

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Aquaculture

RULE NOS.:	RULE TITLES:
5L-1.007	Container Identification, Terminal Sale Date; Prohibitions
5L-1.008	Shellfish Handling

**PURPOSE AND EFFECT:** The amendments propose to further protect the health of oyster consumers and are necessary to ensure that the State of Florida meets the requirements of the National Shellfish Sanitation Program (NSSP) as it relates to *Vibrio vulnificus*. The proposed rule amendments impact commercial harvesting and processing of oysters.

**SUMMARY:** The proposed amendments apply to commercial oyster harvesting and processing in Florida in order to protect the health of oyster consumers. Specifically, the proposed amendments remove multiple cooling options for oyster shellstock and implements one set of sequential time limits for the months from April through November by specifying shipping and receiving temperatures. Additionally, the text of Rule 5L-1.008, F.A.C., was reorganized. Seven workshops were held for interested parties across the state of Florida, in the principal areas of oyster industry activity.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The Agency has determined that this will have an impact on small business. An SERC has been prepared by the agency.

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

**RULEMAKING AUTHORITY:** 597.020 FS.

**LAW IMPLEMENTED:** 597.020 FS.

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

**DATE AND TIME:** April 29, 2011, 2:00 p.m. – 5:00 p.m. E.S.T.

**PLACE:** Apalachicola Community Center, 1 Battery Park, Apalachicola, FL 32320

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Chris Brooks, Division of Aquaculture, at

(850)488-4033. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Chris Brooks, Division of Aquaculture, 1203 Governor’s Square Boulevard, Suite 501, Tallahassee, Florida 32301, Phone: (850)488-4033

THE FULL TEXT OF THE PROPOSED RULES IS:

5L-1.007 Container Identification, Terminal Sale Date; Prohibitions.

(1) Shucked shellfish container – The packer’s or repacker’s shellfish processing plant certification license number preceded by the state abbreviation must be embossed, imprinted, lithographed, or otherwise permanently and legibly recorded on the external body of containers or on the lid if the lid becomes an integral part of the container during the sealing process (Example: FL-872-SP). Containers shall permanently indicate type of product, quantity, and name and address of packer, repacker, or distributor. Containers of fresh shellfish, with a capacity of less than 64 ounces, shall further clearly and permanently bear the terminal sale date, by the numerical month, day, and last digit of the year. Containers of fresh shellfish with a capacity of 64 ounces or more, shall bear the actual shucking date by numerical month, day, and last digit of the year, in that order (Example: 01015). Reusable bulk storage containers shall be identified with state of origin, harvest date, and shuck date. Containers of frozen or previously frozen shellfish shall further clearly and permanently bear the date of shucking by numerical month, day, and last digit of the year, in that order (Example: 02097). Previously frozen shucked shellfish shall also have the freeze date and the thaw date following the same format. The terminal sale date for previously frozen shucked shellfish will be calculated by adding the day of shucking plus amount of time under refrigeration if not frozen, and adding the days that the product has been held thawed. Repacked shellfish containers shall also bear an appropriate code identifying the original packer. If oysters exceed the requirements found in subsection 5L-1.008(5), (6), (7), (8) ~~or (9)~~, F.A.C., the shucked shellfish container may be identified with the language “FOR POST HARVEST PROCESSING ONLY”.

(2) No change.

(3) The commercial harvester’s tags shall contain legible waterproof indelible information arranged in the specific order as follows:

(a) through (g) No change.

~~(h) The identification of the cooling option if used, including complete on-board cooling option (subsection 5L-1.008(7), F.A.C.), partial on-board cooling option (subsection 5L-1.008(8), F.A.C.), or rapid cooling option (subsection 5L-1.008(9), F.A.C.) for oysters harvested during the months of May through October.~~

(4) Bulk tagging is allowed for those aquaculturists operating with an aquaculture certificate. A bulk tag, containing the information required in paragraphs (3)(a)-(g) ~~and (h)~~, where applicable, along with the name of the certified shellfish dealer which the product is consigned to, shall be completed at each harvest location.

(5) Bulk tagging, by a certified shellfish dealer, while washing, packing, during depuration, wet storing, staging and intrastate transport of shellfish is permissible up to final packaging only when the lot container (i.e., pallet), contains shellfish which are harvested on the same day, from the same harvest area, and have the same intended use (i.e., for halfshell consumption, for shucking, or for further processing), and is tagged as follows:

(a) through (e) No change.

~~(f) The identification of the cooling option if used, including complete on-board cooling option (subsection 5L-1.008(7), F.A.C.), partial on-board cooling option (subsection 5L-1.008(8), F.A.C.), or rapid cooling option (subsection 5L-1.008(9), F.A.C.) for oysters harvested during the months of May through October.~~

(6) The dealer's tag shall contain legible, waterproof, indelible information arranged in the specific order as follows:

(a) through (g) No change.

(h) If shellstock exceeds the requirements in subsection 5L-1.008~~(5), (6), (7), (8) or (9)~~, F.A.C. the shellstock dealer tag shall be identified with the language "FOR SHUCKING ONLY BY A CERTIFIED DEALER" or "FOR POST HARVEST PROCESSING ONLY". If the oyster shellstock meat temperature fails to cool to 55° F or less within 5 hours of being placed in refrigerated storage, the oyster shellstock shall be labeled with the language "FOR SHUCKING ONLY BY A CERTIFIED DEALER" or "FOR POST HARVEST PROCESSING ONLY". The certified shellfish dealer shall destroy product if shellstock meat temperature is greater than 60° F. Shellstock labeled as "FOR SHUCKING ONLY BY A CERTIFIED DEALER" or "FOR POST HARVEST PROCESSING ONLY" must be shucked, Post Harvest Processed or sold only to a certified shucker packer or PHP processor.

(i) through (j) No change.

(7) through (8) No change.

(9) In addition to the identification and labeling requirements of subsections (1) and (2), containers of fresh, frozen, previously frozen or repacked shellfish or containers of shellstock must indicate the state of origin of the shellfish, e.g., LA, MS, TX. For shellstock this requirement can be by paragraphs (6)(a) and (b) above. Shellstock oysters received from other states must be processed according to the labeling requirements and the certified dealer's HACCP plan must document that they were processed in accordance with the labeling requirements.

(10) through (12) No change.

Rulemaking Authority 597.020 FS. Law Implemented 597.020 FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, 8-30-89, 5-6-93, 9-14-93, 8-21-94, Formerly 16R-7.010, Amended 9-1-95, 5-8-96, 2-6-97, 10-12-97, 2-12-98, 2-25-98, 7-1-98, 11-13-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7.010, Amended 6-19-00, 8-9-00, 10-14-01, 5-29-02, 8-17-04, 9-28-04, 7-28-08, 7-29-08, 4-26-10, \_\_\_\_\_.

