

Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 4-24-06, Amended 4-15-07.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number: (561)627-3386

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David K. Roach, Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number: (561)627-3386

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 18, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2007

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-2.001	Standards
5F-2.002	Disposition of Below Standard Gasoline, Kerosene, Diesel Fuel Oil Numbers 1-D and 2-D, and Fuel Oil Numbers 1 and 2
5F-2.003	Registration and Identification
5F-2.005	Inaccurate Measuring Devices
5F-2.014	Adoption of the General Code and the Codes of Liquid-Measuring Devices, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices, Hydrocarbon Gas Vapor-Measuring Devices, Vehicle-Tank Meters, and Vehicle Tanks Used as Measures of National Institute of Standards and Technology Handbook 44
5F-2.016	Guidelines for Imposing Administrative Penalties

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 51, December 21, 2007 issue of the Florida Administrative Weekly.

The time and date for the hearing (if requested) was listed incorrectly as:

DATE AND TIME: January 14, 2007, 9:30 a.m. EST on This time and date should have been listed as:

DATE AND TIME: January 14, 2008, 9:30 a.m.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.099822	School Improvement Rating for Alternative Schools

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 45, November 9, 2007 Florida Administrative Weekly has been continued from December 11, 2007 to February 19, 2008.

DEPARTMENT OF EDUCATION

State Board of Education

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

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. 33, No. 45, November 9, 2007 issue of the Florida Administrative Weekly.

The document incorporated by reference within the rule, State Requirements for Educational Facilities” was amended in the following sections:

Section 1.1

(3) Scope of SREF requirements. SREF establishes the requirements for public educational facilities under the Florida School Code and Chapter 1013, Florida Statutes, in particular. ~~Boards must ensure that public educational facilities are in compliance with other applicable state and federal regulations, including but not limited to the Florida Building Code (FBC), Florida Fire Prevention Code (FFPC), Uniform Building Code (which consists of Section 423, FBC, and the FFPC), and the Asbestos Hazard Emergency Response Act (AHERA).~~

Section 1.4

Acquisition and Disposal of Real Property.

(1) Boards, including universities, are authorized to purchase, own, convey, sell, lease, trade, and encumber real property. A board planning to acquire sites, existing facilities, or new facilities, through purchase, gift, lease, lease-purchase, or otherwise, shall comply with all laws, procedures, and requirements pertaining to the appropriation and use of capital outlay funds, including appraisal and/or condemnation procedures.

~~(1) Authority. Boards are authorized to purchase, own, trade, convey, sell, lease, or encumber real property.~~

~~(2) Acquiring Real Property. The purchase of real property by a board shall be in compliance with Sections 1013.14, 1013.36, 1013.40(2) and (3), and 1013.78, F.S. Before acquiring real property, the board shall consider the most economical and practical locations for current and anticipated needs. The board shall coordinate with local, regional, and state governmental agencies to assure compatibility with the comprehensive plan.~~

~~(3) Coordination with Local Governing Bodies. The board and the appropriate local governing body shall agree on a process for assuring coordination and cooperation in the provision of educational facilities and associated infrastructure as described in Section 1013.33, F.S., and other applicable growth management laws and rules.~~

~~(4) Recommended Usable Acreage. The board shall ensure that each site contains at least the minimum usable acreage necessary to meet the needs of the anticipated program as follows:~~

~~(a) Elementary School. A minimum of four (4) acres for the first two hundred (200) student capacity plus one (1) acre for each additional one hundred (100) students.~~

~~(b) Middle or Junior High School. A minimum of six (6) acres for the first three hundred (300) student capacity plus one (1) acre for each additional one hundred (100) students.~~

~~(c) Senior High School. A minimum of seven (7) acres for the first three hundred (300) student capacity plus one (1) acre for each additional fifty (50) students up to one thousand (1,000) students, plus one (1) acre for each additional one hundred (100) students thereafter.~~

~~(d) Area Vocational-Technical School. A minimum of twenty (20) acres for the first five hundred (500) student capacity plus one (1) acre for each additional fifty (50) students up to one thousand (1,000) students.~~

~~(e) Community College. A main campus site should be a minimum of one hundred (100) acres. Each separate center site should contain a minimum of forty (40) acres for the first five hundred (500) student capacity plus two (2) acres for each additional one hundred (100) students. Special-purpose center site acreage should be appropriate to contain the functions identified in the program.~~

~~(f) Exception to Site Size. When a board chooses to employ an exception to the Recommended Usable Acreage, it shall consider how equitable programs can be offered.~~

~~(5) Abandoned Facilities. Abandoned facilities owned by the board shall be secured to eliminate safety and sanitation hazards, unlawful entry, and vandalism from occurring.~~

~~(6) Returning Facilities to Instructional Use. When returning board-owned educational facilities to instructional use, the facility shall be inspected for deficiencies in accordance with the Florida Fire Prevention Code for an existing building and SREF Section 5. Any remodeling, renovation, or correction of deficiencies shall be brought into compliance with the requirements in the state minimum life safety codes, Florida Building Code, the Florida Fire Prevention Code, state and federal laws, and state and federal rules, as applicable.~~

~~(7) Disposal of Property. A board has the authority to dispose of any land or other real property by resolution of such board, if recommended in an educational plant survey, and if determined to be unnecessary for educational or ancillary purposes. A board shall take diligent measures to dispose of~~

~~educational property only in the best interest of the public. This section does not apply to granting of easements, rights-of-way, or leases of board property. The board has the authority to dispose of such property by one of the following methods:~~

~~(a) Transfer. Transfer to another governmental agency for whatever consideration the board deems to be in its best interest.~~

~~(b) Trade. The board has the authority to trade, to a public or private entity or person, land or other real property.~~

~~1. The board can trade land or other real property that has been appraised to be at least of equal dollar value.~~

~~2. The board can trade land or other real property not of equal value if the board deems the trade to be in its best interest.~~

~~3. There shall be no limit on the value of land or other real property that can be traded by the board.~~

~~(c) Sale of Property under \$100,000. When, in the opinion of the board, the property has an estimated value of less than \$100,000, the board has the authority to dispose of the property by either public or private sale for whatever consideration the board deems to be in its best interest.~~

~~(d) Sale of Property Equal to or over \$100,000. When, in the opinion of the board, the property to be sold has an estimated value equal to or in excess of \$100,000, the board shall dispose of the property by public sale. Such sale shall be advertised for a minimum of once a week for three (3) consecutive weeks in a newspaper having general circulation in the district.~~

~~1. For property with an estimated value from \$100,000 to \$500,000, the board shall obtain an appraisal from at least one (1) qualified real estate appraiser to determine a fair market value prior to or concurrent with receiving bids.~~

~~2. For property with an estimated value exceeding five hundred thousand dollars (\$500,000), the board shall obtain appraisals from at least two (2) qualified real estate appraisers to determine a fair market value prior to or concurrent with receiving bids.~~

~~3. The board can sell the property if the bid price is within ten (10) percent of the lowest appraised value.~~

~~4. The board shall have the authority to reject any or all bids. If there are no bids, the board can dispose of the property by other approved means.~~

~~5. After disposal of any land or real property, funds received shall only be expended on capital outlay projects.~~

~~6. When the property is obtained through the use of federal funds or under specified conditions, all prior covenants shall be met.~~

~~7. Upon disposal of any land or other real property, the board shall delete the appropriate records from Florida Inventory of School Houses (FISH) files by on-line transactions through the Educational Facilities Information System (EFIS).~~

8. When surplus property has been determined to be a liability by the board, after obtaining appraisals, advertising the property for public sale, and opening bids, if the highest bid is less than (10) percent of the lowest appraised value, the board can, by extraordinary vote, dispose of the property to the highest bidder.

(e) Lease Purchase Contracts. A board has the authority to dispose of any land owned by it, through a lease with an option to purchase or a lease purchase agreement, to any person or entity, as the board determines to be in its best interest. A determination that the land, facility, or educational plant is unnecessary for educational purposes is not a prerequisite for the lease or lease purchase. The board shall advertise the proposal as required by law and prior to entering into such agreement shall hold a public meeting. A copy of the final agreement shall be available for inspection and review by the public. The intent to enter into a lease with an option to purchase or a lease purchase agreement shall be published three (3) times in a local newspaper as required by law.

(2)(8) Florida Inventory of School Houses (FISH). Real property owned or acquired under a long-term lease/use agreement (forty [40] or more years) by a school board shall be included in the inventory update as reported to the Department. All satisfactory relocatables owned, leased, lease-purchased, and rented (regardless of the terms and length of rental agreement) by or through a school board shall be included in the inventory.

Section 4.1

Professional Services and Construction Techniques. The board shall consider appropriate design and construction techniques that will deliver facilities in a timely and economical manner. The process by which professional services are obtained by a board, the construction techniques available, and the procedures for delivering projects shall be as authorized in Sections 255.20, 1013.45, and 1013.46, F.S., and as described below. Allowable design and/or construction techniques include, but are not limited to, conventional bidding, systems building, fast track construction scheduling, construction management, program management, turnkey, use of components, commissioning, partnering, value engineering, and design-build. Boards shall provide the Office a brief description of the facilities procurement process for each project over \$200,000, prior to implementation. The description shall include the names of the architects and engineers of record for design, the plan review entity, the contractor/construction manager/design-build or program management entity, building inspector, and threshold inspector using the Project Implementation Information form (OEF Form 110A). Upon completion, the board shall provide the Office with a signed Certificate of Occupancy (OEF Form 110B) and a signed Certificate of Final Inspection (OEF Form 209) for all projects over \$200,000.

(1) Professional Design Services Required. Boards shall ensure that all projects comply with the appropriate codes.

(a) Professional Responsibility. A registered Architect or Engineer (A/E), whether on staff, under continuing contract, or under a specific project contract, shall be responsible for ensuring that the design and construction of the project are in conformance with the appropriate codes; shall sign and seal the appropriate drawings and the project manual; and shall be the A/E of record. The federal Asbestos Hazard Emergency Response Act (AHERA) of October 22, 1986, requires the architect or engineer of record to sign a statement that no asbestos containing building materials were specified, or, to the best of his/her knowledge, were used as a building material in the project.

(b) Plan Review. Boards shall adopt policies for plan review that use the services of architects, engineers, or licensed plan reviewers meeting the criteria established in Section 1013.38, F.S.

(c) Exception. Maintenance and repair projects may not require professional services; however, they must be reviewed and approved for compliance with applicable federal and state laws and building and life safety codes, and constructed accordingly. A copy of such approval or review for compliance shall be retained as a permanent record in the board's office.

1. Maintenance and repair projects include: roof or roofing replacement, short of complete replacement of membrane or structure; repainting of interior or exterior surfaces; resurfacing of floors; repair or replacement of glass; repair of hardware, furniture, equipment, electrical fixtures, and plumbing fixtures; repair or resurfacing of parking lots, roads, and walkways; and the placement and hookup of relocatables.

2. Maintenance and repair projects include upkeep of facilities, but not remodeling, renovation, or new construction of facilities.

(d) Exception. The services of a registered architect shall not be required for minor renovation projects with a construction cost of less than \$50,000 or for the placement and hookup of relocatables.

(e) Exception. The services of a registered engineer shall not be required on projects exempted by Section 471.003, F.S.

(2) Day Labor Projects. For any one (1) construction project estimated to cost \$200,000 or less, the board can arrange for the work to be accomplished on a day labor basis using employees authorized by a board and defined as follows: a person who receives compensation from, and is under the supervision of, a board that regularly deducts the F.I.C.A. and withholding tax, and provides worker's compensation, all as prescribed by law. The board can use subcontractors for portions of day labor projects.

(a) Project Costs. Estimated construction project costs shall include the total expenditures by the board for supervision, labor, materials, and supplies necessary to make a complete and usable facility or improvement.

1. Materials purchased shall be bid when their totals are estimated to be in excess of limits stipulated in Section 287.017, F.S., as required by Section 1001.42(10)(j), F.S., and a board's authorized purchasing limit.

2. Exception. Project costs do not include architectural and engineering planning fees, administrative fees, furnishings, and equipment.

(b) Exception. For renovation and remodeling projects estimated to cost over \$200,000, when no bids are received after advertising the project in the manner prescribed by law, the work may then be performed on a day labor basis provided all of the other requirements for projects costing over \$200,000 are met.

(3) Negotiated Contracts under Emergency Conditions. The board can negotiate a contract to replace, reconstruct, or make repairs under these emergency conditions:

(a) Natural Disaster or Other Imminent Danger. In an emergency situation such as fire, storm, or other providential cause, other impending danger to life safety, or pursuant to Section 1013.46(1)(b), F.S., the board can declare an emergency, can negotiate a contract with a design build firm, design professional, or contractor in accordance with Section 255.20(1)(c)1., F.S., and can do so without public notice as authorized by Section 287.055(3), F.S.

(b) Negotiations with Low Bidder. If a bid is received that exceeds the construction budget established at the time of completion of the construction documents, all deductive alternates have been taken, and no additional funds are available, then the board can declare an emergency, stating why it exists, and begin negotiations with the lowest responsible bidder. When the construction documents or the scope of the project is changed, the revised documents shall be reviewed for compliance with applicable federal and state law and the building and life safety codes.

(4) General Contractors, Building Contractors, and Sub-Contractors. All construction on board-owned property, including volunteer or service organization projects, shall be performed by state-certified or licensed general contractors, building contractors, and subcontractors, or locally registered subcontractors where their registration is valid, as required by Chapter 489, F.S. Per Section 255.20, F.S., applying the CPI index from January 1, 1994, to January 1 of the year in which the project is scheduled to begin, construction projects estimated to cost more than \$200,000 and electrical projects estimated to cost more than \$50,000 shall be competitively awarded.

