

## Section II Proposed Rules

**DEPARTMENT OF STATE**

**Division of Elections**

**RULE NO.:** 1S-2.0001  
**RULE TITLE:** Designation of Division of Elections as Filing Office for Department of State; Requirements for Candidate Qualifying Papers; Withdrawal of Candidacy

**PURPOSE AND EFFECT:** The proposed rule implements the provisions of Chapter 2011-40, ss. 13 and 51, Laws of Florida, which changed the oaths for candidates seeking to qualify for office. The rule incorporates candidate oath forms to comply with statutory changes.

**SUMMARY:** The proposed rule incorporates revised candidate oath forms to reflect the deletion of the reference to the oath required by Section 876.05, F.S. The rule also deletes the Section 876.05, F.S., oath as a required qualifying paper for candidates, except for judicial and school-board candidates, which is still required by Section 105.031, F.S.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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:** 20.05(1)(e), 20.10(3), 97.012(1), 99.061(10), 103.022 FS.

**LAW IMPLEMENTED:** 20.05(1)(b), 99.061, 99.095, 103.022, 105.031(1), 105.035 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:** August 8, 2011, 10:00 a.m.  
**PLACE:** Room 307, R.A. Gray Building, Department of State, 500 S. Bronough 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 5 days before the workshop/meeting by contacting: Eddie Phillips, Executive Assistant, Department of State, (850)245-6536, email: elphillips@dos.state.fl.us. 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:** Gary J. Holland, Assistant General Counsel, Department of State, (850)245-6536, email: gjholland@dos.state.fl.us

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

1S-2.0001 Designation of Division of Elections as Filing Office for Department of State; Requirements for Candidate Qualifying Papers; Withdrawal of Candidacy.

(1) The Division of Elections, Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250 is hereby designated on behalf of the Department of State as the filing or qualifying office, that is, the official address and the location for candidates seeking to qualify for nomination or election to any federal, state, legislative, multicounty or judicial office with the exception of county court judge. Candidates for the office of county court judge shall qualify with the supervisor of elections for that county.

(2) All qualifying papers required to be filed with the Department of State as the office where the candidate is required to qualify shall be filed with the Division of Elections.

(3)(a) Except as noted herein, any qualifying paper filed with a qualifying office, whether the Division of Elections or a supervisor of elections, must be an original.

(b) A facsimile, email, photocopy, scanned copy or any type of electronically transmitted document shall not be accepted as a qualifying paper, except a candidate who has filed a current full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying. A current full and public disclosure or statement of financial interests is one that covers the immediately preceding calendar or tax year. For example, for a qualifying period that occurs in 2014, the current full and public disclosure or statement of financial interests form would be one that covers the 2013 calendar or tax year.

(4) Qualifying papers shall be deemed filed by the qualifying office upon the date of actual receipt by the qualifying office, except for those qualifying papers accepted and held during the 14-day period before the beginning of the qualifying period to be processed and filed during the qualifying period pursuant to Section 99.061(8), F.S. The qualifying papers that are received and ~~intended to be held~~ during the 14-day period before the beginning of the qualifying period shall not be deemed filed until the beginning of the qualifying period.

(5)(a) The following qualifying forms for candidates required by Sections 99.061, 103.022 and 105.031, F.S., are hereby incorporated by reference:

1. DS-DE 9 (Rev. 10/10), entitled, "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates."

2. DS-DE 24 (Rev. ~~5/11~~ ~~10/10~~), entitled, "~~Loyalty Oath~~ Candidate ~~Oath~~ – Candidate with Party Affiliation."

3. DS-DE 24A (Rev. ~~5/11~~ ~~10/10~~), entitled, "~~Candidate Oath~~ – ~~Loyalty Oath~~ Write-In Candidate."

4. DS-DE 24B (Rev. ~~5/11~~ ~~10/10~~), entitled, "~~Candidate Oath~~ – ~~Loyalty Oath~~ Candidate with No Party Affiliation."

5. DS-DE ~~24C~~ (Rev. ~~5/11~~), entitled, ~~Candidate Oath – Precinct Committeemen and Committeewomen.~~

6. DS-DE ~~24D~~ (Rev. ~~5/11~~), entitled, ~~Candidate Oath – District Committeemen and Committeewomen.~~

7. DS-DE ~~24E~~ (Rev. ~~5/11~~), entitled, ~~Candidate Oath – State Committeemen and Committeewomen.~~

8. DS-DE ~~24F~~ (Rev. ~~5/11~~), entitled, "~~Candidate Oath – School Board Write-In Candidate.~~"

~~9.5.~~ DS-DE 25 (Rev. ~~5/11~~ ~~10/10~~), entitled, "~~Candidate Oath – Loyalty Oath~~ Nonpartisan Office."

10. DS-DE ~~25A~~ (Rev. ~~5/11~~), entitled "~~Candidate Oath – School Board Nonpartisan Office.~~"

~~11.6.~~ DS-DE 26 (Rev. ~~5/11~~ ~~10/10~~), entitled, "Judicial Office ~~Candidate Loyalty Oath.~~"

~~12.7.~~ DS-DE 26A (Rev. ~~5/11~~ ~~10/10~~), entitled, "Judicial Office ~~Candidate Loyalty Oath – Write-In Candidate.~~"

~~13.8.~~ DS-DE 27 (Rev. ~~5/11~~ ~~10/10~~), entitled "Federal Candidate Oath – Candidate with Party Affiliation."

~~14.9.~~ DS-DE 27A (Rev. ~~5/11~~ ~~10/10~~), entitled "Federal Candidate Oath – Write-In Candidate."

~~15.10.~~ DS-DE 27B (Rev. ~~5/11~~ ~~10/10~~), entitled "Federal Candidate Oath – Candidate with No Party Affiliation."

~~16.11.~~ DS-DE 85 (Rev. 10/10), entitled, "Oath of Candidate Write-In for President and Vice President."

(b) The forms in paragraph (a) are available from the Division of Elections, R. A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division's webpage at: <http://election.dos.state.fl.us/forms/index.shtml>.

(6) A candidate may withdraw his or her candidacy by submitting a document specifying the candidate's withdrawal from the particular public office he or she seeks to the qualifying office before which he or she qualifies (or has qualified) by mail, facsimile, email, photocopy, scanned copy or other type of electronic transmission that contains the signature of the candidate. The withdrawal is not effective until it is received by the qualifying office.

(7) Qualifying papers filed by a candidate with the qualifying office before the effective date of this rule that satisfy the requirements of applicable qualifying statutes, but which are not on the prescribed forms incorporated by reference in this rule, remain valid as qualifying papers after the effective date of the rule.

Rulemaking Authority 20.05(1)(e), 20.10(3), 97.012(1), 99.061(10), 103.022 FS. Law Implemented 20.05(1)(b), 99.061, 99.095, 103.022, 105.031(1), 105.035 FS. History—New 12-6-84, Formerly 1C-7.001, 1C-7.0001, Amended 2-13-90, 11-7-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gary Holland

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 10, 2011

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:	RULE TITLE:
1S-2.0091	Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification

PURPOSE AND EFFECT: To implement statutory changes to the constitutional amendment initiative process brought about by Ch. 2011-40, s. 23, Laws of Florida.

SUMMARY: The proposed rule reduces the validity of a signature on a petition from 4 to 2 years. The rule also specifies how the supervisor of elections is to treat a petition when the petition signer is not a registered voter in the supervisor's county and specifies the requirements for signature verification.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 20.10(3), 97.012(1), 100.371(6) FS.

LAW IMPLEMENTED: Art XI, Fla. Const., 100.371 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: August 8, 2011, 10:45 a.m.

PLACE: Room 307, R.A. Gray Building, Department of State, 500 S. Bronough 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 5 days before the workshop/meeting by contacting: Eddie Phillips, Executive Assistant, Office of General Counsel, Department of State, telephone: (850)245-6536, email: elphillips@dos.state.fl.us. 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: Gary J. Holland, Assistant General Counsel, Florida Department of State, (850)245-6536, email: gjholland@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.0091 Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification.

(1) Submission. Signed initiative petition forms proposing amendments to the Florida Constitution shall be submitted ~~solely~~ by the sponsoring political committee to the Supervisor of Elections ~~for~~ ~~in~~ the county of residence listed by the person signing the form in which the petition forms were circulated. If the Supervisor of Elections determines that the signer of the petition is a registered voter in another county, the Supervisor of Elections shall notify the petition sponsor that the petition has been misfiled. It is the responsibility of the sponsoring political committee ~~thereafter~~ to ensure that the ~~misfiled signed~~ petition form is properly filed with, ~~or if misfiled forwarded to,~~ the Supervisor of Elections ~~for~~ ~~of~~ the county in which the signee is a registered voter. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(2) Signature Verification.

(a) In accordance with the signature verification fee provisions in Section 99.097(4), F.S., the Supervisor of Elections for the county in which the signee is a registered voter shall verify the signatures on each initiative petition form within 30 days ~~after~~ ~~of~~ receipt of the form to ensure that each person signing the petition form:

1. Was, at the time of signing and verification of the petitions, a registered voter in the state county in which the petition is submitted,

2. Except as provided in paragraph (4)(b) below, hHad not signed the petition form more than two ~~four~~ years prior to the date the Supervisor verified the petition, and

3. Had not ever previously signed a petition form containing the identical initiative which had been verified as valid.

(b) The Supervisor shall not verify as valid a signature on an initiative petition form unless all of the following information is contained on the petition form:

1. The voter's name,
2. The voter's ~~street~~ address (including city and county),
3. The voter's date of birth or voter registration number,

4. The voter's original signature, and
5. The date the voter signed the petition, as recorded by the voter.

(3) Random Sampling Not Permitted. Supervisors of Elections may not use random sampling as a method for verifying signatures on constitutional amendment initiative petitions.

(4)(a) Recordation of Verification. The appropriate supervisor of elections for each respective voter whose signature is verified as valid shall record the date the form was received, the date of the signature, the date the signature was verified, and the assigned serial number for the applicable initiative petition. Upon completion of the verifications as set forth in subsection (2), the Supervisors of Elections shall submit to the Division of Elections a certificate indicating the total number of signatures verified and the distribution by congressional district. In conjunction with each certificate submitted, each Supervisor shall submit a copy of one petition showing the text of the constitutional amendment to which the verified signatures relate. Certificates may be submitted by the Supervisor via facsimile in order to meet the filing deadline, followed by the original certificates sent by mail.

(b) Notwithstanding the provisions of subparagraph (2)(a)2., above, a signature on a petition by a registered voter who signed the petition on or before May 19, 2011, is valid for four years. The Supervisor of Elections shall separately certify to the Division of Elections any signatures on a petition that were signed on or before May 19, 2011 by clearly annotating that the certification represents signatures on or before May 19, 2011.

(5) Filing Deadline. In order for the initiative petition to be timely filed for appearance on the ballot for the next general election, the constitutionally requisite number of verified signatures must be verified and reported to the Division no later than 5:00 p.m. on February 1 of the year in which the general election is held.

(6) Limitation on Use of Verified Signatures. 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 not be used again in support of any future initiative petition. An identical initiative petition means an initiative petition that is circulated on an initiative petition form which contains the same serial number assigned to it pursuant to Rule 1S-2.009, F.A.C.

(7) Nothing in this rule prohibits a voter from signing a successive initiative petition form containing the text of a former petition if the successive petition form has a different serial number assigned to it pursuant to Rule 1S-2.009, F.A.C.

Rulemaking Authority 20.10(3), 97.012(1), 100.371(6)(7) FS. Law Implemented Art. XI, Fla. Const., 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, 3-16-06, 10-15-07, 10-13-08, 7-18-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gary Holland  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Kurt S. Browning  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: July 5, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: June 10, 2011

## DEPARTMENT OF STATE

### Division of Elections

RULE NO.: 1S-2.042  
RULE TITLE: Third-Party Voter Registration  
Organizations

PURPOSE AND EFFECT: This proposed rule implements the requirements of Chapter 2011-40, s. 4, Laws of Florida, regarding the registration and accounting procedures for voter registration applications collected by third-party voter registration organizations.

SUMMARY: The proposed rule requires registration electronically, adopts forms for use by third-party voter registrations organizations and supervisors of elections to account for an organization's voter registration applications, and removes obsolete language from the present rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 20.10(3), 97.012(1), (2), (15), 97.0575(1), (2), (5) FS.

LAW IMPLEMENTED: 97.012(1), (2), (15), (37), 97.053, 97.0575 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: August 8, 2011, 9:00 a.m.

