

## Section I

### Notices of Development of Proposed Rules and Negotiated Rulemaking

#### DEPARTMENT OF STATE

#### Division of Elections

RULE NO.:  
IS-2.004

RULE TITLE:  
Procurement, Use and Assessment of  
Voting Equipment and Systems

**PURPOSE AND EFFECT:** The purpose of the proposed rule amendments is to update the provisions governing the local procurement of certified voting systems and equipment in the state. The proposed amendments also provide uniform procedures for supervisors of elections and governing bodies to follow in the use and assessment of certified voting systems and equipment throughout the state. Testing of voting systems is an important part of ensuring fair and accurate elections and test procedures are essential to maintaining the integrity of certified voting systems used in any election in Florida. The proposed amendments establish procedures for proper use of certified voting systems and a protocol for assessing a voting system during a routine test or system audit as well as opportunities to identify potential or actual problems that require immediate resolution and to assess potential vulnerabilities to the integrity of voting systems. The amendments also ensure transparency to the testing of these systems, including public notice, and a report of the results.

**SUBJECT AREA TO BE ADDRESSED:** Use and Assessment of Voting Systems.

**SPECIFIC AUTHORITY:** 20.10(3), 97.012(1) 101.293, 101.294 FS.

**LAW IMPLEMENTED:** 101.292, 101.2923, 101.294, 101.295, 101.5604 FS.

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

**DATE AND TIME:** June 12, 2006, 1:30 p.m.

**PLACE:** Florida Heritage Hall, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any person needing special accommodations to participate in this proposed rule development workshop should contact the Department of State at 1(850)245-6536 no later than three business days before the workshop. Any person who is hearing or speech impaired may contact the Department by using the Florida Relay Service with the following toll free numbers: 1(800)955-8770 (voice) or 1(800)955-8771.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS:** Ms. Maria Matthews, Assistant General Counsel, Division of Elections, R.A. Gray Building, Tallahassee, Florida 32399; (850)245-6536; e-mail: [mimatthews@dos.state.fl.us](mailto:mimatthews@dos.state.fl.us)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

IS-2.004 Procurement, Use and Assessment of Voting Equipment and Systems ~~Voting Machine Equipment Regulation/Purchase, Use and Sale.~~

(1) Purpose. ~~This rule provides procedures for~~ It is the purpose of the regulations and procedures set forth in this section to give effect to the provisions of Section 101.5601, F.S., relating to the purchase, sale, use and assessment sale of new and used voting machines and voting machine equipment, including electronic and electromechanical voting systems and equipment, by governing bodies of political subdivisions of the State of Florida. The standards and specifications outlined herein shall be applied in accordance with Section 101.5601, F.S., to:

(a) ~~Promote efficiency, and economy and to effect the coordination in the purchase, sale, use and assessment sale of voting machines and attendant equipment and voting systems in the State;~~ Promote efficiency, and economy and to effect the coordination in the purchase, sale, use and assessment sale of voting machines and attendant equipment and voting systems in the State;

(b) ~~Provide a uniform policies and procedures for minimum requirements in the procurement of voting equipment and voting systems program of accepted minimum requirements;~~ Provide a uniform policies and procedures for minimum requirements in the procurement of voting equipment and voting systems program of accepted minimum requirements;

(c) ~~Provide for the maximum of competition on a basis of fair and equal opportunity to persons, companies and corporations interested in the sale and purchase of voting equipment and voting systems in the State;~~ Provide for the maximum of competition on a basis of fair and equal opportunity to persons, companies and corporations interested in the sale and purchase of voting equipment and voting systems in the State;

(d) ~~Promote cost-effective procurement of voting equipment and voting systems; and~~ Promote cost-effective procurement of voting equipment and voting systems; and

(e) ~~(d) Serve as a guide to supervisors of elections and governing bodies and as information to suppliers, by providing intended to portray good practices and procedures in governmental purchase, sale, and use and sale of voting equipment and voting systems.~~ Serve as a guide to supervisors of elections and governing bodies and as information to suppliers, by providing intended to portray good practices and procedures in governmental purchase, sale, and use and sale of voting equipment and voting systems.

(2) Definitions. ~~The following words and terms used in these regulations and procedures outlined herein are intended to have the following meanings:~~ The following words and terms used in these regulations and procedures outlined herein are intended to have the following meanings:

(a) ~~“Division” means the Division of Elections of the Florida Department of State.~~ “Division” means the Division of Elections of the Florida Department of State.

(b) ~~(a) “Governing body” as defined in Section 101.292, F.S., means the board of county commissioners of a county or any other governing body empowered by a general or special act or local ordinance to purchase, sell or use voting equipment the legislative branch of the political subdivisions of this State which are empowered by general or special laws, or local ordinance, to authorize the purchase and sale of voting equipment by that political subdivision.~~ “Governing body” as defined in Section 101.292, F.S., means the board of county commissioners of a county or any other governing body empowered by a general or special act or local ordinance to purchase, sell or use voting equipment the legislative branch of the political subdivisions of this State which are empowered by general or special laws, or local ordinance, to authorize the purchase and sale of voting equipment by that political subdivision.

(b) ~~“Voting Equipment” means new or used voting machines and materials, parts, or other equipment necessary for the maintenance or improvement of voting machines, the individual retail value of which is in excess of 1,000 dollars, or the combined retail value of which is in excess of 1,000~~ “Voting Equipment” means new or used voting machines and materials, parts, or other equipment necessary for the maintenance or improvement of voting machines, the individual retail value of which is in excess of 1,000 dollars, or the combined retail value of which is in excess of 1,000

dollars. ~~Voting equipment shall also include electronic or electromechanical voting systems, marking devices, and automatic tabulating equipment as defined in the Electronic Voting Systems Act, as well as materials, parts or other equipment necessary for the operation and maintenance of such systems and devices.~~

(c) ~~“Purchase” means a contract for the purchase, lease, rental or other acquisition of voting equipment.~~

(d) ~~“Sale” means a contract for the sale or disposition of voting equipment in return for a valuable consideration.~~

(e) ~~“Voting Equipment” as defined in Section 101.292, F.S., means electronic or electromechanical voting systems, voting devices, and automatic tabulating equipment as defined in Section 101.5603, F.S. It also includes materials, parts, or other equipment necessary for the operation and maintenance of such systems and devices. “Division” means the Division of Elections for the Florida Department of State.~~

(f) ~~“Voting System” as defined in Section 97.021, F.S., means a method of casting ballots and processing voters that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies, printouts, and other software necessary for the system’s operation. “Bid List” means a current list of sources of supply for each classification of voting equipment purchase or sale.~~

(g) ~~“Responsible Bid” means an offer submitted by a responsible bidder in ink or typewritten form for the purchase or sale of voting equipment in conformity with the specifications, delivery, terms and conditions, and other requirements included in bid invitations.~~

(h) ~~“Responsible Bidder” means one who submits a responsible bid, and who has furnished, when requested, information and data to prove his financial resources, production or service facilities, and one whose service reputation and experience are adequate to insure delivery on which he bids, and one who has not violated any, or attempted to violate any, provisions of the statutes or regulations of the Division.~~

(i) ~~“Regulations” means and includes the provisions herein.~~

(3) Bid Procedures and Regulations ~~for~~ Purchase and Sale.

(a) ~~1. Competitive Bids, When Required – A governing body shall adhere to its established policies, practices, and rules for competitive bid procurement including procedures for protests to the extent not otherwise addressed by rule or state law for the~~ purchase or sale of voting equipment ~~may be made when the total expenditure price thereof is in~~ exceeds the \$25,000 threshold amount in Section 287.017, F.S., for CATEGORY TWO purchases excess of \$1,000, unless made upon competitive sealed bids received. ~~If and when the total~~

~~expenditure exceeds \$25,000 price is in excess of \$1,000, the bid must be advertised in accordance with county publication requirements. no purchase or sale shall be made unless competitive sealed bids are received after advertising in a newspaper of general circulation one time at least 10 days prior to the date on which bids are to be received provided, however, that the governing body agrees by vote that an emergency situation exists in regard to the purchase of such equipment to the extent that the potential benefits derived from competitive bids is outweighed by the detrimental effects of a delay in the acquisition of such equipment or if a majority of the governing body finds that there is only a single source from which suitable equipment may be obtained, then the governing body may make the purchase and~~ Tthe chairman of the such governing body shall certify to the Division of Elections within 10 days of approval of an exception by the governing body’s procedures for procurement and include the circumstances and conditions requiring an exception purchase to this subsection competitive bidding requirements of this section.

2. All bids, tabulations of bids, and responses related to bids or procurement shall be entered in a permanent record, maintained by the governing body, and made available for inspection upon request by the Division, the public or other interested person or entity.

(b) Notice of Competitive Bid for Purchase or Sale – The governing body shall provide notice the Division of Elections of all invitations to bid for the purchase or sale of new or used voting equipment whose total expenditure exceeds \$25,000.00.

(c) Vendor Lists Maintained – The Division shall maintain a list of vendors whose voting equipment is certified for purchase or sell by the respective governing bodies.

(d)(b) Content of Competitive Bid Data on Bid Furnished by Governing Body.