(a) Exception. Authorized board employees can provide routine maintenance.

(b) Exception. Day labor projects costing less than \$200,000 can be constructed using authorized employees of a board and in compliance with Chapter 489, F.S.

(5) Construction Management/Construction Program Management. The board shall assure that CM (Construction Management) and TPM (Total Program Management) projects are in compliance with all applicable federal and state laws and rules, building and life safety codes, the Florida Building Code, the Florida Fire Prevention Code, and SREF, which together constitute the Uniform Building Code. The contract for the construction manager at risk provides for a project with a guaranteed maximum price (GMP) pursuant to Section 1013.45, F.S., or a continuing contract.

(6) Design Build. Pursuant to Section 1013.45, F.S., a board can use a design build process for design and construction of educational and ancillary facilities using processes and selection criteria as described in Section 287.055, F.S. Design and construction professionals providing design build services to the boards shall include design professionals and contractors certified, licensed, or registered to do business in Florida in conformance with Chapter 471, F.S., for engineers; Chapter 481, F.S., for architects; and Chapter 489, F.S., for contractors. The board shall assure that design build projects are in compliance with applicable state and federal laws and building and life safety codes. Boards shall develop policies and procedures for design build processes that include, as a minimum, the requirements of Section 287.055, F.S.; the selection of professionals; evaluation of professional services; certification as qualified pursuant to law and regulations of the board; and establishment of criteria, procedures, and standards for evaluation of design build contract proposals or bids. To select a design build contractor, a board can use either a qualifications based selection process, as described in Sections 287.055(3), (4), and (5), F.S., or may use a competitive proposal selection process, which is described in Section 287.055(9)(e), F.S. Design build contracts shall include a guaranteed maximum price and a guaranteed completion date.

(1)(7) No change.

Section 4.4

Inspectors and Inspections. The board shall ensure that all educational facilities, pre-Kindergarten (pre-K) through grade twelve (12), community colleges, and ancillary plants meet the requirements of law, rule, the Florida Building Code, the Florida Fire Prevention Code, and SREF that provide for enforcement of the life safety, health, sanitation, and other standards. The board is authorized to employ qualified persons to enforce these requirements, to inspect facilities, and to provide for the inspection of its facilities by other certified persons or agencies.

(1) Building Code Compliance Inspectors. Each board shall secure the services of licensed inspectors who shall be familiar with all construction documents and provide periodic inspections of the board's new construction, remodeling, renovation, relocatable, lease, lease-purchase, maintenance, repair, and day labor projects to determine compliance with the

requirements of law, rule, the Florida Building Code, the Florida Fire Prevention Code, and SREF. It is the board's responsibility to employ and/or discharge inspectors as necessary and to be responsible for their performance. Building code compliance inspectors include: Florida-registered architects, Florida-registered engineers, and/or building code inspectors who have been certified under the process and requirements of Chapter 468, F.S. Local building department inspectors can also inspect facilities for compliance with requirements of the law, rule, code, and SREF if the local building inspector has been certified by the Office.

(2) ~~Threshold Building Inspectors.~~ The board shall require a qualified threshold inspector, who shall be a consulting architect or engineer, the architect or engineer of record, or a board employee, who is certified by the State of Florida, Department of Community Affairs, Board of Building Codes and Standards, to perform structural inspections on threshold buildings as required by Chapter 553, F.S. Threshold buildings are greater than three (3) stories or fifty (50) feet in height, or contain an assembly space that exceeds five thousand (5,000) square feet and has an occupant load of more than five hundred (500) persons.

(3) ~~Architect/Engineer of Record (A/E of Record).~~ The A/E of record shall not perform the inspections or final occupancy inspection on projects he/she designed. The A/E of record may provide verification of compliance with rules, statutes, and codes on non-occupancy projects such as roofing, paving, and replacement of equipment.

(4) ~~Other State or Local Agencies.~~ Other state or local agencies may inspect new construction or existing facilities when required by law; however, such inspections shall be in conformance with SREF and the required codes. The board can authorize local government agency inspectors to inspect new construction or existing educational and ancillary facilities pursuant to Section 1013.371(2), F.S. Any inspection by local inspectors shall be based on applicable federal and state laws, rules, building codes, life safety codes, and SREF. Leased property can be constructed and inspected using the state minimum building and life safety codes as provided in Chapter 553, F.S. Lease purchase projects shall be constructed and inspected in accordance with the state minimum building code, life safety codes, and SREF. New construction and existing facilities may require additional inspections by other state agencies using rules as authorized by law, which include, but are not limited to, inspections for: elevators, on-site water and sewer, swimming pools, underground fuel storage tanks, work place safety, kitchens, traffic control and roads, and storm water runoff. Other state agencies having jurisdiction include, but are not limited to, the following:

- (a) Department of Children and Families (DCF).
- (b) Department of Health (DOH).
- (c) Department of Business and Professional Regulation (DBPR).

(d) Department of Environmental Protection (DEP).

(e) Department of Transportation (DOT).

(f) ~~Department of Community Affairs (DCA).~~ Boards shall provide for the inspection of relocatable classrooms during construction in accordance with DCA rules for factory-built school buildings.

(f) ~~Department of Labor and Employment Security (DLES).~~

(g) Water Management District (WMD).

(5) ~~Fire Safety Inspectors.~~ Fire safety inspectors shall be certified by the State of Florida, Department of Financial Services, Division of State Fire Marshal. The board shall ensure that every building on each site within its jurisdiction, whether owned, leased, or lease-purchased, receives two annual comprehensive fire safety inspections conducted by inspectors in conformance with Section 1013.12, F.S., and that reports include a plan of action and schedule for correction of deficiencies. Inspections are provided by both the Board fire safety inspector and the local fire control district's fire safety inspector. These reports shall be forwarded to the Division of State Fire Marshal with copies to be kept on file in the board offices. The board shall withdraw a facility from use immediately if life-threatening deficiencies are found.

(1)(6) No change.

(2)(7) No change.

(8) ~~Other Inspections as Required by Code or Law.~~ Provide periodic inspections by certified inspectors of fire alarms, fire sprinklers, fire extinguishers, elevators, bleachers, and other equipment, as required by law, rule, or code.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.0011	Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations
12A-1.005	Admissions
12A-1.011	Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business
12A-1.0115	Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies

12A-1.071 Rentals, Leases, or License to Use
Tangible Personal Property
12A-1.097 Public Use Forms
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. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly.

These changes are in accordance with subparagraph 120.54(3)(d)1., F.S., and in response to comments received from the Joint Administrative Procedures Committee.

Subparagraph 27. of paragraph (a) of section (2) of Rule 12A-1.011, Florida Administrative Code, has been changed, so that, when adopted, the subparagraph will read as follows:

27. Natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit juices in any form, whether frozen or unfrozen, aerated, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned. Only those juices that are permitted by federal law and regulation to be labeled “100 percent juice” or “100 percent juice with added-” “ingredient(s),” “preservative,” or “sweetener” will be considered natural fruit or vegetable juices. [Title 21 (Food and Drug), Chapter 9 (Federal Food, Drug, and Cosmetic Act), Subchapter IV (Food) 21 U.S.C. ss. 341; 343 (January 24, 2002), hereby incorporated by reference]; [21 C.F.R. Ch. 1, ss. 101.30; 102.5; 102.33, 146.114-146.187; 156.3; 156.145 (4-1-06), hereby incorporated by reference].

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.: 40C-2.101
RULE TITLE: Publications 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 Vol. 33, No. 36, September 7, 2007 issue of the Florida Administrative Weekly.

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference parts I, II, and III, the “Water Conservation Public Supply” requirements in Appendix I, and “Legal Description of the Central Florida Coordination Area of the St. Johns River Water Management District” in Appendix L₂ of the document entitled “Applicant’s Handbook, Consumptive Uses of Water,” (effective date).

(2) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.109, 373.196, 373.219, 373.223, 373.229, 373.233, 373.236, 373.239, 373.250 FS. History–New 1-1-83, Amended 5-31-84, Formerly 40C- 2.101, 40C-2.0101, Amended 10-1-87, 1-1-89, 8-1-89, 10-4-89, 7-21-91, 7-23-91, 11-12-91, 9-16-92, 1-20-93, 12-6-93, 2-15-95, 7-10-95, 4-25-96, 10-2-96, 1-7-99, 2-9-99, 4-10-02, 2-15-06.

APPLICANT’S HANDBOOK SECTION:

12.10 Central Florida Coordination Area (CFCA)

The following requirements shall apply to any public supply utility applicant or similar applicant proposing to withdraw groundwater in the CFCA.

(c) The restriction in subsection 12.10(a) on groundwater allocations to an amount no greater than a permittee’s demonstrated 2013 demand shall not limit permitted groundwater withdrawals from:

1. and 2. No change.

3. An injection/recovery wellfield that injects surface water, stormwater, or reclaimed water that is not required under subsections 10.3(f) or (g) to be provided to other uses provided to users in accordance with District rules, through one or more wells for storage within an aquifer zone and subsequently recovers it through wells from the same aquifer zone and in the same wellfield, when the volume of water withdrawn does not exceed the volume of water injected; or

4. No change.

(e) A permittee that will lack sufficient supplemental water supplies after 2013 from which to obtain the increase in quantity above its demonstrated 2013 demand ~~shall~~ shall be allocated a temporary amount of groundwater to meet that increase only if it has exercised due diligence to meet all schedule requirements in the permit for developing and using supplemental water supply and providing that other conditions for issuance in Rule 40C-2.301, F.A.C., and this Handbook are met. Any such temporary allocation shall cease when water from the supplemental water supply project becomes available.

(f) If an application includes a request to change the use type, or the use within a use type, supplied by groundwater during the term of a permit, such change shall not trigger the requirements to develop and/or use supplemental water supply pursuant to subsections 12.10(b)1. or 2. and the corresponding permit duration provisions of section 6.5.4 and the CFCA permit condition described in subsection 19.0(d), provided: (1) the application does not propose an increase in groundwater withdrawal above that permitted for 2013; and (2) the groundwater drawdown is no greater than that associated with the use permitted for 2013. However, this subsection 12.10(f) shall not be construed to affect any condition in the existing permit regarding the development and/or use of supplemental water supply.

(g) In reviewing a proposed consumptive use of groundwater in the CFCA under subsection 10.3(g) regarding utilization of lowest acceptable quality water sources, the

District will confine its analysis of lower quality sources to those sources listed in the definition of “supplemental water supply” in subsection 2.0(hh).

13.0 Available Water/Competing Applications

13.3 Effect of the Central Florida Coordination Area (CFCA)

In adopting the interim CFCA rules, the District acknowledges the increasing stress on the water resources in the CFCA and the mandate of the legislature to foster the development of additional water supplies and avoid the adverse effects of competition. However, the interim CFCA rules do not abrogate the rights of the Governing Board or of any other person under Section 373.233, F.S. The CFCA regulatory framework provides a comprehensive strategy for interim allocations of available groundwater and expeditious development of supplemental water supply projects, as defined in subsection 2.0(hh), to minimize competition and thereby provide greater certainty of outcome than competition.

19.0 Central Florida Coordination Area (CFCA) Conditions

In addition to the general and special conditions described in this part, permits for public supply utility applicants and similar applicants authorizing groundwater withdrawals in the CFCA shall include special conditions that address the following:

(a) Implementation of a ~~District-approved~~ plan to monitor hydrology, ecology, and water quality in areas subject to impacts from the permitted withdrawal, with at least annual data reporting and analysis.

(b) Implementation of specific ~~District-approved~~ measures to mitigate or avoid harm that would otherwise occur as a result of the permitted allocation.

(c) Implementation of ~~District-approved~~ mitigation or avoidance actions to address any unanticipated harm, if the District finds that harm will occur or has occurred as a result of the permit allocation.

(d) ~~Expeditious~~ Ddevelopment and use of supplemental water supply to meet water demands in an expeditious manner as described in subsection 12.10(b).

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.801	Water-Use Caution Areas

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. 33, No. 36, September 7, 2007 issue of the Florida Administrative Weekly.

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) Water Use Permit Information Manual Part B, “Basis of Review (____)(10/07)” and Part D, “Requirements for the Estimation of Permanent and Temporal Service Area Populations in the Southern Water Use Caution Area (____)(1/07);”

(2) through (6) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History–New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, _____.

40D-2.801 Water-Use Caution Areas.

(1) through (3)(c)4. No change.

5. In adopting the interim CFCA rules, the District acknowledges the increasing stress on the water resources in the CFCA and the mandate of the legislature to foster the development of additional water supplies and avoid the adverse effects of competition. However, the interim CFCA rules do not abrogate the rights of the Governing Board or of any other person under Section 373.233, F.S. The CFCA regulatory framework provides a comprehensive strategy for interim allocations of available groundwater and expeditious development of supplemental water supply projects, as defined in Section 3.6, paragraph A.7. under the heading Requirements For Applicants For Groundwater Withdrawals Within The Central Florida Coordination Area, in Part B, Basis of Review, of the Water Use Permit Information Manual, to minimize competition and thereby provide greater certainty of outcome than competition.

(3)(c)6. and 7. No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0395, 373.042, 373.0421, 373.171, 373.216, 373.219, 373.223 FS. History–Readopted 10-5-74, Formerly 16J-3.30, Amended 10-1-89, 11-15-90, 3-1-91, 7-29-93, 1-1-03, 1-1-07, _____.

BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS:

3.6 PUBLIC SUPPLY

Requirements for APPLICANTS for GROUNDWATER WITHDRAWALS WITHIN THE Central Florida Coordination Area (CFCA)

B. The following requirements shall apply to any Public Supply Utility applicant and Similar Applicants proposing to withdraw groundwater in the CFCA.

