(2010)~~) and SEC Rule 17a-10 (17 C.F.R. § 240.17a-10 ~~(2010)~~), which are incorporated by reference in Rule 69W-200.002, F.A.C.

(3) through (4) No change.

~~(5) The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

Rulemaking Authority 517.03(1), 517.12(9), 517.121(2) FS. Law Implemented 517.12(9), 517.121(2) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.15, Amended 6-16-92, 10-30-03, 4-8-04, Formerly 3E-600.015, Amended 11-22-10,_____.

69W-600.016 Net Capital Requirements for Dealers and Investment Advisers.

(1) No change.

(2) All dealer applicants and registrants shall meet and at all times maintain the net capital and ratio requirements as prescribed by SEC Rule 15c3-1 including any appendices thereto (17 C.F.R. § 240.15c3-1, 240.15c3-1a, 240.15c3-1b, 240.15c3-1c, ~~and~~ 240.15c3-1d, 240.15c3-1e, 240.15c3-1f, and 204.15c3-1g ~~(2010)~~), computed in accordance with said rule. The foregoing are incorporated by reference in Rule 69W-200.002, F.A.C.

(a) All reporting requirements as specified in (17 C.F.R. § 240.17a-11 ~~(2010)~~), which is incorporated by reference in Rule 69W-200.002, F.A.C., when such regulation is referred in SEC Rule 15c3-1 shall be applicable with the exception that such reports and notifications required by said rule shall be forwarded to the Office of Financial Regulation as well as the other regulatory agencies specified, if applicable.

(b) All references to (17 C.F.R. § 240.17a-3 ~~(2010)~~) and (17 C.F.R. § 240.17a-4 ~~(2010)~~), in the foregoing and subsequent provisions of Office of Financial Regulation or SEC Rules as adopted by the Office of Financial Regulation, shall be read as to mean Office of Financial Regulation, Rule 69W-600.014, F.A.C. The foregoing SEC Rules are incorporated by reference in Rule 69W-200.002, F.A.C.

(3) Issuer/dealer or investment adviser applicants or registrants shall meet the net capital requirements of this section:

(a) Investment advisers who have custody of client funds or securities or who receive payment of advisory fees six months or more in advance and in excess of \$500 per client shall maintain net capital in the amount of \$25,000 calculated as prescribed by SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1 ~~(2010)~~), including any ratio requirements and appendices thereto.

(b) Investment advisers who do not have custody of client funds or securities or who do not receive payment for advisory services six months or more in advance and in excess of \$500 per client shall maintain net capital: (1) in the amount of \$5,000

calculated as prescribed by SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1 ~~(2010)~~), including any ratio requirements and appendices thereto; or (2) of at least \$2,500. For purposes of option (2) of this subsection, net capital shall be defined as assets minus liabilities in accordance with United States Generally Accepted Accounting Principles.

(c) Investment advisers who compute net capital in accordance with SEC Rule 15c3-1, may exclude liabilities which are subordinated to the claims of creditors pursuant to a subordination agreement, provided such agreement complies with all terms and conditions specified in Appendix D to SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1 and 240.15c3-1d ~~(2010)~~), except for the requirement that such agreement be filed with and approved by the Securities and Exchange Commission. Those investment advisers who have subordination agreements in effect prior to the effective date of this subsection shall not be required to comply with the conditions specified in Appendix D to SEC Rule 15c3-1. Should the investment adviser renegotiate or enter into a new subordination agreement, the agreement must comply with the provisions of Appendix D of SEC Rule 15c3-1.

(d) No change.

(4) through (5) No change.

~~(6) The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.12(9), (16) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.16, Amended 10-15-86, 8-1-91, 6-29-93, 11-22-93, Formerly 3E-600.016, Amended 11-22-10,_____.

69W-600.017 Customer Protection Rule – Reserve Requirements and Custody of Customer Funds and Securities.

All Dealer applicants and registrants subject to the net capital provisions of subsection 69W-600.016(2), F.A.C., shall be required to prepare and maintain such records and accounts as specified in, and to comply in all other respects with, the provisions of SEC Rule 15c3-3 and Exhibit A (17 C.F.R. § 240.15c3-3 and 240.15c3-3a ~~(2010)~~), which are incorporated by reference in Rule 69W-200.002, F.A.C. which is hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Authority 517.03(1), 517.12(9), 517.121(2) FS. Law Implemented 517.12(9), 517.121(2) FS. History—New 12-5-79, Formerly 3E-600.17, Amended 6-16-92, Formerly 3E-600.017, Amended 11-22-10,_____.

69W-600.020 Continuing Education Requirements.

(4) Failure to comply with any of the applicable continuing education requirements set forth in any one of the following shall be deemed a demonstration of unworthiness by a dealer or associated person under Section 517.161(1)(h), F.S.:

(1)(a) ~~FINRA Rule 1250 NASD Membership and Registration Rule 1120 of the Financial Industry Regulatory Authority, which is incorporated by reference in Rule 69W-200.002, F.A.C.; as such provisions existed on June 23, 2010;~~

(2)(b) ~~Rule 345A of the NYSE MKT LLC, which is incorporated by reference in Rule 69W-200.002, F.A.C. New York Stock Exchange, as such provisions existed on June 23, 2010;~~

(3)(c) ~~Rule G-3(h) of the Municipal Securities Rulemaking Board, which is incorporated by reference in Rule 69W-200.002, F.A.C. as such provisions existed on June 23, 2010;~~

(4)(d) ~~Rule 341A of the NYSE MKT LLC American Stock Exchange, which is incorporated by reference in Rule 69W-200.002, F.A.C. as such provisions existed on June 23, 2010;~~

(5)(e) ~~Article VI, Rule 11 of the Chicago Stock Exchange, which is incorporated by reference in Rule 69W-200.002, F.A.C. as such provisions existed on June 23, 2010;~~

(2) ~~The rules of the NASD, New York Stock Exchange, Municipal Securities Rulemaking Board, American Stock Exchange and Chicago Stock Exchange referenced in this rule are hereby incorporated by reference and may be obtained by mail from Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.12(18), 517.161(1) FS. History—New 12-21-95, Amended 8-19-99, 10-30-03, Formerly 3E-600.020, Amended 11-22-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Pamela Epting, Director, Division of Securities
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NOS.:	RULE TITLES:
69W-700.001	Registration of Securities
69W-700.002	Filing of Prospectus
69W-700.005	Promoters Equity Investment Ratio
69W-700.006	Voting Rights
69W-700.007	Options or Warrants Granted Underwriters
69W-700.008	Options and Warrants to Officers, Employees and Others
69W-700.010	Preferred Stock or Debt Securities
69W-700.014	Real Estate Investment Trusts (REIT)
69W-700.015	Offering Price of Equity Securities
69W-700.026	Unsound Financial Condition
69W-700.028	Small Corporate Offering Registration ("SCOR" Offering)

PURPOSE AND EFFECT: The rules are proposed for amendment to clearly state the forms required for the registration of securities; broaden the types of offerings to be all-inclusive and increase consumer protection; allow companies to determine voting rights of common stock when coupled with adequate disclosure; provide disclosure protections to allow the decision-making to be on the investor; disallow the transfer of options and warrants issued to underwriters to anyone outside of the underwriter; limit the number of shares covered by the underwriter's options and warrants to 10% of shares actually sold; define parameters to provide increased investor protections; add a definition for institutional investor; remove provisions duplicative of statute; incorporate contents and remove cross-reference to another rule; add disclosure language; remove discretion of the Office; repeal Rule 69W-700.028, F.A.C.; and update references to incorporated material to Rule 69W-200.002, F.A.C.

SUMMARY: See above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under

Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03 FS.

LAW IMPLEMENTED: 517.081(3), (5), (7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alisa Goldberg, Division of Securities, alisa.goldberg@flotr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-700.001 Registration of Securities.

(1) An applicant for registration of securities pursuant to Section 517.081, F.S., shall comply with the rules contained in Chapter 69W-700, F.A.C., and shall use the below forms which are incorporated by reference in subsection 69W-301.002(7), F.A.C.; the forms described in subsection 69W-301.002(7), F.A.C.:

(a) Form OFR-S-1-91, Application for Registration of Securities or Form OFR-S-12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities;

(b) OFR-S-7-91, Exhibit 1 (General Issue);

(c) An irrevocable written Uniform Consent to Service of Process, Form U-2 or Form OFR-S-5-91;

(d) Uniform Corporate Resolution, Form U-2A or Form OFR-S-6-91.

(2) No change.

Rulemaking Authority 517.03 FS. Law Implemented 517.081(3) FS. History—(Formerly 3E-20.011) New 9-20-82, Formerly 3E-700.01, Amended 7-31-91, Formerly 3E-700.001, Amended _____.

69W-700.002 Filing of Prospectus.

(1) No change.

(2) Any prospectus which depicts the United States Securities and Exchange Commission’s statement pursuant to a registration statement filed under the Securities Act of 1933, or a letter of notification under Regulation A of the Securities Act of 1933 (17 C.F.R. §§ 230.251 through 230.263 (2010)) or Form U-7, Small Corporate Offering Registration, will be considered to be in substantial compliance with the requirement of subsection (1) above. Regulation A is incorporated by reference in Rule 69W-200.002, F.A.C., and Form U-7 is incorporated by reference in subsection 69W-301.002(7), F.A.C. The federal regulations referenced in this rule are hereby

~~incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3) FS. History—(Formerly 3E-20.01) New 9-20-82, Formerly 3E-700.02, Amended 10-26-97, Formerly 3E-700.002, Amended 11-22-10, _____.

69W-700.005 Promoters Equity Investment Ratio.

(1) In ~~corporate~~ offerings where the issuer is in a development stage, the ratio of equity investment by promoters or insiders to the aggregate public offering shall be no less than:

(a) Ten percent (10%) of the first \$1,000,000 of the aggregate public offering; and

(b) Seven percent (7%) of the next \$500,000 of the aggregate public offering; and

(c) Five percent (5%) of the next \$500,000 of the aggregate public offering; and

(d) Two and one-half percent (2 1/2%) of the balance over \$2,000,000.

~~(2) Contributions of intangible assets may not be considered as promoters equity, however, any earned surplus that had been accumulated, but not paid out as dividends, shall be counted as promoters equity.~~

(3) In all limited partnership offerings, the following will be acceptable in lieu of a 15% ratio of equity investment:

~~(a) In order that a general partner(s) be sufficiently capitalized to indicate the ability to perform the commitments which are made in regard to such programs, the net worth of the individual general partner(s), excluding home, home furnishings and automobile or the net worth of the corporate general partner(s), must be equal to 15% of the aggregate amount of limited partnership interests to be sold with a maximum net worth requirement of \$250,000. The net worth of a general partner(s) shall be revealed by a balance sheet prepared by an independent certified public accountant in accordance with United States generally accepted accounting principles as prescribed in Rule 69W-300.002, F.A.C. The general partner(s) shall make a direct investment, net of commissions, in the limited partnership(s) equal to 5% of the aggregate amount of limited partnership interests to be sold with a maximum participation requirement of \$100,000. The required participation may be reduced by 10% of the general partner(s) net worth in excess of the amount required.~~

~~(b) In the alternative, to paragraph (a) of this subsection, the general partner(s) may make a direct investment, net of commissions, in the limited partnership equal to 10% of the amount paid, or to be paid, into the partnership by the limited~~

~~partners with a maximum participation requirement of \$100,000.~~

~~(c) The election as to compliance with paragraph (a) or (b) must be made by the general partner(s) prior to effectiveness in Florida and shall be binding thereafter unless the Office of Financial Regulation consents to a change from paragraph (a) or (b).~~

~~(d) In a series of limited partnerships, the general partner(s) shall spread the required participation figure as equitably among the partnerships to be formed as possible.~~

~~Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—(Formerly 3E-20.03) New 9-20-82, Formerly 3E-700.05, Amended 10-26-97, Formerly 3E-700.005, Amended 5-15-07, _____.~~

69W-700.006 Voting Rights.

(1) Registration involving the sale of non-voting common stock or other equity security interests will not be permitted unless:

(a) The cover of the Disclosure Document includes a specific warning and a cross reference to a specific, appropriate risk factor; and The corporation is not a “development stage entity” as defined in Rule 69W-200.001, F.A.C.; and

~~(b) Dividend rights on voting and non-voting stock are equal per share; and~~

~~(b)(c) Full and complete disclosure is made to the prospective purchaser and imprinted on the cover of the prospectus in bold face type in a contrasting color is the following notation: “THESE SECURITIES DO NOT ENTITLE THE HOLDER THEREOF TO VOTE.”~~

~~(d) Registration may not be granted for the sale of equity securities of which the voting ratio is inequitable, considering the offering price and voting rights of the outstanding equity securities at the time of filing an application for registration.~~

(2) Registration involving the sale of limited partnership interests will not be allowed unless:

(a) Meetings of the limited partnership may be called by the general partner(s) or the limited partner(s) holding more than 10% of the then outstanding limited partnership interests, for any matters for which the partners may vote as set forth in the limited partnership agreement.

~~(b) To the extent the law of the state in question is not inconsistent, the limited partnership agreement must provide that a majority of the then outstanding limited partnership interests may, without the necessity for concurrence by the general partner, vote to:~~

- ~~1. Amend the limited partnership agreement;~~
- ~~2. Dissolve the partnership;~~
- ~~3. Remove the general partner and elect a new general partner; or~~
- ~~4. Approve or disapprove the sale of all or substantially all of the assets of the partnership.~~

Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History—New 9-20-82, Formerly 3E-700.06, Amended 10-14-90, Formerly 3E-700.006, Amended _____.

