

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 23, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2004

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
 Division of Family Health Services**

RULE TITLE: Distribution of Funds from the Rape Crisis Program Trust Fund
 RULE NO.: 64F-20.001

PURPOSE AND EFFECT: This rule is to implement new legislation establishing a Rape Crisis Trust Fund to carry out the purposes of the "Sexual Battery Victims Access to Services Act."

SUMMARY: This rule is intended to implement the distribution of funds established by the "Sexual Battery Victims Access to Services Act."

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 794.056(2) FS.

LAW IMPLEMENTED: 794.055, 794.056 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elvira Hanson, Contract Manager, Sexual Violence Prevention Program, Florida Department of Health, 4052 Bald Cypress Way, Bin #A13, Tallahassee, FL 32399-1723

THE FULL TEXT OF THE PROPOSED RULE IS:

SEXUAL ASSAULT VICTIMS ACCESS TO SERVICES
64F-20.001 Distribution of Funds from the Rape Crisis Program Trust Fund.

The department shall contract through a competitive process pursuant to Chapter 287, F.S., with statewide nonprofit association(s) as described in Section 794.055, F.S.

Specific Authority 794.056(2) FS. Law Implemented 794.055, 794.056 FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jan Davis, Program Administrator, Sexual Violence Prevention Program, Division of Family Health Services
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Annette Phelps, Division Director, Division of Family Health Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2003

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

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.015
 RULE TITLE: Minimum Security Procedures for Voting Systems

NOTICE OF CORRECTION

Notice is hereby given that the Notice of Proposed Rule for Rule 1S-2.015, F.A.C., published in the Florida Administrative Weekly, Page 2488, Vol. 30, No. 25, on June 18, 2004, included an erroneous hearing date. The Proposed Rule Hearing will be held at 11:00 a.m., Tuesday, July 13, 2004 at the R.A. Gray Auditorium located at 500 South Bronough Street, Tallahassee, Florida 32399.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.015 Minimum Security Procedures for Voting Systems.

(1) PURPOSE Purpose.

~~(a) To achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting, including write in voting, and of counting, tabulating and recording votes by voting systems used in the State of Florida, pursuant to Section 101.015(3), F.S.~~

~~(b) To establish minimum security standards for voting systems and requirements for filing and review of written security procedures, pursuant to Section 101.015(4), F.S.~~

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

(a) A "Ballot" when used in reference to means one or more of the following:

1. "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. A device created for the purpose of advising an elector of the valid choices for voting. Ballots may be reproduced on paper, video screens, liquid crystal displays, or on other visual, audible, printed, or electronic media.

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. Any medium used to record each vote cast which may include marksense forms, printed paper sheets, unprinted strips for write in votes, electronic, optical, electromechanical, or magnetic storage devices.

~~3. Any device which combines the features of paragraphs 1. and 2. above.~~

(b) A “Voted ballot” means a ballot as defined in ~~(2)(a)2. or (2)(a)3.~~ above, which has been cast by an elector.

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

(d) “Voting Device machine” means any apparatus by which votes are registered electronically ~~mechanical voting machine or any electronic or electromechanical direct recording equipment (DRE) voting machine.~~

(3) SECURITY PROCEDURES. Requirements for filing security procedures with the Division of Elections. ~~Each~~ Not later than January 1, 1994, each supervisor of elections shall place on file with the Division of Elections security procedures which meet the minimum standards set forth in this rule. Revisions After January 1, 1994, revisions to procedures on file with the Division of Elections shall be submitted at least 45 days before 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. Each supervisor of elections has the authority to make changes to the security procedures within 45 days of 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 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 ~~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 this rule. The Division of Elections will notify the supervisor of elections as to the results of the review within ~~90 days of the date security procedures are received and within~~ 30 days of 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 time frames 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 notification of the results of the review will include an enumeration of specific provisions 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 ~~Standards for Security Procedures.~~

(a) Security Procedures shall include copies 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.

(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 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, ~~punches~~ or other coding necessary for identifying ballot variations or precincts;
3. Verification that unique marks, ~~punches~~, or other coding necessary for tabulation are correct; ~~and~~
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) 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 test.

(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 test performed including test materials utilized.