All bid invitations shall specify at a minimum, the following information: shall indicate what is or is not wanted, by what governing body, the quantity, delivery time requested, and the specification or other description establishing the capability of such voting equipment, including compliance with the minimum requirement provisions of Section 101.5606, F.S. Also, included shall be any special conditions which bidders must meet:

1. Name and address of governing body.
2. Date of issuance.
3. Required time, place and terms of delivery and any other delivery conditions.
4. Date, hour and place of opening bids.
5. Surety requirements, if any.
6. Quantity of voting equipment to be furnished under each item.
7. Any specifications or other description establishing the capability of such voting equipment.
8. The requirement that the voting equipment must be certified under the Florida Election Code.

9. Any special conditions that the bidder must meet.

10. A statement that the governing body reserves the right to reject any and all bids.

11. A statement that the bidder must indicate any cash discounts or terms of discounts provided if the bid is accepted.

12. The requirement that the bidder must include all costs for delivery, storage, freight and packing to the address on the bid invitation unless otherwise specified.

13. Any other general conditions or special provisions required by the governing body.

All bids shall be signed manually by a responsible officer of the company in ink or indelible pencil and returned to the governing body prior to the time and date set for the bid opening. Bids received after that time shall be returned to the sender unopened.

The following information and any other necessary shall be in all calls for bids:

1. Name and address of governing body.
2. Date of issuance.
3. Time, place and terms of delivery.
4. Date, hour and place of opening bids.
5. Surety requirements, if any.
6. Quantity of voting equipment to be furnished under each item.
7. Any other general conditions or special provisions.

~~(e) Prior Approval by Division of Elections—Prior approval of the Division of Elections is required for all calls for bids and purchases or sale of new or used voting equipment priced in excess of \$1,000. Bid invitations for such purchases or sale of equipment by a governing body shall be prepared as outlined in paragraph (b) and forwarded to the Division. Upon receipt, the Division shall examine those invitations for compliance with the procedures and regulations stipulated herein. All approved invitations will be returned to the governing body for bid purposes or other appropriate action. Each person engaged in the business of selling new or used voting equipment shall register with the Secretary of State by supplying the name and address of the seller and the name of the person responsible for such sales in the State of Florida.~~

~~(d) Formal Bids—Purchases or sales which are valued in excess of \$1,000 shall be based on competitive bids received. Bids on requirements which are \$1,000 or less may be procured in any one of three methods: by telephone inquiries to bidders; by return mail inquiry; or by formal bid procedure. In any event, all bids, tabulations of bids, and quotations related to bids shall be entered in a permanent record and maintained by governing body for inspection by the public or other appropriate authority.~~

~~(e) Bids Lists Maintained—The Division shall maintain a list of vendors whose voting equipment is certified for purchase by the respective governing bodies. The bid list shall~~

~~be forwarded to the governing body upon approval, by the Division, of the bid invitations. At least two vendors on the bid list shall be solicited.~~

~~(f) How to Submit Bids—Bids shall be filled out and executed by each bidder in accordance with the instructions contained in the call for bids. Bids shall be submitted to the purchasing authority by mail or by delivery. In each instance, the bid shall be in a sealed envelope clearly identified by bid number, time, date of opening, and name of bidder.~~

~~(h) Time of Submission—Bids shall be submitted in sufficient time to reach the designated office prior to the time set for the opening. Bids received after the time of the opening shall be returned to the bidder unopened.~~

~~(i) Modification or Withdrawal of Bids—Bids may be modified or withdrawn at any time prior to the date and time set for the opening thereof. After the opening of bids, no bid may be modified or withdrawn.~~

~~(j) Delivery and Receipt—Each bidder shall show the earliest date on which he can guarantee delivery or receipt of the items on which his bid is submitted. Where a specific date is required, the call for bids will so indicate. Except for this provision, all bidders shall bear in mind that early delivery or receipt is desirable.~~

~~(k) Opening Bids—All bids received prior to the time of opening shall be opened publicly and read aloud (if requested) at the time and place established in the call for bids. All interested persons may attend bid openings. All original bids shall be retained in the office of the governing body and made available for inspection if requested.~~

~~(l) Tie Bids—In case of exact tie bids the decision for award shall be made by the purchasing authority. In making this decision, consideration shall be given to the bidder's past performance, reputation, time and potential service that can be rendered. All factors being equal, the decision may be made by drawing lots.~~

~~(m) Rejection of Bids—The right shall be reserved by the governing body to reject any and all bids and such reservation shall be indicated in all bid invitations and advertising. When bids are rejected and the projects or requirements are not abandoned, new bids may be called for. Bids which contain any alteration or erasure may be rejected. Otherwise, bids will be rejected only for good and sufficient cause, such as faulty specifications, abandonment of requirement, insufficient funds or other irregularities.~~

~~(n) Award of Contracts—All awards of purchases and sales for which competitive bids are received shall be made to the lowest responsible bidder in the case of purchases, and to the highest responsible bidder in the case of sales, taking into consideration quality, probability of performance and any other factors consistent with good business practices. In analyzing purchasing bids, officials must exercise careful judgment to insure that quality, performance, merit, utility and value are at least equal to that specified in the call for bids. Award of~~

contracts shall be made with reasonable promptness by due notice to the bidder whose bid is deemed to be the best bid price, performance and other factors considered. Award shall be a properly executed written document.

~~(e) Purchase or Sale Order; A Contract—The issuance by a governing body of a purchase or sale order or other written notice to a bidder regarding any or all of the items for which bids are submitted shall be a contract of purchase or sale as to the voting equipment at the prices, terms and conditions specified therein.~~

~~(p) Recording or Tabulation of Bids—The names of the bidders, the prices quoted and such other pertinent data as necessary will be entered on tabulation and attached to the bids when filed by the governing body and shall be made available for inspection by any interested party.~~

~~(q) Bids Prepared to Location All bids received from bidders by a governing body for voting equipment shall include all costs for delivery, storage, freight and packing to the address on the bid invitation unless otherwise specified. Bid invitations shall clearly state delivery conditions.~~

~~(e)(r) Deliveries.—All deliveries shall be made to the point or points specified in the call for bids and in all instances, charges therefor shall be prepaid to the location of the governing body, except when expressly otherwise provided for in the purchase order and/or bid. All deliveries of purchased equipment shall be subject to inspection at time of delivery and require written certification by the vendor of proper delivery. Voting equipment that fails in any respect to meet specifications, or not in satisfactory condition when received by the governing body, may be subject to rejection by it.~~

~~(f)(s) Notice of Rejection.—A governing body that receives any voting equipment that fails in any respect to meet the standards for certification under state law, that fails to meet the specifications upon which the award was based or representations of the vendor, or that is defective may be rejected. Notice of any rejection, based on defects that would be disclosed at the time of delivery or by ordinary methods of inspection, will be given to the supplier and the carrier within a reasonable time after delivery of the item(s). Notice of latent defects that which would make the items unfit for the purpose intended may be given by the governing body any time after acceptance.~~

~~(g)(t) Exceptions – Should any conditions arise wherein an exception to this subsection the regulations is required, then the governing body shall forward a certification stating the conditions and circumstances along with the complete file to the Division for its review and approval.~~

~~(3) Certification and Notice of Use of Voting Equipment and Voting System.~~

~~(a) Prior to the procurement of any voting equipment or voting system, each governing body shall certify in writing to the Division that the equipment or system shall be used for the purpose intended, that the equipment or system meets the~~

requirements for certification under state law and rules, and that the equipment or system satisfies all other requirements under federal and state law. Prior to the subsequent sale of any voting equipment or voting system by a governing body, each governing body shall certify in writing to the Division the anticipated terms of the sale and the fact that such sale will not adversely affect the ability of the supervisor of elections or the governing body to comply with or otherwise perform its duties under state and federal law as pertains to elections.

(b) A supervisor of elections or the governing body shall notify the Division when he or she receives any voting equipment or voting system that fails in any respect to meet the standards for certification under state law or that fails to meet the specifications upon which a contract, agreement or other written representation was based.

(5) Procedures for Use of Voting System.

(a) Routine use. A voting system shall not use equipment or software not specifically enumerated within the voting system's certification or the configuration defined within the voting system's documentation. Critical elements of the voting system may be replicated to serve as a backup system. Critical elements include the software and database modules that comprise the election management system. Commercial-off-the-shelf (COTS) items may be replaced with like-kind items upon written concurrence from the voting system vendor and the Division.

(b) Improvement to the election process. A voting system may be used in any manner approved by the vendor in an effort to improve the election process. However, any deviation from the documented procedures or manual for use and operation of the voting system must be approved and documented by the vendor and must be approved in writing by the Division. Such documentation may be in the form of "user notes," "technical bulletins," or other suitable format.

(c) Training and educational purposes. A voting system may be used for training or educational purposes, provided security procedures include sufficient safeguards to protect the database(s) and software from inadvertent or intentional corruption. A backup of the voting system software and data must be performed prior to the conduct of any training or educational demonstration or practice on that system. Alternatively, a secondary backup system may be used for training or education. The training and educational procedures must ensure that the training or educational material and election data are segregated from official election material and data. Any training or educational session or program must occur sufficiently in advance so as not to interfere with or comprise the preparations of the voting system for use in an upcoming scheduled election.