69W-700.007 Options or Warrants Granted Underwriters. The Office of Financial Regulation will permit the registration of securities where options or warrants are granted to underwriters only on the condition that such options or warrants meet the criteria set forth in subsections (1) through (6) hereafter:

(1)(a) They are issued to the underwriters under a firm underwriting agreement; or

(b) They are issued in connection with a best efforts underwriting only when the entire issue is sold, provided however, that options or warrants may be issued in connection with a minimum-maximum offering only if the amount of options or warrants to be issued to the underwriters is pro-rated in accordance with the amount of the underwriting which is sold; and

~~(c) Option or warrants may not be transferred, except: The options or warrants may not be assignable or transferable for a period of one (1) year from the date of issuance except to partners of the underwriters when the underwriter is a partnership, and officers or directors of the underwriters when the underwriter is a corporation.~~

1. To partners of the underwriter, if the underwriter is a partnership;

2. To officers and employees of the underwriter, who are also shareholders of the underwriter, if the underwriter is a corporation; or

3. By will, under the laws of descent and distribution, or by operation of law.

(2) The number of shares covered by the underwriter’s options or warrants must not exceed ten percent (10%) of the shares of common stock actually sold in the public offering. The number of shares covered by the warrants or options do not exceed 10% of the shares being offered to the public in the offering under consideration.

(3) The initial exercise price of the options or warrants is at least equal to the public offering price with a “step-up” of the exercise price of 7% each year they are outstanding, or in the alternative, an overall 20% step-up. The step-up shall commence twelve (12) months after the grant of the option or warrant. The election as to the step-up rate must be made at the time the option or warrant is issued.

(4) The options or warrants do not exceed five (5) years in duration and are exercisable no sooner than twelve (12) eleven (11) months after issuance.

~~(5) When the options or warrants are issued by a relatively small company in the promotional stage it must appear from all the facts and circumstances that the issuance of such options is~~

~~necessary to obtain competent investment banking service, provided that the direct commissions to the underwriters are lower than the usual and customary commissions would be in absence of such options.~~

~~(5)(6) The prospectus used in connection with the offering fully discloses the terms and the reason for the issuance of such options or warrants; provided that if such reason relates to future advisory services to be performed by the underwriter without compensation in consideration for the issuance of such options or warrants, a statement to that effect is placed in the prospectus.~~

~~(6)(7) It is hereby established that 20% of the original public offering price per security of the issue multiplied by the number of securities the underwriters have the right to purchase under the options or warrants shall be included by the Office of Financial Regulation in considering the overall cost limitation of the issue.~~

~~Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History—(Formerly 3E-20.06) New 9-20-82, Formerly 3E-700.07, 3E-700.007, Amended _____.~~

69W-700.008 Options and Warrants to Officers, Employees and Others.

The Office of Financial Regulation will permit the registration of securities where options and warrants are granted to officers, employees and others only on the condition that such options or warrants meet the criteria set forth below.

~~(1) An issuer may not grant options or warrants at an exercise price that is less than 85% of the fair market value of the issuer's underlying shares of common stock or similar securities on the date of grant. The number of shares, issued or reserved for issuance, covered by options and warrants shall be reasonable in number and the exercise price of such options and warrants shall not be less than fair market value at the date of granting. In the event such warrants and options exceed 10% of the shares to be outstanding upon completion of the offering, the issuer shall submit a written analysis supporting the reasonableness of the issuer's warrant and option policy.~~

~~(2) Limitations on the Total Number of Options and Warrants. Options or warrants issued in connection with private placement financing arrangements made by the issuer may be excluded from the 10% computation if the exercise price of the warrant or option is not less than fair market value at time of issuance and the following conditions are met:~~

~~(a) For one year following the effective date of the offering, the total number of options and warrants that the issuer may issue or reserve for issuance may not exceed 15% of the sum of the issuer's common stock outstanding at the date of the public offering plus: The options or warrants are issued contemporaneously with the issuance of the evidence of~~

~~indebtedness of the loan and expire no later than the final maturity date of the loan;~~

~~1. The number of firmly underwritten shares being offered, or~~

~~2. The number of shares required to meet the minimum offering amount, if not firmly underwritten.~~

~~(b) The calculation in paragraph (a) excludes options and warrants that: The options or warrants are issued as a result of a bona fide negotiation between the issuer and parties not affiliated with the issuer;~~

~~1. The issuer issued or reserved for issuance to an unaffiliated "institutional investor" as defined in paragraph (4) of this rule, or a "business development company" as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. § 80a-2(a)(48), which is incorporated by reference in Rule 69W-200.002, F.A.C., in connection with a loan if:~~

~~a. The options or warrants are issued at the same time as the loan;~~

~~b. The options or warrants are issued as the result of negotiations between the issuer and an unaffiliated "institutional investor" as defined in paragraph (4) of this rule, or a "business development company" as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. § 80a-2(a)(48);~~

~~c. The exercise price of the options or warrants is not less than the fair market value of the issuer's common stock or similar securities underlying the options or warrants on the date the loan was approved; and~~

~~d. The number of shares that can be issued on exercise of the options or warrants multiplied by the options or warrants' exercise price does not exceed the face amount of the loan.~~

~~2. In connection with acquisitions, reorganizations, consolidations, or mergers, if:~~

~~a. The options or warrants are issued to persons that are unaffiliated with the issuer; and~~

~~b. Exercising the options or warrants will not materially dilute the issuer's earnings at the time of grant after giving effect to the acquisition, reorganization, consolidation or merger.~~

~~3. The issuer issued or reserved for issuance to employees or consultants who are not promoters under an incentive stock option plan under Section 422 of the Internal Revenue Code (26 U.S.C. §422), which is incorporated by reference in Rule 69W-200.002, F.A.C.; or~~

~~4. A person may exercise at or above the offering price for public investors.~~

~~(c) The options or warrants are issued to obtain favorable financing arrangements in a private placement financing with persons not affiliated with the issuer; and~~

~~(d) The number of shares issuable upon exercise of the options or warrants multiplied by the exercise price thereof does not exceed the face amount of the loan.~~

(3) Options and warrants issued in connection with acquisitions, reorganizations, consolidations or mergers may be excluded in determining the reasonableness of the number of shares covered by warrants and options if they are issued to parties not affiliated with the issuer. In the event the earnings per share of the issuer would be diluted in excess of 10% by the issuance of shares upon exercise of such options and warrants, the issuer shall disclose such dilution as a specific risk factor in the Disclosure Document ~~submit an analysis upholding the reasonableness of the issuance of such options or warrants.~~

(4) For the purposes of this rule, "institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:

(a) A depository institution or international banking institution;

(b) An insurance company;

(c) A separate account of an insurance company;

(d) An investment company as defined in the Investment Company Act of 1940, which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(e) A broker-dealer registered under the Securities Exchange Act of 1934;

(f) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under Chapter 517, Florida Statutes, a depository institution, or an insurance company;

(g) A plan established and maintained by a State, a political subdivision of a State, or an agency or instrumentality of a State or a political subdivision of a State for the benefit of its employees, if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under Chapter 517, Florida Statutes, a depository institution, or an insurance company;

(h) A trust, if it has total assets in excess of \$10,000,000, its trustee is a depository institution, and its participants are exclusively plans of the types identified in subparagraph (f) or (g), regardless of the size of their assets, except a trust that

includes as participants self-directed individual retirement accounts or similar self-directed plans;

(i) An organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501(c)(3)), corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$10,000,000;

(j) A small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c)) with total assets in excess of \$10,000,000;

(k) A private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)), which is incorporated by reference in Rule 69W-200.002, F.A.C., with total assets in excess of \$10,000,000;

(l) A federal covered investment adviser acting for its own account;

(m) A "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A), which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(n) A "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6), which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(o) Any other person, other than an individual, of institutional character with total assets in excess of \$10,000,000 not organized for the specific purpose of evading Chapter 517, Florida Statutes; or

~~(p) Any other person specified by rule adopted or order issued under Chapter 517, Florida Statutes. The requirements of this rule shall apply to applications for registration of equity securities or securities convertible into equity securities. In the event that a written analysis supporting the reasonableness of a warrant and option policy is unacceptable, the Office of Financial Regulation may disregard the number of shares reserved for issuance covered by options and warrants if it is stated in the prospectus that the issuer will not grant options or warrants to purchase shares which would result in their being outstanding options or warrants covering a total of shares in excess of 10% of the then outstanding shares.~~

Rulemaking Authority 517.03 FS. Law Implemented 517.03, 517.081(5), (7) FS. History—(Formerly 3E-20.07) New 9-20-82, Formerly 3E-700.08, 3E-700.008, Amended _____.

69W-700.010 Preferred Stock or Debt Securities.

~~Issuers in a promotional or development phase will not normally qualify to issue preferred stock or debt securities.~~

(1) through (4) No change.

~~(5) All debt securities issued by a corporation, which corporation was created by a spin off or was separately chartered as a wholly owned subsidiary of a listed company, will be considered on its own merits by the Office of Financial Regulation.~~

~~Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History—(Formerly 3E-20.09) New 9-20-82, Formerly 3E-700.10, 3E-700.010, Amended _____.~~

69W-700.014 Real Estate Investment Trusts (REIT).

A Real Estate Investment Trust required to register its securities pursuant to Section 517.081, F.S., must have provisions in its Declaration of Trust, other organizational instruments or prospectus that satisfy the following conditions:

(1) through (9) No change.

(10) The foregoing listed terms and conditions shall apply unless such term or condition is directly contradictory to the intent of sections 856, 857 and 858 of the Internal Revenue Code of 1954 (26 U.S.C. §§ 856, 857, 858), which are incorporated by reference in Rule 69W-200.002, F.A.C., as amended, and applicable ~~or pending~~ rules of the Treasury Department.

~~Specific Authority 517.03 FS. Law Implemented 517.081(7) FS. History—(Formerly 3E-20.13) New 9-20-82, Formerly 3E-700.14, 3E-700.014, Amended _____.~~

69W-700.015 Offering Price of Equity Securities.

(1) The offering price of securities that an issuer is seeking to register shall not exceed:

(a) The established market price, for the securities of the same class as that proposed to be offered; or

(b) A proposed price that reflects a price earnings ratio of securities of similar issuers in the same industry; and further provided that the issuer has a consistent record of earnings for the preceding three (3) fiscal years; or

(c) The proposed offering price established by an underwriter under a firm underwriting commitment, if the underwriter is registered under the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a through 78pp), which is incorporated by reference in Rule 69W-200.002, F.A.C. (15) U.S.C. §§ 78a through 78pp (2006 & Supp. III) and has the financial ability to perform its commitment in light of its net capital position. ~~The federal statutes referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>.~~

(2) In offerings where the issuer is in the development phase, or the issuer fails to comply with subsection (1) of this

rule, a specific risk factor entitled “Immediate Substantial Dilution” in the Disclosure Document stating the book value per share before and after completion of the offering and the dilution percentage to purchasers of the offering.

~~(a) The offering price shall not exceed five (5) times the book value of the company; and~~

~~(b) The issuance of such securities being registered shall not have dilution greater than fifty percent (50%).~~

(3) In offerings where the issuer is complying with the registration provisions of Section 517.081(3)(g)2., and F.S., subsection 69W-700.002(2) Rule 69W-700.028, F.A.C., the Office of Financial Regulation shall allow the offering to be offered and sold at a minimum of \$5 per share provided that all promotional securities are escrowed.

~~(4) As a condition to registration, the Office of Financial Regulation shall require an escrow of all promotional securities issued where the Office of Financial Regulation determines that the promoters are unfairly benefiting at the expense of the public shareholders. The escrow agreement shall comply with Section 517.181, F.S., on Form OFR S 14 97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., and shall include but not be limited to the following:~~

~~(a) The escrow agent depository shall be limited to state banks with trust powers, trust companies, and national banks with trust powers which are located within the United States or any territory or insular possession thereof.~~

~~(b) The owners of such stock shall not be entitled to sell or transfer the stock or withdraw the stock from escrow until the issuer has submitted financial statements prepared in accordance with subsection 69W-300.002(6), F.A.C., evidencing that the issuer has net earnings, after tax and before extraordinary items, based on the shares to be outstanding after a successful completion of the offering of five percent (5%) of the public offering price for two (2) consecutive fiscal years, or ten percent (10%) for one (1) fiscal year, following the public offering.~~

~~(c) The maximum length of time for shares escrowed shall be five (5) years from the date of completion of the offering at which time the escrow agreement shall automatically be terminated and the shares released.~~

~~(d) When the offering fails to raise the minimum amount as set forth in the prospectus and the proceeds collected are returned to investors as prescribed in Rule 69W-700.009, F.A.C., all shares held in escrow shall be released and the escrow agreement terminated.~~

~~Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—(Formerly 3E-20.15) New 9-20-82, Formerly 3E-700.15, Amended 11-30-97, Formerly 3E-700.015, Amended 11-22-10, _____.~~

69W-700.026 Unsound Financial Condition.

(1) Registration of an issuer may not be permitted if the financial statements demonstrate the issuer to have an unsound financial condition.

(2)(a) Such unsound financial condition is determined by:

(b) ~~An explanatory paragraph in the independent auditor's report or in a footnote to the financial statements regarding the issuer's ability to continue as a going concern; and~~

~~(a)1. An accumulated deficit; or~~

~~(b)2. Negative shareholders equity; or~~

~~(c)3. An inability to satisfy current obligations as they become due; or~~

~~(d)4. Negative cash flow; (or revenues not being generated from operations, but from financing and borrowing activities.) or~~

(e) Financial statements that include a footnote or explanatory paragraph in the independent auditor's report regarding the issuer's ability to continue as a going concern.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—New 10-26-97, Formerly 3E-700.026, Amended _____.

