

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

RULE TITLES: RULE NOS.:

Investment Advisers and Their Associated Persons 69W-600.0131

Custody of Client Funds or Securities by Investment Advisers 69W-600.0132

Books and Records Requirements 69W-600.014

**PURPOSE AND EFFECT:** Section 517.1215(1), F.S., requires the Commission to specify by rule requirements for investment advisers deemed to have custody of client funds. The statute requires that the following areas be addressed: (a) notification of custody of, maintenance of, and safeguards for client funds; (b) communications with clients and independent representatives; (c) requirements for investment advisers who have custody of pooled investments; and (d) exceptions to the custody requirements. Section 517.1215(2), F.S., requires the Commission to prescribe rules of conduct and prohibited business practices for investment advisers and their associated persons. To implement the foregoing statutory requirements, the Commission is proposing to create a new rule titled "Custody of Client Funds or Securities by Investment Advisers" and amend existing Rules 69W-600.0131 and 69W-600.014, F.A.C. Rule 69W-600.014, F.A.C., is also being amended to update book and records requirements for dealers, branch offices, and associated persons.

**SUBJECT AREA TO BE ADDRESSED:** Custody requirements, conduct, prohibited business practices, and books and records of Investment Advisers and their associated persons; and books and records requirements for dealers, branch offices, and associated persons.

**SPECIFIC AUTHORITY:** 517.1215, 517.03(1), 517.121(1) FS.

**LAW IMPLEMENTED:** 517.1215, 517.12, 517.161(1), 517.121(1) 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, IF AVAILABLE, IS:** Bridget D. Dervish, Area Financial Manager, Bureau of Securities Regulation, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0374, telephone: (850)410-9805

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.**

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Elections**

RULE TITLES: RULE NOS.:

Constitutional Amendment Ballot Position 1S-2.0011

Constitutional Amendment by Initiative Petition 1S-2.009

Constitutional Amendment Initiative Petition Submission Deadline; Verifying Elector's Signatures 1S-2.0091

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to these rules is to conform the statutory deadline with the constitutional deadline for the Secretary of State to receive certified initiative petition signatures from the supervisors of elections from 91 days before the general election to February 1 of each general election year, in order for the initiative to be placed on the ballot at the November general election. The change in the initiative petition deadline was approved by the electorate in 2004. Additionally, the proposed amendments reflect changes in practice and procedure and implement changes made during the 2005 Legislative Session in Chapter 2005-278, Laws of Florida, that pertain to the procedures governing the submission and approval of initiative petitions and ballot position assignments for constitutional amendments.

**SUMMARY:** The proposed amendments update the rule to reflect current practices, procedures and legislative changes relating to the procedures governing the submission and approval of initiative petitions and ballot position assignments for constitutional amendments.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost has been prepared.

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

**SPECIFIC AUTHORITY:** 20.10, 100.371, 101.161 FS.

**LAW IMPLEMENTED:** Art. XI, Fla. Const.; 100.371, 101.161 FS.

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

**TIME AND DATE:** 1:00 p.m., Wednesday, December 14, 2005

**PLACE:** Rm. 307, Plaza Level, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any person needing special accommodations to participate in this proposed rule workshop should contact the Department of State at (850)245-6536 no later than December 9, 2005. Any person who is hearing or speech impaired may

contact the Department by using the Florida Relay Service with the following toll free numbers: (800)955-8770 (voice) or (800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Maria I. Matthews, Assistant General Counsel, Office of the General Counsel, Division of Elections, Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250. Copies of the proposed rules and the draft Form DS DE #19, incorporated by reference into Rule 1S-2.009, F.A.C., may be obtained on the Division of Elections' website at: <http://election.dos.state.fl.us/index.html> or by contacting the above-named person at (850)245-6536.

THE FULL TEXT OF THE PROPOSED RULES IS:

1S-2.0011 Constitutional Amendment Ballot Position.

(1) The Director of the Division of Elections shall assign in the following manner ~~provided herein~~ a designating number to any proposed revision or amendment to the State Constitution for placement, however proposed, which is to be on the general election ballot;

~~(a)(2)~~ The ballot position of each proposed revision or amendment shall correspond to the designating number assigned by the director. A designating number may not be assigned to a constitutional amendment by initiative until the Secretary of State has issued a certificate of ballot position in accordance with Section 100.371, F.S.

~~(b)~~ All revisions submitted by a revision commission or constitutional convention shall be considered to be one set, but each individual revision received shall be assigned a designating number in the manner and order determined by the convention or commission. Revisions shall be titled and designated as such together with the assigned designating number. For example, the set of revisions would begin with No. 1, Constitutional Revision.

~~(c)~~ Amendments submitted by the Florida Legislature or proposed by initiative shall be titled and designated as an amendment with the assigned designating number. For example, the amendment designation would be No. 2, Constitutional Amendment.

~~(d)1.~~ Revision proposals and proposed amendments shall be assigned designating numbers in consecutive ascending numerical sequence in the order of:

a. Receipt by the Secretary of State, or his or her designee, of the constitutional convention or commission revision proposal.

b. The filing of the legislative resolution containing the proposed amendment with the Division of State Library, Archives & Records Services, or

c. The Secretary of State's certification of ballot position of a constitutional amendment proposed by initiative.

2. Initiative amendments deemed filed on the same date as other revision proposals or proposed amendments shall be assigned the number received in a random drawing of lots containing the remaining available designating numbers.

~~(2)(3)~~ Designating numbers shall be assigned and publicly announced no later than 5:00 p.m. of the 90th day preceding the general election date. ~~Amendments proposed by the initiative method shall also be certified as to ballot position at this time.~~

~~(4)~~ Any revisions submitted by a revision commission or constitutional convention shall be considered by the director to be one set, but designating numbers shall be assigned to individual proposals in the manner and order determined by the convention or commission as received by the director. Revisions shall be titled and designated as such together with the assigned designating number; for example, Revision No. 1.

~~(5)~~ Amendments submitted to the director by legislative approval or initiative shall be titled and designated as an amendment with the assigned designating number; for example, Amendment No. 2.

~~(6)~~ Designating numbers shall be assigned to revision proposals and proposed amendments in consecutive ascending numerical sequence in the order of receipt by the Secretary of State, or his designee, of the constitutional convention or commission revision proposal, filing in the Bureau of Laws of the legislative resolution containing the proposed amendment, or the division's certification of attaining ballot position by a constitutional amendment proposed by initiative. Initiative amendments certified on the same date shall be assigned the number received in a random drawing of lots containing the number of the available designating numbers.

~~(7)~~ No ballot designating numbers shall be final until collectively announced by the director. The assignment of designating numbers and subsequent announcements thereof shall not be completed until the director is satisfied that all proposed revisions and amendments proposed by whatever means have been received by the division, and all initiative signature verification reports have been received from the supervisors of elections.

~~(3)(8)~~ In the event a proposed revision or amendment is removed or stricken from the ballot subsequent to its attaining ballot position and being assigned a designating number, all other proposals shall retain the number assigned. The designating number of the stricken proposal shall not be reused, unless that proposal is reinstated.

Specific Authority 20.10(3), 97.012(1), 101.161(2) FS. Law Implemented Art. XI, Fla. Const., 100.371, 101.161 FS. History--New 8-9-78, Amended 4-17-79, Formerly 1C-7.011, 1C-7.0011, Amended \_\_\_\_\_.

1S-2.009 ~~Initiative~~ Constitutional Amendment by Initiative Petition.

(1) Submission of Initiative Petition. Any proposed initiative amendment to the State Constitution to be placed on the ballot ~~by initiative~~ shall be submitted by the sponsoring

political committee to the Division of Elections for approval as to format prior to circulation of the proposed initiative amendment. Such submission shall be in writing and shall include a copy or a facsimile of the proposed form proposed to be circulated. No initiative petition form for signatures may be circulated unless approved by the Division of Elections.

(2) Requirements and Approval of Initiative Petition Form. The Division shall review the initiative petition form solely for sufficiency of the format ~~only~~ and shall render a decision within seven (7) days following receipt. The Division shall not review the petition form for legal sufficiency. The format of the petition form is deemed sufficient only if the petition form:

~~(2) Proposed initiative amendments shall be circulated for signatures only if the format of the petitions is deemed sufficient by the Division. To be sufficient the petition form must be-~~

a. Is pPrinted on separate cards or individual sheets of paper. The minimum size of such forms shall be 3 inches by 5 inches and the maximum shall be 8 1/2 inches by 11 inches.

b. Is clearly and conspicuously entitled at the top of the form "Constitutional Amendment Petition Form."

c. Includes adequate space for the signee's name, legal residential street address, city, county, date of birth, signature of registered voter, and date of signature.

d. Contains the ballot title that shall not exceed 15 words and the ballot summary of the proposed amendment or other public measure that shall not exceed 75 words in length as prescribed in subsection (4).

e. Conspicuously contains the full text of the amendment being proposed including the article and section being created or amended, preceded by a ballot title and ballot summary. If the text must be printed on both sides of the form, it shall be clearly indicated that the text is continued or begins on the other side.

~~f. Contains Additional material which does not conform to the size requirements above may be attached. Each form shall contain space for only one elector's signature. The Division will not approve petition forms providing for multiple signatures per page.~~

~~(3) The petition form shall conspicuously contain the full text of the amendment being proposed including the article and section being created or amended, preceded by a title and substance. If the text must be printed on both sides of the form, it shall be clearly indicated that the text is continued or begins on the other side. Adequate space must be included for the signee's name, street address, city, county, voter registration number, date of birth, change of address for voter registration purposes, date and signature of registered voter, and any other information deemed necessary by the Division.~~

~~(4) The top of the petition form shall be clearly and conspicuously entitled "Constitutional Amendment Petition Form."~~

g. Is marked, in accordance with Section 106.143, F.S., governing political disclaimers, with "paid political advertisement" or contains the abbreviation "pd. pol. adv." and identifies the name of the sponsoring political committee, and the name of the entity paying for the advertisement if different from the name of the sponsoring political committee.

h. Contains space, in accordance with Section 106.19(3), F.S., for the name and address of a paid petition circulator, in the event the petition form is gathered by a paid petition circulator.

(3) Sample Petition Form. The format of an initiative petition submitted for review and approval by the Division of Elections shall be substantially in accordance with Form DS-DE 19 (eff. \_\_\_\_\_), entitled "Constitutional Amendment Petition Form." Form DS-DE 19 is hereby incorporated by reference and is available from the Division of Elections, Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250; (850)245-6500, or by download from the Division of Elections' rules webpage at: <http://election.dos.state.fl.us>.

(4) Word Count. The following provisions apply to determine the word count for a ballot title and summary:

(a) Hyphenated compound words count as two or more words.

(b) An ampersand or a plus or minus sign shall count as one word.

(c) Punctuation such as commas, periods, hyphens, question marks, parentheses, quotation marks or exclamation points does not affect the word count.

(d) Each word joined by a forward or back slash to another word counts separately as a word.

(e) Each part of a date counts as one word. Example: January 1, 2025 shall count as three words.

(f) Each word in a name is individually counted. Example: George Washington shall count as two words.

(g) Each whole number shall count as a word.

(h) Spaces do not affect the word count.

(5) Additional Information or Materials. Other than providing information or a method by which the petition form may be returned by mail to the sponsoring committee, ~~no aAdditional information or materials that support supporting~~ the proposed amendment shall or providing a method by which the petition form may be returned by mail may be printed directly on the form. The Division not review the accuracy or content of such material, but will review the petition to determine that other information does not interfere with required material.

(6) Assignment of a Serial Number. The Division shall assign a serial number to each approved petition form. The serial number shall begin with the last two digits of the calendar year in which the petition form is approved followed by a number in numerical sequence. For example, the first petition form approved in 2006 is assigned the serial number

06-1. The serial number assigned must be printed in the lower right hand corner of the petition form. Each form shall be deemed a political advertisement as defined in Section 106.011(17), F.S., and shall contain the identity of the payor as required by Section 106.143, F.S.

(7) Changes. Any change to a previously approved petition form shall be submitted to the Division of Elections for review. No person or entity other than the sponsoring political committee of the previously approved petition form can submit a change or changes to the previously approved petition form. The Division of Elections must approve any material change to a previously approved petition form. A material change constitutes a change in the wording of the text of the proposed amendment, the ballot title, or ballot summary, or a change in punctuation or layout, or a change to the political disclaimer. Any material change submitted for approval to a previously approved initiative petition constitutes a request for approval of a new petition form and shall be assigned a different serial number upon approval by the Division of Elections.

(8) Bundling. No initiative petition form circulated for signature may be bundled with or attached to any other petition form.

(7) Form DS-DE 19 (5/02), as adopted by the Division of Elections, may be used utilized as a sample format for petition forms. Form DS-DE 19, "Constitutional Amendment Petition Form" is hereby incorporated by reference and is available from the Division of Elections, Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250.

(8) Forms submitted and approved by the Division in writing prior to the effective date of this rule may be utilized and circulated pursuant to that grant of approval.

(9) Reproduction. Petition forms may be reproduced in newspapers, magazines, and other forms of printed mass media, provided such forms are reproduced in the same format as approved by the Division. The petition forms may be included within a larger advertisement, provided the forms are clearly defined by a solid or broken line border.

(10) Submission of Signed Petition Forms. All signed petition forms shall be returned to the sponsoring political committee. Only the sponsoring political committee shall submit the signed petition forms to the Supervisors of Elections for verification of signatures in accordance with Rule 1S-2.0091, F.A.C.

(11) Effect on Previously Approved Petition Form. Any petition form approved by the Division of Elections prior to the effective date of this rule may continue to be used and circulated for signature gathering unless a material change to the previously approved petition form has been approved by the Division of Elections or until the sponsoring political committee notifies the Division of Elections that the committee

is no longer seeking to obtain ballot position, or the registration of the sponsoring political committee has been revoked in accordance with Rule 1S-2.021, F.A.C.

(10) Any change in a previously approved petition form, or additional types of petition forms to be circulated by a previously approved circulator, shall be submitted in accordance with the provisions of this rule. A change to a petition form or an additional type of petition form means a change in the wording of the text of the proposed amendment, the ballot title, or ballot summary, including changes in punctuation. A petition form submitted which bears casual handwritten markings such as words circled, underlined, or otherwise highlighted, or reduced or enlarged type, shall not invalidate such petition.

(11) In the case of a political committee that has reproduced its petitions pursuant to subsection (9), the petitions shall be returned to the committee.

(12) The Division shall assign a serial number to each approved petition form. The serial number shall begin with the last two digits of the calendar year in which the petition form is approved followed by a number in numerical sequence. For example, the first petition form approved in 1997 will be 97-1. The serial number assigned will be printed in the lower right hand corner of the petition.

(13) Any initiative petition approved by the Division of Elections prior to the effective date of this rule or Rule 1S 2.0091, F.A.C., may continue to be circulated and is not required to contain the voter registration number, date of birth, or change of address information.

Specific Authority 20.10(3), 97.012(1), 100.371(3), (6), 101.161(2) FS. Law Implemented 100.371, 101.161 FS. History--New 7-2-79, Formerly 1C-7.09, Amended 7-7-86, Formerly 1C-7.009, Amended 3-5-96, 7-31-02,\_\_\_\_\_.

1S-2.0091 Constitutional Amendment Initiative Petition Submission Deadline; Verifying Electors' Signatures.

(1) Signed initiative petitions forms containing signatures proposing constitutional amendments to the Florida Constitution shall be submitted solely by the sponsoring political committee sponsor to the Supervisor of Elections in the county in which the petition forms they were circulated to be verified. If an initiative petition is filed with a Supervisor of Elections of a county other than the county in which the signee is a registered elector, it is shall be the responsibility of the sponsoring political committee circulator or sponsor to ensure that the signed petition form is properly filed with, or if misfiled, forwarded to the Supervisor of Elections of the county in which the signee is a registered elector forward such petition to the proper county. In the case of a such misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(2) Upon receipt of initiative petitions forms, the Supervisor of Elections shall verify the signatures on each petition form to ensure insure that each person signing said petition form is a registered elector in that county and that the

date the elector signed the petition ~~form is was~~ not more than four years prior to the date the Supervisor verified the petition. The Supervisor shall not verify a signature on an initiative petition form unless all of the following information is contained on the petition form ~~Initiative petitions must contain all of the following or they will be deemed invalid and the Supervisor shall not verify the signature:~~

- (a) The signee’s name,
- (b) The signee’s residential street address (including city and county),
- (c) The signee’s ~~voter registration number~~ or date of birth,
- (d) The signee’s signature, and
- (e) The date the elector signed the petition.

(3) Upon completion of the verification as set forth in subsection ~~1S-2.0091(2), F.A.C.,~~ the Supervisors of Elections shall adhere to the following procedures for submission of verified signature information to the Division of Elections:

(a) Procedures Applicable Before January 1, 2007.

1. The Supervisor of Elections shall submit to the Division of Elections a certificate indicating a certificate shall be submitted to the Division of Elections of the Department of State by the Supervisor of Elections certifying the total number of signatures verified, the number verified as registered electors and the distribution by congressional district. The Division will provide appropriate forms to the Supervisor of Elections to be used for transmission of the required information. In conjunction with each the certificate submitted, each Supervisor shall submit a copy of one petition showing the text of the constitutional amendment to which the certified signatures relate. Certificates may be submitted by the Supervisor via facsimile in order to meet the deadline, followed by an original copy by mail.

~~2.(4) Upon receipt of a certificate from the Supervisor of Elections, the Division shall compile the total number of signatures verified as being registered electors to determine from the transmitted certificates whether the requisite number of verified signatures has been obtained with respect to each constitutional amendment for each congressional district and the State as a whole. In order to have the initiative petition timely filed for purposes of appearance appear on the ballot for the next general election ballot, certificates indicating the requisite number of verified signatures have been obtained must be received by the Division of Elections no later than 5:00 p.m. on February 1 of the year in which the general election is held of the 91st day preceding the general election. Upon a determination that the constitutionally requisite number of signatures and distribution of signatures by congressional districts has been obtained, completion of the compilation, a certification of ballot position shall be issued by the Secretary of State shall issue a certificate of ballot position to the an appropriate sponsoring political committee which has obtained the constitutionally required number of signatures.~~

(b) Procedures Applicable On or After January 1, 2007.

1. No later than 24 hours after verification of signatures on submitted initiative petition forms, the Supervisor of Elections shall directly record into the statewide voter registration system each valid and verified signature. The appropriate supervisor of elections for each respective elector whose signature is verified shall record the date of the signature and the assigned serial number for the applicable initiative petition.

2. The Division shall determine from the recorded verified petition signatures on the statewide voter registration system whether the requisite number of verified signatures has been obtained with respect to each constitutional amendment for each congressional district and the State as a whole. In order for the initiative petition to be timely filed for appearance on the ballot for the next general election, the requisite number of verified signatures must be recorded in the statewide voter registration system no later than 5:00 p.m. on February 1 of the year in which the general election is held. Upon a determination that the constitutionally requisite number of signatures and distribution of signatures by congressional districts has been obtained, the Secretary of State shall issue a certificate of ballot position to the appropriate sponsoring political committee and assign a designating ballot number.

~~(4)(5) Verified signatures used successfully to place a proposed amendment by initiative on the ballot that subsequently fails to be approved by the electors at the general election shall If an initiative petition submitted by a political committee appears on the general election ballot and fails to become enacted by the electors at the general election, the signatures accompanying such petition may not be used again utilized in support of any future initiative petition.~~

Specific Authority 20.10(3), 97.012(1), 100.371(7) FS. Law Implemented 100.371 FS. History—New 1-6-80, Amended 12-20-83, Formerly 1C-7.091, 1C-7.0091, Amended 2-13-90, 3-5-96, 1-5-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maria Matthews, Assistant General Counsel  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sarah Jane Bradshaw, Assistant Director of the Division of Elections  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 9, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 12, 2005

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**STATE BOARD OF ADMINISTRATION**

RULE TITLE: General Policies and Review  
 RULE NO.: 19-4.0031

PURPOSE AND EFFECT: This rule is amended to state the time period which was in a rule now repealed.

SUMMARY: Proposed amended Rule 19-4.0031, F.A.C., revises the rule to state that reports are to be provided to the Trustees on a monthly basis.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 215.52 FS.

LAW IMPLEMENTED: 215.44, 215.45, 215.47 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 – 4:00 p.m., Wednesday, January 4, 2006

PLACE: Hermitage Room, 1st Floor, 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; telephone (850)413-1199

**THE FULL TEXT OF THE PROPOSED RULE IS:**

19-4.0031 General Policies and Review Procedures for Investments.

(1) through (2) No change.

(3) Changes in security holdings are the responsibility of the Executive Director, and must conform with standards of professional investment practice and prudence. Changes in security holdings shall be reported to the Trustees on a monthly basis pursuant to Rule 19-3.011, F.A.C.

(4) through (8) No change.

Specific Authority 215.52 FS. Law Implemented 215.44, 215.45, 215.47 FS. History—New 2-10-82, Amended 12-25-85, Formerly 19-4.031, Amended 12-14-86, 12-10-87, 12-18-88, 6-1-89, 12-11-89, 2-13-90.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kevin SigRist, Senior Investment Officer-Defined Contribution Programs, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2005

**STATE BOARD OF ADMINISTRATION**

RULE TITLES: RULE NOS.:

Procedures Regarding Employer Contributions 19-11.001

Beneficiary Designation for FRS Investment Plan 19-11.002

Distributions from FRS Investment Plan

Accounts and Reemployment with an FRS-covered Employer 19-11.003

Excessive Trading in the FRS Investment Plan 19-11.004

FRS Investment Plan Complaint Procedures 19-11.005

Enrollment Procedures for New Hires 19-11.006

Second Election Enrollment Procedures

for the FRS Retirement Programs 19-11.007

PURPOSE AND EFFECT: These rules are promulgated to implement Section 121.4501(14), F.S., regarding the Public Employee Optional Retirement Program.

SUMMARY: Proposed amended Rule 19-11.001, F.A.C., conforms the rule to changed procedures regarding market loss calculations. Proposed amended Rule 19-11.002, F.A.C., adopts revised beneficiary designation forms. Proposed new Rule 19-11.003, F.A.C., describes procedures regarding distributions from the FRS Investment Plan; interactions between distributions and reemployment; and adopts forms. Proposed amended Rule 19-11.004, F.A.C., clarifies the excessive trading policy; exempting trading in money market funds; and provides examples. Proposed amended Rule 19-11.005, F.A.C., conforms the complaint process to revised procedures. Proposed amended Rule 19-11.006, F.A.C., adopts revised forms and makes editorial changes to more fully explain the enrollment process. Proposed amended Rule 19-11.007, F.A.C., adopts updated forms; makes changes consistent with legislation enacted during the 2005 legislative session; and makes editorial changes to more fully explain the second election process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 121.4501(8)(a) FS.

LAW IMPLEMENTED: 120.569, 120.57, 120.573, 121.091(8), 121.051, 121.055, 121.35, 121.4501(2), (3), (4), (5), (6), (8), (9), (13), (14), (15), (20), 121.591(3), 121.73, 121.74, 121.78(3)(b), 215.44(8)(b), 1012.875(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 – 4:00 p.m., Wednesday, January 4, 2006

PLACE: Hermitage Room, 1st Floor, 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; tel.: (850)413-1199

THE FULL TEXT OF THE PROPOSED RULES IS:

19-11.001 Procedures Regarding Employer Contributions.

(1) Purpose. This rule implements Section 121.78, F.S., and establishes procedures regarding employer contributions, late payrolls, assessments, and market losses.

(2) Definitions.

(a) "Public Employee Optional Retirement Program" or "PEORP" shall mean the optional defined contribution plan within the Florida Retirement System, established in Part II of Chapter 121, F.S.

(b) "PEORP Participant" shall mean an active member of the Florida Retirement System who has elected to join the PEORP.

(c) "PEORP Participant's accounts" or "PEORP accounts" shall mean investment accounts for an individual PEORP Participant in which employer contributions are invested for a PEORP Participant.

(d) For purposes of Section 121.78(3)(b), F.S., which states that employers shall reimburse PEORP Participants for market losses resulting from late contributions, or from contribution adjustments as a result of employer errors or corrections, the term "market losses" shall be defined as the value of a Participant's account that otherwise would have been realized had the employer contribution and accompanying payroll data been submitted on a timely basis. "Market Losses" applies only to the monthly contribution that is late, not to the Participant's aggregate value in his PEORP account.

(e) "PEORP third party administrator" or "TPA" shall mean the third party administrator hired by the Florida State Board of Administration pursuant to Section 121.4501(8), F.S.

(3) One percent penalty.

(a) The portion of the one percent penalty assessed on late contributions and accompanying payroll data attributable to contributions for the PEORP shall be deposited into the Participant's account ~~on a pro-rata basis~~, using the PEORP Participant's investment allocation in effect at the time of the deposit of the assessment in the Florida Retirement System Trust Fund.

(b) Any employer requesting a waiver of the delinquency fee in accordance with Section 121.78(3)(c), F.S., shall fully explain and certify such waiver request in writing to the Office of Defined Contribution Programs, Florida State Board of Administration of Florida, 1801 Hermitage Blvd., Suite 100, Tallahassee, Florida 32308.

(4) Market loss calculation.

(a) The TPA will determine market losses using a PEORP Participant's investment allocation in effect at the time of calculation. The TPA will perform the market value calculation using a period certain which is the 15th of the month in which the payroll is due ~~begins on the first day of the month immediately following the calendar month in which the contributions are due~~, or the next succeeding business day if the ~~first day of the month immediately following the calendar month in which the contributions are due~~ falls on a weekend or TPA-or Division of Retirement-observed legal holiday, in which contributions would have been processed, and ending on the date the payroll is received by the TPA ~~used by the TPA to provide "as of" pricing for covered payroll~~.

(b) If contributions and accompanying payroll data are not received within the calendar month they are due, but that lateness does not result in market losses to participants, only the one percent late assessment will apply to the employer.

(c) The TPA will not perform the market loss calculation until a covered payroll and accompanying payroll data is received and processed by the TPA.

Specific Authority 121.78(3)(c) FS. Law Implemented 121.78 FS. History--New 12-8-02, Amended \_\_\_\_\_.

19-11.002 Beneficiary Designation for FRS Investment Plan

(1) A FRS Investment Plan participant may designate a beneficiary to receive the benefits which may be payable in the event of the participant's death. A participant may designate a beneficiary at any time, both before and after retirement. An FRS Investment Plan participant must make an active beneficiary designation once he becomes an Investment Plan member. Otherwise, the beneficiaries will be as described in Section 121.4501(20), Florida Statutes.

(2) No designation of beneficiary shall be effective unless it has been filed with the FRS Investment Plan Administrator. The most recent designation of beneficiary filed with the FRS Investment Plan Administrator shall replace any previous designation whether made before or after the participant's termination of employment or retirement.

(3) If the FRS Investment Plan participant enrolls in the FRS Investment Plan using the EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1-EZ, rev. 8-05, which is adopted and incorporated by reference in subsection 19-11.006(4), F.A.C., the participant has chosen the beneficiary designation contained in Section 121.4501(20) ~~121.091(8)~~, Florida Statutes. Note that the statutory section provides that the participant's spouse at the time of death shall be the participant's beneficiary unless the deceased participant had designated a different beneficiary after his or her most recent marriage. Pursuant to subsection (1), above, however, once the participant is enrolled in the FRS Investment Plan, the participant may change his beneficiary designation at any time.

~~(4)~~ The beneficiary designation an FRS Investment Plan participant chooses if he uses the EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1-EZ, rev. 02-04, includes the phrase “as applicable.” “As applicable” refers to that part of Section 121.091(8), Florida Statutes, which provides for “in line of duty” death payments for certain Florida Retirement System employees. These payments are not applicable to participants in the FRS Investment Plan.

~~(4)(5)~~ A participant may designate a beneficiary or beneficiaries at any time, as follows:

(a) A participant may designate a beneficiary or beneficiaries to receive the assets of the participant’s FRS Investment Plan account, either sequentially or jointly.

(b) A participant may designate as beneficiary any person, organization, trust, or his estate.

(c) Any such beneficiary designation shall be made on Form IPBEN-1, rev. 09-03 ~~08-03~~, which is hereby adopted and incorporated by reference. This form is available in paper form and may be obtained by calling the toll-free MyFRS Financial Guidance Line at (866)446-9377, Monday through Friday, except holidays, 9:00 A.M. to 8:00 P.M. The beneficiary designation may be made online by logging onto MyFRS.com and clicking on “Resources” and then “Forms.”

(d) A participant may change his beneficiary designation at any time by filing a new beneficiary designation form. There is no separate form for changes of beneficiary designation.

~~(5)(6)~~ If a participant is married and designates a beneficiary who is not the spouse of the participant, then the participant is required to notify the spouse that he or she is not the beneficiary of the proceeds of the participant’s FRS Investment Plan account(s). The spouse must acknowledge that he or she understands that he or she is not the beneficiary of the participant’s FRS Investment Plan account(s) by signing the beneficiary designation form, Form IPBEN-1, rev. 09-03 ~~08-03~~, in the appropriate place. Alternatively, the spouse may provide the FRS Investment Plan Administrator with a notarized statement reflecting the spouse’s understanding that the spouse is not the beneficiary of the participant’s FRS Investment Plan account(s). No distribution will be made of any FRS Investment Plan account(s) in the absence of a declaration by the spouse of his or her understanding that he or she is not the beneficiary of the participant’s FRS Investment Plan account(s).

Specific Authority 121.4501(8) FS. Law Implemented 121.091(8), 121.4501(20), 121.591(3) FS. History—New 10-21-04, Amended \_\_\_\_\_.

#### 19-11.003 Distributions from FRS Investment Plan Accounts and Reemployment with an FRS-covered Employer.

(1) Purpose. The purpose of this rule is to clarify the provisions regarding distributions from FRS Investment Plan accounts and how that interacts with reemployment provisions for FRS-covered employers. Distributions from FRS

Investment Plan accounts are made either after the account-holder terminates employment or at the account-holder’s death.

(2) All forms identified in this rule may be obtained by calling the (toll-free) MyFRS Financial Guidance Line at (866)446-9377, or by accessing the MyFRS website at www.MyFRS.com. Click on Resources, and then on Forms.

(3) Distributions available when the participant terminates FRS-covered employment.

(a) An FRS Investment Plan participant shall not be entitled to a distribution from his account unless he has been terminated from all FRS-covered employment for three calendar months. Example: If a participant terminates on May 15, the three calendar months are June, July, and August. Therefore, he shall not receive a distribution until September.

(b) Upon the expiration of the three calendar months after termination, the participant may apply for a distribution from the FRS Plan Administrator, either using Form ETF-2, “Employment Termination Form/FRS Investment Plan,” rev. 08-05, which is hereby adopted and incorporated by reference, or an equivalent form.

(c) If a participant has terminated employment from all FRS-covered employment for one calendar month and he has reached normal retirement age, in accordance with Section 121.021(29), F.S., he may apply for a distribution of up to 10 percent of his account balance.

(4) Reemployment by an FRS-covered employer after termination.

(a) A participant who has terminated FRS-covered employment and taken a distribution is a retiree, in accordance with Section 121.4501(2)(j), F.S. As a retiree, the former participant shall not be reemployed with an FRS-covered employer until he has been retired for three calendar months, pursuant to Section 121.021(39)(c), F.S.. Example: A participant who terminates on May 15 cannot receive a distribution until September and cannot return to FRS-covered employment until January.

(b) Examples: This paragraph contains examples only. This paragraph does not contain an exhaustive list of all possible situations. Participants who are not in exactly the same circumstances as described in these examples should call the toll-free number set out in subsection (2), above, to have their situations properly analyzed.

1. A participant who has reached normal retirement age, in accordance with Section 121.021(29), F.S., may get up to ten percent of his account after a one-month calendar break, and he may get the balance after a total of three calendar months, unless he returns to FRS-covered employment, during any time in that three-month period.

2. If the participant in subparagraph 1., above, takes a partial distribution and then returns to work, he will not be eligible for any further distributions until terminating work or after the first 12 months of retirement are completed.



3. Any participant may return to employment with an FRS-covered employer after 12 months of retirement and may take distributions, even while reemployed.

4. A participant who has reached normal retirement age, in accordance with Section 121.021(29), F.S., can return to work in one of the excepted positions identified in Section 121.091(9)(b), F.S., after one calendar month off FRS-covered payrolls.