1. through 4. No change.

5. A permittee that will lack sufficient Supplemental Water Supply after 2013 from which to obtain the increase in quantity above its Demonstrated 2013 Demand ~~shall can~~ be allocated a temporary amount of groundwater to meet that increase only if it has exercised Due Diligence to meet all schedule requirements in the permit for developing and using Supplemental Water Supply and providing that other conditions of issuance in Rule 40D-2.301, F.A.C., and Parts B and D of the Water Use Permit Information Manual are met. Any such temporary allocation shall cease when water from the Supplemental Water Supply project becomes available.

6. If an application includes a request to change the use type, or the use within a use type, supplied by groundwater during the term of the permit, such change shall not trigger the requirements to develop and/or use supplemental water supply pursuant to paragraph B.2, above, and the corresponding permit duration provisions of 40D-2.321(7) and 1.9 of Chapter 1, Part B, Basis of Review, Water Use Permitting Information Manual (“Part B”) and the CFCA permit condition described in Section 6.2.4. of Part B, provided (1) the application does not propose an increase in groundwater withdrawal above that permitted for 2013; and (2) the groundwater drawdown is no greater than that associated with the use permitted for 2013. However, the provisions of this paragraph B.6. shall not be construed to affect any condition in the existing permit regarding the development and/or use of supplemental water supply.

New _____.

4.4 UTILIZATION OF LOWEST QUALITY WATER

Consideration must be given to the lowest quality water available, which is acceptable for the proposed use. If a lower quality of water is available and is environmentally, technically and economically feasible for all or a portion of an Applicant's use, this lower quality water must be used. Use of a lower quality of water is not environmentally feasible if it interferes with recovery of a water body to its established minimum flow or level or the water body is either currently or projected to be adversely impacted, unless the use will provide a Net Benefit. Such lower quality water may be in the form of surface water, reclaimed water (treated wastewater effluent), recovered agricultural tailwater, collected stormwater, saline water, or other sources. In determining the economic feasibility of using reclaimed water or stormwater, the consideration shall include the costs and benefits of using the reclaimed water or stormwater, including the amount of reclaimed water or stormwater that can be produced or used relative to the cost.

Within the Central Florida Coordination Area the District will confine its analysis of lower quality water sources to those sources listed in the definition of Supplemental Water Supply in paragraph A. 7. under the heading Requirements For Applicants For Groundwater Withdrawals Within The Central Florida Coordination Area in Section 3.6. of Part B, Basis of Review, of the Water Use Permit Information Manual.

Amended 1-1-07, _____.

6.2 SPECIAL PERMIT CONDITIONS

In addition to the general, standard and other conditions, permits for applicants specified in 40D-2.801(3)(c)4., F.A.C., authorizing groundwater withdrawals in the CFCA shall include special conditions that address the following;

1. Implementation of a District-approved plan to monitor hydrology, ecology and water quality in the areas subject to impacts from the permitted withdrawals, with at least annual data reporting and analysis.

2. Implementation of specific District-approved measures to mitigate or avoid harm that would otherwise occur as a result of the permitted allocation.

3. Implementation of District-approved mitigation or avoidance actions to address any unanticipated harm, if the District finds that harm will occur or has occurred as a result of the permitted allocation.

4 Expeditious dDevelopment and use of Supplemental Water Supply to meet water demands in an expeditious manner as described in paragraph B.2. under the heading Requirements For Applicants For Groundwater Withdrawals Within The Central Florida Coordination Area in Section 3.6. of Part B, Basis of Review, of the Water Use Permit Information Manual.

5. and 6. No change.

New _____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.:	RULE TITLE:
40E-2.091	Publications 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 Vol. 33, No. 36, September 7, 2007 issue of the Florida Administrative Weekly.

40E-2.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – (effective date) _____, ~~April 23, 2007,~~” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042, 373.0421, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History–New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, _____.

1.3.2.1 Competition within the Central Florida Coordination Area

In adopting the interim CFCA rules, the District acknowledges the increasing stress on the water resources in the CFCA and the mandate of the Legislature to foster the development of

additional water supplies and avoid the adverse effects of competition. However, the interim CFCA rules do not abrogate the rights of the Governing Board or of any other person under Section 373.233, F.S. The CFCA regulatory framework provides a comprehensive strategy for interim allocations of available groundwater and expeditious development of supplemental water supply projects, as defined in Section 1.8, to minimize competition and thereby provide greater certainty of outcome than competition.

3.0 WATER RESOURCE EVALUATIONS

3.2.1 Restricted Allocation Areas

Due to concerns regarding water availability, the following geographic areas are restricted with regard to the utilization of specific water supply sources. These areas and sources include the following:

A. through F. No change.

F. Groundwater Allocation in the Central Florida Coordination Area (CFCA) –

1. Overall Intent:

No change.

(a) No change.

2.a. through 2. b. No change.

c. An injection/recovery wellfield that injects surface water, stormwater, or reclaimed water that is not required under criteria 3.2 or 3.2.3 to be provided to other uses provided to users in accordance with District rules, through one or more wells for storage within an aquifer zone and subsequently recovers it through wells from the same aquifer zone and in the same wellfield, when the volume of water withdrawn does not exceed the volume of water injected; or

2.d. No change.

3. No change.

4. Due Diligence:

A permittee that will lack sufficient supplemental water supplies after 2013 from which to obtain the increase in quantity above its demonstrated 2013 demand shall ~~can~~ be allocated a temporary amount of groundwater to meet that increase only if it has exercised due diligence to meet all schedule requirements in the permit for developing and using supplemental water supply and providing that other conditions for issuance in Rule 40E-2.301, F.A.C., and this Basis of Review are met. Any such temporary allocation shall cease when water from the supplemental water supply project becomes available.

5. Change In Use Type:

If an application includes a request to change the use type, or the use within a use type, supplied by groundwater during the term of a permit, such change shall not trigger the requirements to develop and/or use supplemental water supply pursuant to subsections 3.2.1.F. 2. or 3. and the corresponding permit duration provisions of 1.7.2.2 and the CFCA permit condition described in subsection 5.3.F.4., provided:

(a) The application does not propose an increase in groundwater withdrawal above that permitted for 2013; and

(b) The groundwater drawdown is no greater than that associated with the use permitted for 2013. However, this subsection 3.2.1.F.5. shall not be construed to affect any condition in the existing permit regarding the development and/or use of supplemental water supply.

6. Lower Quality Sources Analysis

In reviewing a proposed consumptive use of groundwater in the CFCA under subsection 3.2 regarding utilization of lowest acceptable quality water sources, the District will confine its analysis of lower quality sources to those sources listed in the definition of “supplemental water supply” in subsection 1.8.

5.0 PERMIT CONDITIONS

5.3 Specific Region Special Conditions

A. through E. No change.

F. In addition to the general and other special conditions described in this part, permits for public supply utility applicants and similar applicants withdrawing groundwater in the CFCA shall include special conditions that address the following:

1.a. Implementation of a ~~District approved~~ plan to monitor hydrology, ecology, and water quality in areas subject to impacts from the permitted withdrawal, with at least annual data reporting and analysis.

2.b. Implementation of specific ~~District approved~~ measures to mitigate or avoid harm that would otherwise occur as a result of the permitted allocation.

3.e. Implementation of ~~District approved~~ mitigation or avoidance actions to address any unanticipated harm, if the District finds that harm will occur or has occurred as a result of the permit allocation.

4.d. ~~Expeditious~~ Development and use of supplemental water supply to meet water demands in an expeditious manner as described in 3.2.1.F.3.

5.e. Submittal of five-year compliance reports for 20 year duration permits as described in subsection 373.236(4), F.S.

6.f. The reduction in allocation or other modification to the permit, after review of each five-year compliance report or at any other time during the term of the permit, if needed to abate observed or projected harmful impacts as a result of the permitted use, unless the harmful impacts can be mitigated by the permittee. The permittee shall be provided with notice and an opportunity for a hearing under Chapter 120, F.S., if the District makes such a reduction or other modification.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.:
40E-20.091

RULE TITLE:
Publications 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 Vol. 33, No. 36, September 7, 2007 issue of the Florida Administrative Weekly.

40E-20.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – (effective date) _____, April 23, 2007,” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042, 373.0421, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History–New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, _____.

See Notice of Change for 40E-2.091, F.A.C., within this issue.

DEPARTMENT OF ELDER AFFAIRS

Statewide Public Guardianship Office

RULE NOS.:	RULE TITLES:
58M-2.001	Professional Guardian Registration
58M-2.003	Professional Guardian Coursework and Competency Examination
58M-2.007	Electronic Fingerprint Criminal History Record Check

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. 33, No. 40, October 5, 2007 issue of the Florida Administrative Weekly.

58M-2.001 Professional Guardian Registration.

(1) Persons who are required to register with Department of Elder Affairs’ Statewide Public Guardianship Office (SPGO) as a professional guardian must complete the Professional Guardian Registration Form, DOEA/SPGO Form 001, _____, 2007 which is incorporated herein by reference and may be obtained from the Statewide Public Guardianship Office, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 or at <http://elderaffairs.state.fl.us/english/public.html>. The Professional Guardian Employee Registration Form, DOEA/SPGO Form 002, _____, 2007 which is incorporated herein by reference and may be obtained from SPGO or at <http://elderaffairs.state.fl.us/english/public.html> must also be completed and submitted for all Professional Guardian Employees,

(2) through (3) No change.

(4) The following items must either accompany the registration form or must be on file with SPGO, for the registration to be deemed complete:

(a) A complete credit report, including all pages, from a nationally recognized credit agency. A nationally recognized credit agency shall mean a credit agency that obtains credit information both within and outside the State of Florida; validates, updates, and maintains the accuracy of credit

information obtained. The report must reflect the financial responsibility of the registrant and provide full, accurate, current, and complete information regarding payment history and credit rating. Credit history report for guardians as specified in Section 744.3135, F.S.;

(b) through (c) No change.

(5) For the initial registration, the applicant must submit proof of completion of the required training, as well as, proof of competency by evidence of satisfactory completion of a Department of Elder Affairs approved examination unless waived in accordance with Section 744.1085(8), F.S. For annual renewals, proof of receipt of the minimum continuing education requirements must be submitted, if not on file.

(6) No change.

(7)(a) The registration period begins the day the registration is approved by SPGO and ends on the registrant’s bond anniversary date. For multi year bonds, the annual registration expiration date will be determined by the day and month that the bond expires.

(b) SPGO will ~~may~~ prorate the registration fee up to 50% for initial registrants whose bond will expire in less than 6 months.

(8) Annual Renewals: A completed DOEA/SPGO Form 001 for annual renewal of a registration shall be submitted to SPGO at least 30 days prior to the expiration date of the current registration to ensure that a lapse in registration does not occur. Annual registration for attorneys registered as professional guardians are due January 1st of each year. If the renewal form is not received 30 days prior to expiration, Registrants may request expedited processing for an additional fee. A schedule of those expedited fees is provided on DOEA/SPGO Form 001. All fees must be received with the completed registration form prior to the registration being processed by SPGO.

(9) No change.

Specific Authority 744.1083(6) FS. Law Implemented 744.102(17)(16), 744.1083, 744.1085, 744.3135 FS. History–New 5-4-03, Amended 12-12-05, _____.

58M-2.003 Professional Guardian Coursework and Competency Examination.

(1) The minimum hours of instruction and training is set out in Section 744.1085(3), F.S. The initial 40 hours of education and training must be approved by SPGO prior to an applicant taking a course. Information about the approved professional guardian coursework and competency examination may be obtained from the Statewide Public Guardianship Office or online at <http://elderaffairs.state.fl.us/english/public.html>.

(2) Completion of the required professional guardian instruction and training course is a mandatory requirement in order for the registrant to be eligible to take the competency examination. The exam will be administered by the approved

contractor. The contractor will set the examination fee, which cannot by law exceed \$500. The examination may be waived in accordance with the criteria in Section 744.1085(8), F.S.

(3) The exam is comprised of two parts: 1) national guardianship ethics and practices, and 2) Florida law and procedure. Registrants must score a minimum of 75% on both parts on the Professional Guardian Competency Examination or must receive a waiver from SPGO prior to the registration.

(4) No change.

(5) Professional guardians must complete continuing education credits as outlined in Section 744.1085(3), F.S. The SPGO must approve the coursework for all continuing education classes prior to attendance. Proof of completion of the required continuing education hours shall be submitted with the annual renewal registration.

Specific Authority 744.1083(6), 744.1085(3)(a)-(e), (6)(b), (7),(8) FS. Law Implemented 744.102(17)(46), 744.1083, 744.1085, 744.3135 FS. History–New 12-12-05, Amended.

58M-2.007 Electronic Fingerprint Criminal History Record Check.

Per Section 744.3135(3)(a), F.S., a professional guardian and their fiduciary employees may use electronic fingerprinting methods. ~~Registrants must use an approved SPGO provider. A list of providers for electronic fingerprinting will be maintained by SPGO. If completing a criminal history record check by electronic fingerprinting, registrants must use a provider on the list maintained by SPGO.~~ This list may be obtained from the Statewide Public Guardianship Office or at <http://elderaffairs.state.fl.us/english/public.html>.

Specific Authority 744.3135 FS. Law Implemented 744.3135 FS. History–New.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
59G-4.070 Durable Medical Equipment and Supplies

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. 33, No. 31, August 3, 2007 issue of the Florida Administrative Weekly.

These changes are in response to comments received from the Joint Administrative Procedures Committee and during the public hearing process.

The rule incorporates by reference the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2007. The following revisions were made to the handbook.