69W-700.028 Small Corporate Offering Registration ("SCOR" Offering).

~~(1) For the purpose of compliance with the registration provisions of Section 517.081(3)(g)2., F.S., the issuer shall file an application on Form OFR S 12 97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. The application shall include:~~

~~(a) Three (3) copies of Form U 7, Small Corporate Offering Registration Form, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.;~~

~~(b) An irrevocable written Uniform Consent to Service of Process, Form U 2 or Form OFR S 5 91, and Uniform Corporate Resolution, Form U 2A or Form OFR S 6 91, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., as described in Section 517.101, F.S. It shall be the choice of the applicant to file either the Form U 2 or the Form OFR S 5 91, either of which are acceptable to the office. It shall also be the choice of the applicant to file either the Form U 2A or Form OFR S 6 91;~~

~~(c) Payment of the statutory fee as required in Section 517.081, F.S.;~~

~~(d) Exhibits, where applicable, as prescribed in Part II to Form OFR S 12 97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~

~~(2) Self underwritten offerings shall be offered and sold by the issuer registered with the Office of Financial Regulation in~~

~~compliance with Section 517.12, F.S. All offerees shall be furnished with a prospectus approved by the Office of Financial Regulation and a copy of Florida's Guide to Small Business Investments.~~

~~(3) Annual financial reports shall be filed with the Office of Financial Regulation within 90 days after the close of the issuer's fiscal year for a period of 5 years following the effective date of the registration. In the event the corporation ceases operations, such financial reports shall continue to be furnished to the Office of Financial Regulation unless the corporation is dissolved and all remaining assets distributed, if any. In such an event, the issuer shall furnish documentation to the Office of Financial Regulation to close the file.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—New 11-30-97, Formerly 3E-700.028, Amended 11-22-10, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Pamela Epting, Director, Division of Securities

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NO.: RULE TITLE:

69W-800.001 Filing – Notification Registration Including Shelf Filings

PURPOSE AND EFFECT: The rule is proposed for amendment to update references to incorporated material. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendment would reference Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR.

SUMMARY: See above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under

Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.082 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-800.001 Filing – Notification Registration Including Shelf Filings.

(1) An application for Notification Registration or a shelf filing not in conflict with the provisions of Section 517.082(3), F.S., shall be filed on Form OFR-S-3-91, Notification Registration, and Form U-1, Uniform Application to Register Securities, which are hereby incorporated by reference in subsection 69W-301.002(7), F.A.C. The application shall include:

(a) through (c) No change.

(d) One (1) copy of the final pricing amendment/final prospectus as per the effective registration date with the Securities and Exchange Commission, except for Shelf Registration offerings to be made on a delayed or continuous basis pursuant to SEC Rule 415 (17 C.F.R. § 230.415 (2010)), which is incorporated by reference in Rule 69W-200.002, F.A.C. and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399; and

(e) No change.

(2) through (6) No change.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.082 FS. History—New 10-15-86, Amended 12-8-87, 7-31-91, 10-1-96, 10-20-97, Formerly 3E-800.001, Amended 11-22-10, 10-29-12, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Pamela Epting, Director, Division of Securities

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

DEPARTMENT OF FINANCIAL SERVICES

Securities

RULE NO.: RULE TITLE:

69W-900.001 Disclosure of Business Activities in Cuba

PURPOSE AND EFFECT: The rule is proposed for amendment to update references to incorporated material. The Office of Financial Regulation proposes to consolidate all material incorporated by reference in Chapter 69W, F.A.C. into a new proposed Rule 69W-200.002, F.A.C. that conforms with Section 120.54(1)(i), F.S. The proposed amendment would reference Rule 69W-200.002, F.A.C., where the material can be accessed via the FAR.

SUMMARY: See above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The amendments will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.075 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Kim, Division of Securities, (850)410-9781, john.kim@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-900.001 Disclosure of Business Activities in Cuba.

(1) For purposes of Section 517.075, F.S., a prospectus shall be defined as:

(a) A final prospectus containing the information required by Section 10(a) of the Securities Act of 1933 (15 U.S.C. § 77j(a) (2006 & Supp. III)), which is incorporated by reference in Rule 69W-200.002, F.A.C. for securities registered pursuant to Section 517.082, F.S.; or

(b) No change.

(c) The term prospectus shall not include amendments or supplements to a prospectus that is part of a registration statement filed with the Securities and Exchange Commission under Rule 415 of the Securities Act of 1933 (17 C.F.R. § 230.415 (2010)), which is incorporated by reference in Rule 69W-200.002, F.A.C.

~~(d) The federal regulations and federal statutes referenced in this subsection are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.~~

(2) through (3) No change.

Rulemaking Authority 517.075 FS. Law Implemented 517.075 FS. History--New 8-17-92, Formerly 3E-900.001, Amended 11-22-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pamela Epting, Director, Division of Securities
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2014
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2014

Section III Notice of Changes, Corrections and Withdrawals

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-160.110	Purpose Scope and Applicability
62-160.120	Definitions and Standards
62-160.210	Approved Field Procedures
62-160.220	Approval of New and Alternative Field Procedures
62-160.240	Record Keeping and Reporting Requirements for Field Procedures

62-160.300	Laboratory Certification
62-160.320	Approved Laboratory Methods
62-160.330	Approval of New and Alternative Laboratory Methods
62-160.340	Record Keeping and Reporting Requirements for Laboratory Procedures
62-160.600	Research Field and Laboratory Procedures
62-160.650	Field and Laboratory Audits
62-160.700	Tables
62-160.800	Documents Incorporated by Reference
	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 the October 31, 2012 issue of the Florida Administrative Register, Volume 38, Number 62, pages 4763-4777. Most of the changes are made in response to written and oral comments from the Joint Administrative Procedures Committee (JAPC), including incorporation of the various documents listed in Rule 62-160.800, F.A.C. The Department amended its Standard Operating Procedures (SOPs) to comply with JAPC comments that required the agency to edit citations to reference documents contained within the SOPs to align with incorporated document listings in Rule 62-160.800, F.A.C. The Department amended the following SOPs to reflect these changes: FA 1000, FC 1000, FD 1000, FM 1000, FS 1000, FS 2000, FS 2100, FS 2200, FS 2300, FS 2400, FS 3000, FS 4000, FS 5000, FS 6000, FS 7000, FS 8100, FS 8200, FT 1000, FT 1100, FT 1200, FT 1300, FT 1400, FT 1500, FT 1600, FT 1700, FT 1800, FT 1900, FT 2000, FT 3000, LD 1000, LQ 1000, LT 7000, BRN 1000, LVI 1000, and SCI 1000. Where necessary, revision dates for reference documents were updated. The Department also amended the SOPs to identify which reference documents must be used to comply with the SOPs. Optional and required forms for use of the SOPs were edited to ensure that form numbers, revision dates, and incorporating rules were included on all forms. The following forms were updated in this manner: Forms FD 9000-1, 9000-3, 9000-4, 9000-5, 9000-6, 9000-24, 9000-25, 9000-27, 9000-31, 9000-32, 9000-33, 9000-34, and 9000-35. Additional editorial clarifications to select SOPs were made where the SOP requirements were unclear. In response to third party requests discussed at a public hearing, Rules 62-160.220 and 62-160.330, F.A.C., were also amended to authorize consideration of proposed alternatives to sample preservation procedures in SOPs FS 7000 and SCI 1000. The proposed rule has changed so that when it is adopted it will read:

PART I
GENERAL

62-160.110 Purpose Scope and Applicability.
(1) through (5) No change.

(6) If specifically required by the United States Environmental Protection Agency (EPA) for activities conducted for or funded by the EPA, Quality Assurance Project Plans (QAPPs) shall be prepared in accordance with "EPA Requirements for Quality Assurance Project Plans, EPA QA/R-5" (~~EPA/240/B-01/003, March 2001~~), which is incorporated by reference in subsection Rule 62-160.800(4), F.A.C. These QAPPs will be reviewed and approved by the appropriate EPA office or delegated authority.

(7) This chapter supports the DEP Quality Assurance Management Plan required by the EPA for any environmental programs funded in part or in whole by the EPA, ~~as specified in EPA Quality Policy, EPA CIO 2106.0, 10/20/08, which is incorporated by reference in Rule 62-160.800, F.A.C.~~

(8) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 1-1-91, Amended 2-4-93, 2-27-94, Formerly 17-160.110, Amended 3-24-96, 4-9-02, 6-8-04, 12-3-08, _____.

62-160.120 Definitions and Standards.

For purposes of this chapter:

(1) through (15) No change.

(16) "Method detection limit (MDL)" is an estimate of the minimum amount of a substance that an analytical process can reliably detect. An MDL is analyte- and matrix-specific and is laboratory-dependent. The MDL for an analyte is determined from the preparation and analysis of a sample in a given matrix containing the analyte. MDLs shall be determined for each matrix/analytical technology/analyte combination reported by the laboratory, except for those tests where determination of the MDL is not appropriate for the analytical technique. MDLs shall be calculated following the procedures specified in "New and Alternative Analytical Laboratory Methods", DEP-QA-001/01 (~~February 1, 2004~~), which is incorporated by reference in subsection Rule 62-160.800(5), F.A.C., or by any other technically justifiable and scientifically sound method. A specific method must be used when mandated by the a Department program. For the purposes of data usability evaluation, the DEP-defined MDL is equivalent to the Limit of Detection (LOD) as defined in the TNI Standards, EL-V1-2009-ISO, which are incorporated by reference in paragraph 62-160.800(3)(b), F.A.C.

(17) No change.

(18) "~~NELAC~~ Field of Accreditation Matrix" is defined in the Glossary of the 2003 NELAC Standards, which is incorporated by reference in paragraph Rule 62-160.800(3)(a), F.A.C., and shall be used to determine matrices under which a laboratory must be certified by the DOH ELCP for reporting data to be used by the Department:

(a) through (d) No change.

(19) through (23) No change.

(24) "Practical quantitation limit (PQL)" is the lowest level of measurement that can be reliably achieved during routine laboratory operating conditions within specified limits of precision and accuracy. The value of the PQL shall be greater than the MDL value except when analytical quality control problems necessitate raising the MDL value equal to or above the PQL value for a specific sample, or when determination of the MDL is not appropriate for an analytical technique. For Departmental use, if a laboratory fails to report a PQL, the PQL shall be calculated as four times the MDL, except for those tests where determination of the MDL is not appropriate for the analytical technique. In such cases, the Department shall use all available information about the technique to determine the PQL. For the purposes of data usability evaluation, the DEP-defined PQL is equivalent to the Limit of Quantitation (LOQ) as defined in the TNI Standards, EL-V1-2009-ISO, which are incorporated by reference in paragraph 62-160.800(3)(b), F.A.C.

(25) through (30) No change.

(31) "Site-specific sampling method" is a field method that is validated for the collection of environmental samples from a particular site, waste stream (e.g., facility location), or sample matrix (e.g., effluent, groundwater or drinking water). A site-specific sampling method is approved for use on a specific site by any field organization that is conducting field activities for that site. The approval of a site-specific sampling method does not apply to a sampling organization that wishes to use the method on other sites or intended for other projects. The alternative procedure approval process is outlined in subparts FA 2100 and FA 2200 of FA 1000 ~~of DEP SOP 001/01, (09-19-2012)~~, which is incorporated by reference in subparagraph Rule 62-160.800(1)(a)1., F.A.C.

(32) No change.

(33) "Statewide method" is a field procedure or analytical laboratory method that is validated for the collection or testing of environmental samples from similar sites or waste streams within the state of Florida by multiple field sampling organizations or laboratories, as applicable. The process for the validation of a statewide method is outlined in subparts Sections FA 2100 and FA 2200 of FA 1000 (Regulatory Scope Administrative Procedures for Use of FDEP SOPs) in DEP-SOP 001/01 (March 31, 2008), which is incorporated by reference in subparagraph 62-160.800(1)(a)1., F.A.C., and in "~~New and Alternative Analytical Laboratory Methods~~", DEP-QA-001/01 (~~February 1, 2004~~), which ~~is~~ are incorporated by reference in subsection Rule 62-160.800(5), F.A.C.

(34) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592,

376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 1-1-91, Amended 2-4-93, 2-27-94, Formerly 17-160.120, Amended 3-24-96, 4-9-02, 6-8-04, 12-3-08,_____.

PART II FIELD PROCEDURES

62-160.210 Approved Field Procedures.

(1) All persons that conduct or support field activities and field measurements shall follow the applicable procedures and requirements described in the DEP SOP collections titled Standard Operating Procedures for Field Activities, DEP-SOP-001/01 (09-19-2012) and Standard Operating Procedures for Selected Bioassessment Activities, DEP-SOP-003/11(09-19-2012), which are incorporated by reference in paragraphs 62-160.800(1)(a) and 62-160.800(1)(c), Rule 62-160.800, F.A.C., respectively unless specifically exempted by the rules of a particular Department program.

(2) Additionally, all persons performing sampling for the Stream Condition Index (SCI), the Lake Vegetation Index or a Rapid Bioassessment (BioRecon) determination shall follow the procedures and satisfy the data quality objectives discussed in the following documents, which are incorporated by reference in paragraphs 62-160.800(2)(e) and 62-160.800(2)(f), Rule 62-160.800, F.A.C.:

(a) through (b) No change.

(3) Any person that wishes to apply for new or alternative field procedures other than those specified in DEP-SOP-001/01 (09-19-2012) shall follow the requirements provided in Rule 62-160.220, F.A.C.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 1-1-91, Amended 2-4-93, 2-27-94, Formerly 17-160.210, Amended 3-24-96, 10-15-96, 4-9-02, 6-8-04, 12-3-08,_____.