(6) Procedures for Assessments of Voting Systems.

(a)1. The supervisor of elections on his or her own, or upon the direction of the governing body, may conduct an assessment of a voting system for the purpose of examining or

evaluating security procedures, access control, system reliability and accuracy. This assessment may be conducted as a routine test or a test on the basis of subsection (2), a system audit or an examination of the functionality of the software and firmware and may include penetration testing. The supervisor of elections is responsible for the conduct of these assessments but may use the services of an independent professional person or entity approved in writing by the Division. The professional person or entity must possess one or more relevant certifications from either the American Software Testing Qualifications Board (ASTQB), the American Society for Quality (ASQ) or from EC-Council.

2. A supervisor of elections may also conduct or order an assessment based upon any potential or actual deficiency, problem, vulnerability or flaw identified or detected in a certified voting system that relates to its hardware, software, design, operation, vote tabulation, access control, system reliability and accuracy, or security including the potential for unauthorized manipulation and fraud. Any potential or actual deficiency, problem, vulnerability or flaw that is identified or detected must be reported in writing to the Division of Elections and the affected vendor(s) no later than 10 days of its identification or detection.

(b) The following procedures apply to an assessment of a voting system under this subsection:

1. The supervisor of elections shall provide written notice to the Division of Elections of its intent to conduct an assessment. A test plan must be submitted to the Division of Elections for approval before an assessment is conducted. The test plan must include at a minimum, provisions for protecting the vendor(s)' intellectual property and confidential and exempt information, whether the voting equipment or voting system will be altered or an attempt made to alter such equipment or system during the assessment, ensuring that all terms of the license and maintenance agreements will be maintained during such scheduled assessment.

2. Upon approval, the supervisor of elections may not schedule the assessment of the voting system any earlier than 21 days from the date the Division approves the test plan.

3. The supervisor of elections shall provide notice of the scheduled assessment and opportunity to attend to the following persons or entities: the Division, the vendor(s) of the certified voting system or equipment components affected by the test or assessment, other supervisor of elections who have similar voting systems in operation in their county, and the governing body. Notice to the public shall also be posted continuously at least 2 weeks in advance of the assessment on the respective supervisor of elections' webpage and published for two consecutive weeks in a newspaper of general circulation in advance of a scheduled assessment.

4. The Division of Elections has the right to be present or to have access, pursuant to Section 101.58, F.S., to all premises, records, and equipment and staff of the supervisor of elections during the assessment.

5. The assessment of the voting system shall be conducted in public and on location, if practicable, in the county of the respective supervisor of elections.

6. The assessment shall be conducted in a manner that protects the disclosure of intellectual property and other information and documentation protected under the public records law.

7. A duplicate or backup voting system in lieu of a live system shall be used in any assessment whenever practicable.

8. The supervisor of elections shall ensure that the process and results of the assessment are documented and submit a written report to the Division no later than 20 days from the completion of the assessment with copies of the report provided to the vendor(s) affected by the assessment. The test report shall include any recommendations for addressing any identified potential or actual deficiency, problem, vulnerability, or flaw. The test report shall also flag all information that is confidential and exempt under the public records law in a separate addendum to the report.

9. The vendor(s) of the voting system or voting equipment component affected by the assessment may submit a written response to the report. A vendor's response must be provided to the supervisor of elections and the governing body, with a copy to the Division, no later than 10 days from the date of receipt of the report.

10. The supervisor of elections shall develop and implement security procedures to mitigate any adverse effect resulting from a deficiency, problem, flaw or vulnerability identified by the assessment report. These procedures shall remain in place until such time as procedures are permanently implemented pursuant to Section 101.015(4), F.S., or changes, if warranted, to the voting systems have been made by the vendor(s) and certified by the Division. The Division may also issue technical advisories to the supervisors of elections and the governing bodies relating to the results of any such assessment.

Specific Authority 20.10(3), 97.012(1), 101.293, 101.294 FS. Law Implemented 101.292, 101.293, 101.294, 101.295, 101.5604, FS. History—New 12-20-73, Amended 1-19-74, Repromulgated 1-1-75, Amended 5-20-76, Formerly 1C-7.04, Amended 7-7-86, Formerly 1C-7.004, Amended \_\_\_\_\_.

## DEPARTMENT OF STATE

### Division of Elections

RULE NO.:  
1S-2.015

RULE TITLE:  
Minimum Security Procedures for  
Voting Systems

PURPOSE AND EFFECT: The purpose of this rule amendment is to provide comprehensive security procedures to ensure the highest level of voting system protection. The substance of these amendments is primarily based on a technical advisory issued on March 3, 2006, that pertained to enhancements to voting system security procedures, prompted in part by the outcome of recent tests of voting systems in local jurisdictions and a review of the State of California’s Voting Systems Technology Assessment Advisory Board’s (VSTAAB) Security Analysis of the Diebold AccuBasic Interpreter and Ciber Laboratory’s Source Code Review and Functional Testing reports. The Division of Elections recognizes that as technology evolves, the operations and access to certified voting systems ought to be evaluated so as to determine whether a system and a county’s overall security plan and procedures need to be modified or enhanced in order to ensure the integrity of the voting system and the electoral process.

SUBJECT AREA TO BE DISCUSSED: Security Procedures for Voting Systems.

SPECIFIC AUTHORITY: 20.10, 97.012(1), 101.015 FS.

LAW IMPLEMENTED: 101.015 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 12, 2006, 1:30 p.m.

PLACE: Florida Heritage Hall, Plaza Level, R.A. Gray Building, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person needing special accommodations to participate in this proposed rule development workshop should contact the Department of State at 1(850)245-6536 no later than three business days before the date of the workshop. Any person who is hearing or speech impaired may contact the Department by using the Florida Relay Service with the following toll free numbers: 1(800)955-8770 (voice) or 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND PRELIMINARY DRAFT IS: Maria I. Matthews, Assistant General Counsel, Office of the General Counsel, Division of Elections, Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

1S-2.015 Minimum Security Procedures for Voting Systems.

(1) PURPOSE. To establish minimum security standards for voting systems pursuant to Section 101.015(4), F.S.

(2) DEFINITIONS. The following words and phrases shall be construed as follows when used in this rule:

(a) ~~A~~ “Ballot” when used in reference to:

1. “Marksense Paper ballot” means that printed sheet of paper, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

2. “Electronic or electromechanical device” means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(b) “Election Materials” means those materials provided to poll workers to properly conduct the election and shall include, but not be limited to: legally required affidavits and forms, provisional ballots, voter authority slips, precinct registers, and any electronic devices necessary to activate ballot styles in the voting system.

~~(c)(b)~~ ~~A~~ “Voted Ballot” means a ballot as defined above, which has been cast by an elector.

~~(d)(e)~~ “Voting System” means a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense paper ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies, tabulating cards, printouts, and other software necessary for the system’s operation.

~~(e)(d)~~ “Voting Device” means any apparatus by which votes are registered electronically.

~~(e) “Election Materials” means those materials provided to poll workers to properly conduct the election and shall include, but not be limited to: legally required affidavits and forms, provisional ballots, voter authority slips, precinct registers, and any electronic devices necessary to activate ballot styles in the voting system.~~

(3) FILING OF SECURITY PROCEDURES. ~~Requirements for filing security procedures with the Division of Elections. Within fifteen days of the effective date of this rule, e~~Each supervisor of elections shall ~~place on~~ file with the Division of Elections security procedures ~~that which~~ meet the minimum standards set forth in this rule. Any subsequent revision ~~Revisions~~ to procedures on file with the Division of Elections shall be submitted at least 45 days prior to the commencement of early voting for the first election in which they are to take effect and shall be accompanied by a statement describing which part of the procedures previously filed have been revised. The procedures as revised must continue to meet the requirements of this rule. Each supervisor of elections has the authority to make changes to the security procedures within 45 days prior to the commencement of early voting for an election as a result of an emergency situation or other unforeseen circumstance. The supervisor shall document any changes to include the reasons why such changes were

necessary. A copy of changes in security procedures ~~any changed document~~ authorized by the supervisor shall be submitted to the Division of Elections within 5 days of the change.

(4) REVIEW OF SECURITY PROCEDURES.

~~(a)~~ The Division of Elections shall conduct a review of the submitted security procedures to determine if they meet the minimum requirements set forth in subsection (5) in this rule. The Division of Elections shall will notify the supervisor of elections as to the results of the review within 30 days of receipt of the security procedures or revisions thereto ~~the date revisions to the security procedures are received in the office of the Division of Elections~~. If the Division is unable to complete its review within the 30 days ~~time frame established in this rule~~, the procedures or revisions shall be temporarily approved until such time as the review is completed and the supervisor of elections will be notified accordingly. The notice shall ~~notification of the results of the review will~~ include an enumeration of specific provisions that which were found to be incomplete or otherwise do not meet the provisions of this rule.

~~(b)~~ ~~Security procedures on file with the Division of Elections shall be reviewed by the Division of Elections in each odd-numbered year, pursuant to Section 101.015(4)(b), F.S.~~

(5) STANDARDS FOR SECURITY PROCEDURES.