5. A participant who has not reached normal retirement age, in accordance with Section 121.021(29), F.S., can return to work in one of the excepted positions identified in Section 121.091(9)(b), F.S., after having been retired for three calendar months.

(5) Distributions on the death of a participant.

(a) If a participant dies before his effective date of retirement, the participant's spouse at the time of his or her death shall be the participant's beneficiary, unless the participant has designated another beneficiary after the participant's most recent marriage.

(b) A participant's spouse must acknowledge on Form IPBEN-1, "Beneficiary Designation Form/FRS Investment Plan," rev. 09-03, which is hereby adopted and incorporated by reference, that he or she is not the beneficiary if the participant chooses another person or an entity.

(c) Procedures for beneficiary designations are addressed in Rule 19-11.002, F.A.C.

(d) On the death of a participant, the beneficiary must file Form IPDB, "Death Benefit Distribution Claim Form," rev. 07-05, which is hereby adopted and incorporated by reference, with the FRS Plan Administrator, to receive benefits.

Specific Authority 121.4501(8)(a) FS. Law implemented 121.021(29), (39), 121.4501(20), 121.591 FS. History—New.

19-11.004 Excessive Trading in the FRS Investment Plan.

(1) Purpose.

(a) The purpose of this rule is to mitigate the negative impact on participants in the FRS Investment Plan from excessive trading and to establish limitations on such excessive trading. The Trustees of the State Board of Administration of Florida (SBA) have a fiduciary duty to make decisions about the FRS Investment Plan in the best interests of all participants and beneficiaries.

(b) Excessive trading by just a few of a fund's investors can disrupt fund operations, increase expenses and harm fund performance for all investors. In particular, some participants have shown a high proclivity to make numerous short-term trades in foreign stock funds in an attempt to exploit funds' pricing conventions and other technical factors. Therefore, this rule establishes limitations so that excessive trading between approved investment funds shall be prevented, without materially inhibiting all participants' opportunities to direct

contributions and account balances between investment funds with a frequency that is appropriate in light of the market volatility of the funds.

(c) The Executive Director of the SBA is directed to establish a policy on excessive trading in Section V of the Investment Policy Statement, adopted and incorporated by reference in Rule 19-9.001, F.A.C. This rule establishes that ~~rule policy~~.

(2) Definitions.

(a) A "participant" is a person who has an account established in the FRS Investment Plan as a result of current or previous employment with an FRS-covered employer, or being designated as an alternate payee due to a qualified domestic relations order ("QDRO") or being a designated beneficiary when a participant is deceased.

(b) A "Roundtrip Trade" occurs when a participant conducts a series of at least two non-exempt transactions that include one or more transfers into an authorized investment fund AND one or more transfers out of the same authorized investment fund in either order (i.e. in/out or out/in), regardless of any multiple transfers from or to other different authorized investment funds during the roundtrip.

(c) An "exempt transaction" is any transaction that is initiated for purposes of: depositing employer payroll contributions; processing a distribution; processing a QDRO; or mapping funds from terminated products. Exempt transactions are not included in any calculations for the purposes of this ~~rule policy~~.

(d) "Excessive trading" involves multiple occurrences of Market Timing Trades by a participant over time.

(e) A "Market Timing Trade" is a participant-directed series of trades with the following two characteristics:

1. ~~At least one~~ Roundtrip Trade within a 30-day period and
2. The trade amount for ~~all the one~~ Roundtrip Trades is an aggregate amount of \$75,000 or more.

(f) "Aggregate amount of \$75,000 or more" means the total of the amounts transferred ~~out of a into a~~ fund and ~~into the same out of a~~ fund, ~~in either order (i.e., in/out or out/in) constituting a Roundtrip Trade~~, during any rolling 30-calendar day period, ~~regardless of the number of Round Trips~~.

~~(g) "Receipt of the warning letter or the direction letter" as described in subsection (3)(b)2., below, shall mean the date on which the participant signs the return receipt; or the date noted by the U.S. Postal Service as the date on which the participant refused delivery of the letter; or the date of the last attempt to deliver the letter by the U.S. Postal Service, whichever is earlier.~~

(3) Limitations.

(a) Regarding authorized foreign or global stock funds: After making a non-exempt transaction by transferring any portion of their account balance into an authorized foreign or global or stock fund, participants are prohibited from

completing a Roundtrip Trade in that fund for a minimum of 7 calendar days, using the convention of last-dollar-in and first-dollar-out for the roundtrip calculation.

(b) Regarding all authorized funds, except for money market funds:

1. Participants who engage in Market Timing Trades in authorized funds will receive a warning letter sent by U.S. mail, certified/return receipt requested. The warning letter shall notify the participant that excessive trades have been identified in his/her accounts and any additional violations will result in a direction letter.

2. Participants who engage in Market Timing Trades in authorized funds and who have previously received a warning letter described in subparagraph 1., above, engaging in Market Timing Trades within 30 days of the warning letter will be sent a certified/return-receipt direction letter. The direction letter shall require that the participant shall not have access to automated online or telephonic trade instructions for at least one full calendar month following the date receipt of the direction letter.

a. A member who receives a warning letter and then has another Market Timing Trade more than three full calendar months from the date of the original warning letter will receive another warning letter.

b. Participants engaging in Market Timing Trades who receive more than two warning letters will be sent a certified, return-receipt direction letter, as described in this subparagraph 2.

3. Participants who engage in Market Timing Trades and who have previously received a direction letter, as described in 2., above, will be sent another certified/return-receipt direction letter. This direction letter shall require that the participant shall not have access to automated or telephonic trade instructions for at least three full calendar months following the date of the direction letter engaging in Market Timing Trades who receive more than two (2) warning letters will be sent a certified/return-receipt direction letter, as described in subparagraph 2., immediately above.

4. Participants who engage in Market Timing Trades and who have previously received a direction letter as described in 3., above, will be sent another certified/return-receipt direction letter. The direction letter shall require that the participant shall be required to conduct trades via paper trading forms for at least three full calendar months following the date of the direction letter.

5. Participants who engage in Market Timing Trades and who have previously received a direction letter as described in 4., above, will be sent another certified/return-receipt direction letter. The direction letter shall require that the participant shall be required to conduct trades via paper trading forms for at least twelve full calendar months following the date of the direction letter.

6. Participants who engage in Market Timing Trades and who have previously received a direction letter as described in 5., above, will be sent another certified/return-receipt direction letter. The direction letter shall require that the participant shall be required to conduct trades via paper trading forms for the remainder of any time that any balance exists in the participant's Investment Plan account following the date of the direction letter.

(c) If Participant A receives a direction letter as described in subparagraph (3)(b)2., above, on November 15, Participant A's access to automated online or telephonic trade instructions shall be denied until January 1. "One full calendar month," in this context, means the full calendar month following the month in which the direction letter is received. The direction letter, in this example, was received in November. The "one full calendar month" is December. Therefore, access will not be resumed until January.

(4) Examples.

(a) This subsection contains examples only. This subsection does not contain an exhaustive list of all possible transactions. Participants avoiding these examples will not necessarily avoid the impact of this rule since other transactions will meet the definitions of Market Timing Trades or Excessive Trading.

(b) If Participant A transfers \$50,000 out of Fund A and into Fund B on Monday and then transfers \$20,000 out of Fund B on Tuesday, the transaction is a Roundtrip Trade but is not a Market Timing Trade because the aggregate amount of \$75,000 specified in subparagraph (2)(e)2., above, has not been met.

(c) If Participant A transfers \$50,000 out of Fund A and into Fund B on Monday and then transfers \$55,000 out of Fund B on the following Monday, the transaction is a Roundtrip Trade and a Market Timing Trade because the aggregate amount of all trades in and out of Fund B has exceeded \$75,000 ( $\$50,000 + \$55,000 = \$105,000$ ) ~~has been exceeded~~ within a 30 day period.

(d) If Participant A transfers \$5,000 out of Fund A and into Fund B on November 1 and then transfers \$25,000 out of Fund A and into Fund B on November 3 and then transfers \$10,000 out of Fund A and into Fund B on November 5 and then transfers \$40,000 out of Fund B and into Fund A on November 15, the entire series of transactions constitutes a Roundtrip Trade and is a Market Timing Trade because the aggregate amount of all trades into and out of Funds A and B each exceeded \$75,000 ~~has been exceeded~~ within a 30 day period.

(e) If Participant A transfers \$5,000 out of Fund A and puts \$2,500 into Fund B and \$2,500 into Fund C on December 1 and then transfers \$25,000 out of Fund A and puts \$20,000 into Fund B and \$5,000 into Fund C on December 5, and then transfers \$10,000 out of Fund A and puts \$10,000 into Fund C on December 6 and then transfers \$23,000 out of Fund B into

Fund A and \$20,000 out of Fund C into Fund A on December 16, the entire series of transactions constitutes a Roundtrip Trade and is a Market Timing Trade because the aggregate amount of all trades into and out of Fund A exceeded \$75,000 within a 30 day period ~~has been exceeded~~. It is irrelevant that money has come out of one fund and been transferred into two funds because the money has been returned to the original fund.

(f) Participant A transfers \$50,000 out of Fund A and into a foreign stock fund, which already contains \$100,000, on October 1, so that on October 1, the foreign stock fund contains \$150,000. Participant A must wait until October 28 to transfer any or all of the \$150,000 in funds out of the foreign stock fund.

(g) A Participant has \$250,000 in his FRS Investment Plan account and is the subject of a QDRO with the result that the Participant's spouse becomes entitled to half of the Participant's FRS Investment Plan account. A total of \$125,000 is transferred from the Participant's account to a newly-established account for the Participant's spouse and the funds are put into a foreign stock fund on December 1. On December 5, the Participant's spouse rolls over the entire \$125,000 into an IRA. This is neither a Roundtrip Trade nor a Market Timing Trade because the transfer is an exempt transaction, as described in paragraph (2)(c), above.

(h) A participant transfers \$32,000 into Fund A on August 5 and then transfers \$32,000 out of Fund A on August 11 and then transfers \$31,000 into Fund A on August 17 and finally transfers \$31,000 out of Fund A on August 18. The entire series of trades are Round Trip trades and the trades are also a Market Timing Trade because the aggregate amount of all trades exceeded \$75,000 within a 30 day period.

(5) For all participants, Roundtrip and Market Timing Trades are calculated using a rolling 30-calendar day time period. If a trade occurs on May 15 and the following 30-calendar day period, from May 15 through June 13, includes a sufficient number of trades to fit the definition of a Market Timing Trade, this ~~rule~~ policy shall apply.

Specific Authority 121.4501(8) FS. Law Implemented 121.4501(13), (14), (15) FS. History--New 10-21-04, Amended \_\_\_\_\_.

#### 19-11.005 FRS Investment Plan Complaint Procedures.

(1) Purpose. Section 121.4501(9)(f)3., Florida Statutes, requires that the State Board of Administration “. . . develop procedures to receive and resolve participant complaints against a provider or approved provider personnel, and, when appropriate, refer such complaints to the appropriate agency.” The following procedures outline the SBA's policy in handling complaints filed against Investment Plan providers, including the third party administrator, education providers, and investment providers.

#### (2) Definitions.

(a) “Complaint” shall mean a participant's written or verbal expression of dissatisfaction with an Investment Plan provider or one of its representatives. ~~“Complaint” shall mean a participant's written or verbal expression of dissatisfaction with an Investment Plan provider or one of its representatives.~~

(b) “Investment Plan” shall mean the Public Employee Optional Retirement Program as defined in Section 121.4501(2)(g), F.S.

(c) “Investment Plan providers” are:

1. Third Party Administrator, the FRS Investment Plan Administrator;
2. Companies providing Investment Plan education;
3. Investment managers providing investment services supporting mutual funds or institutional funds offered in the FRS Investment Plan;
4. Marketing companies providing marketing and educational support for their investment products or providing individual counseling; and
5. Any other company or state agency providing Investment Plan services (including the State Board of Administration of Florida).

(d) “Participant” means an employee who elects to participate in the FRS Investment Plan and enrolls in such program as provided in Section 121.4501(4), F.S. For purposes of this rule, “participant” also includes FRS employees who have not elected the FRS Investment Plan but who claim that they intended to join but were prevented for various reasons.

(e) “SBA” means the State Board of Administration of Florida, the plan sponsor for the FRS Investment Plan.

(3) Procedures.

(a) First Step: Intervention by the FRS Investment Plan Administrator.

1. Any Participant with a complaint regarding an Investment Plan provider shall communicate his complaint to the Third Party Administrator [i.e., the FRS Investment Plan Administrator]. ~~If an Investment Plan provider receives a complaint from a Participant directly, the Investment Plan provider shall notify the FRS Investment Plan Administrator within 2 business days. The FRS Investment Plan Administrator will communicate the complaint to the affected Investment Plan provider within 3 business days. The three parties will attempt to reach a satisfactory resolution of the problem within 5 business days.~~

2. ~~If a Participant has a complaint solely against the FRS Investment Plan Administrator, the participant shall communicate his complaint to the FRS Investment Plan Administrator.~~ Both parties shall attempt to reach a satisfactory resolution of the problem ~~within 5 business days.~~

3. If a solution cannot be reached timely within 5 business days, the FRS Investment Plan Administrator will provide the Participant with a written or verbal update on the status of his complaint and the anticipated timeline for resolution.

## (b) Second Step: Intervention by the SBA.

1. If an acceptable resolution is not reached in the first step, the Participant may send a written Request for Intervention to the SBA for intervention and resolution. The written Request for Intervention may be sent:

## a. By regular US mail service to:

Investment Plan Complaint Resolution  
Office of Defined Contribution Programs  
State Board of Administration  
P. O. Box 13300  
Tallahassee, FL 32317-3300

b. By e-mail: [DefinedContributionPrograms@fsba.state.fl.us](mailto:DefinedContributionPrograms@fsba.state.fl.us); or

## c. By fax: (850)413-1489

2. The Participant shall use Form SBA-RFI06/04, which is hereby adopted and incorporated by reference. The form may be obtained by using the toll free number at (866)446-9377 and requesting that it be mailed to the participant or by accessing the MyFRS.com website, clicking on Resources, and then clicking on Forms. By using this form, the Participant grants permission to the SBA to obtain any personally identifiable information shared with or generated by any services provider to the FRS, including the MyFRS Financial Guidance Program copies of all telephone calls and other contacts the Participant has had with any of the FRS Investment Plan's service providers.

3. The Participant must provide all information. If all information is not provided, the form shall be returned to the Participant so that the missing information can be added.

4. Upon receipt of the complete Request for Intervention, an acknowledgment will be sent by regular US mail or emailed to the Participant.

5. The SBA will conduct an investigation and prepare and send to the Participant an agency action letter detailing the SBA's findings; any proposed resolution; and information on the next steps in the dispute resolution process.

## (c) Third Step: Hearing Request

1. If the Participant is not satisfied with the proposed resolution as set out in the agency action letter, the Participant may file a Petition for Hearing, Form SBA-PFH06/04, which is hereby adopted and incorporated by reference, with the SBA. The Petition for Hearing is routinely attached to the agency action letter and may also be obtained by calling the toll free number at (866)446-9377 and requesting that it be sent to the Participant or by accessing the MyFRS.com website, and clicking on Resources and then clicking on Forms. The Petition for Hearing must be received within 21 days of the Participant's receipt of the agency action letter or it will be rejected as untimely and the Participant will have waived his right to a hearing.

2. The Participant shall use Form SBA-PFH06/04. By using this form, the Participant grants permission to the SBA to obtain any personally identifiable information shared with or

generated by any services provider to the FRS, including the MyFRS Financial Guidance Program copies of all telephone calls and other contacts the Participant has had with any of the FRS Investment Plan's service providers.

3. Upon receipt of the Petition for Hearing, the SBA has 15 days to respond to the petition, in accordance with Section 120.569(2)(a), Florida Statutes.

4. If the hearing request contains a disputed issue of material fact, the SBA shall, within the required 15 days, forward the hearing request to the Division of Administrative Hearings, requesting that an administrative law judge be assigned to conduct the hearing and so notify the Participant.

5. If there is no disputed issue of material fact, then the SBA shall send a Notice of Proceeding in conformance with Rule 28-106.302 and include a decision with regard to mediation under Section 120.573 and Part IV of Rule Chapter 28-106, F.A.C. The Participant has 14 days from the date of the Notice of Proceeding to submit written evidence or to ask to submit oral evidence. If the Participant asks to submit oral evidence, the SBA will schedule a hearing no sooner than 14 days from the date of the request. A Notice of Proceeding will include a reference to Rule 28-109.006, F.A.C., regarding communications media technology and the responsibility of the Participant to provide someone to swear him in if he decides to use a conference telephone.

6. The balance of the hearing process shall conform to the requirements of Chapter 120, Florida Statutes.

Specific Authority 121.4501(8)(a) FS. Law Implemented 120.569, 120.57, 120.573, 121.4501(9)(f)3. FS. History—New 10-21-04, Amended.

## 19-11.006 Enrollment Procedures for New Hires.

(1) Purpose. This rule adopts procedures and forms for enrollment in the Florida Retirement System Investment Plan for employees who become employed in a regularly established position with a state employer commencing after April 1, 2002; or with a district school board employer commencing after July 1, 2002; or with a local employer commencing after October 1, 2002.

## (2) Definitions.

(a) "ABO," which is the acronym for the "accumulated benefit obligation," means the present value of a member's benefit in the FRS Pension Plan, which is the defined benefit program of the Florida Retirement System, to which the member would be entitled if the member retired from the FRS Pension Plan. This present value shall be calculated in accordance with the formula set out in Section 121.4501(3)(c)2., Florida Statutes by the Division of Retirement within the Department of Management Services. The ABO changes on a monthly basis based on the following factors: age, service, salary level, and membership class.

(b) "Division" means the Division of Retirement within the Department of Management Services.

(c) "Effective date of enrollment in the FRS Investment Plan" means that the employee has completed enrollment by filing the enrollment form for his membership class or by filing a separate document for his membership class; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division and the employee's employer of the employee's effective date of enrollment in the FRS Investment Plan. For purposes of this rule, the term "enrollment form" or "form" shall also refer to the separate document described in paragraph 19-11.006(4)(b), below.

(d) "Effective enrollment in the FRS Investment Plan" means that the employee has completed enrollment; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division and the employee's employer of the employee's effective date of enrollment in the FRS Investment Plan.

(e) "Employee" means an eligible employee as defined in Section 121.4501(2)(d), Florida Statutes.

(f) "Employer" means an employer as defined in Section 121.4501(2)(e), Florida Statutes. For purposes of the FRS Investment Plan, there are three general categories of employers: state agencies; school districts; and local employers.

(g) "FRS Investment Plan" means the defined contribution retirement program of the Florida Retirement System, established in Parts II and III of Chapter 121, Florida Statutes. The FRS Investment Plan has two parts: the FRS Investment Plan and the FRS Investment Plan Hybrid Option.

(h) "FRS Pension Plan" means the defined benefit retirement program of the Florida Retirement System, established in Part I of Chapter 121, Florida Statutes.

(i) "Florida Retirement System Trust Fund" or "FRSTF" shall mean the trust fund holding the assets of the FRS Pension Plan, which is the defined benefit plan of the Florida Retirement System.

(j) "Grace Period" means that procedure described in subsection (6), below, which permits, under certain circumstances, the voiding of a retirement plan election.

(k) "Participant" means an employee who elects to join the FRS Investment Plan.

(l) "Public Employee Optional Retirement Program" or "PEORP" means the defined contribution retirement program of the Florida Retirement System established by Section 121.4501, Florida Statutes, more commonly known as the FRS Investment Plan.

(m) "SBA" means the State Board of Administration of Florida.

(n) "TPA" means the third-party administrator hired by the SBA, pursuant to Section 121.4501(8)(b)1., Florida Statutes, to provide administrative services to the FRS Investment Plan.

(o) "True-up Amount" means the difference between the ABO calculated by using the participant's actual creditable service and the actual final average compensation as of the participant's effective date in the FRS Investment Plan and the ABO initially transferred.

(3) General Enrollment Procedures.

(a) All newly-hired employees are initially enrolled in the FRS Pension Plan. If a newly-hired employee chooses, within the statutory election period, to enroll in the FRS Investment Plan, the effective date of enrollment in the FRS Investment Plan is the date of hire of the employee. However, the employer contributions received by an employee prior to effective enrollment in the FRS Investment Plan will be transferred into the employee's FRS Investment Plan account at the rate the employer was required to contribute for that employee. Only after effective enrollment in the FRS Investment Plan will the employee receive the employer contribution at the FRS Investment Plan rate appropriate to that employee's class of service, as specified in Section 121.4501(4)(a)2.b; (b)2.b., and (c)2.b., Florida Statutes.

(b) Enrollment forms are available in the enrollment package which is sent to an employee's address of record or may be accessed online at: [www.MyFRS.com](http://www.MyFRS.com), click on Resources and then on Forms; or by calling (866)446-9377, which is a toll-free line.

(4) Specific Enrollment Procedures.

(a) All newly-hired employees may enroll in the FRS Investment Plan no later than the last business day of the 5th month following the employee's month of hire or may elect to remain in the FRS Pension Plan. Example: If an employee is hired on January 15, he must elect the FRS Investment Plan no later than the last business day of June.

(b) The SBA has designed the following forms for ease of use for employees in the several membership classes of the Florida Retirement System. As an alternative, an employee not wishing to use the forms may provide the information outlined in this Rule 19-11.006, F.A.C., for his membership class in a separate document. Employees may determine their membership class by inquiry of their human resources office at their agency. The forms available are: an EZ Retirement Plan Enrollment form which is only for regular, special risk, and special risk administrative support class employees; a General Retirement Plan Enrollment form for regular, special risk, and special risk administrative support class employees; an Elected Officers' Class Retirement Plan form; a Community College Optional Retirement Program Retirement Plan Choice form; a State University System ORP-Eligible Employee Retirement Plan form; a State Senior Management Service Employees Retirement Plan form; and a Local Senior Management Service Employees Retirement Plan form.

1. All enrollment forms can be obtained at the sources listed in paragraph (3)(b), above.

2. Only members of the regular, special risk, and special risk administrative support classes of employees may use the EZ form, "EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees," Form ELE-1-EZ, rev. 08-05 ~~02-04~~, which is hereby adopted and incorporated by reference. If an employee chooses to use the EZ form, only limited information is required and the FRS Select Moderate Balanced Fund is the initial investment option (although that investment option may be changed by the Participant once the account is funded) and no beneficiary identifying information is required. However, beneficiary designations must be made on forms for that purpose or funds will be distributed, at the Participant's death, in accordance with Florida law and Rule 19-11-002, Florida Administrative Code. Beneficiary designation forms may be obtained from the same sources listed in paragraph (3)(b), above.

(c) If one of the other forms is used, consistent with the employee's membership class, or if the employee chooses to submit a separate document, consistent with the employee's membership class, the employee shall provide the following information:

1. Employee's name and social security number;

2.a. For an employee who is not a member of any of the retirement plan options detailed in b. through f., below, a selection as to whether the employee decides to stay in the FRS Pension Plan, or transfer his ABO, if any, to the FRS Investment Plan, or transfer to the FRS Investment Plan and leave his ABO, if any, in the FRS Pension Plan; or

b. For a state employee who is eligible for membership in the State Senior Management Service Class, a selection as to whether the employee wishes to elect:

i. The FRS Pension Plan; or

ii. The FRS Investment Plan and have future employer contributions sent to the FRS Investment Plan account; or

iii. To retain any accrued benefit in the FRS Pension Plan benefit and switch prospectively into the FRS Investment Plan, which requires that the employee must have at least 5 years of previous Pension Plan service to select this option iii; or

iv. To switch prospectively to the Senior Management Service Optional Annuity Program (SMSOAP) and retain any accrued benefit in the FRS Pension Plan, which requires that the choice form must be received no later than 4 PM Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.055(6)(c)2., Florida Statutes;

c. For a local employee who is eligible for the Senior Management Service Class, a selection as to whether the employee wishes to elect:

i. The FRS Pension Plan; or

ii. The FRS Investment Plan and have all future employer contributions sent to the FRS Investment Plan account; or

iii. To retain any FRS Pension Plan benefit and switch prospectively into the FRS Investment Plan, which requires that the employee must have at least 5 years of previous Pension Plan service to select this option iii; or

iv. To withdraw from the Florida Retirement System, which requires contacting the employee's employer and submitting the appropriate form to that employer;

d. For an employee who is eligible for the State University System Optional Retirement Program (SUSORP), a selection as to whether the employee wishes to elect:

i. To join SUSORP and retain any accrued benefit in the FRS Pension Plan, which requires making such election no later than the 90th day after the date of hire by executing a contract with a SUSORP provider company and which also requires that faculty members employed at J. Hillis Miller Center at the University of Florida or the Medical Center at the University of South Florida shall elect this option, which requires the selection to be made no later than 4 p.m. Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.35(3), Florida Statutes; or

ii. To join the FRS Pension Plan which must be completed no later than the last business day of the 5th month after the month of hire; or

iii. To join the FRS Investment Plan and to transfer the present value, if any, of the FRS Pension Plan benefit to the FRS Investment Plan and to have future contributions sent to the FRS Investment Plan account; or

iv. To switch prospectively to the FRS Investment Plan and retain any accrued benefit in the FRS Pension Plan, which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iv;

e. For an employee who is eligible for the Community College Optional Retirement Program, a selection as to whether the employee wishes to elect:

i. To join the FRS Pension Plan; or

ii. To join the FRS Investment Plan and to transfer any accrued benefit from the FRS Pension Plan to the FRS Investment Plan and to have future employer contributions sent to the FRS Investment Plan account; or

iii. To join the FRS Investment Plan and to retain any accrued benefit in the FRS Pension Plan which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iii; or

iv. To withdraw from the Florida Retirement System and participate in the Community College Optional Retirement Program (CCORP) which requires that the selection must be completed within 90 days of commencing CCORP qualifying employment, in accordance with Section 1012.875(3), Florida Statutes;

f. For an employee who is eligible for the Elected Officers' Class, a selection as to whether the employee wishes to elect:

i. To join the FRS Pension Plan; or

ii. To join the FRS Investment Plan and to transfer any accrued benefit from the FRS Pension Plan to the FRS Investment Plan and to have future employer contributions sent to the FRS Investment Plan account; or

iii. To join the FRS Investment Plan and to retain any accrued benefit in the FRS Pension Plan which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iii; or

iv. To join the Senior Management Service Class of the FRS Pension Plan and retain any accrued benefit in the FRS Investment Plan, which requires the eligible employee to make the choice no later than the last day of the 6th month after assuming his elected office, in accordance with Section 121.052(3)(a), Florida Statutes; or

v. To switch prospectively to the State Senior Management Service Optional Annuity Program and retain any accrued benefit in the FRS Pension Plan, which selection must be made no later than the last business day of the 6th month after assuming elected office and that the employee must be a state elected officer to select this option v; or

vi. To withdraw from the Florida Retirement System and participate in a local government Optional Annuity Program, which decision is irrevocable so long as the employee holds a position which is eligible for the Senior Management Service Class and which election must be made no later than the last business day of the 6th month after assuming elected office and that the employee must be a local elected officer to select this option vi; or

vii. To withdraw from the Florida Retirement System altogether, which means that the employee will not participate in the Florida Retirement System or any retirement plan offered by his employer; that the effective date of the election will be the date he assumed elected office; that the employee can rejoin the Elected Officers Class upon written request; that the employee's decision must be made no later than the last business day of the 6th month after assuming elected office; and that this option vii is not available to any member who has already retired from a State of Florida administered retirement plan.

3. Understand that benefits will be distributed in accordance with Section 121.091(8), Florida Statutes, in the absence of the participant's filing a beneficiary designation form, which is available from the sources listed in paragraph (3)(b), above;

4. Select any combination of investment funds from among any of the balanced funds and other investment funds shown, provided, however, that the percentage of the employee's contributions for all of the funds selected must equal 100 percent; Any participant who does not select investment options will be defaulted into the FRS Select Moderate Balanced Fund. Any participant so defaulted retains the option at any time to make other investment selections. Both the accumulated benefit obligation and all future

contributions will be invested in the FRS Select Moderate Balanced Fund unless and until the participant chooses other investment options.

5. [I understand section] sign and date a section indicating that, depending on which options were selected as described in Section 1 of the form and in subparagraph 2., above:

a. The employee understands that he can obtain a description of his rights and responsibilities under the FRS Pension Plan and the FRS Investment Plan by calling a toll-free number or accessing an internet website;

b. The employee understands the elections he has made by choosing among the various options available to him as described in Section 1 of the form and in subparagraph 2., above;

c. The employee understands that if he has elected the FRS Investment Plan, the initial ABO is an estimate which will be reconciled within 60 days and that if the employee is a member of the FRS Investment Plan Hybrid Option, he cannot make this choice unless he has at least 5 years of previous Pension Plan service and that if he is currently a member of the FRS Pension Plan, the election may constitute his second choice as provided under Section 121.4501(4)(e), Florida Statutes;

d. The employee understands that he should review the fund profiles and the Investment Fund Summary before choosing investment funds and that information will be available electronically unless the employee requests hard copies and that if the employee does not choose specific funds, his assets will be invested in the FRS Select Moderate Balanced Fund;

e. The employee understands that investment management fees may change and that funds may be added or terminated and that if funds are terminated, the employee has the choice of moving his assets into other investment options or, if the employee does not make an affirmative decision, his assets will be moved to the FRS Select fund with the most similar risk characteristics or into a replacement fund designated by the Plan's Trustees;

f. The Florida Statutes incorporate federal law concepts of participant control so that if the employee exercises control over his assets in accordance with section 404(c) of the federal Employee Retirement Income Security Act of 1974, no program fiduciary shall be liable for any loss to his account which results from the employee's control;

g. The employee understands that he has a one time opportunity to switch plans and that to switch to the Pension Plan there will be a buy-in cost for doing so; [The Division of Retirement is responsible for calculating the buyback amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee's salary and service and rises when additional creditable service or salary is earned.] The employee understands that he can change his fund allocations at any time after the account is activated;

i. The employee understands that his account will be available by the end of the month following the date of his election;

j. The employee understands that by not selecting any investment options, he is authorizing that his assets be invested in the FRS Select Moderate Balanced Fund;

k. The employee understands that the FRS Investment Plan is not designed to facilitate short-term excessive trading; that foreign and international funds are subject to a 7-day holding period and that the excessive trading policy in Rule 19-11.004, F.A.C., applies to all participants;

l. The employee understands that he cannot file a second election using the initial enrollment form;

m. The employee understands that if he has chosen the Senior Management Service Optional Annuity Program, he must contact the plan marketing companies to receive information about investment funds; that his participation in any other state-administered retirement plan is inactivated once enrolled in SMSOAP; that he is not eligible for disability benefits; that his SMSOAP election is irrevocable so long as he is employed in a SMSOAP position; that the State of Florida does not guarantee or insure SMSOAP benefits; and that any employee contributions to SMSOAP are tax-deferred;

n. The employee understands that if he has chosen to withdraw from the Florida Retirement System, that his participation in any other state-administered retirement plan is inactivated once the withdrawal is complete; that he is not eligible for disability benefits; that his withdrawal decision is irrevocable so long as he is employed in a position eligible for participation in the Senior Management Service Class;

o. The employee understands that if he has chosen the State University System Optional Retirement Program (SUSORP), he must contact the plan marketing companies to receive information about investment funds; that his participation in any other state-administered retirement plan is inactivated once enrolled in SUSORP; that he cannot participate in SUSORP if he is a retiree or receiving an annuity payment from the SUSORP; that he is not eligible for disability benefits; that his SUSORP election is irrevocable so long as he is employed in a SUSORP position; that the State of Florida does not guarantee or insure SUSORP benefits; and that any employee can contribute up to the statutory amount of his gross salary as an employee contribution and that these contributions to SUSORP shall be tax-deferred;

p. The employee understands that if he has chosen to withdraw from the Florida Retirement System and participate in the Community College Optional Retirement Program (CCORP), he must contract with the individual provider company(ies) for CCORP within 90 days of his employment; that failure to join CCORP will make him a compulsory member of the FRS Pension Plan; that by electing to withdraw from the Florida Retirement System, he must become a program participant in the CCORP's lifetime monthly annuity

program; that his participation in any other state-administered retirement plan is inactivated once enrolled in CCORP; that he is not eligible for disability benefits; and that he has one opportunity to join either the FRS Pension Plan or the FRS Investment Plan;

q. The elected employee understands that if he has chosen to join the SMSOAP, he must be an elected officer; and that he must contact the marketing company(ies) to receive information about the plan; that his participation in any other state-administered retirement plan is inactivated; that the State of Florida does not guarantee or insure any benefits paid under the program; and that any employee contributions he makes are not tax-deferred;

r. The elected employee understands that if he has chosen to withdraw from the Florida Retirement System and participate in a local government annuity program, his effective date will be the first day of the month following the receipt of his written election to the FRS Plan Choice Administrator; and

s. The elected employee understands that if he has chosen to withdraw from the Florida Retirement System altogether, he may rejoin upon written request and that this option is not available to members who have already retired from a State of Florida administered retirement plan.