PLACE: Room 307, R.A. Gray Building, Department of State, 500 S. Bronough 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 5 days before the workshop/meeting by contacting: Eddie Phillips, Executive Assistant, Office of General Counsel, Department of State, telephone: (850)245-6536, email: elphillips@dos.state.fl.us. 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: Gary J. Holland, Assistant General Counsel, Department of State, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, telephone: (850)245-6536, email: gjholland@dos.state.fl.us

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

#### 1S-2.042 Third-Party Voter Registration Organizations.

(1) Forms. The following forms are hereby incorporated by reference and available from the Division of Elections, R.A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division's webpage at: <http://election.dos.state.fl.us/forms/index.shtml>:

(a) Form DS-DE 119 (eff. ~~06/2011~~ ~~05/2010~~), entitled "Third-Party Voter Registration Organization Registration Form."

(b) Form DS-DE 120 (eff. ~~06/2011~~ ~~05/2010~~), entitled "~~Quarterly Report Form for Organized Voter Registration Drives~~ by Third-Party Voter Registration Organization Registration Agent's Sworn Statement."

(c) Form DS-DE 121 (eff. ~~06/2011~~ ~~05/2010~~), entitled "Form for Complaint Against Third-Party Voter Registration Organization."

(d) Form DS-DE 123 (eff. 06/2011), entitled "Third-Party Voter Registration Organization's Accounting of Voter Registration Applications."

(e) Form DS-DE 124 (eff. 06/2011), entitled "Supervisor of Elections' Accounting of Third-Party Voter Registration Organization's Voter Registration Applications."

(2) Definitions. For purposes of Section 97.0575, F.S., the following definitions apply:

(a) "Affiliate organization" of a third-party voter registration organization means any person, as defined in Section 1.01(3), F.S., that is associated with the third-party voter registration organization as a subordinate, subsidiary, member, branch, chapter, as a central or parent organization, or through direct or indirect ownership or control. Ownership or control means substantial and effective, though not necessarily predominant, ownership or control.

(b) "Engaging in any voter registration activities" means that the organization is soliciting for collection or collecting voter registration applications from Florida voter registration applicants.

~~(c)~~(b) "Force majeure" means any event or occurrence of societal significance beyond the reasonable control and without the fault of the third-party voter registration organization which could not have been prevented, avoided, or overcome by the exercise of reasonable care, diligence, or

foresight of the third-party voter registration organization, including, but not limited to, civil disturbances or acts of war; extraordinarily severe weather, such as hurricanes, floods, or tornadoes; or shortages of food, electric power, or fuel.

(d)(e) “Impossibility of performance” means an actual impossibility or impracticability of compliance as the result of a condition or circumstance which the third-party voter registration organization did not create and could not reasonably have anticipated.

(e)(d) ~~“Registration agent” means any individual who is employed by or volunteers for a third-party voter registration organization and who solicits for collection or who collects voter registration applications from Florida voter registration applicants on behalf of the organization. “Organized voter registration drive” means any voter registration activity that is coordinated with, or directed by, a third-party voter registration organization and where one or more persons solicit or collect voter registration applications on behalf of the third-party voter registration organization.~~

### (3) Registration.

(a) ~~Before engaging in any voter registration activities, a~~ third-party voter registration organization (hereinafter “organization”) shall complete and file Form DS-DE 119 with the Division. ~~The organization must submit the form as an attachment in pdf format in an email to 3PVRO@dos.state.fl.us or transmit the form to the Division’s facsimile machine at (850)245-6291 prior to conducting any voter registration activities. An affiliate organization which solicits for collection or collects voter registration applications from Florida voter registration applicants must file a Form DS-DE 119 even if its affiliated organization has filed a Form DS-DE 119. An third-party voter registration organization shall also use Form DS-DE 119 to update or terminate withdraw its registration.~~

(b) Upon receipt of an organization’s initial and completed registration, the Division shall assign the organization a unique third-party voter registration organization identification number that begins with “3P.” An organization is not deemed registered as a third-party voter registration organization until the Division issues the organization its identification number.

(c) A registration agent must complete, sign, and date Form DS-DE 120 before beginning his or her duties for the organization and the organization must ensure the form is submitted to the Division within 10 days after the form is signed. Form DS-DE 120 may be submitted to the Division when the organization submits its initial DS-DE 119. For any addition to the list of its registration agents or change in information about a registration agent other than termination of a registration agent, the organization shall submit an updated Form DS-DE 119. For permissible means of notifying the Division of the termination of a registration agent, see paragraph (6)(b).

(d) A registration agent may be a registration agent for one or more organizations, but each organization must ensure that the registration agent submits a separate Form DS-DE 120 for its organization.

(e) An organization shall submit any change in information previously submitted to the Division within 10 days following the change. A change is not considered filed until the Division receives the change.

(f) Except as otherwise provided in paragraph (6)(b), any forms or amendments or additions to forms required under this subsection must be submitted in the same manner of transmission required for the Form DS-DE 119 used to initially register an organization.

### (4) Voter Registration Applications Provided to and Used by Third-Party Voter Registration Organizations Drive Quarterly Report.

(a) All voter registration applications provided by the Division and each supervisor of elections to an organization shall include the third-party voter registration organization identification number on the bottom of the reverse side of each voter registration application in a manner that does not obscure any other entry.

(b) The registration agent or the organization shall print the date and time that the voter registration applicant completed the application in a conspicuous space on the bottom portion of the reverse side of the voter registration application it collects from a voter registration applicant in a manner that does not obscure any other entry. The date and time printed by the registration agent or the organization shall be in the following numerical format: MM/DD/YY; hh:mm am/pm. For example, if the voter registration applicant completed the application on May 15, 2014 at 1:30 p.m., the entry on the bottom portion of the reverse side of the application shall be: 5/15/14; 1:30 p.m. The entry for an application completed on October 11, 2014 at 11:30 a.m., would be printed as 10/11/14; 11:30 a.m. on the bottom portion of the reverse side of the application.

(c) Each organization shall ensure that its assigned organization identification number is recorded on the bottom portion of the reverse side of any voter registration application it delivers to the Division or a supervisor of elections in a manner that does not obscure any other entry.

### (5) Monthly Report by Organizations.

(a) By the 10th day of each month, each organization shall submit to the Division a Form DS-DE 123 to account for the number of state and federal voter registration application forms provided to and received from each of its registration agents for the preceding month. If the organization had no voter registration activity in the preceding month, the organization shall still submit Form DS-DE 123 reflecting that it did not provide voter registration applications to, or receive any from, its registration agents.

(b) Form DS-DE 123 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.state.fl.us or transmitted to the Division's facsimile machine at (850)245-6291.

(6) Termination of Organization and Registration Agent.

(a) If an organization terminates its status as a third-party voter registration organization, the organization shall submit within 10 days a Form DS-DE 119 reflecting its termination and also a Form DS-DE 123 to report its final accounting of voter registration application forms provided to the organization by the Division or any supervisor of elections. All such voter registration applications remaining in the organization's possession should be returned either to the Division or a supervisor of elections within 10 days of filing Form DS-DE 123. The address for the Division is Bureau of Voter Registration Services, Division of Elections, R.A. Gray Building, Room 316, Tallahassee, Florida 32399-0250. The address for the applicable supervisor of elections may be obtained by telephoning (850)245-6200 or found on the Internet at [http://election.dos.state.fl.us/SOE/supervisor\\_elections.shtml](http://election.dos.state.fl.us/SOE/supervisor_elections.shtml).

(b) If a registration agent's employment with, or volunteer services for, an organization is terminated, the organization shall file notice of the terminated status of a registration agent by submitting an updated Form DS-DE 119 or by sending a notification of the termination by email to 3PVRO@dos.state.fl.us or by transmitting the notification to the Division's facsimile machine at (850)245-6291. If Form DS-DE 119 is not used as the means of notification, the notification shall contain the organization's assigned identification number and the name of the registration agent being terminated.

(c) Forms DS-DE 119 and DS-DE 123 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.state.fl.us or transmitted to the Division's facsimile machine at (850)245-6291.

(7) Processing of Voter Registration Applications from an Organization by the Division and Supervisors of Elections.

(a) For each non-blank registration application that an organization delivers to the Division or supervisor of elections, a voter registration official shall record the date and time of delivery on the bottom portion of the reverse side of the application in a manner that does not obscure any other entries. For purposes of this rule and not for voter registration purposes, an application is considered delivered to the Division or a supervisor of elections at the time the application is actually delivered by the organization. Therefore, if an organization delivers more than one application at the same time, those applications shall bear the same date and time of delivery regardless of when the applications are processed.

(b) An organization's untimely delivery of a voter registration application does not affect the validity of the application. Such application must be processed regardless of the timeliness of its delivery.

(c) The Division and supervisors of elections shall record the number of state or federal voter registration applications they provide to, and receive from, each organization. Each supervisor of elections shall report to the Division on Form DS-DE 124 by noon of the following business day the number of voter registration applications provided to and received from each organization the previous business day. Supervisors of Elections are not required to submit Form DS-DE 124 when they did not provide any voter registration applications to, or receive any from, an organization on the preceding business day.

(d) Form DS-DE 124 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.state.fl.us or transmitted to the Division's facsimile machine at (850)245-6291.

~~Voter Registration Drive Quarterly Report. A third-party voter registration organization shall use Form DS-DE 120 to file quarterly reports with the Division as required by Section 97.0575(1), F.S. The quarterly reports shall be filed no later than April 15, July 15, October 15, and January 15 to cover the preceding calendar quarter, respectively. If a due date falls on a Saturday, Sunday, or legal holiday, the report is due on the next day which is not a Saturday, Sunday, or legal holiday.~~

~~(8)(5) Complaints and Fines.~~

~~(a) Any person claiming to have provided a completed voter registration application to a third-party voter registration organization but whose name does not appear as an active voter on the voter registration rolls shall use Form DS-DE 121 to file the complaint with the Division.~~

~~(b) Any other person, except supervisors of elections or their staff, may report allegations of elections fraud, which includes irregularities or fraud involving voter registration, by filing an elections fraud written complaint with the Division, using Form DS-DE 34, entitled "Elections Fraud Complaint," incorporated by reference in See Rule 1S-2.025, F.A.C.~~

~~(c) Supervisors of elections or their staff shall report any untimely filed voter registration application submitted by an organization by sending the Division an explanatory statement in an email and attaching documents which reflect the untimely submission in pdf format to 3PVRO@dos.state.fl.us or by transmitting the explanatory statement and documentation to the Division's facsimile machine at (850)245-6291.~~

~~(6)(e) Fines. If the Division determines that a fine should be imposed on a third-party voter registration organization, the Division shall serve an administrative complaint pursuant to Rule 28 106.2015, F.A.C., upon the third-party voter registration organization by personal delivery or certified mail, return receipt requested. A third-party voter registration organization upon which the Division serves an administrative complaint may request a hearing in accordance with Sections 120.569 and 120.57, F.S., and subsection 28 106.2015(5), F.A.C.~~

Rulemaking Authority 20.10(3), 97.012(1), (2), (15), 97.0575(1), (2), (5) ~~(4), (8)~~ FS. Law Implemented 97.012(1), (2), (15), ~~(37)~~ ~~(36)~~, 97.053, 97.0575 FS. History—New 2-26-09, Amended 5-31-10,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gary Holland  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gisela Salas  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 5, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 3, 2011

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: 1S-2.050  
RULE TITLE: Cancellation of Political Party Filings

PURPOSE AND EFFECT: To implement Chapter 2011-40, s. 46, Laws of Florida, which requires the Division of Elections to adopt rules to prescribe the manner in which political parties, to include minor political parties, may have their filings with the Department of State canceled.

SUMMARY: Provides the basis and procedures for the cancellation of political party filings with the Department of State.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 20.10(3), 97.012(1), 103.095(5) FS.

LAW IMPLEMENTED: 103.091, 103.095, 103.121, 106.29 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: August 8, 2011, 11:30 a.m.  
PLACE: Room 307, R.A. Gray Building, Department of State, 500 S. Bronough 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 5 days before the workshop/meeting by

contacting: Eddie Phillips, Executive Assistant, Office of General Counsel, Department of State, telephone: (850)245-6536, email: elphillips@dos.state.fl.us. 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: Gary J. Holland, Assistant General Counsel, Florida Department of State at (850)245-6536, email: gjholland@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.050 Cancellation of Political Party Filings.

(1) Definitions. Except where the context clearly indicates otherwise in this rule, the term “party” means any political party, to include a minor political party. “Division” means the Division of Elections.