5L-1.008 Shellfish Handling.

Subsections 5L-1.008(1)-(7) Applicable to all shellfish:

(1) No change.

(2) Boats and vehicles – Boats and vehicles used in harvesting or transporting shellfish shall be constructed, operated, and maintained, so as to protect the shellfish from contamination. The following conditions shall apply at all times:

(a) Fuel tanks or other sources of contamination shall not be permitted to come into contact with shellfish.

(b) All boats used for commercial harvesting and handling shellfish shall be designed in such a way to prevent shellfish from coming in contact with any bilge water.

(c) No dogs or other animals or pets shall be allowed at any time on vessels or vehicles used to harvest or transport shellfish.

(d) No bodily wastes shall be discharged overboard from a harvest vessel.

(e) Shellstock harvested with commercial intent shall be protected by effective shading on harvest boats and vehicles to protect shellstock from exposure to sun, birds, and other adverse conditions.

(f) Shellfish shall be held under conditions which allows air circulation and promotes evaporative cooling.

(3) through (4) No change.

(5) Except as provided in subsections 5L-1.008(8)-(10), F.A.C., Throughout the year, it is harvester's responsibility that shellfish shall be harvested between sunrise and sunset as established by the U.S. Weather Service. During the months of November, December, January, February, and March, the harvester shall assure that shellfish shall be delivered to a certified shellfish dealer by 10:00 p.m. of the same day as harvest. During the months of April, May, and October, harvesters shall assure that clams shall be delivered to a certified shellfish dealer within twelve (12) hours of the time of harvest. During the month of April, the harvester shall assure that oysters shall be delivered to a certified shellfish dealer within twelve (12) hours of the time of harvest. During the months of May, June, and July, the harvesters shall assure that oysters shall be delivered to a certified shellfish dealer by 11:30 a.m. unless authorized in a certified dealer HACCP plan for the complete on-board cooling option detailed in subsection 5L-1.008(7), F.A.C., or authorized in a certified shellfish dealer HACCP plan for the partial on-board cooling option detailed in subsection 5L-1.008(8), F.A.C., or authorized in a certified shellfish dealer HACCP plan for the rapid cooling

option detailed in subsection 5L-1.008(9), F.A.C. During the months of August, September, and October, the harvesters shall assure that oysters shall be delivered to a certified shellfish dealer by 12:00 p.m. unless authorized by the Department as detailed in subsection 5L-1.008(7), F.A.C., for complete on-board cooling or authorized in a certified shellfish dealer HACCP plan for the partial on-board cooling option detailed in subsection 5L-1.008(8), F.A.C., or authorized in a certified shellfish dealer HACCP plan for the rapid cooling option detailed in subsection 5L-1.008(9), F.A.C. During the months of June, July, August, and September, the harvester shall assure that clams shall be delivered to a certified shellfish dealer within ten (10) hours of the time of harvest, or within the same day as harvest, whichever is earlier. All shellfish shall be delivered directly to a certified shellfish dealer possessing a shellfish processing plant certification license.

(6) Once received by a certified shellfish dealer, the shellstock lot shall be immediately processed and placed under temperature control and until sale to final consumer, the shellstock shall be maintained at an environmental temperature of 45° F or less and not be permitted to remain outside of temperature control for more than 2 hours cumulative at points of transfer within the processing plant such as loading docks or in the plant during processing except for the process described in paragraph 5L-1.013(3)(b), F.A.C. ~~All certified shellfish dealers handling oysters must have a cooling system capable of reducing the internal temperature of shellstock oysters to 55 degrees F or less within 8 hours.~~

(7) Shellstock leaving a certified shellfish dealer shall be pre-cooled to 50 degrees F or less and shall be transported in an enclosed refrigerated conveyance with doors closed securely. The refrigeration unit shall be capable of maintaining an ambient temperature of 45 degrees F or less at all times. Certified shellfish dealers shall not accept shellstock from other certified shellfish dealers unless the product temperature is 50 degrees F or less. Complete On Board Cooling Option— On-board cooling equipment includes but is not limited to systems using ice, mechanical refrigeration or vacuum cooling. If a commercial oyster harvester is using on-board cooling, the maximum time oysters can remain outside the cooling system is 1 hour and the harvester must demonstrate to the department that the on-board cooling system is capable of reducing the internal temperature of oysters to 55 degrees F or less within 9 hours or less. Commercial harvesters using complete on-board cooling systems must deliver the oysters to a certified shellfish dealer no later than 4:00 p.m. Certified shellfish dealers electing to purchase oysters from harvesters using complete on-board cooling systems must develop and demonstrate in their HACCP plan that the cooling rates on-board a vessel and in the certified shellfish dealer cooling system provide a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C., in order to be labeled in compliance with subsection 5L-1.007(6), F.A.C. Certified shellfish dealers electing to purchase oysters from harvesters using such complete

~~on-board cooling systems must list the harvester name, harvester license number, the maximum time oysters can be unrefrigerated on-board a vessel and the total number of hours required to reduce the internal temperature of oysters to 55 degrees F or less in their HACCP plan. Written approval must be received from the department prior to using such an on-board cooling system.~~

Subsections 5L-1.008(8)-(9) Applicable to oysters only:

(8) All certified shellfish dealers handling oysters must have a cooling system capable of reducing the internal temperature of shellstock oysters to 55 degrees F or less within 5 hours. Certified dealers must develop and demonstrate in their HACCP plan that their cooling system is capable of reducing the internal temperature of oysters to 55 degrees F or less within 5 hours or less for all months of the year.

(9) Commercial oyster harvester times.

(a) During the months of December, January, February, and March, the commercial harvester shall deliver oysters to a certified shellfish dealer by 10:00 p.m. of the calendar day in which they were harvested.

(b) During the months of April, May, October and November, the commercial harvester shall deliver oysters to a certified shellfish dealer by 1:00 p.m. of the calendar day in which they were harvested. During the months of April, May, October and November, the certified shellfish dealer shall place the harvested oysters in refrigerated storage by 2:00 p.m. of the calendar day in which they were harvested.

(c) During the months of June and September, the commercial harvester shall deliver oysters to a certified shellfish dealer by 12:00 p.m. of the calendar day in which they were harvested. During the months of June and September, the certified shellfish dealer shall place the harvested oysters in refrigerated storage by 1:00 p.m. of the calendar day in which they were harvested.

(d) During the months of July and August, the commercial harvester shall deliver oysters to a certified shellfish dealer by 11:00 a.m. of the calendar day in which they were harvested. During the months of July and August, the certified shellfish dealer shall place the harvested oysters in refrigerated storage by 12:00 p.m. of the calendar day in which they were harvested.

(e) Any oysters not delivered to a certified dealer by the times specified in paragraphs (a)-(d) must be returned to the nearest Prohibited shellfish harvesting waters by the harvester on the same calendar day in which they were harvested.