6. For employees who have chosen to participate in the Senior Management Service Optional Annuity Program, fill out a section designating marketing companies and contribution amounts for that option and check a statement that the employee has reviewed the investment fund options offered by the marketing companies and has signed the necessary contract(s) with the company(ies) for the deposit of the employees contributions as authorized in the section.

7. For employees who have chosen to participate in the State University System Optional Retirement Program, fill out a section designating marketing companies and contribution amounts for that option and check a statement that the employee has reviewed the investment fund options offered by the marketing companies and has signed the necessary contract(s) with the company(ies) for the deposit of the employees contributions as authorized in the section.

(d)1. The enrollment form shall be complete and the election shall be final if all the required information is clearly indicated and if the enrollment form is received by the TPA by 4:00 p.m. Eastern Time. The form shall be transmitted via the U.S. mail or shall be submitted online in accordance with instructions accompanying the form.

2. The TPA shall determine that the employee's enrollment in the FRS Investment Plan is within the prescribed time period, the form in toto is complete, and the employee's election is clearly indicated. If the TPA determines that the form is incomplete, the form shall be returned to the employee and resubmitted when complete. An incomplete form is a form which is missing the name and address and phone numbers of



the participant, social security numbers, plan selection, signatures, or dates. If the form is incomplete only because the participant has made no investment selection, the form will be processed and the participant will be defaulted into the FRS Select Moderate Balanced Fund for investing his accumulated benefit obligation and all future contributions. Note that this default selection may be changed by the participant at any time once the transfer has been made.

(e) Upon receipt of the completed enrollment form by the TPA, the TPA shall enroll the employee in the FRS Investment Plan. Upon completion of the enrollment, but no later than two working days after enrollment, the TPA shall send confirmation of the effective enrollment to the employee at the employee's home address, to the employee's employer, and to the division to inform the division that the employee is no longer in the FRS Pension Plan.

(f) Employers shall pay retirement contributions monthly for their FRS Investment Plan employees and those contributions are due to the division by the 5th working day of the month following the month for which the contributions are made. The employer shall change its employee records to reflect that the contribution rates effective on the effective date of enrollment are applicable to those of its employees who have elected to enroll in the FRS Investment Plan.

(5) Asset Transfer and True-Up Procedures for Newly-hired Employees with Previous FRS Service.

(a) For employees with previous FRS service who elect to enroll in the FRS Investment Plan with a transfer of his or her ABO, the division shall determine the amount of the employee's ABO. This amount shall be transferred to the employee's FRS Investment Plan account and shall be allocated to each investment product selected by the participant on his or her enrollment form.

(b)1. The division shall determine the employee's ABO as of the last day of the month prior to the employee's effective date of enrollment in the FRS Investment Plan.

2. Example: If the division receives the enrollment during the month of June, the effective date of enrollment for the employee in the FRS Investment Plan is July 1. The division shall determine the employee's ABO, if any, through June 30.

(c) By the 15th day of the month, the division shall notify the TPA of the ABO for each employee whose effective date of enrollment is the first day of the month and the TPA shall notify the SBA of the aggregate ABO of employees whose effective date of enrollment is the first day of the month.

(d) On the last business day of the effective month of enrollment in the FRS Investment Plan, the SBA shall transfer the aggregate ABO amount to the FRS Investment Plan custodian for distribution to the FRS Investment Plan participant accounts. Such distribution shall be directed by the TPA and shall be based on the percentage of the total investment allocated to each investment option designated by the participant on the enrollment form.

(e) The total amount initially credited to each FRS Investment Plan participant's account who chooses to move his or her ABO out of the FRS Pension Plan is an estimate of the participant's ABO as calculated by the division. Thereafter, pursuant to Section 121.4501(3)(c)3., Florida Statutes, the division shall recompute the ABO not later than 60 days after the initial transfer of funds and, if the recomputed amount differs from the transferred ABO amount by \$10 or more, the division shall cause an adjustment of the transfer of assets between FRS Investment Plan account(s) of the affected participant(s) through a true-up transfer in accordance with that statutory section.

(f) If the recomputed ABO is greater than the initial amount transferred by \$10 or more, the amount to be transferred to the participant's FRS Investment Plan account from the FRSTF will equal the excess of the recomputed ABO over the amount initially transferred plus interest. The amount transferred to each investment product shall be based on the percentage of the total investment allocated to each investment product by the participant on his or her enrollment form.

(g) If the recomputed ABO is less than the original amount transferred by \$10 or more, the TPA shall cause to be transferred from the participant's FRS Investment Plan account to the FRSTF an amount equal to the excess of the initial amount transferred over the recomputed ABO plus interest. The amount transferred from each investment product shall be based on the percentage of the total investment allocated to each investment product by the participant on his or her enrollment form.

(h) The division shall notify the SBA of the aggregate true-up amount plus interest within 45 days of the initial transfer. The division shall notify the TPA of the true-up amounts plus interest by participant account within 45 days of the initial transfer. The true-up transfer shall include the true-up amount determined by the division plus interest at the rates specified in Section 121.4501(3)(c)3., Florida Statutes, from the date of the initial transfer to the date of the true-up transfer. The transfer of the true-up amount plus interest shall occur on the 60th day following the initial transfer. In the event the 60th day following the initial transfer falls on a Saturday, Sunday, or a legal holiday, the true-up transfer shall occur on the last business day of the month preceding the Saturday, Sunday, or legal holiday.

(i) The division shall calculate the interest owed on true-up amounts. If the recomputed ABO is greater than the original amount transferred by \$10 or more, the participant will be owed a true-up amount plus interest. Interest will be calculated using the rate of 8% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer, as specified in paragraph (h), above. If the recomputed ABO is less than the original amount transferred by \$10 or more, the participant will owe a true-up amount plus interest. Interest will be calculated

on the amount owed based upon 6% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer.

(6) Grace Period.

(a) If an employee files an election with the TPA and the employee realizes that the election was made in error, the SBA will consider, on a case-by-case basis, whether the election will be voided, subject to the following requirements:

1. Member Elects the FRS Investment Plan. The employee must notify the SBA, by a telephone call to the toll free number: (866)446-9377, or by e-mail, or by written correspondence directly to the SBA, to the TPA, or to the Division of Retirement, before assets are transferred from the FRS Pension Plan to the member's FRS Investment Plan account. This transfer occurs no later than the last business day of the month following the election month.

2. Member Actively Elects the FRS Pension Plan. The employee must notify the SBA no later than the last business day of the month following the election month.

(b) If the request to void the election is made timely and the SBA agrees the election will be voided, the member will be required to sign a release and return it to the SBA prior to the election's being officially voided. The member will acknowledge that failure to make a new election within one calendar month will result in the original election's being reinstated, and that once the revised election is made it cannot be changed (unless the member uses his second election, if available).

(c) Upon receipt of the release, the Division of Retirement and the TPA will be directed to do the following:

1. The Division of Retirement will revise its database to reflect the member's plan change and extend the member's election period by one calendar month, except for the situation described in subparagraph 4., below.

2. The TPA will contact the member via telephone or email and tell him or her that the election has been voided.

3. The member will make a new election via telephone, or using the website at MyFRS.com or using a form prior to the newly-established deadline.

4. If the member had elected the FRS Investment Plan and decided to remain in the FRS Pension Plan, there is no need for another election, because the member is already in the FRS Pension Plan, his election to the FRS Investment Plan having been voided.

(d) Nothing contained in this subsection will interfere with a member's right to file a complaint, as permitted by Section 121.4501(9)(f)3., Florida Statutes.

(7) Costs associated with the liquidation or transfer of assets from the FRSTF to the FRS Investment Plan will be deducted from the FRSTF. The FRSTF will not be responsible for any transaction costs associated with the purchase of FRS

Investment Plan assets. Those costs will be deducted from FRS Investment Plan accounts or otherwise charged to FRS Investment Plan participants.

(8) The amount transferred to each investment product shall be based on the percentage of the total investment allocated to each fund by the participant on his or her enrollment form as described in paragraph (3)(b), above. However, pursuant to Section 121.4501(4)(d), Florida Statutes, amounts not specified will be invested in the default option designated in the Investment Policy Statement, as approved by the Trustees and adopted and incorporated by reference in Rule 19-9.001, F.A.C.

(9) In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), Florida Statutes, the records and other information relating to investments made by the SBA will be confidential and exempt from Chapter 119, Florida Statutes, until 30 days after completion of each investment transaction.

Specific Authority 121.4501(3)(c)4, (8)(a) FS. Law Implemented 121.051, 121.055, 121.35, 121.4501(2),(3),(4),(5),(6),(8),(15), 121.73, 121.74, 121.78, 215.44(8)(b), 1012.875(3) FS. History—New 10-21-04, Amended.

19-11.007 Second Election Enrollment Procedures for the FRS Retirement Programs.

(1) Purpose. The purpose of this rule is to establish procedures for making the second election permitted by Section 121.4501(4)(e), Florida Statutes. This rule includes procedures for participants who initially chose the FRS Investment Plan or the FRS Investment Plan Hybrid Option to use their 2nd election to transfer to the FRS Pension Plan; for participants who chose or defaulted into the FRS Pension Plan to use their 2nd election to transfer to the FRS Investment Plan; and for participants who chose or defaulted into the FRS Pension Plan to use their 2nd election to transfer to the FRS Investment Plan Hybrid Option.

(2) Definitions.

(a) "FRS Investment Plan" means the optional defined contribution retirement plan within the Florida Retirement System, established in Parts II and III of Chapter 121, Florida Statutes, in which a participant chooses to transfer his accrued service benefit in the FRS Pension Plan, if any, to the FRS Investment Plan and further chooses that all future employer contributions be deposited in his FRS Investment Plan account.

(b) "FRS Investment Plan Hybrid Option" means the optional defined contribution retirement plan within the Florida Retirement System, established in Parts II and III of Chapter 121, Florida Statutes, in which a participant chooses to retain his accrued service benefit in the FRS Pension Plan, in accordance with Section 121.4501(3)(c)1., Florida Statutes, and further chooses that all future employer contributions be deposited in his FRS Investment Plan account.

(c) "FRS Pension Plan" means the defined benefit retirement plan within the Florida Retirement System, established in Part I of Chapter 121, Florida Statutes.

(d) "I," "you," or "your:" these references are to the participant in the context of relevant parts of the two enrollment forms described in this rule.

(e) "Accrued service benefit" or "accumulated benefit obligation" means the present value amount already earned by a participant in the FRS Pension Plan which, if the participant uses the 2nd election, will be transferred to his or her account in the FRS Investment Plan.

(3) General Procedures.

(a) All participants who wish to change their FRS retirement plan using their second election must use a 2nd election enrollment form. There are two types of forms. The "2nd Election Retirement Plan Enrollment Form" requires the participant to choose the investment options he wishes to use if he is choosing to move to either the FRS Investment Plan or the FRS Investment Plan Hybrid Option. Alternatively, by using the "2nd Election EZ Retirement Plan Enrollment Form," the participant is choosing to have his employer contributions and any transfers from the FRS Pension Plan invested in ~~authorizes that his investment fund option is the FRS Select Moderate Balanced Fund for his initial selection.~~ The participant may change his investment selection at any time after he is transferred to the FRS Investment Plan.

(b) Both forms are available by calling the toll-free number for the MyFRS Financial Guidance Line: (866)446-9377, or for the hearing-impaired: (888)429-2160; or by using the MyFRS.com website and clicking on Resources and then on Forms.

(c) The form must be mailed to the FRS Plan Choice Administrator, ~~City Street~~, FRS Investment Plan Administrator, P. O. Box 56290, Jacksonville, Florida 32241-6290.

(d) The form must be received by on the premises of the FRS Plan Choice Administrator before 4:00 p.m. Eastern time on the last day of the month in which the participant wishes to make the change from one retirement plan to the other. The participant may elect to move between the Florida Retirement System retirement programs only if the participant is earning service credit in an employer-employee relationship consistent with the requirements under Section 121.021(17)(b), F.S., excluding leaves of absence. The form must be received and processed by the FRS Plan Choice Administrator before employment is terminated. ~~The participant must work at least one day in the month that the election becomes effective for the transfer to be effective.~~ If the last day of the month is a Saturday, Sunday, or legal holiday, the deadline is the last business day of the month.

1. Example: if a participant submits the 2nd Election Retirement Plan Enrollment Form in the month of November, the effective date of the plan change will be December 1 ~~and the participant must work at least one day in the month of December for the plan change to be effective.~~

2. Example: if a participant intends to terminate his FRS-covered employment, he must ensure that the form is received by the FRS Plan Choice Administrator before he terminates his employment. Therefore, if a participant wishes to terminate on November 27, he must ensure that the form is received and processed by the FRS Plan Choice Administrator before that date if a participant wishes to have the 2nd Election effective in the month of December, the participant must have the 2nd Election form on the premises of the FRS Plan Choice Administrator before 4 PM Eastern Time on November 30.

3. Example: the last day of February, 2004, was Sunday, February 29. Therefore, the last business day was the preceding Friday, February 27. For a 2nd Election to have been effective as of March 1, 2004, the form must have been received by the FRS Plan Choice Administrator before 4:00 p.m. Eastern Time on Friday, February 27.

(4) Specific Procedures for the "2nd Election Retirement Plan Enrollment Form."

(a) All participants are required to fill out Section 1 of the form by providing the participant's name and Social Security number and checking only one of three boxes, indicating which choice the participant is making. These boxes contain the following information:

1. Change from the FRS Investment Plan or FRS Investment Plan Hybrid Option to the FRS Pension Plan (Please complete Section 4, as described in paragraph (d) below.) I understand I am using my existing FRS Investment Plan account balance to "buy" into the FRS Pension Plan. I understand that if my account balance is not sufficient to cover the cost of the "buy in", I must pay the balance due from my personal funds before being allowed into the FRS Pension Plan. The Division of Retirement is responsible for calculating the buyback amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee's salary and service and increases as additional creditable service and salary are earned. I understand that I may move my FRS Investment Plan account balance into more conservative, less risky investment options within the FRS Investment Plan in order to potentially reduce the volatility of my account balance prior to liquidation and movement to the FRS Pension Plan.

2. Change from the FRS Pension Plan to the FRS Investment Plan, (Please complete Sections 3 and 4 as described in paragraphs (c) and (d), below.) I understand I am transferring the present value, if any, of my FRS Pension Plan benefit to the FRS Investment Plan. I understand that I will have future employer contributions deposited in my Investment Plan account.

3. Change from the FRS Pension Plan to the FRS Investment Plan Hybrid Option, (Please complete Sections 3 and 4, as described in paragraphs (c) and (d) below) I am retaining any accrued benefit in the FRS Pension Plan with

future employer contributions deposited in my FRS Investment Plan account. I understand that I must have 5 years of Pension Plan service to select this option.

(b) The second section on the form discusses the beneficiary designation. The designation cannot be made on the enrollment form. This section contains the following information:

1. A beneficiary designation can be completed after you qualify for a retirement benefit (i.e., become “vested”). If you do not designate a beneficiary after you are vested, your benefit will be distributed in accordance with Section 121.091(8), or Section 121.4501(20), Florida Statutes, as applicable.

2. You may designate a beneficiary by completing a Beneficiary Designation Form (BEN-001 Pension Plan or IPBEN-1 Investment Plan). Both forms are available online at MyFRS.com or by calling the MyFRS Financial Guidance Line.

(c)1. The third section on the form discusses and describes the FRS Investment Plan Fund Selections. A participant who has checked the first box in the first section of the form, indicating a change to the FRS Pension Plan, must not complete this section. Participants who have checked either the second or the third boxes in the first section of the form must complete this section by choosing their investment fund options.

2. The investment fund selection must be indicated by:

a. Writing the percentage you wish to allocate to each investment option. Use whole percentages only.

b. Choosing your investment funds from the balanced funds, the other investment funds OR from a combination of the two.

c. Ensuring that the total of all your selections equals 100%.

d. Any participant who does not select any investment options will be defaulted into the FRS Select Moderate Balanced Fund. Any participant so defaulted retains the option at any time to make other investment selections. Both the accumulated benefit obligation and all future contributions will be invested in the FRS Select Moderate Balanced Fund unless and until the participant chooses other investment options.

(d) The fourth section on the form is an authorization section which will ensure that all participants understand the information described. All participants must read the information in the fourth section before signing the form. The information which follows is applicable as indicated depending on the choice the participant has made.

1. For all participants: I understand that I can find a description of my rights and responsibilities under the FRS Pension Plan and the FRS Investment Plan in the respective Summary Plan Descriptions, Florida Statutes, and

Administrative Rules available through the MyFRS Financial Guidance Line at (866)44-MyFRS (1(866)446-9377; or TTY: (888)429-2160) or at MyFRS.com.

2. For participants choosing to transfer to the FRS Pension Plan:

a. I understand that I have elected to change retirement plans to the FRS Pension Plan.

b. I understand that this election will constitute my one-time second election as provided under the FRS and that I must remain in this retirement plan until my retirement.

c. I understand that there may be a cost to change to the FRS Pension Plan, which I can get by calling the MyFRS Financial Guidance Line and connecting to the Division of Retirement, and that such cost may require that I pay some amount greater than my current FRS Investment Plan account balance. Such payment, if necessary, must be received by the date determined by the Division of Retirement. If the required amount is not received by the Division of Retirement by the date due, the election will be voided. The participant will receive notification and proper instructions from the Division of Retirement detailing where and in what form to send any personal payments. The Division of Retirement is responsible for calculating that amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee’s salary and service and increases as additional creditable service and salary are earned. I understand that I have the ability to move my FRS Investment Plan account balance into conservative investment options within the FRS Investment Plan in order to potentially reduce the volatility of my account balance prior to liquidation and movement to the FRS Pension Plan.

e. I understand that my one-time second election is irrevocable.

3. For participants choosing to transfer to the FRS Investment Plan:

a. I understand that I have elected to change retirement plans to the FRS Investment Plan, and that any accrued benefit value I may have in the FRS Pension Plan will be transferred to the FRS Investment Plan.

b. I understand that this election will constitute my one-time second election as provided under the FRS and that I must remain in this retirement plan until my retirement.

c. I understand the initial transfer amount (the accrued benefit value or the accumulated benefit obligation) is an estimate and that within 60 days of that transfer, there will be a reconciliation pursuant to Florida law, which will use my actual FRS membership record. The amount could be more or less than the estimate I received.

d. I understand that I can get the amount of my accrued benefit value by calling the MyFRS Financial Guidance Line and connecting to the Division of Retirement.

e. I understand that if I am currently a member of the FRS Investment Plan Hybrid Option, I cannot make this election.

f. I understand my one-time second election is irrevocable and I understand that I must remain in this plan until my retirement.

4. For participants choosing to transfer to the FRS Investment Plan Hybrid Option:

I understand that I have elected to change retirement plans to the FRS Investment Plan and that my FRS Pension Plan benefit already accrued will remain with the FRS Pension Plan and that a FRS Investment Plan account will be established to receive all future employer contributions.

5. For participants choosing to transfer either to the FRS Investment Plan or to the FRS Investment Plan Hybrid Option:

a. I understand that I should review the Fund Profiles and the Investment Fund Summary at MyFRS.com before making any changes to my investment fund selections. I understand that information on investment funds will be provided in electronic format, unless I request hard copies. I understand that I can change my fund allocations at any time after my account is activated by accessing MyFRS.com or by calling the toll-free MyFRS Financial Guidance Line. I understand that my account will be available by the end of the month following the effective date of this election. If I do not choose specific investment funds, I authorize the FRS Plan Choice Administrator to invest ~~am authorizing that my accumulated benefit obligation and future contributions~~ assets be invested in the FRS Select Moderate Balanced Fund. I understand that the FRS Investment Plan is not designed to facilitate short-term excessive fund trading. Foreign and global investment funds are subject to a minimum holding period of 7-calendar days following any non-exempt transfers into such funds and I may be subject to trading controls on other funds in the event that I trade excessively or an equity wash is in effect for a stable value fund.

b. I understand that investment management fees will be deducted from my FRS Investment Plan account. I also understand that these fees may change in the future and that funds may be added or terminated. I understand that if any of the funds I select in the FRS Investment Plan are terminated in the future, I will be able to move my assets into other investment funds prior to termination. Otherwise, my assets in the terminated fund(s) will be automatically moved into a replacement fund designated at that time.

c. I understand that Sections 121.4501(8)(b)4. and 121.4501(15)(b) of Florida law incorporate the federal law concept of participant control, established by regulations of the U.S. Department of Labor under section 404(c) of the Employee Retirement Income Security Act of 1974. If I exercise control over the assets in my FRS Investment Plan account, pursuant to section 404(c) regulations and all

applicable laws governing the operation of the FRS Investment Plan, no program fiduciary shall be liable for any loss to my account which results from my exercise of control.

(e) The form must be signed and dated by the participant and must include a daytime telephone number. Inclusion of an e-mail address or the name of the participant's employing agency is optional on the participant's part.

(f) The form must be mailed to the address set out in paragraph (2)(c), above.

(g) The participant must put his Social Security number at the bottom of each page of the form so that if the pages become separated, they can be properly reassembled.

(h) For participants transferring to the FRS Pension Plan, the election may require a personal payment if the participant's account balance was less than the calculated amount required to buy back into the FRS Pension Plan. Such payment, if necessary, must be received by the date determined by the Division of Retirement. If the required amount is not received by the Division of Retirement by the date due, the election will be voided. The participant will receive notification and proper instructions from the Division of Retirement detailing where and in what form to send any personal payments.

(i) A confirmation statement will be mailed to the participant's address of record once the completed form is received and processed.

(j) The participant should carefully review the form and be sure that it is signed and dated. The participant should keep a copy for his records.

(k) If the participant submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name and address and phone numbers of the participant, social security numbers, plan selection, signatures, or dates. The incomplete form will be returned to the participant to add any missing information. If the form is incomplete only because the participant has made no investment selection, the form will be processed and the participant will be defaulted into the FRS Select Moderate Balanced Fund for investing his accumulated benefit obligation and all future contributions. Note that this default selection may be changed by the participant at any time once the transfer has been made.

(5) Specific Procedures for the "2nd Election EZ Retirement Plan Enrollment Form."

(a) Form ELE-2EZ, "2nd Election EZ Retirement Plan Enrollment Form," v. 08-05 ~~03-04~~, is hereby adopted and incorporated by reference.

(b) All participants choosing to use this form are required to fill out Section 1 of the form by providing the participant's name and Social Security number and checking only one of three boxes, indicating which choice the participant is making.

(c) The form must be signed and dated by the participant and must include a daytime telephone number. Inclusion of an e-mail address or the name of the participant's employing agency is optional on the participant's part.

(d) The form must be mailed to the address set out in paragraph (3)(c), above.

(e) The participant must put his Social Security number at the bottom of each page of the form so that if the pages become separated, they can be properly reassembled.

(f) For participants transferring to the FRS Pension Plan, the election may require a personal payment if the participant's account balance was less than the calculated amount required to buy back into the FRS Pension Plan. Such payment, if necessary, must be received by the date determined by the Division of Retirement. If the required amount is not received by the Division of Retirement by the date due, the election will be voided. The participant will receive notification and proper instructions from the Division of Retirement detailing where and in what form to send any personal payments. The Division of Retirement is responsible for calculating that amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee's salary and service and increases as additional creditable service and salary are earned.

(g) A confirmation statement will be mailed to the participant's address of record once the completed form is received and processed.

(h) The participant should carefully review the form and be sure that it is signed and dated. The participant should keep a copy for his records.

(i) If the participant submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name and address and phone numbers of the participant, social security numbers, the plan selection, signatures, or dates. The incomplete form will be returned to the participant to add any missing information.

(6) Grace Period.

(a) If a member files an election with the TPA and the employee realizes that the election was made in error, the SBA will consider, on a case-by-case basis, whether the election will be voided, subject to the following requirements:

1. Member Elects the FRS Investment Plan. The SBA must be notified, by a telephone call to the toll free number: (866)446-9377, or by e-mail, or by written correspondence directly to the SBA, to the TPA, or to the Division of Retirement, before assets are transferred from the FRS Pension Plan to the member's FRS Investment Plan account. This transfer occurs no later than the last business day of the month following the election month.

2. Member Elects the FRS Pension Plan. The SBA must be notified no later than the last business day of the month following the election month.

(b) If the request to void the election is made timely and the SBA agrees the election will be voided, the Division of Retirement and the TPA will be directed to do the following:

1. The Division of Retirement will revise its database to reflect the member's plan change and extend the member's election period by one calendar month, except for the situation described in subparagraph 4., below.

2. The TPA will contact the member via telephone or email and tell him or her that the election has been voided.

3. The member will make a new election via telephone, or using the website at MyFRS.com or using a form prior to the newly-established deadline.

4. If the member had elected the FRS Investment Plan and decided to remain in the FRS Pension Plan, there is no need for another election, because the member is already in the FRS Pension Plan, his election to the FRS Investment Plan having been voided.

(c) Nothing contained in this subsection will interfere with a member's right to file a complaint, as permitted by Section 121.4501(9)(f)3., Florida Statutes.

Specific Authority 121.4501(8)(a) FS. Law Implemented 121.4501(3), (4), (8)(b)4, (15)(b), (20) FS. History--New 10-21-04, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kevin SigRist, Senior Investment Officer-Defined Contribution Programs, State Board of Administration  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 8, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2005

**STATE BOARD OF ADMINISTRATION**

RULE TITLES: RULE NOS.:  
The Exclusive Benefit Rule of the

Code and Forfeitures 19-12.005  
Acceptance of Rollovers 19-12.007

PURPOSE AND EFFECT: These rules are amended to make Rule 19-12.005, F.A.C., consistent with the Private Letter Ruling from the Internal Revenue Service received by the Board and to conform Rule 19-12.007, F.A.C., to legislation enacted during the 2005 legislative session.

SUMMARY: Proposed amended Rule 19-12.005, F.A.C., revises the rule to conform it with the Private Letter Ruling received by the Board on May 4, 2001. Proposed amended Rule 19-12.007, F.A.C., is amended to conform it to legislation enacted in the 2005 regarding acceptance of DROP rollovers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 121.4501(5)(c), (13)(a) FS.

LAW IMPLEMENTED: 121.4501(5)(c), (13), (21) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 – 4:00 p.m., Wednesday, January 4, 2006

PLACE: Hermitage Room, 1st Floor, 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; tel.: (850)413-1199

THE FULL TEXT OF THE PROPOSED RULES IS:

19-12.005 The Exclusive Benefit Rule of the Code and Forfeitures.

In accordance with Code s. 401, the assets of the Plan shall only be used for the exclusive benefit of Participants or their beneficiaries, or to pay administrative expenses of the Plan. Consistent with the Private Letter Ruling 200130057, dated May 4, 2001, consequently, any forfeited nonvested accumulations in the suspense account of the Public Employee Optional Retirement Program Trust Fund shall be applied to pay administrative expenses of the Plan which are solely related to the Public Employee Optional Retirement Program and to reduce future Employer contributions to the Plan in the following order in a manner consistent with Code requirements: first, to pay administrative expenses of the Plan; then to the extent any forfeited amounts remain, to reduce future Employer contributions to the Plan; and, finally, to be reallocated to the Plan accounts of other Participants.

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(13) FS. History—New 11-20-01, Amended \_\_\_\_\_.

19-12.007 Acceptance of Rollovers.

(1) Notwithstanding the definitions of Rule 19-12.001, F.A.C., for purposes of this section the following words and terms have the following meanings:

(a) “Rollover” means either a direct rollover from another eligible retirement plan or a deposit contribution of an eligible rollover distribution to the Investment Plan for the benefit of the participant distributee that satisfies the time period requirement and other requirements of Code s. 402(c).

(b) A “direct rollover” means an eligible rollover distribution that is made directly to the Investment Plan from by another eligible retirement plan for the benefit of the participant distributee.

(c) An “eligible rollover distribution” means any distribution of all or any portion of another eligible retirement account ~~the balance~~ to the credit of the participant from distributee in an eligible retirement plan. Except for that portion of a distribution not includible in gross income which is transferred directly to the Plan in accordance with Code s. 402(c)(2), an eligible rollover distribution does not include any of the distributions described in the second sentence of the definition of “eligible rollover distribution” in Rule 19-12.001, F.A.C.

(d) An “eligible retirement plan” means any of the types of plans included in the definition of “eligible retirement plan” in Rule 19-12.001, F.A.C., that provides ~~makes~~ the participant’s distributee’s eligible rollover distribution to the Investment Plan.

(2) It is intended that the Plan accept rollovers in accordance with the requirements of this rule section. Except as otherwise provided below, before accepting a rollover to the Plan, the Investment Plan A administrator evaluating the rollover shall first obtain sufficient evidence to support a reasonable conclusion that the rollover is valid under the Code and shall determine that such rollover meets the requirements of this rule section.

(3) The Plan A administrator shall accept that portion of a rollover distribution in a direct trustee-to-trustee transfer which has been identified by the eligible retirement plan making the distribution as not includible in gross income if such portion is otherwise eligible for rollover. Such amount shall be accounted for separately, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. The Plan Administrator may accept rollovers from participants in the Deferred Retirement Option Program (DROP), after the conclusion of such DROP participation. Members of the Teacher’s Retirement System and the State & County Officers & Employees Retirement System are eligible to roll over their DROP proceeds after their conclusion in the DROP.

(4) Payment to the Plan must be in cash in the form of a check. In a direct rollover the check should be made payable to the “FRS Investment Plan-FBO (the participant’s name).”

(5) Instructions regarding check delivery and other information relating to the processing of rollovers may be obtained by calling the MyFRS Financial Guidance Line ~~program’s employee phone line~~ which is a toll free line: (866)446-9377 or accessing the website at www.MyFRS.com. Participants shall use Form IPRO-1, rev. 09-05 ~~06/04~~, “Employee Rollover Deposit Instructions and Form,” which is hereby adopted and incorporated by reference, to effect rollovers described in this rule. Former DROP members shall use form IP-DROP-RO-1, “DROP Direct Rollover Form for Former DROP Members,” rev. 07-05, and current DROP members planning to roll over their DROP accumulation shall use Form IP-DROP-AD-1, “DROP Accumulation Direct

Rollover Form for Current DROP Members,” rev. 07-05, both of which are adopted and incorporated by reference, to effect rollovers described in this rule.

(6) Rollovers to the Plan shall be accounted for separately on the recordkeeping system of the Investment Plan Administrator.

Specific Authority 121.4501(5)(c) FS. Law Implemented 121.4501(5)(c), (21) FS. History—New 12-8-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kevin SigRist, Senior Investment Officer-Defined Contribution Programs, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2005

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: ADA Provisions for Inmates  
RULE NO.: 33-210.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: delete unnecessary language and references to an obsolete form; clarify a definition; and clarify staff responsibilities.

SUMMARY: The proposed rule revises the definition of ‘major life activity’ to include standing, sitting or lifting, and eliminates an obsolete form and unnecessary language related to the request intake process and financial responsibility for damage to appliances. The proposed rule also clarifies staff responsibilities to provide for consultation with the program area director regarding accommodation requests.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.201 ADA Provisions for Inmates.

(1) No change.

(2) Definitions

(a) through (f) No change.

(g) Major life activities – activities that an average person can perform with little or no difficulty, such as walking, speaking, performing manual tasks, hearing, learning, ~~and seeing, standing, sitting or lifting.~~

(h) through (n) No change.