62-160.220 Approval of New and Alternative Field Procedures.

(1) Any party may apply for use of a field procedure other than those specified in DEP-SOP-001/01 (~~March 31, 2008~~) and DEP-SOP-003/11, which are incorporated by reference in paragraphs 62-160.800(1)(a) and 62-160.800(1)(c), F.A.C., respectively. Any field procedure not included in DEP-SOP-001/01 (~~March 31, 2008~~) and DEP-SOP-003/11 must be approved by the Department prior to use according to the requirements of subparts Sections FA 2100 and FA 2200 of FA 1000, which are incorporated by reference in subparagraph 62-160.800(1)(a)1., F.A.C. of DEP-SOP-001/01 (March 31, 2008). Field procedures previously approved for use by a contract, order or permit ~~before the effective date of this chapter~~ shall remain approved for the duration of the project. The

documentation that approved the use of the procedure must be retained for at least five years after the last use of the procedure.

(2) Field procedures not included in DEP-SOP-001/01 and DEP-SOP-003/11 (March 31, 2008) or not specified by Department contracts, orders or permits, fall into one of the following two categories:

(a) No change.

(b) Alternative – a field procedure that involves the collection of an analyte (such as a chemical compound, component, or microorganism) in a specified matrix where a Department-approved procedure already exists. An alternative procedure is one intended to be used in place of an existing Department-approved field procedure. Alternative procedures cannot be approved for the following methods.

1. The procedures in the following DEP SOPs, which are contained in DEP-SOP-001/01, which is incorporated by reference in paragraph 62-160.800(1)(a), F.A.C., including all parts and subparts of the DEP SOPs methods cited:

a. FS 7000, except that the Department shall consider proposed alternatives to sample preservation procedures in FS 7000, in accordance with subsection 62-160.220(1), F.A.C.;

~~and; General Biological Community Sampling;~~

b. FS 7100, ~~Phytoplankton Sampling;~~

e. FS 7220, ~~Qualitative Periphyton Sampling;~~

d. FS 7230, ~~Rapid Periphyton Survey; and~~

e. FS 7250, ~~Florida Wetland Condition Index Sampling (Diatoms);~~

f. FS 7320, ~~Stream and River Linear Vegetation Survey;~~

g. FS 7330, ~~Florida Wetland Condition Index Sampling (Vegetation);~~

h. FS 7430, ~~Hester Dendy Sampling;~~

i. FS 7440, ~~Core Sampling;~~

j. FS 7450, ~~Dredge Sampling;~~

k. FS 7460, ~~Lake Condition Index Sampling;~~

l. FS 7470, ~~Florida Wetland Condition Index Sampling (Macroinvertebrates); and;~~

~~b.m. FT 3000, Aquatic Habitat Characterization.~~

2. The procedures in the following DEP SOPs, which are contained in DEP-SOP-003/11, which is incorporated by reference in paragraph 62-160.800(1)(c), F.A.C., including all parts and subparts of the ~~methods~~ DEP SOPs cited:

a. BRN 1000, ~~BioRecon Determination;~~

b. LVI 1000, ~~Lake Vegetation Index; and,~~

c. SCI 1000, except that the Department shall consider proposed alternatives to sample preservation procedures in SCI 1000, in accordance with subsection 62-160.220(1), F.A.C.; ~~Stream Condition Index.~~

3. The ~~discussion of~~ procedures for sampling, description of data quality objectives and criteria for data usability assessments for the Stream Condition Index (SCI), the Lake

Vegetation Index (LVI), or a Biorecon determination in DEP-SAS-001/11, which is incorporated by reference in paragraph 62-160.800(2)(e), F.A.C., and DEP-SAS-002/11, which is incorporated by reference in paragraph 62-160.800(2)(f), F.A.C.:

~~a. Department of Environmental Protection, Sampling and Use of the Stream Condition Index (SCI) for Assessing Flowing Waters: A Primer (DEP SAS 001/11); and,~~

~~b. Department of Environmental Protection, Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer (DEP SAS 002/11).~~

(3) through (9) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 1-1-91, Amended 2-4-93, Formerly 17-160.220, Amended 3-24-96, 10-15-96, 4-9-02, 6-8-04, 12-3-08,_____.

62-160.240 Record Keeping and Reporting Requirements for Field Procedures.

(1) The record keeping requirements for entities that conduct or support field activities and field measurements are specified in the DEP SOPs contained in the following collections: DEP-SOP-001/01, which is incorporated by reference in paragraph 62-160.800(1)(a), F.A.C., (09-19-2012), including all parts and subparts of DEP SOP FD 1000, which is incorporated by reference in subparagraph 62-160.800(1)(a)3., and DEP-SOP-003/11, which is incorporated by reference in paragraph 62-160.800(1)(c), F.A.C., (09-19-2012), including all DEP SOPs, parts and subparts therein applicable to bioassessment field activities. The specified records shall contain sufficient information to allow independent reconstruction of all activities related to generating data that are submitted to the Department. These records shall be kept by the generator of the records for a minimum of five years after the date of generation or completion of the records unless otherwise specified in a Department contract, order, permit or Title 62 rules.

~~(2)(a)~~ No change.

1. through 2. renumbered (a) through (b) No change.

~~(b) In addition to the requirements in this rule, governmental agencies shall comply with all applicable requirements in the Florida Statutes and the Florida Administrative Code concerning the management, storage and destruction of public records described in this Chapter.~~

~~(3)(2)~~ When requested by the Department, the following field sampling information shall be provided to the Department for each site/facility and sampling location, as applicable:

(a) No change.

(b) Site and/or facility locational information to include (or as specified by the a Department program for indicated projects):

1. through 5. No change.

(c) Information about the collected samples:

1. through 7. No change.

8. Any additional information from the field documentation records specified in the DEP SOPs contained in the collections DEP-SOP-001/01 (09-19-2012) and DEP-SOP-003/11, which are incorporated by reference in paragraphs 62-160.800(1)(a) and 62-160.800(1)(c), F.A.C., respectively (09-19-2012).

(d) Information about field measurement activities:

1. through 3. No change.

4. Any additional information from the field documentation records specified in the DEP SOPs contained in the collection DEP-SOP-001/01, which is incorporated by reference in paragraph 62-160.800(1)(a), F.A.C. (09-19-2012).

(e) Information about site conditions:

1. through 2. No change.

3. Any additional information from the field documentation records specified in the DEP SOPs contained in the collection DEP-SOP-001/01, which is incorporated by reference in paragraph 62-160.800(1)(a), F.A.C. (09-19-2012).

(f) through (g) No change.

(3) through (5) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 4-9-02, Amended 6-8-04, 12-3-08,_____.

PART III

LABORATORY CERTIFICATION AND PROCEDURES

62-160.300 Laboratory Certification.

(1) Except as provided in subsections 62-160.300(2), (3), (4) and (5), F.A.C., or other Title 62 rules, all laboratories generating environmental data for submission to the Department or for use in Department-regulated or Department-sponsored activities shall hold certification from the Florida Department of Health, Environmental Laboratory Certification Program (DOH ELCP). Such certification shall be for all matrix/test method/analyte(s) combinations being measured. The matrix of a sample is defined to be the condition under which the laboratory originally receives the sample, and shall be classified according to the ~~NELAC~~ Field of Accreditation Matrix groups defined by subsection 62-160.120(18)(16), F.A.C.

(a) Certification shall be based on the matrix of the sample. The matrix of a sample is defined to be the condition under which the laboratory originally receives the sample, and shall

be classified according to the ~~NELAC~~ Field of Accreditation Matrix groups defined by subsection 62-160.120(18), F.A.C.

(b) No change.

(c) For the non-potable water matrix, laboratories shall apply for and receive DOH ELCP certification in at least one method for each ~~matrix/analytical technology/analyte combination being measured. The Department will accept any of the combinations certified by the DOH ELCP. For informational purposes, the Department shall maintain a list of the acceptable equivalent matrix/analytical technology/analyte combinations and the methods associated with them.~~

1. through 2. No change.

3. If a laboratory is required to provide data for an analyte for which, according to subsection 62-160.320(1), F.A.C., no method is published for the non-potable water matrix, or the published method for the non-potable water matrix does not meet required data quality objectives established by the Department for a ~~program or project~~, but a method is published for the drinking water matrix, and the Department has recognized that the published drinking water method meets the data quality objectives for the Department ~~program or project~~ for which the method will be used according to subsection 62-160.320(1), F.A.C., the laboratory is not required to obtain certification for the analytical technology/analyte combination in the non-potable water matrix. However, the laboratory must be certified in the drinking water matrix for the reported test method/analyte combination.

(d) No change.

(2) To the extent possible, a laboratory must be certified as specified in subsection 62-160.300(1), F.A.C., before reporting results for a given matrix/analytical technology or test method/analyte combination. However, if a laboratory makes a written request to the Department to use a method that is not certified, the a Department program will allow a laboratory to begin using a method before the certification process is complete if the laboratory wishes to add an analyte to a matrix/analytical technology or test method combination that is already certified; or if the laboratory is certified for a specific matrix/analytical technology or test method/analyte combination and wishes to add the capability of analyzing samples using the same analytical technology or test method/analyte combination in a different matrix.

(a) through (b) No change.

(c) The laboratory shall notify the Department ~~program~~ of the status of its certification application within 5 business days of receiving notification by DOH ELCP of the certification status.

(3) Laboratory certification by the DOH ELCP is not required for the following test procedures when conducted for the purposes of drinking water compliance:

(a) through (o) No change.

(p) In cases where the Department has a specific field testing method standard operating procedure (e.g., FT 1100 for pH, in DEP-SOP-001/01, which is incorporated by reference in subparagraph 62-160.800(1)(a)19., F.A.C.), the laboratory or authorized person, as described in Rule 62-550.550, F.A.C., shall follow the Department's procedures. For all other analytes, a laboratory or authorized person, as described in Rule 62-550.550, F.A.C., shall only use test methods that are acceptable for drinking water compliance, as specified in Rule 62-550.550, F.A.C. and shall follow all requirements for calibration verification according to DEP SOP FT 1000 in DEP-SOP-001/01, which is incorporated by reference in subparagraph 62-160.800(1)(a)18., F.A.C.

(4) through (5) No change.

(6) If the requirement for certification is only temporarily waived by the Department according to paragraph 62-160.300(5)(e), F.A.C., for expediency in order to meet specific Department ~~program or project~~ objectives, the laboratory shall apply for certification for the relevant tests and matrices specified in the waiver, if the Department has determined that use of the tests for long-term compliance with Department rules is necessary. In this case, the Department shall establish a deadline for applying for the certification.

(7) Even if certification is not required (see subsections 62-160.300(3), (4) and (5), F.A.C.), laboratory organizations shall follow the relevant Department-approved methods as provided in Rule 62-160.320, F.A.C., as applicable. In addition, the laboratory shall operate a quality assurance program consistent with the quality systems requirements of the TNI Standards in EL-V1-2009-ISO, which is incorporated by reference in paragraph 62-160.800(3)(b), F.A.C. the TNI Standard EL-V1M2-2011, and as specified in Chapter 64E-1, F.A.C. Rulemaking Authority 403.061, 403.0623, ~~403.0625, 403.863~~ FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.803, 403.853 FS. History—New 1-1-91, Amended 2-4-93, 2-27-94, Formerly 17-160.300, Amended 3-24-96, 4-9-02, 6-8-04, 12-3-08, _____.

62-160.320 Approved Laboratory Methods.

(1) Approved laboratory methods are specified in the Department's ~~program~~ rules, contracts, orders or permits. When methods are specified by a Department ~~program~~ rule, contract, order or permit, only those methods shall be used. For informational purposes, the Department maintains lists of methods, method compendiums and publication sources that have been recognized by the Department various Departmental programs. When laboratory methods are not specified in Department rules, contracts, orders or permits, applicable methods from the list of recognized methods are approved, where the methods are determined by the a Department

~~program~~ to satisfy data quality objectives established for the Department ~~program or project~~. However, these lists shall not supersede or limit the use of other methods that are required by contract, order, permit or Title 62 rule. ~~Upon request, the lists will be provided by the Department, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Links A link for the lists of methods are posted on the Department's webpage at <http://www.dep.state.fl.us/water/sas/qa/am-sources.htm>. Additionally,~~ ~~the~~ Environmental Protection Agency published updated lists of analytical methods in Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures, Final Rule, Federal Register, Vol. 77, No. 97, Friday, May 18, 2012, Rules and Regulations, pp. 29758-29846, which is incorporated by reference in subsection 62-160.800(6), Rule 62-160.800, F.A.C.

(2) Except as specified in subsections (3) and (4) below, laboratories performing taxonomic identification for periphyton or benthic macroinvertebrates shall use the procedures in the following DEP SOPs, which are contained in DEP-SOP-002/01, which is and incorporated by reference in paragraph in Rule 62-160.800(1)(b), F.A.C.:

(a) through (b) No change.

(3) Laboratories performing taxonomic identifications or calculations for the Stream Condition Index (SCI), the Lake Vegetation Index or making a Biorecon determination shall use the procedures in the following DEP SOPs, which are contained in DEP-SOP-003/11, which is and incorporated by reference in paragraph Rule 62-160.800(1)(c), F.A.C.:

(a) through (c) No change.