(2) Cancellation. The division may cancel the filings by a party, to include its registration and approved status as a party, when:

- (a) The party fails to have any voters registered as party members;
- (b) The party fails to file campaign finance reports for more than 6 months;
- (c) The party fails to comply with the annual public audit requirements of Section 103.121(2), F.S.;
- (d) The party’s aggregate reported financial activity during the calendar year is \$500 or less;
- (e) The party fails to maintain a public website;
- (f) The minor political party fails to file with the division the name and address of any replacement officer within 5 days after the death, resignation or removal of a party’s officer;
- (g) The minor political party fails to file with the division changes to its filing certificate within 5 days after such change; or
- (h) The minor political party fails to adopt and file with the division the governing documents containing the provisions specified in Section 103.095(2), F.S.

(3) Notification of intent to cancel. The division shall send notification to the party’s chairperson of the intent to cancel the party’s filing or registration to the most recent address on file with the division for the chairperson. If the notification is returned undeliverable, the division shall send the notification to another officer of the party at the most recent address on file with the division. Within 30 days of the date of the division’s mailing of the preliminary notice of intent to cancel, the party may provide additional documentation to the division showing why the party’s filing or registration should not be canceled. Upon review of such documentation, if the division determines that the filing or registration should not be canceled, the party will be notified that it is in compliance. If after review of the additional documentation provided, the division determines

that the filing or registration should be canceled, a final notice of intent to cancel shall be mailed by the division to the most recent address on file with the division. If no additional documentation is provided by the party within 30 days of the date of the division's mailing of the preliminary notice, the division shall mail a final notice of intent to cancel to the most recent address on file with the division.

(4) Appeal of cancelation. If the party objects to such cancelation, it must file an appeal within 30 days of the date of the division's mailing of the final notice of intent to cancel. The appeal may be accompanied by any documentation or evidence supporting the claim. The appeal must be filed with the division. The division will forward the appeal to the Florida Elections Commission.

(5) Waiver. Failure to timely file an appeal as described herein shall constitute a waiver of any such entitlement.

(6) Hearing request. A party desiring a hearing before the commission must include in the appeal a separate request for hearing.

(7) Appeal not confidential. Appeals under this rule are exempt from the confidentiality provisions of Section 106.25, F.S.

Rulemaking Authority 20.10(3), 97.012(1), 103.095(5) FS. Law Implemented 103.091, 103.095, 103.121, 106.29 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gary Holland  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gisela Salas  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 10, 2011

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE NOS.:	RULE TITLES:
5B-66.001	Definitions
5B-66.002	Purpose
5B-66.003	Quarantine Area
5B-66.004	Movement or Procession of Hosts or Other Regulated Articles; Conditions of Certification
5B-66.005	Confiscation and Disposal of Hosts and Regulated Articles
5B-66.006	Treatment Areas, Treatment Procedures, Mitigative Measures, and Declaration of Eradication

PURPOSE AND EFFECT: The purpose of this rule is to establish procedures for the eradication of fruit flies species in the genera *Anastrepha* (except *A. suspensa*), *Bactrocera*,

*Ceratitis*, *Dacus* and *Rhagoletis* upon their detection in the State of Florida. If established in Florida, any one of these exotic pest species will significantly imperil the quality and quantity of many fruits and vegetables that are important to Florida's citizens as well as significantly curtail the domestic and international markets for Florida agricultural products and thereby result in substantial economic losses. The rule will allow the state to respond immediately to a detection of a fruit fly outbreak and take appropriate measures to achieve eradication thereby protecting Florida's agricultural industry, homegrown fruits and vegetables and certain native plants which are important food sources for wildlife.

SUMMARY: The proposed rule will address the necessity of immediate action to eradicate fruit flies of economic importance before any infestation spreads. Depending on the fruit fly species, these pests will infest several to hundreds of host plants species, several of which are of significant economic importance to Florida (e.g., citrus, tomatoes, peppers). If the fruit fly continues to spread unchecked, it will cause substantial damage to fruit and vegetable-bearing plants in home gardens and agricultural production areas resulting in several millions of dollars in control costs, lost production, increased consumer prices in the marketplace, and loss of domestic and international markets.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 570.07(23), (24), 581.031(1), (5), (7), (17) FS.

LAW IMPLEMENTED: 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS.

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

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: Dr. Wayne N. Dixon, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100. 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: Dr. Wayne N. Dixon, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULES IS:

### FRUIT FLY ERADICATION

#### 5B-66.001 Definitions.

For the purpose of this rule, the definitions in Section 581.011, F. S., and the following definitions shall apply:

(1) EPA. The United States Environmental Protection Agency.

(2) Fruit fly. Any life stage of any species of tephritid fruit fly in the genera *Anastrepha* (except *A. suspensa*), *Bactrocera*, *Ceratitis*, *Dacus*, *Rhagoletis* or synonyms thereof.

(3) Host. All fruits (including nuts, dates, and berries), vegetables, and the fruiting bodies of wild and cultivated plants which are capable of infestation by any life stage of any species of fruit fly defined in subsection (2).

(4) Infested. The condition of a host actually harboring a fruit fly in any of its life stages.

(5) Regulated article(s). Any article(s), including soil, capable of transporting or harboring a fruit fly, e.g., host fruits, vegetables, and potted plants.

(6) USDA-APHIS-PPQ. United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

#### 5B-66.002 Purpose.

The purpose of this rule is to establish procedures for conducting a program to eradicate fruit flies defined in subsection 5B-66.001(2), F.A.C., upon their detection in the State of Florida. This rule chapter designates the size of quarantine areas and the requirements for the movement and certification of hosts and regulated articles. It also designates the size of treatment areas and the procedures for conducting treatments, outlines program mitigative measures and sets forth the requirements for declaring eradication.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

#### 5B-66.003 Quarantine Area.

(1) A minimum 81-square mile area around a fruit fly detection shall be quarantined upon finding:

(a) Two adults within three miles (3.5 miles for *Bactrocera*) of each other within a life cycle; or

(b) One gravid female; or

(c) A larva; or

(d) A pupa.

(2) The geographical boundaries of a quarantine area shall be published in a major newspaper of general distribution in the quarantine area, on the Department's website, and provided to affected industry groups.

(3) It shall be unlawful to move a host of the fruit fly species detected or a regulated article within, through or from a quarantine area unless in accordance with Rule 5B-66.004, F.A.C.

(4) A list of hosts most likely to be present in a quarantine area shall be published in a major newspaper of general distribution in the quarantine area, on the Department's website, and provided to affected industry groups.

(5) An area shall be released from quarantine following a declaration that the fruit fly has been eradicated in accordance with subsection 5B-66.006(5), F.A.C.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

#### 5B-66.004 Movement or Possession of Hosts or Regulated Articles; Conditions of Certification.

(1) Compliance agreements. The certification of handling, processing, treatment, and moving of hosts and regulated articles may be accomplished through the use of a compliance agreement. The form Cooperative Fruit Fly Eradication Project, DACS 08468, Rev. 05/11, and Cooperative Fruit Fly Eradication Project, Aerial Applicator, DACS-08469, Rev. 05/11, are incorporated herein by reference and may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, by writing to P. O. Box 147100, Gainesville, FL 32514-7100 or on at <http://www.freshfromflorida.com/onestop/plt/plantinsp.html>.

(2) It shall be unlawful for any person to move any hosts of the fruit fly species or regulated articles within, through, or out of the quarantine area unless in compliance with this rule chapter and the movement practices have been certified by the Department or the USDA-APHIS-PPQ.

(3) Hosts or regulated articles shall be certified by the Department for movement out of a quarantine area for commercial or distribution purposes based on negative trapping, post-harvest treatments, or treatments applied to production areas which are approved by the Department by issuing a Temporary Certificate of Inspection (DACs-08010), Rev. 10/08, as incorporated in Rule 5B-2.010, F.A.C. Prior to movement, the method of treatment and location of the treatment facility must be documented in the "Additional Declarations" section of DACs-08010. Interstate movement of hosts or regulated articles shall be governed by 7 CFR §301.32 – Subpart – Fruit Flies (§301.32 and §301.32-1 to §301.32-10) which is hereby incorporated by reference. Copies may be obtained from: [www.gpo.gov](http://www.gpo.gov).

(4) Hosts offered for sale or distribution within the quarantined area shall be certified only if an authorized representative of the Department or USDA-APHIS-PPQ has conducted an inspection and certified that the following conditions have been met:

(a) The hosts have been received from outside the quarantine area. Vendors or shippers must have proof of origin in the form of written receipts or other documentation traveling with the hosts; and

(b) The hosts are kept in fruit fly-proof screened enclosures or sealed containers, cold storage, fly-proof vehicles, or other enclosures to prevent infestation by a fruit fly.

(5) Hosts transiting through the quarantine area must be covered by fly-proof screen or be in fly-proof vehicles and accompanied by proof of origin in the form of written receipt or other documentation.

(6) Soil and plants with soil attached:

(a) Soil and plants with soil attached shall be certified for movement only if an authorized representative of the Department or USDA-APHIS-PPQ has conducted an inspection and certified that they are not or have not been under the canopy of a host plant which is bearing hosts or was capable of bearing hosts within the previous 60 days.

(b) Soil and plants with soil attached under the canopy of a plant which is bearing hosts or was capable of bearing hosts within the previous 60 days, shall be certified provided:

1. All such soil and plants with soil attached are removed to an area clear of plants bearing or capable of bearing hosts and the soil is treated with an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p], or a Special Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v)] that are labeled as effective for fruit fly control.

2. All treatments must be conducted under the supervision of an authorized representative of the Department or USDA-APHIS-PPQ or pursuant to a compliance agreement as provided in subsection 5B-66.004(1), F.A.C.

(c) Plants bearing hosts or which were capable of bearing hosts within the previous 60 days, shall be certified for movement only if an authorized representative of the Department or USDA-APHIS-PPQ has conducted an inspection and certified that all hosts have been removed in accordance with paragraph 5B-66.006(1)(c), F.A.C., and that any soil attached to the host is treated with an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p], or a Special Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v)] that are labeled as effective for fruit fly control. All treatments must be conducted under the supervision of an authorized

representative of the Department or USDA-APHIS-PPQ or pursuant to a compliance agreement as provided in subsection 5B-66.004(1), F.A.C.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

5B-66.005 Confiscation and Disposal of Hosts and Regulated Articles.

All hosts or regulated articles offered for sale or distribution within the quarantine area that are not in compliance with Rule 5B-66.004, F.A.C., shall be considered infested and:

(1) Shall be confiscated, held, and destroyed by the Department at the expense of the vendor or person having possession of the hosts or regulated articles upon issuance of a Stop-Sale Notice and Hold Order, DACS-08016, Rev. 02/10, as incorporated in Rule 5B-65.005, F.A.C.; or

(2) Shall be voluntarily destroyed by the vendor or person having possession of the hosts or regulated articles pursuant to an Agreement For Treatment, Destruction, Forfeiture Or Return of Plants and/or Plant Parts, DACS-08029, Rev.04/08, as incorporated in Rule 5B-3.0038, F.A.C.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

5B-66.006 Treatment Areas, Treatment Procedures, Mitigative Measures, and Declaration of Eradication.

(1) Treatment areas and treatment procedures to eradicate a fruit fly infestation will be dependent on the species, life-stages and numbers of fruit flies detected and the geographical area affected by the fruit fly infestation. Treatment areas shall be treated under the direction of the Department or the USDA-APHIS-PPQ. All pesticide applications will be applied in accordance with applicable federal and state regulations, implementing mitigative measures to reduce environmental and public impact as described in this subsection 5B-66.006(4), F.A.C. The Department or other parties acting in concert with the Department through a compliance agreement shall use the following treatment activities or combination thereof:

(a) Ground or aerial applications of an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p], or a Special Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v)] that are labeled as effective for fruit fly control;

(b) Bait stations applied to host plants or plants capable of harboring adult fruit flies;

(c) The removal and disposal of all hosts known or suspected to harbor any stage of the fruit fly species detected;

(d) The removal and destruction of abandoned or unwanted plants capable of bearing hosts;

(e) The placement of traps;

(f) The release of sterile fruit flies to achieve eradication.

(2) Delimitation area and Treatment areas. The geographical boundaries of treatment areas shall be published in a major newspaper of general distribution in the treatment area, on the Department's website, and provided to affected industry groups.

(a) When a single male or unmated female fruit fly is detected, an intensified monitoring program will be implemented in a delimitation area which will be a minimum 81-square mile area around the positive site.