~~(o) Youthful offender – refers to the category of individual set forth in Rule 33-506.101, F.A.C.~~

(3) Accommodation Request Procedure.

(a) through (f) No change.

~~(g) The intake officer will complete an “Inmate Request for Accommodation Log,” Form DC2-529 for each Form DC2-530 received. Form DC2-529 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida, 32399-2500. The effective date of this form is August 20, 2001. Form DC2-259 shall include:~~

- ~~1. The name of the requesting inmate;~~
- ~~2. The inmate’s Florida Department of Corrections identification number;~~
- ~~3. The date the request was received;~~
- ~~4. The disposition of the request, (approved, modified, or denied);~~
- ~~5. The name of the individual making the decision;~~
- ~~6. Whether an appeal was filed;~~
- ~~7. The resolution of the appeal, if any; and,~~
- ~~8. The date of the final decision.~~

~~(h) The intake officer will forward each Form DC2-529 to the ADA coordinator by the fifth day of each month.~~

~~(h)(+) Copies of the requests, logs, and all other documentation shall be placed in the inmate’s medical file record and in the department’s confidential ADA file located in the central office.~~

(4) Justification for Denial of Requests for Accommodation. A request for accommodation shall be denied for any of the following reasons:

(a) No change.

(b) The department need not take an action to provide accessibility to a service, program or activity if the action would impose or require:

1. An undue financial burden on the agency where, in a cost benefit analysis, its costs would be an unjustifiable use of public funds. ~~The ADA coordinator shall consult with the Office of the General Counsel to make a determination if an accommodation would result in an undue financial burden.~~
2. An administrative burden on the agency; or,



3. A fundamental alteration of the nature of the service, program, or activity. The ADA coordinator shall consult with the central office director for the program area in which the accommodation is requested ~~Office of the General Counsel~~ to make a determination if an accommodation would constitute a fundamental alteration.

(c) Direct Threat. The ADA coordinator, ~~in consultation with the Office of the General Counsel~~ and the central office director for the program area in which the accommodation is requested, shall make a final determination on whether a requested accommodation poses a direct threat.

(d) No change.

(5) No change.

(6) Effective Communication. Reasonable accommodation shall be afforded to inmates with disabilities to ensure equally effective communication with staff, other inmates, and the public.

(a) No change.

(b) Auxiliary aids include bilingual aids or qualified interpreters, readers, sound amplification devices, captioned television or text displays, telecommunication devices for the deaf (TDD), audiotaped texts, Braille materials, large-print signs and materials, or the assignment of an inmate assistant ~~aid~~ for work, training, and school.

(c) No change.

(7) Health Care Appliances.

(a) through (b) No change.

(c) Maintenance of Health Care Appliances.

~~1.~~ When an appliance, ~~other than a wheelchair~~, is in need of repair or replacement, the inmate shall notify health care staff of his or her needs by a medical call-out or a request to see a doctor.

~~1.a.~~ Health care staff shall schedule the inmate for an appointment and evaluate the condition of the appliance.

~~2.b.~~ Once the need for repair or replacement is verified, the inmate shall be issued an appropriate appliance or accommodation.

~~2.~~ A non-indigent inmate shall be financially responsible for damage, repair and replacement of appliances, or parts and batteries and shall be charged for the cost thereof in accordance with subsection 33-601.308(4), F.A.C.

(8) through (9) No change.

Specific Authority 944.09 FS. Law Implemented 944.09, 958.04 FS. History—New 8-20-01, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martie Taylor, ADA Coordinator

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October, 5 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October, 28 2005

**WATER MANAGEMENT DISTRICTS**

**St. Johns River Water Management District**

RULE TITLE: Minimum Surface Water Levels and Flows and Groundwater Levels

RULE NO.: 40C-8.031

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to amend established minimum water levels for the following lakes in the following counties: Lake Gore in Flagler County; Lake Charles in Marion County; and Lakes Ashby, Daugharty, and Dias in Volusia County.

SUMMARY: The proposed rule would amend established minimum water levels for the above listed lakes pursuant to the mandate of Section 373.042, Florida Statutes. Each of these levels have an associated hydroperiod category. The terms herein are already defined in Chapter 40C-8, F.A.C. As with all minimum levels established by the District, if adopted, the minimum levels in this rule amendment would be used as a basis for imposing limitations on withdrawals of groundwater and surface water in the consumptive use permit regulatory process and for reviewing proposed surface water management systems in the environmental resource permit regulatory process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

IF REQUESTED WITHIN 21 DAYS OF THIS PUBLICATION, A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: Following the regularly scheduled Governing Board Meeting which begins at 1:00 p.m., January 10, 2006

PLACE: St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma K. Messer, Rules Coordinator, St. Johns River Water Management District, Office of General Counsel, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459, email nmesser@sjrwm.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

(2) The following minimum surface water levels are established:

40C-8.031 Minimum Surface Water Levels and Flows and Groundwater Levels.

(1) No change.

LAKE NAME	COUNTY	HYDROPERIOD CATEGORY	MINIMUM INFREQUENT HIGH	MINIMUM FREQUENT HIGH	MINIMUM AVERAGE LEVEL	MINIMUM FREQUENT LOW	MINIMUM INFREQUENT LOW
(a) through (c) No change.							
(d) ASHBY	Volusia	Seasonally Flooded Typically Saturated Semipermanently Flooded		<u>12.3</u> <del>13.8</del>		<del>12.1</del> 11.1	
(e) through (o) No change.							
(p) CHARLES	Marion	Seasonally Flooded Typically Saturated Semipermanently Flooded		<u>40.2</u> <del>40.6</del>	39.3	37.9	
(q) through (y) No change.							
(z) DAUGHARTY	Volusia	<del>Seasonally</del> <u>Temporarily</u> Flooded Typically Saturated Semipermanently Flooded		44.8	42.6	41.2	
(aa) through (bb) No change.							
(cc) DIAS	Volusia	Seasonally Flooded Typically Saturated Semipermanently Flooded		<u>34.6</u> <del>34.5</del>	<u>33.5</u> <del>34.1</del>	<u>32.2</u> <del>32.8</del>	
(dd) through (oo) No change.							
(pp) GORE	Flagler	Seasonally Flooded Typically Saturated Semipermanently Flooded		<u>21.1</u> <del>21.6</del>	<u>20.6</u> <del>20.8</del>	<u>19.2</u> <del>19.8</del>	

(qq) through (ccccc) No change.

(3) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 272.0421 373.103, 373.415 FS. History—New 9-16-92, Amended 8-17-94, 6-8-95, 1-17-96, 8-20-96, 10-20-96, 11-4-98, 6-27-00, 2-13-01, 3-19-02, 5-11-03, 11-10-03, 1-12-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sonny Hall, Technical Program Manager, Department of Resource Management, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4368, suncom 960-4368

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2005

If a person decides to appeal any decision with respect to any matter considered at the above listed public hearing, such person may need to ensure that a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is to be based.

Anyone requiring special accommodations to participate in this meeting is requested to advise the District at least 5 work days before the meeting by contacting Ann Freeman, (386)329-4101 or (386)329-4450 (TDD).

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Water Shortage Plan	40D-21
RULE TITLES:	RULE NOS.:
PART I GENERAL	
Policy and Purposes	40D-21.011
Elements of the Plan	40D-21.031
Definitions	40D-21.051
PART II Declaring and Implementing a	
Water Shortage	
Monitoring Conditions	40D-21.211
Evaluating Water Conditions	40D-21.221
Declaring a Water Shortage	40D-21.231
Water Shortage Phases	40D-21.251
Implementing a Water Shortage Declaration	40D-21.275

Modifying or Rescinding a Water Shortage Declaration 40D-21.281

PART III Emergency Provisions

Declaring a Water Shortage Emergency Response Mechanisms During a Water Shortage Emergency 40D-21.331

Implementing a Water Shortage Emergency Declaration 40D-21.371

PART IV Enforcement and Water Shortage Mitigation 40D-21.391

Monitoring Enforcement 40D-21.401

Public Supply Water Shortage Mitigation Plans 40D-21.441

PART V The Classification System

General Use Classifications 40D-21.511

Method of Withdrawal Classifications 40D-21.541

PART VI Specific Response Mechanisms

General 40D-21.601

Phase I: Moderate Water Shortage 40D-21.621

Phase II: Severe Water Shortage 40D-21.631

Phase III: Extreme Water Shortage 40D-21.641

Phase IV: Critical Water Shortage 40D-21.651

**PURPOSE AND EFFECT:** Chapter 373, Florida Statutes, requires the District to have a Water Shortage Plan. According to this requirement, the District adopted Chapter 40D-21, Water Shortage Plan, F.A.C., in 1984. Since that time, the District has extensively used this Plan. The District is now proposing amendments to the Plan to update it to reflect the experience and knowledge gained through the droughts and other water shortage events that have occurred since 1984. The proposed amendments will also conform the Plan to new direction regarding water shortage phase provisions adopted in Chapter 62-40, F.A.C., by the Florida Department of Environmental Regulation.

**SUMMARY:** The proposed amendments to Chapter 40D-21, F.A.C., substantially rewrite the District’s Water Shortage Plan required by Section 373.246, F.S., and incorporate water shortage measures authorized by Section 373.175, F.S. All persons and operations supplied water either through a private well or through a utility system are covered by the Water Shortage Plan.

The District’s water shortage plan was first adopted in 1984. Since that time the District has gained extensive experience in managing water shortages, primarily due to drought. The proposed amendments reflect the experience and knowledge gained through the droughts and other water shortage events that have occurred since 1984.

The proposed amendments include the following:

Part I, containing updated definitions and new definitions.

Part II, describing the District’s overall program of monitoring conditions in anticipation of and during a Water Shortage. Part II also identifies and quantifies the factors that the District will consider in declaring or rescinding a Water Shortage. These indicators include regional rainfall, average stream flow, the Aquifer Resource Indicator, the CPC Predictions, the Palmer Drought index, the 6-month Standard Precipitation Index, and the Weekly U.S. Drought Monitor. The rules include a method for expressing the severity of a Water Shortage in terms of four Water Shortage phases and procedures for implementation a Water Shortage declaration. The four phases are Phase I, Moderate Water Shortage; Phase II Severe Water Shortage; Phase III Extreme Water Shortage and Phase IV Critical Water Shortage. Other factors have been modified to assure compliance with new requirements of the Florida Department of Environmental Protection set out in Chapter 62-40, Water Resource Implementation Rule, F.A.C.

Part III, establishing the procedures for declaring and implementing a Water Shortage Emergency when the provisions of Part II are not sufficient to protect the water resource and its users.

Part IV, describing how the District, in conjunction with local governmental entities and law enforcement official will enforce the provisions of a declared Water Shortage or Water Shortage Emergency. The proposed rules include clarification of local enforcement and planning responsibilities regarding violations of the Water Shortage Plan and preparation for water shortage events. A new incentive referred to as a “water shortage mitigation plan” is now included in the Plan. Under the Plan, local water suppliers are given the option of submitting to the District for approval a water shortage mitigation plan that is customize for its system and may be implemented in lieu of selected provisions of the Water Shortage Plan.

Part V, classifying each user according to the source of water supply, type of water use and method of withdrawal. These classifications are utilized in conjunction with Parts I, II, III and VI. The use classifications include Indoor Uses, Essential Uses, Commercial and Industrial Uses, Agricultural Uses, Landscape Uses, Cemeteries, Golf Courses, Driving Ranges and Other Athletic Play Areas.

Part VI, presenting water use restrictions and other response mechanisms for each Water Shortage Phase and Water Use Class. Various combinations of these response mechanisms may be used by the District to achieve the desired effect during any phase of a Water Shortage or a Water Shortage Emergency. Voluntary water use reduction goals of 5, 10 and 20% for Phases II, III and IV, respectively, are included to aid public notice efforts and to engage the public in necessary demand reduction.

There is extensive rewording of the Phases I and II measures and response mechanisms that the Governing Board may order to be taken to manage the water shortage, especially Lawn and

Landscape irrigation provisions. The proposed rules add Phase IV to address a Critical Water Shortage to conform the Plan to Chapter 62-40, F.A.C.

The type of notice, method of delivery and the recipients of a notice of Water Shortage has been updated. In addition, notice must be mailed to fire and rescue agencies in addition to providing notice to the public, water use permittees and local governments to alert those agencies of water resource conditions so that they may better coordinated water use activities with the District.

The response mechanisms have science-based enhancements, such as seasonal shifts in lawn watering days, use of property size to determine watering hours, and a revised establishment period for new plants.

The Water Use Permit "conservation credits" approach within the Southern Water Use Caution Area is an alternative to traditional restrictions for non-mulched crops and is included in Phase II, III and IV response mechanisms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared.

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.119, 373.129, 373.136, 373.175, 373.246, 373.603, 373.609 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Karen Lloyd, Senior Attorney, 2379 Broad Street, Brooksville, FL 34604-6899

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-21.011 Policy and Purposes.

(1) The ~~provisions of procedures in~~ this Chapter comprise the Southwest Florida Water Management District's (District) ~~W~~ater ~~S~~hortage ~~P~~lan required under subsection 373.246(1), F.S. and include restrictions pursuant to section 373.175, F.S. The purposes of the plan are to protect the waters resources of the District from serious harm; to establish procedures and responses that prevent undue hardship and ensure equitable distribution of available water resources among all water users during times of shortage and, (consistent with the goals of minimizing adverse economic, social and health related impacts;) to provide advance knowledge of the means by which water apportionments and

reductions will be made during times of shortage ~~as a means of promoting; and to promote~~ greater security for ~~W~~ater ~~U~~se ~~P~~ermittees.

(2) These ~~provisions~~ ~~procedures~~ apply to all water users, including those not subject to permitting pursuant to Chapter 40D-2, F.A.C. Thus, for each source, method of withdrawal, and type of use, it is the policy of the District to restrict water users uniformly, regardless of whether the water is from a public or private utility system, a private well, or any other source.

(3) This Chapter is designed to be an integral part of the District's a continuing effort to promote effect "~~... the maximum beneficial utilization, development and conservation of the waters resources of the District in the best interest of its people and to prevent depletion, deterioration, waste, and unreasonable use of the resources~~" (Rule 40D-0.011).

~~(4) This chapter and any implementation of it during a water shortage or water shortage emergency, shall not divest the Governing Board and Executive Director of the authority to declare a water shortage or water shortage emergency pursuant to Sections 373.175 and 373.246, F.S.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.031 follows. See Florida Administrative Code for present text.)

40D-21.031 Elements of the Plan.

The Water Shortage Plan consists of the following elements:

(1) Part I. General. – Part I provides the policy and purposes of the District in establishing the Water Shortage Plan. The various elements of the plan are described, and key terms utilized within the Plan are defined.

(2) Part II. Declaring and Implementing a Water Shortage. Part II describes the District's overall program of monitoring conditions in anticipation of and during a Water Shortage event. In addition, Part II describes the factors that the District will consider in declaring a Water Shortage. A method for expressing the severity of a Water Shortage in terms of four Water Shortage phases and procedures for implementing a Water Shortage declaration are also provided.

(3) Part III. Emergency Provisions. Part III establishes the procedures for declaring and implementing a Water Shortage emergency when the provisions of Part II are not sufficient to protect the water resource and its users.

(4) Part IV. Enforcement and Public Supply Water Shortage Mitigation Plans. Part IV describes how the District, in conjunction with local governmental entities and law enforcement officials, will enforce the provisions of a declared Water Shortage or Water Shortage emergency. The District's policy of providing regulatory flexibility and technical assistance to public suppliers wishing to manage and mitigate

local Water Shortage effects within their jurisdictions, including those local governments located in multiple water management districts, is also described.

(5) Part V. The Classification System. Part V classifies each user according to the source of water supply, type of water use and method of withdrawal. These classifications are utilized in conjunction with Parts I, II, III and VI.

(6) Part VI. Specific Response Mechanisms. Part VI presents water use restrictions and other response mechanisms for each Water Shortage phase and Water Use Class. Various combinations of these response mechanisms may be employed by the District to achieve the desired effect during any phase of a Water Shortage or a Water Shortage Emergency.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175; 373.246 FS. History—New 11-19-84, Amended \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.051 follows. See Florida Administrative Code for present text.)

40D-21.051 Definitions.

(1) Except as otherwise noted below, all terms used herein shall have the same meaning as defined in Rule 40D-22.101, F.A.C.

(2) “Agricultural Uses” are water uses associated with Agriculture as defined in Rule 40D-22.101, F.A.C.

(3) “Commercial and Industrial Uses” are water uses integral to the production of goods and services, including power generation and cogeneration; phosphate mining and beneficiation; chemical manufacturing; limestone, sand and gravel mining; cement, concrete and other aggregate products manufacturing; perishable foods processing and packing; restaurants, hotels and other hospitality businesses; retail and wholesale establishments; and educational institutions.

(4) “Critical Water Shortage” is the alternative name for a Phase IV Water Shortage.

(5) “Drought Indicator” is a quantified assessment of the condition of a water supply or resource.

(6) “Drought Condition Level” is the degree of drought, the degrees ranging from the moderate Level 1 to critical Level 4, based on the status of Drought Indicators.

(7) “Essential Uses” are water uses associated with maintaining public health, safety, or welfare, including the operation of public water supply systems, public waste water systems, sanitation facilities, military facilities, power generation facilities, hospitals and other medical facilities, medical equipment and fire suppression equipment.

(8) “Extreme Water Shortage” is the alternative name for a Phase III Water Shortage.

(9) “Indoor Uses” are water uses associated with domestic and similar non-domestic needs. Domestic needs include drinking, bathing, cooking, cleaning and necessary sanitary purposes in a household environment. Similar non-domestic

needs include drinking, bathing and necessary sanitary activities outside of the household environment, such as in customer or employee restrooms.

(10) “Landscape Uses” are water uses related to the establishment and maintenance of Turfgrass, trees and other plant material. This specifically includes all Lawns and Landscape at homes and other residences, commercial or industrial buildings, parks, recreational areas, public rights-of-way, medians and other public and private properties. Within this classification, the District maintains the subclassifications of Cemeteries, Golf Courses, Driving Ranges and Other Athletic Play Areas as defined in Rule 40D-22.101, F.A.C., to address the unique Turfgrass needs associated with these uses.

(11) “Mobile Equipment” means any public, private or commercial automobile, truck, trailer, railroad car, camper, boat, tractor, or any other type of similar equipment.

(12) “Moderate Water Shortage” is the alternative name for a Phase I Water Shortage.

(13) “Other Uses” are all other water uses not specifically included in other Use Classes, including augmentation of natural or man-made surface water bodies for aesthetic, recreational or habitat value; ornamental ponds, water fountains and other aesthetic water features; environmental restoration or enhancement; cooling and air conditioning; swimming pools and other water-based non-commercial recreation; cleaning or Pressure Washing of structures, driveways, sidewalks and other impervious surfaces; and wetting roads and other surfaces for dust control or fire suppression when required by federal, state or local standards.

(14) “Permittee” is the holder of a Water Use Permit issued pursuant to Chapter 40D-2, F.A.C.

(15) “Phase I Water Shortage” is also referred to as “Moderate Water Shortage” and is described in Rule 40D-21.621, F.A.C.

(16) “Phase II Water Shortage” is also referred to as “Severe Water Shortage” and is described in Rule 40D-21.631, F.A.C.

(17) “Phase III Water Shortage” is also referred to as “Extreme Water Shortage” and is described in Rule 40D-21.641, F.A.C.

(18) “Phase IV Water Shortage” is also referred to as “Critical Water Shortage” and is described in Rule 40D-21.651, F.A.C.

(19) “Plan” means the plan set forth in this Chapter, including restrictions and other response mechanisms as authorized by Sections 373.246 and 373.175, F.S.

(20) “Pressure Washing” means the use of pressurized water for cleaning purposes, by means of equipment accepted by industry standards. Industry standards specifically include a self-canceling or automatic nozzle, water pressure at a minimum of 1,000 p.s.i. (pounds per square inch) and water volume at a maximum of five (5) gallons per minute.

(21) “Severe Water Shortage” is the alternative name for a Phase II Water Shortage.

(22) “Source Class” means the specified water resource from which a user is obtaining water either directly or indirectly. Source Classes within the District are identified in Rule 40D-21.531, F.A.C.

(23) “Supplemental Irrigation” means irrigation that is intended to meet the net water requirement for established plant material. This is the difference between the plant material’s current water requirement and recent effective rainfall.

(24) “Use Class” means the category describing the purpose for which the user is utilizing water. Use Classes within the District are identified in Rule 40D-21.541, F.A.C.

(25) “Water Shortage” means a drought or other situation within all or part of the District, for which the Governing Board has determined that there is insufficient water to meet the present and anticipated needs of users, or conditions are such that there is a need to require temporary reduction in water use within a particular area to protect one or more Source Class or the water resource from serious harm.

(26) “Water Shortage Emergency” means a Water Shortage for which a determination has been made that the powers exercised under Part II of this Plan are not sufficient to protect the public health, safety, or welfare; the health of livestock and other animals, fish or aquatic life; or other Essential Uses.

(27) “Water Utility Uses” are water uses associated with maintaining and operating a public water supply system, whether the system is managed by a regional water supply authority, local government agency, or private entity. These uses include utility activities such as flushing lines and maintenance of treatment processes but do not include water distributed by the system for customer use.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New 11-19-84, Amended 7-2-86,\_\_\_\_\_.

#### 40D-21.211 Monitoring Conditions.

(1) Purpose – This part of the Chapter generally describes the data collection and analyses that the District continuously undertakes in anticipation of and during a declared Water Shortage or Water Shortage Emergency.

(2) Data Sources – Data may be obtained from any relevant source available, including, but not limited to:

(a) District databases and work products, including information on permitted quantities, relevant pumpage and meter records, inquiries to permit holders, field assessments and hydrologic/meteorologic/biologic information;

(b) The National Drought Mitigation Center, National Oceanic and Atmospheric Administration, U. S. Geological Survey, Florida Department of Environmental Protection,

Florida Department of Agriculture and Consumer Services, local governments and other local, state, or federal agencies; and

(3) Resource Monitoring – The District collects and analyzes data concerning the water resource. These data include, but are not limited to:

(a) Drought indices and forecast products prepared by federal and state agencies;

(b) Levels in surface and ground waters, including potentiometric heads in confined and semi-confined aquifers;

(c) Water quality of surface and ground waters;

(d) Flows of surface waters;

(e) Rainfall; and

(f) Other data as may be required to evaluate the status of the water resources of the District, such as evapotranspiration or impacts on fish and wildlife.

(4) Demand Monitoring – The District collects and analyzes data concerning water user demand and its impact on the water resource, such as:

(a) Demands of Permittees;

(b) Demands of water users not subject to permitting, but subject to this Chapter 40D-21, F.A.C.;

(c) Demands of water users whose supply of water is established by federal law, such as Native American reservations; and

(d) Other data required to evaluate demand and its impact on waters within the District, such as water restriction enforcement data from local governments or the total demand in jurisdictions adjacent to District boundaries.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.221 follows. See Florida Administrative Code for present text.)

#### 40D-21.221 Evaluating Water Conditions.

(1) The District shall consider the data collected by the District as described in Rule 40D-21.211, F.A.C., in determining:

(a) Whether a Water Shortage or Water Shortage Emergency should be declared in light of existing or projected conditions and anticipated durations thereof;

(b) Whether the restrictions and other response mechanisms in effect are being adequately enforced; and

(c) Whether an existing order issued pursuant to this Chapter should be modified or rescinded in light of existing and/or anticipated conditions.

(2) Regional condition data may represent the entire District or any portion thereof. National condition and prediction data will be evaluated in combination with regional rainfall data. Individual Drought Indicators and Drought Condition Levels shall be decision-making tools, not values that will automatically trigger a District response. For example,

after detecting a possible drought event through only one Drought Indicator, the District may want several weeks of additional monitoring and evaluation to recognize a clear shift in overall conditions that would warrant a recommendation to change restrictions.

(3) The following describes the evaluation process:

(a) The District will compare current data to predetermined values for specific indicators as shown in Table 21-1. For example, if the Aquifer Resource Indicator for a particular groundwater basin is in the 19th percentile and has been below the 25th percentile for four weeks, then that basin is considered to have a “severely abnormal” Drought Indicator.

(b) The District will compile these comparisons to select a Drought Condition Level. Specifically, the combination of values for regional Drought Indicators shall be assessed in relation to the matrix shown in Table 21-2, then that assessment may be adjusted up or down based on national Drought Indicators. For example, if a watershed with a public supply reservoir was at Drought Condition Level 2 based on Regional Rainfall at the 24th percentile and Average

Streamflow at the 20th percentile, but now both Drought Indicators are at the 25th percentile (the threshold for “moderately abnormal” for both indicators), the District may upgrade the watershed to Drought Condition Level 1 status if all national Drought Indicators have returned to normal or above normal values;

(c) In the absence of a declared or Water Shortage Emergency, this evaluation will occur on at least a monthly basis;

(d) During a declared Water Shortage or Water Shortage Emergency, this evaluation will occur at least twice each month; and

(e) Results of this evaluation will be reported to the Board on at least a monthly basis and to the Executive Director as needed.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New 11-19-84, Amended \_\_\_\_\_.

**TABLE 21-1:  
Drought Indicators**

Drought Indicator Value	Regional Conditions			National Predictions & Conditions				Regional Modifier Of National Data*
	REGIONAL RAINFALL (12-Month Moving Sum)	AVERAGE STREAM-FLOW (8-Week Moving Average)	Aquifer Resource Indicator	CPC Predictions	PALMER DROUGHT INDEX	6-MONTH Standard Precipitation Index	Weekly U.S. Drought Monitor	REGIONAL RAINFALL (6-Month Moving Sum)
Moderately Abnormal	<= 25 <sup>th</sup> percentile	<= 25 <sup>th</sup> percentile	<= 25 <sup>th</sup> percentile	<= 3 Months Below Normal	-1.0 to -1.9	-0.5 to -0.7	D0	<= 25 <sup>th</sup> percentile
Severely Abnormal	<= 20 <sup>th</sup> percentile	<= 20 <sup>th</sup> percentile	<= 25 <sup>th</sup> percentile for 4 weeks or < 16 <sup>th</sup> percentile	<= 6 Months Below Normal	-2.0 to -2.9	-0.8 to -1.2	D1	<= 20 <sup>th</sup> percentile
Extremely Abnormal	<= 10 <sup>th</sup> percentile	<= 10 <sup>th</sup> percentile	<16 <sup>th</sup> percentile for 4 weeks	<= 9 Months Below Normal	-3.0 to -3.9	-1.3 to -1.5	D2	<= 10 <sup>th</sup> percentile
Critically Abnormal	<= 5 <sup>th</sup> percentile	<= 5 <sup>th</sup> percentile	<16 <sup>th</sup> percentile for 8 weeks	>9 Months Below Normal	-4.0 to -4.9	-1.6 to -1.9	D3	<= 5 <sup>th</sup> percentile

\*If a national Drought Indicator has an abnormal value, review the “regional modifier” for concurrence before considering the national data.

TABLE 21-2: Drought Condition Levels

Drought Condition	If this is true ...
Level 1	At least one Drought Indicator is Moderately Abnormal
Level 2	Multiple Drought Indicators are Moderately Abnormal or one is Severely Abnormal
Level 3	Multiple Drought Indicators are Severely Abnormal or one is Extremely Abnormal
Level 4	Multiple Drought Indicators are Extremely Abnormal or one is Critically Abnormal

40D-21.231 Declaring a Water Shortage.

(1) ~~If the District determines there is a possibility that insufficient water will be available within a source class to meet the estimated present and anticipated future user demands from that source, or to protect the water resource from serious harm, the Board may declare a water shortage for the affected source class. The Board may declare that a Water Shortage exists within all or parts of the District and impose response mechanisms as established in this Chapter. The geographic restricted area involved may include all or part of a county, municipality, ground water basin, or surface water basin or utility service area which impacts a Source Class for which the a Water Shortage is declared. The Board may simplify the boundaries of the area subject to a Water Shortage declaration by using a major road or local government boundary that approximates the affected geographic area, in order to communicate effectively with Permittees and other water users. When the affected source extends beyond the District's boundaries, the District shall coordinate water shortage declarations with the appropriate water management district(s) to the extent practicable.~~

~~(2) The Board may declare a Water Shortage may also be declared for those a source or Source Classes not presently experiencing a Water Shortage if usage from such a source or Sources Class can be reasonably expected to impact the present and anticipated available water supply from the source or in those Source Classes currently experiencing a shortage.~~

~~(3) The Board may declare a Water Shortage for geographic areas not presently experiencing a Water Shortage if usage in such areas can be reasonably expected to impact the present and anticipated available water supply for an affected area. For example, a Water Shortage may be declared for an otherwise unaffected area that contains the alternative supply or emergency supplementation source for an affected area.~~

~~(4)(3) Prior to declaring a Water Shortage for a source class, the Board may issue Water Shortage advisories calling for voluntary reductions in demand upon that source.~~

~~(5)(4) When a Water Shortage encompasses a geographic area that includes less than all of a local government's jurisdiction, the District will endeavor to coordinate Water Shortage declarations with that local government and any applicable water management district to the extent practicable.~~

For example, the District endeavors to have this coordination result in only one set of Lawn and Landscape irrigation restrictions within the local government jurisdiction, if this jurisdiction is shared with another water management district, based on conditions within the water management district that contains the majority of the water supply serving the local government's population. When a water shortage is declared for source class, the District shall determine the reduction in overall demand estimated to be required to reduce demand to available water supply, or to protect the water resource from serious harm.

(6) When a specific source is experiencing a Water Shortage and the source is only partially within the District's boundaries, the District will endeavor to coordinate Water Shortage declarations with the applicable water management district to the extent practical. For example, the District endeavors to have this coordination result in only one set of Lawn and Landscape irrigation restrictions in the affected area, based on the conditions within the water management district that contains the majority of the affected water source.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History--New 11-19-84, Amended 7-2-86,\_\_\_\_\_.

(Substantial rewording of Rule 40D-21.251 follows. See Florida Administrative Code for present text.)

40D-21.251 Water Shortage Phases.

(1) This Water Shortage Plan establishes four phases of Water Shortage severity with associated restrictions and other response mechanisms.

(2) The following Water Shortage phases are established:

- (a) Moderate
- (b) Severe
- (c) Extreme
- (d) Critical

(3) The District shall assign a specific Water Shortage phase to each Source Class for which a Water Shortage has been declared. A Water Shortage declaration may or may not assign the same phase to all affected Source Classes.

(4) The District shall consider the following factors when assigning a specific Water Shortage phase to each Source Class or combination of Source Classes:



(a) The information generated as a result of evaluation process described in Rules 40D-21.221 and 40D-21.231, F.A.C., including the values of regional Drought Indicators and the composite Drought Condition Level;

(b) The relative impact of various categories of water users on the affected Source Class(es) and any specific water body for which the shortage is declared;

(c) The availability and practicality of alternative sources for each category of water user;

(d) To the degree practical, how the District can implement phased response mechanisms in a manner that distributes the burden of the response mechanisms equitably among water users, relative to their impact on the affected Source Class(es) and specific water bodies experiencing the Water Shortage;

(e) The potential for serious harm to natural systems as a result of the drought or other Water Shortage;

(f) Existing Public Supply Water Shortage Mitigation Plans as described in Rule 40D-21.441, F.A.C.;

(g) The appropriate geographic scope of the restrictions and other phased response mechanisms, relative to the affected source;

(h) The effectiveness of restrictions and other phased response mechanisms in terms of containing or reducing water use to protect the relevant Source Class(es), specific water bodies and by specific water supply sources; and

(i) The impact of restrictions and other phased response mechanisms on public health, safety and welfare.

(5) If the District determines that actions beyond those specified in the phased response mechanisms are required, or if immediate implementation of phased response mechanisms is necessary in order to meet the purposes specified in subsection 40D-21.011(1), F.A.C., then the Executive Director, with the concurrence of the Board, may declare a Water Shortage Emergency, as provided in Part III of this Chapter.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86,\_\_\_\_\_.

#### 40D-21.275 Implementing a Water Shortage Declaration.

(1) Affected water users and Permittees shall be afforded the opportunity to comment to the Board concerning a proposed Water Shortage declaration at a scheduled public hearing. Declaration of a water shortage and notification thereof shall be conducted in accordance with Rule 40D-2.511.