(a) Security procedures shall include copies and descriptions of the content of each referenced form, schedule, log or checklist ~~or descriptions of the contents of forms, schedules, logs or checklists~~ that vary from election to election. The procedures must also include measures for ensuring security on election day and during the early voting period including daily overnight storage.

(b) Election Schedule. The security procedures shall require the establishment of an election schedule at least 90 days prior to each regularly scheduled election and within 20 days of the date a special election is scheduled. The election schedule shall contain the following:

1. A list of all tasks necessary to conduct the election;
2. The legal deadline, where applicable, or tentative date each task is to be completed; and
3. The individual (position title), group or organization responsible for completing each task.

(c) Ballot Preparation. The security procedures shall describe the steps necessary to ensure insure that the ballot contains the proper races, candidates and issues for each ballot variation and that the ballots can be successfully tabulated. The ballot preparation procedures shall, at a minimum, contain the following:

1. Method and materials required to determine each type of ballot or ballot variations;
2. Assignment of unique marks or other coding necessary for identifying ballot variations or precincts;

3. Verification that unique marks or other coding necessary for tabulation are correct;

4. Description of system used to facilitate ballot preparation, if applicable; and

5. Description of method to verify that all ballots and ballot variations are accurately prepared and printed.

(d) Filing election parameters. The security procedures shall include filing with the Division of Elections a copy of the parameters used within the voting system to define the tabulation and reporting instructions for each election regardless of filings for previous elections. The filing shall, at a minimum, include the following:

1. Copy of the administrative database used to define the election;

2. Copy of all election-specific files generated and used by the system; and

3. If the election definition is created by an individual who is not an employee of the supervisor of elections, then the parameters shall include a statement signed by the person who created the election definition. The statement shall be in substantially the following form:

ELECTION PARAMETER STATEMENT

Pursuant to Section 837.06, F.S., whoever knowingly makes false statement in writing with the intent to mislead a public servant in the performance of his or her official duty, shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or 775.083, F.S. The election coding for \_\_\_\_\_ County was assembled according to specified procedures using (name of system and Florida certification number). Furthermore, included with the election materials is a duplicate copy of the administrative database used to define the election, a copy of all election-specific files generated and used by the system and a document stating the release level of the precinct tabulation equipment and firmware. To the best of my knowledge and belief, the foregoing statement is truthful.

Signature of the Person Coding the Election.

~~(e)(4)~~ Preparation and Configuration of Tabulation System.

1. The procedures relating to the preparation and configuration of the tabulation system shall, at a minimum, include the following:

- a. Description of the ballot definition and verification process;
- b. Description of the steps necessary to program the system; and
- c. Description of the process to install the program and the procedures for verification of correctness.

2. The security procedures shall describe the test materials utilized and the voting system tests performed prior to the conduct of the public logic and accuracy tests.

~~(f)(e)~~ Logic and Accuracy Test. The security procedures for use with electronic and electromechanical voting systems shall, at a minimum, describe the following aspects of logic and accuracy testing as required by Section 101.5612, F.S.:

1. ~~Description of Each component of the test performed including the test materials utilized.~~

2. ~~The procedures for sealing, securing and retaining Description of how the programs, ballots, test results, and other test materials, and records of proceedings are sealed, secured and retained.~~

~~(f) Filing election parameters. The security procedures shall include filing with the Division of Elections a copy of the software and parameters used within the voting system to define the tabulation and reporting instructions for each election regardless of filings for previous elections. The filing shall, at a minimum, include the following:~~

- ~~1. Copy of the voting system software;~~
- ~~2. Copy of the administrative database used to define the election;~~
- ~~3. Copy of all election-specific files generated and used by the system;~~

~~4. Documentation stating the release level of the precinct tabulation equipment and firmware; and~~

~~5. If the election definition is created by an individual who is not an employee of the supervisor of elections, then the parameters shall include a statement signed by the person who created the election definition. The statement shall be in substantially the following form:~~

**ELECTION PARAMETER STATEMENT**

~~Pursuant to Section 837.06, F.S., whoever knowingly makes false statement in writing with the intent to mislead a public servant in the performance of his or her official duty, shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or 775.083, F.S. The election coding for \_\_\_\_\_ County was assembled according to specified procedures using (name of system and Florida certification number). Furthermore, included with the election materials is a duplicate copy of the administrative database used to define the election, a copy of the voting system software, a copy of all election specific files generated and used by the system and a document stating the release level of the precinct tabulation equipment and firmware. To the best of my knowledge and belief, the foregoing statement is truthful.~~

~~Signature of the Person Coding the Election:~~

(g) Pre-election Steps for Voting Systems. The security procedures for use with voting devices shall, at a minimum, include a the following:

1. ~~Description of how the number of voting devices for each precinct is determined;~~

2. ~~Description of each component of the public test, including any test materials utilized;~~

3. ~~Description of the process to seal and secure the voting devices including on election day and daily during the early voting period. This description shall include: It shall also provide for a record to be kept on which the identification numbers, seal numbers and protective counter numbers for voting devices shall be noted; and~~

1. ~~The process for permanently identifying electronic media type including but not limited to memory packs, compact flash cards, PC Cards or PCMCIA cards, Personalized Electronic Ballots (PEBs), voter card encoders, supervisor cards, and key cards with a unique identification (e.g., serial number). This activity shall include:~~

a. ~~The process to create and maintain an inventory of all electronic media.~~

b. ~~The chain of custody process and procedure for identifying, documenting, handling, and tracking electronic media from the point of collection or transfer from their storage location, through election coding, through the election process, to their final post-election disposition and return to storage. Such process must use two or more individuals to perform any written check and verification checks whenever a transfer of custody takes place. This electronic media must be given the same level of attention that one would give to official ballots.~~

2. ~~The establishment and maintenance of a secured location for storing the electronic media when not in use, for coding an election, for creating the election media, for transferring and installing the election media into the voting device, and for storing these devices once the election parameters are loaded. This process shall ensure that:~~

a. ~~No election media is left unattended or in an unsecured location once it has been coded for an election. At least two persons must be in attendance. Where applicable, coded election media must be immediately loaded into the relevant voting device, logged, and made secure or must be placed in a secured and controlled environment and inventoried.~~

b. ~~Each election media is sealed in its relevant voting device or container utilizing one or more uniquely identified tamper-resistant or tamper-evident seals. A combined master tracking log of the voting device, the election media, and the seal(s) must be created and maintained. For election media that are device independent (for example, PEBs, voter card encoders) these devices must be stored in a secured, sealed container and must also be identified on the master tracking log.~~

c. ~~A procedure is created and maintained for tracking the custody of these voting devices once these devices are loaded with an election definition. This record shall include the protective count for the voting device, where applicable. The chain of custody must specifically provide for the identifying, documenting, handling, and tracking of such devices from the point of loading to final post-election disposition. A minimum of two persons must be used to perform any written checks and~~



verification checks when a transfer of custody takes place. These voting devices must be given the same level of attention that one would give to official ballots.

3. A recovery plan that is to be followed should there be any indication of a security breach in the accountability and chain of custody procedures. Any indication of a security breach must be confirmed by more than one individual.

4. A training plan for relevant election officials, staff, and temporary workers that addresses these security procedures and the relevant work instructions. ~~Description of the procedures for retaining the test results and any records of the proceedings.~~

(h) Ballot Distribution. Where marksense paper ballots (as defined in subparagraph (2)(a)1. of this rule) are used including on election day and during early voting, the security procedures shall, at a minimum, include the following:

1. Description of how the number and variations of ballots required by each precinct is determined;

2. Description of the method for securing the ballots; and

3. Description of the process for distributing the ballots to precincts, to include an accounting of who distributed and who received the ballots, the date, and how they were checked.

(i) Distribution of Precinct Equipment. The security procedures shall describe the steps necessary for distributing voting system equipment to the precincts.

(j) Election Board Duties.

1. The security procedures when marksense paper ballots, including provisional ballots are used shall, at a minimum, include the following Election Board duties including on election day and during early voting:

a. Verification that the correct number of ballots were received, and that they are the proper ballots for that precinct;

b. Checking the operability or readiness of the voting devices;

c. Checking and sealing the ballot box;

d. Description of how spoiled ballots are handled;

e. Description of how write-in and provisional ballots are handled; and

f. Accounting for all ballots after the polls close.

2. The security procedures for use with voting devices shall, at a minimum, include the following Election Board duties:

a. Verification of the identification numbers, seal numbers, and protective counter numbers of precinct tabulation and/or voting devices;

b. Checking the operability or readiness of the voting device;

c. Verification that all counters except protective counters are set at zero on each voting device;

d. Securing a printed record from each voting device, if applicable;

e. Checking the correctness of the ballot;

f. Preparing voting devices for voting;

g. Verification that the correct number of voter authorization slips were received;

h. Checking and sealing the voter authorization slips container(s);

i. Handling write-in ballots;

j. Handling voting system malfunctions;

k. Securing voting machines at the close of the polls to prevent further voting;

l. Accounting for all voter authorization slips received; and

m. Recording and verifying the votes cast.