(b) When two adult fruit flies are detected within three miles (3.5 miles for *Bactrocera* species) of each other within a life cycle, or a single gravid female, larva, or pupa are detected, a delimitation monitoring program will be implemented in a minimum 81-square mile area around the positive site. The treatment area for pesticide treatments shall be established and shall be a minimum 9-square mile area around a positive site.

(c) If a larva is detected, in addition to paragraph 5B-66.006(1)(b), F.A.C., above, the soil under the canopy of all host plants on the property and each adjacent property shall be drenched with an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p], or a Special Local Need product as authorized by FIFRA, Section 24(c) [7 U.S.C. 136 v] that are labeled as effective for fruit fly control. All hosts shall be removed within a 660-foot radius of the positive site by the Department or the USDA-APHIS-PPQ.

(3) Treatment procedures. Treatments will be conducted in accordance with the following procedures upon notification of applicable federal, state, and local government agencies, and officials who will be provided an opportunity for input into program procedures or mitigative measures or participation in program monitoring activities:

(a) All necessary control actions will be conducted based on the species of fruit fly detected using the treatments necessary to prevent further spread and achieve eradication.

(b) Local hospitals and public health facilities and agencies will be notified of the pesticide treatment schedules and the types of pesticides used and all accidental pesticide exposures will be reported to the appropriate local, state and federal authorities.

(c) All applicable environmental laws and regulations will be followed and an environmental monitoring program in accordance with applicable federal and state environmental laws will be implemented.

(d) All pesticides will be applied under the supervision of certified applicators in accordance with label instructions, applicable quarantine or emergency exemptions, USDA Environmental Impact Statements, site specific Environmental Assessments and state licensing requirements.

(e) All appropriate program personnel will be trained on the proper use and storage of materials and instructed on emergency procedures in the event of accidental chemical exposure.

(f) All necessary safety and cleaning equipment, protective clothing and Material Safety Data Sheets will be provided to program personnel.

(4) Program Mitigative Measures. The following mitigative measures will be taken to reduce public and environmental impact:

(a) Residents in treatment areas shall be notified in person or by publication in a major newspaper of general distribution in the treatment area at least 24 hours in advance of the date and time of planned pesticide treatments, on the Department's website, and notice will be provided to affected industry groups. Notifications will be in English or other languages as necessary based on the ethnic structure of the community. The notification shall include basic information about the program, the geographical boundaries of the treatment area, treatment procedures and measures to be taken to avoid exposure and reduce damage.

(b) A telephone help line system will be established to keep the public informed of program activities and serve as a mechanism for registering and responding to complaints.

(c) Beekeepers in the treatment area will be notified 24 hours in advance of any chemical applications.

(d) The United States Department of the Interior's Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission will be contacted to determine the presence of any endangered or threatened species in need of protection within the treatment area and the program shall take appropriate measures to protect those species as recommended by these agencies.

(e) Sensitive areas in or near treatment areas shall be identified prior to chemical treatments and appropriate measures taken to ensure that these areas are not adversely affected.

(f) All control actions will be conducted with appropriate concern for potential impact on the public, wildlife, non-target organisms and sensitive areas.

(5) Declaration of Eradication. Following the completion of all treatments, eradication shall be declared when no fruit fly is detected after a period of a minimum of two fruit fly life cycles. The Department shall publish notice of the Declaration of Eradication in a major newspaper of general distribution in the quarantine area, on the Department's website, and provide notice to affected industry groups.

(6) Program Evaluation. Following the completion of a fruit fly eradication program, program activities and monitoring results will be reviewed and evaluated and appropriate changes implemented for future programs.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Wayne N. Dixon, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P.O. Box 147100, Gainesville, FL 32614-7100

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Adam H. Putnam, Commissioner, Department of Agriculture and Consumer Services, The Capitol, 400 South Monroe Street, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2010

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Building Commission**

RULE NO.: 9N-4.002  
 RULE TITLE: Florida Accessibility Code for Building Construction

PURPOSE AND EFFECT: Adopt undated Florida Accessibility Code for Building Construction effective March 15, 2012.

SUMMARY: The United States Department of Justice has adopted a new standard to implement the Americans with Disabilities Act that will become the federally mandated minimum construction design standard on March 15, 2012. In anticipation of the need to update Florida's accessibility code, the Florida Building Commission convened a workgroup and forwarded its consensus-based recommendations for Legislative review during the 2011 session. Those recommendations were adopted in Chapter 2011-222, Laws of Florida. The 2012 Florida Accessibility Code for Building Construction merges the federal minimum with Florida-specific, legislatively mandated enhancements. The Commission has selected an effective date of March 15, 2012, to implement the updated standard consistent with the effective date of the new Federal standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 553.503 FS.

LAW IMPLEMENTED: 553.503 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: August 9, 2011, 8:30 a.m. or as soon thereafter as the matter comes before the Commission in accordance with its agenda.

PLACE: Rosen Centre, 9840 International Drive, Orlando, Florida 32819

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: Rick Dixon, Codes and Standards Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)921-2278. 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: Rick Dixon, Codes and Standards Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)921-2278, e-mail: rick.dixon@dca.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

9N-4.002 Florida Accessibility Code for Building Construction.

(1) The 2012 ~~1997~~ Florida Accessibility Code for Building Construction (the Code) is adopted by reference as ~~the rule of this Commission, effective October 1, 1997. The 2001 and 2004 revisions to the Code are herein incorporated into this rule by reference and shall take effect on the effective date of this rule.~~ Copies of the Code ~~and the 2001 and 2004 revisions~~ are available on the internet at [www.floridabuilding.org](http://www.floridabuilding.org) or by writing to the Codes and Standards Section, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

~~(2) The Code is amended, and such amendments shall be integrated into the Florida Building Code, as follows:~~

~~(a) A second exception is added to section 4.3.3 providing that all spaces must be located on an accessible route no less than 44 inches (1118 mm) wide so that users will not be compelled to walk or wheel behind parked vehicles.~~

~~(b) The first paragraph of Section 4.6.4 is amended to read:~~

~~“Each such parking space must be prominently outlined with blue paint, and must be repainted when necessary, to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign of a color and design approved by the Department of Transportation which is placed on or at a distance of 84 inches above the ground to the bottom of the sign and which bears the international symbol of accessibility;~~

~~ADAAG s. 4.30.7 and the caption "PARKING BY DISABLED PERMIT ONLY". Such sign erected after October 1, 1996, must indicate the penalty for illegal use of the space." The shaded text that comprises the balance of Section 4.6.4 shall remain as currently adopted.~~

This rule will have a delayed effective date of March 15, 2012.

Rulemaking Authority 553.503 FS. Law Implemented 553.503 FS. History--New 9-14-97, Amended 10-31-99, 1-20-02, 1-20-08, 5-14-08, Formerly 9B-7.0042, Amended 3-15-12.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rick Dixon, Codes and Standards Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Building Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2011

**STATE BOARD OF ADMINISTRATION**

RULE NOS.:	RULE TITLES:
19-11.001	Definitions
19-11.006	Enrollment Procedures for New Hires
19-11.007	Second Election Enrollment Procedures for the FRS Retirement Programs
19-11.011	Employer and Employee Contributions and Present Value Transfer Procedures

PURPOSE AND EFFECT: To amend Rule 19-11.001, F.A.C., to include all pertinent definitions contained in Rule Chapters 19-11, 19-12 and 19-13, F.A.C.; to adopt the latest versions of an enrollment form in view of new legislation (Senate Bill 2100, Chapter 2011-68, Laws of Florida) requiring employee contributions to the Florida Retirement System; to remove unnecessary provisions in Rules 19-11.006 and 19-11.007, F.A.C., as such information is fully set forth in the applicable forms; to create new Rule 19-11.011, F.A.C. to consolidate contributions provisions currently in Rules 19-11.001, 19-12.003 and 19-12.004, F.A.C., and add new information pertaining to employee contributions pursuant to Senate Bill 2100, Chapter 2011-68, Laws of Florida.

SUMMARY: To update information concerning enrollment procedures and to reflect recent legislation pertaining to employer and employee contributions; to consolidate definitional provisions currently scattered in several rules contained in several different rule chapters; to remove unnecessary and redundant rule provisions; and to adopt an updated form. There are no other rules incorporating any of these proposed rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SBA has determined that the proposed rule(s) will not have an adverse impact on small business or likely increase, directly or indirectly, regulatory costs in excess of \$200,000 in the aggregate within one year or \$1 million in the aggregate within 5 years. Therefore, an SERC has not been prepared. It has also been determined that this/these rule(s) do/does not meet the statutory threshold for ratification by the Legislature.

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(8)(a) FS.

LAW IMPLEMENTED: 121.051, 121.055, 121.35, 121.4501(2), (3), (4), (5), (6), (8), (10), (13), (15), (20), 121.71, 121.72, 121.74, 212.77, 121.78, 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 DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Monday, August 8, 2011, 9:00 a.m. – 11:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tina Joanos, Agency Clerk, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, Florida 32308, (850)413-1197, tina.joanos@sbafla.com. 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: Ruth A. Smith, Assistant General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, Florida 32308, (850)413-1182, ruth.smith@sbafla.com

THE FULL TEXT OF THE PROPOSED RULES IS:

~~19-11.001 Definitions 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.~~

The following words and terms shall have the following meanings for purposes of Chapters 19-11, 19-12 and 19-13, F.A.C.:

(1) “ABO,” “Accrued service benefit,” or “accumulated benefit obligation” 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)(b)1., F.S., 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.

(2) “Administrator” or “Investment Plan Administrator” means the entity hired by the SBA, pursuant to Section 121.4501(8)(a)1., F.S., to provide administrative services to the FRS Investment Plan and is responsible for processing enrollment forms received from employees making a retirement plan choice either by form, by telephone, or on the MyFRS.com website.

(3) “Aggregate amount of \$75,000 or more” means the total of the amounts transferred out of a fund by a member and into the same fund, in either order (i.e., in/out or out/in) during any rolling 30-calendar day period, regardless of the number of Round Trips.

(4) “Annual addition” means the sum for any limitation year of all employer and employee contributions which are treated as annual additions to a defined contribution plan for purposes of s. 415(c) of the Code and forfeitures. Examples of such contributions to a defined contribution plan include the following: employer and employee contributions to the FRS Investment Plan; contributions to the Senior Management Service Optional Annuity Program described in Section 121.055(6), F.S.; contributions to a Code s. 401(k) plan; employer contributions to an individual retirement account; voluntary employee contributions to accounts in a defined benefit plan [but not including contributions to a qualified cost-of-living arrangement in accordance with Code s. 415(k)]; amounts allocated to the separate account of a key employee for post-retirement medical benefits described in Code s. 419A(d)(2); and contributions to an individual medical benefit account, as described in Code s. 415(l). Examples of contributions which are not annual additions for purposes of s. 415(c) of the Code as applied to the FRS Investment Plan include the following: rollover contributions or transfers from another eligible retirement plan to the FRS Investment Plan; contributions to a Code s. 403(b) annuity plan; contributions to a Code s. 457 deferred compensation plan; and contributions which are additional elective deferrals under Code s. 414(v).

(5) “Benefits” is used in the same sense, and has the same meaning, as used in Section 121.4501(7), F.S.

(6) “Code” means the U.S. Internal Revenue Code, as amended. The Code is available free on the Internet at the following web site: [uscode.house.gov](http://uscode.house.gov).

(7) “Compensation” means the monthly salary paid to a member by his or her employer for work performed arising from that employment.

(8) “Complaint” shall mean a member’s written or verbal expression of dissatisfaction with an FRS Investment Plan provider or one of its representatives.

(9) “Defined contribution plan” means a plan, such as the FRS Investment Plan, which provides for an individual account for each member and for benefits based solely on the amount contributed to the member’s account, and any income, expenses, gains and losses, and any forfeitures of accounts of other members which may be allocated to such member’s account.

(10) “Direct rollover” means a payment by the FRS Investment Plan to the eligible retirement plan specified by the distributee.

(11) “Distributee” means a member or former member. In addition, the member’s or former member’s surviving spouse and the member’s or former member’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code s. 414(p), are distributees with regard to the interest of the spouse or former spouse.

(12) “Division” means the Division of Retirement within the Department of Management Services.

(13) “Effective date of enrollment” means that the Employee has completed enrollment by filing an election for his or her membership class with the Administrator; that the Administrator has entered the Employee into its recordkeeping system; and that the Administrator has informed the Division of the Employee’s effective date of enrollment in either the FRS Pension Plan or the FRS Investment Plan.

(14) “Electronic Means” shall mean an enrollment made on the MyFRS.com website, by telephone or other technology as specified by the SBA.

