

**Section III**  
**Notices of Changes, Corrections and**  
**Withdrawals**

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE NOS.:	RULE TITLES:
3D-40.001	Definitions
3D-40.100	Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender
3D-40.200	Application Procedure for Mortgage Lender License
3D-40.220	Application Procedure for Correspondent Mortgage Lender License
3D-40.242	Principal Representative

**NOTICE OF CHANGE**

In accordance with subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule as published in the Vol. 28, No. 31, August 2, 2002, issue of the Florida Administrative Weekly. The changes are in response to written material received on or before the date for a final public hearing and comments received from the Joint Administrative Procedures Committee.

The rule shall now read as follows:

3D-40.001 Definitions.

The definitions provided in Section 494.001, F.S., and the following defined terms, shall apply to this rule chapter and shall serve as the Department's interpretation unless the language of the rule indicates to the contrary:

(1) through (11) No change.

(12) For purposes of Rules 3D-40.100, 3D-40.200, 3D-40.220, and 3D-40.242, F.A.C.:

(a) "Operate" shall mean to exercise power or influence over the business operations.

(b) "Exercise" shall mean the discharge of an official duty or function.

(c) "Control" shall mean to have the influence and power to make decisions for the business.

Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.001, 494.004(1), 494.0041(2)(a),(i), 494.0043, 494.0061(2), 494.0061(8), 494.0062(2), 494.0062(11), 494.0067(5), 494.0072(2)(i) FS. History-Revised 9-23-65, Renumbered from 3-3.01 to 3D-40.01 on 9-8-75, Formerly 3D-40.01, Amended 12-7-89, 6-23-91, 8-24-92, 2-11-93, 11-17-93, 4-14-94, 9-7-94, 5-14-95, 7-25-96, 12-12-99, \_\_\_\_\_.

3D-40.100 Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person who seeks to obtain a controlling ownership or voting interest in a mortgage lender licensed pursuant to the saving clause shall apply to the Department by submitting the following:

(a) A completed application for Change in Ownership or Control of Saving Clause Mortgage Lender, Form DBF-MLST, revised 09/02 ~~10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350;

(b) through (c) No change.

(d) Designate a principal representative who shall operate and exercise control over ~~over~~ of the licensee's business. Beginning October 1, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and must also have passed a written test in accordance with Rule 3D-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Department and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section. Each mortgage lender applicant pursuant to the saving clause transfer shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in Rule 3D-40.001(12), F.A.C.

(2) through (7) No change.

Specific Authority 494.0011(2), 494.0061(3), 494.0061(8), 494.0061(10) FS. Law Implemented 120.60, 494.001(29), 494.0061(1), 494.0061(3), 494.0061(8), 494.0065 FS. History-New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, \_\_\_\_\_.

3D-40.200 Application Procedure for Mortgage Lender License.

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a mortgage lender shall apply to the Department by submitting the following:

(a) A completed Application for Licensure as a Mortgage Lender, Form DBF-ML-222, revised 09/02 ~~10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350;

(b) through (d) No change.

(e) Designate a principal representative who shall operate and exercise control over ~~over~~ of the licensee's business. Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and must also have passed a written test in accordance with Rule 3D-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Department and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section. Each mortgage lender applicant shall include as part of the

application a statement that the principal representative will operate and exercise control over the business as defined in Rule 3D-40.001(12), F.A.C.

(2) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0061(3), 494.0061(8), 494.0061(10) FS. Law Implemented 120.60, 494.001(29), 494.0061 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, \_\_\_\_\_.

3D-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a correspondent mortgage lender shall apply to the Department by submitting the following:

(a) A completed Application for Licensure as a Correspondent Mortgage Lender, Form DBF-CL-333, revised 09/02 ~~10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350;

(b) through (d) No change.

(e) Designate a principal representative who shall operate and exercise control over of the licensee’s business. Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and must also have passed a written test in accordance with Rule 3D-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Department and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section. Each correspondent mortgage lender applicant shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in Rule 3D-40.001(12), F.A.C.

(2) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0062 (3), 494.0062(8), 494.0062(11), 494.0062(13) FS. Law Implemented 494.0062 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, \_\_\_\_\_.

3D-40.242 Principal Representative.

(1) Effective October 1, 2001, each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall designate a principal representative who operates and exercises control over the business and the individual so designated shall accept responsibility by completing the Principal Representative Designation Form DBF-ML/CL-PR, revised 09/02 ~~effective 10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(2) Each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall maintain a Principal Representative Designation Form, DBF-ML/CL-PR, revised 09/02, which includes a statement notifying the licensee that the principal representative is required by statute to operate and exercise control over the business as defined in Rule 3D-40.001(12), F.A.C.