(k) Transport of Ballots and/or Election Materials. The security procedures shall describe the steps necessary to ensure a complete written record of the chain of custody of ballots and/or election materials including on election day and daily during the early voting period and shall include:

1. A description of the method and equipment used to transport all ballots and/or election materials;

2. A method of recording the names of the individuals who transport the ballots and/or election materials from one site to another and the time they left the sending site;

3. A method of recording the time the individuals who transport the ballots and/or election materials arrived at the receiving site and the name of the individual at the receiving site who accepted the ballots and/or election materials.

4. A description of the process to create and maintain a secured location for storing and transporting voting devices once the election parameters are loaded. This shall include procedures that are to be used at locations outside the direct control of the supervisor of elections, such as overnight storage at a polling location or early voting site. This description shall include:

a. A process for creating and maintaining an inventory of these items for each storage location, for each election. These voting devices must be given the same level of attention that one would give to official ballots.

b. A chain of custody process that specifically provides for the identifying, documenting, handling, and tracking of such voting devices from the point of storage to transfer to final disposition or when the voting devices have been left unattended for any length of time. A minimum of two persons must be used to perform any written checks and verification checks when a transfer of custody takes place. Particular attention must be given to the integrity of the tamper-resistant or tamper-evident seals. These voting devices must be given the same level of attention that one would give to official ballots.

5. A recovery plan that is to be followed should there be any indication of a security breach in the accountability and chain of custody procedures. The plan must address inadvertent damage to any seals or accountability/chain of

custody documentation errors. These plans must be developed in a manner that enhances public confidence in the security and integrity of the election. Any indication of a security breach, documentation errors, or seal damage must be confirmed by more than one individual.

6. A training plan for relevant election officials, staff, and temporary workers that address these security procedures and the relevant work instructions.

(l) Receiving and Preparing the Ballots for Central and Regional Counting. The security procedures shall describe the process of receiving and preparing voted ballots, including provisional ballots, election data and/or memory devices for counting to include, at a minimum, the following:

1. Verification that all of the ballot containers are properly secured and accounted for and that the seal numbers are correct;
2. Verification that the ballot container(s) for each precinct contain voted ballots including provisional ballots, unused ballots, spoiled ballots and write-in ballots as shown to exist on the forms completed by each election board for that purpose;
3. Inspection of the marksense paper ballots to identify those that must be duplicated or upon which voter intent is unclear, thus requiring a determination by the Canvassing Board. A record shall be kept of which marksense paper ballots are submitted to the Canvassing Board and the disposition of those marksense paper ballots; and
4. Description of the process for duplicating and recording the voted marksense paper ballots which are damaged or defective.

(m) Tabulation of Vote.

1. The security procedures for use with central and regional processing sites shall describe each step of a ballot tabulation including on election day and daily during the early voting period and shall to include, at a minimum, the following:

- a. Counting and reconciliation of voted marksense paper ballots;
- b. Processing, tabulation and accumulation of voted ballots and election data;
- c. Processing and recording of all write-in and provisional ballots;
- d. The process for handling unreadable ballots and returning any duplicates to tabulation;
- e. Backup and recovery of tabulated results and voting system programs for electronic or electromechanical voting systems; and
- f. ~~Describe~~ The procedure for public viewing of the tabulation process and access to results.

2. ~~The~~ sSecurity procedures shall describe the steps necessary for vote tabulation in the precincts including on election day and daily during the early voting period.

3. The security procedures for use in the precincts including on election day and daily during the early voting period shall include procedures that describe each step of ballot tabulation to include, at a minimum, the following:

- a. Printing of precinct results and results from individual tabulating devices;
- b. Processing and recording of write-in votes;
- c. Endorsing a copy of the precinct results by the Election Board;
- d. Posting of precinct results;
- e. Transport of precinct results to central or regional site;
- f. Consolidation of precinct and provisional ballot results; and
- g. ~~The Describe the~~ process for public viewing of the tabulation process and access to results.

4. The procedures for resolving discrepancies between the counted ballots and voted ballots and any other discrepancies found during the tabulation process shall be described.

(n) Electronic Access to Voting Systems. Security procedures shall identify all methods of electronic access to the vote tabulation system including on election day and daily during the early voting period. ~~The, including~~ procedures for authorizing electronic access and specific functions, and specifying methods for detecting, controlling and reporting access to the vote tabulation system shall be identified, and shall additionally include:

1. A document that defines the procedure that ensures that default or vendor supplied passwords, encryption keys, or other identifier have been changed. This activity must ensure that:

a. Access control keys/passwords are maintained in a secured and controlled environment. The individual(s) with access to these items must be delineated in the relevant position descriptions.

b. Changes to the encryption keys and passwords are at the discretion of the supervisor of elections. This discretionary authority should not be delegated. The individual(s) that implement a change to the encryption keys and/or passwords must have this "authorization to change" responsibility delineated within their position description(s).

c. The degree of access is defined within each relevant position description and maintained at that level within the election management system and/or equipment. This applies where a voting system can limit an individual's access to certain menus, software modules, or other component.

2. A procedure that governs access to any device, election media, or election management system with a requirement to use an encryption key. This process must be witnessed by one or more individuals authorized to use such information and an access log must be created and maintained.

3. A training plan for relevant election officials, staff, and temporary workers that address these security procedures and the relevant work instructions.

(o) Absentee Ballot Handling. The security procedures shall include procedures that describe absentee ballot handling to include, at a minimum, the following:

1. Description of process for determining and verifying absentee ballot variations;
2. Description for process to assure voters are issued the proper absentee ballot;
3. Process for precluding voters from voting at the polls and casting an absentee ballot;
4. Process for opening valid absentee ballots in preparation for tabulation;
5. Process for recording the receipt of advance absentee ballots, regular absentee ballots, State write-in ballots and Federal write-in ballots and determining which ones should be counted if more than one per voter is received; and
6. Security measures for storing absentee ballots and related materials prior to and after an election.

(p) Ballot Security. The security procedures shall describe ballot accountability and security beginning with their receipt from a printer or manufacturer until such time as they are destroyed. The procedures for each location including on election day and during the early voting period shall describe physical security, identify who has authorized access and identify who has the authority to permit access.

(q) Voting System Maintenance and Storage. The security procedures shall describe the maintenance and testing performed on all components of the system to assure that it is in proper working order and is within manufacturer’s operating specifications for election day and during the early voting period. Procedures shall also describe storage and nonoperational maintenance of all voting devices.

**(6) ACCESS TO TABULATION PROGRAM SOURCE CODE.**

(a) No supervisor shall have access to any vote tabulation program source code to be used in an election unless prior approval has been obtained from the Division of Elections. Approval shall be based on the supervisor establishing security procedures which provide for maintaining a secured control copy of the certified release of the tabulation program source code; protecting source code from unauthorized access; and verification that the tabulation program source code used for each election is identical to the certified release.

(b) Any modification to tabulation program source code must be certified by the Division under the provisions of Rule Chapter 1S-5, F.A.C., before use in any election.

Specific Authority 20.10(3), 101.015 FS. Law Implemented 101.015(4) FS. History–New 5-27-85, Formerly 1C-7.15, 1C-7.015, Amended 8-28-93, 11-24-04,\_\_\_\_\_.

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

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

**DEPARTMENT OF CORRECTIONS**

RULE NO.:	RULE TITLE:
33-102.101	Public Information and Inspection of Records

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to allow the department to charge a special service charge when a staff member’s presence is necessary during the inspection of public records to protect the records from alteration or destruction and to modify Form DC1-201, Invoice for Production of Records, to add a line for calculating staff supervision time and hourly rate.

SUBJECT AREA TO BE ADDRESSED: Public inspection of records.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 119.07, 120.53 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Dorothy M. Ridgway, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-102.101 Public Information and Inspection of Records.

(1) through (2) No change.

(3) In addition to the actual cost of materials and supplies, a special service charge will be assessed for providing information when the nature or volume of the records requested requires extensive clerical or supervisory assistance by departmental personnel. For the purpose of this rule, “extensive” means that it will take more than 15 minutes to locate, review for confidential information, copy and refile the requested material. The special service charge will be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay for the paygrade of the person who performed the service and will be assessed regardless of the number of individual copies made. The special service charge shall also be imposed when it is necessary to have a staff member present during inspection of records when the nature of the records being inspected is such

that they need a heightened degree of protection from alteration or destruction. The special service charge will be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay for the paygrade of the person who performed the service.

(4) No change.

(5) When copies requested pursuant to this rule are available to be picked up or for mailing, the requestor shall be notified of the costs of reproduction as specified in subsections (2) and (3) on an Invoice for Production of Records, Form DC1-201. Form DC1-201 shall also indicate if any information is redacted from the copies provided as required by state law. Form DC1-201 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of Form DC1-201 is 12-5-05.

Specific Authority 944.09 FS. Law Implemented 119.07, 120.53 FS. History—New 10-8-76, Amended 2-24-81, Formerly 33-1.04, Amended 6-9-86, 2-9-88, Formerly 33-1.004, Amended 10-29-01, 12-5-05, \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-208.403  
 RULE TITLE: Random Drug Testing of Employees

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to expand the current random drug testing program to include other specified positions in addition to certified officers, provide a review process for employees whose positions have been designated as subject to random testing, and provide for on-site presumptive testing with a confirmation process follow-up for presumptive positive results.

SUBJECT AREA TO BE ADDRESSED: Random drug testing program.