2. Description of how the programs, ballots, and other test materials are sealed, secured and retained.

(f) Filing election parameters. ~~The security procedures shall include filing with Counties shall establish procedures to provide the Division of Elections a copy of the software and with parameters used within the voting system to define, for each election, the tabulation and reporting instructions for each election. The filing shall, at a minimum, include the following: within 24 hours after the completion of any logic and accuracy test conducted pursuant to s. 101.5612(1), F.S., or pre-election test conducted pursuant to s. 101.35, F.S. Counties using paper ballots shall file election parameters prior to the election.~~

1. Copy of the voting system software: ~~For electronic and electromechanical systems, the election parameters shall be submitted in a format readable by the tabulation system and shall be accompanied by a copy of the tabulation program. If the voting system cannot produce a machine readable copy, election parameters may be submitted as printed listings or copies of the original coding sheets.~~

2. Copy of the administrative database used to define the election: ~~For voting machines the election parameters shall be a copy of the instructions used to prepare the voting machines for each election.~~

3. Copy of all election-specific files generated and used by the system: ~~For the tabulation of paper ballots by hand count, the election parameters shall be a written description of the tabulation plan for the election.~~

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 an affidavit signed by the person who created the election definition. The affidavit shall be in substantially the following form:

ELECTION PARAMETER AFFIDAVIT

Under the penalties of false swearing, I do solemnly swear (or affirm) that the (name of election) 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. Signature of the Person Coding the Election.

Sworn to and subscribed before me this _____ day of _____.

Notary Signature

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

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

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 machines. It shall also provide for a record to be kept on which the identification numbers, seal numbers and protective counter numbers for voting devices machines shall be noted; ~~and~~

4. Description of the procedures for retaining the test results and any records of the proceedings.

(h) Ballot Distribution. Where paper ballots (as defined in ~~subparagraph (2)(a)1, subparagraphs (2)(a)2, and 3.~~ of this rule) are used, 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. Distribution of Voting Machines. Where voting machines are used, the security procedures shall describe the steps necessary for compliance with the requirements of Chapter 101, F.S., pertaining to voting machine distribution.~~

(j) Election Board Duties.

1. The security procedures when paper ~~for use where~~ ballots, including provisional ballots ~~(as defined in paragraph (2)(a)2. of this rule)~~ are used shall, at a minimum, include the following Election Board duties:

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 equipment;

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 machines 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 DRE voting machines;

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

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

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

e. Checking the correctness of the ballot;

f. Preparing voting devices machines for voting;

g. Verification that the correct number of signature identification slips were received;

h. Checking and sealing the signature identification slip container(s);

i.g. Handling write-in ballots;

i.h. Handling voting system machine malfunctions;

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

l.j. Accounting for all signature identification slips received; and

m.k. 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 record of the chain of custody of for compliance with the requirements of Chapter 101, F.S., which pertain to the transportation of ballots and/or election materials 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 Election Board's certification required by Section 101.5614(2)(a), F.S.;~~

~~2.3.~~ 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; and

~~3.4.~~ 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.

(l) Receiving and Preparing the Ballots for Central and Regional Counting. ~~Where ballots (as defined in paragraph (2)(a)2. of this rule) are used,~~ The security procedures shall describe the process of receiving and preparing voted 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 paper ballots to identify those which must be duplicated or upon which voter intent is unclear, thus requiring a determination by the Canvassing Board. A ~~voter~~ record shall be kept of which paper ballots are submitted to the Canvassing Board and the disposition of those paper ballots; and

4. Description of the process for duplicating and recording the voted paper ballots which are damaged or defective.

(m) Tabulation of Vote.

1. The security procedures for use with central and regional processing counting sites shall describe each step of a ballot tabulation to include, at a minimum, the following:

a. Counting and reconciliation of voted paper precinct ballots;

b. Processing, tabulation and accumulation reconciliation of voted ballots and election data;

c. Processing and recording of all write-in and provisional ballots votes;

~~d. Responses to machine checks for electronic or electromechanical voting systems;~~

~~d.e.~~ The process for handling unreadable ballots and returning any duplicates to tabulation;

~~e.f.~~ Backup and recovery of tabulated results and voting system programs for electronic or electromechanical voting systems; and

~~f.g.~~ Describe the procedure process for public viewing of the tabulation process and access to results.

2. Security procedures shall describe the steps necessary for vote tabulation in the precincts. Where voting machines are used, the security procedures shall describe the steps necessary for compliance with the requirements of Chapter 101, F.S., which pertain to vote tabulation.

3. The security procedures for use in the precincts all other cases shall include procedures which 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 absentee ballot results; and

g. 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 ~~for electronic or electromechanical voting systems~~ shall identify all methods of electronic access to the vote tabulation system, including procedures for authorizing electronic access and specific functions, and specifying methods for detecting, controlling and reporting access to the vote tabulation system.