(a) At least one public hearing will be scheduled to afford the public the opportunity to comment;

(b) The public shall be allowed a reasonable opportunity to participate during the public hearing in order to present non-repetitive testimony on Water Shortage effects and the impact of recommended restrictions and other response mechanisms. Such participation shall be subject to the control of the Governing Board and may be limited as necessary to facilitate reasonable progress of the hearing;

(c) Additional public hearings may be announced by the Board during a declared Water Shortage, and reasonable additional notice will be provided for any additional hearing.

(2) When a Water Shortage is declared, the District will publish notice of the declaration in a prominent place within newspapers of general circulation in the areas affected area. The Such notice shall serve as notice to all users in the affected area as to the existence and phase of the Water Shortage declaration of the condition of water shortage. In addition, the District shall make every reasonable effort to inform the general public of the restrictions in effect and the source classes which are affected. Particular attention shall be given to presenting this information in a form which is easily understood and applied by the citizens of the affected areas.

(3) The District shall send a Notice of Water Shortage by regular mail to each Permittee located in the affected area. This notice shall advise the Permittee of any change in the condition of the Water Use Permit, any suspension of the Water Use Permit and the applicability of any other restriction on the use of water or other response mechanism set forth in this Chapter. The mailed notice may refer the Permittee to website material or fact sheets for this or additional information. The District shall notify each affected permittee within the affected source class of any change in the condition of his permit, any suspension of his permit, or any other restriction on his use of water. Notice shall be by regular mail.

(4) The Public shall be afforded the opportunity to comment to the Board concerning a declared water shortage at scheduled public hearings.

(a) At least one public hearing shall be scheduled to afford the public the opportunity to comment.

(b) Notice of the public hearing(s) will be provided at least once accompanying the original declaration of the shortage. This will be published in newspapers of general circulation in the areas affected, as provided above in subsection (2).

(c) The public and consumptive use permit (CUP) holders shall be allowed a reasonable opportunity to participate during water shortage public hearings and present non-repetitive testimony on water shortage effects and impacts of recommended mitigation measures. Such participation shall be subject to the control of the Governing Board and may be limited as necessary to facilitate reasonable progress of the hearing. Substantive evidence submitted by the public at or prior to said hearing shall be made a part of the record at the hearing.

(d) Additional public hearings may be announced by the Board during a declared water shortage, and reasonable additional notice will be provided.

(4)(5) The District shall notify local elected officials of any Water Shortage declaration and associated response mechanisms subsequent restrictions. Notice shall be by the best practical practicable means under the circumstances, such as telephone contact attempts, regular mail, or electronic

transmittals. In addition, local law enforcement officials, local fire and rescue officials and appropriate state agencies shall be notified as soon as possible of any Water Shortage declaration or change in restrictions affecting their areas of responsibility.

~~(5)(6)~~ A declaration of Water Shortage and any implementing response mechanisms provision or restriction adopted pursuant thereto under the Water Shortage rule may be modified or rescinded by the Board.

~~(6)(7)~~ An order declaring a Water Shortage ~~or imposing more severe restrictions~~ shall become effective on the day after any notice required in subsection (2) above is published or any subsequent effective date stated in the order. An order declaring a Water Shortage shall remain in effect for the period of time established in the order; or, if no period of time is established, until the order is modified or rescinded by the Board.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended \_\_\_\_\_.

#### 40D-21.281 Modifying or Rescinding a Water Shortage Declaration.

(1) During a declared Water Shortage, the District shall continue to monitor and evaluate conditions in accordance with Rules 40D-21.211 and 40D-21.221, F.A.C.

(2) When conditions have changed sufficiently to warrant the declaration and implementation of a different set of phased restrictions and other response mechanisms, an order amending or superceding the existing Water Shortage order shall be issued and implemented in accordance with Rules 40D-21.231, 40D-21.251, and 40D-21.275, F.A.C.

(3) When, after considering the data and factors described in Rules 40D-21.221 and 40D-21.231, F.A.C., conditions have changed sufficiently to no longer warrant the existence of a specific Water Shortage declaration, an order amending or rescinding the declaration shall be issued with the notification of the order being the same as specified in Rules 40D-21.231 and 40D-21.275, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.

#### 40D-21.331 Declaring a Water Shortage Emergency.

(1) Purpose – This part of the Chapter sets forth the steps the District will take to evaluate water conditions within the District in order to determine whether a Water Shortage Emergency exists as provided for in Rule 40D-2.541.

(2) The District shall monitor and evaluate the conditions of the water resources of the District and the needs of the users as provided in Rules 40D-21.211 and 40D-21.221, F.A.C. 40D-21.401.

(3) If the monitoring and evaluation process indicates that conditions are rapidly deteriorating, or if the District receives a request for an emergency action related to an ongoing drought or other Water Shortage event, District staff shall ascertain

whether the provisions of Part II of this Rule are sufficient. Data shall be evaluated to determine whether estimated present and anticipated future available water supply would be insufficient to protect the public health, safety or welfare and Essential Uses, or the health of livestock and other animals, fish or aquatic life in the affected area. This shall be accomplished through consideration of the following: a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable-beneficial use.

(a) Factors related to the present and anticipated future water supply for affected users, including available shall be estimated. Factors that maybe considered include:

1. those Pertinent factors listed in subsection 40D-21.251(4), F.A.C; rule 40D-21.221(2)

2. The ability of affected users to obtain water from other users on a temporary basis;

3. The ability of affected users a user to obtain water from another Source Class on a temporary basis; and

4. Other factors affecting the present and anticipated available water supply, such as the availability of temporary treatment equipment that would allow affected users to obtain suitable water quality from an otherwise unsuitable source.

(b) Factors related to the potential for adverse impacts as a result of response mechanisms on the public health, safety, or welfare or Essential Uses; health of livestock and other, or the health of animals, fish, or aquatic life; including; or a public water supply, or commercial, industrial, agricultural, recreational, other reasonable-beneficial use shall be evaluated. Factors that maybe considered include:

1. Pertinent those factors listed in subsection 40D-21.251(4), F.A.C; 40D-21.221(2);

2. The extent to which adverse impacts can be reduced by imposing additional restrictions upon other users obtaining water from the same source class;

3. The extent to which restricting other users obtaining water from the same source class will create other adverse impacts; and

4. Other factors relating to potential adverse impacts, such as the availability of state of federal emergency resources to ameliorate these impacts, public health, safety, and welfare;

(c) Recommendations from, and emergency actions taken by, a local government in the affected area.

(4) The District may also consider if the user(s) affected is or includes a local governmental unit, the recommendation of its board of elected officials.

(4)(5) If it is ascertained that the District determines that, within any area of the District, the provisions of Part II are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable-beneficial uses, the Executive Director, with the concurrence of the Board, may declare a Water Shortage Emergency.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, \_\_\_\_\_.

40D-21.371 Response Mechanisms During Water Use Restrictions in a Water Shortage Emergency.

(1) When a Water Shortage Emergency has been declared, the Executive Director may issue orders containing response mechanisms imposing restrictions other deemed necessary to address meet the emergency. The response mechanisms ~~Such restrictions~~ may include, but are not limited to: authorizations to temporarily withdraw from a permitted source in a manner or for a purpose not expressly granted by the applicable Water Use Permit; authorizations to temporarily augment a public water supply system with water from an unpermitted source; and restrictions that involve apportioning, rotating, limiting, or prohibiting the use of the water resources of the District.

(2) All response mechanisms restrictions ordered pursuant to the declaration of a Water Shortage Emergency shall be in addition to, and enforced in combination with, any and all response mechanisms restrictions imposed under Part II of this rule, unless specifically stated otherwise within the orders, or unless there is a conflict between Part II and a Water Shortage Emergency order, in which case the more restrictive provisions shall apply.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.175, 373.246 FS. History—New 11-19-84, Amended \_\_\_\_\_.

40D-21.391 Implementing a Water Shortage Emergency Declaration.

(1) When an Water Shortage Emergency condition has been declared determined to exist due to a water shortage within any area of the District, pursuant to subsection 40D-21.331(5), F.A.C., the Executive Director may, without prior notice, issue orders reciting the existence of such an emergency pursuant to the emergency provision of Section 373.119, Chapter 120, F.S.

(a) Water Shortage Emergency ~~Such~~ orders shall recite information related to the existence of such an emergency and identify response mechanisms all restrictions deemed necessary by the Executive Director, with the concurrence of the Board, to address meet the emergency;

(b) All users to whom an emergency order is directed shall comply immediately, but may petition the Board for a hearing as set forth in Section Chapter 373.119, F.S.

(2) The District shall inform all users to whom an emergency order is directed of the existence of such order and all associated response mechanisms restrictions, by the best practical practicable means available under the circumstances of the specific Water Shortage Emergency. Particular attention shall be given to presenting this information in a form which is easily understood and applied by the citizens of the affected areas.

(3) The District shall notify local elected officials of any Water Shortage Emergency declaration and remedial action required. Notice shall be by the best practical practicable means under the circumstances of the Water Shortage Emergency. In addition, local law enforcement officials, fire rescue officials and appropriate state agencies shall be notified as soon as possible of any Water Shortage Emergency declaration or change of response mechanisms restrictions affecting their areas of responsibility.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.175, 373.246 FS. History—New 11-19-84, Amended \_\_\_\_\_.

PART IV. MONITORING AND ENFORCEMENT AND WATER SHORTAGE MITIGATION

40D-21.401 Monitoring.

(1) Purpose— ~~this part of the chapter generally describes the data collection and analyses the district may undertake in anticipation of and during a declared water shortage or water shortage emergency. Monitoring data maybe used to determine:~~

(a) ~~Whether a water shortage or water shortage emergency should be declared;~~

(e) ~~Whether the restrictions in effect are being adequately enforced; and~~

(b) ~~Whether the restrictions in effect are sufficient to protect the water resources and users within the affected area in light of existing and anticipated climatological conditions;~~

(d) ~~Whether the restrictions in effect should be rescinded.~~

(2) Data Sources— Data may be obtained from any source available, including, but not limited to:

(a) ~~The District, including information on permitted quantities, relevant pumpage and meter records, general hydrological, meteorological, and biological information, and all other relevant information;~~

(b) ~~The U.S. Geological Survey, the Soil Conservation Service, the Florida Bureau of Geology, the Florida Department of Environmental Protection, Regional Planning Councils, and other local, state, or federal agencies; and~~

(e) ~~Any other source available.~~

(3) Resource Monitoring— ~~When appropriate the District shall collect and analyze data concerning any aspect of the water resource. Data which may be collected include, but are not limited to:~~

(a) ~~Levels in surface and ground waters, including potentiometric heads in confined and semi-confined aquifers;~~

(b) ~~Water quality of surface and ground waters;~~

(e) ~~Flows of surface waters;~~

(d) ~~Demand of natural systems, including but not limited to losses due to evapotranspiration and seepage;~~

(e) ~~Rainfall;~~

(f) ~~Impacts on fish and wildlife; and~~

~~(g) Other data required to evaluate the status of the water resources of the District.~~

~~(4) Demand Monitoring—When appropriate the District shall collect and analyze data concerning any aspect of user demand upon the water resources. Data which may be collected include, but are not limited to:~~

~~(a) Demands of permitted users;~~

~~(b) Demands of users not subject to permitting, but subject to the provision of the water shortage rule;~~

~~(c) Demands of users whose supply of water is established by federal law; and~~

~~(d) Other data required to evaluate demands on the water resources of the District.~~

~~(5) When appropriate, the District may prepare a Hydrologic Conditions Report summarizing the data gathered pursuant to this rule.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, Repealed \_\_\_\_\_.

#### 40D-21.421 Enforcement.

(1) It is the policy of the District to seek the cooperation and assistance of state, county and municipal governmental officials, law enforcement officials and police officers in accordance with Section 373.609, F.S., to facilitate the enforcement of this Chapter and the water shortage plan or any water shortage order issued pursuant to this Chapter, including any variance or waiver from this Chapter thereto. This cooperation and assistance is generally sought for violations of this Chapter which do not directly involve a Permittee.

(2) Counties and municipalities throughout the jurisdiction of the District are authorized and encouraged to adopt ordinances, which provide specific local processes for local enforcement of the provisions of this Chapter and rule, or any order or variance or waiver issued adopted pursuant thereto. A “sample ordinance” is available from the District and will be provided for use by local governments, upon request.

~~(2) Water utilities are encouraged to take reasonable efforts to inform their customers regarding the water shortage situation, including the dissemination of pertinent water conservation information where feasible. Water utilities are also encouraged to cooperate with the district in monitoring user compliance with restrictions. This may involve increased reporting of pumpage or metered connections.~~

~~(3) The District shall notify each affected permittee within the affected source class of any change in the condition of his permit, any suspension of his permit, or any other restriction on his use of water. Notice shall be by regular mail.~~

~~(3)(4) In enforcing the provisions of this Chapter, any water shortage order issued pursuant to this Chapter or 40D-1, F.A.C., or any variance or waiver approved by the District pursuant to provisions of this Chapter, the District will utilize any of the enforcement remedies available pursuant to~~

Chapters 120 or 373, F.S., or Chapter 40D, F.A.C., as appropriate. District enforcement actions will generally focus on violations which directly involves a Permittee.

~~(4)(5) Enforcement action may be initiated by the District as provided in Section 373.603, F.S., against violators of a water shortage order issued pursuant to this rule.~~

~~(5)(6) The Executive Director may assign District personnel for the purpose of initiating enforcement action pursuant to Section 373.603, F.S.~~

~~(6)(7) The Executive Director may take appropriate action pursuant to Sections 373.119, 373.175(4), and 373.246(7), and 120.69, F.S., and Rule 40D-21.331, F.A.C., to enforce the provisions of this Chapter and rule or any order or variance or waiver issued pursuant thereto, or pursuant to Chapter 40D-1, F.A.C., or to alleviate any emergency conditions which might occur.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.129, 373.136, 373.603, 373.609, 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, 5-4-87, \_\_\_\_\_.

#### 40D-21.441 Public Supply Water Shortage Mitigation Plans.

(1) It is the policy of the District to encourage each regional water supply authority (“Regional Authority”) and county, municipal and private water supplier (“Local Water Supplier”) throughout the jurisdiction of the District to develop a Water Shortage Mitigation Plan (“WSMP”) for public water supply shortages due to such occurrences as drought, major pipeline breaks, failures at water or waste water treatment plants and anticipated or actual withdrawals that exceed the allocation given under a Water Use Permit.

(2) A Regional Authority or Local Water Supplier may request that the District approve its WSMP for implementation in lieu of some or all of the applicable provisions of this Chapter. The request shall be submitted in the form of a petition for variance or waiver of some or all of the provisions of this Chapter, pursuant to Section 120.542, F.S. A petition for variance or waiver may be filed at any time, whether the District has declared a Water Shortage or not, and the Regional Authority or Local Water Supplier is encouraged to file its petition well in advance of its need to implement the drought provisions of its WSMP. Once a WSMP is approved by the District, it shall be binding on the applicable Regional Authority or Local Water Supplier and its customers. Each Regional Authority and Local Water Supplier and their customers shall continue to comply with any provisions of this Chapter and any order issued pursuant thereto which are not varied or waived through the District’s approval of the WSMP. Each Regional Authority and Local Water Supplier should seek clarification as to the applicability of any orders that are issued after District approval of its WSMP.

(3) In addition to fulfilling the requirements of Section 120.542, F.S., and Rule 40D-1.1002, F.A.C., the proposed WSMP shall contain the following:

(a) Use of the same Water Shortage Phase numbering and names as used in this Chapter.

(b) Identification of the regional Drought Indicators or local supply Drought Indicators, or both, that will be used to determine the need to implement a portion of the WSMP, including but not limited to requests that the District issue an order declaring, modifying, or rescinding a Water Shortage or Water Shortage Emergency for the applicable area or source, or both. If any of these indicators are not identical to the Drought Indicators specified in this Chapter, the identification must include a detailed description of the methodologies used to select and quantify each alternative or supplemental indicator.

(c) Identification of the demand management response mechanisms to be implemented for each Water Shortage Phase. Any water use restrictions identical to those specified in this Chapter should be referenced instead of recited in the WSMP. If the WSMP includes any water use restrictions or other demand management response mechanisms (such as “planned interruptible service” for reclaimed water blends) that are not identical to those specified in this Chapter, the identification must include a detailed description of the methodologies used to select each alternative mechanism, anticipated savings and other impacts of these mechanisms in relation to the responses specified in this Chapter and a copy of any and all ordinances that codify this mechanism.

(d) Identification of supply management response mechanisms to be implemented for each Water Shortage Phase. Supply management includes, but is not limited to, supply supplementation through the use of permitted supply sources, including withdrawal of quantities or for a purpose not expressly granted by the applicable Water Use Permit, or the temporary use of emergency supply sources, which may include unpermitted sources. Identification of each supply management response must include a detailed description of the methodologies used to select the applicable proposed supplementation source and a detailed description of the legal and physical means through which the proposed supplementation will be accomplished. The granting of a variance or waiver based on a WSMP does not constitute a modification to the petitioner’s Water Use Permit nor does it constitute issuance of an emergency authorization. Each Regional Authority or Local Water Supplier is encouraged to coordinate with the District to develop a template executive director order or other document to be used, when needed, to authorize emergency use of each proposed supplementation source, as part of the petition for variance or waiver.

(e) Identification of any and all parties to be responsible for the response mechanisms, including written proof that those parties have committed to providing appropriate implementation actions. For example, the WSMP for a Regional Authority shall include copies of appropriate local ordinances or other binding instruments, signed by its member governments, that demonstrate the member governments have

agreed to enforce specified water use restrictions and other agreed-upon response mechanisms within their respective jurisdictions.

(f) Identification of all processes to be used to monitor indicator conditions and determine when provisions of the WSMP would result in a request for the District to issue an order declaring, modifying or rescinding a Water Shortage or Water Shortage Emergency for the applicable area or source, or both. This identification shall specify the parties (title and affiliation) that will monitor indicator conditions and the method these monitoring parties will use to recommend actions to applicable decision-makers.

(g) Identification of all processes to be used to coordinate with the District for the purpose of communicating indicator conditions, reporting on local actions and requesting District action to declare, modify or rescind a Water Shortage or Water Shortage Emergency order. At a minimum, communication shall include scheduled contact with the District staff responsible for the District’s demand management efforts in the area that includes that Regional Authority or Local Water Supplier and prompt transmission of any applicable resolution or other document used to implement local Water Shortage actions.

(h) Identification of all processes to be used to communicate with affected water users about indicator conditions, local actions and District or local declaration, modification or rescission decisions. At a minimum, communication regarding indicator conditions shall include posting data on the Regional Authority’s or Local Water Supplier’s website. At a minimum, communication regarding recommended actions and communications regarding enactment and removal decisions shall include: issuance of a news release to broadcast and print media, publication of any legally required notice and designation of a customer information hotline that is included in the news release and legally required notice. Additional public awareness and information activities are encouraged as part of the demand management response mechanisms in each Water Shortage Phase.

(i) Written proof that any other Regional Authority or Local Water Supplier from which the petitioner regularly receives water, or from which the petitioner proposes to receive supplemental supplies during a drought or other Water Shortage, has reviewed and commented on the proposed WSMP. Since the goal of this review is to assure coordination in order to minimize potential regional consequences, review comments from such an entity may factor into the District’s decision-making process.

(j) Written proof that the decision-making body of the petitioner has approved the version of the WSMP submitted to the District for variance or waiver. For example, the decision-making body of a county water system is typically the

county's board of commissioners, and the petitioner may submit a transcript of the commission meeting in which the required approval occurred.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.

40D-21.511 General.

Purpose – This part of the Chapter establishes the basis for distinguishing among different users of the water resource according to major classes. Under this system, each water user may be classified according to source, use and method of withdrawal. Each of these classes is ~~are~~ described herein.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.541 follows. See Florida Administrative Code for present text.)

40D-21.541 Use Classifications.

Each water user may be classified according to one or more of the following uses of water, as defined in Part I of this Rule:

- (1) Indoor Uses.
- (2) Essential Uses, including a subclassification for Water Utility Use.
- (3) Commercial and Industrial Uses.
- (4) Agricultural Uses.
- (5) Landscape Uses is further classified as set forth below. Within each of the Landscape Use subclassifications there is a further subclassification of Existing or New Plant Material:
  - (a) Lawn and Landscaping.
  - (b) Cemeteries.
  - (c) Golf Courses.
  - (d) Driving Ranges.
  - (e) Other Athletic Play Areas.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, 5-4-87, \_\_\_\_\_.

40D-21.571 Method of Withdrawal Classifications.

Each water user may be ~~classified identified~~ by one or more of the following methods of withdrawal classes:

- (1) through (2) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, 5-4-87, \_\_\_\_\_.

**PART VI. SPECIFIC RESPONSE MECHANISMS RESTRICTIONS**

40D-21.601 General.

(1) Purpose – ~~this part of the Chapter sets forth specific restrictions and other response mechanisms available to the District for implementation upon a declaration of a Water Shortage or Water Shortage Emergency. Upon declaration of a water shortage or water shortage emergency, the specific restrictions presented within this part can be implemented in an attempt to achieve the desired overall reductions in user~~

~~demand. The desired reduction ultimately chosen during a specific water shortage will be dependent upon the severity of the particular shortage. The restrictions specified within this plan may be modified by the Board to achieve the reduction ultimately determined to be necessary. The appropriate combination of restrictions shall be decided by the Governing Board in consultation with District staff and shall be designed to meet the specific phase of the shortage. The combination of restrictions shall be included in the notice(s) of the shortage, as specified above in Rule 40D-21.275.~~

(2) The response mechanisms specified within this Plan may be modified by the Board to address the specific Water Shortage or Water Shortage Emergency event. The selected combination of restrictions and other response mechanisms shall be included in the notice(s) of the shortage, as specified above in Rule 40D-21.275, F.A.C.

(3)(+) Response mechanisms ~~Restrictions~~ are presented for each Use Class and various subcategories, as appropriate. It shall be the duty of each water user to keep informed as to the phase of ~~W~~water ~~S~~shortage and the applicable response mechanisms ~~restrictions~~ for that phase.

(4)(=) In addition to the restrictions specified in this part, all wasteful and unnecessary water use is prohibited regardless of the phase of ~~W~~water ~~S~~shortage. Wasteful and unnecessary water use includes the water use activities listed in subsection 40D-22.201(2), F.A.C., and any of the following: ~~Such wasteful and unnecessary water use shall include, but not be limited to:~~

- (a) through (c) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.621 follows. See Florida Administrative Code for present text.)

40D-21.621 Phase I: Moderate Water Shortage.

(1) A Phase I Water Shortage is a hydrologic or climatic condition in which at least one regional or local Drought Indicator has a moderately abnormal value. Upon declaration of a Phase I Water Shortage, the District will provide notice to affected local governments and Permittees about current conditions and weather predications, and those restrictions and other response mechanisms set forth below and any other response mechanisms that are in effect for the Phase I Water Shortage.

(2) Indoor Uses.

The notice specified in subsection 40D-21.275(1), F.A.C., will include practical tips about how to prevent wasteful and unnecessary Indoor Use through the use of water conserving measures and devices. The notice may refer water users to website material or fact sheets for this or additional information.

(3) Essential Use.

- (a) Fire Fighting.

1. Fire hydrant flushing shall not be restricted. However, each fire department shall review or develop processes through which it can address inquiries from the District and citizens about specific flushing activity, so that citizens will understand that some fire hydrant flushing is necessary to protect human health, safety and welfare;

2. Fire suppression and fire prevention activities shall not be restricted. However, each fire department or other fire-fighting agency should identify back-up water sources in anticipation of drought conditions that could result in the loss of primary sources, especially in areas where potable water is not available for fire-fighting purposes.

3. Maintenance of fire fighting facilities and equipment, including fire engines and other emergency Mobile Equipment, shall not be restricted, except as provided in subsection 40D-21.601(4), F.A.C. This specifically includes the use of a trigger (self-canceling) nozzle on any garden-type hose used for cleaning or other maintenance purposes.

4. The notice specified in subsection 40D-21.275(4), F.A.C., that is sent to fire and rescue officials will summarize the requirements listed above.

(b) Water Utility Use

1. Any water utility governed by a District-approved WSMP pursuant to Rule 40D-22.441, F.A.C., shall prepare to activate applicable provisions.

2. As appropriate, given its staff resources and its relationship to local code and law enforcement, each water utility shall develop enforcement procedures for Water Shortage restrictions. This shall specifically include a mechanism for notifying the District of possible violations involving a Permittee. If the utility is a nongovernmental entity, or if a governmental agency other than the utility has responsibility for enforcement of the District's Water Shortage orders, the procedures shall specifically include a mechanism for coordination with the applicable local agency.

3. Potable water, sanitary sewer and reclaimed water line flushing and disinfection shall not be restricted. However, each utility shall develop processes through which it can address inquiries from the District and citizens about specific flushing and disinfection activity, so that citizens will understand that some flushing is necessary to protect human health, safety and welfare.

4. The notice specified in subsections 40D-21.275(2) and (4), F.A.C., that is sent to local elected officials and public supply Permittees will summarize the requirements listed above.

(c) Medical and Health Use.

1. The use of water for medical purposes shall not be restricted.

2. Other uses necessary for the protection of public health, safety and welfare shall not be restricted.

(4) Commercial and Industrial Use

In addition to the requirements of any applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all Commercial and Industrial Use, as appropriate:

(a) All commercial and industrial Permittees shall review current water conservation programs to assure that permit-required elements have been fully implemented and to determine what additional demand management measures could be reasonably employed, should resource conditions further deteriorate.

(b) Commercial and industrial use shall continue to be restricted by any applicable Water Use Permit.

(5) Agricultural Use.

(a) All Agricultural Permittees shall review current water conservation programs to assure that permit-required elements have been fully implemented and to determine what additional demand management measures could be temporarily employed, should resource conditions further deteriorate.

(b) The following restrictions on water use shall apply, as appropriate:

1. Agriculture shall comply with the allowable watering hours, exemptions from those hours and other provisions specified in Chapter 40D-22, F.A.C. These provisions expressly include exemptions for irrigation needed for plant protection, including prevention of frost and freeze or heat damage and to water-in chemicals. Additionally, any Agricultural water user with a variance from Chapter 40D-22, F.A.C., to follow a published BMPs document, shall continue to comply with the variance. In the context of allowable watering hours, Agricultural Uses of center pivot and traveling gun technologies shall have the same exemptions as Low-Volume Irrigation.

2. Agricultural Use shall continue to be restricted by any applicable Water Use Permit.

(6) Landscape Use.

(a) All Permittees authorized to use water for Landscape Use shall review current water conservation programs to assure that permit-required elements have been fully implemented and to determine what additional demand management measures could be temporarily employed, should resource conditions further deteriorate.

(b) Lawn and Landscaping, Golf Course, Driving Range and Other Athletic Play Area use shall comply with all applicable provisions of Chapter 40D-22, F.A.C.

(c) An example copy of the notice specified in subsection 40D-21.275(3), F.A.C., shall be sent to the Florida Department of Financial Services – Bureau of Cemetery Services and will include a summary of the requirements listed above.

(7) Other Uses.

(a) All Permittees authorized to use water for purposes not described above shall review current water conservation programs to assure that permit-required elements have been

fully implemented and to determine what additional demand management measures could be temporarily employed, should resource conditions further deteriorate.

(b) The following restrictions on water use shall apply to each other water use activity, as appropriate:

1. Lawn and Landscaping Use associated with any activity shall comply with applicable provisions of Chapter 40D-22, F.A.C. This specifically includes an allowance for the operation of an irrigation system during otherwise restricted days or hours for the discharge of water from air conditioning units or similar water-dependent devices.

2. Recycling or secondary use of water shall occur, to the maximum extent practicable. For example, a child's water slide or other recreational water device can be positioned so that it discharges onto a turfgrass area that requires irrigation.

3. Water use essential to the activity, such as rinsing as part of the process of Mobile Equipment cleaning is restricted only as provided in subsection 40D-21.601(2), F.A.C. For example, this means that rinsing is allowed if done with the use of a trigger (self-canceling) nozzle on any garden-type hose used for cleaning or other maintenance purposes.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, 5-30-93, \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.631 follows. See Florida Administrative Code for present text.)

40D-21.631 Phase II: Severe Water Shortage.

(1) A Phase II Water Shortage is a hydrologic or climatic condition in which multiple regional Drought Indicators have moderately abnormal values, or a local Drought Indicator for a specific public supply has a severely abnormal value, such that conditions warrant prudent actions to further assure that only reasonable water uses are occurring in the affected area. Prudent actions include the use of temporary restrictions in addition to those imposed during a Phase I event, such as a stricter "time of day" limitation on lawn watering. The Board will request a 5% voluntary reduction in all water use, including reclaimed water blends. Notice of a declaration of a Phase II Water Shortage will include the restrictions and other response mechanisms set forth below and any other response mechanisms that are in effect for the Phase II Water Shortage.

(2) Indoor Use. The notice specified in subsection 40D-21.275(1), F.A.C., will include practical tips about how to achieve the requested reduction. The notice may refer water users to website material or fact sheets for this or additional information.

(3) Essential Use.

(a) Fire Fighting.

1. Fire hydrant flushing is allowed for the protection of human health, safety and welfare. Each fire department or other fire protection unit shall implement processes through which it addresses inquiries about specific flushing activity. At a minimum, these processes shall include the use of an on-site

sign containing the name and telephone number of the fire protection unit conducting the flushing activity. A marked vehicle remaining on-site during the activity may be used in lieu of a free-standing sign.

2. Fire suppression and fire prevention activities shall not be restricted. However, each fire department or other fire-fighting agency shall review and revise, as necessary, its list of primary and back-up water sources, especially in areas where potable water is not available for fire-fighting purposes.

3. Maintenance of fire-fighting facilities and equipment, including fire engines and other emergency Mobile Equipment, shall not be restricted, except as provided in subsection 40D-21.601(2), F.A.C. This specifically includes the use of a trigger (self-canceling) nozzle on any garden-type hose used for cleaning or other maintenance purposes.

4. The notice specified in subsection 40D-21.275(4), F.A.C., that is sent to fire and rescue officials will summarize the requirements listed above.

(b) Water Utility Use.

The following restrictions and other response mechanisms shall apply to all water utilities, as appropriate:

1. Any water utility governed by a District-approved WSMP shall activate applicable provisions.

2. At a minimum, unless otherwise specified in the applicable District-approved WSMP, each utility shall provide, directly or through the appropriate local agency, the following:

a. Response, as needed, to enforcement referrals made by the District. This shall involve, where necessary, a site investigation on the day of the week and the time of day indicted on the violation complaints forwarded with an enforcement referral.

b. Information regarding possible violations involving a Permittee, so that District staff can take the lead on such investigations;

c. Monthly transmittal of local enforcement data (number of warnings and citations issued, plus details regarding the status of any complaint referral made by the District) to the District, directly or via the water utility's Regional Authority of which it is a member; and

d. Annual and as-needed transmittal of current contact information for complaint referrals made by the District.

3. Water utilities shall augment the District's messaging efforts by disseminating pertinent water conservation and demand management information. At a minimum, each utility shall inform its customers about the Phase II Water Shortage declaration, including how their primary and back-up water supplies could be affected and any ongoing local water conservation projects, such as rebate or inspections offered by the utility, that may assist its customers in their efforts to immediately reduce water consumption.

4. Water utilities shall institute or accelerate system-level water conservation measures. At a minimum, each utility, or its contractor shall conduct a water audit pursuant to AWWA



standards and implement appropriate remedial actions if the water audit identifies greater than 12% unaccounted water. If a water utility has conducted a water audit in the past two years to comply with a Water Use Permit requirement or previous Water Shortage declaration, an additional water audit is not necessary. However, the water utility must continue to implement any specified remedial actions. If a water utility has not conducted a water audit in the past two years, it must complete one within 90 days of the Phase II Water Shortage declaration and then produce a copy of the audit report, including any required remedial action implementation schedule, upon the District's request.

5. Potable water, sanitary sewer and reclaimed water line flushing and disinfection is allowed for the protection of human health, safety and welfare. Each water utility shall implement processes through which it addresses inquiries about specific line flushing activity. At a minimum, these processes shall include the use of an on-site sign containing the name and telephone number of the agency conducting the flushing activity. A marked vehicle remaining on-site during the activity may be used in lieu of a free-standing sign.