(15) “Eligible retirement plan” means an individual retirement account described in Code s. 408(a), an individual retirement annuity described in Code s. 408(b), an annuity plan described in Code s. 403(a), an annuity contract described in Code s. 403(b), an eligible deferred compensation plan described in Code s. 457(b) which is maintained by an eligible employer described in Code s. 457(e)(1)(A) or a qualified trust described in Code s. 401(a), that accepts the distributee’s eligible rollover distribution.

(16) “Eligible rollover distribution” means any distribution of all or any portion of the balance of the member’s account(s) in the FRS Investment Plan to the credit of the distributee. An eligible rollover distribution does not include any distribution which is made upon hardship of the employee; any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a

specified period of ten years or more; any distribution to the extent such distribution is required under Code s. 401(a)(9); the portion of any distribution that is not includible in gross income, unless transferred in accordance with the provisions of Code s. 402(c)(2) to a qualified trust which is part of a plan which is a defined contribution plan, or to an individual retirement account described in Code s. 408(a) or an individual retirement annuity described in Code s. 408(b); or a deemed distribution of a loan under Code s. 72(p).

(17) "Employee" means an eligible employee as defined in Section 121.4501(2)(e), F.S.

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

(19) "Excessive trading" means multiple occurrences of Market Timing Trades by a member over time.

(20) An "exempt transaction" is any transaction that is initiated for purposes of: depositing employer and employee 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 19-11.004, F.A.C.

(21) "FRS Investment Plan", "Florida Retirement System Investment Plan," or "Investment Plan" means the defined contribution retirement program of the Florida Retirement System, established in Parts II and III of Chapter 121, F.S. Although established in Parts II and III, certain parts of Part I of Chapter 121, F.S., also apply to the FRS Investment Plan. The FRS Investment Plan has two parts: the FRS Investment Plan and the FRS Investment Plan Hybrid Option, also known as the FRS Hybrid Option.

(22) "FRS Investment Plan Hybrid Option" or "FRS Hybrid Option" means the optional defined contribution retirement plan within the Florida Retirement System, established in Parts II and III of Chapter 121, F.S., in which a member chooses to retain his accrued service benefit in the FRS Pension Plan, in accordance with Section 121.4501(3)(b)1., F.S., and further chooses that all future employer and employee contributions be deposited in his FRS Investment Plan Hybrid Option account. Although established in Parts II and III, certain parts of Part I of Chapter 121, F.S., also apply to the FRS Investment Plan Hybrid Option.

(23) "FRS Investment Plan providers" are:

1. 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).

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

(25) "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.

(26) "Grace Period" means that procedure described in subsection 19-11.006(4), F.A.C., which permits, under certain circumstances, the voiding of a retirement plan election.

(27) "I," "you," or "your:" these references are to the member in the context of relevant parts of the enrollment forms set forth in this rule Chapter.

(28) "Limitation year" is the consecutive 12 month period of time to which Code limitations with respect to contributions and forfeitures are applied. For the FRS Investment Plan, the limitation year is the calendar year.

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

(30) A "Market Timing Trade" is a member-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 Roundtrip Trades is an aggregate amount of \$75,000 or more.

(31) "Member" means an employee who elected to participate, and has an account established, in the FRS Investment Plan or the FRS Investment Plan Hybrid Option as a result of current or previous employment with an FRS-covered employer; a person who has been designated as an alternate payee due to a qualified domestic relations order ("QDRO"); or a designated beneficiary when a member is deceased. For purposes of the complaint procedures set forth in Rule 19-11.005, F.A.C., the term also includes FRS employees who have not elected the FRS Investment Plan but who claim that they intended to join the Plan but were prevented from doing so for various reasons.

(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.

~~(32)(b) “PEORP Participant” or “FRS Investment Plan Member,” or “Investment Plan Member,” “participant,” or “member,” shall mean an active member of the Florida Retirement System who has elected to join the FRS Investment Plan PEORP.~~

~~(33)(e) “PEORP Participant’s “Member’s accounts” or “PEORP accounts” shall mean investment accounts for an individual member PEORP Participant in which employer and employee contributions are invested for a FRS Investment Plan member 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.~~

~~(35) A “Roundtrip Trade” occurs when a member 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.~~

~~(36)(e) “PEORP” “Third party administrator” or “TPA” shall mean the Investment Plan third party Administrator hired by the Florida State Board of Administration pursuant to Section 121.4501(8), F.S.~~

~~(37) “SBA” means the State Board of Administration of Florida, the plan sponsor for the FRS Investment Plan.~~

~~(38) “True-up Amount” means the difference between the ABO calculated by using the member’s actual creditable service and the actual final average compensation as of the member’s effective date in the FRS Investment Plan and the ABO initially transferred.~~

~~(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, 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, 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, or the next succeeding business day if the day 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.~~

~~(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.~~

~~Rulemaking Specific Authority 121.4501(8) 121.78(3)(e) FS. Law Implemented 121.021, 121.4501 121.78 FS. History—New 12-8-02, Amended 3-9-06,\_\_\_\_\_.~~

~~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., F.S., 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) “Administrator” means the entity hired by the SBA, pursuant to Section 121.4501(8)(b)1., F.S., to provide administrative services to the FRS Investment Plan and is responsible for processing enrollment forms received from employees making a retirement plan choice either by form, by telephone, or on the MyFRS.com website.~~

~~(d) “Effective date of enrollment or effective 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 with the Administrator; that the~~



Administrator has entered the employee into its recordkeeping system; and that the Administrator has informed the Division of the employee's effective date of enrollment in either the FRS Pension Plan or 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), F.A.C., below.

(e) "Electronic Means" shall mean an enrollment on the MyFRS.com website, by telephone or other technology as specified by the SBA in a subsequent amended rule.

(f) "Employee" means an eligible employee as defined in Section 121.4501(2)(d), F.S.

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

(h) "FRS Investment Plan" means the defined contribution retirement program of the Florida Retirement System, established in Parts II and III of Chapter 121, F.S. Although established in Parts II and III, certain parts of Part I of Chapter 121, F.S., also apply to the FRS Investment Plan. The FRS Investment Plan has two parts: the FRS Investment Plan and the FRS Investment Plan Hybrid Option, also known as the FRS Hybrid Option.

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

(j) "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.

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

(l) "Member" means an employee who elects to join the FRS Investment Plan or the FRS Investment Plan Hybrid Option.

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

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

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

#### ~~(2)~~(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, or the FRS Investment Plan Hybrid Option, the effective date of enrollment in the FRS Investment Plan or the FRS Investment Plan Hybrid Option 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 or the FRS Investment Plan Hybrid Option will be transferred into the employee's FRS Investment Plan or FRS Investment Plan Hybrid Option account at the rate the employer was required to contribute for that employee. Only after effective enrollment in the FRS Investment Plan or the FRS Investment Plan Hybrid Option will the employee receive the employer contribution at the FRS Investment Plan or FRS Investment Plan Hybrid Option rate appropriate to that employee's class of membership, as specified in Section 121.4501(4)(a)2.b., (b)2.b., and (c)2.b., F.S.

(b) Eligible newly-hired employees enrolled in the regular, special risk, and special risk administrative support classes may choose to enroll in the FRS Investment Plan by submitting an enrollment form or by electronic means.

(c) Eligible newly-hired employees enrolled in the Elected Officers' Class or Senior Management Service Class may only enroll in the FRS Investment Plan by submitting an enrollment form.

(d) Eligible newly-hired employees eligible to enroll in the Community College Optional Retirement Program or State University System Optional Retirement Program may only enroll in the FRS Investment Plan by submitting an enrollment form.

(e) Enrollment forms are available in the enrollment package which is sent to an employee's address of record or by accessing [www.MyFRS.com](http://www.MyFRS.com), and clicking on Resources and then on Forms; or by calling toll-free 1(866)446-9377, or for the hearing impaired TRS 711 1(888)429-2460.

#### ~~(3)~~(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 or she must complete his or her plan choice elect the FRS Investment Plan no later than the last business day of June. If no plan choice is filed, the employee will default to the FRS Pension Plan.

(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 same information requested by the forms available for use outlined in this Rule 19-11.006, F.A.C., for his or her 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 ~~(2)(3)(c)(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. 04/10, which is hereby adopted and incorporated by reference <http://www.flrules.org/Gateway/reference.asp?No=Ref-00420>. If an employee chooses to use the EZ form, only limited information (i.e., name, plan choice, social security number and signature) is required. The FRS Select Moderate Balanced Fund is the only initial investment option (although that investment option may be changed by the Member once the account is funded). No beneficiary identifying information is required on the EZ form. However, beneficiary designations must be made either on forms prescribed for that purpose or electronically by logging onto MyFRS.com, clicking on "manage benefits," then clicking on "manage investments," and then clicking on "personal info." If no beneficiary designation is made, the Plan funds will be distributed, at the Member's death, in accordance with Florida law and Rule 19-11.002, F.A.C. 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 sub-subparagraphs 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 Hybrid Option 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 Hybrid Option, 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 4:00 p.m. Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.055(6)(c)2., F.S.;~~

~~e. 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 Hybrid Option, 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 eligible clinical faculty employed at a state university with a faculty practice plan shall elect this option, which requires the selection to be made no later than 4:00 p.m. Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.35(3), F.S.; 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 Hybrid Option 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 Hybrid Option 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), F.S.;

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 Hybrid Option 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), F.S.; 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), F.S., in the absence of the member'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 member who does not select investment options will be defaulted into the FRS Select Moderate Balanced Fund. Any member so defaulted retains the option at any time once the account is activated 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 member chooses other investment options;

5. 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), F.S.;

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(e) 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.]

h. 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 last business day 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 members;

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 after tax deductions that are not 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.

~~(c)(d)~~1. The enrollment by form or electronic means shall be complete and the election shall be final if all the required information is clearly indicated and if the enrollment is received by the FRS Plan Choice Administrator by 4:00 p.m. Eastern Time. The form shall be transmitted via the U.S. mail, courier, or by fax to 1(888)310-5559.

2. The FRS Plan Choice Administrator shall determine that the employee's enrollment in the FRS Investment Plan is within the prescribed time period, is complete, and the employee's election is clearly indicated. If the Administrator determines that the enrollment is incomplete, the employee will be required to resubmit a completed enrollment. An incomplete enrollment by form is a form which is missing the name of the member, social security number, plan selection, or signatures, or dates. If the form is incomplete only because the member has made no investment selection, the form will be processed and the member 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 member at any time once the transfer has been made. An incomplete enrollment by electronic means is one in which the FRS Plan Choice Administrator has no record of receipt and processing of the electronic enrollment.

~~(d)(e)~~ Upon receipt of the completed enrollment form by the FRS Plan Choice Administrator, the FRS Plan Choice Administrator shall enroll the employee in the indicated FRS retirement plan FRS Investment Plan. Upon completion of the enrollment, but no later than two working days after enrollment, the FRS Plan Choice Administrator shall send confirmation of the effective enrollment to the employee at the employee's home address of record, to the employee's employer, and to the Division to inform the Division of the employees retirement plan choice that the employee is no longer in the FRS Pension Plan.

~~(e)(f)~~ Employers shall remit pay retirement contributions monthly for their FRS Investment Plan employees or the FRS Investment Plan Hybrid Option 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 employee's plan choice, if applicable 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 or the FRS Investment Plan Hybrid Option.

(f) If the member submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name of the member, social security number, plan

selection, or signature. The member will be required to resubmit a completed enrollment form. If the form is incomplete only because the member has made no investment selection, the form will be processed and the member 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 member at any time once the transfer has been made.

~~(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 Administrator of the ABO for each employee whose effective date of enrollment is the first day of the month and the Administrator 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 Administrator 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 member'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)(e)3., F.S., 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 member(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 member's FRS Investment Plan account from the FRS Trust Fund 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 member on his or her enrollment form.

~~(g) If the recomputed ABO is less than the original amount transferred by \$10 or more, the Administrator shall cause to be transferred from the member'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 member 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 Administrator of the true-up amounts plus interest by member 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)(e)3., F.S., 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 member 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 member 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.~~

~~(4)(6) Grace Period.~~

(a) If a member files an election with the Plan Choice Administrator and the member realizes that the election was made in error, or if the member has reconsidered the election made, the SBA will consider, on a case-by-case basis, whether the election will be voided, subject to the following requirements:

The member must notify the SBA, by a telephone call to the toll-free MyFRS Financial Guidance Line at 1(866)446-9377 or by written correspondence directly to the SBA, to the Plan

Choice Administrator, or to the Division no later than 4:00 p.m. Eastern Time on the last business day of the election effective month.