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

1. Description of process for determining and verifying absentee ballot variations;
2. Description of process to ~~assure~~ ~~insure~~ 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 shall describe physical security, identify who ~~has~~ ~~is~~ 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 ~~electronic, electromechanical and mechanical devices~~ to ~~assure~~ ~~insure~~ that ~~it is they are~~ in proper working order and ~~is are~~ within manufacturer's operating specifications. Procedures shall also describe storage and non-operational maintenance of all voting ~~devices~~ ~~equipment~~.

(6) ACCESS TO TABULATION PROGRAM SOURCE CODE ~~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~~ ~~Chapters~~ 1S-5 ~~and 1S-7~~ F.A.C., before use in any election.

Specific Authority 120.535, 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,

NAME OF PERSON ORIGINATING PROPOSED RULE: Marielba Torres, Assistant General Counsel, Division of Elections

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2004

DEPARTMENT OF STATE

Division of Election

RULE NO.: 1S-2.030
 RULE TITLE: Electronic Transmission of Absentee Ballots

NOTICE OF CORRECTION

Notice is hereby given that the Notice of Proposed Rule for Rule 1S-2.030, F.A.C., published in the Florida Administrative Weekly, Page 2492, Vol. 30, No. 25, on June 18, 2004, included an erroneous hearing date. The Proposed Rule Hearing will be held at 10:00 a.m., Tuesday, July 13, 2004 at the R. A. Gray Auditorium located at 500 South Bronough Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.030 Electronic Transmission of Absentee Ballots.

(1) The supervisor of elections may accept a request for an absentee ballot via facsimile or electronic mail from an overseas voter as defined in Section 97.021, F.S., and may accept a voted ballot pursuant to the provisions of this rule.

(2) The electronic or facsimile request for an absentee ballot must include:

- (a) The name of the voter requesting the ballot.
- (b) The voter's county of legal residence in Florida.
- (c) The voter's date of birth.
- (d) One of the following:

1. If the voter wishes the ballot to be mailed, an APO/FPO or other deliverable overseas address.

2. If the voter wishes the ballot be faxed, a facsimile machine number where return information will be received.

3. If the voter wishes the ballot to be transmitted via electronic mail, the electronic mail address.

(e) The voter's signature (facsimile requests only).

(3) Upon receipt of a request for a ballot under these provisions, the supervisor must verify the information provided by the overseas voter and may only provide an absentee ballot if the supervisor determines that the overseas voter is a qualified and registered voter for the election. A request for a ballot to be faxed to the voter is valid for only the upcoming election or the one election specified by the voter.

(4) Upon verification of the overseas voter's eligibility, the supervisor shall provide the appropriate absentee ballot, the instructions for voting and returning the ballot, and the Voter's Certificate to the overseas voter by the means requested by the voter in (2).

(5) The supervisor of elections shall record the date the request was made, the way the ballot was sent to the voter, and the date the absentee ballot was mailed or transmitted to the voter.

(6) The supervisor of elections shall ensure that his or her transmitting and receiving equipment is in a secure location with access limited to employees of the supervisor and that the ballot is sent directly to the address or number provided by the overseas voter. It is the voter's responsibility to ensure the security of the receiving facsimile machine or computer.

(7) An overseas voter may return a voted ballot either by mail or by facsimile. Voted ballots returned by electronic mail will not be accepted.

(8) Overseas voters returning a voted absentee ballot by facsimile must send the ballot and the Voter's Certificate directly to the fax number provided by the supervisor of elections or to a number provided by Federal Voting Assistance Program of the Department of Defense. In order for the ballot to be counted it must be received by the supervisor of elections no later than 7 p.m. election day.

(9) Overseas voters mailing back voted ballots received by electronic mail or fax must seal the ballot in an unmarked envelope, which is the security envelope. The Voter's Certificate and the security envelope should be placed in a separate ballot transmittal envelope for mailing. The ballot transmittal envelope should be marked "Absentee Ballot Enclosed."

(10) The Voter's Certificate for ballots being sent to all overseas voters by mail, electronic means, or by fax shall be substantially as follows: ~~the same as the Voter's Certificate in Section 101.64, F.S.~~

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, _____, do solemnly swear or affirm that I am a qualified and registered voter of _____ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to

commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate will invalidate my ballot.