6. The notice specified in subsection 40D-21.275(2), F.A.C., that is sent to public supply Permittees will summarize the requirements listed above.

(c) Medical and Health Use.

1. The use of water for medical purposes shall not be restricted.

2. The use of water for the protection of public health, safety and welfare shall not be restricted.

(4) Commercial and Industrial.

The following restrictions and other response mechanisms shall apply to each commercial and industrial use, as appropriate:

(a) Each user whose use is governed by a commercial or industrial Water Use Permit shall continue to comply with all permit requirements and terms.

(b) Each user whose use is not governed by a Water Use Permit shall implement the following demand management measures as appropriate:

1. Reduce off-site discharge to the extent practicable;

2. Recycle water to the extent practicable;

3. Reduce clean-up requiring water use to the minimum required to protect efficiency of the operation and prevent damage to equipment;

4. Reduce the washing of vehicles and other Mobile Equipment except for health and safety needs or as otherwise required by published industry standards;

5. Maximize the use of the least restricted Source Class to which there is access;

6. Power generation utilities are specifically requested to encourage their customers to voluntarily reduce power consumption as a means to reduce water consumption, and;

7. Water use essential to the activity, such as that consumed in a manufacturing process, shall not be otherwise restricted.

(5) Agricultural Use.

The following restrictions and other response mechanisms shall apply to all agricultural activities, as appropriate.

(a) Each Agricultural Permittee shall comply with all of its Water Use Permit requirements and terms. This specifically includes, for those Permittees located within the Southern Water Use Caution Area, the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which is incorporated by reference in Rule 40D-2.091, F.A.C.

(b) If a use is not governed by Water Use Permit, but the user has a valid variance from Chapter 40D-22, F.A.C., to follow a published BMPs document, the user shall continue to follow those BMPs.

(c) All other users not governed by a Water Use Permit shall implement the following demand management measures, as appropriate:

1. Reduce off-site discharge to the extent practicable;

2. Recycle water to the extent practicable;

3. Reduce clean-up requiring water use to the minimum required to protect efficiency of the operation and prevent damage to equipment;

4. Reduce the washing of vehicle and other Mobile Equipment; except for health and safety needs or as otherwise required by BMPs, such to prevent the spread of plant or animal diseases;

5. Maximize the use of the lesser or least restricted Source Class to which there is access;

6. Except as otherwise noted herein, comply with the applicable provisions and exemptions in Chapter 40D-22, F.A.C. These provisions include a ban on supplemental irrigation between the hours of 10:00 a.m. and 4:00 p.m. These exemptions include allowances for Low-Volume Irrigation technology, plant protection, testing and maintenance of irrigation systems and irrigation to water in chemicals. In the context of allowable watering hours, Agricultural Uses of center pivot and traveling gun technologies shall have the same exemptions as Low-Volume Irrigation.

7. Water use essential to the activity, such as irrigation of crops or maintenance of livestock, shall not be otherwise restricted.

(6) Landscape Use.

(a) Golf Courses and Driving Ranges.

The following restrictions and other response mechanisms shall apply to all Golf Courses and Driving Range activities, as appropriate:

1. Each user whose use is governed by a Water Use Permit shall comply with all permit requirements and terms. This specifically includes, for those Permittees located within the

Southern Water Use Caution Area the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which is incorporated by reference in Rule 40D-2.091, F.A.C.

2. If a user is not governed by a Water Use Permit, the use may continue as specified in subparagraph 40D-22.201(5)(b)1., F.A.C.

3. All other users not governed by a Water Use Permit and not following subparagraph 40D-22.201(5)(b)1., F.A.C., shall implement the following demand management measures as appropriate:

a. Reduce off-site discharge to the extent practicable;

b. Recycle water to the extent practicable;

c. Reduce clean-up requiring water use to the minimum required to protect efficiency of the operation and prevent damage to equipment;

d. Reduce the washing of vehicles and other Mobile Equipment except for health safety needs or as otherwise required by the published BMPs, such as cleaning the blades on commercial lawn mowers to prevent the spread of Turfgrass diseases between properties;

e. Maximize the use of the least restricted Source Class to which there is access;

f. Supplemental irrigation shall be restricted to the hours of 12:01 a.m. to 8 a.m. or 6 p.m. to 11:59 p.m. for properties less than two acres in size. Properties two acres or larger may continue to irrigate during the allowable hours of 12:01 a.m. to 10:00 a.m. or 4:00 p.m. to 11:59 p.m.;

g. Except as otherwise noted herein, all irrigation shall continue to comply with applicable provisions and exemptions in Chapter 40D-22, F.A.C. These exemptions include allowances for plant protection on tees and greens, testing and maintenance of irrigation systems and irrigation to water in chemicals.

(b) Other Athletic Play Areas.

The following restrictions and other response mechanisms shall apply to all Athletic Play Areas, other than Golf Courses and Driving Ranges, as appropriate:

1. Each user whose use is governed by a Water Use Permit shall comply with all permit requirements and terms. This specifically includes for those Permittees located within the Southern Water Use Caution Area the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which Basis of Review is incorporated by reference in Rule 40D-2.091, F.A.C.

2. Users whose use is not governed by a Water Use Permit shall implement the following, as appropriate:

a. Reduce off-site discharge to the extent practicable;

b. Recycle water on-site to the extent practicable;

c. Reduce clean-up requiring water use to the minimum required to protect efficiency of the operation or prevent damage to equipment;

d. Reduce the washing of vehicles and other Mobile Equipment except for health and safety needs or as otherwise required by the BMPs, such as to prevent the spread of Turfgrass disease;

e. Maximize the use of the least restricted Source Class to which there is access;

f. Supplemental irrigation shall be restricted to the hours of 12:01 a.m. to 8:00 a.m. or 6:00 p.m. to 11:59 p.m. for properties less than two acres in size. Properties two acres or larger may continue to irrigate during the allowable hours of 12:01 a.m. to 10:00 a.m. or 4:00 p.m. to 11:59 p.m.

g. Except as otherwise noted herein, continue to comply with applicable provisions and exemptions in Chapter 40D-22, F.A.C. These specifically include allowances for plant protection of Turfgrass athletic fields, wetting clay tennis courts and similar surfaces immediately prior to play, one extra irrigation application immediately after heavy league play and the ability to have a special watering schedule under some circumstances without applying for a variance.

(c) Lawns and Landscaping Use, including Cemeteries.

The following restrictions and other response mechanisms shall apply to all Lawn and Landscaping Use, including Cemeteries, as appropriate:

1. Each user whose use is governed by a Water Use Permit shall comply with all permit requirements and terms. This specifically includes for those Permittees located within the Southern Water Use Caution Area the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section which is incorporated in Rule 40D-2.091, F.A.C.

2. All other Lawn and Landscaping use shall implement the following demand management measures, as appropriate:

a. Supplemental irrigation shall be restricted to the hours of 12:01 a.m. to 8:00 a.m. or 6:00 p.m. to 11:59 p.m. for properties less than two acres in size. Properties two acres or greater may continue to irrigate during the allowable hours of 12:01 a.m. to 10:00 a.m. or 4:00 p.m. to 11:59 p.m.

b. During the months of December, January and February, lawn watering shall be reduced to one application per week, if needed, in accordance with the following schedule:

i. Addresses with a "house number" ending in 0 or 1 may only water on Monday;

ii. Addresses ending with a 2 or 3, on Tuesday;

iii. Addresses ending with a 4 or 5, on Wednesday;

iv. Addresses ending with a 6 or 7, on Thursday;

v. Addresses ending with an 8 or 9 and locations with a mix of addresses or for which an address cannot be determined (such as common areas associated with a subdivision), on Friday;

vi. Cemeteries and other properties greater than two acres in size that have a special irrigation schedule in accordance with paragraph 40D-22.201(4)(c), F.A.C., or pursuant to a valid variance from Chapter 40D-22, F.A.C., may only water each section of property on the first day of the week already assigned to it. For example, a section of the property assigned a "Monday and Thursday" schedule may only water on Monday.

c. Reduce off-site discharge to the extent practicable.

d. Recycle water to the extent practicable.

e. Maximize the use of the least restricted Source Class to which there is access.

f. Except as otherwise noted herein, comply with all applicable provisions and exemptions of Chapter 40D-22, F.A.C., Lawn and Landscape provisions include partial exemptions for New Plant materials, Low-Volume Irrigation of non-lawn plant material, testing and maintenance of irrigation systems, irrigation to water-in chemicals and spot treatment.

3. An example copy of the notice specified in subsection 40D-21.275(3), F.A.C., shall be sent to the Florida Department of Financial Services – Bureau of Cemetery Services and will include a summary of the requirements listed above.

(7) Other Uses.

(a) Except as provided below, all users engaging in Other Use shall comply with applicable provisions of Chapter 40D-22, F.A.C., and implement the following demand management measures, as appropriate:

1. Reduce off-site discharge to the extent practicable;

2. Recycle water to the extent practicable;

3. Maximize the use of the least restricted Source Class to which there is access;

4. Reduce non-essential uses to the extent practicable.

(b) Cooling, Heating and Air Conditioning Use.

1. The use of water in a cooling tower or other water-dependent cooling, heating or air conditioning system shall be restricted to that amount of water necessary to maintain an appropriate temperature for the associated activity.

2. Discharge of water from cooling, heating or air conditioning systems shall be to pervious surfaces where economically feasible and environmentally appropriate. If said discharge must be sent to an impervious surface or is disposed of through an irrigation system, the user is encouraged to register the physical location with the District's Demand Management staff in order to circumvent compliance actions that could otherwise be triggered.

(c) Aesthetic Use (fountains, waterfalls and other artistic water features).

1. If an aesthetic use also provides a necessary water quality benefit, such as aeration of a stormwater pond, it may be operated as necessary.

2. All other outdoor aesthetic uses shall be limited to eight hours a day, and the user shall post the normal hours of operation for the aesthetic use.

(d) Recreation Area Use.

1. All pools shall be maintained in a manner that minimizes the need for make-up water. This shall include the prompt repair of leaks, optimum scheduling of backwash filtration and the use of shade or covers to reduce evaporation.

2. Commercial and institutional uses of water for recreational purposes shall comply with subsection 40D-21.631(4), F.A.C.

3. Residential and other non-commercial uses of water for recreational purposes shall be reduced to the maximum extent practicable. For example:

a. Use of a sprinkler or sprinkler-like device on a Lawn for recreational purposes shall be restricted to the watering day(s), watering times and horticulturally necessary amounts for the address involved.

b. Use of a wading pool, water slide, or other child-oriented recreation device shall include discharge or emptying onto a Lawn or Landscape area that requires irrigation.

(e) Water Body Augmentation.

Augmentation of a pond or other water body shall be limited to the following circumstances:

1. As required by a Water Use Permit or Environmental Resource Permit, typically for environmental mitigation purposes.

2. The minimum necessary to maintain and preserve the structural integrity of a newly constructed or recently altered pond.

3. The minimum needed to maintain and preserve habitat for native fish and wildlife.

4. Where lake levels are below the lowest minimum level or guidance level, as applicable, established for that lake by the District.

(f) Washing or cleaning outdoor impervious surfaces:

1. Pressure Washing buildings or other structures in preparation for painting or other necessary maintenance is allowed.

2. Annual Pressure Washing buildings, other structures, driveways, sidewalks and other impervious surfaces as part of a planned maintenance program to either maintain a warranty or prevent a "slip and fall" hazard is allowed.

3. Washing or cleaning streets in preparation of, or immediately after, a parade or other public event is allowed.

4. Washing or other water-based cleaning of streets or other impervious surfaces, other than that described above, shall be prohibited, except to meet federal, state, or local health or safety standards. These standards specifically allow for required dust control.

(g) Mobile Equipment Washing.

1. Commercial car washes, hand-detailing operations and similar establishments shall comply with subsection 40D-21.631(4), F.A.C.

2. Car wash fundraisers held on behalf of non-profit organizations are allowable, provided participants use water in an efficient manner. This specifically includes the use of a trigger (self-canceling) nozzle on any garden-type hose used.

3. Washing of fire trucks and other emergency vehicles shall comply with subparagraph 40D-21.631(3)(a)3., F.A.C.

4. Rinsing boats and flushing boat engines is allowed after each use, as necessary, to remove salt water or to prevent the transportation of exotic plant or animal material.

5. Cleaning agricultural vehicles in accordance with canker abatement procedures, animal husbandry practices and other activities endorsed by the University of Florida's Institute of Food and Agricultural Sciences or United States Department of Agriculture is allowed, as necessary.

6. Other than as described above, car, truck and other Mobile Equipment washing shall be accomplished using low volume methods only, such as with a hand-held hose equipped with a trigger (self-canceling) nozzle and shall be restricted to only one washing a week. At a residential property, this activity shall only occur on Tuesday or Saturday for an Even Address and only Wednesday or Sunday for an Odd Address.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, 5-30-93, \_\_\_\_\_.

(Substantial rewording of Rule 40D-21.641 follows. See Florida Administrative Code for present text.)

40D-21.641 Phase III: Extreme Water Shortage.

(1) A Phase III Water Shortage is a hydrologic or climatic condition in which multiple regional Drought Indicators have severely abnormal values, or a local Drought Indicator for a specific public supply has an extremely abnormal value, such that conditions warrant temporary minimization of nonessential water use and/or preparation for supply augmentation. The Governing Board will request a 10% voluntary reduction in all water use, including reclaimed water blends. Notice of a declaration of a Phase III Water Shortage will include those response mechanisms set forth below and any other response mechanisms, that are in effect for the Phase III Water Shortage.

(2) Indoor Use. The notice specified in subsection 40D-21.275(1), F.A.C., will include practical tips specific to Indoor Use about how to achieve the requested reduction. The notice may refer water users to website material or fact sheets for this or additional information.

(3) Essential Use.

(a) Fire Fighting.

1. Each fire department or other fire suppression unit shall implement or continue to implement provisions of paragraph 40D-21.631(3)(a), F.A.C., except that fire hydrant flushing is limited to only that conducted by fire service personnel and vendors that the applicable fire department has authorized to conduct that activity during the specific Water Shortage event.

2. Each fire department or other fire suppression unit is encouraged to work with District staff to proactively locate potential back-up sources, such as existing permitted supplies, especially in areas where potable water is not available for fire-fighting purposes.

3. The notice specified in subsection 40D-21.275(4), F.A.C., that is sent to fire and rescue officials will summarize the requirements listed above.

(b) Water Utility Use.

In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all water utilities, as appropriate:

1. Any water utility governed by a District-approved WSMP shall activate applicable provisions.

2. Water utilities shall keep the District informed of the status of their potable water and reclaimed water systems to help the District detect regional trends, provide accurate information to the media and the general public and offer assistance in localized water supply problems. At a minimum, unless otherwise specified in the applicable District-approved Water Shortage Mitigation Plan, each water utility shall provide:

a. A report to the District's Demand Management staff regarding the status of its potable water and reclaimed water systems. This report shall be provided within 30 days of the effective date of a Phase III Water Shortage order. It should be concise, focusing on any current or anticipated shortage-related challenges, such as distribution pressure problems, quantity or quality concerns about primary and back-up supplies and planned strategies for additional demand management and/or supply supplementation in the event that the drought continues or worsens.

b. Regular status updates to the District's Demand Management staff. These updates may be brief and verbal instead of written. Unless another reporting frequency is needed for statewide coordination purposes, these updates will be required on a monthly basis.

c. Updates to District's Demand Management staff on a more frequent basis when there is a major or sudden change in status.

3. Water utilities shall plan for supply supplementation or replacement, including coordination with District staff to request any appropriate emergency order.

4. At a minimum, unless otherwise specified in the applicable District approved Water Shortage Mitigation Plan, each water utility should provide, directly or through the appropriate local agency, the following:

a. Response, as needed, to enforcement referrals made by the District and violation complaints made by members of the general public. This shall involve, when necessary, a site investigation on the day of the week and time of day indicated in the enforcement referrals or violation complaints.

b. Compliance monitoring, as appropriate, in portions of the service area where complaints appear to be prevalent.

c. Issuance of a citation, without needing to first issue a warning, in response to any violation that occurs more than 14 days after the effective date of a Phase III Water Shortage order declaration. Warnings may still be issued if the violation is not confirmed or involves extenuating circumstances.

d. Implementation or continued implementation of all provisions specified in sub-subparagraphs 40D-21.631(3)(b) 2.b., c. and d., F.A.C.

5. Water utilities shall augment the District's messaging efforts by disseminating pertinent water conservation and demand management information. At a minimum, each utility shall inform its customers about the Phase III Water Shortage declaration, including how their primary and back-up water supplies could be affected and any ongoing local water conservation projects, such as rebate or inspections offered by the water utility that may assist its customers in their efforts to immediately reduce water consumption.

6. Water utilities shall institute or continue to institute system-level water conservation measures as specified in paragraph 40D-21.631(3)(b)(4), F.A.C.

7. Potable water, sanitary sewer and reclaimed water line flushing and disinfection shall be limited to the minimum required for the protection of human health, safety and welfare. Each utility shall implement or continue to implement the inquiry processes specified in paragraphs 40D-21.631(3)(b)(5), F.A.C., and shall limit the use of unattended manual flushing as a means of minimizing inquiries and maximizing potential water savings.

8. The notice specified in subsection 40D-21.275(3), F.A.C., that is sent to the public supply Permittees will summarize the requirements listed above. Although it is the responsibility of permittees to notify their wholesale customers, the District will endeavor to send a copy of this notice to affected water utilities that are not permittees but are instead served by a permittee, such as the member governments of a Regional Authority.

(c) Medical and Health Use.

1. The use of water for medical purposes shall not be restricted.

2. The use of water for the protection of public health, safety and welfare shall not be restricted.

(4) Commercial and Industrial Use.

In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all commercial and industrial use, as appropriate, including efforts that may go beyond normally applicable Water Use Permit requirements, as appropriate:

(a) Inform the District about any drought-related challenges with their water supplies. At a minimum, each Permittee shall, within 14 days of receipt of the District's Water Shortage declaration notice and when any major change

in water supply status occurs, notify the District's Demand Management staff regarding: any water well failures, quantity or quality concerns about primary water supplies, any anticipated need for supply supplementation and planned strategies for supply supplementation in the event that the drought continues or worsens.

(b) Eliminate off-site discharge to the extent practicable;

(c) Recycle water to the extent practicable;

(d) Suspend clean-up requiring water use, except for the minimum required to protect efficiency of the operation and prevent damage to equipment;

(e) Suspend the washing of vehicles and other Mobile Equipment, except for the minimum required to meet health and safety needs or as otherwise required by published industry standards;

(f) Maximize use of the least restricted Source Class to which there is access;

(g) Eliminate non-essential uses;

(h) Power generation utilities only: if using a water source that is affected by the Phase III declaration, encourage customers to voluntarily reduce power consumption as a means to reduce water consumption.

(5) Agricultural Uses.

In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all Agricultural Use, as appropriate:

(a) Inform the District about any drought-related challenges with their water supplies. At a minimum, each Permittee shall, within 14 days of receipt of the District's declaration notice and when any major change in water supply status occurs, notify the District's Demand Management staff regarding: any water well failures, quantity or quality concerns about primary water supplies, any anticipated need for supply supplementation and planned strategies for supply supplementation in the event that the drought continues or worsens;

(b) Each Agricultural Permittee shall comply with all of its Water Use Permit requirements and terms. This specifically includes, for those Permittees located within the Southern Water Use Caution Area, the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which is incorporated in Rule 40D-2.091, F.A.C.;

(c) Eliminate off-site discharge to the extent practicable. For example, agricultural irrigation involving the use of seepage systems shall be operated in a manner that will eliminate surface runoff and loss of water through lateral seepage to open ditches;

(d) Recycle water to the extent practicable;

(e) Suspend clean-up requiring water use, except for the minimum required to protect efficiency for the operation and prevent damage to equipment;

(f) Suspend the washing of vehicles and other Mobile Equipment, except for the minimum required to protect animal or human health and safety needs, or as otherwise required by published BMPs, such as to prevent the spread of plant disease;

(g) Maximize use of the least restricted Source Class to which there is access;

(h) Eliminate non-essential uses;

(i) Except as otherwise noted herein, continue to comply with applicable provisions and exemptions in Chapter 40D-22, F.A.C. These exemptions include: allowances for Low-Volume Irrigation technology, plant protection, testing and maintenance of irrigation systems and irrigation to water-in chemicals. In the context of allowable watering hours, Agricultural Uses of center pivot and traveling gun technologies shall have the same exemptions as Low-Volume Irrigation.

(6) Landscape Use.

(a) Golf Courses and Driving Ranges.

In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all Golf Courses and Driving Ranges, including efforts that may go beyond normally applicable Water Use Permit requirements, as appropriate:

1. Inform the District about any drought-related challenges with their water supplies. At a minimum, each Permittee shall, within 14 days of receipt of the District's Water Shortage declaration notice and when any major change in water supply status occurs, notify the District's Demand Management staff regarding any anticipated need for supply supplementation and planned strategies for supply supplementation in the event that the drought continues or worsens.

2. Each Permittee shall comply with all of its Water Use Permit requirements and terms. This specifically includes for those Permittees located within the Southern Water Use Caution Area, the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which is incorporated in Rule 40D-2.091, F.A.C.

3. Eliminate off-site discharge to the extent practicable;

4. Recycle water to the extent practicable;

5. Suspend clean-up requiring water use, except for the minimum required to protect efficiency of the operation and prevent damage to equipment.

6. Suspend the washing of golf carts, lawn mowers and other Mobile Equipment, except for the minimum necessary to meet health and safety needs or as otherwise required by published BMPs, such as to prevent the spread of Turfgrass disease;

7. Maximize use of the least restricted Source Class to which there is access;

8. Eliminate non-essential uses and take appropriate actions to avoid water use increases. This may include the following, as appropriate:

a. Postponing any planned Turfgrass renovation for the duration of the Phase III Water Shortage declaration.

b. Reducing wear on fairways by restricting cart traffic to designated paths only.

c. Modifying nutritional, soil amendment and mowing practices to minimize water stress.

d. Limiting overseeding to tees and greens only.

e. Educating golfers and guests about the ongoing drought, the steps that the facility is taking to reduce water use and how golfers and guests can conserve water while visiting the facility.

9. Supplemental irrigation ("normal watering") shall be restricted to the allowable hours of 12:01 a.m. to 8:00 a.m. or 6:00 p.m. to 11:59 p.m.

10. Tees, golf course greens and practice greens shall receive supplemental irrigation no more than three times per week. Upon specific request by the District, a course may be required to maintain a log documenting when this irrigation occurs.

11. Fairways and driving range greens shall receive supplemental irrigation no more than once per week during the months of December, January and February and no more than twice per week during the other months of the year. Upon specific request by the District, a course may be required to maintain a log documenting when this irrigation occurs.

12. Rroughs shall not be irrigated, except that irrigation may occur when used for the disposal of excess reclaimed water (i.e., wet weather disposal).

13. From days 31 through 60 of the allowable 60-day "establishment period" exemption provided in Chapter 40D-22, F.A.C., irrigation of New Plant Material may only occur on three days each week.

14. Except as otherwise noted herein, all irrigation and Other Uses shall comply with the applicable exemptions in Chapter 40D-22, F.A.C., Exemptions, shall continue to include allowances for plant protection on tees and greens, testing and maintenance of irrigation systems and irrigation to water in chemicals.

(b) Other Athletic Play Areas.

In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all Athletic Play Areas, except Golf Courses and Driving Ranges, as appropriate:

1. Inform the District about any drought-related challenges with their water supplies. At a minimum, each Permittee shall, within 14 days of receipt of the District's Water Shortage declaration notice and when any major change in the water supply status occurs, notify the District's Demand Management staff regarding: any water well failures, quantity or quality concerns about the primary water supplies, any anticipated need for supply supplementation and planned strategies for supply supplementation in the event that the drought continues or worsens;

2. Each Permittee shall comply with all of its Water Use Permit requirements and terms. This specifically includes for those Permittees located within the Southern Water Use Caution Area the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which is incorporated in Rule 40D-2.091, F.A.C.:

3. Eliminate off-site discharge to the extent practicable;

4. Recycle water to the extent practicable;

5. Suspend clean-up requiring water use, except for the minimum required to protect efficiency of the operation and prevent damage to equipment;

6. Suspend the washing of lawn mowers and other Mobile Equipment, except for the minimum necessary to meet health and safety needs or as otherwise required by published BMPs, such as to prevent the spread of Turfgrass disease;

7. Users having access to more than one Source Class shall maximize use of the least restricted Source Class to which there is access;

8. Eliminate non-essential uses and take appropriate actions to avoid water use increases. This may include the following, as appropriate:

a. Postponing any planned Turfgrass renovation for the duration of the Phase III Water Shortage declaration.

b. Reducing wear on athletic fields as practical.

c. Modifying nutritional, soil amendment and mowing practices to minimize water stress.

d. Educating players and guests about the ongoing drought, the steps that the facility is taking to reduce water use and how players and guests can conserve water while visiting the facility;

9. Supplemental irrigation shall be restricted to the hours of 12:01 a.m. to 8:00 a.m. or 6:00 p.m. to 11:59 p.m.;

10. Turfgrass fields shall receive supplemental irrigation no more than once per week during the months of December, January and February and no more than twice per week during the other months of the year;

11. From days 31 through 60 of the allowable 60-day "establishment period" exemption provided in Chapter 40D-22, F.A.C., irrigation of New Plant Material may only occur on three days each week.

12. Except as otherwise noted herein, all irrigation and Other Uses shall comply with applicable provisions and exemptions in Chapter 40D-22, F.A.C. These exemptions specifically include: allowances for plant protection of Turfgrass athletic fields, wetting of clay tennis courts and similar surfaces immediately prior to play, one extra irrigation application immediately after heavy play to encourage athletic field Turfgrass repair and, under certain circumstances, the ability to have a special watering schedule without applying for a variance.

(c) Lawn and Landscaping Use, including Cemeteries:

In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all Lawn and Landscaping Use, including Cemeteries, as appropriate:

1. An example copy of the notice specified in subsection 40D-21.275(3), F.A.C., shall be sent to the Florida Department of Financial Services – Bureau of Cemetery Services and will include a summary of the requirements listed below.

2. Each Permittee shall comply with all of its Water Use Permit requirements and terms. This specifically includes for those Permittees located within the Southern Water Use Caution Area the ability to earn and expend "Water Conservation Credits" pursuant to Rule 40D-2.621, F.A.C., and the associated Basis of Review section, which is incorporated in Rule 40D-2.091, F.A.C.

3. Eliminate off-site discharge to the extent practicable;

4. Recycle water to the extent practicable;

5. Suspend clean-up requiring water use, except for the minimum required to protect efficiency of the operation and prevent damage to equipment;

6. Suspend the washing of lawn mowers and other mobile equipment, except for the minimum necessary to meet health and safety needs or as otherwise required by published BMPs, such as the spread of Turfgrass disease.

7. Maximize the use of the least restricted Source Class to which there is access.

8. Eliminate non-essential uses and take appropriate actions to avoid water use increases. This specifically includes postponing any planned Turfgrass renovation for the duration of the Phase III Water Shortage declaration. Other potential actions may include, but are not limited to modifying nutritional, soil amendment and mowing practices to minimize water stress.

9. From days 31 through 60 of the allowable 60-day "establishment period" exemption, irrigation of New Plant Material may only occur on three days a week. During this portion of the "establishment period" exemption, Even Addresses may only water New Plant Material on Tuesday, Thursday and/or Saturday and Odd addresses may only water New Plant Material on Wednesday, Friday and/or Sunday.

10. Supplemental irrigation for properties with an automatic timer or in-ground system which are less than one acre in size, may only occur during the hours of 12:01 a.m. to 4:00 a.m. or 8:00 p.m. to 11:59 p.m. Properties one acre or greater in size may continue to irrigate during the allowable hours of 12:01 a.m. to 10 a.m. or 4 p.m. to 11:59 p.m. Each property under two acres in size may only use one of its two allowable time periods, and each water utility may designate which of these time periods their customers shall use.

11. Supplemental irrigation accomplished by microirrigation or other low volume technology, or by manual means (handwatering or irrigation that does not involve the use

of an automatic timer or in-ground system), may only occur during the hours of 12:01 a.m. to 8:00 a.m. or 6:00 p.m. to 11:59 p.m.

12. During the months of December, January and February, lawn watering shall be reduced to only one application per week. Unless otherwise specified by the water provider in an alternative schedule approved by the District in a Water Shortage Mitigation Plan or as an event specific variance, this watering shall be in accordance with the following schedule:

a. Addresses with a "house number" ending in 0 or 1 may water on Monday;

b. Addresses ending with a 2 or 3 on Tuesday;

c. Addresses ending with a 4 or 5 on Wednesday;

d. Addresses ending with a 6 or 7 on Thursday;

e. Addresses ending with an 8 or 9 and locations with a mix of addresses, or for which an address cannot be determined (such as common areas associated with a subdivision), of Friday; and

f. Cemeteries and other properties greater than 2 acres in size that have a special irrigation schedule in accordance with paragraph 40D-22.201(4)(c), F.A.C., or properties regardless of size that have a special irrigation schedule pursuant to provisions of a variance from Chapter 40D-22, F.A.C., may only water each section of property on the first day of the week already assigned to it. For example, a section of the property assigned a "Monday and Thursday" schedule may only water on Monday.

13. When the once-per-week Lawn watering schedule is applicable, spot treatment shall only be allowed on the normally allowable watering day and Saturday (for Even Addresses only) or Sunday (for Odd Addresses only).

14. Except as otherwise noted herein, all applicable exemptions and other provisions of Chapter 40D-22, F.A.C., shall be in effect.

(7) Other Uses.

(a) In addition to the requirements of the applicable Water Use Permit, the following restrictions and other response mechanisms shall apply to all other use, as appropriate:

1. Eliminate off-site discharge to the extent practicable;

2. Recycle water on-site to the extent practicable;

3. Suspend clean-up requiring water use, except for the minimum required to protect efficiency of the operation and prevent damage to equipment;

4. Suspend the washing of vehicles and other Mobile Equipment, except for the minimum required to meet health and safety needs or as otherwise required by published BMPs;

5. Maximize the use of the least restricted Source Class to which there is access;

6. Eliminate non-essential uses and take appropriate actions to avoid water use increases;

(b) Cooling, heating and air conditioning use shall comply with paragraph 40D-21.631(7)(b), F.A.C.

(c) Aesthetic use, for example water fountains, waterfalls and other artistic water features with recirculation systems, shall be limited to operating eight hours a day and the user shall post the normal hours of operation.

(d) Recreation use shall comply with paragraph 40D-21.631(7)(d), F.A.C.

(e) Water Body Augmentation:

1. Augmentation shall be limited to those circumstances indicated in subparagraphs 40D-21.631(7)(e)1., 2. and 3., F.A.C.

2. Other augmentation, including augmentation of those water bodies for which the District has established minimum levels, is prohibited except in accordance with Chapter 40D-80, F.A.C.

(f) Washing or cleaning of outdoor impervious surfaces:

1. Pressure Washing of buildings or other structures in preparation for painting and other necessary maintenance is allowed.

2. All other washing or cleaning of impervious surfaces or structures shall be prohibited, except to meet federal, state or local health or safety standards. These standards specifically allow for required dust control.

(g) Mobile Equipment washing:

1. Commercial car washes, hand detailing operations and similar establishments shall comply with subsection 40D-21.641(4), F.A.C.

2. Car wash fundraisers held on behalf of non-profit organizations are prohibited, except for one-day events that were scheduled prior to the date of the Phase III Water Shortage declaration.

3. Washing of fire trucks and other emergency vehicles is allowed in accordance with paragraph 40D-21.641(3)(a), F.A.C.

4. Rinsing of boats and flushing of boat engines is allowed after each use when needed to remove salt water or to prevent the transportation of exotic plant or animal material.

5. Cleaning agricultural vehicles in accordance with canker abatement procedures, animal husbandry practices and other activities endorsed by the University of Florida's Institute of Food and Agricultural Sciences and the United States Department of Agriculture is allowed, as necessary.

6. Other than as described above, car, truck and other Mobile Equipment washing shall be accomplished using low volume methods only, such as with a hand-held hose equipped with a trigger (self-cancelling) nozzle and shall be restricted to only one washing a week. At a residential property, this activity may only occur on Tuesday or Saturday for an Even Address, or Wednesday or Sunday for an Odd Address.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 11-19-84, Amended 7-2-86, 5-30-93, \_\_\_\_\_.