(8) Partial On Board Cooling Option— Partial on board cooling equipment includes but is not limited to systems using ice, mechanical refrigeration or vacuum cooling. If a commercial oyster harvester is using partial on-board cooling, the maximum time oysters can remain outside the cooling system is 1 hour and the harvester must demonstrate to the department that the on-board cooling system is capable of reducing the internal temperature of oysters to 65 degrees F or

less within 7 hours or less. Commercial harvesters using partial on-board cooling systems must deliver the oysters to a certified shellfish dealer no later than 3:00 p.m. Certified shellfish dealers electing to purchase oysters from harvesters using on-board cooling systems must develop and demonstrate in their HACCP plan that the cooling rates on-board a vessel and in the certified shellfish dealer cooling system provide a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C., in order to be labeled in compliance with subsection 5L-1.007(6), F.A.C. Certified shellfish dealers electing to purchase oysters from harvesters using such on-board cooling systems must list the harvester name, harvester license number, the maximum time oysters can be unrefrigerated on-board a vessel and the total number of hours required to reduce the internal temperature of oysters to 55 degrees F or less in their HACCP plan. Prior to implementing the HACCP plan the certified shellfish dealer must have written approval from the Department.

(9) Rapid Cooling Option — Rapid cooling equipment includes but is not limited to systems using ice, mechanical refrigeration or vacuum cooling. If a certified shellfish dealer elects to rapidly cool oysters, the maximum cool-down time to 55 degrees F or less must not exceed 2 hours. Commercial oyster harvesters working with certified shellfish dealers using the rapid cooling option must deliver oysters to the certified shellfish dealer no later than 2:00 p.m. The certified shellfish dealers must develop and demonstrate in their HACCP plan that the cooling rates in combination with extended harvest times assure a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C., in order to be labeled in compliance with subsection 5L-1.007(6), F.A.C. Certified shellfish dealers electing this option, must list the harvester name, harvester license number, the maximum time oysters can be unrefrigerated on board vessel and the total number of hours required to reduce the internal temperature of oysters to 55 degrees F or less in their HACCP plan. Prior to implementing the HACCP plan the certified shellfish dealer must have written approval from the Department.

(10) Shellfish leaving a certified shellfish dealer must be transported in an enclosed, refrigerated conveyance with doors closed securely. The refrigeration unit must be capable of maintaining an ambient temperature of 45 degrees F or less at all times.

Subsection 5L-1.008(10) Applicable to clams only:

(10) Commercial clam harvester times.

(a) During the months of November, December, January, February, and March, the commercial harvester shall deliver clams to a certified shellfish dealer by 10:00 p.m. of the same day as harvest.

(b) During the months of April, May, and October, commercial harvesters shall deliver clams to a certified shellfish dealer within twelve (12) hours of the time of harvest, or within the same day as harvest, whichever is earlier.

(c) During the months of June, July, August, and September, the commercial harvester shall deliver clams to a certified shellfish dealer within ten (10) hours of the time of harvest, or within the same day as harvest, whichever is earlier.

Rulemaking Authority 597.020 FS. Law Implemented 597.020 FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, Formerly 16R-7.011, Amended 7-3-95, 2-6-97, 3-18-99, 6-23-99, Formerly 62R-7.011, Amended 8-9-00, 5-29-02, 7-29-08, 4-26-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Leslie Palmer, Director, Division of Aquaculture

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Adam Putnam, Commissioner, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 2010

**STATE BOARD OF ADMINISTRATION**

RULE NOS.:	RULE TITLES:
19-11.002	Beneficiary Designation for FRS Investment Plan
19-11.003	Distributions from FRS Investment Plan Accounts
19-11.009	Reemployment with an FRS-covered Employer after Retirement

PURPOSE AND EFFECT: To update certain procedures concerning members who utilize an incorrect beneficiary designation form; to provide that a beneficiary who unlawfully kills or procures the death of a member forfeits all rights to the member’s benefits; to indicate under what circumstances an account will be established for a beneficiary; to add specific information pertaining to distributions currently set forth in Rule 12-19.006, F.A.C.; to clarify information concerning required minimum distributions; to add information regarding member requests seeking documentation of a disbursement made prior to August 30, 2007, and to reflect recent legislative changes pertaining to employment after retirement.

SUMMARY: To update information concerning beneficiary designations, beneficiaries, distributions, and required minimum distributions; to add certain information concerning documentation of disbursements made prior to a certain date; and to reflect recent legislative changes pertaining to reemployment after retirement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 121.4501 (3)(c)4.,(8)(a) FS.  
LAW IMPLEMENTED: 121.021(29), (39), 121.091(5)(j), (8), (9), 121.4501(2), (20), 121.591, 121.77, 732.802 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Monday, May 16, 2011, 9:00 a.m. – 11:00 a.m.

PLACE: Hermitage Room, The Hermitage Centre, 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ruth A. Smith, Assistant General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, Florida 32308, telephone (850)413-1182, ruth.smith@sbafla.com

THE FULL TEXT OF THE PROPOSED RULES IS:

19-11.002 Beneficiary Designation for FRS Investment Plan.

(1) through (3) No change.

(4) A member may name a beneficiary or beneficiaries at any time, as follows:

(a) A member may name a beneficiary or beneficiaries to receive the assets of the member's FRS Investment Plan account, either sequentially or jointly.

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

(c) A primary beneficiary is someone who will receive the member's funds from the FRS Investment Plan account, if that person is living at the death of the member. If there are more than one primary beneficiary, named with percentages of the funds, they will each receive their member-designated percentages if they are still living at the death of the member. Example: if the member names his four sons, in equal shares (25% each), but two of the four sons die before their father, the other two living sons split the funds two ways, 50% each.

(d) A contingent beneficiary is one or more persons who are named, in case all primary beneficiaries die before the member. Naming a contingent beneficiary is optional. The member does not have to name anyone as a contingent beneficiary.

(e) Any such beneficiary designation may be made on Form IPBEN-1, rev. ~~03-11~~ ~~09-09~~, 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 1(866)446-9377, Monday through Friday, except holidays, 9:00 a.m. to 8:00 p.m. or by accessing the MyFRS.com website and clicking on "Resources" and then "Forms." The beneficiary designation form must be completed and received by the FRS Investment Plan Administrator before it becomes effective. Alternatively, a beneficiary may be

designated electronically by logging on to MyFRS.com, clicking on "manage benefits," then clicking on "manage investments," and then clicking on "personal info."

(f) If a member inadvertently uses an incorrect beneficiary designation form, the FRS Investment Plan Administrator will notify the member and request that the member complete and submit the correct form, Beneficiary Designation Form IPBEN-1, rev. 03-11. If the member should die prior to completing and submitting the IPBEN-1 form, the FRS Investment Plan Administrator will consider the beneficiary set forth on the incorrect form as being the member's intended beneficiary for the purpose of paying benefits.