(b) If the request to reverse the election is made timely and the SBA finds that the election was made in error, the member will be required to sign a release and return it to the SBA no later than 4:00 p.m. Eastern Time, on the last business day of the election effective month prior to the election's being officially reversed. The member will acknowledge that failure to return a signed release by the requested due date will result in the original election being reinstated.

(c) Upon receipt of the release, the Division and the Plan Choice Administrator will be directed to do the following:

1. The Division will revise its database to reflect the member's plan change. The member will have until his or her choice period deadline date to make a new election. If the member's choice period has ended, the member will have one calendar month to make a new election. Failure to make a new election will result in the member's defaulting into the Pension Plan, except for the situation described in subparagraph 3., below.

2. The Plan Choice Administrator will send the member written confirmation that the election has been reversed.

3. 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 reversed.

(d) Nothing contained in this subsection will interfere with a member's right to file a complaint, as permitted by Section 121.4501(8)(9)(g)(f)3., F.S., and discussed in Rule 19-11.005, F.A.C.

~~(5)(7)~~ Costs associated with the liquidation or transfer of assets from the FRS Trust Fund to the FRS Investment Plan will be deducted from the FRS Trust Fund. The FRS Trust Fund 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 members.

~~(6)(8)~~ The amount transferred to each investment product shall be based on the percentage of the total investment allocated to each fund by the member on his or her enrollment form ~~as described in paragraph (3)(b), above~~. However, pursuant to Section 121.4501(4)(d), F.S., 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.

~~(7)(9)~~ In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), F.S., the records and other information

relating to investments made by the SBA will be confidential and exempt from Chapter 119, F.S., until 30 days after completion of each investment transaction.

Rulemaking Authority 121.4501(3)(e)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 3-9-06, 10-25-07, 12-8-08, 5-19-09, 2-4-10.

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)(g)(e), F.S. This rule includes procedures for members 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 members who chose or defaulted into the FRS Pension Plan to use their 2nd election to transfer to the FRS Investment Plan or the FRS Investment Plan Hybrid Option.

(2) A member may make a valid 2nd election only if the 2nd election is made and processed by the Plan Choice Administrator while the member is actively employed, earning salary and service credit in an employer-employee relationship consistent with the requirements of Section 121.021(17)(b), F.S. ~~FRS members must be actively employed earning salary and service credit to be eligible to make a valid 2nd Election.~~ Members on an unpaid leave of absence, terminated members, or employees of an educational institution on summer break cannot use their 2nd Election until they return to covered FRS employment. In general terms, this means that the 2nd election must be made and processed while the member is actively working and being paid for that work. It is the responsibility of the member to assure that the 2nd election is received by the Plan Choice Administrator no later than 4:00 p.m. Eastern Time on the last business day the member is earning salary and earning service credit.

~~(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, F.S., in which a member chooses to transfer his accrued service benefit in the FRS Pension Plan, if any, to the FRS Investment Plan or the FRS Investment Plan Hybrid Option and further chooses that all future employer contributions be deposited in his FRS Investment Plan account. Although established in Parts II and III, certain parts of Part I of Chapter 121 also apply to the FRS Investment Plan. Any accrued service benefit transferred from the FRS Pension Plan to the FRS Investment Plan will be subject to the vesting requirements of the FRS Pension Plan.~~

(b) ~~“FRS Investment Plan Hybrid Option” or “FRS Hybrid Option” means the optional defined contribution retirement plan within the Florida Retirement System, established in Parts II and III of Chapter 121, F.S., in which a member chooses to~~

~~retain his accrued service benefit in the FRS Pension Plan, in accordance with Section 121.4501(3)(e)1., F.S., and further chooses that all future employer contributions be deposited in his FRS Investment Plan Hybrid Option account. Although established in Parts II and III, certain parts of Part I of Chapter 121, F.S., also apply to the FRS Investment Plan Hybrid Option.~~

~~(c) “FRS Pension Plan” means the defined benefit retirement plan within the Florida Retirement System, established in Part I of Chapter 121, F.S.~~

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

~~(f) “Electronic Means” shall mean an enrollment on the MyFRS.com website, by telephone or other technology as specified by the SBA in a subsequent amended rule. (e) “ABO” “Accrued service benefit” or “accumulated benefit obligation” means the present value amount already earned by a member 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.~~

~~(2)(3) General Procedures.~~

(a) All members who wish to change their FRS retirement plan using their 2nd election must use a 2nd election enrollment form or, if moving from the FRS Pension Plan to the FRS Investment Plan or FRS Investment Plan Hybrid Option, may do so online by accessing the Second Choice Service at MyFRS.com. There are two types of enrollment forms. The “2nd Election Retirement Plan Enrollment Form” allows the member to choose the investment funds he wishes to use if changing 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 member is choosing to have his employer and employee contributions and any transfers from the FRS Pension Plan invested in the FRS Select Moderate Balanced Fund. The member may change the investment selection at any time after the FRS Investment Plan or the FRS Investment Plan Hybrid Option account is activated. Activation occurs when contributions are deposited to the member’s FRS Investment Plan account.

(b) Both forms are available by calling the toll-free number for the MyFRS Financial Guidance Line: 1(866)446-9377, or for the hearing-impaired TRS 711: 1(888)429-2160; or by using the MyFRS.com website and clicking on Resources and then on Forms.

(c) Elections made by form must be mailed to the FRS Plan Choice Administrator, P. O. Box 785027, Orlando, FL 32878-5027; Box 56290, Jacksonville, Florida 32241-6290 or faxed toll-free to (888)310-5559.

(d) For members transferring to the FRS Pension Plan, the election may require a personal payment if the member’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. If the required amount is not received by the Division by the date due, the election will be voided. The member will receive notification and proper instructions from the Division detailing where and in what form to send any personal payments.

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

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

(g) If the member submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name of the member, social security number, plan selection, or signature. The member will be required to resubmit a completed enrollment form. If the form is incomplete only because the member has made no investment selection, the form will be processed and the member 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 member at any time once the transfer has been made.

(d) The member may elect to move between the Florida Retirement System retirement programs only if the member is earning service credit in an employer-employee relationship consistent with the requirements under Section 121.021(17)(b), F.S. FRS members must be actively employed earning salary and service credit to be eligible to make a valid 2nd Election. Members on an unpaid leave of absence, terminated members, or employees of an educational institution on summer break cannot use their 2nd Election until they return to covered FRS employment. The election must be received and processed by the FRS Plan Choice Administrator before the member terminates covered FRS employment. It is the responsibility of the member to ensure the election is received by the Plan Choice Administrator no later than 4:00 p.m. Eastern Time on the last business day the member is earning salary and earning service credit.

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

(a) All members are required to fill out Section 1 of the form by providing the member's name and Social Security number and checking only one of three boxes, indicating which choice the member 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. Note that if a member transfers from the Investment Plan to the Pension Plan and leaves a balance in the member's Investment Plan account, the member is a member of the Pension Plan. As such, the member cannot take a distribution of the surplus Investment Plan funds until he begins receiving his Pension Plan benefits.

2. Change from the FRS Pension Plan to the FRS Investment Plan (Please complete Sections 3 and 4, as described in paragraphs (e) 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 (e) and (d) below). I am retaining any accrued benefit in the FRS Pension Plan with future employer contributions deposited in my FRS Investment Plan Hybrid Option 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 121.4501(20), F.S., 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 [www.MyFRS.com](http://www.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 member 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. Members 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 member who does not select any investment options will be defaulted into the FRS Select Moderate Balanced Fund. Any member 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 member chooses other investment options.

(d) The fourth section on the form is an authorization section which will ensure that all members understand the information described. All members 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 member has made:

1. For all members: 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: 1(866)44 MyFRS (1(866)446-9377; or TTY: 1(888)429-2160) or at MyFRS.com.

2. For members 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.

d. 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 members 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 members 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 Hybrid Option and that my FRS Pension Plan benefit already accrued will remain with the FRS Pension Plan and that a FRS Investment Plan Hybrid Option 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 [www.MyFRS.com](http://www.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 [www.MyFRS.com](http://www.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 my accumulated benefit obligation and future contributions 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 seven (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.

b. I understand that investment management fees will be deducted from my FRS Investment Plan account or the FRS Investment Plan Hybrid Option 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 or the FRS Investment Plan Hybrid Option account 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.

e. I understand that Sections 121.4501(8)(b)4. and 121.4501(15)(b), F.S., of Florida law incorporate the federal law concept of participant control, established by regulations of the U.S. Department of Labor under section 404(e) 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(e) 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 member and must include a daytime telephone number. Inclusion of an e-mail address or the name of the member's employing agency is optional on the member's part.

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

(g) The member 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 members transferring to the FRS Pension Plan, the election may require a personal payment if the member'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. If the required amount is not received by the Division by the date due, the election will be voided. The member will receive notification and proper instructions from the Division detailing where and in what form to send any personal payments.

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

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

(k) If the member submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name of the member, social security number, plan selection, or signature. The member will be required to resubmit a completed enrollment form. If the form is incomplete only because the member has made no investment selection, the form will be processed and the member 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 member 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," Rev. 11-08, is hereby adopted and incorporated by reference.

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

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

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

(e) The member 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 members transferring to the FRS Pension Plan, the election may require a personal payment if the member'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. If the required amount is not received by the Division by the date due, the election will be voided. The member will receive notification and proper instructions from the Division detailing where and in what form to send any personal payments. The Division 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 member's address of record once the completed form is received and processed.

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

(i) If the member submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name of the member, social security number, the plan selection, or signature. The member will be required to submit a completed enrollment form.

(3)(6) Grace Period.

(a) If a member files an election with the Plan Choice Administrator and the member realizes that the election was made in error, or if the member has reconsidered his or her plan choice, the SBA will consider, on a case-by-case basis, whether the election will be reversed, subject to the following: The member must notify the SBA by a telephone call to the toll free MyFRS Financial Guidance Line at: (866)446-9377, or by written correspondence directly to the SBA, to the Plan Choice Administrator, to the Financial Guidance Line, or to the Division, no later than 4:00 p.m. Eastern Time on the last business day of the election effective month.

(b) If the request to reverse the election is made timely and the SBA finds the election was made in error, the member will be required to sign a release and return it to the SBA no later than 4:00 p.m., Eastern Time, on the last business day of the election effective month prior to the election's being officially reversed. Upon receipt of the release, the Division and the Plan Choice Administrator will be directed to do the following:

2. The Plan Choice Administrator will send the member written confirmation that the election has been voided.1. The Division will revise its database to reflect the election has been reversed.

3. The member will make a new election consistent with subsections (3) and (4), above.

(c) Nothing contained in this subsection will interfere with a member's right to file a complaint, as permitted by Section 121.4501(8)(9)(g)(f)3., F.S. and discussed in Rule 19-11.005, F.A.C.

Rulemaking 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 3-9-06, 10-25-07, 12-8-08, 5-19-09, 1-7-10,\_\_\_\_\_.

19-11.011 Employer and Employee Contributions and Present Value Transfer Procedures.

(1) Purpose. This rule establishes procedures regarding employer and employee contributions, present value transfers, late payrolls, assessments, and market losses.

(2) Employer and Employee contributions.

(a) All state, school district, and local employers who participate in the Florida Retirement System (FRS) (employers) and each employee are responsible for making the contributions required by Chapter 121, Florida Statutes.

(b) When an employer requests an adjustment to retirement contributions or accompanying payroll data for prior periods, the adjustment is processed.

(c) However, neither the SBA, nor the FRS Investment Plan Trust Fund, nor the Florida Retirement System Trust Fund shall incur any loss or gain as a result of an employer's negative adjustments for an FRS Investment Plan member or a former member.

(3) In no event shall the aggregate of the allocation of contributions and forfeitures to an FRS Investment Plan member's account(s) in the Plan and the annual addition to an FRS Investment Plan member's account(s) in any other defined contribution plan maintained by the Employer exceed the limitation for defined contribution plans set forth in Internal Revenue Code Section 415(c)[the Code section "415(c) limitation"]. Employers shall cooperate with the FRS Investment Plan's administrator or its agent in order for the administrator or its agent to be able to monitor the 415(c) limitation on contributions. Employers shall provide all financial and payroll data which the Plan's administrator or its agent must use to determine whether or not the 415(c) limitation has been exceeded. [Note: Pursuant to Section 121.4501(5)(d), F.S., the Administrator is responsible for notifying the employer regarding maximum contribution levels permitted under the Code and if a member contributes to any other tax-deferred plan, he or she is responsible for ensuring that total contributions made to the FRS Investment Plan and to any other such plan do not exceed federally permitted maximums.]