Page 1-2, Enrolled Medicaid Pharmacy Provider. We corrected the F.A.C. citation to read, “59G-4.250.”

Page 1-3, General Medicaid Enrollment Requirements. We added “Provider” to the title so it now reads, “General Medicaid Provider Enrollment Requirements.”

Page 1-3, We added the following section from the current handbook. “Qualification Requirements. To enroll as a Medicaid provider, a DME and medical supply entity must meet the following criteria:

- Be licensed by the local government agency as a business or merchant or provide documentation from the city or county authority that no licensure is required;
- Be licensed by the Department of Health, Medical Quality Assurance, Board of Orthotics and Prosthetics, if providing orthotics and prosthetic devices;
- Be licensed by the Agency for Health Care Administration, Division of Health Quality Assurance, in possession of a Home Health Equipment license;
- Be in compliance with all applicable laws relating to qualifications or licensure; and
- Have an in-state business location or be located not more than fifty miles from the Florida state line.”

Page 1-4. We deleted the sections titled “Business Location Eligibility Requirements for DME and Medical Supply Providers” and “Business Location.”

Page 1-5 (new page 1-4), General DME and Medical Supply Provider Qualifications for Enrollment and Re-enrollment. We deleted the word “General” from the title and revised the eighth bullet to read, “Be operating primarily as a walk-in DME and medical supply business location.” In the ninth bullet, we changed the effective month from “January” to “March.”

Page 1-6 (new page 1-5), General DME and Medical Supply Provider Qualifications for Enrollment and Re-enrollment. We deleted the word “General” from the title. We deleted the following accrediting organizations: Board of Certification in Pedorthics and American Board for Certification in Orthotics and Prosthetics. We added the American Board for Certification in Orthotics, Prosthetics, and Pedontics, Inc. In the first and second paragraphs, we changed the effective month from “January” to “March.”

Page 1-7 (new page 1-6), General DME and Medical Supply Provider Qualifications for Enrollment and Re-enrollment. We deleted the word “General” from the title. We revised the third bullet to read, “The provider must have a current physical DME and medical supply services business location with substantial stock, as defined in this chapter.”

Page 1-8 (new page 1-7), Home Health Services. We revised the definition to read, “Home health services are defined in section 400.462, F.S. as health and medical services and medical supplies furnished by an organization to an individual in the individual's home or place of residence. The term includes organizations that provide one or more of the following:

- Nursing care.
- Physical, occupational, respiratory, or speech therapy.
- Home health aide services.
- Dietetics and nutrition practice and nutrition counseling.
- Medical supplies, restricted to drugs and biologicals prescribed by a physician.”

Page 1-9 (new page 1-8), Orthotic and Prosthetic Providers. In the third paragraph, we revised the first sentence to read, “Representatives of product manufacturers who are not licensed by the Department of Health, Medical Quality Assurance, Board of Orthotics and Prosthetics and are not employed by the enrolled provider are not qualified to provide Medicaid DME orthotic and prosthetic services, including the assessment, adjustment and the fitting of orthotic and prosthetic devices.”

Page 1-9 (new page 1-8). We deleted the section titled, “Mail Order Providers.”

Page 1-10 (new page 1-9), Requirements for Medical Oxygen Providers and Retailers. In the seventh paragraph, we revised the second sentence to read, “The individual patient record must include clearly documented initial and quarterly home visits.” We revised the third sentence to read, “Patient records must include equipment assessments, such as oxygen concentrator hour meter readings.”

Page 1-11 (new page 1-10), Mobile DME and Medical Supply Providers. In the first sentence, first paragraph, we deleted, “Unless authorized by a competitive procurement contract agreement.”

Page 1-17 (new page 1-16), Background Screening Requirement. In the second and fourth paragraphs, we change the effective month from “January” to “March.”

Page 1-23 (new page 1-22). We deleted the section titled, “Self-Referral and Conflict of Interest.”

Page 1-25 (new page 1-24). DME and Medical Supply Provider Responsibilities. In the seventh bullet, first sentence, after durable medical equipment, we added, “as required by the manufacturer’s guidelines.”

Page 1-26 (new page 1-25). Training Documentation Requirements for Provider’s Employees. We revised the fifth bullet to read, “Legible signatures of attendees and the DME business location where they are employed or the individual’s certification of completion of on-line training . . .”

Page 1-27 (new page 1-26), Provider Responsibility and HIPAA. In the second Note, we specified that the information is found in Chapter 2.

Page 2-4, Independent Therapist or Psychiatrist. We revised the Note to read, “See Provider Requirements, Illegal Remunerations, in Chapter 1 for additional information.”

Page 2-11, Time-Sensitive Medical-Necessity Redetermination Requirements for Consumable Medical Supplies. In the first paragraph, first sentence, we deleted “that

are included in the monthly rental fee,” and changed the first two bullets to read, “A new and specific prescription or; A Certificate of Medical Necessity (CMN) or . . .”

Page 2-12, Time-Sensitive Medical-Necessity Redetermination Requirements for Oxygen Therapy, Oxygen-Related Equipment, and Apnea Monitors. We deleted the first paragraph. We revised the first two bullets to read, “A new prescription or; Certificate of Medical Necessity (CMN) or . . .” After the last bullet, we added the following new paragraph, “The new documentation of medically necessity must specify the type of equipment, goods, or services requested and the quantity, frequency, and the length of need. Length of need must be documented when equipment has been prescribed for less than twelve (12) months.”

Page 2-13, Delivery Documentation Requirements. In the fifth bullet, we changed “A statement,” to “Documentation.” In the ninth bullet, we added “number,” so that it reads, “Model number.” We rewrote the tenth bullet to read, “Serial or item number(s), where applicable.” We deleted the fourteenth bullet, which read, “Current condition of equipment.”

Page 2-14, Pick-up and Return Documentation Requirements. Under “Pick-up documentation must include, at a minimum, the following information,” seventh bullet, we added “or item.” We deleted the tenth bullet that read, “Oxygen tank or cylinder’s contents, if applicable;” and the eleventh bullet that read, “Current condition of equipment.”

Page 2-17, Prior Authorization (PA) Process. In the first paragraph, we added the Florida Medicaid Authorization Request, PA01’s effective date and that it is incorporated by reference in 59G-4.160, F.A.C. In the second note, we deleted the last sentence, “The form is incorporated by reference in 59G-4.001, F.A.C.”

Page 2-18, Prior Authorization Documentation. In the fifth bullet, we added “or item number.” In the tenth bullet, we added, “or a statement why three (3) price sheets are not available.”

Page 2-25, Rental Agreement. We added a third bullet, which reads, “During the rental agreement, the recipient is enrolled in a Provider Service Network (PSN) or Health Maintenance Organization (HMO) plan and the rental services has been or is being terminated.”

Page 2-27, Limitations for Replacement of Equipment. We deleted the third bullet, which read, “Using or transporting the equipment in a way not intended or recommended by the manufacturer.”

Page 2-34, Home Visit Documentation Requirements. We revised the first sentence to read, “When an RN, CRT, or RRT conducts a face-to-face home visit, the licensed professional must document the following information in the recipient’s medical record.” We revised the third bullet to read, “Recipient’s current condition and recent changes in the recipient’s condition based upon an interview with the recipient’s family and caregiver;”

Page 2-41, Conflict of Interest. We revised the title to read, “Conflict of Interest for AAC Device.”

Page 2-60, Provider Service Requirements Regarding Oxygen and Oxygen-Related Equipment. We in the ninth bullet, we replaced, “qualified license professionals,” with “qualified individuals.”

Page 2-64, Initial and Quarterly Home Visit Requirements. We revised the first sentence to read, “When the CRT, RRT or RN conducts the initial visit and qualified technicians conduct quarterly home visits . . .” We deleted the second through the sixth bullets and the last bullet, which read, “Saturation measurement by pulse oximetry; and Recording of respiration; and Breath sounds; and Skin color; and Other significant observations; and Actions taken as a result of the respiratory assessment findings during the home visit.” We revised the tenth bullet (new fifth bullet) to read, “Oxygen concentrator meter reading, when a concentrator was delivered.”

Page 2-67, Practitioner Documentation Requirements. In the first sentence, we replaced “orders,” with “documentation of medical necessity.”

Page 2-68, Documentation Requirements. In the first bullet, we replaced “an order or prescription” with “documentation of medical necessity.” In the last bullet, we changed “month” to “quarter.”

Page 2-69, Portable Oxygen Service Criteria. In the first bullet, we replaced “Recipient qualifies,” with “Documentation of medical necessity.”

Page 2-79, Specific Diagnostic Requirements for Reimbursement. In the last paragraph, we replaced “qualified respiratory professional” with “qualified technician.”

Page 2-81, Reimbursement. We revised the first sentence to read, “Tubing and accessories necessary to operate respiratory and gastric suction equipment are reimbursable only for recipient owned equipment.” We deleted the second sentence, which read, “Claiming separate reimbursement for items included in the equipment’s scheduled monthly rental fee is not allowed.”

Page 2-85, IPPB Documentation. We deleted the sixth bullet, which read, “Quarterly follow up visit documentation, to include a respiratory assessment and vital signs;”

Page 2-86, Volume Ventilator Documentation. We revised the seventh bullet to read, “Quarterly visit documentation.”

Page 2-87, General Documentation Requirements. We revised the eleventh bullet to read, “Visit documentation.”

Page 2-92, Customized Wheelchair Documentation. In the first bullet, we replaced “attainment cost” with “manufacturers suggested retail pricing (MSRP).”

- 59G-14.004 Florida KidCare Dispute Review Process
- 59G-14.005 Florida KidCare Grievance Committee
- 59G-14.006 Florida KidCare Grievance Procedures

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. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly.

These changes are in response to comments received from the Joint Administrative Procedures Committee (JAPC) and from the Florida Healthy Kids Corporation.

59G-14.001(2) Complaint or dispute – We inserted timeframe language so that the definition now reads, “‘Complaint’ or ‘dispute’ is a verbal or written expression of dissatisfaction, regarding an eligibility or enrollment decision received within 90 calendar days of the date of the letter indicating the suspension or termination of a child’s enrollment.”

59G-14.001(3) Complainant or grievant – We revised the first two sentences to read, “‘Complainant’ or ‘grievant’ is a parent, legal guardian, an authorized representative of the parent or legal guardian or a child whose disability of nonage has been removed who submits a complaint or grievance on behalf of an applicant, enrollee or former enrollee of the Florida Kidcare Program. If a parent, legal guardian or a child whose disability of nonage has been removed appoints a representative . . .”

59G-14.001(5) Enrollee – We added the following definition of enrollee, “‘Enrollee’ means a child who has been determined eligible for and is receiving coverage under Sections 409.810-.820, F.S.” We renumbered the previous 59G-14.001(5) Florida Kidcare Partners through 59G-12.001(12) Third Party Administrator to subsections 59G-14.001(6) through 59G-14.001(13), F.A.C.

59G-14.001(11) Health Services, formerly 59G-14.001(10) – We added dental services so the definition now reads, “‘Health Services’ means the medical and dental benefits provided by an individual’s health care coverage (e.g., hospital services, physician services, prescription drugs and laboratory services).”

59G-14.001(13) Third Party Administrator, formerly 59G-14.001(12) – We deleted the wording specifying the administrative services performed by the third party administrator and inserted the Florida Statute provision, 624.91(5)(b)(8), F.S., which authorizes Florida Healthy Kids Corporation to assign KidCare responsibilities to a contracted third party administrator. The definition now reads, “‘Third Party Administrator’ is the entity contracted by Florida Healthy Kids Corporation that is responsible for administrative services for the Florida Kidcare Program, Title XXI Programs as authorized by 624.91(5)(b)(8), F.S.”

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.:	RULE TITLES:
59G-14.001	Definitions
59G-14.002	Confidentiality

59G-14.002 Confidentiality – We revised the rule to read, “The Florida Kidcare Dispute Review Process and the Florida Kidcare Grievance Review Process shall conform to s. 409.821, F.S., Health Insurance Portability and Accountability Act of 1996, and Title 42, Part 431, Subpart F of the Code of Federal Regulations with respect to confidentiality of information.”

59G-14.004(1), (2) Florida Kidcare Dispute Review Process – We reworded the paragraphs to read: “(1) The Florida Kidcare Dispute Review Process is the means by which the Florida Kidcare Program provides a comprehensive review of complaints relating to eligibility and enrollment. During the review process, complaints or disputes are investigated and resolved for eligibility or enrollment matters regarding:

(a) Denial of eligibility;

(b) Failure to make a timely determination of eligibility; and

(c) Suspension or termination of enrollment, including disenrollment for failure to pay cost sharing.

(2) Health service matter disputes regarding a delay, denial, reduction, suspension, or termination of health services and a failure to approve, furnish, or provide payment for health services in a timely manner are reviewed and resolved through a process developed independently for each Florida Kidcare program entity as referenced in 59G-14.007, F.A.C.”

59G-14.004(3) – We added language to clarify the role of the third party administrator during the Florida KidCare Informal Dispute Review Process. The rule now reads, “The Third Party Administrator for the Florida Healthy Kids Corporation determines eligibility and processes informal disputes received during “Level One” of the dispute review process for the non-Medicaid components of the Florida Kidcare Program. The Florida Healthy Kids Corporation is responsible for reviewing the formal eligibility and enrollment disputes for the Florida Kidcare Program. The Florida Healthy Kids Corporation Resolution Staff is responsible for conducting the Florida Kidcare Dispute Review Process.”