(3)~~(2)~~ Upon any change of principal representative, the licensee and the newly designated principal representative shall complete the Principal Representative Designation, Form DBF-ML/CL-PR, revised 09/02. Form DBF-ML/CL-PR, revised 09/02, shall be maintained at the principal office of the mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the saving clause, and a copy shall be mailed to the Department at the above address or electronically transmitted to the Department’s website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation.

(4)~~(3)~~ Anyone being designated as a principal representative or any change in the principal representative after October 1, 2001, must submit evidence that he or she was originally licensed as a mortgage broker pursuant to Section 494.0033, F.S., on or after July 1, 1992, or has completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and has passed a written test in accordance with Rule 3D-40.025, F.A.C.

(5)~~(4)~~ The penalty for failure to maintain Form DBF-ML/CL-PR shall be the issuance of a “notice of noncompliance” for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. In cases where the failure to maintain Form DBF-ML/CL-PR is intentional, the penalty shall be a fine of \$5,000.

(6)~~(5)~~ Each principal representative shall notify the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350 in writing, within thirty (30) days, of the termination of his or her principal representative status.

Specific Authority 494.0011(2), 494.0016(4), 494.0061(1), 494.0061(3), 494.0061(8), 494.0062(3), 494.0062(11) FS. Law Implemented 120.60, 120.695, 494.001(29), 494.0016(1), 494.0061, 494.0062, 494.0067, 494.0072 FS. History—New 1-27-02, Amended \_\_\_\_\_.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Tedcastle, Financial Administrator, Division of Securities and Finance, Department of Banking and Finance, 101 East Gaines Street, 5th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9500

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Animal Industry**

RULE CHAPTER NO.: RULE CHAPTER TITLE:  
5C-26 Cervidae Movement

RULE NOS.:	RULE TITLES:
5C-26.001	Definitions
5C-26.002	Adoption by Reference Code of Federal Regulations, Title 9, Part 54.7 (2002)
5C-26.003	General Requirements for Importation
5C-26.004	General Requirements for Intrastate Movement
5C-26.005	Testing Requirements and Exceptions
5C-26.006	Cervidae Herd Health Plan
5C-26.007	Quarantine and Disposition of Chronic Wasting Disease (CWD) Positive, Exposed, or Suspect Herds
5C-26.008	Exceptions
5C-26.009	Dangerous Transmissible Disease

**NOTICE OF CHANGE**

Notice is hereby given that proposed Rule 5C-26, F.A.C., published in the Florida Administrative Weekly, Vol. 28, No. 33, on August 16, 2002 has been changed to reflect comments received from the Joint Administrative Procedures Committee. In all Rules 5C-26.001-.009 delete 585.004, F.S. cited as specific authority.

In Rule 5C-26.002 delete 585.11, F.S. cited as specific authority.

In Rule 5C-26.003 delete 585.17, F.S. cited as specific authority.

In subsection 5C-26.003(1), F.A.C., the first sentence has been changed so that when adopted it will read: "All cervidae for importation shall originate from a herd which participates in a surveillance/prevention program(s) established by the United States Department of Agriculture or the State Veterinarian or Chief Animal Health Officer, or equivalent, of the State in which the originating herd is located."

In subsection 5C-26.004(1), F.A.C., the first sentence has been changed so that when adopted it will read: "Animals being transported totally within the state shall be accompanied by evidence of ownership or authority for possession of the animals to transport."

In subsection 5C-26.005(2)(a), F.A.C., the first sentence has been changed so that when adopted it will read: "Cervidae from an Accredited Tuberculosis-Free Herd as defined in the United States Department of Agriculture, Uniform Methods and Rules, Bovine Tuberculosis Eradication, Effective January 22, 1999."

In subsection 5C-26.005(3)(a), F.A.C., the first sentence has been changed so that when adopted it will read: "Cervidae from an Accredited Brucellosis-Free Herd as defined in the United States Department of Agriculture, Uniform Methods and Rules, Brucellosis in Cervidae, Effective September 30, 1998."

In Rule 5C-26.007, F.A.C., delete subsections (3)(b)2 and (4)(c).

In Rule 5C-26.008, F.A.C., the second sentence has been changed so that when adopted it will read: "Cervids that are classified by the Movement Risk Assessment as Low Risk for CWD shall be considered for waiver of this rule based upon the sound scientific information that low risk cervids are from CWD monitored herds in states or prescribed physical areas where CWD has not been diagnosed but which have a surveillance/prevention program(s)."