(4) In the event the aggregate annual additions to a member's account(s) in the FRS Investment Plan and in any other defined contribution plan maintained by the Employer exceed the 415(c) limitation during any limitation year, the excess shall be attributed first to such other plans. If any excess remains after attribution to such other plans, the amount of any such excess attributable to the allocation of forfeitures, to a reasonable error in estimating a member's annual compensation or to any other circumstances that the Commissioner of Internal Revenue finds is justified, in accordance with Treasury Regulation 1.415-6(b)(6), shall be used to reduce the Employer's contributions for such member under the Plan in the next and succeeding limitation years; provided, however, that if the member is not covered by the Plan at the end of the limitation year, such excess amount will be used to reduce the Employer's contributions to remaining members under the Plan in the next, and succeeding, limitation years. If the correction method, above, is not available, other methods of correcting excess annual additions are permitted if in accordance with Treasury Regulation 1.415-6(b)(6).

(5) The employer and employee contributions received by a participating member of the FRS Investment Plan prior to effective enrollment in the FRS Investment Plan will be transferred into the employee's FRS Investment Plan account at the rate established pursuant to Section 121.71, F.S. Only after effective enrollment in the FRS Investment Plan will the employee receive the employer and employee contribution at

the rate established by Section 121.71, F.S. and Section 121.72, F.S. appropriate to that member's class of membership, as specified in Section 121.4501(4)(a)2.b., (b)2.b., and (c)2.b., F.S.

(6) 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 Administrator of the ABO for each employee whose effective date of enrollment is the first day of the month and the Administrator 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 Administrator 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 member'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., F.S., the Division shall re-compute 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 member(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 member's FRS Investment Plan account from the FRS Trust Fund 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 member on his or her enrollment form.

(g) If the recomputed ABO is less than the original amount transferred by \$10 or more, the Administrator shall cause to be transferred from the member'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 member 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 Administrator of the true-up amounts plus interest by member 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., F.S., 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 member 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 member 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.

(7) One percent penalty.

(a) The portion of the one percent penalty assessed on late contributions and accompanying payroll data attributable to contributions for the FRS Investment Plan shall be deposited into the member's account, using the member'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)(e), F.S., shall fully explain and certify such waiver request in writing to the Office of Defined Contribution Programs, State Board of

Administration of Florida, 1801 Hermitage Blvd., Suite 100, Tallahassee, Florida 32308. Once a delinquency fee has been paid to a member's account, it cannot be waived.

(8) Market loss calculation.

(a) The Administrator will determine market losses using a member's investment allocation in effect at the time of calculation. The Administrator will perform the market value calculation using a period certain which is the 15th of the month in which the payroll is due, or the next succeeding business day if the day falls on a weekend or Administrator-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 Administrator.

(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 members, only the one percent late assessment will apply to the employer.

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

Rulemaking Authority 121.78(3)(c), 121.4501(8) FS. Law Implemented 121.78, 121.4501 FS. History-New

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: June 16, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 27, 2011

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.830  
 RULE TITLE: Death Row

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to add an approved MP3 player and ear buds to the list of items death row inmates may possess and to amend the exercise provisions.

SUMMARY: The proposed rule adds certain personal permissible property items and permits staff to modify the manner of exercise for inmates who are involved in escape, escape attempt, or possession of escape paraphernalia.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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 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: Kendra Lee Jowers, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.830 Death Row.

(1) No change.

(2) An inmate who is not under sentence of death may be housed on death row when:

(a) through (b) No change.

(c) The warden has declared an emergency requiring use of death row housing for inmates not under sentence of death. In this instance, the warden shall notify the Assistant Deputy Secretary of Institutions or designee of the housing arrangement.

(3) through (6) No change.

(7) Conditions and Privileges – the following conditions and privileges apply to all death row inmates except Phase I and Phase II inmates.

(a) through (b) No change.

(c) Personal Property – Inmates on death row shall be allowed to possess personal property such as watches, rings, stamps, envelopes, writing paper, and approved televisions, fans, ~~and~~ walkman-type radios, MP3 players, with headphones, and earbuds unless there is a clear indication of a security concern. Each inmate may possess no more than one approved television, fan, ~~and~~ radio, MP3 player, set of with headphones, and set of earbuds.

(d) through (f) No change.

(g) Televisions – An inmate on death row may possess a television in his cell. Approved televisions may be purchased from the institutional canteen; otherwise, televisions will be provided by the Department, if available, as follows:

1. through 2. No change.

3. Televisions shall only be operated with headphones or earbuds earplugs.

4. through 6. No change.

(h) No change.

(i) Exercise – an exercise schedule shall be implemented to ensure a minimum of six hours per week of exercise out-of-doors. Such exercise periods shall be documented on Form DC6-229, Daily Record of Special Housing.

1. through 2. No change.

3. The ICT is authorized to restrict the place and manner of outdoor exercise, such as an inmate’s ability to interact with other inmates or use exercise equipment, if the inmate has been convicted of or found guilty through the department’s disciplinary process in Chapter 33-103, F.A.C., of:

a. Assault or battery, murder, or attempted murder of a correctional officer, volunteer, visitor, or other inmate within an institution; or

b. Escape or attempted escape.

c. Possession of escape paraphernalia.

4. through (13) No change.

(14) Form DC6-229, Daily Record of Special Housing, shall be maintained for each inmate in the death row unit. Form DC6-229 shall be maintained in the housing area for 30 days ~~one week~~, after which the form will be forwarded to the warden for review. Once reviewed, these forms will be forwarded to classification to be filed in each inmate’s respective file. Form DC6-229 shall be utilized to document any and all activities, including cell searches, items removed, showers, recreation, haircuts, and shaves. Form DC6-229B, Daily Record of Special Housing – Supplemental, may be used if further writing space is needed. Form DC6-229B is incorporated by reference in Rule 33-601.800, F.A.C. Additionally, staff shall fully and completely document when:

(a) through (16) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 11-22-10, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Russell Hosford, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Edwin Buss, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 22, 2011

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-4.060  
 RULE TITLE: Dental Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-4.060, F.A.C., is to incorporate by reference the Florida Medicaid Dental Coverage and Limitations Handbook, September 2010.

SUMMARY: The amendment updates the handbook and clarifies existing policy and reimbursement limitations for dental procedures. The amendment also allows dentists who hold a Health Access Dental license to enroll in the Medicaid program and practice in health access settings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 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: Tuesday, August 2, 2011, 11:00 a.m. – 12:00 Noon

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida 32308-5407

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: Mary Cerasoli at the Bureau of Medicaid Services, (850)412-4228. 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: Mary Cerasoli, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4228, e-mail: mary.cerasoli@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.060 Dental Services.

(1) No change.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook, ~~September 2010, January 2006, updated January 2007~~, and the Florida Medicaid provider Reimbursement handbook, ADA Dental, July 2008, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS 1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. All handbooks are available from the Medicaid fiscal agent’s Web ~~site Portal~~ at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support,

and then Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Medicaid fiscal agent, Provider Contact Center at (800)289-7799 and selecting Option 7.

(3) through (4) No change.

Rulemaking Specific Authority 409.919 FS Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History-New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99, 4-23-00, 4-24-01, 7-5-01, 2-20-03, 8-5-03, 1-8-04, 10-12-04, 6-28-05, 7-2-06, 5-21-07, 2-23-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Cerasoli  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-13.083  
 RULE TITLE: Developmental Disabilities Waiver Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-13.083 is to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, November 2010. The revisions will reduce paperwork for providers.

SUMMARY: The handbook revises a limited number of substantive areas that are in need of clarification and correction including clarifying documentation requirements, removing references to a previously deleted service, and clarifying coverage for Tier 4.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An 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: 409.919 FS.  
 LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 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: Thursday, August 4, 2011, 3:30 p.m. – 4:30 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308-5407

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: Susan DeBeaugrine at the Bureau of Medicaid Services, (850)412-4261. 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: Susan DeBeaugrine, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4261, e-mail: susaan.debeaugrine@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.083 Developmental Disabilities Waiver Services.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook November 2010 ~~May 2010~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent’s Web site ~~Portal~~ at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). ~~Select Click on~~ Public Information for Providers, then ~~on~~ Provider Support, and then ~~on~~ Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Provider Contact Center at 1(800)289-7799 and selecting Option 7.

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History-New 12-3-08, Amended 7-8-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan DeBeaugrine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 2010

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-14.003  
 RULE TITLE: Training, Education, Certification, and Requirements for Issuance of Permits

**PURPOSE AND EFFECT:** The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify procedures for training, education, certification, and requirements for issuance of permits.

**SUMMARY:** The rule amendment will delete unnecessary language and to add new language to clarify procedures for training, education, certification, and requirements for issuance of permits.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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. Additionally, it has been determined that this rule does not meet the threshold for ratification by Legislature.

**RULEMAKING AUTHORITY:** 466.004(4), 466.017(3) FS.

**LAW IMPLEMENTED:** 466.017(3) 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:** Sue Foster, Executive Director, Board of Dentistry /MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

64B5-14.003 Training, Education, Certification, and Requirements for Issuance of Permits.

(1) General Anesthesia Permit.

(a) A permit shall be issued to an actively licensed dentist authorizing the use of general anesthesia or deep sedation at a specified practice location or locations on an outpatient basis for dental patients provided the dentist:

1. Has completed a minimum of one year residency program board approved or accredited by the American Dental Association's Commission on Dental Accreditation of advanced training in dental anesthesiology or has completed an oral and maxillofacial surgical residency program accredited by the American Dental Association's Commission on Dental Accreditation and related academic subjects beyond the undergraduate dental school level ~~in a training program as~~

~~described in Part II of the "Guidelines for Teaching the Comprehensive Control in Pain and Anxiety in Dentistry" as published by American Dental Association; or~~

2. through 5. No change.

(b) through (f) No change.

(2) through (4) No change.

Rulemaking Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.03, Amended 12-31-86, 11-8-90, 2-1-93, Formerly 21G-14.003, Amended 12-20-93, Formerly 61F5-14.003, Amended 8-8-96, 10-1-96, Formerly 59Q-14.003, Amended 2-17-98, 12-20-98, 5-31-00, 6-7-01, 11-4-03, 6-23-04, 6-11-07,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Department of Health

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Board of Dentistry

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 3, 2010

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

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-14.008  
 RULE TITLE: Requirements for General Anesthesia or Deep Sedation

**PURPOSE AND EFFECT:** The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the requirements for general anesthesia or deep sedation.

**SUMMARY:** The rule amendment will delete unnecessary language and to add new language to clarify the requirements for general anesthesia or deep sedation.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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. Additionally, it has been determined that the rule does not meet the threshold for ratification by Legislature.

**RULEMAKING AUTHORITY:** 466.004, 466.017 FS.

**LAW IMPLEMENTED:** 466.017 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-14.008 Requirements for General Anesthesia or Deep Sedation.

General Anesthesia Permit applicants and permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

(1) through (2) No change.

(3) The following equipment must be readily available to the operator and recovery room and maintained in good working order:

(a) through (c) No change.

(d) Cardioscope – electrocardiograph (EKG) machine, and pulse oximeter, and end tidal carbon dioxide to provide continuous monitoring of heart rhythm and rate, ~~of~~ oxygen saturation of the blood, and ventilation. This equipment shall be used for each procedure; ~~and~~

(e) Defibrillator equipment appropriate for the patient population being treated; and:

(f) Thermometer.

(4) No change.

(5) The following drugs or type of drugs with a current shelf life must be maintained and easily accessible from the operator and recovery room:

(a) through (p) No change.

(q) Adenosine ~~Sodium bicarbonate~~; and

(r) No change.

(6) through (7) No change.

Rulemaking Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History–New 10-24-88, Amended 11-16-89, Formerly 21G-14.008, Amended 12-20-93, Formerly 61F5-14.008, Amended 8-8-96, Formerly 59Q-14.008, Amended 5-31-00, 6-23-04, 9-14-05, 3-23-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Department of Health

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

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

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-14.009 RULE TITLE: Conscious Sedation

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the requirements for conscious sedation.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify the requirements for conscious sedation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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. Additionally, it has been determined that the rule does not meet the threshold for ratification by Legislature.

RULEMAKING AUTHORITY: 466.004, 466.017 FS.

LAW IMPLEMENTED: 466.017 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-14.009 Conscious Sedation.

Conscious Sedation Permit applicants or permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

(1) through (2) No change.

(3) The following equipment must be readily available to the operator and recovery room and maintained in good working order:

(a) through (f) No change.

(g) A Precordial stethoscope or capnometer; ~~and~~

(h) Defibrillator equipment appropriate for the patient population being treated; and:

(i) Thermometer.