(g)(f) A member may change his beneficiary designation at any time by filing a new beneficiary designation form or by designating a new beneficiary electronically. There is no separate form for changes of beneficiary designation.

(5)(a) If a member is married and names his or her spouse as a primary beneficiary, regardless of whether the percentage allocated to the spouse on the form is less than 100%, the member is not required to notify the spouse. However, if a member is married and names a primary beneficiary(ies) and the person(s) named is not the spouse of the member, then the member is required to notify the spouse that he or she is not a primary beneficiary of the proceeds of the member's FRS Investment Plan account(s). The spouse must acknowledge that he or she understands that he or she is not a primary beneficiary of the member's FRS Investment Plan account(s) by signing the beneficiary designation form, Form IPBEN-1, rev. 09-09, in the appropriate place. If a married member fails to obtain the spouse's acknowledgment on the beneficiary designation form, then the member will be sent an Acknowledgement of Beneficiary Designation, reminding the member of the necessity of obtaining the spousal acknowledgment. The member can return this Acknowledgement of Beneficiary Designation with the spouse's signature which will provide the acknowledgement from the spouse that the spouse is aware that he or she is not the primary beneficiary of the member's FRS Investment Plan account(s). 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 member's FRS Investment Plan account(s).

(b) If the member fails to obtain his or her spouse's acknowledgement that a beneficiary, other than the spouse, has been designated as the primary beneficiary of the member's Investment Plan benefit, the beneficiary designation on file with the FRS Investment Plan Administrator at the time of the member's death will be honored only if the spouse's rights as a beneficiary are not compromised under Florida law.

(6)(a) An Alternate Payee may name a beneficiary to receive the benefits which may be payable in the event of the Alternate Payee's death at any time, as outlined in paragraphs

(4)(a) through (f) above, once the Alternate Payee's account has been established by the FRS Investment Plan Administrator.

(b) If the Alternate Payee does not name a beneficiary(ies), then the Alternate Payee's beneficiary(ies) will be those as described in Section 121.4501(20)(a), F.S., which are: first, the spouse, if he or she is still living after the member's death; second, living children, if the spouse is dead; third, the member's father or mother, if living; fourth, to the member's estate. This means that the spouse will receive the member's account balance if living; but if not, the children will receive the account balance, if living; but if not, the father or mother will receive the account balance, and if none of the people mentioned in this paragraph are still living, the account balance will be paid to the Alternate Payee's estate.

(7) A beneficiary, whether designated or pursuant to Florida law, of a deceased member who, by a verdict of a jury or by a court trying the case without a jury, is found guilty, or who has entered a plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of such member shall forfeit all rights to the deceased member's retirement benefits. Any benefits will be paid as if such beneficiary had predeceased the deceased member. No benefits will be paid until there is a final resolution of such charges against the beneficiary.

~~(8)(7)~~(a) If the deceased member has named a beneficiary but has not provided the beneficiary's social security number or address, or if the social security number is incorrect, then, after at least three unsuccessful attempts by the SBA or the FRS Investment Plan Administrator to contact the beneficiary, the FRS Investment Plan Administrator advise the SBA and the account will not be distributed.

(b) The FRS Investment Plan Administrator will, with the assistance of the SBA, at the time of notification of death, make a reasonable effort to obtain the beneficiary's Social Security Number or Taxpayer Identification Number, using available search tools, including the internet, LexisNexis Accurant, the Internal Revenue Service, and the Social Security Administration. Additionally, by calendar year-end, of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Social Security Number or the Taxpayer Identification Number of the beneficiary.

(c) If after one year from date of death no information is available to identify the beneficiary, the FRS Investment Plan Administrator will transfer the funds to the FRS Investment Plan Suspense Account, indicating the name of the deceased member and the name of the beneficiary. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund. The amount will be held in the FRS Investment Plan Suspense Account until (1) the beneficiary contacts the FRS Investment Plan; or (2) another beneficiary requests consideration as the deceased's

proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member and the name of the beneficiary.

(d) Should the beneficiary be located and provides a social security number, a check will be issued, with actual earnings, from the date of transfer from the member's account to the Suspense Account subject to applicable income tax withholding, which shall be paid to the tax authorities at the time of such payment to the beneficiary.

~~(9)(8)~~(a) Pursuant to Federal guidelines, if the deceased member's account is to be paid to the member's estate but no Estate Identification Number is provided, the account will not be paid to the Estate until receipt of the Estate Identification Number. In the event that no Estate Identification Number is provided, the FRS Investment Plan Administrator transfer the deceased member's account to the Suspense Account indicating the name of the deceased member and the name of the beneficiary. If after 10 years after the date of death, the FRS Investment Plan Administrator has not received an Estate Identification Number, the deceased member's account will be transferred to the FRS Investment Plan Forfeiture Account where it will be held indicating the name of the deceased member. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund.

(b) The FRS Investment Plan Administrator will, at the time of the transfer to the Suspense Account, make a reasonable effort to obtain the Estate Identification Number. Additionally, by calendar year-end of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Estate Identification Number.

(c) The amount will be held in the FRS Investment Plan Suspense Account until (1) the member's estate representative contacts the FRS Investment Plan; or (2) a beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member.

(d) Should the estate's representative subsequently provide an Estate Identification Number, a check will be issued, with actual earnings, from the date of transfer from the member's account to the Suspense Account while invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund subject to applicable income tax withholding, which shall be paid to the tax authorities at the time of such payment to the estate.

(10)(a) If the social security number and date of birth of the named beneficiary are known, an account will be established in the beneficiary's name and funds will be transferred thereto. However, no distribution will be made to any beneficiary until a certified copy of the member's death

certificate has been received. In the meantime, the beneficiary will have control over any investment elections/allocations for the account. The beneficiary will be notified of the establishment of the account and will receive a PIN to access information pertaining to the account.

Rulemaking Authority 121.4501(8) FS. Law Implemented 121.091(5)(j), (8), 121.4501(20), 121.591(3), 732.802 FS. History—New 10-21-04, Amended 3-9-06, 11-26-07, 12-8-08, 1-7-10, \_\_\_\_\_.

19-11.003 Distributions from FRS Investment Plan Accounts.

(1) through (2) No change.

(3) Distributions available after the member terminates FRS-covered employment.

(a) An FRS Investment Plan member shall not be entitled to a distribution from his account unless he has been terminated from all FRS-covered employment, including temporary, part-time, Other Personal Services (OPS) and any regularly established position with an FRS employer, for three (3) calendar months following the month of termination. Example: If a member terminates on May 15, the three calendar months are June, July, and August. Therefore, the member cannot request a distribution until September.