40D-21.651 Phase IV: Critical Water Shortage.

(1) A Phase IV Water Shortage is a hydrologic or climatic condition where multiple regional Drought Indicators have extremely abnormal values, or the local Drought Indicator for a specific public supply has a critically abnormal value, such that conditions warrant the temporary suspension of nonessential use and/or initiation of supply augmentation. The Governing Board will request a 20% voluntary reduction in all water use, including reclaimed water blends. Notice of a declaration of a Phase IV Water Shortage will include those restrictions and other response mechanisms set forth below and any other response mechanisms that are in effect for the Phase IV Water Shortage.

(2) Indoor Use. The notice specified in subsection 40D-21.275(1), F.A.C., will include practical tips specific to Indoor Use about how to achieve the requested reduction. The notice may refer water users to website material or fact sheets for this or additional information.

(3) Essential Use.

(a) Fire Fighting, Health and Medical water uses shall be subject to paragraphs 40D-21.641(3)(a) and (c), F.A.C. The notice specified in subsection 40D-21.275(5), F.A.C., that is sent to fire and rescue officials will summarize these requirements.

(b) Water Utility Use.

1. The notice sent in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected public supply Permittees. Although it is the responsibility of permittees to notify their wholesale customers, the District will endeavor to send a copy of this notice to affected water utilities that are not permittees but are instead served by a permittee, such as the member governments of a Regional Authority.

2. Water utility use shall be subject to paragraph 40D-21.641(3)(b), F.A.C., with the following modifications:

a. Regular status updates shall be required on a weekly basis.

b. Water utilities shall promptly notify the District's applicable Regulation Department and Demand Management staff about any new water supply emergency and any supply supplementation or replacement that occurs in order to address or prevent such an emergency.

c. Water utilities shall participate in Water Shortage restriction enforcement as described in subparagraph 40D-21.641(3)(b)4., F.A.C., and take the following additional actions when necessary to protect public health, safety and welfare:

i. Temporary limits to potable water service, or augmented reclaimed water service, in response to a location specific request from the District to remedy a violation of this Chapter that is causing, or likely to cause, a public health hazard or property damage. These limits do not necessarily involve

suspension of service, but may include utilization of a regulator valve or other means by which the user can be constrained to the amount of water necessary for reasonable Indoor Use. During a Phase IV Water Shortage, repetitive Water Shortage restriction violations may constitute a public health hazard. The applicable water utility shall determine the limitation method and may consider any reasonable mitigating circumstances.

ii. Temporary waivers, or other means of deferring the enforcement of local code violations, until after the Phase IV Water Shortage declaration has been rescinded, if enforcement would result in an increase in water use and compliance is not immediately required to protect public health, safety and welfare.

iii. Conditional certificates of occupancy, or some other action resulting in the temporary waiver or deferral of specific requirements normally associated with issuing a certificate of occupancy, such that installation of the Lawn or Landscaping normally required for a new or substantially rehabilitated building can be delayed until after the Phase IV Water Shortage declaration has been rescinded.

iv. Temporary suspension of the practice of issuing letters of commitment, or some other action resulting in the temporary deferral of new commitments to provide potable water or to augment reclaimed water, such that significant additional customers are not added to the system until after the Phase IV Water Shortage declaration has been rescinded.

(4) Commercial and Industrial Use.

(a) The notice in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected commercial and industrial Water Use Permit. The notice will summarize the requirements listed below.

(b) Restrictions and other response mechanisms specified in subsection 40D-21.641(4), F.A.C., shall apply, with the following modifications:

1. Local offices of banks and other entities offering home loans or mortgage services shall notify the District if they will not enter into new agreements with properties affected by sub-subparagraph 40D-21.651(2)(b)2.c.ii or iii, F.A.C.

2. Users shall, upon the specific request of the District, cease all uses of water that are not essential to public health, safety and welfare.

3. Users shall, upon the specific request of the applicable water utility with a District-approved WSMP, cease all uses of utility-provided water that are not essential to public health, safety and welfare.

(5) Agricultural Uses.

(a) The noticing in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected agricultural Water Use Permit. The notice will summarize the requirements listed below.

(b) Restrictions and other response mechanisms specified in subsection 40D-21.641(5), F.A.C., shall apply, with the following modifications:

1. Users shall promptly notify the District's applicable Regulation Department Service Office and Demand Management staff about any new water supply emergency and any supply supplementation or replacement that occurs in order to address or prevent such an emergency.

2. Users shall, upon the specific request of the District, cease all crop related uses of water that are not essential to public health, safety and welfare.

3. Users shall, upon the specific request of the applicable water utility with a District-approved WSMP, cease all crop related uses of utility-provided water that are not essential to public health, safety and welfare.

(6) Landscape Use and Driving Ranges.

(a) Golf Courses.

1. The noticing in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected golf course Water Use Permit. This notice will summarize the requirements listed below.

2. Restrictions and other response mechanisms specified in paragraph 40D-21.641(6)(a), F.A.C., shall apply, with the following modifications:

a. Watering roughs and non-play native or naturalized areas shall be prohibited.

b. Users shall promptly notify the District's applicable Regulation Department Service Office and Demand Management staff about any new water supply emergency and any supply supplementation or replacement that occurs in order to address or prevent such an emergency.

c. The establishment period for New Plant Materials shall be reduced to "15/30/15." This means that the material can be watered on any day for a 15-day period starting the day it is installed, then up to three days a week during the next 30 day period, then only two days a week during the final 15-day period.

d. Users shall, upon the specific request of the District, cease all uses of water that are not essential to public health, safety and welfare.

e. Users shall, upon the specific request of the applicable water utility with a District-approved WSMP, cease all uses of utility-provided water that are not essential to public health, safety and welfare.

(b) Other Athletic Play Areas.

1. The noticing in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected Water Use Permit. This notice will summarize the requirements listed below.

2. Restrictions and other response mechanisms specified in paragraph 40D-21.641(6)(b), F.A.C., shall continue to apply, with the following modifications:

a. Supplemental irrigation of Turfgrass shall only be allowed once a week, regardless of the month.

b. Users shall promptly notify the District's applicable Regulation Department Service Office and Demand Management staff about any new water supply emergency and any supply supplementation or replacement that occurs in order to address or prevent such an emergency.

c. The establishment period for New Plant Materials shall be reduced to "15/30/15." This means that the material can be watered on any day for a 15-day period starting the day it is installed, then up to three days a week during the next 30 day period, then only two days a week during the final 15-day period.

d. Users shall, upon the specific request of the District, cease all uses of water that are not essential to public health, safety and welfare.

e. Users shall, upon the specific request of the applicable water utility with a District-approved WSMP, cease all uses of utility-provided water that are not essential to public health, safety and welfare.

(c) Lawn and Landscaping Use, including Cemeteries:

1. The notice in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected Water Use Permit. The notice will summarize the requirements listed below. An example copy of the notice specified in subsection 40D-21.275(3), F.A.C., shall be sent to the Florida Department of Financial Services – Bureau of Cemetery Services and will include a summary of the requirements listed below.

2. All Lawn and Landscaping Use, including Cemeteries, shall continue to comply with applicable provisions of paragraph 40D-21.641(6)(c), F.A.C., with the following modifications:

a. The establishment period for New Plant Materials shall be reduced to "15/30/15." This means that the material can be watered on any day for a 15-day period starting the day it is installed, then up to three days a week during the next 30-day period, then only two days a week during the final 15-day period.

i. When "three days a week" establishment period watering is allowed on properties less than one acre in size, Even Addresses may only water on Tuesday, Thursday and Saturday; whereas, Odd Addresses may only water on Wednesday, Friday and Sunday.

ii. When “two days a week” establishment period watering is allowed on properties less than one acre in size. Even Addresses may only water on Tuesday and Saturday, whereas, Odd Addresses may only water on Wednesday and Sunday.

iii. When “three days a week” or “two days a week” irrigation is allowed in cemeteries or on other properties one acre in size or larger, each property shall maintain a written schedule of its establishment period watering.

b. Supplemental irrigation for properties with an automatic timer or in-ground system may only occur during the hours of 12:01 a.m. to 4 a.m. or 8 a.m. or 8 p.m. to 11:59 p.m. Any property under one acre in size may only use one of the two allowable time periods and the applicable water utility may designate which of these time periods their customers shall use.

c. Supplemental irrigation accomplished by hand-watering, microirrigation or other low volume technology, or by manual means only (such as an oscillating sprinkler supplied by garden hose, or an in-ground system without an automatic timer) may only occur during the hours of 4 a.m. to 8 a.m. or 6 p.m. to 10:00 p.m. Any property under one acre in size may only use one of the two allowable time periods and the applicable water utility may designate which of these time periods their customers may use.

d. Supplemental irrigation, except as otherwise provided below, shall be limited to only one application per week during all months of the year in accordance with paragraph 40D-21.641(6)(c), F.A.C.

e. Supplemental irrigation of landscaping beds and other non-Lawn plant material, when accomplished by handwatering, microirrigation and other Low-Volume Irrigation methods, shall be limited to a maximum of three applications per week during all months of the year.

i. Even Addresses under one acre in size shall only accomplish this irrigation on Tuesday, Thursday and/or Saturday.

ii. Odd Addresses under one acre in size shall only accomplish this irrigation on Wednesday, Friday and/or Sunday.

iii. Properties one acre or larger in size shall maintain a written schedule of its Low-Volume Irrigation.

f. Spot treatment or syringing “hot spots” in Lawns is prohibited.

g. Utilize the following additional actions, as appropriate, to promote Lawn and Landscape survival without increasing water use:

i. Reduce foot traffic on lawn and other ground cover;

ii. Modify nutritional practices, such as reducing the frequency of complete fertilizer applications;

iii. Spot-treat pest and weed problems instead of using broadcast applications of chemicals that must be watered-in;

iv. Regularly test and maintain irrigation systems in accordance with provisions of Chapter 40D-22, F.A.C., as a means of detecting and repairing problems before plant damage or loss is extensive;

v. Use organic material or other soil amendments to improve the soil’s water retention capacity; and

vi. Adjust mowing practices to minimize water stress. For example, mow Lawns to the longest acceptable height and mow frequently enough to only remove one-third of the height each time.

3. Users shall, upon the specific request of the District, cease water uses that are not essential to public health, safety and welfare.

4. Users shall, upon the specific request of the applicable water utility with a District-approved WSMP, cease uses of utility-provided water that are not essential to public health, safety and welfare.

#### (7) Other Uses.

(a) The noticing in accordance with subsection 40D-21.275(3), F.A.C., for a Phase IV Water Shortage declaration shall constitute a temporary modification of the requirements for each affected Water Use Permit. The notice will summarize the requirements listed below.

(b) Restrictions and other response mechanisms specified in subsection 40D-21.641(7), F.A.C., shall apply, with the following modifications:

1. Cooling, heating and air conditioning use: Cooling towers, geothermal units and similar water-using devices used in public spaces may only cool to a minimum of 78 degrees Fahrenheit and heat to a maximum of 68 degrees Fahrenheit, except as otherwise required for health or medical reasons.

2. Aesthetic Use: Aesthetic use including water fountains, waterfalls and other artistic water features is prohibited. In public spaces, the owner or manager of such features shall use signs, when practical, to indicate that this action was taken in compliance with current Water Shortage restrictions.

3. Washing or Cleaning of Outdoor Impervious Surfaces: Washing or cleaning of outdoor impervious surfaces, including Pressure Washing, is prohibited, except to meet federal, state or local health or safety standards. These standards specifically allow for required dust control.

#### 4. Mobile Equipment Washing:

a. Routine washing of cars or trucks in residential settings and car wash fundraisers held on behalf of a non-profit organization is prohibited.

b. Cleaning of cars, trucks and other Mobile Equipment in other settings is also prohibited, with the following exceptions: washing of fire trucks and other emergency vehicles, rinsing of boats after use, flushing of boat motors after use, necessary cleaning of Lawn and maintenance and agricultural vehicles, rinsing of any vehicle after exposure to saltwater or sewage

and washing of any vehicle immediately prior to sale, rent or lease (including lease termination, but excluding daily car or truck rentals).

5. Users shall, upon the specific request of the District, cease all uses of water that are not essential to public health, safety and welfare.

6. Users shall, upon the specific request of the applicable water utility with a District-approved WSMP, cease all uses of utility-provided water that are not essential to public health, safety and welfare.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Lois Sorenson, Water Shortage Coordinator, Records and Data Department, 2379 Broad Street, Brooksville, Florida 34604-6899, (800)423-1476, or, (352)796-7211, Ext. 4299  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2003, April 2, 2004, January 28, 2005 and July 29, 2005

**DEPARTMENT OF MANAGEMENT SERVICES**

**Personnel Management System**

RULE CHAPTER TITLE: Florida State Employees’ Charitable Campaign  
RULE CHAPTER NO.: 60L-39

RULE TITLES: Statewide Steering Committee  
Application Procedures  
Duties and Responsibilities of the Fiscal Agent  
RULE NOS.: 60L-39.003  
60L-39.005  
60L-39.006

PURPOSE AND EFFECT: To amend the rules regarding the Florida State Employees’ Charitable Campaign in light of federal mandates regarding prohibited transactions with certain persons and organizations, to eliminate unnecessary paperwork and questions from the application process, and clarify the duties and responsibilities of the steering committee and the fiscal agent.

SUMMARY: The amendments amend the rules regarding the Florida State Employees’ Charitable Campaign in light of federal mandates regarding prohibited transactions with certain persons and organizations. The amendments eliminate unnecessary paperwork and questions from the application process and add a statement regarding federal mandates regarding prohibited transactions with certain persons and organizations by amending Form DMS-ADM-100, Application for Participation in the Florida State Employees’ Charitable Campaign and Form DMS-ADM-101, Renewing Organization Application for Participation in the Florida State

Employees’ Charitable Campaign. The amendments clarify the duties and responsibilities of the steering committee and the fiscal agent.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 110.181(3)(a) FS.

LAW IMPLEMENTED: 110.181 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Kuczanski, Chairman, Florida State Employees’ Charitable Campaign, Department of Management Services, 4050 Esplanade Way, Suite 215, Tallahassee, Florida 32399-0950, (850)921-4681

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-39.003 Statewide Steering Committee.

(1) The members of the FSECC Steering Committee, ~~whose members~~ shall serve staggered four-year terms.

(2) The FSECC Steering Committee shall arrange publication of information about the application process – including deadlines, address for obtaining materials, and criteria for eligibility – in sufficient time to prepare applications and supporting documentation.

(3) The FSECC Steering Committee shall review all new and renewing applications before June 1 on the basis of their compliance with the established criteria and their timely submission.

(4) The staff of the FSECC Steering Committee shall be responsible for a review of all applying organizations to ensure that participating organizations are not on the list of persons and entities designated under Executive Order 13224, the United States Treasury Department’s “master list” of specially designated nationals and blocked persons, and the United States State Department’s list of foreign terrorist organizations.

~~(5)(4)~~ The FSECC Steering Committee shall notify applicants of decisions on applications within a period that allows time for an appeal in accordance with Rule 60L-39.007, F.A.C.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History—New 1-6-02, Amended 3-5-04, 1-9-05,\_\_\_\_\_.

60L-39.005 Application Procedures.

(1) Annual applications for participation in the FSECC (Form DMS-ADM-100, Application for Participation in the Florida State Employees’ Charitable Campaign, effective\_\_\_\_\_, and Form DMS-ADM-101, Renewing

Organization Application for Participation in the Florida State Employees' Charitable Campaign, effective \_\_\_\_\_, which is hereby incorporated by reference) shall be submitted as set forth in rule subsection 60L-39.005(2), F.A.C., to the Steering Committee Chair at the following address:

Florida State Employees' Charitable Campaign  
 Department of Management Services  
 4050 Esplanade Way, Suite 280  
 Tallahassee, Florida 32399-0950

Applications must be postmarked by April 1 of each year for a charitable organization to be considered eligible for that year's Campaign. A federated fundraising organization, as defined in subsection 496.404(10), F.S., shall submit applications on behalf of its members. Form DMS-ADM-100 and Form DMS-ADM-101 can be obtained by writing to:

Florida State Employees' Charitable Campaign  
 Department of Management Services  
 4050 Esplanade Way, Suite 280  
 Tallahassee, Florida 32399-0950

(2) Applicants that did not participate in the FSECC during the previous year and all independent/unaffiliated organizations shall submit a complete application with documentation verifying compliance with eligibility outlined in Section 110.181(1), F.S., and Rule 60L-39.004, F.A.C. Form DMS-ADM-100, incorporated by reference at subsection 60L-39.005(1), F.A.C. All other applicants shall submit a complete Form DMS-ADM-101, incorporated by reference at subsection 60L-39.005(1), F.A.C.

(3) The Steering Committee shall request additional documentation or information from an applicant if necessary for purposes of clarifying eligibility. Requested documents or information must be supplied within five working days of the receipt of the Committee's request.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History--New 1-1-02, Amended 3-5-04, 1-9-05,\_\_\_\_\_.

60L-39.006 Duties and Responsibilities of the Fiscal Agent.

(1) The state fiscal agent, which the Department shall select through competitive procurement, shall provide state level coordination of the campaign and oversee the activities of area fiscal agents, which receive, account for, and distribute charitable contributions among participating charitable organizations. The state fiscal agent shall ensure that campaign brochures and materials treat all participating organizations and federations equally and fairly. Campaign brochures shall provide fair listing order and the same type, size, and color print for all participating organizations and for all federations.

(2) The duties and responsibilities of the area fiscal agent shall include the following:

(a) Selecting, training and managing a local steering committee composed of state employees in the fiscal agent area to assist in conducting the campaign and to direct the

distribution of undesignated funds. Any local steering committee member shall disclose any affiliation with a participating charity or federation prior to voting on undesignated funds. Federations shall submit the names of potential steering committee members, if any, to the area fiscal agent by July 1 of each year.

(b) Training employee keyworkers and volunteers in the methods of non-coercive solicitation.

(c) Honoring employee designations.

(d) Helping to ensure that no employee is coerced or questioned as to the employee's designation or its amount, other than for arithmetical inconsistencies.

(e) Responding in a timely and appropriate manner to inquiries from employees, participating organizations, federations or the Steering Committee.

(f) Notifying participating organizations and federations of the name and address of the local steering committee chairperson and ensuring them access to the steering committee meetings.

(g) For meetings during which undesignated funds will be discussed, ensuring a minimum of a two-week notice to participating federations is provided.

(h) Ensuring that distribution of undesignated funds is limited to participating organizations and federations in the FSECC.

(i) Ensuring the timely distribution of campaign funds to participating organizations and federations on at least a quarterly basis. If an area fiscal agent's prior year's collections from the FSECC fall below the prior year's median raised by all area fiscal agents (an amount to be determined by the state fiscal agent by calculating the median amount raised by all area fiscal agents), the area fiscal agent is authorized to make distributions on a less than quarterly basis, so long as all distributions are made within the funding year.

(j) Withholding the reasonable costs for conducting the campaign and for accounting and distribution to the participating organizations and federations. These costs shall be shared proportionately by the participating federations and independent/unaffiliated organizations based on their percentage share of the gross campaign.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History--New 1-6-02, Amended 3-5-04, 1-9-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 John Kuczanski, Chairman, Florida State Employees' Charitable Campaign Steering Committee

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lee Ann Korst, Deputy Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 9, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE TITLES: Approved Form; Incorporation Fees  
 RULE NOS.: 61G4-12.006  
 61G4-12.009

PURPOSE AND EFFECT: The Board proposes to include a form and fee for the reinstatement of null and void licenses, consistent with SB 1012.

SUMMARY: The proposed rule amendments provide language with regard to forms and fees for the reinstatement of null and void licenses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 455.213(2), 455.217(2), 455.219(1), 455.271(8), 489.108, 489.118 FS.

LAW IMPLEMENTED: 119.07(1)(a), 120.52(15), 455.213(2), 455.217(2), 455.219(1), 455.271(7), (8), 489.108, 489.109, 489.143 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tim Vaccaro, Executive Director, Construction Industry Licensing Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

**THE FULL TEXT OF THE PROPOSED RULE IS:**

61G4-12.006 Approved Form; Incorporation.

The following ~~forms~~, ~~form~~ used by the Board in its dealings with the public, are is hereby adopted and incorporated by reference, and can be obtained from the Board at the following address:

Florida Construction Industry Licensing Board  
 1940 North Monroe Street  
 Tallahassee, Florida 32399-1039

(1) Florida Homeowners' Construction Recovery Fund Claim Form, DBPR/CILB/022 – (Rev. January 2005).

(2) Application to reinstate null and void license DBPR/CILB/ – (new October 2005).

Specific Authority 489.108, 455.271(6) FS. Law Implemented 120.52(15), 489.108, 489.143, 455.271(6) FS. History–New 1-6-80, Formerly 21E-12.06, Amended 1-1-89, Formerly 21E-12.006, Amended 1-4-94, 2-24-94, 11-23-95, 2-6-96, 7-22-96, 11-25-97, 8-2-98, 2-24-00, 3-26-01, 2-14-05, \_\_\_\_\_.

61G4-12.009 Fees.

The following fees are prescribed by the Board:

(1) through (13) No change.

(14) The fee for application to re-instate a null and void license is three hundred and nine dollars \$309.

Specific Authority 455.213(2), 455.217(2), 455.219(1), 455.271(6), (8), 489.108, 489.118 FS. Law Implemented 119.07(1)(a), 455.213(2), 455.217(2), 455.219(1), 455.271(7), (8), 489.109, 455.271(6) FS. History–New 10-1-79, Formerly 21E-12.01, Amended 1-6-80, 12-16-80, 3-15-81, 5-31-81, 11-14-82, 4-3-84, Formerly 21E-12.09, Amended 2-4-87, 1-26-88, 6-21-88, 9-19-88, 4-18-89, 5-23-89, 8-23-89, 5-29-90, 3-20-91, 12-21-92, 1-28-93, 7-14-93, Formerly 21E-12.009, Amended 7-18-94, 6-27-95, 8-29-95, 9-18-96, 2-4-98, 2-10-00, 2-6-03, 2-27-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE TITLE: Certification and Registration of Business Organizations  
 RULE NO.: 61G4-15.0021

PURPOSE AND EFFECT: The proposed rule amendment is to provide criteria for determination of the Board's additional entity committee.

SUMMARY: The proposed rule amendment provides language with regard to the Board's additional entity committee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 489.108 FS.

LAW IMPLEMENTED: 455.213, 489.105, 489.107, 489.115, 489.119, 489.1195, 489.143 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tim Vaccaro, Executive Director, Construction Industry Licensing Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-15.0021 Certification and Registration of Business Organizations.

- (1) through (2) No change.
- (3)(a) through (b) No change.

(c) The additional entities application committee ~~Each Division~~ of the Board will rule on applications for designation as the financially responsible officer, ~~if the qualifying licensee holds only a license (or licenses) issued in that Division. If a qualifying licensee, for the business organization is licensed in both divisions, the decision as to the qualification of the applicant will be made by both divisions of the Board.~~

(d) The chairperson of the Board shall appoint members to the additional entities committee ~~two committees~~ of the Board, one committee ~~for each Division composed of at least one Board member each,~~ which shall review all applications for designation as a financially responsible officer. ~~The committees will sit together if the qualifying licensee holds licenses in both Divisions.~~ The committee will forward the application to the Board with a recommendation to approve, recommendation to approve subject to conditions, a recommendation to disapprove, or no recommendation.

(4)(a) ~~An individual holding a license in two separate categories~~ must receive the approval of the Board to qualify more than one business organization.

~~(b) Each Division of the Board will rule on applications to qualify an additional organization if the licensee holds only a license (or licenses) issued in that Division. If a contractor seeks to qualify a business organization in both divisions, the decision as to the qualification of an additional business organization will be made by both divisions of the Board.~~

(5) A committee ~~Committees~~ of the Board, ~~one for each Division and composed of at least one person,~~ will review all applications for qualification of an additional business organization. ~~The committees will sit together if the applicant holds licenses in both Divisions.~~ The committee will forward the application to the Board with a recommendation to approve, a recommendation to approve subject to conditions, a recommendation to disapprove, or no recommendation.

- (6) through (7) No change.

Specific Authority 489.108 FS. Law Implemented 455.213, 489.105, 489.107, 489.115, 489.119, 489.1195, 489.143, ~~455.213~~ FS. History—New 12-6-83, Formerly 21E-15.021, Amended 3-29-88, 8-8-88, 9-24-92, 12-28-92, Formerly 21E-15.0021, Amended 7-18-94, 7-5-95, 11-12-95, 2-6-96, 7-1-96, 9-3-96, 11-27-96, 11-13-97, 9-15-98, 7-7-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Veterinary Medicine**

RULE TITLE: Exemptions and Exceptions RULE NO.: 61G18-17.001

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the practice of veterinary medicine.

SUMMARY: The proposed rule amendment defines the herd animal and equine management tasks that fall outside the practice of veterinary medicine.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 474.203, 474.206 FS.

LAW IMPLEMENTED: 474.203(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-17.001 Exemptions and Exceptions.

- (1) through (3) No change.

(4) A person hired on a part time or temporary basis by an owner to assist with traditional herd management and/or animal husbandry tasks is not deemed to be engaged in the practice of veterinary medicine. Such tasks are limited to herd animals raised for food/fiber, and equines. In the case of herd animals, this includes castration, dehorning, and parasite control. In equines, this includes routine, non-corrective shoeing and non-mechanical, hand floating of teeth.

Specific Authority 474.203, 474.206 FS. Law Implemented 474.203(4) FS. History—New 7-9-80, Formerly 21X-17.01, 21X-17.001, Amended 7-4-95, 1-5-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Veterinary Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE TITLE: Fees  
 RULE NO.: 61J1-2.001

PURPOSE AND EFFECT: The Board is rephrasing part of subsection 61J1-2.001(14), F.A.C., to improve the Rule's clarity.

SUMMARY: The Board is rephrasing subsection 61J1-2.001(14), F.A.C., to improve the Rule's clarity.

SUMMARY OF STATEMENT OF ESTIMATE REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 215.34, 215.405, 455.217, 455.271, 455.2281, 475.6147, 475.615, 475.618, 475.619, 475.630 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael E. Murphy, Acting Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE TEXT OF THE PROPOSED RULE IS:

61J1-2.001 Fees.

(1) through (13) No change.

(14) Application fee for a registered trainee, licensed or certified \$50.00 appraiser to obtain a different status when such application is received by the department within 180 days prior to or through 180 days after the renewal period established in Rule 61J1-2.002, F.A.C.

(15) through (16) No change.

Specific Authority: 475.614 FS. Law Implemented: 215.34, 215.405, 455.217, 455.2281, 475.6147, 475.615, 475.61, 455.271(6)(b) FS. History--New 10-15-91, Amended 6-7-92, 5-6-93, Formerly 21VV-20.02, Amended 9-22-93, 7-5-94, 5-22-95, 8-20-96, 11-11-97, 10-1-98, 10-1-98, 10-29-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2005  
 DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE TITLE: Education Requirements  
 RULE NO.: 61J1-4.001

PURPOSE AND EFFECT: The Board is updating the education requirements for all appraiser licensure classifications to comply with the January 1, 2008, Appraiser Qualifications Board (AQB) criteria.

SUMMARY: The Board is updating the education requirements for all appraiser licensure classification to comply with the January 1, 2008, Appraiser Qualifications Board (AQB) criteria. Specifically, the Board is increasing the number of hours for initial licensure as a trainee appraiser, adding an additional pre-certification course for all licensure classifications, and clarifying how a non-Florida appraiser can comply with this Rule's licensure requirements.

SUMMARY OF STATEMENT OF ESTIMATE REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.615, 475.617, 475.6175, 475.618 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael E. Murphy, Acting Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.001 Education Requirements.

(1)(a) Persons desiring to become registered as a trainee appraiser must satisfactorily complete 75 classroom hours, inclusive of examination, of Board approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice. Effective January 1, 2008, persons desiring to become registered as a trainee appraiser must satisfactorily complete 100 classroom hours, inclusive of examination, of Board



approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice.

(b) If a registration expires due to failure to renew pursuant to Rule 61J1-4.007, F.A.C., the original 75 classroom hours to become initially registered will be invalid and may not be used to secure another registration. Effective January 1, 2008, persons desiring to become registered as a trainee appraiser must satisfactorily complete 100 classroom hours, inclusive of examination, of Board approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice.

(c) No change.

(2) through (5)(1) No change.

(m) Coverage of Florida rules and regulations that pertain to the practice of appraisal. Effective January 1, 2008, Board approved pre-registration courses for trainee appraisers must include a minimum of six (6) hours coverage of Florida laws, rules, and regulations that pertain to the practice of appraisal; and

(n) Effective January 1, 2008, Board approved pre-registration courses for trainee appraisers must include a minimum of three (3) hours coverage regarding the roles and rules of supervisor and trainee appraisers.

(6)(a) through (n) No change.

(o) National Uniform Standards of Professional Appraisal Practice; and-

(p) Effective January 1, 2008, Board approved pre-certification courses for certified residential appraisers must include a minimum of three (3) hours coverage regarding the roles and rules of supervisor and trainee appraisers.

(7)(a) through (e) No change.

(f) General appraiser report writing and case studies; and-

(g) Effective January 1, 2008, Board approved pre-certification courses for certified general appraisers must include a minimum of three (3) hours coverage regarding the roles and rules of supervisor and trainee appraisers.

(8) through (13) No change.

(14) A certified or licensed appraiser from Florida or another jurisdiction who is AOB compliant satisfies the criteria of subsections 61J1-4.001(2), (3) of the Florida Administrative Code (F.A.C.).

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617 FS. History—New 10-15-91, Formerly 21VV-4.001, Amended 1-9-94, 3-10-98, 9-6-98, 10-10-99, 5-25-04, 5-15-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2005

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 23, 2005

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**DEPARTMENT OF HEALTH**

**Board of Acupuncture**

RULE TITLE: Fees for Inactive Status and Change to Active Status

RULE NO.: 64B1-2.010

PURPOSE AND EFFECT: Amend the license reactivation fee from \$400.00 to \$300.00.

SUMMARY: This will reduce the fee for license reactivation. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.036(3), (4), (8), 457.104, 457.108(2) FS.

LAW IMPLEMENTED: 456.036(3), (4), (8), 457.108(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-2.010 Fees for Inactive Status and Change to Active Status.

(1) through (2) No change.

(3) Fees for the reactivation of a license shall be ~~\$300~~ 400.

Specific Authority 456.036(3), (4), (8), 457.104, 457.108(2) FS. Law Implemented 456.036(3), (4), (8), 457.108(2) FS. History—New 5-12-87, Amended 12-21-87, 8-6-89, Formerly 21AA-2.010, 61F1-2.010, Amended 10-25-95, Formerly 59M-2.010, Amended 5-8-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Acupuncture

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2005

**DEPARTMENT OF HEALTH**

**Board of Acupuncture**

RULE TITLE: Retired Status and Reactivation of Retired Status License; Fees  
 RULE NO.: 64B1-2.017  
 PURPOSE AND EFFECT: To address retired status licenses and reactivation process.

SUMMARY: Allows a retired status licensee to reactivate the license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.036(15), 457.104, 457.108 FS.  
 LAW IMPLEMENTED: 456.036(2), (4), (12), 457.108 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-2.017 Retired Status and Reactivation of Retired Status License; Fees.

(1) A licensee may place an active or inactive license in retired status at any time. If the license is placed in retired status at the time of renewal the licensee shall pay the retired status fee of \$50.00. If the license is placed in retired status at any time other than at the time of license renewal the licensee shall pay the change of status processing fee described in Rule 64B1-2.010, F.A.C., and the retired status fee of \$50.00.

(2) A licensee may reactivate a retired status license at any time, subject to meeting the following requirements:

(a) Paying the reactivation fee, which shall be the same amount as the renewal fee for an active status licensee under these rules for each biennial licensure period in which the licensee was in retired status;

(b) Demonstrating satisfaction of the continuing education requirements of Rule 64B1-7.0015, F.A.C., for each licensure biennial period in which the licensee was in retired status.