59G-14.004(4)(b) – We revised the first sentence to read, “If the Florida Kidcare customer service representative determines that a dispute cannot be resolved through a telephone conversation, the Florida Kidcare customer service representative shall request the complainant forward documentation concerning the dispute to the Florida Healthy Kids Corporation office within 90 calendar days of the date of the letter received indicating denial, suspension or termination of enrollment.”

59G-14.005(1) – We revised the rule to read, “The Florida Kidcare Grievance Committee shall review and resolve grievances related to the Florida Kidcare Program when all four levels of resolution through the Florida Kidcare Dispute Review Process have been completed. Grievances involving more than one Florida Kidcare Program will also be addressed by this committee. Disputes involving more than one Florida

Kidcare Program shall be immediately referred to the Kidcare Grievance Committee. Grievances heard by the Florida Kidcare Grievance Committee shall include eligibility and enrollment matters relating to Florida Healthy Kids, MediKids or the Children’s Medical Services Network. The following provisions apply to the Florida Kidcare Grievance Committee.”

59G-14.006(1) – We revised the first sentence to read, “If the grievant is dissatisfied with the action taken by the Florida Healthy Kids Board of Directors during the Level Four process of the Florida Kidcare Dispute Review process, the grievant can submit a written request for the Florida Kidcare Grievance Committee to review the grievance.”

59G-14.006 (3) – In the third sentence, we added the timeframe for a response. The sentence now reads, “If the initial eligibility or enrollment decision is correct and the Florida Healthy Kids Corporation followed the dispute review process outlined in this rule, the complainant will be notified in writing within five (5) calendar days of the Agency receiving the completed and executed forms referenced in 59G-14.006 (2) of this rule, that the decision determined during the Florida Kidcare Dispute Review Process shall remain unchanged.”

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-5.007
 RULE TITLE: Fees; Certificates of Competency, Renewal

NOTICE OF WITHDRAWAL OF PROPOSED RULE DEVELOPMENT

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 50, December 15, 2006 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-17.051	Application for Site Certification
62-17.091	Conduct of Studies
62-17.191	Postcertification Compliance Review, Monitoring
62-17.205	Postcertification Amendments or Clarifications
62-17.211	Modification of Certification, Criteria-change Modifications, Transfer of Ownership
62-17.281	Newspaper Notice

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. 33, No. 43, October 26, 2007 issue of the Florida Administrative Weekly.

62-17.051 Application for Site Certification.

(1)(a) No change.

(b) The applicant may substitute the United States Nuclear Regulatory Commission's or its successor's format for an application for a nuclear power plant as outlined in 10 CFR, Part 50 and 10 CFR, Part 51, January 1, 2007, ~~as amended, or any substantially similar federal format approved by the department,~~ in lieu of the department's format for a new application or a supplemental application.

(2) through (4) No change.

Specific Authority 403.504(1)(2), 403.517(1)(a), 403.5175(1) FS. Law Implemented 403.504, 403.5064, 403.517, 403.5175 FS. History–New 5-7-74, Amended 12-27-77, Formerly 17-17.04, Amended 5-9-83, 4-14-86, 1-22-91, 1-26-93, Formerly 17-17.051, Amended 2-1-99,_____.

62-17.091 Conduct of Studies.

(1) As needed to verify or supplement the studies made by the applicant in support of the application, the department ~~may~~ shall commence or contract for joint or independent studies to aid in the evaluation of the site or ~~may~~ request that other agencies prepare a report on matters in that agency's jurisdiction. The department shall give written notice of all such studies to the applicant and affected agencies before they are commenced.

(2) No change.

Specific Authority 403.504(2) FS. Law Implemented 403.507(2), 403.507(3) FS. History–New 5-7-74, Amended 12-27-77, Formerly 17-17.05, Amended 5-9-83, Formerly 17-17.091, Amended 2-1-99,_____.

62-17.191 Postcertification Compliance Review, Monitoring.

(1) through (2) No change.

(3) The licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due-dates for information required of the licensee are identified. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the Siting Coordination Office and any affected agency or agency subunit to whom the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified ~~below or any other format requested by the licensee and approved by the department.~~

Condition Number	Requirement and timeframe	Due Date	Name of Agency or agency subunit to whom the submittal is required to be provided

Specific Authority 403.504(1) FS. Law Implemented 403.504(8), 403.511 FS. History–New 5-7-74, Amended 12-27-77, Formerly 17-17.13, Amended 5-9-83, Formerly 17-17.191, Amended 2-1-99,_____.

62-17.205 Postcertification Amendments or Clarifications.

(1) through (2) No change.

Specific Authority 403.504(1) FS. Law Implemented 403.511, 403.5113, 403.516 FS. History–New 2-1-99, Amended _____.

62-17.211 Modification of Certification, Criteria-change Modifications, Transfer of Ownership.

No change.

(1) No change.

(a) No change.

(b) The process for modifications requested by the licensee shall be in accordance with Section 403.516(1)(~~c~~)(b), F.S., and the following:

1. The process is initiated by the filing of a complete and sufficient petition for Modification. The petition shall contain a concise statement of the proposed modification; the factual reasons asserted for the modification, including the changes in circumstance which justify the modification; and, a statement of whether, and if so, how the proposed modification if approved would affect the conditions of certification, the site layout or design as depicted in the current version of the application, and the anticipated affects of the proposed modification on ~~the applicant, public, and~~ the environment.

2. through 7. No change.

(c) through (d) No change.

(2) through (4) No change.

Specific Authority 403.504(1) FS. Law Implemented 403.511(5), 403.516 FS. History–New 5-7-74, Amended 12-27-77, Formerly 17-17.17, Amended 5-9-83, Formerly 17-17.211, Amended 2-1-99,_____.

62-17.281 Newspaper Notice.

No change.

(1) through (4) No change

(5) Notice of Land Use Hearing.

No change.

- (a) No change.
- (b) Text which is the same point size as standard news items and which substantially states the following:
 - 1. through 5. No change.
 - 6. ~~“Each party shall make available for public inspection at least five days prior to the hearing at a place specified in the public notice any written direct testimony which it intends to submit at the hearing.”~~
- (6) Notice of Zoning and Land Use Plan Appeal Hearing. No change.
- (a) through (d) No change.
- ~~(e) Same as (5)(b)6. above.~~
- (7) through (12) No change.

Specific Authority 403.504(1), 403.504(2), ~~403.6063(2), 403.517(1)(a)~~ FS. Law Implemented 403.504(2)(5)(9), 403.5063, 403.5115(4), 403.516(1), 403.517, 403.5175 FS. History–New 2-1-99, Amended _____.

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-14.006
RULE TITLE: Citations

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. 33, No. 34, August 24, 2007 issue of the Florida Administrative Weekly.

The change is in response to concerns of by the Joint Administrative Procedures Committee in a letter dated October 5, 2007. The change is as follows:

The rule shall read as:

- 64B10-14.006 Citations.
- (1) through (2) No change.
- (3) The following violations with accompanying fines may be disposed of by citation:
 - (a) Practice on an ~~delinquent inactive~~ license or certificate for less than six months. The fine shall be \$50 for each month of practice.
 - (b) Falsely certifying compliance with continuing education hours required for renewal of licensure or certification. If the individual has no documentation, the fine shall be ~~\$1500.00~~ ~~500.00~~. If the individual has some documentation, the ~~fine shall be \$500. penalty is \$25 per missing hour, to a maximum of \$500. For failing to provide documentation of the HIV/AIDS course, the fine shall be \$100.00. All missing CEUs shall be made up within six months of the date the citation becomes a Final Order~~
 - (c) through (d) No change.

~~(e) First time failure to comply with Rule 64B10-15.001, F. A. C. The fine shall be \$500.00. For each hour of continuing education not completed or completed late, the licensee shall be required to complete one (1) additional hour of continuing education within six (6) months of the issuance of the citation.~~

~~(e)(f) No change.~~

~~(f)(g) For any Nursing Home Administrator who failed Failure to comply with Rule 64B10-12.018, F.A.C. (Special Assessment) by October 31, 2005,- [The fine shall be \$500.00.~~

~~(4) Tendering a check payable to the Board of Nursing Home Administrators or to the Department of Health that is dishonored by the institution upon which it is drawn shall result in a fine of \$100 and payment of the check within 30 days Prior to issuance of the citation, the investigator must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.~~

(5) No change.

Specific Authority 456.073, 456.077 FS. Law Implemented 456.077 FS. History–New 3-1-92, Formerly 21Z-14.006, 61G12-14.006, Amended 7-21-97, Formerly 59T-14.006, Amended 5-15-00, 8-23-00, 2-23-06, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-9.001
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. 33, No. 45, November 9, 2007 issue of the Florida Administrative Weekly.

These changes were approved by the Board on December 6, 2007 and were made to address concerns raised by an affected party at a rule workshop held on December 6, 2007 and noticed in Vol. 33, No. 47 of the November 21, 2007 issue of the Florida Administrative Weekly. The changes are as follows:

- 1. Paragraph 64B17-9.001(6)(c) shall now read as follows:
 - (c) Courses sponsored or approved by the Florida Physical Therapy Association, so long as they meet the criteria set forth in subsection 64B17-9.001(3), F.A.C.
- 2. The proposed new paragraph (6)(d) shall be deleted.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3255

DEPARTMENT OF HEALTH

Division of Health Access and Tobacco

RULE NO.: 64I-4.001
 RULE TITLE: Procedures for Investigations of Florida Clean Indoor Air Act (FCIAA) Complaints

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule development in Vol. 33, No. 49, December 7, 2007 issue of the Florida Administrative Weekly.

This Notice of Correction Corrects the Notice of Development of Rulemaking that was published on December 7, 2007.

PURPOSE AND EFFECT: The purpose of the amendment is to conform the rules to the statute.

SUBJECT AREA TO BE ADDRESSED: Chapter 386, Part II, Florida Statutes, Florida Clean Indoor Air Act.

SPECIFIC AUTHORITY: 386.2125 FS.

LAW IMPLEMENTED: 381.0012, 386.206, 386.207 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 WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Erin Levingston, Paralegal Specialist, Department of Health, 4052 Bald Cypress Way, Bin A-02, Tallahassee, Florida 32399-1743, (850)245-4005 or, erin_levingston@doh.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

~~64I-4.001 Procedures for Investigations of to Be Followed by Department of Health (DOH) Personnel When Investigating Florida Clean Indoor Air Act (FCIAA) Complaints and Notifying Alleged Violators.~~

~~(1) During inspections, DOH environmental health personnel shall document all observed violations of the Florida Clean Indoor Air Act (FCIAA) according to the requirements of Chapter 64I-4, F.A.C.~~

~~(2) Upon completion of the on-site inspection, DOH environmental health personnel shall complete the required sections of the Request for Inspection Form, a copy of which may be obtained from the Department of Health, Division of Health Access and Tobacco, 4052 Bald Cypress Way, Bin C23, Tallahassee, FL 32399-1743, and which is incorporated herein by reference, reporting that: facts relating to compliance with the FCIAA.~~

~~(a) The enclosed indoor workplace is not in compliance with the FCIAA and administrative proceedings shall be initiated, or~~

~~(b) There were no violations of the FCIAA found and the case shall be closed.~~

(3) The county health department director or administrator will forward the completed inspection form to the Division of Health Access and Tobacco, 4052 Bald Cypress Way, Bin C23, Tallahassee, FL 32399-1743.

(4) Upon receipt of the county health department report, the Division of Health Access and Tobacco shall evaluate the report for further action in accordance with Chapters 120, 381, and 386, F. S.

~~(a) Initiate administrative procedures according to the provisions of Chapter 120, F.S., or~~

~~(b) Close the case.~~

Specific Authority 386.207, 386.2125 FS. Law Implemented 381.0012, 386.206, 386.207 FS. History—New 2-27-94, Amended 4-2-96, Formerly 10D-105.008, 64D-1.001, Amended 11-5-02, 8-16-04, Formerly 64E-25.001, Amended _____.

DEPARTMENT OF HEALTH

Division of Health Access and Tobacco

RULE NO.: 64I-4.002
 RULE TITLE: On-Site Investigations of Enclosed Indoor Workplaces

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule development in Vol. 33, No. 49, December 7, 2007 issue of the Florida Administrative Weekly.

This Notice of Correction Corrects the Notice of Development of Rulemaking that was published on December 7, 2007.

PURPOSE AND EFFECT: The purpose of the amendment is to conform the rules to the statute.

SUBJECT AREA TO BE ADDRESSED: Chapter 386, Part II, Florida Statutes, Florida Clean Indoor Air Act.

SPECIFIC AUTHORITY: 386.2125 FS.

LAW IMPLEMENTED: 381.0012, 386.206, 386.207 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 WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Erin Levingston, Paralegal Specialist, Department of Health, 4052 Bald Cypress Way, Bin A-02, Tallahassee, Florida 32399-1743, (850)245-4005 or, erin_levingston@doh.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64I-4.002 On-Site Investigations of Enclosed Indoor Workplaces.

During inspections or investigations of any Florida Clean Indoor Air Act (FCIAA) complaint, DOH ~~environmental health~~ personnel shall document all observed violation(s) of Section 386.206, F.S.

(1) The proprietor or other person in charge of an enclosed indoor workplace must develop a policy regarding the prohibition of smoking in an enclosed indoor workplace. Such policy must include a prohibition of smoking in the enclosed indoor workplace. Should there be no written policy, a violation of Section 386.206 (1), F.S., exists and will be documented as: "Failure to develop a policy regarding smoking prohibition."

(2) The proprietor or other person in charge of an enclosed indoor workplace shall implement a policy regarding smoking prohibition. If persons are observed violating the policy, and the proprietor or other person in charge witnesses or is made aware of a violation of Section 386.204, F.S., in the enclosed indoor workplace but nonetheless fails to implement the policy, a violation of Section 386.206(1), F.S., exists and shall be documented as: "Failure to implement a policy regarding smoking prohibition."