(b) If the member's termination date has not been submitted by the employer via the monthly payroll file within three (3) calendar months, the employer can complete and return the "Employment Termination Form," Form ETF-2, rev. 08/10 ~~04/09~~. The termination form can be found on the MyFRS.com website. This form has instructions and a section for employer certification. Alternatively, the employer can log onto the employer page at MyFRS.com and go to Online Payroll and submit the termination date electronically.

(c) Upon the expiration of the three calendar months after termination, the member may request a distribution from the FRS Investment Plan Administrator, by calling the toll free MyFRS Financial Guidance Line at 1(866)446-9377, Option 4, or by logging on to the MyFRS.com website, accessing his or her personal account information, and then requesting the distribution through the online services.

(d) If a member has terminated employment from all FRS-covered employment for one calendar month and he has reached his normal retirement date, in accordance with Section 121.021(29), F.S., he may request a one-time distribution of up to 10 percent (10%) of his account balance. For example, if a member terminates on May 15, the one calendar month is June. Therefore, the member can request a one-time distribution of up to 10 percent (10%) in July.

(e) A member who transfers to the Pension Plan from the Investment Plan and leaves a balance in the member's Investment Plan account is a member of the Pension Plan and,

as such, the member cannot take a distribution of the surplus Investment Plan funds until he begins receiving his Pension Plan benefits.

(4) All distribution of benefits from a Participant's account(s) in the Plan shall begin and be made no later than as prescribed by Code s. 401(a)(9) and the regulations issued thereunder, including any proposed regulations, and shall be subject to the incidental death benefit rules of Code s. 401(a)(9)(G). A copy of the Code section can be obtained by accessing the IRS website at irs.gov and clicking on the Tax Professionals section, and then clicking on the Code, Regs. & Guidance section.

(a) Distribution of benefits to a Participant shall be made or commence not later than April 1 following the close of the later of the calendar year during which the Participant attains age 70 1/2 or retires.

(b) If distribution of benefits has commenced before a Participant's death, any remaining benefits must be distributed at least as rapidly as under the method of distribution being used as of the date of the Participant's death.

(c) If a Participant dies before the commencement of distributions from the Participant's account(s) in the Plan, the method of distribution shall be as follows:

1. Any benefits not payable to a beneficiary designated by the Participant shall be distributed within five years after the Participant's death.

2. Any benefits payable to a beneficiary designated by the Participant shall be distributed over the life of such beneficiary (or over a period certain not extending beyond the life expectancy of such beneficiary), commencing not later than the end of the calendar year immediately following the calendar year in which the Participant died. If the designated beneficiary is the surviving spouse of the Participant, distributions shall commence on or before the later of the end of the calendar year immediately following the calendar year in which the Participant died and the end of the calendar year in which the Participant would have attained age 70 1/2.

3. If the designated beneficiary is the surviving spouse of the Participant and the surviving spouse dies before distributions to such spouse begin, this paragraph (c) shall be applied as if the surviving spouse were the Participant.

(5) Benefits shall be distributed to a Participant as a periodic distribution, a partial lump-sum payment whereby a portion of the accrued benefit is paid to the Participant less withholding taxes remitted to the Internal Revenue Service and the remaining amount is transferred directly to the custodian of an eligible retirement plan on behalf of the Participant, or as otherwise provided by Section 121.591(1)(c), F.S. Benefits shall be distributed to a survivor as provided in Section 121.591(3)(c), F.S. A distributee shall have the option to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(6) All distributions of benefits must be made in accordance with Code provisions, which shall override any distribution options inconsistent with such provisions.

~~(7)(4)~~ Distributions to beneficiaries on the death of a member.

(a) If a member dies before his effective date of retirement, the member's spouse at the time of his or her death shall be the member's beneficiary, unless the member has designated a different beneficiary after the member's most recent marriage. If the member did name another beneficiary after his or her most recent marriage, the named beneficiary will receive the member's account balance.

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

(c) On the death of a member, the beneficiary must file Form IP-DBF, "Death Benefit Information and Distribution Claim Form," rev. 01/10 ~~09-09~~, which is hereby adopted and incorporated by reference, with the FRS Investment Plan Administrator, to receive benefits.

This form is available in paper form and may be obtained by calling the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Monday through Friday, except holidays, 9:00 a.m. to 8:00 p.m. or by accessing the MyFRS.com website and clicking on "Resources" and then "Forms." ~~This form is available in paper form and may be obtained by calling the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Monday through Friday, except holidays, 9:00 a.m. to 8:00 p.m. or by accessing the MyFRS.com website and clicking on "Resources" and the "Forms."~~

(d) A beneficiary, whether designated or pursuant to Florida law, of a deceased member who, by a verdict of a jury or by a court trying the case without a jury, is found guilty, or who has entered a plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of such member shall forfeit all rights to the deceased member's retirement benefits. Any benefits will be paid as if such beneficiary had predeceased the deceased member. No benefits will be paid until there is a final resolution of such charges against the beneficiary.

~~(8)(5)~~ Distributions to Alternate Payees as a result of a Qualified Domestic Relations Order (QDRO).

(a) Upon receipt of a QDRO from a court of competent jurisdiction, the named alternate payee may leave their account in the Plan or request a distribution from the account once the account has been established in the alternate payee's name as provided in the QDRO and the Alternate Payee has received their PIN.

(b) Upon receipt of the PIN, the alternate payee may request a distribution by calling the toll free MyFRS Financial Guidance Line at 1(866)446-9377, Option 4 or by logging on to MyFRS.com, go to "Manage My Benefits," "Manage

Investments," accessing their personal account information, and then requesting the distribution through the online services.

~~(9)(6)~~ De Minimus Distributions.

(a) If an inactive member's account balance is \$1,000 or less, such amount may be subject to an automatic distribution. However, a distribution will not occur until the member has been terminated from all employment with FRS-covered employers for a minimum of six (6) calendar months.

(b) If the member meets the termination requirements and upon receiving notification of the automatic distribution, the distribution either will be made as a complete lump-sum liquidation of the account balance, subject to the provisions of the Internal Revenue Code, or if so instructed by the member, a lump-sum direct rollover distribution on the member's behalf paid directly to the custodian of an eligible retirement plan, as defined by the Internal Revenue Code. If a member rolls money into the Investment Plan from another qualified plan, which brings the account balance greater than \$1,000, no automatic distribution will occur unless the balance should become \$1,000-~~00~~ or less in the future.

(c) If such member returns to FRS-covered employment after receiving this automatic distribution, the member is not considered a reemployed retiree and will not be subject to any limitation applicable to such employees.

~~(10)(7)~~ Required Minimum Distributions ("RMD").

