

## Section IV Emergency Rules

### DEPARTMENT OF STATE

#### Division of Elections

**RULE NO.:**                    **RULE TITLE:**  
 ISER10-3                    Polling Place Procedures Manual

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Pursuant to Section 120.54(4)(b), Florida Statutes, this emergency rule is a rule pertaining to the public health, safety, and welfare as it involves the interpretation and implementation of the requirements of Chapters 97-102 and 105 of the Florida Election Code. On May 28, 2010, the Governor signed House Bill 131 signed into law and became effective immediately. See Chapter 2010-167, Laws of Florida. Section 4 of the bill amended Section 101.111, Florida Statutes. Specifically, section 4 carved out an exception to voter challenges whereby a voter who has been challenged on the basis of his or her legal residential address still has an opportunity to vote a regular ballot in lieu of a provisional ballot. The poll worker must first give the challenged voter the opportunity to update his or her legal residential address. Then if the voter is in the proper precinct corresponding to the updated address, or directed to the proper precinct, the voter may then vote a regular ballot in lieu of a provisional ballot. Otherwise, the challenged voter will be allowed to vote a provisional ballot. Although the Division of Elections anticipated the passage of HB 131 and incorporated this particular provision as part of the proposed revision for DS-DE #11, Polling Place Procedures Manual, which is incorporated by reference in Rule 1S-2.034, F.A.C., the Division could not move to finalize the proposed rule until the bill became law. Consequently, the effective date of the law fell between the date of the notice of proposed rule on May 21, 2010, and the date of the public hearing on June 22, 2010.

The emergency rule contains the same language as the proposed revisions for Rule 1S-2.034, F.A.C. Since this polling place procedures manual is an essential tool used by poll workers at the polls during the early voting period and on Election Day to conduct procedures, the emergency rule is needed to ensure that the Supervisors of Elections' are able to make this manual available in a timely manner for training and for use during early voting and on Election Day for the Primary Election, and to ensure that poll workers comply uniformly, consistently and timely with the requirements of the new law and other revised procedures relating to voter intake, the handling of overvoted ballots, and persons with disabilities.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** The Division of Elections is aware of the rulemaking procedures prescribed by Section 120.54, Florida Statutes. That process requires advance notice to the public of intended rules and the opportunity to submit comments on the intended rule, prior to the agency's adoption of the rule. The time period for general rulemaking takes at least 60 days and will prevent the timely amendment and adoption of a rule needed to apply to the upcoming Primary Election in August 2010. In the interim, the provisions of this emergency rule will ensure that poll workers and election officials all follow the same procedures as applied to voters. The Department of State will work to complete rulemaking on Rule 1S-2.043, F.A.C., to incorporate the text of the emergency rule permanently.

**SUMMARY:** This emergency rule is necessary to ensure that Supervisors of Elections and poll workers all apply procedures at the polling place uniformly, consistently and timely and to ensure that all voters are treated equitably and fairly and able to vote.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:** Donald Palmer, Director, Division of Elections, Florida Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, (850)245-6200, or Maria Matthews, Assistant General Counsel, Office of General Counsel, Florida Department of State, (850)245-6536, mimatthews@dos.state.fl.us

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

ISER10-3 Polling Place Procedures Manual.

The Department of State, Division of Elections, is required to establish a polling place procedures manual to guide election officials and poll workers in the proper implementation of election procedures and laws. Form DS-DE 11ER (eff. 06/10), entitled "Polling Place Procedures Manual," is hereby incorporated by reference and available from the Division of Elections, R. A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division of Elections' rules webpage at: <http://election.dos.state.fl.us/index.html>. This manual is to be used for the Primary Election 2010.

Rulemaking Authority 20.10(3), 102.014(5), 120.54(4)(b) FS. Law Implemented 102.014(5) FS. History—New 6-25-10.

**THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.**

**EFFECTIVE DATE:** June 25, 2010

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

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**Section V****Petitions and Dispositions Regarding Rule Variance or Waiver****DEPARTMENT OF LAW ENFORCEMENT**

NOTICE IS HEREBY GIVEN THAT on June 29, 2010, the Criminal Justice Standards and Training Commission, received a petition for permanent waiver of paragraph 11B-20.0014(3)(a), F.A.C., by Northwest Florida State College on behalf of law topics instructor, attorney Tony Simpson. The rule requires specialized topics instructors to meet certain criteria prior to teaching courses in their specialized topic area, in this case, law. Petitioner asserts that its instructor completed all aspects of certification as a specialized topics instructor shortly after delivering the law topics portion of a Corrections basic recruit course and that his failure to comply with all administrative requirements of the rule did not jeopardize his delivery of legal instruction to the recruits.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302-1489, (850)410-7687.

NOTICE IS HEREBY GIVEN THAT on June 29, 2010, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(14), F.A.C., by Barbara Smith. The rule requires officers to successfully complete firearms qualification every two years unless an officer is injured in the line of duty, which would grant the officer two additional years to complete the qualification. The Petitioner has cancer which prevents her from completing her firearms qualification. The Petitioner would like to waive the operation of the rule in her case.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, (850)410-7676.

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**WATER MANAGEMENT DISTRICTS**

NOTICE IS HEREBY GIVEN THAT on June 20, 2010, South Florida Water Management District (District) received an amended petition for waiver from Adele Gold for a Modification of Right of Way Occupancy Permit No.: 10531, Application No.: 10-0505-1M, for utilization of Works or Lands of the District known as the C-17 Canal for proposed rip-rap boulder bank stabilization and an existing fence, fabric tube erosion barrier and existing trees within the north right of way of the C-17 Canal located adjacent to 540 Anchorage Drive, Section 16, Township 42 South, Range 43 East, Palm Beach County. The amended petition seeks relief from subsections 40E-6.011(4) and (6), Florida Administrative Code, which prohibits the placement of permanent and/or semi-permanent above-ground structures within 40 feet of the top of canal bank within Works or Lands of the District.

A copy of the petition may be obtained from: Juli Russell at (561)682-6268 or e-mail at [jurussel@sfwmd.gov](mailto:jurussel@sfwmd.gov). The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the: South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attention: Juli Russell, Office of Counsel.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN THAT on June 17, 2010, the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, received a petition for Emergency Petition for Temporary Waiver of Rule 61B-17.005, F.A.C., filed by Alexa Guevara, Esq. on behalf of Petitioner, Waterbrook Peninsula, LLC, Docket No.: 2010031215.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, (850)921-0342.

NOTICE IS HEREBY GIVEN THAT on June 22, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety has issued an order. The Final Order was in response to a Petition for Variance from Island House South East, filed 3/25/2010,