In Rule 5C-26.009, F.A.C., delete 585.18, F.S. cited as specific authority.

**DEPARTMENT OF CORRECTIONS**

RULE NO.:	RULE TITLE:
33-210.101	Routine Mail

**SECOND NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 21, May 24, 2002, and amended in Vol. 28, No. 34, August 23, 2002, issue of the Florida Administrative Weekly:

33-210.101 Routine Mail.

(1) No change.

(2) Inmates will be permitted to receive only the following types of materials through routine mail:

(a) through (b) No change.

(c) Photographs. Photographs will be counted toward the 5 page additional materials limitation. Nude photographs or photographs which reveal genitalia, buttocks, or the female breast will not be permitted. Polaroid photographs will not be permitted. Photographs will not exceed 8" x 10".

(d) through (16) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE NO.:	RULE TITLE:
64B7-27.004	Re-examination

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 22, May 31, 2002, Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE NO.:	RULE TITLE:
64B7-28.008	Display of Licenses

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 22, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (4) of the rule shall now read as follows:

(4) For the purpose of this rule conspicuously means displayed in a location within the massage establishment in such a manner that it can be open to the view of the public and is accessible to the public so that the public and the inspection personnel for the Department of Health may view the licenses.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE NO.: 64B7-28.009 RULE TITLE: Continuing Education

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 22, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (1) and (3)(b) of the rule shall now read as follows:

(1) Every massage practitioner licensed pursuant to Chapter 480, F.S., shall be required for renewal to complete one continuing education hour for each month or part of a month that shall have elapsed since the issuance of the license for which renewal is sought, up to a maximum requirement of 24 hours for the renewal period. Such courses shall have been approved for continuing education credit pursuant to Rule 64B7-28.010, F.A.C., and shall have been completed within the renewal period preceding the date renewal is due. Every massage practitioner must obtain the continuing education required for biennial renewal of the massage therapist's license as set forth in Rule 64B7-28.001, F.A.C. Graduates of a Board approved massage school who received two hours of education in Chapter 480 and 456, F.S., and rule Chapter 64B7, F.A.C. and two (2) hours of professional ethics prior to initial licensure shall not be required to complete additional continuing education in the same subject matter for initial renewal of the license.

(3)(b) Two hours must cover instruction in professional ethics, two hours must be in a course relating to the prevention of medical errors, and two hours must cover instruction in Chapter 480 and 456, F.S., and Rule Chapter 64B7, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE NO.: 64B7-28.010 RULE TITLE: Requirements for Board Approval of Continuing Education Programs

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 18, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (7) of the rule shall now read as follows:

(7) A Board approved provider must revise and up-date all course materials that are affected by changes occurring during the biennial renewal period. The Board will rescind approval of any provider or course that is found to be obsolete, erroneous, and/or outside the scope of practice, or if the Board determines the provider has violated the Board's Rules or Chapters 456 or 480, Florida Statutes. The revised course materials must be submitted with the biennial renewal form and renewal fee.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE NO.: 64B7-29.003 RULE TITLE: Apprenticeship Training Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 22, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (5) of the rule shall now read as follows:

(5) The sponsoring massage therapist shall submit to the Department, quarterly, on a form furnished by the Department, the number of hours of each subject listed above taught to his apprentice. A copy of the Massage Apprenticeship Quarterly Report Hours of Training Completed Form prepared and furnished by the Department of Health can be obtained by writing to: Department of Health, Board of Massage, 4052 Bald Cypress Way, BIN C06, Tallahassee, FL 32399-3256. If

quarterly reports are not submitted to the Department as required herein, the Board will review the apprenticeship and the apprenticeship shall be terminated.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE NO.: 64B7-29.004      RULE TITLE: Termination

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 22, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (2) of the rule shall now read as follows:

(2) If any violation of Chapter 480 or 456, F.S., or rules set forth in Chapter 64B7, F.A.C., is found subsequent to department inspection of the "qualified massage establishment" as defined under Rule 64B7-29.001, F.A.C., the apprenticeship shall be tolled until such time as the violation(s) is corrected or disposition in the case is made. If the disposition of the case resulted in disciplinary action by the Board the Board will require that the "sponsor" and the "apprentice" appear before the Board for the purpose of determining compliance with the apprenticeship training program requirements of Rule 64B7-29.003, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE NO.: 64B7-30.008      RULE TITLE: Probationary Conditions and Definitions

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 22, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (3)(c), (3)(d) and (4) of the rule shall now read as follows:

(3)(c) After the next meeting of the Board, the respondent shall only practice under the supervision of the supervisor/monitor. If for any reason the approved

supervisor/monitor is unwilling or unable to serve, the respondent and the supervisor/monitor shall immediately notify the Executive Director of the Board, and the respondent shall cease practice until a temporary supervisor/monitor is approved. The Chairman of the Board shall approve a temporary supervisor/monitor who shall serve in that capacity until the next meeting of the Board at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.