(4) Additionally, laboratories or persons performing taxonomic identifications, calculations or data usability assessments for the Stream Condition Index (SCI), the Lake Vegetation Index or a BioRecon determination shall follow the procedures and satisfy the data quality objectives discussed in DEP-SAS-001/11 and DEP-SAS-002/11, which are incorporated by reference in paragraphs 62-160.800(2)(e) and 62-160.800(2)(f), F.A.C., respectively. in the following documents, which are incorporated by reference in Rule 62-160.800, F.A.C.:

~~(a) Department of Environmental Protection, Sampling and Use of the Stream Condition Index (SCI) for Assessing Flowing Waters: A Primer (DEP SAS 001/11);~~

~~(b) Department of Environmental Protection, Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer (DEP SAS 002/11).~~

(5) Laboratories calculating the Lake Condition Index (LCI) shall use the procedures in DEP SOP LT 7000 (including subparts LT 7010, LT 7020, LT 7030, LT 7040, LT 7300 and LT 7900), which are contained in DEP-SOP-002/01, and

incorporated by reference in subparagraph Rule 62-160.800(1)(b)3., F.A.C.

(6) Laboratories calculating the Wetland Condition Indices (WCI) shall use the procedures in DEP SOP LT 7000, subpart LT 7600, including all subparts as listed below, which are contained in DEP-SOP-002/01, and incorporated by reference in subparagraph Rule 62-160.800(1)(b)3., F.A.C.:

(a) through (b) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 4-9-02, Amended 12-3-08, _____.

62-160.330 Approval of New and Alternative Laboratory Methods.

(1) Any person may apply for use of a laboratory method other than those described in subsection 62-160.320(1), F.A.C. Laboratory methods that have been previously approved for use in a contract, order, or permit ~~or Title 62 rule~~, or approved by the a Department ~~program~~ to meet established data quality objectives according to subsection 62-160.320(1), F.A.C., ~~before the effective date of this chapter~~ shall remain approved. The documentation that approved the use of the method must be retained for at least five years after the last use of the method.

(2) All new and alternative laboratory methods that support a Department contract, order, permit or Title 62 rule must be approved by the Department prior to use. These methods fall into one of two categories:

(a) No change.

(b) Alternative – an analytical laboratory method that tests for an analyte (such as a chemical compound, component, or microorganism) in a specified matrix, and is intended to be used in place of a method that has been specified, recognized or approved by the Department according to subsection 62-160.320(1), F.A.C. Alternative methods cannot be approved for the following:

1. No change.

2. The following methods from DEP-SOP-002/01, which is incorporated by reference in subparagraph 62-160.800(1)(b)3., F.A.C., including all subparts of the methods cited:

a. No change.

b. Part LT 7600 of LT 7000, Wetland Condition Indices Determinations.

3. The following methods from DEP-SOP-003/11, which is incorporated by reference in paragraph 62-160.800(1)(c), F.A.C., including all parts and subparts of the methods cited:

a. BRN 1000, ~~Biorecon Determination;~~

b. SCI 1000, except that the Department shall consider proposed alternatives to sample preservation procedures in SCI

1000, in accordance with subsection 62-160.330(1), F.A.C., Stream Condition Index (SCI) Determination;

c. LVI 1000, Lake Vegetation Index (LVI) Determination.

(3) A method modification is any modification to a published analytical laboratory method that changes the scope and applicability, specifications, procedures, performance criteria or requirements contained in the method, as applicable to the analytes and matrices for which the method was originally published. A published method is any method specified, recognized or approved by the Department according to subsection 62-160.320(1), F.A.C., or otherwise available to the public in the scientific literature. A modified method must satisfy the data quality objectives established by the Department ~~project program~~ for which the modified method will be used. Additionally, validation of the modified method shall demonstrate that the modified method produces equivalent or superior analytical performance, as compared to the unmodified method, where applicable to the analyte and matrix for which the modified method will be used.

(a) No change.

(b) Except as indicated in paragraph (c) below, method modifications specifically allowed by the published method do not require submittal of method validation documentation to the Department prior to use. However, the laboratory shall retain all data that demonstrate that the modification meets the Department's data quality objectives established for the Department ~~program or project~~ for which the method will used, and Department approval is limited to the specific method scope and modifications validated by the laboratory. In addition, the laboratory shall document initial and ongoing performance of the method modification, where such demonstration is required by the original, unmodified published method, and, as otherwise required in the testing module sections 1.5 and 1.6 of the TNI Standard EL-V1-2009-ISO, which is incorporated by reference in paragraph 62-160.800(3)(b), F.A.C., that is applicable to the method EL-V1M4-2011, when laboratory certification is required according to ~~R~~rule 62-160.300, F.A.C. All method validation records shall be retained for at least five years after the last use of the modification.

1. Except as indicated in subparagraph 62-160.330(2)(b)1., F.A.C., allowable modifications described by the Environmental Protection Agency (EPA) at 40 CFR, Part 136.6, which is incorporated by reference in subsection 62-160.800(10), F.A.C., are applicable to the methods listed at 40 CFR, Part 136.3, which is incorporated by reference in subsection 62-160.800(7), F.A.C. The Department shall consider all interpretations of 40 CFR Part 136.6 as published by the EPA on its webpages or in applicable EPA memoranda when responding to requests from any person for assistance in clarifying whether a modification to a method listed at 40 CFR,

Part 136.3 is allowed. Where such a determination is uncertain or controversial, the Department shall refer the request to the EPA Region 4 Regional Administrator for determination. However, this determination shall not supersede any requirements in Department rules, contracts, orders or permits to use specific methods.

2. Except as indicated in subparagraph 62-160.330(2)(b)1., F.A.C, the Department has determined that methods published by the Environmental Protection Agency (EPA) as the collection entitled in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846) may be modified, where appropriate to achieve Department data quality objectives for a Department program or project, when such modifications are made according to the information and requirements for implementing flexibility in the use of SW-846 methods, alternative methods or concerning method modifications, as discussed contained in Chapter Two, Section 2.1, in SW-846, which is incorporated by reference in subsection 62-160.800(13), F.A.C. the SW 846 collection of methods. However, this determination shall not supersede any requirements in Department rules, contracts, orders or permits to use specific methods.

(c) If the modified method will be used as an alternative method as described in subsection 62-160.320(2), F.A.C., the method validation shall demonstrate that the modified method produces equivalent or superior analytical performance in meeting the data quality objectives established for the Department ~~program or project~~, as compared to the method for which it is proposed as an alternative. Validation documentation shall be submitted to the Department according to subsection 62-160.330(4), F.A.C.

(4) New and alternative methods shall be demonstrated as appropriate for use according to the requirements in ~~New and Alternative Analytical Laboratory Methods, DEP-QA-001/01, which is incorporated by reference in subsection 62-160.800(5), F.A.C. (February 1, 2004)~~, unless otherwise specified in a Department contract, order, permit or Title 62 rule. Where applicable, any additional demonstrations of initial and ongoing performance shall also be evaluated and documented for the new or alternative method, where such demonstration is required by an original, published method, including a published method that has been modified, and, as otherwise required in the testing module sections 1.5 and 1.6 of the TNI Standard EL-V1-2009-ISO, which is incorporated by reference in paragraph 62-160.800(3)(b), F.A.C., that is applicable to the method EL-V1M4-2011, when laboratory certification is required according to rule 62-160.300, F.A.C. Except as indicated in paragraph 62-160.330(2)(b), F.A.C., method validation documentation shall be submitted to the Department for review and approval. The submitted method validation

documentation for a new or alternative laboratory method shall be evaluated by the Department based on its intended use:

(a) No change.

(b) Statewide-Use Method – the laboratory method is intended for testing environmental samples from similar matrices, sites or waste streams within the state of Florida by multiple laboratories. For a statewide method, the Department requires an interlaboratory collaborative study following the specifications in Appendix D, ~~of the Official Methods of Analysis of the AOAC INTERNATIONAL Association of Official Analytical Chemists (1995), which is incorporated by reference in subsection Rule 62-160.800(14), F.A.C.~~ Alternatively, an interlaboratory collaborative study that is designed based on procedures published by a nationally recognized consensus-based standards organization (e.g., ASTM International American Society for Testing and Materials) may be used. Specifications for these studies are provided in DEP-QA-001/01, which is incorporated by reference in subsection 62-160.800(5), F.A.C. (February 1, 2004).

(5) through (6) No change.

(7) Applicants who are analyzing discharges regulated under the National Pollutant Discharge Elimination System (NPDES) permit system shall comply with applicable ~~provisions of the United States Environmental Protection Agency (EPA) regulations in 40 CFR Part 136 sections paragraphs 136.4, 136.5, and 136.6, which are incorporated by reference in subsections 62-160.800(8)-(10), F.A.C., respectively. (2012).~~ Applicants shall submit the application to the Department, which shall forward the application to the United States Environmental Protection Agency Administrator of Region 4 for review and approval. The determination for approval or rejection shall be made by the United States Environmental Protection Agency. If requested by the applicant, the Department shall assist the applicant in determining whether an application is required for modifications to methods listed at 40 CFR, Part 136.3, according to subparagraph 62-160.330(2)(b)1., F.A.C.

(8) Applicants who are analyzing compliance samples under the Safe Drinking Water Act shall comply with the applicable provisions of ~~the United States Environmental Protection Agency regulations (40 CFR Part 141, section 141.27 paragraph 27, which is incorporated by reference in subsection 62-160.800(11), F.A.C.) and Department Rule 62-550.550, F.A.C.~~ Use of an alternative analytical technique requires written permission from the Department and United States Environmental Protection Agency.

(9) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 4-9-02, Amended 6-8-04, 12-3-08,_____.

62-160.340 Record Keeping and Reporting Requirements for Laboratory Procedures.

(1) Laboratory record keeping requirements shall follow those specified by the DOH ELCP in Rule Chapter 64E-1.005, F.A.C., dated 1-24-05, and this Chapter.

(a) through (d) No change.

~~(e) In addition to the requirements in this rule, governmental agencies shall comply with all applicable requirements in the Florida Statutes and the Florida Administrative Code concerning the management, storage and destruction of public records described in this Chapter.~~

(2) When requested by the Department, the laboratory shall provide applicable records or copies of the records to the Department. These records shall include, but are not limited to:

(a) through (j) No change.

(k) Field quality control results including trip blanks, field blanks, equipment blanks, and field replicates as required by individual DEP SOPs in DEP-SOP-001/01 (09-19-2012), which is incorporated by reference in paragraph 62-160.800(1)(a), F.A.C., DEP-SOP-003/11 (09-19-2012), which is incorporated by reference in subsection 62-160.800(1)(c), F.A.C., or the applicable contract, order, permit, or Title 62 rule;

(l) through (m) No change.

(n) Any additional records required in individual DEP SOPs in DEP-SOP-002/01, which is incorporated by reference in paragraph 62-160.800(1)(b), F.A.C., (09-19-2012), including DEP SOP LD 1000 and all parts and subparts of LD 1000 therein; and, any additional records required in individual DEP SOPs in DEP-SOP-003/11, incorporated by reference in paragraph 62-160.800(1)(c), F.A.C., (09-19-2012), including all DEP SOPs, parts and subparts therein, as applicable to the documentation of bioassessment activities.

(3) Except as noted in subsection (4) below, a laboratory shall generate an analytical report that ~~meets is consistent with~~ the requirements of the DOH ELCP, as specified in Rule Chapter 64E-1.005, F.A.C., dated 1-24-05, and the section 5.10 of TNI Standards (EL-V1-2009-ISO) EL-V1M2-2011, which is incorporated by reference in paragraph 62-160.800(3)(b), Rule 62-160.800, F.A.C. The report shall contain all applicable reporting elements specified in and shall otherwise comply with requirements specified in Sections 5.10 through 5.10.11 of ~~TNI Standard EL-V1M2-2011, Module 2 of the TNI Standards (General Quality Systems Requirements) in EL-V1-2009-ISO,~~ and shall use the applicable qualifiers as defined in Table 1: Data Qualifier Codes (Rule 62-160.700, F.A.C.). In addition to

the stated requirements, laboratories shall ensure that the following requirements are met or reported:

(a) through (e) No change.

(4) Laboratories that are operated by a facility and whose sole function is to provide data to the facility management for compliance purposes (i.e., in-house or captive laboratories as described in section 5.10.10 of TNI Standard EL-V1-2009-ISO EL-V1M2-2011, Module 2 (General Quality Systems Requirements), which is incorporated by reference in paragraph 62-160.800(3)(b), F.A.C., shall meet the requirements specified in that standard.

(5) No change.

(6) Once issued, a laboratory report is considered final and shall not be amended. Amendments or corrections to a final laboratory report shall be made in accordance with the requirements of section 5.10.9 of TNI Standard EL-V1-2009-ISO EL-V1M2-2011, Module 2 (General Quality Systems Requirements), which is incorporated by reference in paragraph 62-160.800(3)(b), F.A.C.

(7) No change.

(8) When data qualifiers are added through a validation or review process that is independent of the laboratory reporting process, the reason for the addition, the date of the addition, and the person adding the qualifier(s) shall be included. These qualifiers shall be included in any documents that are summaries or re-published formats, as described in subsection ~~(7)~~(6) above.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 4-9-02, Amended 6-8-04, 12-3-08,_____.

PART IV
MISCELLANEOUS

62-160.600 Research Field and Laboratory Procedures.

(1) through (2) No change.

(3) All research field sampling and laboratory procedures shall be described in a Department-approved work or study plan or in direct contract language. The following minimum elements shall be addressed, as applicable:

(a) through (e) No change.

(f) Identification of any specialized training or certification needed by personnel in order to successfully complete the project or task. This requirement includes specifying any laboratory certification requirements as provided in Rule 62-160.300, F.A.C. The Department project manager may waive the requirement for laboratory certification as provided in paragraph Rule 62-160.300(5)(e), F.A.C. Regardless of a waiver of the certification requirement, laboratories conducting

work for a research project shall operate a quality assurance program consistent with the quality systems standards of The NELAC Institute (TNI Standard EL-V1-2009-ISO EL-V1M2-2011), which are incorporated by reference in paragraph 62-160.800(3)(b), F.A.C. into this Chapter. The Department shall assist the researcher in determining which specific TNI standards are relevant to the research project.