(3) The proprietor or other person in charge of an enclosed indoor workplace where a smoking cessation program, medical research, or scientific research is conducted shall conspicuously post, or cause to be posted, signs designating areas where smoking is permitted for such purposes within the enclosed indoor workplace. If such signs are not posted then a violation of Section 386.206(3), F.S., exists and will be documented as: "Failure to post signs designating smoking permitted areas."

~~(4) The proprietor or other person in charge of an enclosed indoor workplace where, prior to the adoption of s. 20, Art. X of the State Constitution was required to post signs under Section 386.206, F.S., shall continue to post signs stating that smoking is prohibited within the enclosed indoor workplace. If such signs are not posted then a violation of Section 386.206(2), F.S. exists and will be documented as: "Failure to post smoking prohibited signs."~~

Specific Authority 386.207, 386.2125, FS.Law Implemented 386.206, 386.207 FS. History—New 2-27-94, Amended 2-19-96, 4-2-96, Formerly 10D-105.009, Formerly 64D-1.002, 64E-25.002, Amended 11-5-02, 8-16-04,_____.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-203.210
 RULE TITLE: Forms Incorporated by Reference

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 33, August 18, 2006 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF FINANCIAL SERVICES

Finance

RULE NOS.:	RULE TITLES:
69V-40.021	Fictitious Name Registration
69V-40.025	Mortgage Broker Examination
69V-40.0271	Professional Continuing Education Requirements for Mortgage Brokers, Loan Originators, and Principal Representatives
69V-40.028	Permit for Mortgage Business School
69V-40.029	Mortgage Business School Permit Renewal
69V-40.031	Application Procedure for Mortgage Broker License
69V-40.051	Application Procedure for Mortgage Brokerage Business License
69V-40.058	Application Procedure for Mortgage Brokerage Business Branch Office License
69V-40.099	Change of Name, Change of Entity and Change in Control or Ownership
69V-40.100	Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender Branch Office License for Transfer in Ownership or Control of Saving Clause Mortgage Lender
69V-40.105	Principal Brokers Branch Brokers
69V-40.160	Application Procedure for Mortgage Lender License
69V-40.165	Application Procedure for Correspondent Mortgage Lender License
69V-40.200	Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License
69V-40.220	Principal Representative
69V-40.240	
69V-40.242	

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. 33, No. 40, October 5, 2007 issue of the Florida Administrative Weekly.

Changes are made to address comments received from the staff of the Joint Administrative Procedures Committee. The changes are as follows:

69V-40.021 Fictitious Name Registration.

No mortgage business school, mortgage brokerage business or lender person having a license or permit pursuant to Chapter 494, F.S., will be permitted to use a fictitious name unless they

have provided evidence to the Office of Financial Regulation that such fictitious name is duly registered with the Florida Secretary of State, pursuant to Section 865.09, F.S.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.0029(2)(e), 494.00311(3)(e), 494.0041(2)(q), 494.0072(2)(q), 865.09~~ FS. History—New 8-7-97, Formerly 3D-40.021, Amended

69V-40.025 Mortgage Broker Examination.

(1) ~~Form and Grading.~~ The Office of Financial Regulation or its designee shall be responsible for the administration and grade notification of the Mortgage Broker Examination. The Office of Financial Regulation or its designee shall notify each applicant of the time, place and date of the examination(s) ~~and shall provide the applicant with an official admission notice which shall be required for admission to sit for the examination. Information contained on the official admission notice shall supersede any other information at the assigned examination location.~~

(2) ~~Examination Proctors.~~ All examinations shall be administered and supervised by proctors who are Office of Financial Regulation employees or its designees. During the examination the examinees shall abide by the instructions of the proctors.

Specific instructions for completion of the examination shall be communicated prior to the examination read by the proctor(s) and the examinees shall be permitted to ask reasonable questions relating to the instructions. The Office of Financial Regulation or its designee shall be responsible for determining that the student taking the examination is the actual person authorized to take the examination. Examinees shall not give or receive help from other examinees. There shall be no talking or communication between the examinees while the exam is in progress. Reference materials shall not be permitted in the examination room unless specifically authorized in the instructions.

(3) Cheating on an examination or violating test center or examination procedures published orally, in writing, or electronically at the test site by Office of Financial Regulation employees or its designees shall be grounds for denial of licensure by the Office of Financial Regulation. Admission after examination has commenced. Candidates arriving at the assigned examination location after the designated starting time shall be permitted to sit for the examination only after signing a statement clearly specifying the late arrival time and agreeing that they shall have only the time remaining in the examination period to complete the examination. Any candidate that refuses to sign such statement shall be disqualified from the examination and will be rescheduled for the next available examination date if that date is within the candidate's ninety (90) day application period. However, no candidate shall be admitted to the examination if any other candidate has completed the examination and left the examination room.

(4) Conduct which is grounds for exclusion. The following behavior(s) by any candidate is grounds for exclusion, anyone of which shall result in immediate removal from the examination room:

(a) Unnecessary noise or other disturbance that interferes with the examination process.

(b) Cheating or attempting to cheat.

(c) Observing the examination questions or answers of those candidates being tested.

(d) Removal of any examination materials from the examination room. Conduct from candidates resulting in the exclusion from an examination shall be grounds for ~~may result in~~ denial of licensure by the Office of Financial Regulation.

(5) ~~Review procedures.~~ Candidates failing the examination will be notified of the review procedures and will automatically be rescheduled for the next examination date provided that date is within their ninety (90) day application period. Candidates who fail the examination may review their examination one time, for a \$30 fee, and must do so at the time and place designated. Candidates reviewing shall have the right to have access to the examination questions booklet, a copy of their examination responses answer sheet, and the correct answers grading key. Rules of examinee conduct during the review are the same as those for the examination.

(6) ~~Examination content.~~ Examinations will be written and composed of 100 multiple choice questions. Examinations will be written according to the weight content area as provided in the candidate Study Guide. The following conditions shall apply:

(a) Candidates must use a number 2 lead pencil to mark their choices on the answer sheet provided.

(b) The examination will be scored on the basis of 100 points ~~for a perfect examination.~~

(c) An applicant who receives a grade of 75 points or higher shall be passed. A passing score will be valid for a period of 2 years ~~365 days~~ from the date of passing the examination.

(d) Candidates will be allowed 3 hours to complete the examination, provided the candidate was not admitted to the examination late in which case the candidate will be limited to the time remaining in the original 3 hour period.

(e) Candidates may use a non-programmable hand held or battery type calculator.

(f) Test scores will be derived from the number of correct responses. Only those answers indicated by the candidate on the answer sheet will be used in computing the examination score.

(g) Candidates will not be permitted to refer to any notes, books or memoranda.

(7) Candidates will be allowed 3 hours to complete the examination, provided the candidate was not admitted to the examination late in which case the candidate will be limited to

the time remaining in the original 3 hour period. Candidates will be permitted to may use a non-programmable hand held or battery type calculator.

~~(8)(7)~~ Notification of results. The applicant will be notified of the results of the examination by the Office of Financial Regulation or its designee. ~~Said notification will be sent via U.S. mail within 10 business days of the examination date.~~

Specific Authority 494.0011(2) FS. Law Implemented 494.0033(2)(b) FS. History—New 10-1-91, Amended 6-8-92, Formerly 3D-40.025, Amended.

69V-40.0271 Professional Continuing Education Requirements for Mortgage Brokers, Loan Originators, and Principal Representatives.

(1) ~~Effective October 1, 2001, All~~ all persons licensed as a mortgage broker shall satisfactorily complete fourteen (14) hours of professional continuing education (~~“continuing education”~~) covering primary and subordinate financing transactions and appropriate laws and regulations governing such transactions. The course of study shall include at least four (4) hours on the laws in Chapter 494, F.S., and the rules in Chapter 69V-40, F.A.C.

(2) ~~Effective October 1, 2002, The~~ the principal representative, and each loan originators, ~~and associates~~ of a mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause shall satisfactorily complete fourteen (14) hours of professional continuing education covering primary and subordinate financing transactions and appropriate laws and regulations governing such transactions. The course of study shall include at least four (4) hours on the laws in Chapter 494, F.S., and the rules in Chapter 69V-40, F.A.C.

(3) Qualifying hours may be obtained by attendance at a duly permitted and accredited Mortgage Business School or an accredited college, university, community college, or area vocational-technical school in this State which offers the fourteen (14) hour professional continuing education course(s). Qualifying hours of at least 4 hours may be obtained by attending training courses covering the provisions of Chapter 494, F.S., and Chapter 69V-40, F.A.C., that are conducted by the Office of Financial Regulation or its Regional Offices.

(4) For the purpose of this rule, the following definitions will apply:

(a) “Hour” shall mean 60 minutes of class time, of which 50 minutes shall be instruction, with a maximum of 10 minutes of break per hour.

(b) “School” shall mean any duly permitted and accredited Mortgage Business School and any accredited college, university, community college, or area vocational-technical school in this State, which offers the fourteen (14) hour professional continuing education course.

(c) “Student” shall mean all persons licensed as a mortgage broker, the principal representative, and loan originators of a mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause.

(d) “Good Cause” means an incident or occurrence which is beyond the control of the student and which prevents attendance. Examples of good cause include, but are not limited to, disabling accident, illness, call to military duty, or declared national emergency.

(5) The fourteen (14) hours of professional continuing education can be taken in one or more courses at one or more schools.

(6) Schools shall not issue certificates of completion to students who do not attend or complete the scheduled hours for any professional continuing education course.

(a) Schools shall be responsible for determining that the student attending or completing the professional continuing education course is the actual person scheduled to complete the class or session.

(b) At the discretion of the school, students may miss a class or session and attend a make-up class or session to complete the attendance requirements upon showing good cause.

(c) The school may hold makeup classes or sessions to accommodate the student.

(7) An instructor of a school who teaches a professional continuing education course may use the course toward the satisfactory completion of the professional continuing education requirement.

(8) Neither students nor instructors may earn professional continuing education credit for attending or instructing at any subsequent offering of the same professional continuing education course during any two (2) year period.

~~(9) The continuing education requirements are waived for the license renewal of the mortgage broker, for the biennial license period in which the individual became licensed as a mortgage broker.~~

~~(10) The continuing education requirements for the principal representative are waived for the license renewal of the mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause, for the biennial license period in which the principal representative completes the 24 hours of classroom education in accordance with Rule 69V 40.027, F.A.C., and also passed a written test in accordance with Rule 69V 40.025, F.A.C., in order to qualify to be designated as a principal representative.~~

~~(9)(11)~~ The professional continuing education courses may be offered through classroom instruction, electronic transmission (“Internet”), or distance education (“correspondence course”).

~~(10)(12)~~ The professional continuing education courses taught by using the Internet and correspondence courses shall have:

(a) Course subject matter, assignment work, scholastic standards and other related requirements substantially similar to the course offered by classroom instruction, having due regard however, to the different methods of presentation.

(b) Shall provide students with instructions on how to contact an instructor to answer inquiries. The school shall also disclose to the student when the instructor will be available, however the instructor shall respond within 2 business days to the student's inquiries.

(c) When the course is in the form of a video tape or CD-Rom, the presentation must be of a quality that permits the student to view and listen to the presentation without interfering with the learning process.

~~(11)(13)~~ Within five (5) days of completion of each professional continuing education course, ~~each permitted the~~ school shall submit to the student a certificate of completion indicating successful completion of the course, and the number of hours that course consisted of. Within five (5) days of completion of each professional continuing education course, each permitted school shall submit to the Office of Financial Regulation the full name and mortgage broker license number or social security number of each student, the school's name and license number, the number of hours completed by the student, and the completion date for individuals licensed as mortgage brokers. Each permitted school shall submit the required information on the Office of Financial Regulation's website at www.flofr.com. The schools are not to submit copies of the continuing education requirement certificates to the Office of Financial Regulation. Each mortgage business school shall maintain all student course completion records for at least ~~four (4)~~ three (3) years from the completion dates.

Specific Authority 494.0011(2), ~~494.00295(4)~~ 494.00295(3) FS. Law Implemented 494.0016, 494.0029, 494.00295, 494.0034, 494.0064, 494.0067 FS. History— New 12-9-01, Formerly 3D-40.027, Amended

69V-40.028 Permit for Mortgage Business School.

(1) Application Process. Each person, school, or institution desiring to obtain a permit for a Mortgage Business School shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Business School Permit, Form OFR-494-04MBS-101, ~~revised 10/01, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(b) A nonrefundable application fee of \$500 ~~which shall be the permit fee for the annual period beginning October 1 of each year or any part thereof.~~

(c) A \$400 nonrefundable accreditation fee ~~which shall be for the annual period beginning October 1 of each year or any part thereof.~~

(d) for schools teaching the 24-hour pre-licensing course, all training materials that the applicant plans to distribute to course participants including a copy of all teaching aids, such as flash cards, hand-outs, audio/video materials, computer disks/cd's, and any computer based training.

(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within thirty (30) days from the date of the request. Failure to respond to the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application, and the application shall be denied pursuant to subsection 120.60(1), F.S.

(3) Amendments to Pending Applications. If the information contained in any application for a permit for a Mortgage Business School or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-04. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office. Refunds. If the application is withdrawn or denied, the application fee is nonrefundable. The accreditation fee shall be refunded when the application is withdrawn prior to a decision being rendered by the Office of Financial Regulation.