SPECIFIC AUTHORITY: 944.09, 944.474 FS.

LAW IMPLEMENTED: 112.0455, 944.09, 944.474 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Dorothy M. Ridgway, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-208.403 Random Drug Testing of Employees.

(1) Definitions.

(a) ~~Authorizing~~ ~~Authorized~~ Individual – The person designated by the Chief of Personnel to interact with an employee regarding the drug testing program.

(b) Chain of Custody – The procedures used to account for the integrity of each ~~urine~~ specimen by tracking its handling and storage from the point of specimen collection to final disposition.

(c) Contact Person – the employees designated by the Chief of Personnel to interact with the laboratory and Medical Review Officer and coordinate the drug testing program regarding drug test results.

(d) Medical Review Officer – a licensed physician under contract with the Department or the outside vendor used by the Department who reviews all drug tests from the laboratory and makes the final determination regarding the test result.

(e) Random Drug Test – A drug test conducted based on a computer generated random sampling ~~in positions identified as being subject to random testing~~, administered for the purposes of detecting determining the presence of drugs, controlled substances, including anabolic steroids, or their metabolites.

(f) Random Test Designated Position – An employee is in a random test designated position, and thus is required to submit to random testing, if the employee:

1. Has job duties that require or allow the employee to carry a firearm;
2. Possesses law enforcement powers;
3. Has job duties involving regular unsupervised access to and direct contact with inmates or offenders under community supervision;
4. Has job duties involving unsupervised access to controlled substances;
5. Operates dangerous instrumentalities such as vehicles;
6. Provides health care and psychological care to inmates;
7. Provides direct services to inmates;
8. Has access to investigations of criminal allegations and the ability to alter the investigation;
9. Has the ability to alter information in databases, computer systems, or records relating to inmates or offenders under community supervision; or
10. Is in any position, including a supervisory or management position, in which a drug impairment could constitute an immediate and direct threat to public health or safety.

(g)(f) Test refusal – failure on the part of a randomly selected employee to willfully and fully comply with the Department’s random drug testing procedures. This includes refusal to sign required forms, refusal to provide specimens for testing, failing to report to the collection site within required time frames, failing to provide a valid specimen, attempting to alter the specimen with adulterants, and using substitute specimens in makeshift devices or objects.

(2) Only employees in random test designated positions, including employees required to maintain certification under Sections 943.13 and 943.135, F.S., shall be subject to mandatory random drug testing. Employees who are not in test designated positions will be included in the random drug testing pool only if such employees choose to voluntarily participate in the random testing program. An employee may seek review of the determination that he or she is working in a test designated position within 14 days of notification of test designation or, subsequently, within 14 days of a change in the employee's job duties.

(a) To seek review, the employee shall submit a letter of explanation based upon the criteria in paragraph (1)(f) of this rule to the Chief, Bureau of Personnel.

(b) Additional review of position duties will be conducted by the Bureau of Personnel and the Office of the General Counsel and will include information provided in the employee's request as well as any other information obtained during the review.

(c) A written response from the Bureau of Personnel will be provided to the employee once a determination is made on the appeal.

(3) ~~The Department Bureau of Research and Data Analysis shall generate random lists of individual positions subject to testing.~~

(a) ~~The Department Bureau of Personnel shall disburse the list to the authorized individuals during each random testing period.~~

(b) ~~The list shall include the date by which all tests for that testing period must be completed.~~

(c) ~~Each time an employee's name appears on the random list, he or she shall be tested regardless of whether or not he or she has been previously tested.~~

(d) ~~Listed employees shall not be excused from random drug testing unless they are on approved leave of absence, or out of town on department business, or it is determined that the employee was listed in error. If the employee returns to his or her assigned worksite in time for the test to be rescheduled and completed within the prescribed deadline, the authorized individual shall ensure testing is rescheduled and completed.~~

(e) ~~The list is confidential and shall not be disseminated to non-essential staff members prior to testing.~~

(4) Off-Site Testing and Confirmation Process. Once an employee is randomly selected ~~and scheduled for a test,~~ the authorized individual shall:

(a) through (c) No change.

(5) through (9) No change.

(10) If the test results are positive, the specimen sample will be retested by the laboratory for confirmation.

(11) All employees with a positive confirmed drug test shall be contacted by the Medical Review Officer within 3 days of receipt of the results from the laboratory and offered the opportunity to produce valid documentation of lawful

ingestion of the identified controlled substance. The Medical Review Officer may also request consent to review the employee's medical records to assist in evaluating the test results. The employee shall have 15 days from the date of contact by the Medical Review Officer to present valid documentation of lawful intake of the identified controlled substance from that provides a legitimate explanation for the positive test results.

(12) No change.

(13) In the case of positive test results for which the employee did not or could not provide valid documentation of lawful intake of the identified controlled substance a legitimate explanation, the employee shall be notified in writing of the positive test results and the consequences of the results. Depending upon the employee's position and the surrounding circumstances, possible consequences include: The employee shall be immediately removed from his position in accordance with the department's dismissal process and the Criminal Justice Standards and Training Commission shall be notified.

(a) Referral to an employee assistance program;

(b) Immediate removal from his or her position to a position in another class;

(c) Immediate placement in paid or unpaid leave status;

(d) Disciplinary action up to and including dismissal; and

(e) Notification of the Criminal Justice Standards and Training Commission for possible decertification.

(14) In the event of collection site or laboratory error, if the Medical Review Officer will reports the test results as cancelled, it shall be considered collection site or lab error and a re-test shall be scheduled immediately. The employee shall be given no more than 24 hours notice for the re-test. If a re-test cannot be conducted prior to the deadline for the random testing period, the authorized individual Regional Personnel Officer shall provide an explanation to the Chief of Personnel.

(15) through (16) No change.

(17) ~~Within 5 days of the completion of random testing, the authorized individual shall submit to the Bureau of Personnel the names of the employees not tested and the reason the test was not completed, with the attendance and leave reports or travel reimbursement requests attached for any employee unavailable for the test.~~

(17)(18) The following appeal process shall be available to an employee who wants to appeal a positive confirmed drug test.

(a) through (b) No change.

(18) On-Site Presumptive Testing with Confirmation Process Follow-up for Presumptive Positives. If on-site presumptive testing is employed, the authorized individual shall:

(a) Ensure administration of presumptive testing using an oral fluid device or other non-invasive process;

(b) Refer employees with presumptive positive results to off-site testing in accordance with subsection (4) of this rule.

(19) All information, interviews, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of the drug testing program shall be confidential.

Specific Authority 944.09, 944.474 FS. Law Implemented 112.0455, 944.09, 944.474 FS. History–New 9-11-05, Amended \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.723  
RULE TITLE: Visiting Check-in Procedures  
PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The purpose and effect of the proposed rule is to clarify means of obtaining approval for a minor’s visit where the legal guardian is incarcerated, yet someone else is taking care of the minor.

SPECIFIC AUTHORITY: 944.09, 944.23 FS.  
LAW IMPLEMENTED: 944.09, 944.23, 944.8031 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jason Hand, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 33-601.723 Visiting Check-in Procedures.  
(1) through (4) No change.

(5) A visitor seventeen years old or younger who cannot furnish proof of emancipation must be accompanied during a visit by an approved parent, legal guardian, or authorized adult and must remain under the supervision of that adult at all times. An authorized non-parental adult accompanying a visiting minor must provide a notarized document of guardianship from the minor’s parent or legal guardian (neither of which may be an inmate except as provided below ~~not an inmate~~) granting permission for the minor to visit a specifically identified inmate. The document shall be notarized by someone other than the non-parental adult accompanying the minor and shall be updated every six months from the date of issue. In cases where it can be determined that legal custody remains with the incarcerated parent or legal guardian and has not been given to another adult by the court, a notarized statement from the incarcerated parent or guardian shall be acceptable for purposes of authorizing children of the inmate to visit. Any such authorization remains subject to any relevant court orders or relevant departmental rules regarding the inmate’s contact with the minor in question. Falsification of a document of

guardianship shall result in the person being subject to suspension of visiting privileges pursuant to paragraph 33-601.731(9)(d), F.A.C.

(6) No change.

Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

RULE NO.: 61G5-20.002  
RULE TITLE: Salon Requirements  
PURPOSE AND EFFECT: To establish pedicure equipment sterilization procedures.

SUBJECT AREA TO BE ADDRESSED: Salon Sterilization Requirements.

SPECIFIC AUTHORITY: 477.016, 477.025(2) FS.  
LAW IMPLEMENTED: 477.025 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0783.

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-20.001  
RULE TITLE: Licensee  
PURPOSE AND EFFECT: The Board proposes the rule amendment to add the language regarding a delinquent license.

SUBJECT AREA TO BE ADDRESSED: Licensees.

SPECIFIC AUTHORITY: 455.271, 473.304 FS.  
LAW IMPLEMENTED: 455.271 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Johnson, Executive Director, Board of Accountancy/MQA, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61H1-20.001 Licensee.

(1) "Licensee" shall be deemed and construed to mean a person, partnership or corporation which holds an active, inactive, delinquent, or temporary license issued under Chapter 473, F.S.

(2) No change.