(a) Members, age 70 1/2 or older, must begin taking an annual minimum distribution from their qualified plan accounts including 401(k), 457, 403(b) plans and IRA accounts if they have terminated employment. The amount of an RMD in any year is based on account balances as of December 31st of the prior year. The member must have terminated all FRS covered employment in order for an RMD to be processed. Once the RMD has been calculated, the RMD will be paid to the member, even if the member returns to active FRS employment during the calendar year.

(b) The FRS Investment Plan Administrator will notify a member who is subject to an RMD distribution at the beginning of each calendar year. At the end of the calendar year in which the RMD was required to be paid, if the member has not requested the required RMD distribution amount ~~met the RMD requirements~~, the FRS Investment Plan Administrator will initiate an automatic RMD to meet the mandatory required distribution amount. ~~The member must have terminated all FRS covered employment in order for an RMD to be processed.~~ Members have the right to defer the initial RMD to April of the year following the year in which the RMD was payable. Members can defer the initial RMD by calling the FRS Investment Plan Administrator by November 30.



(c) If such member returns to FRS-covered employment after receiving this automatic distribution, the member is not considered a reemployed retiree and will not be subject to any limitations applicable to such employees.

~~(11)(8)~~ Distributions to non-spousal beneficiaries.

(a) In accordance with Internal Revenue Service (IRS) rules, non-spousal beneficiary accounts cannot be held indefinitely in the FRS Investment Plan. The amount of time a non-spousal beneficiary has before benefits must commence are more restrictive than for a spousal beneficiary. The “required minimum distribution” is required by the Internal Revenue Service and spelled out in IRS Code Section 401(a)(9), requiring that if the beneficiary is not a spouse, the Investment Plan can hold the distribution for no more than 5 years from the date of the member’s death.

(b) For a non-spousal beneficiary, there are two possibilities, depending upon whether payments from the account had commenced to the member before his or her death:

1. Where distributions have already begun to the member, but the member dies before his or her entire account has been distributed, the remaining portion of the account must be distributed at least as rapidly as under the method of distribution being used as of the date of the member’s death.

2. If a member dies before the distribution of the member’s account has begun, the entire account of the member must be distributed within 5 years after the death of the member, unless:

a. The member’s account will be distributed over the life of the designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

b. Such distributions begin no later than 1 year after the date of the member’s death.

(c) The non-spousal beneficiary must decide within 1 year of the date of death to take lifetime installment or annuity payouts; otherwise, the entire account balance must be distributed within 5 years.

(d) If the whole amount is not paid out during the required 5-year period, the remaining funds in the account will be paid in a lump sum to the non-spousal beneficiary.

~~(12)(9)~~ Beneficiaries who are minors.

(a) A minor is a child under the age of 18. Section 744.301, F.S., allows for the natural guardian (surviving parent) to handle benefits to a minor child where that amount does not exceed \$15,000, without court appointment, authority or bond.

(b) In all cases where a minor child or children are the beneficiary(ies) of the member, a copy of the birth certificate of all minor children shall be sent to the FRS Investment Plan Administrator, and shall be received prior to any payout, regardless of the amount. The purpose is to provide proof that the surviving parent is the natural guardian of the children. The

FRS Investment Plan Administrator shall confirm that the surviving parent is providing the instructions for any payment arrangements being made.

(c) In all cases in which a minor is a beneficiary of an account balance which is greater than \$15,000, the FRS Investment Plan Administrator shall place a hold on the account and advise the SBA of the situation and the SBA shall send instructions to the FRS Investment Plan Administrator for any additional action.

(d) If the individual responding to the correspondence sent by the Administrator and providing instructions for payout is not the surviving parent, the Administrator shall request the individual to provide a Court Order wherein a guardian has been appointed for the minor, prior to payout of any balance and the Administrator shall take directions only from the named guardian.

(e) If no instructions for payout are received, the Administrator shall notify the SBA and the SBA will contact the probate court with jurisdiction over the estate of the member to request direction on the disposition of the minor’s interest in the account. Expenses shall be deducted from the member’s account.

~~(13)(10)~~ Invalid distributions.

(a) An “invalid distribution” is a distribution given to a member to which the member is not entitled.

(b) If a member or a former member of the FRS Investment Plan receives an invalid distribution, the member or former member is required to repay the entire invalid distribution within 90 days of the member’s receipt of a final notification from the SBA. If the member fails to repay the invalid distribution, the employer is liable for the repayment of the invalid distribution even if the member signed a statement at the time the member was hired that no benefit had been received from the Plan.

1. If a member repays the entire distribution, the member’s repayment will be deposited in his FRS Investment Plan account; he will be returned to the Investment Plan; and all future employer contributions will be deposited in the funds he has chosen.

2. If the employer repays the entire distribution, the repayment will be deposited in the Investment Plan Trust Fund and allocated to the Investment Plan’s forfeiture account to offset plan expenses. The member will be returned to the Investment Plan; and all future employer contributions will be deposited in the funds the member has chosen.

3. If the member fails to repay the invalid distribution, the SBA will declare the member a “retiree” and will pursue the repayment of the invalid distribution pursuant to paragraph (b) above. As a “retiree,” the member is subject to the restrictions of Section 121.122, F.S., which means that if the member is reemployed in the future with an FRS-covered employer, the member is not eligible for Special Risk membership, or for the Deferred Retirement Option Program, nor for disability

benefits. Section 121.122, F.S., has other restrictions and should be read by the member with his or her particular situation in mind.

(c) The following are examples of scenarios that could result in invalid distributions. They are only examples and are not inclusive of all possible situations. Members and employers are encouraged to contact the FRS Investment Plan Administrator to discuss the particular situation.

1. Example 1: A member joined the FRS Investment Plan effective September 1, 2002. He terminated all employment from his FRS-covered employer on August 24, 2009. On December 15, 2009, he take a partial distribution from his Investment Plan account. However, he returned to FRS-covered employment on December 1, 2009. The member took an invalid distribution because he was working for an FRS-covered employer at the time he received the distribution. His payroll record reflected the August 24, 2009, termination date but did not yet reflect his rehire date. Therefore, because the payroll report is not required from the employer to the Division of Retirement until the 5th business day of the month following the end of the work-month, the FRS Investment Plan Administrator, which receives its information from the Division of Retirement, had no knowledge of his return to work in the middle of December, since the information would not have arrived until at least January 6. The member is asked at the time of the distribution whether he is employed or pending employment with an FRS covered employer. If it is determined that the member knew or reasonably knew the answer to this question was yes, the member has taken an invalid distribution.

2. Example 2: A member joined the FRS Investment Plan effective April 1, 2004. He terminates all FRS-covered employment on November 12, 2009. The member has not reached his normal retirement date. On March 1, 2010, the member takes a total distribution from his Investment Plan account. The member returns to FRS-covered employment on April 15, 2010. The March 1, 2010 distribution is invalid since the member returned to work within 6 calendar months of his retirement date.