(g) through (h) No change.

(4) No change.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 1-1-91, Amended 2-4-93, 2-27-94, Formerly 17-160.600, Amended 3-24-96, 10-15-96, 4-9-02,_____.

62-160.650 Field and Laboratory Audits.

(1) through (4) No change.

(5) Within ninety (90) days of the audit, the Department shall provide a preliminary audit report to the audited field sampling or laboratory organization, individual, consultant or responding party (“audited party”, ~~hereinafter~~). The audited party shall have forty-five (45) days thereafter to respond with a detailed plan of corrective actions and an implementation schedule for the deficiencies that were noted in the preliminary audit report; justification for noted deficiencies that will not be addressed or corrected; and any corrections or rebuttals to the audit findings. If different than the above, the a Department program shall specify in rules, contracts, orders or permits any alternative schedules and procedures for the distribution of preliminary audit reports to designated recipients and for any required corrective action plans or other responses from designated respondents.

(6) No change.

(7) Once a response has been received, the Department shall evaluate the response for technical applicability and completeness. The Department will issue a final response to the audited party and any affected organization or individual that specifies acceptance or rejection of the audited party’s plan of corrective actions, provides recommendations concerning the usability of the audited data, and includes a statement of any substantially affected person’s rights under Chapter 120, F.S. If different than the above, the a Department program shall specify in rules, contracts, orders or permits any alternative schedules and procedures for the distribution of the Department’s final response to designated recipients, to include acceptance or rejection of the audited party’s plan of corrective actions, recommendations concerning the usability of the audited data and any other relevant information. Any substantially affected organization or person (e.g., field sampling or laboratory organization, individual, consultant, responding party, permittee, or facility owner/operator) may

request an administrative hearing as provided in Chapter 120, F.S., within 21 days of receipt of the final response.

(8) The requirements in subsections 62-160.650(4) through 62-160.650(7), F.A.C shall not apply to field proficiency audits of organizations or persons conducting field bioassessment procedures according to DEP SOPs BRN 1000, LVI 1000 or SCI 1000 (~~DEP-SOP-003/11~~), which are incorporated by reference in subparagraphs 62-160.800(1)(c)1.-3., F.A.C., respectively.

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 1-1-91, Formerly 17-160.650, Amended 3-24-96, 4-9-02, 12-3-08, _____.

62-160.700 Tables.

No change.

62-160.800 Documents Incorporated by Reference.

The following documents and collections are incorporated herein by reference for use in complying with the requirements of this Chapter. Except as otherwise indicated below, copies of incorporated documents are available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or may be obtained from the Department's internet site at <http://www.dep.state.fl.us/water/sas/qa/>, or by writing to the Florida Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(1) Department of Environmental Protection Standard Operating Procedures (DEP SOPs) are organized into the three numbered collections designated below. The DEP SOPs contained in each collection are listed following the title and number of the indicated collection. References in this Chapter to the alphanumeric designation for each individual DEP SOP as listed below include reference to all parts, subparts and sections of the cited DEP SOP, unless otherwise cited in a specific rule.

(a) Standard Operating Procedures for Field Activities, DEP-SOP-001/01, dated 3/1/14;

1. FA 1000, Regulatory Scope and Administrative Procedures for Use of DEP SOPs, dated 3/1/14;

2. FC 1000, Cleaning/Decontamination Procedures, dated 3/1/14;

3. FD 1000, Documentation Procedures, dated 3/1/14;

4. FM 1000, Field Planning and Mobilization, dated 3/1/14;

5. FQ 1000, Field Quality Control Requirements, dated 3/1/14;

6. FS 1000, General Sampling Procedures, dated 3/1/14;

7. FS 2000, General Aqueous Sampling, dated 3/1/14;

8. FS 2100, Surface Water Sampling, dated 3/1/14;

9. FS 2200, Groundwater Sampling, dated 3/1/14;

10. FS 2300, Drinking Water Sampling, dated 3/1/14;

11. FS 2400, Wastewater Sampling, dated 3/1/14;

12. FS 3000, Soil, dated 3/1/14;

13. FS 4000, Sediment Sampling, dated 3/1/14;

14. FS 5000, Waste Sampling, dated 3/1/14;

15. FS 6000, General Biological Tissue Sampling, dated 3/1/14;

16. FS 7000, General Biological Community Sampling, dated 3/1/14;

17. FS 8100, Contaminated Surface Sampling, dated 3/1/14;

18. FS 8200, Clean Sampling for Ultratrace Metals in Surface Waters, dated 3/1/14;

19. FT 1000, General Field Testing and Measurement, dated 3/1/14;

20. FT 1100, Field Measurement of Hydrogen Ion Activity (pH), dated 3/1/14;

21. FT 1200, Field Measurement of Specific Conductance (Conductivity), dated 3/1/14;

22. FT 1300, Field Measurement of Salinity, dated 3/1/14;

23. FT 1400, Field Measurement of Temperature, dated 3/1/14;

24. FT 1500, Field Measurement of Dissolved Oxygen, dated 3/1/14;

25. FT 1600, Field Measurement of Turbidity, dated 3/1/14;

26. FT 1700, Field Measurement of Light Penetration (Secchi Depth and Transparency), dated 3/1/14;

27. FT 1800, Field Measurement of Water Flow and Velocity, dated 3/1/14;

28. FT 1900, Continuous Monitoring With Installed Meters, dated 3/1/14;

29. FT 2000, Field Measurement of Residual Chlorine, dated 3/1/14; and,

30. FT 3000, Aquatic Habitat Characterization, dated 3/1/14.

(b) Standard Operating Procedures for Laboratory Activities, DEP-SOP-002/01, dated 3/1/14;

1. LD 1000, Laboratory Documentation, dated 3/1/14;

2. LQ 1000, Laboratory Quality Control, dated 3/1/14; and,

3. LT 7000, Determination of Biological Indices, dated 3/1/14.

(c) Standard Operating Procedures for Selected Bioassessment Activities, DEP-SOP-003/11, dated 3/1/14;

1. BRN 1000, Biological Reconnaissance Field Method, dated 3/1/14;

2. LVI 1000, Lake Vegetation Index Methods, dated 3/1/14; and

3. SCI 1000, Stream Condition Index Methods, dated 3/1/14.

(2) The following documents and DEP forms are cited in certain DEP SOPs included in the numbered collections DEP-SOP-001/01, DEP-SOP-002/01 or DEP-SOP-003/11 (citation locations in parentheses).

(a) Methods and other documents published by the United States Environmental Protection Agency (EPA), as listed below.

1. EPA Method 5035, Revision 0, December 1996, in SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (DEP-SOP-001/01);

2. EPA Method 1623, *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA, EPA 815-R-05-002, December 2005 (DEP-SOP-001/01); and,

3. U.S. EPA ICR Microbial Laboratory Manual, EPA/600/R-95/178, April 1996, Section VII, Part 9, Sampling (DEP-SOP-001/01).

(b) Code of Federal Regulations:

1. Table II, Required Containers, Preservation Techniques, and Holding Times, 40 CFR, Ch. I, Part 136.3, Identification of Test Procedures, 7-1-13 Edition, including all footnotes (DEP-SOP-001/01); and,

2. 29 CFR, 1910.120, Hazardous Waste Operations and Emergency Response, 7-1-13 Edition (DEP-SOP-001/01).

(c) Methods and sections included in Standard Methods for the Examination of Water and Wastewater, as listed below. Copies of these documents are available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the publisher at <http://standardmethods.org/store/>.

1. Section 1060, Collection and Preservation of Samples, subsection 1060 A.2., Safety Considerations 2011 (DEP-SOP-001/01);

2. Section 9060, Samples, subsection 9060 A.3.a., Potable Water, 2006 (DEP-SOP-001/01);

3. Method 2130 B, Turbidity, section 3., Reagents, 2011 (DEP-SOP-001/01);

4. Method 2510, Conductivity, 2011 (DEP-SOP-001/01);

5. Method 2520, Salinity, 2011 (DEP-SOP-001/01);

6. Methods 4500-CI B, C, D, E and F, 2011 (DEP-SOP-001/01);

7. Methods 4500-O C and G, Oxygen (Dissolved), 2011 (DEP-SOP-001/01); and,

8. Table 4500-H⁺:I, Preparation of pH Standard Solutions, in method 4500-H⁺-B, 2011 (DEP-SOP-001/01).

(d) Methods published by ASTM International, as listed below. Copies of these methods are available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or from the publisher at ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, or from the publisher's website at <http://www.astm.org/Standard/index.html>.

1. ASTM E1391-03(2008), Standard Guide for Collection, Storage, Characterization, and Manipulation of Sediments for Toxicological Testing and for Selection of Samplers Used to Collect Benthic Invertebrates, 2003, ASTM International (DEP-SOP-001/01); and,

2. ASTM D888-12e1, Standard Test Methods for Dissolved Oxygen in Water, 2012, ASTM International (DEP-SOP-001/01).

(e) Department of Environmental Protection, Sampling and Use of the Stream Condition Index (SCI) for Assessing Flowing Waters: A Primer, DEP-SAS-001/11, dated 10/24/11 (DEP-SOP-003/11).

(f) Department of Environmental Protection, Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer, DEP-SAS-002/11, dated 10/24/11 (DEP-SOP-003/11).

(g) United States Geological Survey, National Field Manual for the Collection of Water-Quality Data, Book 9, Chapter A6, Field Measurements, Section 6.1, Temperature, Techniques of Water-Resources Investigations, Version 2, 3/2006 (DEP-SOP-001/01).

(h) Merritt, R.W., Cummins, K.W. and Berg, M.B., An Introduction to the Aquatic Insects of North America, Fourth Edition, 2008 (DEP-SOP-002/01 and DEP-SOP-003/11). A copy of this document is available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the publisher at Kendal Hunt Publishing Company, 4050 Westmark Drive, Dubuque, IA 52004-1840.

(i) DEP Forms cited:

1. Form FD 9000-1, BioRecon Field Sheet, dated 3/1/14 (DEP-SOP-001/01, DEP-SOP-003/11);

2. Form FD 9000-3, Physical/Chemical Characterization Field Sheet, dated 3/1/14 (DEP-SOP-001/01, DEP-SOP-003/11);

3. Form FD 9000-4, Stream/River Habitat Sketch Sheet, dated 3/1/14 (DEP-SOP-001/01, DEP-SOP-003/11);

4. Form FD 9000-5, Stream/River Habitat Assessment Field Sheet, dated 3/1/14 (DEP-SOP-001/01, DEP-SOP-003/11);

5. Form FD 9000-6, Lake Habitat Assessment Field Sheet, dated 3/1/14 (DEP-SOP-001/01);

6. Form FD 9000-24, Groundwater Sampling Log, dated 3/1/14 (DEP-SOP-001/01);

7. Form FD 9000-25, Rapid Periphyton Survey Field Sheet, dated 3/1/14 (DEP-SOP-001/01);

8. Form FD 9000-27, Lake Vegetation Index Field Sheet, dated 3/1/14 (DEP-SOP-001/01, DEP-SOP-003/11);

9. Form FD 9000-31, Lake Observation Field Sheet, dated 3/1/14 (DEP-SOP-001/01, DEP-SOP-003/11);

10. Form FD 9000-32, Linear Stream Vegetation Survey Field Sheet, dated 3/1/14 (DEP-SOP-001/01);

11. Form FD 9000-33, Vegetation Wetland Condition Index Field Sheet, dated 3/1/14 (DEP-SOP-001/01);

12. Form FD 9000-34, Stream Habitat Assessment Training Checklist and Event Log, dated 3/1/14 (DEP-SOP-001/01); and,

13. Form FD 9000-35, Stream Condition Index Training Checklist and Event Log, dated 3/1/14 (DEP-SOP-003/11).

(3) NELAC and TNI Standards, as listed below. Copies of these documents are available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or from the publisher at The NELAC Institute, P.O. Box 2439, Weatherford, TX, 76086 or the publisher's website at <http://www.nelac-institute.org/index.php>.

(a) Glossary, Appendix A to Chapter 1, Program Policy and Structure, 2003 NELAC Standards, Approved June 5th, 2003, EPA/600/R-04/003; and,

(b) The NELAC Institute (TNI), EL-V1-2009-ISO, Environmental Laboratory Sector, Vol. 1, Management and Technical Requirements for Laboratories Performing Environmental Analyses (2009).

(4) EPA Requirements for Quality Assurance Project Plans, EPA QA/R-5 (EPA/240/B-01/003), March 2001.

(5) New and Alternative Analytical Laboratory Methods, DEP-QA-001/01 (February 1, 2004) and the following documents cited therein:

(a) Section 1080, Reagent-Grade Water (1993), Standard Methods for the Examination of Water and Wastewater, available from the publisher at <http://standardmethods.org/store/> or available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400;

(b) Definition and Procedure for the Determination of the Method Detection Limit – Revision 1.11, 40 CFR Part 136, Appendix B, 7-1-13 Edition;

(c) IUPAC – Nomenclature in Evaluation of Analytical Methods including Detection and Quantification Capabilities, Pure & Appl. Chem., Vol. 67, No. 10, pp. 1699-1723, 1995; available for download at

<http://www.iupac.org/publications/pac/index/> or available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and,

(d) Hubaux, A., G. Vos, Decision and Detection Limits for Linear Calibration Curves, Analytical Chemistry, Vol. 42. No. 8, pp. 849-855, July 1970; available for download at <http://pubs.acs.org/journal/ancham> or available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(6) Federal Register, Vol. 77, No. 97, Friday, May 18, 2012, Rules and Regulations, pp. 29758-29846, Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures, Final Rule.