Specific Authority 455.271, 473.304 FS. Law Implemented 455.271 ~~473.304~~ FS. History--New 12-4-79, Formerly 21A-20.01, Amended 10-20-86, Formerly 21A-20.001, Amended.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NOS.:	RULE TITLES:
61H1-20.007	Generally Accepted Accounting Principles
61H1-20.008	Generally Accepted Auditing Standards
61H1-20.009	Standards for Accounting and Review Services
61H1-20.0092	Government Auditing Standards
61H1-20.0093	Rules of the Auditor General
61H1-20.0095	Standards for Consulting Services
61H1-20.0096	Services for Tax Practice
61H1-20.0097	Standards for Personal Financial Planning
61H1-20.0098	Standards for Business Valuations
61H1-20.0099	Standards for Attestation Engagements

PURPOSE AND EFFECT: The Board proposes to review the existing language in the rules to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Generally Accepted Accounting Principles; Generally Accepted Auditing Standards; Standards for Accounting and Review Services; Government Auditing Standards; Rules of the Auditor General; Standards for Consulting Services; Services for Tax Practice; Standards for Personal Financial Planning; Standards for Business Valuations; Standards for Attestation Engagements.

SPECIFIC AUTHORITY: 473.304, 473.315 FS.

LAW IMPLEMENTED: 473.304, 473.315 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Johnson, Executive Director, Board of Accountancy/MQA, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-13.0046  
 RULE TITLE: Citation Authority

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the rule and clarify citation authority for violations and penalties.

SUBJECT AREA TO BE ADDRESSED: Citation authority.

SPECIFIC AUTHORITY: 456.077, 466.004(4) FS.

LAW IMPLEMENTED: 456.072(3)(a), 456.077 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #08, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-13.0046 Citation Authority.

(1) Pursuant to Section 456.077, F.S. (2000), the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation and the appropriate penalties for specific violations. In addition to the penalty, the costs of investigation and prosecution shall be assessed pursuant to Section 456.072(2), F.S. as determined by rules of the Department of Health. ~~The form to be used for the issuance of the citation shall be set forth in rules of the Department of Health.~~ The following subsections indicate those violations which may be disposed of by citation, with the accompanying penalty.

(2) Violation of Section 466.026(1)(a), ~~and/or 466.028(1)(aa)~~, F.S., by practicing for a period of 2-6 months without an active license. The penalty for a dentist shall be a \$1,000.00 fine to be in addition to any reactivation fee, and

completion within 6 months of 4 hours of continuing education in risk management. Said continuing education to be in compliance with Rule Chapter 64B5-12, F.A.C., and in addition to any continuing education required for biennial renewal of licensure. The penalty for dental hygienist shall be a \$250.00 administrative fine.

(3) A first time violation of Section 466.028(1)(i) and/or 466.028(1)(a)(aa), F.S., and/or subsection 64B5-12.013(1) or (2), F.A.C., by renewing a license without completing the required continuing education credits. The penalty for a dentist shall be an administrative fine of ~~\$100.00~~ ~~\$150.00~~ per hour not completed as required, and completion of all continuing education hours that were not completed, ~~and completion of one additional hour of continuing education for each hour not completed or completed late.~~ Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed ~~and shall be in addition to and not count toward any continuing education required for biennial renewal of licensure.~~ Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of the citation. The penalty for a dental hygienist shall be an administrative fine of ~~\$25.00~~ ~~\$35.00~~ per hour not completed as required, and completion of all continuing education hours that were not completed, ~~and completion of one additional hour of continuing education for each hour not completed or completed late.~~ Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed ~~and shall be in addition to and not count toward any continuing education required for biennial renewal of licensure.~~ Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of citation.

(4)(a) through (j) No change.

(5)(a) through (c) No change.

(d) Violation of subsection 64B5-4.003(5), F.A.C., by providing an advertisement for free or discounted services which does not comply with the requirements of Section ~~456.062~~ ~~455.664~~, F.S., and/or clearly identify the dates that free, discounted or reduced fee services will be available.

(6)(a) through (c) No change.

(7) The penalty for a violation of Rule Chapter 64B5-4, F.A.C., as enumerated above ~~is~~ are as follows: first offense will result in \$250.00 fine ~~and reprimand~~; second offense, will result in a \$1,000.00 fine, reprimand and four (4) hour continuing education in ethics. Violations occurring subsequent to the second offense of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed.

(8) No change.

(9) Violation of subsection 466.028(1)(ll)(aa), F.S., by violation of Section 456.035(1), F.S., which requires licensees to notify the Board of change of address. Failure to comply will result in a \$250.00 fine.

(10) through (11) No change.

(12) Except for violations of Rule Chapter 64B5-4, F.A.C., as stated above, ~~The~~ procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 456.073, F.S., shall apply.

(13) Citations are to be served upon the subject either by personal service or by certified mail, restricted delivery return receipt, to the last known business or residence address of the subject.

(14) The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. All fines and costs are to be made payable to the “Board of Dentistry – Citations” and sent to the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine or costs.

(15) If the subject licensee rejects the Department of Health’s offer of the citation ~~or if the licensee fails to comply with the penalty~~ then the procedures of Section 456.073, F.S., shall apply to the original charge. In cases where the subject licensee fails to comply with the penalty, ~~both the original charge and a complaint for violation Section 456.072(1)(q), F.S., shall be filed and investigated, a charge of violating Section 466.028(1)(i), F.S., shall be brought before the probable cause panel pursuant to Section 456.073, F.S.~~

(16) ~~The Department of Health shall, at the end of each calendar quarter, submit a report to the Board of the citations issued which report shall contain the name of the subject, the violation, fine imposed, whether the subject complied with the citation upon it becoming a final order, and the number of subjects who chose to follow the procedures of Section 456.073, F.S.~~

Specific Authority 456.077, 466.004(4) FS. Law Implemented 456.072(3)(a), 456.077 FS. History–New 12-24-91, Formerly 21G-13.0046, Amended 11-22-93, Formerly 61F5-13.0046, 59Q-13.0046, Amended 7-19-01,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-17.006                      RULE TITLE: Work Order Forms

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the information necessary for completion of approved work order forms.

SUBJECT AREA TO BE ADDRESSED: Work order forms.



SPECIFIC AUTHORITY: 466.021 FS.  
LAW IMPLEMENTED: 466.021 FS.  
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64B5-17.006 Work Order Forms.
- (1)(a) through (e) No change.
- (f) Signature of the licensed dentist, which may be an electronic signature.
- ~~(2) Work order forms must be sequentially numbered duplicate forms.~~
- ~~(3) Work order forms are non-transferable.~~
- (2)(4) Copies of work order forms must be maintained, either on paper or stored electronically in an encrypted data base, by the dentist for a period of four (4) two (2) years.

Specific Authority 466.021 FS. Law Implemented 466.021 FS. History–New 12-21-99, Amended 3-23-06,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NO.:                   RULE TITLE:  
64B18-12.011           Assessment Fees

PURPOSE AND EFFECT: The Board proposes the new rule to establish and clarify the one time assessment fee on all podiatric physicians.

SUBJECT AREA TO BE ADDRESSED: Assessment Fees.

SPECIFIC AUTHORITY: 456.025(5), 461.005 FS.

LAW IMPLEMENTED: 456.025, 461.005 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B18-12.011 Assessment Fees.

In order to maintain fiscal intergrity, the Board is assessing a one time assessment fee on all podiatric physicians of \$375.00, payable by March 31, 2007.

Specific Authority 456.025(5), 461.005 FS. Law Implemented 456.025, 461.005 FS. History–New \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NO.:                   RULE TITLE:  
64B18-14.002           Penalties

PURPOSE AND EFFECT: The Board proposes to add language clarifying penalties for termination from impaired practitioner treatment program and for failure to comply with a lawful order of Board suspension.

SUBJECT AREA TO BE ADDRESSED: Penalties.

SPECIFIC AUTHORITY: 456.072, 456.072(1)(qq), 456.073(3), 456.079, 461.003, 461.005, 461.013 FS.

LAW IMPLEMENTED: 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B18-14.002 Penalties.

(1) through (2)(qq) No change.

(rr) Termination from impaired practitioner treatment program. The Board shall impose a penalty of suspension until individual proves ability to practice with reasonable skill and safety.

(ss) Failure to comply with a lawful order of the Board. The Board shall impose a penalty of suspension until compliance and payment of fine from \$500.00 to \$1,000.00.

Specific Authority 456.072, 456.072(1)(qq), 456.073(3), 456.079, 461.003, 461.005, 461.013 FS. Law Implemented 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS. History–New 11-21-79, Amended 8-31-81, Formerly 21T-14.02, Amended 10-14-86, 12-8-88, 1-19-92, 4-26-93, Formerly 21T-14.002, 61F12-14.002, Amended 2-25-96, 5-29-97, Formerly 59Z-14.002, Amended 11-17-97, 8-24-00, 8-13-02, 4-26-04,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NO.: RULE TITLE:

64B18-14.010 Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to add language clarifying citations for failure to pay the one time assessment fee.

SUBJECT AREA TO BE ADDRESSED: Citations.

SPECIFIC AUTHORITY: 456.077, 461.005 FS.

LAW IMPLEMENTED: 456.057, 456.077, 461.012, 461.013 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B18-14.010 Citations.