Specific Authority 456.036(15), 457.104, 457.108 FS. Law Implemented 456.036(2), (4), (12), 457.108 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 15, 2005

**DEPARTMENT OF HEALTH**

**Board of Acupuncture**

RULE TITLE: Disciplinary Guidelines  
 RULE NO.: 64B1-9.001  
 PURPOSE AND EFFECT: Additions to and clarification of the Disciplinary Guidelines.

SUMMARY: To create guidelines related to costs, restitution and the impaired practitioner treatment program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.079(1), 457.104 FS.  
 LAW IMPLEMENTED: 456.072, 456.079, 457.109 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-9.001 Disciplinary Guidelines.

(1) through (3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case.

Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refunds of fees billed and collected from the patient or a third party on behalf of the patient.

(a) Violating Section 456.072(1)(gg), F.S., by failing to comply with, failing to successfully complete, or being terminated from an impaired practitioner treatment program.

(b) First Offense: Suspension until compliant up to Suspension until compliant with, followed by up to 5 years probation with conditions.

(c) Second or Subsequent Offense: Up to \$2,000.00 fine, Suspension until compliant followed by up to five years probation with conditions, or revocation.

(5)(4) The provisions of subsections (1) through (4)(3) above shall not be construed as to prohibit civil action or criminal prosecution as provided in Section 457.116 or 456.072, F.S., and the provision of subsections (1) through (4)(3) above shall not be construed so as to limit the ability of the Board to enter into binding stipulations with accused parties as per Section 120.57(4), F.S.

Specific Authority 456.079(1), 457.104 FS. Law Implemented 456.072, 456.079, 457.109 FS. History—New 12-8-86, Amended 8-6-89, Formerly 21AA-9.001, 61F1-9.001, Amended 11-21-95, Formerly 59M-9.001, Amended 8-3-00, 5-20-02, 5-24-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Acupuncture

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 15, 2005

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling**

RULE TITLE: Retired Status Fee  
RULE NO.: 64B4-4.0053

PURPOSE AND EFFECT: The Board proposes to approve a retired status fee of \$50.00 to be consistent with all of the other professions in the department.

SUMMARY: The proposed rule amendment establishes a retired status fee of \$50.00 to be consistent with all of the other professions in the department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.036(4)(b), 491.004(5) FS.

LAW IMPLEMENTED: 456.036(4)(b) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-4.0053 Retired Status Fee.

The fee for an active or inactive status licensee who chooses retired status is \$50.00.

Specific Authority 456.036(4)(b), 491.004(5) FS. Law Implemented 456.036(4)(b) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2005

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling**

RULE TITLES: Disciplinary Guidelines  
RULE NOS.: 64B4-5.001

Minor Violations, Notice of Noncompliance 64B4-5.005

PURPOSE AND EFFECT: The Board proposes to amend the existing rules to clarify what discipline will be imposed on a licensee practicing on retired status license.

SUMMARY: The proposed rule amendment amends the existing rules to clarify what discipline will be imposed on a licensee practicing on retired status license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 120.695, 456.073(3), 456.079, 468.365(4), 491.004(5) FS.

LAW IMPLEMENTED: 120.695, 456.072, 456.073(3), 456.079, 468.365, 491.009, 491.0149 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B4-5.001 Disciplinary Guidelines.

(1)(a) through (kk) No change.

(ll) Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program [Section 456.072(1)(gg), F.S.]

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE:</u>	Suspension until compliant with contract	\$1,000 fine, revocation
<u>SECOND OFFENSE:</u>	Suspension until compliant with contract	\$10,000 fine, revocation with

THIRD OFFENSE: Revocation

(2) through (4) No change.

Specific Authority 456.079, 491.004(5) FS. Law Implemented 456.079, 491.009 FS. History–New 3-5-89, Amended 1-3-91, 6-1-92, Formerly 21CC-5.001, Amended 1-9-94, Formerly 61F4-5.001, Amended 12-22-94, Formerly 59P-5.001, Amended 12-11-97, 10-1-00, 2-5-01, 10-15-02, 3-27-05,\_\_\_\_\_.

64B4-5.005 Minor Violations, Notice of Noncompliance.

(1) through (2)(l) No change.

(m) Practicing on a retired license for three (3) months or less as prohibited by Section 456.036(1), F.S.

(3) No change.

Specific Authority 120.695, 456.073(3), 491.004(5) FS. Law Implemented 120.695, 456.073(3), 491.009(2)(n), 491.0149 FS. History–New 1-4-90, Amended 1-7-92, Formerly 21CC-5.005, 61F4-5.005, Amended 1-7-96, Formerly 59P-5.005, Amended 12-11-97, 2-9-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 9, 2005

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling**

RULE TITLES: Renewal of Active License  
RULE NOS.: 64B4-6.001

Approved Courses for Continuing Education 64B4-6.002

PURPOSE AND EFFECT: For Rule 64B4-6.001, F.A.C., the Board proposes to clarify the rule regarding C.E. hours for pro bono work. For Rule 64B4-6.002, F.A.C., the Board proposes to draft rule for C.E. credit for attendance at board meetings and for board members serving on the board.

SUMMARY: For Rule 64B4-6.001, F.A.C., the proposed rule amendment clarifies the rule regarding C.E. hours for pro bono work. For Rule 64B4-6.002, F.A.C., the proposed rule amendment drafts rule for C.E. credit for attendance at board meetings and for board members serving on the board.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.013(6), 456.031(1)(a), 491.004(5), 491.007(2), 491.0085 FS.

LAW IMPLEMENTED: 456.013(6), (7), 456.031(1)(a), 491.007(2) 491.0085(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B4-6.001 Renewal of Active License.

(1) and (2) No change.

(a) and (b) No change.

(c) A maximum of six (6) of the required thirty (30) hours of continuing education may be earned for credit during one biennium by performing pro bono services to the indigent, underserved populations, or in areas of critical need within the State of Florida including but not limited to state mental institutions for the mentally retarded, the Department of Corrections, and health manpower shortages areas established by the United States Department of Health and Human Services. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines

produced by the United States Department of Health and Human Services. Such services must be approved in advance by the Board.

- 1. and 2. No change.
- (3) and (4) No change.

Specific Authority 456.013(6), 456.031(1)(a), 491.004(5), 491.007(2) FS. Law Implemented 456.013(6), (7), 456.031(1)(a), 491.007(2) FS. History—New 4-4-89, Amended 12-4-90, Formerly 21CC-6.001, Amended 1-9-94, Formerly 61F4-6.001, Amended 1-7-96, 12-29-96, Formerly 59P-6.001, Amended 2-9-99, 2-5-01, 2-7-05,\_\_\_\_\_.

64B4-6.002 Approved Courses for Continuing Education.  
(1) through (3) No change.

(4) Three (3) hours of continuing education credit may be obtained by attending one day of a Board Meeting at which disciplinary hearings are conducted by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, in compliance with the following:

- (a) The licensee must sign in with the Executive Director of the Board before the meeting day begins.
- (b) The licensee must remain in continuous attendance.
- (c) The licensee must sign out with the Executive Director for the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. The licensee may only receive CE credit for attending the Board meeting for that purpose solely. The licensee may not receive credit for that purpose if they are required or are attending the Board meeting for any other purpose.
- ~~(5)~~(4) No change.
- ~~(6)~~(5) No change.

Specific Authority 456.013(6), 491.004(5), 491.0085 FS. Law Implemented 456.013(6), 491.007(2), 491.0085(1) FS. History—New 4-4-89, Amended 10-16-90, 6-19-91, 9-2-91, 8-24-92, Formerly 21CC-6.002, Amended 1-9-94, Formerly 61F4-6.002, Amended 10-4-94, 12-22-94, 1-7-96, 12-29-96, Formerly 59P-6.002, Amended 12-11-97, 2-9-99, 8-9-00, 6-30-02, 7-8-03, 2-8-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2005

**DEPARTMENT OF HEALTH**  
**Board of Massage Therapy**

RULE TITLE: Retired Status and Reactivation of Retired Status License

PURPOSE AND EFFECT: To address retired status and reactivation from retired status.

RULE NO.:  
64B7-28.0044

SUMMARY: Placing a license in retired status and requirements for reactivating of the license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.013, 456.034, 456.036, 480.035(7), 480.0415, 480.044 FS.

LAW IMPLEMENTED: 456.013, 456.034, 456.036, 480.044, 480.0415 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.0044 Retired Status and Reactivation of Retired Status License.

(1) A licensee may place an active or inactive license in retired status at any time. If the license is placed in retired status at the time of renewal the licensee shall pay the retired status fee set forth in Rule 64B7-27.018, F.A.C. If the licensee chooses to place the license in retired status at any time other than at the time of license renewal the licensee shall pay a change of status processing fee of \$50.00 and the retired status fee.

(2) A licensee may reactivate a retired status license at any time, subject to meeting the following requirements:

- (a) Paying the reactivation fee described at Rule 64B7-27.019, F.A.C.;
- (b) Demonstrating satisfaction of the continuing education requirements that would have been imposed on an active status licensee under this title for each licensure biennial period in which the licensee was on retired status.

Specific Authority 456.013, 456.034, 456.036, 480.035(7), 480.0415, 480.044 FS. Law Implemented 456.013, 456.034, 456.036, 480.044, 480.0415 FS. History—New\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2005

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Provisions Governing All Supervisors or Monitoring Physicians

RULE NO.: 64B8-8.0021

PURPOSE AND EFFECT: This proposed rule is intended to address the required criteria with regard to supervision or monitoring of physicians on probation.

SUMMARY: The proposed rule sets forth the criteria for those physicians who supervise physicians who are on probation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 458.309, 459.331 FS.

LAW IMPLEMENTED: 458.331 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.0021 Provisions Governing All Supervisors or Monitoring Physicians.

(1) The supervisor/monitor shall be furnished with copies of the Administrative Complaint, Final Order, Stipulation (if applicable), and other relevant orders.

(2) The Respondent shall not practice without a supervisor/monitor unless otherwise ordered by the Board. The Respondent shall appear at the next meeting of the Board's Probation Committee with his proposed supervisor or monitor unless otherwise ordered.

(3) After the next meeting of the Probation Committee, Respondent shall only practice under the supervision of the supervisor or monitor. If for any reason the approved supervisor/monitor is unwilling or unable to serve, Respondent and the supervisor/monitor shall immediately notify the Board of Medicine Compliance Officer and Respondent shall cease practice until a temporary supervisor/monitor is approved. The Chairman of the Probation Committee may approve a temporary supervisor/monitor who may serve in that capacity until the next meeting of the Probation Committee at which time the Committee shall accept or reject a new proposed supervisor/monitor. If the Probation Committee or the Board

reject the proposed supervisor/monitor, Respondent shall cease practice until a new supervisor/monitor is approved by the Probation Committee and the Board.

(4) The supervisor/monitor must be a licensee under Chapter 458, F.S., in good standing, without restriction or limitation on his license and must serve as a volunteer without compensation. In addition, the Board may reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his or her license to practice medicine in this or any other jurisdiction. The supervisor/monitor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board. The Probation Committee or the Board may also reject any proposed supervisor/monitor for good cause shown.

Specific Authority 458.309, 459.331 FS. Law Implemented 459.331 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 28, 2005

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLES: Retirement Status Fee

RULE NOS.: 64B12-11.005

Duplicate License Fee

64B12-11.017

PURPOSE AND EFFECT: The Board proposes a new rule to add a fee for retirement status and amend rules to delete obsolete language.

SUMMARY: The proposed rule amendments will add a \$50.00 retirement status fee and delete obsolete language, with regard to wall certificates and duplicate license fees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.025(11), 484.005 FS.

LAW IMPLEMENTED: 456.025(11), 456.036 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B12-11.005 Retirement Status Fee.

The fee for retirement status of an active or inactive license shall be \$50.00.

Specific Authority 484.005 FS. Law Implemented 456.036 FS. History--New\_\_\_\_\_.

64B12-11.017 Duplicate License Fee.

(+) If a duplicate license is requested by a licensee, the fee is \$25.00 for the duplicate license.

~~(2) Licensees licensed prior to July 1, 1998, may obtain a wall certificate by submitting a written request to the Board along with a \$25.00 fee.~~

~~(3) If a duplicate wall certificate is requested by a licensee, the fee is \$25.00 for the duplicate wall certificate.~~

Specific Authority 456.025(11), 484.005 FS. Law Implemented 456.025(11) FS. History--New 2-23-93, Formerly 21P-11.017, 61G13-11.017, 59U-11.017, Amended 10-29-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 9, 2005

**DEPARTMENT OF HEALTH  
Council of Licensed Midwifery**

RULE TITLE: Risk Assessment RULE NO.: 64B24-7.004

PURPOSE AND EFFECT: The Department of Health proposes this amendment to allow a lesser standard in certain uncomplicated cases.

SUMMARY: The amendment provides a risk assessment of "2," which allows a midwife to assist the delivery of a baby where the mother has had uterine surgery followed by an uncomplicated vaginal birth.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.004(5), 467.005 FS.

LAW IMPLEMENTED: 467.015 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-7.004 Risk Assessment.

- (1) through (3)(a) No change.
- (b) Documented Problems in Maternal Medical History
  - 1. through 6. No change.
  - 7. Documented Problems in Obstetrical History.
    - a. through d. No change.
    - e. Uterus.
      - (i) Incompetent cervix, with related medical treatment. 3
      - (ii) Prior uterine surgery. 3
      - (iii) Prior uterine surgery followed by an uncomplicated vaginal birth. 2
    - f. through i. No change.
  - 8. through 10. No change.

Specific Authority 456.004(5), 467.005 FS. Law Implemented 467.015 FS. History--New 7-14-94, Formerly 61E8-7.004, 59DD-7.004, Amended 9-11-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela King

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lucy Gee

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 28, 2005

**DEPARTMENT OF HEALTH  
Division of Health Access and Tobacco**

RULE TITLES: General Regulations; Definitions 64F-12.001 Fees 64F-12.018

PURPOSE AND EFFECT: The 2003 Legislature passed Senate Bill 2312, The Prescription Drug Protection Act, that provided for a phase-in of enhanced drug regulation intended to further safeguard and protect the prescription drug supply in Florida. One of the provisions within that law is that an in-state or out-of-state prescription drug wholesaler must have a person certified as a designated representative and that person must be physically present at the permitted establishment during normal business hours, except for personal or family illness, scheduled vacation, or other authorized absence. The phrase 'other authorized absence' needs to be defined. The proposed rule also provides for an additional on-site inspection fee of

\$150 for each re-inspection required for an initial application because the applicant was not ready or available for a scheduled inspection. The bureau's agents schedule initial application inspections with the applicant. However, on an increasing frequency, the applicant fails to appear for the scheduled inspection or does not have the establishment conditions and policies and procedures required for initial inspection despite confirmation on the application and confirmed during the telephone call scheduling the inspection that these requirements have been met. This failure to be ready and available for inspection necessitates a subsequent inspection by the agents.

SUMMARY: This amendment defines the term 'authorized absence' as used in the statutes dealing with a designed representative. The rule also requires an additional on-site inspection fee of \$150 for each re-inspection required for an initial application because the applicant was not ready or available for a scheduled inspection.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There is no estimated regulatory impact related to this proposed rule amendment. A person can avoid any fees related to additional on-site inspections by having the establishment ready and available for inspection at the scheduled appointment time. But, if an additional inspection is necessary, then the fee would be \$150 per additional inspection.

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

SPECIFIC AUTHORITY: 499.012, 499.0121, 499.04, 499.041, 499.05 FS.

LAW IMPLEMENTED: 499.003, 499.012, 499.0121, 499.041 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WIL NOT BE HELD):

TIME AND DATE: 11:00 a.m., Tuesday, December 13, 2005  
 PLACE: 2818-A Mahan Drive, Tallahassee, Florida. If special accommodations are needed to attend this workshop because of a disability, please contact Maxine Wenzinger, (850)922-5190

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Stovall, Compliance Manager, 2818-A Mahan Drive, Tallahassee, Florida 32308; (850)487-1257, ext. 210; sandra\_stovall@doh.state.fl.us.fl.

THE FULL TEXT OF THE PROPOSED RULES IS:

- 64F-12.001 General Regulations; Definitions
- (1) No change.

(2) In addition to definitions contained in Sections 499.003, 499.012(1), 499.0121(6), 499.0122(1), 499.028(1), and 499.61, F.S., the following definitions apply to Rule Chapter 64F-12, F.A.C:

(a) through (b) No change.

(c) Authorized absence, for purposes of Section 499.012(11)(d), F.S., means the management or owner of a permitted wholesale establishment has approved in writing in a document that is available for inspection under Section 499.051, F.S., at the time of the inspection, the absence of the designated representative for a period not to exceed 60 calendar days for situations such as: the birth of the employee's child and to care for the newborn child; the placement of a child with the employee for adoption or foster care; the employee is needed to care for a family member (child, spouse or parent) with a serious health condition; or the employee's own serious health condition makes the employee unable to perform the functions of the designated representative.

(c) through (cc) renumbered (d) through (dd) No change.

Specific Authority 499.05, 499.61, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.0054, 499.0057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.66, 499.67, 499.71, 499.75 FS. History--New 1-1-77, Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-26-99, 4-17-01, 6-30-03, 10-7-03, 1-1-04, 1-29-04, 5-29-05, \_\_\_\_\_.

64F-12.018 Fees.

(1) through (3) No change.

(4) Miscellaneous other fees are as follows:

<u>Description of other service fees</u>	<u>Fee</u>
Certification of Designated Representative	\$150
Initial Application / On-site Inspection	\$150

(The initial application / on-site inspection fee is non-refundable.)

If the department must re-inspect for an initial application because the applicant does not have security, climate control, a quarantine area, or written policies and procedures, as required by the particular permit for which the applicant is applying; fails to appear for a scheduled inspection; or is otherwise not ready for inspection on or after the date indicated on the application form, an additional on-site inspection fee of \$150 is required for each re-inspection.

Prescription Drug Wholesaler Bond / Security or Out-of-State Prescription Drug

Wholesaler Bond / Security, as set forth in Section 499.012(2), F.S. \$100,000

Change of Address Fee:

A relocation fee of \$100 must be paid for each permitted person relocating for which an on-site inspection is required. If no on-site inspection is required, the relocation fee is \$25 per permit. If a permitted person has multiple permits under the same permitted name and address and



relocates any or all permitted activities concurrently to the new location, then only one \$100 fee is required plus \$25 for all other permits.

Product Registration (per drug or cosmetic product registered) \$20 \*

\*The registration fee for a drug or cosmetic product being amended to an existing product registration that has 12 months or less until it expires is \$10.

Listed Identical Products \$ -0-  
 Free Sale Certificate \$ 25  
 Signature copy (requested concurrently) \$ 2  
 Delinquent Establishment Permit Renewal \$100

(5) No change.

Specific Authority 499.01, 499.012, 499.015, 499.04, 499.041, 499.05 FS. Law Implemented 499.01, 499.012, 499.015, 499.04, 499.041 FS. History—New 7-1-96, Formerly 10D-45.0544, Amended 4-17-01, 7-6-03, 1-1-04, 9-13-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Hill, Chief of Statewide Pharmaceutical Services  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil E. Williams, Director, Division of Health Access and Tobacco  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 4, 2005

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Workers' Compensation**

RULE CHAPTER TITLE: RULE CHAPTER NO.:  
 Rules for Self-Insurers Under the Workers' Compensation Act 69L-5

RULE TITLES: RULE NOS.:  
 Definitions 69L-5.101  
 General Requirements 69L-5.102  
 Application 69L-5.103  
 Financial Statement or Financial Summary 69L-5.106

PURPOSE AND EFFECT: The amendments update definitions and change the financial reporting requirements from three to one year of audited financial statements for the workers' compensation self-insurance applicants.

SUMMARY: Workers' compensation self-insurance applications.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 440.38(2)(b), 440.591 FS.

LAW IMPLEMENTED: 440.38(1)(b) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., January 9, 2006

PLACE: Suite 104J, Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory Jenkins, Chief of Monitoring and Audit, Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4224, telephone (850)413-1608

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69L-5.101 Definitions.

(1) through (3) No change.

(4) "Financial Statement(s)" – A presentation of financial data, including accompanying notes, derived from accounting records that purports to show financial position and intended to communicate an entity's economic resources or obligations at a point in time, and the results of operations and cash flows for a period of time, in accordance with Generally Accepted Accounting Principles. "Financial Statement" — A Report including the balance sheet, statement of operations, statement of cash flows, statement of changes in capital, and appropriate footnotes for the most recent fiscal year. The financial statements shall be prepared in accordance with the United States Generally Accepted Accounting Principles as set forth in GAAP Interpretation and Application of Generally Accepted Accounting Principles 1996 which is hereby incorporated by reference into Rule Chapter 69L-5, F.A.C. The publication is available for review at the Division of Workers' Compensation, Bureau of Monitoring and Audit, self-insurance Section, 2012 Capital Circle, S.E., Hartman Building, Suite 200, Tallahassee, FL. 32399 4224. The publication may be purchased for \$48. Applicants approved subsequent to January 1, 1997 shall submit financial statements which are audited in accordance with Generally Accepted Auditing Standards. All Amounts in the financial statement shall be stated in United States Currency.

(5) No change.

(6) "Generally Accepted Accounting Principles" – Accounting principles generally accepted in the United States of America in effect as of June 1, 2005, including, but not limited to, Accounting Principles Board Opinions Nos. 1 to 31 as published by the American Institute of Certified Public Accountants, and statements of accounting standards and interpretations thereof, as published by the Financial

Accounting Standards Board (FASB). These materials are entitled Original Pronouncements 2005/2006 Edition, vols. I, II, & III, dated June 1, 2005, and available from FASB, 401 Merritt 7, P. O. Box 5116, Norwalk, CT 06856-5116, (800)748-0659, <http://www.fasb.org>.

(7) "Generally Accepted Auditing Standards" – Auditing standards generally accepted in the United States of America in effect as of January 1, 2005, including, but not limited to, general, field work and reporting standards approved and adopted by the membership of the American Institute of Certified Public Accountants (AICPA), as amended by the AICPA Auditing Standards Board (ASB), standards promulgated by the ASB in the form of Statements on Auditing Standards and standards promulgated by the Public Company Accounting Oversight Board (PCAOB). The AICPA materials are entitled Codification of Statements on Auditing Standards, dated January 1, 2005, available from the AICPA at <http://www.cpa2biz.com> or call (888)777-7077. The rules and standards of the PCAOB are available at no charge at <http://www.pcaobus.org>.

- ~~(8)(6)~~ No change.
- ~~(9)(7)~~ No change.
- ~~(10)(8)~~ No change.
- ~~(11)(9)~~ No change.
- ~~(12)(10)~~ No change.
- ~~(13)(11)~~ No change.

Specific Authority ~~440.38(1)(b), (2)(b), 440.5705, 440.591~~ FS. Law Implemented ~~440.38(1)(b),(2), 440.57, 624.24~~ FS. History–New 10-1-82, Amended 12-17-85, Formerly 38F-5.30, Amended 3-11-87, 8-28-91, 12-19-93, Formerly 38F-5.030, Amended 5-19-97, Formerly 38-5.101, 4L-5.10, Amended \_\_\_\_\_.

69L-5.102 General Requirements.

- (1) through (2)(a) No change.

(b) Have at least three (3) years' Financial Statements or Financial Summaries in the name of the applicant. The Financial Statements for the most recent year shall be audited in accordance with Generally Accepted Auditing Standards. If the financial statements or financial summaries are prepared on a comparative basis, such statements shall be the most recent fiscal year ending statement and the preceding fiscal year ending statement. If the latest Financial Statement is over six (6) months old at the time of application, an interim statement up to, and including, their latest fiscal quarter must be included and must be certified by a corporate officer.

- (3) through (4) No change.

Specific Authority ~~440.38(1)(b),(6), (2)(b), 440.591~~ FS. Law Implemented ~~440.38(1)(b)(6)~~ FS. History–New 5-19-97, Formerly 38F-5.102, 4L-5.102, Amended \_\_\_\_\_.

69L-5.103 Application.

- (1) through (2) No change.
- (3) No change.

(a) The most recent past three years' Financial Statements in the name of the applicant. The Financial Statements for the most recent year shall be audited in accordance with Generally Accepted Auditing Standards. If the Financial Statements for the two years prior to the most recent year have been audited in accordance with Generally Accepted Auditing Standards, the audit report(s) on these Financial Statements shall also be submitted.

- (b) through (g) No change.
- (4) No change.

Specific Authority ~~440.38(1)(b),(6), (2)(b), 440.591~~ FS. Law Implemented ~~440.38(1)(b)(6)~~ History–New 5-19-97, Formerly 38F-5.103, 4L-5.103, Amended \_\_\_\_\_.

69L-5.106 Financial Statement or Financial Summary.

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

(c) The Financial Statement shall be audited in accordance with Generally Accepted Auditing Standards.

(d) Financial Statements submitted for employers currently authorized to self-insure under a privilege granted prior to January 1, 1997, are not required to be audited in accordance with Generally Accepted Auditing Standards.

- (3) through (6) No change.

Specific Authority ~~440.38(1)(b),(6), (2)(b), 440.591~~ FS. Law Implemented ~~440.38(1)(b),(2)(b)~~ FS. History–New 10-1-82, Formerly 38F-5.47, Amended 6-12-91, 12-19-93, 5-14-96, Formerly 38F-5.047, Amended 5-19-97, Formerly 38F-5.106, 4L-5.106, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gregory Jenkins, Chief of Monitoring and Audit, Division of Workers' Compensation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dan Sumner, Assistant Director, Division of Workers' Compensation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 16, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2005

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLE: RULE NO.:

Unfair Discrimination Because of Travel Plans 69O-125.003

PURPOSE, EFFECT, AND SUMMARY: To identify the denial or pricing of life insurance or health insurance to a person based upon his or her travel plans as a prohibited act or practice pursuant to Section 626.9541(1)(g), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 626.9611 FS.

LAW IMPLEMENTED: 626.951, 626.9521, 626.9541(1)(g) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:30 a.m., December 16, 2005

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Frank Dino, Life and Health Product Review, Office of Insurance Regulation, E-mail frank.dino@fldfs.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-125.003 Unfair Discrimination Because of Travel Plans.

(1) No insurer nor person authorized to engage in the business of insurance in the State of Florida shall refuse to issue any policy, contract or certificate of life insurance, annuity contract, accident, disability or health insurance, solely because of the intent of the applicant to engage in future lawful foreign travel or based upon past lawful foreign travel, unless the insurer can demonstrate that insureds who have traveled or intend to travel are a separate actuarially supportable class whose risk of loss is different from those insureds who have not traveled and do not intend to travel.

(2) No insurer nor person authorized to engage in the business of insurance in the State of Florida, shall, in determining the rates charged an applicant for coverage under any policy, contract or certificate of life insurance, annuity contract, accident, disability or health insurance, issued or to be issued to be delivered to any resident of this state, consider the intent of the applicant to engage in future lawful foreign travel or past lawful travel of the applicant, unless the insurer can demonstrate that insureds who have traveled or intend to travel are a separate actuarially supportable class whose risk of loss is different from those insureds who have not traveled and do not intend to travel.

(3) Violation of this rule constitutes unfair discrimination prohibited by Section 626.9541(1)(g), Florida Statutes.

Specific Authority 626.9611 FS. Law Implemented 626.951, 626.9521, 626.9541(1)(g) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frank Dino, Life and Health Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rich Robleto, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 2005

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 9, 2005 and September 23, 2005

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLES:	RULE NOS.:
Initial Notice	69O-154.303
Notice of Occurrence of a Qualifying Event	69O-154.304
Election and Premium Notice Form	69O-154.305
Election, Billing and Payment of Premium	69O-154.306

PURPOSE, EFFECT AND SUMMARY: These rule amendments provide implementation of COBRA continuation for small groups with fewer than 20 employees, make conforming changes to the rule due to the statutory change and update the form being used. Rule 69O-154.303, F.A.C., is repealed as an outdated provision which was only applicable to the initial implementation in 1997.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No SERC has been prepared.

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

SPECIFIC AUTHORITY: 624.308(1), 627.6692(9) FS.

LAW IMPLEMENTED: 624.307(1), 627.6692(5) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:30 a.m., December 15, 2005

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Life and Health Product Review, Office of Insurance Regulation, E-mail frank.dino@fldfs.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-154.303 Initial Notice.

Specific Authority 624.308(1), 627.6692(9) FS. Law Implemented 624.307(1), 627.6692(8) FS. History—New 4-24-97, Formerly 4-154.303, Repealed.

69O-154.304 Notice of Occurrence of a Qualifying Event.

Each contract, policy, certificate and handbook must contain a Notice of Occurrence of a Qualifying Event provision. This provision must include the information required by Section 627.6692(5)(d)1., Florida Statutes. The beneficiary shall notify the carrier in writing within sixty-three (63) ~~30~~ days, as evidenced by postmark, after the occurrence of the qualifying event or the termination of coverage whichever is later.

Specific Authority 624.308(1), 627.6692(9) FS. Law Implemented 624.307(1), 627.6692(5) FS. History—New 4-24-97, Formerly 4-154.304, Amended.

69O-154.305 Election and Premium Notice Form.

(1) Within 14 days of the date that the carrier receives the notice of occurrence of a qualifying event from the qualified beneficiary the carrier must send to the employee, covered spouse and covered dependents, by certified mail, the Election and Premium Notice Form OIR-B2-1261 (REV 8/03 ~~2/97~~), which is hereby adopted and incorporated by reference. Copies of the forms are available and may be printed from the Office’s website: [http://www.flair.com/lh\\_fr/is\\_lhfr\\_Statutory%2Form%20and%20%20Reporting.htm](http://www.flair.com/lh_fr/is_lhfr_Statutory%2Form%20and%20%20Reporting.htm). Copies can be obtained from the Office of Insurance Regulation, Bureau of Life and Health Forms and Rates, 200 East Gaines Street, Tallahassee, Florida 32399 0328.

(2) Carriers may develop a similar form which must include the information in Form OIR-1261. Any similar form must be filed and approved before use pursuant to the requirements of Section 627.410, Florida Statutes.

Specific Authority 624.308(1), 627.6692(9) FS. Law Implemented 624.307(1), 627.6692(5) FS. History—New 4-24-97, Formerly 4-154.305, Amended.

69O-154.306 Election, Billing and Payment of Premium.

(1) The employee, covered spouse and covered dependents have until the 30th day, as evidenced by postmark, after receiving the Election and Premium Notice form described in Rule 69O-154.305~~6~~, F.A.C., to elect coverage continuation in writing and pay the premium to the carrier.

(2) The carrier or its designee must process all elections, within 30 days and provide coverage retroactively to the day coverage would have otherwise terminated due to the qualifying event. The first premium payment must include the coverage paid to the end of the month in which the first payment of premium is made.

Specific Authority 624.308(1), 627.6692(9) FS. Law Implemented 624.307(1), 627.6692(5) FS. History—New 4-24-97, Formerly 4-154.306, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frank Dino, Actuary, Life and Health Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rich Robleto, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2005

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

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: 1S-2.025  
 RULE TITLE: Elections Fraud Complaints  
 NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-2.025, F.A.C., published in the F.A.W., Page 3498, Vol. 31, No. 40, on October 7, 2005, has been changed to reflect comments received from the public before and during the hearing held on October 31, 2005. The summary of the substantive changes made to the proposed rule text and the form incorporated by reference is as follows:

(1) Subsection (5) of the rule is changed to correct the phrase “illegally insufficient” to read properly as “legally sufficient.”

(2) The web hyperlink cited in the rule for downloading Form DS-DE 34 is changed to the Division of Elections’ homepage at: <http://election.dos.state.fl.us>.

(3) The rule is changed to cite to Section 20.10, F.S., as an additional source for specific authority for rulemaking by the Department of State.

(4) Form DS-DE 34 is changed to request day and evening phone numbers in lieu of home and work phone numbers. Additionally, the form is changed to elicit an e-mail address which is optional.

(5) Form DS-DE 34 is changed to add the following statement to the end of the form: It is a second degree misdemeanor, punishable as provided in Section 775.082, and Section 775.083, F.S., for any person to knowingly make a false official statement.

(6) Form DS-DE 34 is changed to eliminate the incorrect reference to “1(877)Voterfraud”

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria Matthews, Division of Elections, Office of General Counsel, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, (850)245-6536