(7) 40 CFR, Part 136.3, Identification of Test Procedures, 7-1-2013 edition.

(8) 40 CFR, Part 136.4, Application for and approval of alternate test procedures for nationwide use, 7-1-2013 edition.

(9) 40 CFR, Part 136.5, Approval of alternate test procedures for limited use, 7-1-2013 edition.

(10) 40 CFR, Part 136.6, Method Modifications and Analytical Requirements, 7-1-2013 edition.

(11) 40 CFR Part 141, National Primary Drinking Water Regulations, Subpart C, Monitoring and Analytical Requirements, section 141.27, Alternate analytical techniques, 7-1-2013 edition.

(12) Chapter Two, Choosing the Correct Procedure, Section 2.1, Guidance Regarding Flexibility Inherent to SW-846 Methods and the Precedence of SW-846 Quality Control Criteria (February 2007), in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846). This publication may be viewed at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm>, where it may also be downloaded. A printed copy may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5301 Shawnee Road, Alexandria, VA, 22312.

(13) Guidelines for Collaborative Study Procedures to Validate Characteristics of a Method of Analysis, Appendix D, Official Methods of Analysis of AOAC INTERNATIONAL, 19th edition (2012). A copy of this document is available for review during normal business hours at the Department of Environmental Protection, Water Quality Standards Program, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the publisher at AOAC INTERNATIONAL, 481 N. Frederick Ave., Suite 500, Gaithersburg, MD 20877, or from the publisher's website at <http://www.aoac.org>.

(14) Process for Assessing Data Usability (DEP-EA-001/07), dated March 31, 2008.

~~(1) Specific references to the documents listed below are made throughout this chapter and are incorporated by reference.~~

~~(a) Department of Environmental Protection Standard Operating Procedures for Field Activities, DEP SOP 001/01 (09-19-2012), Florida Department of Environmental Protection, Standards and Assessment Section.~~

~~(b) Department of Environmental Protection Standard Operating Procedures for Laboratory Activities, DEP SOP 002/01 (09-19-2012), Florida Department of Environmental Protection, Standards and Assessment Section.~~

~~(c) Department of Environmental Protection, Standard Operating Procedures Selected Bioassessment Activities, DEP SOP 003/11 (09-19-2012), Florida Department of Environmental Protection, Standards and Assessment Section.~~

~~(d) through (g) No change.~~

~~(h) EPA Quality Policy, EPA CIO 2106.0, 10/20/08, United States Environmental Protection Agency.~~

~~(i) The NELAC Institute (TNI), EL-VIM2-2011, Environmental Laboratory Sector, Vol. 1, Management and Technical Requirements for Laboratories Performing Environmental Analyses, Module 2: Quality Systems General Requirements.~~

~~(j) Glossary, Appendix A to Chapter 1, Program Policy and Structure, 2003 NELAC Standards, Approved July 5th, 2003, EPA/600/R-04/003.~~

~~(k) Department of Environmental Protection, Sampling and Use of the Stream Condition Index (SCI) for Assessing Flowing Waters: A Primer (DEP SAS 001/11).~~

~~(l) Department of Environmental Protection, Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer (DEP SAS 002/11).~~

~~(m) Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures, Final Rule, Federal Register, Vol. 77, No. 97, Friday, May 18, 2012, Rules and Regulations, pp. 29758-29846.~~

~~(2) No change.~~

Rulemaking Authority 403.061, 403.0623 FS. Law Implemented 373.026, 373.309, 373.409, 373.413, 373.414, 373.416, 373.4592, 376.303, 376.305, 376.3071, 403.0623, 403.0625, 403.087, 403.088, 403.0881, 403.504, 403.704, 403.707, 403.722, 403.853 FS. History—New 4-9-02, Amended 6-8-04, 12-3-08,_____.

Section IV Emergency Rules

NONE

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-18.004: Regional Training Areas

The Criminal Justice Standards and Training Commission hereby gives notice that on May 16, 2014 it has issued an order granting a permanent variance. On April 16, 2014, the Criminal Justice Standards and Training Commission, received a petition for a permanent variance of paragraphs 11B-18.004(9)(a) and 11B-18.004(6)(a), F.A.C., from the Hernando County Sheriff's Office (HCSO). These rules placed the Petitioner within Region IX for training purposes. The Petitioner wished to rejoin Region VI, which Petitioner contended provides closer training opportunities with agencies that are smaller and serve similar smaller communities than those agencies within Region IX.

Petitioner contended that it suffered a substantial hardship by being included in Region IX. It contended that the training opportunities are, on average, 61.16 miles from Petitioner's offices. On the other hand, Petitioner asserted that training opportunities in Region VI are, on average 37.65 miles from its offices, which it contends would result in great cost reduction for training its officers. In addition, Petitioner stated that it is the smallest Sheriff's Office in Region IX and is only one of many agencies. Region IX is the third largest region with 8044 law enforcement and correctional officers. Region VI, on the other hand is the second smallest region and serves only 1304 officers. If the Petition were granted, Petitioner stated that it would be one of the top three largest agencies in the region. Petitioner argued that if it were permitted to transfer to Region VI, it would have significant impact on training money allocated to that region, resulting in more opportunities there. Petitioner further argued that its departure from Region IX would hardly be noticed because it is so small and would not impact regional training moneys in a significant way.

Petitioner stated that granting this permanent variance will serve the purposes of the underlying statute by alleviating hardships and advancing the Commission's directive of developing and maintaining a plan assessing regional criminal justice training needs. Petitioner argued that implicit in the clear language of the statute is that any plan ought to be functional and practical in its effect and application. Petitioner asserted that granting its Petition would better serve the training needs of the Petitioner as well as rebalance the Regions and create a cost effective, more frequent, and accessible training atmosphere.

Petitioner stated that the only other Hernando County law enforcement agency, Brooksville Police Department, is a member of Region VI. Petitioner stated that it was made a member of Region IX by a previous Sheriff who had some concerns about training at Citrus County Public Safety Training Center. That Sheriff believed membership in Region IX would result in greater training opportunities. The Petitioner stated that those opportunities did not materialize and the CCPSTC has now come under the direction of the Citrus County Sheriff's Office and has greatly improved its training offerings for Region VI.

Notice of receipt of the petition was published in the Florida Administrative Register Volume 40, Number 76, April 18, 2014.

On May 8, 2014, pursuant to notice, at a meeting held in Jacksonville, Florida, the Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness. The composition of the affected Regions would be realigned in a more equitable manner by granting this variance. Also, HCSO originally was a member of Region VI, so returning it to that region would pose no hardship on Region IX. After careful consideration of the facts in this matter, the Commission issued an order granting the Petitioner's permanent variance effective July 1, 2014.

A copy of the Order or additional information may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, or by telephoning (850)410-7676.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:

40D-22.201 Year-Round Water Conservation Measures

The Southwest Florida Water Management District hereby gives notice: it has issued an order granting a variance.

Petitioner's Name: Villa Majorca Condominium Association, Inc. – File Tracking No. 14-4187

Date Petition Filed: February 27, 2014

Rule No.: 40D-22.201, F.A.C.

Nature of the rule for which variance or waiver was sought: lawn and landscape irrigation

Date Petition Published in the Florida Administrative Register: March 4, 2014

General Basis for Agency Decision: Petitioner demonstrated substantial hardship and proposed an alternative means of achieving the purpose of the statute implemented by the rule.

A copy of the Order or additional information may be obtained by contacting: Lois Sorensen, 7601 US Highway 301, Tampa, Florida 33637, (813)985-7481, ext. 2298, water.variances@watermatters.org.

DEPARTMENT OF HEALTH

Board of Massage Therapy

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance or Waiver, filed on May 16, 2011, by Milagros Ibarra. The Notice of Petition for Waiver or Variance was published in Vol. 37, No. 22, of the June 3, 2011 Florida Administrative Register. Petitioner sought a waiver or variance of Rule 64B7-28.009, F.A.C., regarding continuing education. The Petitioner was seeking continuing education approval for a 21 hour classroom course in "ABHYANGA", taken at a French accredited training institute. The Board considered the instant Petition at a duly-noticed telephonic public meeting held on June 13, 2011.

The Board's Order, filed on June 21, 2011, granted the petition for waiver or variance from 64B7-28.009, Florida Administrative Code, and the waiver is temporary. This waiver applies to the current licensure biennium only.

A copy of the Order or additional information may be obtained by contacting: Christy Robinson, Acting Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256, christy.robinson@flhealth.gov.

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NO.: RULE TITLE:

64E-15.005 Sanitary Facilities

NOTICE IS HEREBY GIVEN that on May 7, 2014, the Department of Health received a petition for Permanent Variance from Rule 64E-15.005, Florida Administrative Code (FAC), from Judy Robinson for BJ's Loughman Lake Lodge, 1955 Hatbill Rd., Mims, FL 32754. Rule 64E-15.005, FAC, requires sanitary facilities in all recreational vehicle parks that have been constructed and permitted after January 1, 1993. Comments on this petition should be filed with Jamie Briggs, Agency Clerk, Department of Health, Office of General Counsel, 4052 Bald Cypress Way, BIN A02, Tallahassee, Florida 32399-1703, within 14 days of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Andrea Ables, Bureau of Environmental Health, 4052 Bald Cypress Way, BIN A08, Tallahassee, Florida 32399-1710 or by calling (850)245-4444, extension 2155.

Section VI Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

The Seed Investigation and Conciliation Council announces a public meeting to which all persons are invited.

DATE AND TIME: May 28, 2014, 9:30 a.m. – 1:30 p.m.

PLACE: University of Florida – IFAS, Gulf Coast Research and Education Center, 14625 CR 672, Wimauma, FL 33598, (813)634-0000

GENERAL SUBJECT MATTER TO BE CONSIDERED: Seed Complaint Arbitration Hearing.

A copy of the agenda may be obtained by contacting: Mr. Weldon Collier, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Ste E, Rm 136, Tallahassee, Florida 32399-1650, (850)617-7907. If special accommodations are needed to attend this meeting because of a disability, please call Weldon Collier as soon as possible.

For more information, you may contact: Mr. Weldon Collier, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Ste E, Rm 136, Tallahassee, Florida 32399-1650, (850)617-7907 or email at Weldon.Collier@FreshFromFlorida.com.

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

The Florida School for the Deaf and the Blind announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, May 30, 2014, 9:00a.m.

PLACE: Center for Leadership and Development located in Moore Hall on the campus of the Florida School for the Deaf and the Blind

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business matters pertaining to the Florida School for the Deaf and the Blind.

A copy of the agenda may be obtained by contacting: Cindy Brueckner, Executive Assistant to the President, at the Florida School for the Deaf and the Blind, 207 N. San Marco Ave, St. Augustine, FL 32084 or by calling (904)827-2210.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Cindy Brueckner, Executive Assistant to the President, at the Florida School for the Deaf and the Blind, 207 N. San Marco Ave, St. Augustine, FL 32084 or by calling (904)827-2210. If you are hearing or speech impaired, please

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

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Dr. Jeanne G. Prickett, President, at the Florida School for the Deaf and the Blind, 207 N. San Marco Ave, St. Augustine, FL 32084 or call (904)827-2210.

METROPOLITAN PLANNING ORGANIZATIONS

Martin Metropolitan Planning Organization

The Local Coordinating Board –Transportation Disadvantaged (LCB-TD) announces a public meeting to which all persons are invited.

DATE AND TIME: June 2, 2014, 10:00 a.m.

PLACE: 2401 SE Monterey Road, Stuart, FL 34996

GENERAL SUBJECT MATTER TO BE CONSIDERED: Coordination of the transportation services for the transportation disadvantaged.

A copy of the agenda may be obtained by contacting: www.martinmpo.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Bonnie Landry, Senior Planner, (772)223-7983 or the Florida Relay Service at #711. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Lukas Lambert, Associate Transit Planner, (772)288-5412.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

The Agency for Health Care Administration's Pharmaceutical and Therapeutics Committee announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, June 27, 2014, 1:00 p.m. – 5:00 p.m.

PLACE: Tampa Airport Marriott, Tampa International Airport, Tampa, FL 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: Recommendations for drugs to be included on the Preferred

Drug List are made at this meeting. Members of the public who wish to speak at this meeting must contact Vern Hamilton at (850)412-4154. The number of speakers is limited and are accommodated in order of notification to Mr. Hamilton. Because of unforeseen events that may cause changes, interested parties are encouraged to watch the website at: www.ahca.myflorida.com/Medicaid/Prescribed_Drug/meeting.s.shtml.

A copy of the agenda may be obtained by contacting Vern Hamilton at Vern.Hamilton@ahca.myflorida.com.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

The Agency for Health Care Administration's Drug Utilization Review Board announces a public meeting to which all persons are invited.

DATE AND TIME: Saturday, June 28, 2014, 8:00 a.m. – 12:00 Noon

PLACE: Tampa Airport Marriott, Tampa International Airport, Tampa, FL 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: Review and approve drug use criteria and standards for both prospective and retrospective drug use reviews; apply these criteria and standards in the application of the DUR activities; review and report the results of drug use reviews; recommend and evaluate educational intervention programs.

A copy of the agenda may be obtained by contacting Vern Hamilton at Vern.Hamilton@ahca.myflorida.com.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

The Board of Accountancy announces a telephone conference call to which all persons are invited.

DATE AND TIME: June 16, 2014, 10:00 a.m.

PLACE: Via conference call, dial-in number: 1(888)670-3525, conference code number: 9071262934

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Education Advisory Committee to consider items relating to the education requirements to sit for the CPA examination.