(1) through (3)(i) No change.

Violations Penalties

(j) Failure to pay the one time assessment fee of \$375.00 Citation fine of \$500.00 plus payment of cost and the \$375.00 assessment fee.

(4) through (5) No change.

Specific Authority 456.077, 461.005 FS. Law Implemented 456.057, 456.077, 461.012, 461.013 FS. History—New 1-19-92, Formerly 21T-14.010, 61F12-14.010, Amended 3-26-95, 2-25-96, 6-17-97, Formerly 59Z-14.010, Amended 11-23-00, 8-13-02, 7-26-04,

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NO.: RULE TITLE:

64B18-17.005 Continuing Education Requirements After Initial Licensure

PURPOSE AND EFFECT: The Board proposes the new rule to clarify the requirements for continuing education in the area of Risk Management after initial licensure.

SUBJECT AREA TO BE ADDRESSED: Continuing education.

SPECIFIC AUTHORITY: 465.013, 456.033, 461.005, 461.007(3) FS.

LAW IMPLEMENTED: 465.013, 461.005, 461.007(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B18-17.005 Continuing Education Requirements After Initial Licensure.

During the first biennium after initial licensure, practitioners are required to obtain five hours of continuing education in the subject area of risk management by attending one full day of a meeting of the Board of Podiatric Medicine at which disciplinary hearings are conducted.

Specific Authority 465.013, 456.033, 461.005, 461.007(3) FS. Law Implemented 465.013, 461.005, 461.007(3) FS. History—New\_\_\_\_\_.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Manatees**

RULE NO.: RULE TITLE:

68C-22.027 Duval County Zones

PURPOSE AND EFFECT: The Commission is considering whether amendments to the existing manatee protection zones in the downtown Jacksonville area of Duval County should be made to make the zones consistent with existing federal manatee protection zones. At the request of the Commission, and as required by Section 370.12(2)(f), F.S., in February 2006 Duval County (city of Jacksonville) established a Local Rule Review Committee (LRRC) to review and comment on a preliminary rule proposal. The LRRC met three times and the Commission received the LRRC final report in May 2006. The Commission is scheduled to consider the LRRC report and Commission staff recommendations for proposed rule amendments at the June 7-8, 2006, Commission meeting to be held in West Palm Beach. The agenda for this meeting and background information on this issue can be viewed on-line at: <http://myfwc.com/commission/2006/June/index.html>.

SUBJECT AREA TO BE ADDRESSED: Manatee protection zones in the downtown Jacksonville area of Duval County.

SPECIFIC AUTHORITY: 370.12(2)(n) FS.

LAW IMPLEMENTED: 370.12(2)(d), (k), (n) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Mr. Scott Calleson, Imperiled Species Management Section, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399, (telephone (850)922-4330)

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

### **FINANCIAL SERVICES COMMISSION**

#### **Office of Insurance Regulation**

RULE NO.: 69O-142.015  
 RULE TITLE: Standardized Requirements  
 Applicable to Insurers After  
 Hurricanes or Natural Disasters

PURPOSE AND EFFECT: Section 24 of Senate Bill 1980 created Section 627.7019, F.S. It requires the Financial Services Commission to adopt by rule standardized requirements that may be applied to insurers as a consequence of a hurricane or other natural disaster. The purpose of the rule development workshop is to develop rules with respect to claims reporting requirements, grace periods for payment of premiums, and performance of other duties by insureds and temporary postponement of cancellations or nonrenewals. Interested persons should consult the Office of Insurance Regulation website at <http://www.flor.com/HotTopics.htm> for copies of past 2004 and 2005 emergency rules and orders and memorandums that have addressed the above referenced matters. These will be used as a basis for developing the rules.

SUBJECT AREA TO BE ADDRESSED: Standardized requirements applicable to insurers after hurricanes or other natural disasters.

SPECIFIC AUTHORITY: 627.7019 FS.

LAW IMPLEMENTED: 627.7019 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 14, 2006, 9:30 a.m.

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tom Streukens, Deputy Commissioner, Property and Casualty, Office of Insurance Regulation, E-mail: [thomas.streukens@fldfs.com](mailto:thomas.streukens@fldfs.com)

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

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

### **FINANCIAL SERVICES COMMISSION**

#### **Office of Insurance Regulation**

RULE NO.: 69O-186.013  
 RULE TITLE: Title Insurance Statistical Gathering  
 PURPOSE AND EFFECT: To set out the data to be provided to the Office in compliance with Section 627.782, F.S.  
 SUBJECT AREA TO BE ADDRESSED: Title Insurance Industry Statistical Gathering.  
 SPECIFIC AUTHORITY: 624.308 FS.  
 LAW IMPLEMENTED: 624.307(1), 627.782 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 15, 2006, 9:30 a.m.

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lawrence Steinert, Property and Casualty Product Review, Office of Insurance Regulation, E-mail: [lawrence.steinert@fldfs.com](mailto:lawrence.steinert@fldfs.com).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

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

### **FINANCIAL SERVICES COMMISSION**

#### **Office of Insurance Regulation**

RULE NO.: 69O-186.017  
 RULE TITLE: Certificate of Mortgage Release  
 PURPOSE AND EFFECT: Section 701.041(9), Florida Statutes, requires the Financial Services Commission to "adopt rules establishing an actuarially sound premium charge to be made for each certificate of release recorded pursuant to this section." This rulemaking proceeding will be utilized to determine and establish appropriate rates to be charged for certificates of mortgage release that are recorded in Florida, pursuant to Section 701.041, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Certificate of Mortgage Release Rate.

SPECIFIC AUTHORITY: 701.041(9) FS.

LAW IMPLEMENTED: 701.041(9) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 15, 2006, 9:30 a.m.

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lawrence Steinert, Property and Casualty Product Review, Office of Insurance Regulation, E-mail: lawrence.steinert@fldfs.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

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

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

DATE AND TIME: June 16, 2006, 9:00 a.m.

PLACE: Agricultural Environmental Services Conference Room, 3125 Conner Blvd., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Dale W. Dubberly, Chief, Bureau of Compliance Monitoring, Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building #8, Tallahassee, Florida 32399-1650, (850)488-8731

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-1.016 Commercial Values for Penalty Assessments.

The commercial values used in assessing penalties for plant nutrient deficiencies are determined by the annualized average market prices published by the Green Markets Publication (effective 3/27/06), ~~Chemical Market Reporter Publication (effective 8-13-01)~~ which is hereby incorporated by reference. Commercial Values not provided in Industry Publications will be established thru survey approved by the Fertilizer Technical Council. Copies may be obtained from the Green Markets, 1010 Wayne Avenue, Suite 1400, Silver Spring, MD 20910 USA, ~~Chemical Market Reporter, 307 Southgate Court, Brentwood, TN 37027~~. This rule shall be reviewed annually.

(1) PRIMARY PLANT NUTRIENTS.

	Guaranteed as	Commercial Values (Per unit*)	
Total Nitrogen	N	<u>\$8.14</u>	<del>\$5.49</del>
Nitrate Nitrogen	N	<u>7.80</u>	<del>5.39</del>
Ammoniacal Nitrogen	N	<u>6.32</u>	<del>4.60</del>
Water Soluble or Urea Nitrogen	N	<u>5.17</u>	<del>4.81</del>
Slow Release Nitrogen (from other SRN sources)	N	<u>13.48</u>	<del>14.48</del>
Water Insoluble Nitrogen	N	<u>13.29</u>	<del>12.32</del>
Available Phosphorus	P <sub>2</sub> O <sub>5</sub>	<u>4.90</u>	<del>3.55</del>
Slow Release Phosphate	P <sub>2</sub> O <sub>5</sub>	19.10	19.10
Potassium (from Muriate)	K <sub>2</sub> O	<u>3.00</u>	<del>2.21</del>
Slow Release Potassium	K <sub>2</sub> O	<u>14.78</u>	<del>15.04</del>
Potassium (from any source other than Muriate or a combination of sources)	K <sub>2</sub> O	<u>6.74</u>	<del>4.31</del>

(2) SECONDARY PLANT NUTRIENTS.

	Guaranteed as	Commercial Values (per unit*)	
Total and water Soluble Magnesium (from any source)	Mg	<u>\$6.53</u>	<del>\$6.53</del>
Manganese (from sulfate)	Mn	<u>19.78</u>	<del>15.89</del>
Manganese (from Sucrate)	Mn	<u>16.44</u>	<del>11.25</del>
Manganese (from chloride)	Mn	6.10	6.10
Manganese (from oxide)	Mn	<u>9.35</u>	<del>6.27</del>
Manganese (from chelate in group 1**)	Mn	215.50	215.50

Section II  
Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: 5E-1.016  
RULE TITLE: Commercial Values for Penalty Assessments

PURPOSE AND EFFECT: The purpose of this rule is to provide the most recent market prices of fertilizer components to be used for penalty assessments of deficient fertilizer.

SUMMARY: Rule 5E-1.016, F.A.C., updates the most recent market prices of fertilizer components to be used for penalty assessments of deficient fertilizers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 576.181(2), 570.07(23) FS.

LAW IMPLEMENTED: 576.051(2), (3), (7), 576.061, 576.071, 576.181 FS.