~~(4) Withdrawal of Application. An application may be withdrawn if the applicant submits a written request for same that is approved by the Office of Financial Regulation before the application is approved or denied.~~

~~(5) Valid Period of Permit. Upon approval of an application, a permit will be issued for the remainder of the annual license period, which ends each September 30th. The permit will be valid for this period unless the Office of Financial Regulation takes administrative action against it or unless the permit is terminated by the holder.~~

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(5) Refunds. If the application is withdrawn or denied, all fees are non-refundable.

(6) Valid Period of Permit. Upon approval of an application, a permit will be issued for the remainder of the annual license period, which ends each September 30th. The

permit will be valid for this period unless the Office of Financial Regulation takes administrative action against it or unless the permit is terminated by the holder.

(7) Form OFR-494-04 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0029(1), (3)(b) FS. Law Implemented 120.60(1), 494.0029 FS. History—New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.028, Amended _____.

69V-40.029 Mortgage Business School Permit Renewal.

(1) Each active Mortgage Business School permit shall be renewed for the annual period beginning October 1 of each year upon submission of the following:

(a) A permit renewal fee of \$500, ~~and a completed renewal form, Form OFR-MBS-202, Mortgage Business School Renewal Form, revised 10/01, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

(b) A recertification accreditation fee of \$400 for the school; and

(c) For schools teaching the 24-hour pre-licensing course, all training materials that the applicant plans to distribute to course participants including a copy of all teaching aids, such as flash cards, hand-outs, audio/video materials, computer disks/cd's, and any computer based training.

(2) Renewal fees shall be sent directly to the Office of Financial Regulation or may be paid electronically by the following the applicable instructions on the Office of Financial Regulation's website at www.flofr.com. The Office of Financial Regulation shall deem a renewal received upon receipt of the requisite fees and training materials at such time as it has been dated stamped by the Cashier's Office of the Department of Financial Services or the date the renewal process has been completed on the Office's website. All renewal fees and training materials must be received by September 30 of the year in which the permit expires. If September 30 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received.

~~(3)(2)~~ Failure to submit the fees and training materials ~~renewal form~~ required in subsection (1) prior to October 1 or each renewal year shall automatically result in the permit becoming expired. After the license has expired, there is no provision for reinstatement. A new application for a permit must be submitted as described in Rule 69V-40.028, F.A.C.

Specific Authority 494.0011(2), 494.0029(1), (3)(b) FS. Law Implemented 494.0029 FS. History—New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.029, Amended _____.

69V-40.031 Application Procedure for Mortgage Broker License.

(1) Each person desiring to obtain licensure as a mortgage broker shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Licensure as a Mortgage Broker, Form OFR-494-03 ~~OFR-MB-101, revised 03/05, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. The application must be completed and signed within thirty (30) days prior to receipt by the Office;~~

(b) The statutory nonrefundable application fee required by Section 494.0033, F.S., which shall be the fee for the biennial period beginning September 1 of each odd-numbered year or any part thereof;

(c) A completed fingerprint card (FL921050Z) mailed to the Office of Financial Regulation, 200 East Gaines St., Tallahassee, Florida 32399-0376; accompanied by a \$23 nonrefundable processing fee; and

(d) A nonrefundable fingerprint card processing fee of \$42.25;

~~(e)(d)~~ Evidence that the applicant has completed the mortgage broker education requirements of subsection 494.0033(3), F.S.; and

(f) Evidence that the applicant has passed the mortgage broker examination as defined in Rule 69V-40.025, F.A.C.

(2) Request for Additional Information. Any request for additional information, including a passing score on the Mortgage Broker Examination, will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(3) Amendments to Pending Applications. Amendment of Application. If the information contained in an Application for Licensure as a Mortgage Broker or any amendment thereto becomes inaccurate for any reason ~~before the applicant becomes licensed~~, the applicant shall file an amendment ~~be responsible for correcting the inaccurate~~ such information within thirty (30) ten (10) days of the change on Form OFR-494-03 ~~occurring by following the procedures set forth in this subsection~~. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office ~~its~~

receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application ~~will~~ or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee(s) fee, will may be required. A material change means a change to a response to the disclosure questions listed in section 10 on Form OFR-494-03.

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(5) Refunds. If the application is withdrawn or denied, the application fee and fingerprint processing fee are nonrefundable.

(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(7) Restoration of Civil Rights.

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

(7) All applications, fees, data and forms required, except the fingerprint card, to be filed under this rule shall be filed electronically at www.flofr.com. An application and fees submitted electronically on the Office's website shall be considered received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation is issued by the Office upon successful submission of an application and payment of all fees.

(8) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format.

(9) Form OFR-494-03 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 120.60(1), 494.0033 FS. History—New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, 8-22-99, 12-12-99, 12-11-03, Formerly 3D-40.031, Amended 5-24-05.

69V-40.051 Application Procedure for Mortgage Brokerage Business License.

(1) Each person desiring to obtain licensure as a mortgage brokerage business shall apply to the Office of Financial Regulation by submitting the following:

~~(a) A completed Application for Licensure as a Mortgage Brokerage Business and Lender License, Form OFR-494-01 MB-201, revised 10/01, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;~~

~~(b) through (c) No change.~~

(2) Each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, ~~the chief executive officer~~ and each director of an entity applying for licensure as a mortgage brokerage business, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from; Form OFR-494-01 MBB-BIO-1 (revised 10/99), to the Office of Financial Regulation along with a \$42.25 ~~23~~ nonrefundable processing fee. ~~Form OFR-MBB-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(a) Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).~~

~~(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the operation of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.~~

~~(a)(e) If an ultimate equitable owner of 10% or greater interest, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, the individual owner, director, or chief executive officer, control person, member, partner, joint venturer, of the applicant holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).~~

~~(b)(d) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25 ~~50~~% or more of the~~

ownership interest or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

~~(c)(e)~~ Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in an Application for Licensure as a Mortgage Brokerage Business or in any amendment thereto becomes inaccurate for any reason ~~before the applicant becomes licensed~~, the applicant shall file an amendment ~~be responsible for~~ correcting the inaccurate such information within thirty (30) ten (10) days of the change on Form OFR-494-01 ~~occurring by following the procedures set forth in this subsection~~. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application will or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will may be required. Material changes include:

1. A change to a response to the disclosure questions listed in section 8 on Form OFR-494-01.

2. A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-494-01, or

3. The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal broker.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation

by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all the application fees are nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

~~(8) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

(8) Form OFR-494-01 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2), 494.0031(2) FS. Law Implemented 494.0031, 494.0035, 494.004(6) FS. History—New 10-30-86, Amended 1-30-89, 11-28-89, 10-1-91, 6-6-93, 5-14-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-11-03, Formerly 3D-40.051, Amended _____.

69V-40.058 Application Procedure for Mortgage Brokerage Business Branch Office License.

(1) Every mortgage brokerage business which conducts mortgage brokerage business in this state from a branch office shall apply to the Office of Financial Regulation for a license to operate a branch office by submitting the following:

(a) A completed Application for ~~Mortgage Brokerage Business~~ Branch Office License, Form OFR-494-02MB-301, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) The statutory, nonrefundable license fee required by Section 494.0036, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year of any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications of Application. If the information contained in an Application for Mortgage Brokerage Business Branch Office License or in any amendment thereto becomes inaccurate for any reason before the applicant becomes licensed, the applicant shall file an amendment be responsible for correcting the inaccurate such information within thirty ten (30) (10) days of the change on Form OFR-494-02 occurring by following the procedures set forth in this subsection. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all the license fees are is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(8) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0036(2) FS. Law Implemented 494.0036 FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 8-22-99, 12-12-99, Formerly 3D-40.058, Amended _____.

69V-40.099 Amendments. Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed as a mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender, or permitted mortgage business school which proposes to change its name, form of business organization, or any other information contained in any initial application form or any amendment thereto, must file an amendment pursuant to Sections 494.004(6) and 494.0067(4), F.S., not later than thirty-days (30) after the effective date of the change on Form OFR-494-01 for Mortgage Brokerage Businesses and Lenders, Form OFR-494-02 for Branch Offices, Form OFR-494-03 for Mortgage Brokers, and Form OFR-494-04 for Mortgage Business Schools, changes her or his name of record, as filed with the initial application for licensure, or any subsequent change on file and acknowledged by the Office of Financial

Regulation thereafter, shall notify the Office of Financial Regulation, in writing, of the name change and shall provide documentation authorizing such name change within thirty (30) days of the date effecting such change. Any licensee pursuant to Sections 494.0061 or 494.0062, F.S., shall additionally provide a completed surety bond, on Form OFR-494-05ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond, which is hereby incorporated by reference (effective 10/91), executed in the new name of the licensee as documented by the requirements of this subsection. The form is available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity.

(2) Each licensed mortgage brokerage business, mortgage lender, or correspondent mortgage lender which proposes to change any personnel described in Sections 494.004 and 494.0067, F.S., listed in any initial application form or any amendment thereto must file an amendment not later than thirty-days (30) prior to the effective date of the change or within two (2) business days after the date the licensee first received notice of the change on Form OFR-494-01 for Mortgage Brokerage Businesses and Lenders. In the event the change in personnel in Sections 494.004 and 494.0067, F.S., listed in any initial application or any amendment thereto results in the addition of anyone referenced in this subsection, such persons must comply with Subsections 494.0031(2)(c) & (d), 494.0061(2)(g) & (h), 494.0062(2)(g) & (h), or 494.0065(5)(e) & (f), F.S. unless such person has previously complied with an entity currently licensed under this chapter and the person is currently affiliated with such entity. the entity licensed with the Office of Financial Regulation shall file a new application for licensure pursuant to Section 494.0031, 494.0061, or 494.0062, F.S. Application forms are available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(3) Applications for licensure as Any person or persons, who directly or indirectly, seeks to own, control, or hold with power to vote, or holds proxies representing 50 percent or greater of any class of equity securities or ultimate equitable ownership of a mortgage brokerage business, mortgage lender or correspondent mortgage lender required as a result of an acquisition of a controlling interest in a licensee pursuant to Subsection 494.004(6) & 494.0067(4), F.S., must be filed in a timely manner as to allow the Office to complete its review of the application prior to the effective date of the acquisition, but no later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with shall file a new application for licensure pursuant to Section 494.0031, 494.0061, or 494.0062, F.S., prior to the effective date of the change in ownership or control interest.

(4) Any person who is subjected to the requirements of subsection (2) or (3) herein, and who seeks to own, control, or hold power to vote of a mortgage lender licensed pursuant to the Saving Clause, Section 494.0065, F.S., is subjected to the net worth requirements as specified in subsection 494.0065(1)(a)2., F.S., when reapplying for licensure as required in subsections (2) and (3) above. An application for licensure under this subsection shall be submitted in accordance with Rule 69V-40.100, F.A.C.

(5) The office shall waive the requirement for a licensee to file a new application pursuant to Subsections 494.004(6) & 494.0067(4), F.S.:

(a) when a person or group of persons proposing to purchase or acquire a controlling interest in a licensee has previously filed the information with the Office required in Subsections 494.0031(2)(c) & (d), 494.0061(2)(g) & (h), 494.0062(2)(g) & (h), or 494.0065(5)(e) & (f), F.S., with a mortgage brokerage business or lender currently licensed to the office, provided that such person is currently affiliated with the mortgage brokerage business or lender licensee; or

(b) when the acquirer is currently licensed with the office as a mortgage broker, mortgage brokerage business or lender.

(6) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection 5 of this rule, the licensee must file an amendment as prescribed in subsection 2 of this rule to report the change in controlling interest.

(5) Restoration of Civil Rights:

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

(6) Upon approval of an application, a letter informing the applicant of the Office of Financial Regulation's intent to approve the application will be sent to the applicant's mailing address as indicated on the application. Upon the Office of Financial Regulation's receipt of the original license issued to the former owners, notification that the change in ownership or control has been finalized and the effective date of closing, a license will be issued, effective the later of the date of closing or the date of notice of intent to approve, for the remainder of the biennial licensure period. Failure to respond to the Office of Financial Regulation's notice of intent to approve within thirty (30) days of the date of that letter will result in the application being withdrawn.

(6) Form OFR-494-01, Form OFR-494-02, Form OFR-494-03, Form 494-04, and Form 494-05 are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 494.0029(1)(d), 494.0031, 494.0061, 494.0062, 494.0065 FS. History—New 1-10-93, Amended 5-14-95, 9-3-95, 12-12-99, 11-1-00, Formerly 3D-40.099, Amended _____.

69V-40.100 Application Procedure for Transfer 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 Office of Financial Regulation by submitting the following:

(a) A completed ~~application form~~ Application for Mortgage Brokerage Business and Lender License Change in Ownership or Control of Saving Clause Mortgage Lender, Form OFR-494-01 MLST, revised 9/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) A nonrefundable application fee of \$500, which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof;

(c) Audited financial statements documenting a minimum net worth of \$25,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, then an audited statement from the previous fiscal year end is acceptable.

(d) Designate a principal representative who shall operate and exercise control over the licensee's business. ~~Beginning October 1, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 69V-40.027, F.A.C., and must also have passed a written test in accordance with Rule 69V-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Office of Financial Regulation 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 subsection 69V-40.001(12), F.A.C.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, the chief executive officer and each director, control person, member, partner, or joint venturer of an entity applying for licensure as a mortgage lender licensed pursuant to the savings clause, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR-494-01, Form OFR-ML-BIO-1 (revised 10/99), to the Office of Financial Regulation along with a

~~§42.25~~ ~~§23~~ nonrefundable processing fee. Form ML-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

~~(a)~~ Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

~~(b)~~ For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.

~~(a)(e)~~ If the individual owner, director, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, principal representative, control person, member, partner, or joint venturer or chief executive officer holds an active mortgage broker's license with the Office of Financial Regulation, he or she is exempt from the provisions of subsection (2).