(d) The supervisor/monitor must be a licensee under Chapter 480 Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board may reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his/her license. The supervisor/monitor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board. The Board will also reject any proposed supervisor/monitor whom the Board finds has violated the Board's Rules or Chapters 456 or 480, Florida Statutes.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE NO.: 64B7-33.001      RULE TITLE: Advertisement

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 22, May 31, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (2) of the rule shall now read as follows:

(2) For purposes of this rule, "advertising medium" means: any newspaper, airwave or computer transmission, telephone directory listing other than a listing for which no additional advertising charge is made, business card, handbill, flier, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

**DEPARTMENT OF HEALTH**

**Board of Speech-Language Pathology and Audiology**

RULE NO.: 64B20-2.002  
RULE TITLE: Educational Requirements  
NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 46, November 16, 2001, Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NO.: 64E-2.030  
RULE TITLE: Emergency Medical Services  
NOTICE OF WITHDRAWAL

Notice is hereby given that a proposed amendment to the "Introduction" of the incorporation noted below as noticed in Vol. 28, No. 28, July 12, 2002, Florida Administrative Weekly has been withdrawn.

The incorporation is entitled "EMS Matching Grant Program Application Packet, June 2002".

Page 1, "Introduction", first paragraph – the term "facilities" has been withdrawn. When adopted the paragraph will read as follows:

**INTRODUCTION**

This grant program provides emergency medical services providers, first responder organizations, and other emergency medical service related organizations with funds for projects to acquire, repair, improve, or upgrade emergency medical services systems or equipment.

P.O. B00829

**Section IV  
Emergency Rules**

**DEPARTMENT OF CITRUS**

RULE TITLES: Intent, Definitions, Collection  
RULE NOS.: 20ER02-1, 20ER02-2, 20ER02-3

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: On March 18, 2002, the Court in the Tenth Judicial Circuit, State of Florida, in and for Polk County, entered a Partial Final Declaratory Judgment in the case of Tampa Juice Service, Inc., et al v. Florida Department of Citrus, Consolidated Case Number GCG-003718. In this order the Court ruled that the exemption in section 601.155, F.S., for non-Florida, United States juice was unconstitutional. On or about April 15, 2002, the Court severed the exemption for non-Florida, United States juice from section 601.155(5), F.S.

On August 8, 2002, the Court held that the Florida Department of Citrus was required to cure the invalidity of the equalization taxing scheme.

To cure this invalidity, the Florida Department of Citrus promulgates Rule 20ER02-1, F.A.C., which will serve to implement the Court's order for a nondiscriminatory tax scheme and provide due process protections for the previously favored taxpayers. These rules are being promulgated on an emergency basis to meet time constraints associated with litigation and to establish guidelines which protect the public's and state's interest for the orderly and efficient collection and payment of the tax liability. Without these guidelines, the welfare of the citizens and the state would be adversely affected because of the immediate and widespread impact of the failure of previously favored persons to properly remit the tax.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Promulgation of these guidelines using the emergency rule procedures is the only available mechanism which adequately protects the public interests under the circumstances which require collection and payment of the tax liability. This procedure is fair to the public and to the previously favored persons. It permits promulgation of the necessary guidelines within a time frame which allows the industry to be adequately informed of their duties, responsibilities and rights with respect to the tax liability.

SUMMARY: This rule provides guidance for previously favored persons on the remittance of the equalization tax liability and cures the discrimination occasioned by the unconstitutional statutory scheme while ensuring that the tax for exercising a privilege on non-Florida, United States juice is not so harsh and oppressive as to transgress constitutional requirements.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULES IS: Ken Keck, General Counsel, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE EMERGENCY RULES IS:

EQUALIZATION TAX ON NON-FLORIDA,  
UNITED STATES JUICE

20ER02-1 Intent.

(1) The Court in Tampa Juice Service, et al v. Florida Department of Citrus in Consolidated Case Number GCG-003718 (Circuit Court in and for Polk County, Florida) severed the exemption contained in Section 601.155(5), Florida Statutes, that provided an exemption for persons who exercised one of the enumerated Equalization Tax privileges on non-Florida, United States juice. The Court had previously determined that the stricken provisions operated in a manner that violated the Commerce Clause of the United States Constitution. On August 8, 2002, the Court ordered that the