A copy of the agenda may be obtained by contacting: DeWayne McBride, Regulation Specialist II, 240 NW 76th Drive, Suite A, Gainesville, Florida 32607.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: DeWayne McBride. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: DeWayne McBride, Regulation Specialist II.

DEPARTMENT OF HEALTH

Board of Massage Therapy

The Board of Massage Therapy announces a telephone conference call to which all persons are invited.

DATE AND TIME: Friday, May 23, 2014, 3:05 p.m.

PLACE: Meet Me number: 1(888)670-3525; participant passcode: 4319491106

GENERAL SUBJECT MATTER TO BE CONSIDERED: General business of the Board.

A copy of the agenda may be obtained by contacting: Alexandra Alday at (850)245-4161.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Alexandra Alday at (850)245-4161. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Alexandra Alday at (850)245-4161.

DEPARTMENT OF HEALTH

Athletic Trainers

The Board of Athletic Training announces a public meeting to which all persons are invited.

DATE AND TIME: July 18, 2014, 9:00 a.m.

PLACE: Embassy Suites Orlando-Lake Buena Vista South, 4955 Kyngs Heath Road, Kissimmee, FL 34746, (407)597-4000

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board Business.

A copy of the agenda may be obtained by contacting: Sue Foster, Executive Director, Board of Athletic Training, Department of Health, 4052 Bald Cypress Way, BIN #C08, Tallahassee, FL 32399.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she

will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and the evidence upon which the appeal is to be made.

Those who are hearing impaired, using TDD equipment, can call the Florida Telephone Relay System at 1(800)955-8771. Persons requiring special accommodations due to disability or physical impairment should contact Sue Foster at least a week in advance at (850)245-4474.

Section VII
Notice of Petitions and Dispositions
Regarding Declaratory Statements

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN that the Home Inspectors Licensing Unit of the Department of Business and Professional Regulation has declined to rule on the petition for declaratory statement filed by Marc A. Cramer on January 28, 2014. The following is a summary of the agency's declination of the petition:

The petition fails to clearly identify a particular set of circumstances that would distinguish a declaratory statement in this case from a statement of general applicability.

A copy of the Order Declining of the Petition for Declaratory Statement may be obtained by contacting: Department of Business and Professional Regulation, Agency Clerk's Office, 1940 North Monroe Street, Suite 92, Tallahassee, Florida 32399-2202, Telephone: (850)921-0342, email: AGC.Filing@myfloridalicense.com.

Section VIII
Notice of Petitions and Dispositions
Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

David W. R. Brown vs. Department of Environmental Protection; Case No.: 14-2060RX; Rule No.: 62-555.360

Notice of Disposition of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

David W. R. Brown vs. Department of Environmental Protection and Department of Health; Case No.: 13-3500RX; Rule No.: 62-555.360; Voluntarily Dismissed

Osceola Regional Hospital, Inc., d/b/a Osceola Regional Medical Center vs. Department of Financial Services, Division of Workers' Compensation; Case No.: 14-1078RX; Rule No.: 69L-31.015; Voluntarily Dismissed

Capital City Check Cashing vs. Office of Financial Regulation; Case No.: 13-4739RX; Rule Nos.: 69V-560.704(4)(d), 69V-560.704(5)(a), 69V-560.704(5)(b); Dismissed

Section IX
Notice of Petitions and Dispositions
Regarding Non-rule Policy Challenges

Herbert Haering vs. Department of Children and Families; Case No.: 13-3772RU; Dismissed

Section X
Announcements and Objection Reports of the
Joint Administrative Procedures Committee

NONE

Section XI
Notices Regarding Bids, Proposals and
Purchasing

DEPARTMENT OF EDUCATION

University of Florida

Commissioning for Stephen O'Connell Center Renovation and Addition, (Gainesville, FL)

NOTICE TO PROFESSIONAL CONSULTANTS

The University of Florida Board of Trustees and University of Florida Athletic Association announce that Professional Services in the disciplines of engineering and architecture for Total Building Commissioning will be required for the project listed below:

Project: UF-392, Stephen O'Connell Center Renovation and Addition, (Gainesville, FL)

The project consists of renovation and addition of Stephen O'Connell Center located on University of Florida main campus. The project will renovate the existing building and add about 8000 square feet of new space and a new central and prominent main entrance that will provide a vibrant first impression. The project will; 1) Create an interior environment that will enhance the experience of events in the Stephen O'Connell Center. 2) Enhance the Mechanical, Electrical, and Plumbing systems in the arena to provide a better fan

experience and reduce energy consumption. 3) And provide multiple levels of premium spaces.

Fan amenity inside the Stephen O’Connell Center will be core of this improvement to offer patrons a completely new experience and atmosphere for every type of event hosted in the Stephen O’Connell Center.

The estimated construction budget is approximately \$37,892,000.00 including demolition, site improvement, utilities, MEP, Fire protection, and telecommunication improvement. Gold LEEDv4 (Leadership in Energy and Environmental Design) certification by the U.S. Green Building Council is mandatory.

The scope of services shall include design phase peer review; completion and maintenance of the Owner’s Project Requirement (OPR) document; development of the Commissioning Plan, Commissioning Specifications, and Systems Manual; and construction phase pre-functional, functional, and performance testing for mechanical, electrical, building automation, and building envelope systems. The consultant shall also support project efforts to achieve higher-than-normal energy efficiency and attain minimum LEED v4 Gold certification.

Blanket professional liability insurance will be required for this project in the amount of \$1,000,000.

INSTRUCTIONS

Firms desiring to apply for consideration shall submit a proposal only after thoroughly reviewing the facilities program, Project Fact Sheet for Commissioning Consultants, and other background information. The proposal shall be limited to 20 single-sided pages or 10 double-sided, consecutively-numbered pages and shall include:

1. A Letter of Application that concisely illustrates the applicant’s understanding of the scope of services.
2. A completed, project-specific Commissioning proposal form with signed certification. Applications on any other form will not be considered.
3. Resumes, LEED accreditation, and other pertinent credentials for all proposed staff (applicant and consultants).
4. Proof of the applicant’s corporate status in Florida (if applicable) and copies of current licenses for the applicant and its consultants from the appropriate governing board.
5. Proof of the applicant’s ability to be insured for the level of professional liability coverage demanded for this project.

At the time of application, the applicant must possess current design Professional Registration Certificate(s) from the appropriate governing board; must be properly registered to practice its profession in the State of Florida; and, if the applicant is a corporation, must be chartered by the Florida Department of State to operate in Florida. As required by Section 287.133, Florida Statutes, an applicant may not submit a proposal for this project if it is on the convicted vendor list for

a public entity crime committed within the past 36 months. The selected applicant must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Incomplete proposals will be disqualified. Submittal materials will not be returned.

The Commissioning Services Proposal Form and Instructions, Project Fact Sheet, UF Design Services Guide, UF Design & Construction Standards, PD&C non-technical specifications, standard University of Florida Owner-Commissioning Consultant agreement, and other project and process information can be found on the Facilities Planning & Construction website. Finalists may be provided with supplemental interview requirements and criteria as needed.

Provide the number of copies prescribed in the Project Fact Sheet. Submittals must be received in the Facilities Planning & Construction office by 3:00 p.m. local time, on Thursday, June 19, 2014. Facsimile (FAX) submittals are not acceptable and will not be considered.

Planning, Design & Construction, Ben Hill Griffin Stadium, 245 Gale Lemerand Drive, P.O. Box 115050, Gainesville, FL 32611-5050, (352)273-4000, internet: www.facilities.ufl.edu.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
Invitation to Bid Notice**

**NOTICE OF INVITATION TO BID
STATE OF FLORIDA**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BID NO. BDC67-13/14**

The Department of Environmental Protection, Office of Operations, Bureau of Design and Construction is soliciting formal, competitive, sealed bids from Contractors licensed to work in the jurisdiction for the project listed below.

PROJECT NAME: Fort Pierce Inlet State Park – Bridge Repairs

SCOPE OF WORK: The Contractor shall provide the necessary labor, materials, equipment, supervision and permits required to repair the Jack Island pedestrian bridge in accordance with the plans, specification and permits. Including but not limited to: deck removal and replacement, repairs to existing precast concrete piles and pile caps, installation of new handrail, and construction of new bridge approaches in accordance with the plans and specifications. Builders Risk Insurance is required. Pursuant to Executive Order 07-126 and Section 255.252(3), F.S., the Department requires the proposed project be designed and constructed in accordance with green building standards where applicable.

PARK LOCATION: Fort Pierce Inlet State Park, 905 Shorewinds Drive, Fort Pierce, Florida 34949, St. Lucie County

PROJECT MANAGER: Patrick Vicknair, Bureau of Design & Construction, 3900 Commonwealth Blvd. MS 520, Tallahassee, Florida 32399-3000, (772)546-0900, fax: (850)245-2759.

INSTRUCTIONS: Documents for this bid will be available for download on Thursday, May 15, 2014. Any firm desiring a Project Manual for this project may obtain directions by emailing david.matson@dep.state.fl.us or Katie.parrish@dep.state.fl.us. If preferred, a Compact Disk (CD) containing the plans and specifications can be obtained by calling the Contracts Section at (850)245-2620, (850)245-2630 or emailing the addresses above.

MINORITY BUSINESS REQUIREMENT: The Department of Environmental Protection supports diversity in its Procurement Program and requests that all sub-contracting opportunities afforded by this bid embrace diversity enthusiastically. The award of sub-contracts should reflect the full diversity of the citizens of the State of Florida. The Department will be glad to furnish a list of Minority Owned Firms that could be offered sub-contracting opportunities.

ADA REQUIREMENTS: Any person with a qualified disability shall not be denied equal access and effective communication regarding any bid/proposal documents or the attendance at any related meeting or bid/proposal opening. If accommodations are needed because of disability, please contact Michael Renard with the Bureau of Design and Construction at (850)245-2630 at least five (5) workdays prior to openings. If you are hearing or speech impaired, please contact the Florida Relay Services by calling 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

E-VERIFY: Vendor/Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to confirm the employment eligibility of all persons employed by the Vendor/Contractor during the term of the Contract to perform employment duties within Florida and all persons, including subcontractors, assigned by the Vendor/Contractor to perform work pursuant to the contract with the Department.

BID SUBMITTAL DUE DATE: No later than 3:00 p.m. (ET), Thursday, June 5, 2014 to the following address: Florida Department of Environmental Protection, Bureau of Design and Construction, 3900 Commonwealth Blvd. MS 520, Tallahassee, Florida 32399-3000, Attention Susan Maynard, Bureau of Design and Construction, (850)245-2632. (For hand delivery: Carr Building, Rm. 155R1, Reception Area) The Department reserves the right to reject any or all bids.

BID POSTING DATE: No later than 4:00 p.m. (ET), Wednesday, June 11, 2014 unless extended by the Department for good cause.

NOTICE OF RIGHTS; Notice of Intent to Protest the Bid Specifications must be filed with (received by) the Agency Clerk, Lea Crandall, Department of Environmental Protection, Office of General Counsel, MS 35, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000, (850)245-2242, fax: (850)245-2303, Lea.Crandall@dep.state.fl.us during the 72-hour period after Bid Specifications are posted on the Vendor Bid System. Failure to file a Notice of Intent to Protest or a formal, written Protest in accordance with Rule 28-110, F.A.C., within ten days after the 72-hour period ends, as prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of your right to an administrative hearing on the Bid Specifications under Chapter 120, Florida Statutes. Rules for bid protests can be found in Sections 120.569 and 120.57, F.S., and Chapter 28-110, Florida Administrative Code. A bid protester shall comply with these statutes and rules.

JACKSONVILLE PORT AUTHORITY
INVITATION FOR BIDS
PURCHASE OF CONTAINER HANDLING
GANTRY CRANES
BLOUNT ISLAND MARINE TERMINAL
JAXPORT PROJECT NO.: B2013-07
JAXPORT CONTRACT NO.: C-1432

Sealed bids will be received by JAXPORT until 2:00 p.m. (EST), Tuesday, July 8, 2014, at which time they will be opened in the Public Meeting Room of the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida, for purchase of Container Handling Gantry Cranes.

All bids must be submitted in accordance with specifications and drawings for Contract No. C-1432, which may be examined in the Procurement Department of JAXPORT, located on the second floor of the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida 32206. Please telephone (904)357-3017 for information.

A mandatory pre-bid conference will be held on Thursday, June 5, 2014, at 10:00 a.m. (EST), at the Blount Island Marine Terminal, Access Control Building, 2nd Floor, 9620 Dave Rawls Blvd, Jacksonville, FL 32226.

Interested bidders must attend mandatory pre-bid conference either in person or via teleconference. Teleconference option is available by calling 1(877)810-9415, access code: 1223563.

Please visit <http://www.jaxport.com/about-jaxport/corporate-information/projects-for-bid> or call the procurement department at (904)357-3017, prior to the bid opening to determine if any addenda have been released on this contract.

Bid and contract bonding are required.

This project is funded by JAXPORT.

Section XII Miscellaneous

DEPARTMENT OF HEALTH
Board of Nursing

Notice of Emergency Action

On May 16, 2014, the State Surgeon General issued an Order of Emergency Suspension of License with regard to the license of Rebecca Sue McKenzie, R.N., License No.: RN 9330941. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2012-2013). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH
Board of Nursing

Notice of Emergency Action

On May 16, 2014, State Surgeon General issued an Order of Emergency Restriction of License with regard to the license Lori Leigh Buchman, R.N., License No: RN 9342342. This Emergency Restriction Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2012-2013). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

Section XIII Index to Rules Filed During Preceding Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