(4) through (7) No change.

Rulemaking Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History–New 10-24-88, Amended 11-16-89, 4-24-91, Formerly 21G-14.009, 61F5-14.009, Amended 8-8-96, 10-1-96, Formerly 59Q-14.009, Amended 8-2-00, 11-4-03, 6-23-04, 3-23-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Department of Health  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Board of Dentistry  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: December 3, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: January 7, 2011

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-14.010                      RULE TITLE: Pediatric Conscious Sedation  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the requirements for pediatric conscious sedation.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify the requirements for pediatric conscious sedation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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. Additionally, it has been determined that the rule does not meet the threshold for ratification by Legislature.

RULEMAKING AUTHORITY: 466.004, 466.017 FS.  
 LAW IMPLEMENTED: 466.017 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-14.010 Pediatric Conscious Sedation.

Pediatric Conscious Sedation Permit applicants or permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

- (1) through (2) No change.
- (3) The following equipment must be readily available to the operator and recovery room and maintained in good working order:
  - (a) through (d) No change.

- (e) A pulse oximeter which provides continuous monitoring of pulse and rate of oxygen saturation of the blood shall be used during each procedure; ~~and~~
- (f) A scale for weighing pediatric patients; ~~and~~
- (g) Thermometer.
- (4) through (8) No change.

Rulemaking Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History—New 8-8-96, Formerly 59Q-14.010, Amended 8-2-00, 5-20-01, 3-23-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Department of Health  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Board of Dentistry  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: December 3, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: January 7, 2011

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-4.014                      RULE TITLE: Inactive Status; Reactivation  
 PURPOSE AND EFFECT: The Board proposes the repeal of Rule 64B9-4.014, F.A.C.

SUMMARY: This rule is being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an adverse impact on small business, nor will the proposed rule amendments be likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.

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. Additionally, it has been determined that this rule does not meet the threshold for ratification by legislature.

RULEMAKING AUTHORITY: 464.006, 464.012, 464.014 FS.

LAW IMPLEMENTED: 456.036(9), 464.012, 464.014 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: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-4.014 Inactive Status; Reactivation.

Rulemaking Authority 464.006, 464.012, 464.014 FS. Law Implemented 456.036(9), 464.012, 464.014 FS. History--New 8-31-80, Amended 3-16-81, 6-18-85, Formerly 21O-11.28, Amended 3-19-87, 10-21-87, Formerly 21O-11.028, Amended 12-27-93, Formerly 61F7-4.014, 59S-4.014, Amended 4-5-00, 9-6-09, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Nursing  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE NO.: 64B19-11.0035  
RULE TITLE: Licensure by Examination: Proof Satisfactory to the Board for the Purpose of Determining Eligibility for Examination

PURPOSE AND EFFECT: The proposed rule amendments are intended to address the criteria to determine eligibility for the purpose of examination.

SUMMARY: The proposed rule amendments clarify the criteria for purposes of determining the applicant's eligibility for examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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: 456.013(2), 490.004(4), 490.005(1)(b) FS.

LAW IMPLEMENTED: 490.003(3), 490.005(1)(b) 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: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.0035 Licensure by Examination: Proof Satisfactory to the Board for the Purpose of Determining Eligibility for Examination.

(1) through (2) No change.

~~(3) The following proof is satisfactory to the Board for the purpose of showing that the applicant's degree obtained in the United States or Canada was obtained from a program comparable to a program accredited by a programmatic accrediting agency recognized and approved by the U.S. Department of Education: an original, signed letter on official letterhead confirming same and sent directly to the Board from the director of a doctoral psychology program accredited by the accrediting agency recognized and approved by the United States Department of Education, provided that the director has not had a relationship with the previously unaccredited institution from which the applicant received a degree that might appear to create a conflict of interest. The letter shall enumerate the exact documents that were reviewed in determining comparability. This letter also shall verify and describe how the applicant's program met all of the criteria set forth in subsection (5).~~

(3)(4) The following proof is satisfactory to the Board for the purpose of showing that the applicant's degree obtained outside of the United States or Canada was equivalent to a Ph.D. in psychology, a Psy.D., or an Ed.D. in psychology and was obtained from a program equivalent to a program accredited by a programmatic accrediting agency recognized and approved by the U.S. Department of Education: an original, signed letter on official letterhead confirming same and sent directly to the Board from the director of a doctoral psychology program accredited by the accrediting agency recognized and approved by the United States Department of Education. The letter shall enumerate the exact documents that were reviewed in determining comparability or augmentation. The Board shall also require the validation of degree and internship equivalence performed by a credentials' evaluation service acceptable to the Board.

~~(5) For a Section 490.005(1)(b)4., F.S., applicant only, the Board will apply the following criteria to determine whether an applicant's doctoral program was a program which maintained a standard of training comparable or substantially equivalent to the standard of training of programs accredited by the accrediting agency recognized and approved by the United States Department of Education:~~

~~(a) The doctoral program from which the degree was obtained must be clearly identified and labeled as a psychology program regardless of where it may be administratively housed. The doctoral program must also specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.~~

~~(b) The program, itself, must stand as a recognizable, coherent organizational entity within the institution.~~

(c) The program faculty must exercise clear authority and primary responsibility for the academic core and specialty preparation, regardless of whether the program also involves multiple administrative lines.

(d) The doctoral program must be an organized integrated sequence of study designed by the psychology faculty responsible for the program.

(e) There must be an identifiable psychology faculty. The program director must be a psychologist.

(f) The program must have an identifiable body of students who are matriculated in that program for a doctoral degree. Each student in the program must complete the same core of academic study, the elements of which are selected from a group of core courses designed and offered by the psychology faculty.

(g) The doctoral program must require a minimum of three academic years of full-time graduate study, defined as at least 18 credit hours per year, at least two academic years of which must be at a single institution, and one year of which must be in full-time residence at the institution from which the doctoral degree is granted. A program does not meet the criterion of a full-time residency on campus unless it:

1. Provides students with continuous access to a core psychology faculty whose primary time and employment responsibilities are to the educational institution;

2. Provides students with continuous access to other students matriculated in the program;

3. Provides students with continual access to an array of educational resources including library, clinical training sites, research facilities, etc.;

4. Provides for continuous collegial and administrative evaluation of the educational process;

5. Requires a period of continuous enrollment of not less than two out of three successive semesters attending classes on the campus of the institution from which the doctoral degree is granted. An internship year may not be used toward meeting the academic year requirements of this criterion.

(h) The doctoral program must include a supervised practicum of at least 400 hours, and field or laboratory training appropriate to the practice of psychology. The 400-hour required practicum must include at least seventy-five (75) hours of supervision.

(i) The doctoral program must require each student to have successfully completed a graduate-level course in each of the following areas of psychology:

1. Biological bases of behavior (e.g., physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology);

2. Cognitive-affective bases of behavior (e.g., learning, memory, cognition, thinking, motivation, emotion);

3. Social bases of behavior (e.g., social psychology, cultural-ethnic and group processes, sex roles, organization and systems theory);

4. Individual behavior (e.g., personality theory, human development, individual differences, abnormal psychology, psychology of women, psychology of persons with disabilities);

5. Scientific and professional ethics and standards;

6. Research design and methodology;

7. Statistics;

8. Psychological measurements; and

9. History and systems of psychology.

(j) The program must require participation in a formal one-year internship. A formal one-year internship is defined as:

1. An internship accredited by the American Psychological Association, or

2. An internship which meets all of the following criteria:

- a. The internship was an organized training program. It was not merely supervised experience or on-the-job training. Rather, it was designed to provide the intern with a planned, programmed sequence of training experiences, the primary focus and purpose of which was to assure breadth and quality of training.

- b. The internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed or certified by the Board of Psychology.

- c. The internship agency had two or more psychologists on the staff as supervisors, at least one of whom was actively licensed as a psychologist by the Board of Psychology.

- d. Internship supervision was provided by a staff member of the internship agency or by an affiliate of that agency who carried clinical responsibility for the cases being supervised. At least half of the internship supervision was provided by one or more psychologists.

- e. The internship provided training in a range of assessment and treatment activities conducted directly with clients seeking psychological services.

- f. At least 375 hours of the intern's time was in direct client contact.

- g. The internship included at least two hours per week (regardless of whether the internship was completed in one year or two) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also have been at least two additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with clinical issues; co-therapy, including follow-up discussion, with a staff person; group supervision; and additional individual supervision.

- h. The training was post-clerkship, post-practicum, and post-internship level.

i. The internship agency had a minimum of two interns at the internship level of training during the applicant's internship period.

j. The intern had a title which described the intern's status as a trainee. Titles such as "intern," "resident," or "fellow," are examples of the types of titles which would be indicative of the intern's status as a trainee.

k. The internship agency had a written statement or brochure, made available to prospective interns, which described the goals and content of the internship and stated clear expectations for the quantity and quality of work to be performed by the intern.

l. The internship experience of at least 2,000 hours was completed within twenty four months.

Rulemaking Specific Authority 456.013(2), 490.004(4), 490.005(1)(b) FS. Law Implemented 490.003(3), 490.005(1)(b) FS. History--New 1-7-96, Formerly 59AA-11.0035, Amended 12-4-97, 9-20-98, 11-24-98, 1-25-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 17, 2011

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

#### DEPARTMENT OF EDUCATION

##### State Board of Education

RULE NO.: 6A-6.0571  
RULE TITLE: Career and Technical Education and Adult General Education Standards and Industry-Driven Benchmarks

##### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 37, No. 15, April 15, 2011 issue of the Florida Administrative Weekly.

To address concerns of the Joint Administrative Procedures Committee, subsections (1) and (2) will be presented to the State Board of Education on September 20, 2011, with the following changes:

~~(1) District school boards and community colleges boards of trustees variance authority. District school boards of education and community college boards of trustees are authorized, to vary up to ten (10) percent of the intended outcomes of each framework included in the documents titled~~

~~as follows: "Agriculture, Food & Natural Resources," "Architecture & Construction," "Arts, A/V Technology & Communication," "Business, Management & Administration," "Education & Training," "Energy," "Finance," "Government & Public Administration," "Health Science," "Hospitality & Tourism," "Human Services," "Information Technology," "Law, Public Safety & Security," "Manufacturing," "Marketing, Sales & Service," "Science, Technology, Engineering & Mathematics (STEM)," "Transportation, Distribution & Logistics," and "Additional CTE Programs/Courses," all of which fall under the umbrella of the "Career and Technical Education Programs, Academic Year 2011/2012 2010-2011 Curriculum Frameworks by Career Cluster" and the document "Adult General Education Standards and Curriculum Frameworks 2011-2012 2010-2011." The variance does not apply to frameworks identifying occupations requiring state or federal licensure, certification or registration.~~

~~(1)(2) Commissioner of Education waiver authority. The Commissioner of Education may approve a school's waiver request submitted by a district school board to allow the school to substitute locally approved intended outcomes for State Board approved outcomes included in the documents titled as follows: "Agriculture, Food & Natural Resources," "Architecture & Construction," "Arts, A/V Technology & Communication," "Business, Management & Administration," "Education & Training," "Energy," "Finance," "Government & Public Administration," "Health Science," "Hospitality & Tourism," "Human Services," "Information Technology," "Law, Public Safety & Security," "Manufacturing," "Marketing, Sales & Service," "Science, Technology, Engineering & Mathematics (STEM)," "Transportation, Distribution & Logistics," and "Additional CTE Programs/Courses," all of which fall under the umbrella of the "Career and Technical Education Programs, Academic Year 2011/2012 Curriculum Frameworks by Career Cluster" and "Adult General Education Standards and Curriculum Frameworks 2011-2012," provided that:~~

- ~~(a) The framework does not identify occupations requiring state or federal licensure, certification or registration;~~
- ~~(b) Locally approved outcomes specified for the state approved program adequately address the major concepts/content contained in the curriculum framework; and,~~
- ~~(c) The waiver request fulfills the provisions of Section 1001.10, F.S.~~

Rulemaking Authority 1004.92(2)(b)3. FS. Law Implemented 1004.92(2)(b)4. FS. History--New 10-30-78, Amended 10-23-79, 5-29-80, 7-9-81, 7-6-82, 5-29-83, 6-14-84, 7-10-85, Formerly 6A-6.571, Amended 7-9-86, 7-22-87, 8-30-88, 7-31-90, 7-31-91, 7-31-92, 7-31-93, 7-31-94, 4-30-96, 1-23-00, 7-21-08, 4-21-09, 5-3-10,\_\_\_\_\_.