3. Example 3: A member joined the FRS Investment Plan effective May 1, 2005. He terminates all FRS-covered employment on November 12, 2009. The member has reached his normal retirement date. On January 5, 2010, the member receives his one-time distribution of up to 10 percent from his Investment Plan account. The member returns to FRS-covered employment on May 15, 2010. The January 5, 2010 distribution is invalid since the member returned to work within 6 calendar months of his retirement date.

(14) Documentation of a distribution made prior to August 30, 2007.

A member or beneficiary who requests documentation of a distribution made prior to August 30, 2007 will incur a special service charge due to the extensive resources required to

retrieve and produce such documentation. The requestor will be advised of the amount of such charge at the time request is made. Upon payment of the charge by the requestor, the request will be promptly processed.

Rulemaking Authority 121.4501(8)(a) FS. Law implemented 119.07(4)(d), 121.021(29), (39), 121.091(5)(j), 121.4501(20), 121.591, 121.7, 732.802. FS. History--New 3-9-06, Amended 11-26-07, 5-19-09, 1-7-10, \_\_\_\_\_.

19-11.009 Reemployment with an FRS-covered Employer after Retirement.

(1) Purpose: The purpose of this rule is to clarify the provisions regarding reemployment after retirement for FRS Investment Plan members. The limitations of this rule apply to reemployment in any capacity irrespective of the category of funds from which the member is compensated.

(2)(a) A member who has terminated FRS-covered employment and has taken a distribution from his Investment Plan account is considered a retiree, as of the date of the distribution, in accordance with Section 121.4501(2)(j), F.S. As a retiree, the former member shall not be reemployed with an FRS-covered employer until he has been retired for 12 months, except under certain limitations. Any retiree may return to employment with an FRS-covered employer after 12 calendar months of retirement and may take distributions from prior career benefits, even while reemployed. A retiree may work for any private employer or for any public employer who does not participate in the FRS without affecting his/her FRS retirement benefits.

(b) A member who is reemployed with an employer during the first six calendar months after retirement shall be deemed to not have retired. The distribution will be deemed an invalid distribution. The member shall be required to repay the entire invalid distribution within 90 days of the member's receipt of a final notification.

(c)(b) There are exceptions to paragraph (2)(a) above. This paragraph does not contain an exhaustive list of all possible situations. Members who are not in exactly the same circumstances as described in this paragraph should call the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Option 1, to have their situations properly analyzed.

1. If reemployed prior to July 1, 2010, a A member who has reached his normal retirement date, in accordance with Section 121.021(29), F.S., may return to FRS-covered employment after being retired for six one calendar months. Six One calendar months means six the full calendar months following the month the member retired. For example, if a member retires in January, the six calendar months are February, March, April, May, June, and July. The retiree may return to employment in August. The retiree may return to employment in one of the excepted positions identified in Section 121.091(9)(b), F.S., and continue to take distributions from prior career benefits. If the retiree returns to work in a position that is not one of the exceptions allowed by law,

he/she must suspend receipt of any remaining retirement benefits until either employment is terminated or the completion of for the remainder of the 12 calendar months of after retirement.

2. If reemployed on or after July 1, 2010, a member may return to work in any position with an FRS-covered employer after being retired for six calendar months. Six calendar months means six full calendar months following the month the member retired. For example, if a member retires in January, the six calendar months are February, March, April, May, June, and July. The retiree may return to employment in August. The member must suspend receipt of any remaining retirement benefits until either employment is terminated or the completion of 12 calendar months of retirement. Effective July 1, 2010, there are no excepted positions. A member reemployed on or after July 1, 2010 will not be permitted to renew membership in the FRS. A member who has not reached his normal retirement date, 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., FRS covered employment after being retired for three calendar months. "Three calendar months" means three full calendar months following the month in which the member retired. For example, if a member retires in January, the three calendar months are February, March, and April. The retiree may return to employment in May in one of the excepted positions identified in Section 121.091(9)(b), F.S., and continue to take distributions from prior career benefits. If the retiree returns to work in a position that is not one of the exceptions allowed by law, he/she must suspend receipt of any remaining retirement benefits for the remainder of the 12 months after retirement.

(3) The Plan Choice Administrator must be informed whenever an FRS Investment Plan retiree returns to employment with an FRS-covered employer during the first 12 calendar months of retirement.

(4)(a) Any retiree employed in violation of the FRS Investment Plan reemployment limitations and an employer any employing agency which knowingly that employs or appoints such person are jointly and severally liable to the retirement trust fund for reimbursement of any benefits paid. To avoid liability, such employing agency must have a written statement from the retiree that he or she is not retired from a state administered retirement system.

(b) To help prevent this issue, the employer should obtain a written statement from each prospective employee as to the employee's retirement status. The written statement can be set forth on the "Certification Form," Form CERT, rev. 09/2010 and can be found on the MyFRS website. This form should be retained in the employee's personnel file.

(c) When a prospective employee signs the Certification Form, the employee is certifying that he or she has not retired from any State of Florida administered retirement plan nor concluded participation in the Deferred Retirement Option

Program (DROP) within the past 12 months, or received an initial distribution or rollover from the FRS Investment Plan within the last 6 calendar months.

Rulemaking Specific Authority 121.4501(8)(a) FS. Law Implemented 121.021(29), (39), 121.091(9)(b),(c), 121.4501(2)(j), 121.591(1)(a)4. FS. History--New 11-26-07, Amended 12-8-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ron Poppell, Senior Officer, Defined Contributions Programs  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2010

#### DEPARTMENT OF CORRECTIONS

RULE NO.: 33-401.401  
RULE TITLE: Use of Tobacco Products

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to specify that inmates in death row housing shall be limited to purchase and possession of no more than two packages of smokeless tobacco products per week.

SUMMARY: The proposed rule limits inmates in death row housing to purchase of two packages of smokeless tobacco products per week.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business and is not likely to directly or indirectly increase regulatory costs by more than \$200,000 within one year of taking effect. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 944.115 FS.

LAW IMPLEMENTED: 386.201, 386.202, 386.203, 386.204, 386.205, 386.206, 944.09, 944.115 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-401.401 Use of Tobacco Products.

(1) through (6) No change.

(7) Inmates on death row shall be limited to purchase of 2 packages of smokeless tobacco products per week; and shall not exceed the possession limit of 2 packages. ~~Inmates on death row shall not be allowed to possess lighters; lighting devices are available on the recreation yards. Inmates on death row at Union Correctional Institution shall be allowed to purchase cigarettes or smokeless tobacco. Inmates on death row at Florida State Prison and Lowell shall be allowed to purchase and possess smokeless tobacco products only.~~

(8) through (9) No change.