~~(b)(4)~~ If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25 ~~50~~% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

~~(c)(e)~~ Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond to the request within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in any application for a license for a Saving Clause Mortgage Lender or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-01. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office. The Office will grant permission to amend the application, unless the

amendment constitutes a material change to the application Requests to make changes which are material to the application will be deemed by the Office to be grounds for denial and a new application, accompanied by the appropriate filing fees, will be required. Material changes include:

1. A change to a response to the disclosure questions listed in section 8 on Form OFR-494-01.

2. A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-494-01.

3. The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal representative.

4. A change to the applicant's net worth.

~~(a)~~ An applicant shall notify the Office of Financial Regulation within ten (10) days of the occurrence of any change in the information reported on the application.

~~(b)~~ An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within (30) days from its receipt for filing. Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all the application fees are is nonrefundable.

~~(7)~~ Upon approval of an application, a letter informing the applicant of the Office of Financial Regulation's intent to approve the application will be sent to the applicant's mailing address as indicated on the application. Upon the Office of Financial Regulation's receipt of the original MLS license issued to the former owners, notification that the change in ownership or control has been finalized and the effective date of closing, a license will be issued effective, the later of the date of closing or the date of notice of intent to approve, for the remainder of the biennial licensure period. Failure to respond to the Office of Financial Regulation's notice of intent to approve within thirty (30) days of the date of that letter will result in the application being withdrawn.

(7) Form OFR-494-01 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0061(3), (8), (10), 494.0065(3), FS. Law Implemented 120.60, 494.001(30)(29), 494.0061(1), (3), (8), 494.0065, 494.0067(3), (4) FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.100, Amended.

69V-40.105 Branch Office License for ~~Transfer Change~~ in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person applying for a ~~transfer change~~ in ownership or control of a saving clause mortgage lender, who also wishes to operate branch offices of that saving clause mortgage lender shall apply to the Office of Financial Regulation for a license to operate each branch office by submitting the following:

(a) A completed Application for ~~Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License. Form OFR-494-02 ML-222B, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(b) The statutory, nonrefundable license fee required by Section 494.0066, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) ~~Amendments to Pending of Applications. If the information contained in any application for a license for a branch office of a Savings Clause Mortgage Lender or any amendment thereto, becomes inaccurate for any reason, the application shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-02. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within (30) days from receipt of the application by the Office its receipt for filing. Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of~~

~~Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.~~

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) through (7) No change.

(8) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 494.0065, 494.0066 FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, Formerly 3D-40.105, Amended.

69V-40.160 Principal Brokers.

(1) Each mortgage brokerage business shall designate a licensed mortgage broker as the principal broker and the individual designated shall accept responsibility by completing the Principal Broker/Representative Designation section of; ~~Form OFR-494-01MB-PB, effective 10/91, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2) Upon any change of principal broker, the licensee and the newly designated principal broker shall amend complete the Principal Broker/Representative Designation section of; ~~Form OFR-494-01MB-PB pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-01MB-PB shall be maintained at the principal office of the mortgage brokerage business, and a copy shall be mailed to the Office of Financial Regulation at the above address or electronically transmitted to the Office of Financial Regulation's website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation. Anyone being designated as a principal broker on or after October 1, 2001, must have been actively licensed as a mortgage broker pursuant to Section 494.0033, F.S., for at least one year, or has demonstrated to the satisfaction of the Office of Financial Regulation that the designated principal broker has been actively engaged in a mortgage-related business for at least one year, as defined in Rule 69V-40.051, F.A.C.~~

(3) The penalty for failure to maintain the Principal Broker/Representative Designation section of Form OFR-494-01MB-PB 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 the Principal Broker/Representative Designation section of Form OFR-494-01MB-PB is intentional, the penalty shall be a fine of \$5,000.

(4) Each ~~licensee principal broker~~ shall notify the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376~~5~~ in writing, within thirty (30) days, of the termination or resignation of a principal broker status.

(5) Form OFR-494-01 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0035 FS. Law Implemented 120.695, 494.0011(2), 494.0016, 494.0035, 494.0041(1)(e) FS. History—New 10-7-91, Amended 7-25-96, 12-12-99, 12-9-01, Formerly 3D-40.160, Amended _____.

69V-40.165 Branch Brokers.

(1) Each mortgage brokerage business shall designate a licensed mortgage broker as the branch broker of the branch office, and the individual shall accept such responsibility by completing the Branch Broker/Employee in Charge Designation, section of Form OFR-494-02 MB-BB (effective 10/91), which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(2) Upon any change of Branch Broker, the licensee and the newly designated branch broker shall complete the Branch Broker/Employee in Charge Designation, section of Form OFR-494-02MB-BB pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-02MB-BB shall be maintained at the applicable branch office of the mortgage brokerage business; and a copy shall be mailed to the Office of Financial Regulation at the above address or electronically transmitted to the Office of Financial Regulation's website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation.

(3) The penalty for failure to maintain Form OFR-494-02MB-BB shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation OFR-494-02MB-BB is intentional, the penalty shall be a fine of \$5,000.

(4) Each ~~licensee branch broker~~ shall notify the Office of Financial Regulation in writing, within thirty (30) days, of termination or resignation of a branch broker status.

(5) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0035(2) FS. Law Implemented 120.695, 494.0011(2), 494.0016, 494.0035(2), 494.0041(1)(e) FS. History—New 10-7-91, Amended 7-25-96, 12-12-99, 12-9-01, Formerly 3D-40.165, Amended _____.

69V-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 Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Licensure as a Mortgage Lender License, Form OFR-494-01ML-222, revised 09/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) The statutory, nonrefundable fee required by Section 494.0061, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof;

(c) Audited financial statements documenting a minimum net worth of \$250,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, an audited statement from the previous fiscal year end is acceptable;

(d) A surety bond, issued by a bonding company or insurance company authorized to do business in this State, in the amount of \$10,000; and submitted on Form OFR-494-05ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond; ~~effective 10-1-91, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(e) Designate a principal representative who shall operate and exercise control over the licensee's business. ~~Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 69V 40.027, F.A.C., and must also have passed a written test in accordance with Rule 69V 40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Office of Financial Regulation 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 subsection 69V-40.001(12), F.A.C.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, the chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary ~~from~~; Form OFR-494-01ML-BIO-1 (revised 10/99), to the Office of Financial Regulation along with a \$42.25 23 nonrefundable processing fee. ~~Form OFR-ML-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(a) Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.

(a)(e) If any ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, or the individual owner, director of the applicant, or chief executive officer holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).

(b)(d) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25 50% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(c)(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond to the request within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in an Application for Licensure as a Mortgage Lender or in any amendment thereto becomes inaccurate for any reason before the applicant becomes licensed, the applicant shall file an amendment be responsible for correcting the inaccurate such information within thirty ten (30) (10) days of the change on Form OFR-494-01 ML-222 occurring by following the procedures set forth in this subsection. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are

material to the application will or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will may be required. Material changes include:

1. A change to a response to the disclosure questions listed in section 8 on Form OFR-494-01.

2. A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-494-01.

3. The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal representative.

4. A change to the applicant's net worth.

5. Any change relating to the surety bond.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all fees are the fee is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(8) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

(8) Form OFR-494-01, Form 494-05, and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2), 494.0061(3), (8), (10) FS. Law Implemented 120.60, 494.001(29), 494.0061, 494.0067(4) 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, 12-8-02, 12-11-03, Formerly 3D-40.200, Amended _____.

69V-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 Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Licensure as a Correspondent Mortgage Lender License, Form OFR-494-01CL-333, revised 09/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) The statutory, nonrefundable fee required by Section 494.0062, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof;

(c) Audited financial statements documenting a minimum net worth of \$25,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, an audited statement from the previous fiscal year end is acceptable;

(d) A surety bond, issued by a bonding company or insurance company authorized to do business in this State, in the amount of \$10,000; and submitted on Form OFR-494-05 ~~ML-444~~, Mortgage Brokerage and Mortgage Lending Act Surety Bond, ~~effective 10-1-91, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(e) Designate a principal representative who shall operate and exercise control over the licensee's business. ~~Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 69V 40.027, F.A.C., and must also have passed a written test in accordance with Rule 69V 40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Office of Financial Regulation 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 subsection 69V-40.001(12), F.A.C.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, each the chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a correspondent mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary ~~from~~; Form OFR-494-01CL-BIO-1 ~~(revised 10/99)~~, to the Office of Financial Regulation along with a \$42.25 ~~23~~ nonrefundable processing fee. ~~Form OFR-CL-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(a) Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).~~

~~(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.~~

~~(a)(e) If the individual principal representative, owner, director, or chief executive officer holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).~~

~~(b)(d) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25.50% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.~~

~~(c)(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.~~

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending ~~of~~ Applications. If the information contained in an Application for Licensure as a Correspondent Mortgage Lender or in any amendment thereto, becomes inaccurate for any reason ~~before the applicant becomes licensed~~, the applicant shall file an amendment be responsible for correcting the inaccurate such information within ~~thirty (30) ten (10) days~~ of the change on Form OFR-494-01 occurring by following the procedures set forth in this subsection. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application will or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the

Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will ~~may~~ be required. Material changes include:

1. A change to a response to the disclosure questions listed in section 8 on Form OFR-494-01.

2. A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-494-01.

3. The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal representative.

4. A change to the applicant's net worth.

5. Any change relating to the surety bond.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all fees are the fee is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

~~(8) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

(8) Form OFR-494-01, Form OFR-494-05, Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2), 494.0062(3), (8), (11), (13) FS. Law Implemented 494.0062, 494.0067(4) 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, 12-8-02, 12-11-03, Formerly 3D-40.220, Amended _____.

69V-40.240 Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License.

(1) Every mortgage lender or correspondent mortgage lender which conducts mortgage lending business in this state from a branch office shall apply to the Office of Financial Regulation for a license to operate a branch office by submitting the following:

(a) ~~A completed Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License, Form OFR-494-02ML-222B, revised 10/99, which is~~

~~hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;~~

(b) The statutory, nonrefundable license fee required by Section 494.0066, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

~~(4) Amendments to Pending of Applications.~~ If the information contained in an Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License or in any amendment thereto, becomes inaccurate for any reason ~~before the applicant becomes licensed,~~ the applicant shall file an amendment ~~be responsible for correcting the inaccurate~~ such information within thirty (30) ten (10) days of the change on Form OFR-494-02 occurring by following the procedures set forth in this subsection. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from its receipt for filing. ~~Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.~~

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) through (7) No change.

(8) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 494.0066 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 8-22-99, 12-12-99, Formerly 3D-40.240, Amended _____.

69V-40.242 Principal Representative.

(1) ~~Effective October 1, 2001, each~~ 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 Broker/Representative Designation section of; Form OFR-494-01ML/CL-PR, ~~revised 09/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2) Each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall maintain the a Principal Broker/Representative Designation section of Form; OFR-494-01ML/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 subsection 69V-40.001(12), F.A.C.~~

(3) Upon any change of principal representative, the licensee and the newly designated principal representative shall amend complete the Principal Broker/Representative Designation section of; Form OFR-494-01ML/CL-PR, ~~revised 09/02 pursuant to subsection 69V-40.099(1), F.A.C.~~ Form OFR-494-01ML/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 Office of Financial Regulation at the above address or electronically transmitted to the Office of Financial Regulation's website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation.~~

(4) ~~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 69V-40.027, F.A.C., and has passed a written test in accordance with Rule 69V-40.025, F.A.C.~~

(4)(5) The penalty for failure to maintain the Principal Broker/Representative Designation section of Form OFR-494-01ML/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 the Principal Broker/Representative Designation section of Form OFR-494-01ML/CL-PR is intentional, the penalty shall be a fine of \$5,000.

(5)(6) Each licensee principal representative shall notify the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-03765 in writing, within thirty (30) days, of the termination or resignation of its his or her principal representative status.

(6) Form OFR-494-01 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0016(4), 494.0061(1), (3), (8), 494.0062(3), (11) FS. Law Implemented 120.60, 120.695, 494.001(31), ~~494.001(29)~~, 494.0016(1), 494.0061, 494.0062, 494.0067, 494.0072 FS. History—New 1-27-02, Amended 12-8-02, Formerly 3D-40.242, Amended.

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.:	RULE TITLES:
12BER07-11	Scope; Definitions; Index Price
12BER07-12	Imposition of the Gross Receipts Tax
12BER07-13	Registration for Gross Receipts Tax Purposes
12BER07-14	Payment of Gross Receipts Tax; Reports

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2005-148, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules, and to renew such rules, to implement the provisions of that law. The promulgation of these emergency rules ensures that the appropriate procedures and forms are available for reporting and remitting gross receipts tax on utility service.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules, and the renewal of such rules, to ensure the prompt availability of procedures taxpayers can follow to comply with Chapter 203, F.S. (as amended by Chapters 2005-148 and 2007-60, Laws of Florida). The Department of Revenue previously sought comment on these emergency rules to the extent possible within the time restraints resulting from the statutory requirements. The preliminary text of proposed rules regarding the imposition of the gross receipts tax on utility services was posted on the Department of Revenue web site. Rule development workshops were held on November 16, 2005, and March 15, 2007, to receive public comments regarding the preliminary text. The public comments received were considered by the Department in preparation of these emergency rules.

SUMMARY: Emergency Rule 12BER07-11 (Scope; Definitions; Index Price): (1) provides that Emergency Rules 12BER07-11 through 12BER07-14, apply to the tax imposed under Chapter 203, F.S., on utility services delivered to a retail consumer in Florida; (2) defines the terms "cost price," "distribution company," "Department," "electricity index price," "gas index price," "gross receipts," "utility services,"