Rulemaking Specific Authority 944.09, 944.115 FS. Law Implemented 386.201, 386.202, 386.203, 386.204, 386.205, 386.206, 944.09, 944.115 FS. History—New 12-31-80, Formerly 33-20.01, Amended 3-12-86, 2-24-92, 1-4-94, Formerly 33-20.001, Amended 2-3-00, 10-1-03, 6-18-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Russell Hosford, Assistant Secretary of Institutions  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Edwin G. Buss, Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 25, 2011

**DEPARTMENT OF FINANCIAL SERVICES**  
**Division of Funeral, Cemetery, and Consumer Services**  
 RULE NO.: 69K-17.0034  
 RULE TITLE : Continuing Education for License Renewal

PURPOSE AND EFFECT: To amend continuing education requirements for specified categories of licensees under chp. 497, F.S. This rulemaking will amend existing rule 69K-17.0034, to implement certain mandatory rulemaking requirements under s. 27 of Chapter 2010-125, Laws of Florida (Section 497.603, F.S.).

SUMMARY: The rule amendment relates to continuing education for funeral directors, embalmers, and direct disposers. The changes being made in this rule amendment, as compared to the existing rule, are summarized as follows: a) the amendment eliminates the cap on continuing education credit for attending Board meetings; b) The amendment reduces the regulatory burden on funeral director and embalmer licensees in that the communicable disease course that is required for license renewal may be included in the 12 hours of continuing education required for renewal, instead of being in addition to the 12 hours. It is important to note that the requirement for continuing education by these licensees has been in Chapter 497, F.S. (2010) for many years. This rule does not impose new or increased continuing education requirements, and in fact makes it easier for the licensees to meet the continuing education requirement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will have an impact on small business. An SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 497.103(1)(q), (5)(a), 497.147, 497.378, 497.603 FS.

LAW IMPLEMENTED: 497.103(1)(q), 497.147, 497.378, 497.603 FS.

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

DATE AND TIME: May 18, 2011, 8:30 a.m.  
 PLACE: Room 332, Pepper Building, 111 W. Madison Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Douglas Shropshire, Executive Director, (850)413-4984. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0361, (850)413-4984; shropshired@MyFloridaCFO.com. Direct any request for a hearing to Mr. Shropshire

THE FULL TEXT OF THE PROPOSED RULE IS:  
 (Substantial rewording of Rule 69K-17.0034, F.A.C. See Florida Administrative Code for present text.)

- 69K-17.0034 Continuing Education for License Renewal.
  - (1) A “continuing education reporting period” shall be the 24 months immediately preceding the scheduled license renewal date, for funeral director, embalmer, combination funeral director and embalmer, and direct disposer licensees.
  - (2) No funeral director, embalmer, combination funeral director and embalmer, or direct disposer license shall be renewed unless the licensee has, during the 24 months preceding the renewal date, completed the following number of hours of continuing education:
    - (a) Each funeral director, embalmer, and combination funeral director and embalmer, shall in each continuing education reporting period complete twelve (12) hours of

continuing education, at least one hour of which shall be in a course approved for continuing education credit in the communicable disease category.

(b) Each direct disposer shall in each continuing education reporting period complete six (6) hours of continuing education, at least one hour of which shall be in a course approved for continuing education credit in the communicable disease category.

(3) Credit for continuing education courses completed will only be given if the course and course provider both held were currently approved by the Board as of when the course was completed. Credit shall only be given for the number of hours the course was approved for by the Board as of when the course was completed. No additional credit shall be given for completing the same course a second or subsequent time in the same continuing education reporting period. Continuing education credit may not be carried forward from prior continuing education reporting periods. No continuing education credit shall be provided to Board members or others, for participation in teleconference meetings of the Board or its committees. No continuing education credit shall be awarded for attendance at any meeting that was not duly noticed by the Division, as a public meeting, in the Florida Administrative Weekly. The hours of continuing education credit to be awarded in regard to any particular Board or Board committee meeting, shall be rounded down to the nearest whole hour by the Division staff.

(4) Persons holding more than one license that is subject to a continuing education requirement, shall only be required to satisfy the continuing education requirement for the one license with the highest continuing education hours requirement.

(5) Persons initially licensed with half or less of the renewal period of a biennium remaining shall be required only to pass an approved course on communicable diseases as a condition for initial renewal.

(6) CONTINUING EDUCATION CREDIT FOR ATTENDANCE AT BOARD MEETINGS.

(a) Subject to the requirements of this rule section, chapter 497 licensees shall be given continuing education credit on an hour for hour basis, rounded down to the nearest whole hour, for attendance at in-person public meetings of the Board of Funeral, Cemetery, and Consumer Services, or for attendance at public meetings of any committee of the Board. Provided, attendance at meetings of the Board or its committees may not be substituted for the one hour communicable disease course. No continuing education credit shall be given for attendance at a Board meeting as a subject of investigation or disciplinary action.

(b) Board and Board Committee Members.

1. Board and Board committee members who attend a Board meeting or Board committee meeting shall be awarded continuing education credit for the actual length of the

meeting, rounded down to the nearest whole hour. Board and Board committee members are not required to sign in or out at Board or Board committee meetings.

(c) Meeting Attendance By Other Persons.

1. This subsection applies to Chapter 497 licensees who are not Board members or Board committee members, but seek continuing education credit for attendance at a Board or Board committee meeting.

2. The office of the Board's executive director shall place a meeting attendance list on a table at the inside rear of the Board or committee meeting room.

3. Any licensee under this subsection who desires continuing education credit for attendance at the meeting, shall in person sign-in on the attendance list when they arrive at the meeting, and shall sign out when they leave the meeting, even if they leave the meeting at or after adjournment. Signing in shall require legibly printing on the attendance list the licensee's name, license number, time arrived, and signing the attendance list. Signing-out on the attendance list shall require that the licensee shall in person enter on the attendance list, on the same line they signed in on, the time they leave the meeting room. No continuing education credit shall be given to any person as to whom any entries required to sign in or sign out are missing or not legible.

6. Continuing education credit shall be given for the lesser of the time in attendance as shown on the attendance list, or the length of the meeting. Credit shall be rounded downward by the Division office to the nearest whole hour.

Rulemaking Specific Authority 497.103(1)(q), (5)(a), 497.147, 497.367, 497.378, 497.603 FS. Law Implemented 497.103(1)(q), 497.147, 497.367, 497.378, 497.603 FS. History—New 4-10-94, Amended 3-14-95, 7-25-95, 9-25-95, 9-25-97, 11-11-99, 11-20-00, 6-24-01, 11-29-01, 4-27-03, Formerly 61G8-17.0034, Amended 7-3-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Douglas Shropshire, Director, Division of Funeral, Cemetery and Consumer Services, Department of Financial Services, as Executive Director, Board of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 7, 2011