I further swear or affirm, under penalty of perjury, that I am:

1. A member of the Uniformed Services or merchant marine on active duty; or an eligible spouse or dependent of such a member; or a U.S. citizen temporarily residing outside the U.S.; or Other U.S. citizen residing outside the U.S.; and

2. I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; and

3. I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and

4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S., except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under State or Federal law. I have not been influenced.

My signature and date below indicate when I completed this document. The information on this form is true, accurate and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury.

Voter's Signature

Date

(11) The instructions to be sent to all overseas voters shall be in substantially the following form:

(a) In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which you are registered no later than 7 p.m. on the day of the election.

(b) Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

(c) Mark only the number of candidate or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one candidate, your vote in that race will not be counted.

(d) In order for your ballot to be counted, you must complete the Voter's Certificate, which must include your signature ~~and the signature and address of a witness 18 years of age or older.~~ You must also include the date you signed the Voter's Certificate or your ballot may not be counted.

(e) You may return your voted ballot either by facsimile or by mail. Voted ballots returned by electronic mail will not be counted.

(f) You may fax your ballot and the Voter’s Certificate to the supervisor of elections at (fax phone number) or you may fax your ballot to a fax number provided by the Federal Voting Assistance Program of the Department of Defense. If you fax your ballot to a number provided by the Federal Voting Assistance Program, make sure there is sufficient time for the Federal Voting Assistance Program to transmit it to the supervisor of elections so that it is received by 7 p.m. election day. If you fax your voted ballot, you will be voluntarily waiving your right to a secret ballot.

(g) To mail your ballot to the supervisor of elections:

1. Place your marked ballot in a secrecy envelope. If the ballot was mailed to you by the supervisor of elections, use the secrecy envelope sent to you. If your ballot was faxed to you or sent by electronic mail, place your marked ballot in an unmarked envelope and seal the envelope.

2. Insert the secrecy envelope inside a separate mailing envelope. If the ballot was mailed to you, use the mailing envelope provided and fill out the Voter’s Certificate on the back. If the ballot was faxed to you or sent by electronic mail, place the sealed secrecy envelope and the completed Voter’s Certificate in another envelope for mailing. Do not seal the Voter’s Certificate in the secrecy envelope with the ballot. Clearly mark the mailing envelope “Absentee Ballot Enclosed”.

3. Mail the ballot to the supervisor of elections. Be sure there is sufficient postage.

(h) FELONY NOTICE. It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or fraudulent.

(12) If any absentee voter mails the voted ballot to the supervisor of elections in an envelope other than an absentee ballot envelope provided by the supervisor, the canvassing board is authorized to open the mailing envelope to determine if the Voter’s Certificate is enclosed in the mailing envelope. If the Voter’s Certificate is not enclosed, the secrecy envelope containing the ballot shall not be opened and the envelope shall be marked “Rejected as Illegal.” If the Voter’s Certificate is enclosed, the supervisor of elections shall verify the overseas voter’s eligibility, and once verified, the ballot shall be processed as other absentee ballots.

(13) For each voted absentee ballot received from an overseas voter, the supervisor shall record the date such ballot was received.

(14) Upon receipt of a voted ballot transmitted by fax, the supervisor of elections shall enclose the ballot in an envelope and seal it. The Voter’s Certificate shall be attached to the envelope. Upon a determination by the canvassing board that

the voter was eligible to vote, the ballot shall be removed from the envelope and duplicated so that it can be processed through the tabulating equipment.

(15) Upon regular mail receipt of a ballot that was sent via electronic mail, the Voter’s Certificate shall be reviewed. Upon determination by the canvassing board that the voter was eligible to vote, the ballot shall be removed from the envelope and duplicated so that it can be processed through the tabulating equipment.

(16) The supervisor of elections and the supervisor’s staff shall take the steps necessary to keep the voted ballots received by facsimile as confidential as possible.

Specific Authority 101.697 FS. Law Implemented 101.697 FS. History—New 5-27-02, Amended 11-26-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Jane Bradshaw, Assistant Director, Division of Elections
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State
 DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 2004

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-14.0061
 RULE TITLE: Campus, Center, Special Purpose Center and Instructional Site Designations

NOTICE OF CHANGE

Notice is hereby given that the following amendment was made to the proposed rule in accordance in subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 20, of the May 14, 2004, issue of the Florida Administrative Weekly. The introductory paragraph was amended to read:

6A-14.0061 Campus, Center, Special Purpose Center and Instructional Site Designations.

The ~~Division State Board~~ of Community Colleges shall receive proposals from local boards of trustees to establish campuses, centers, and special purpose centers, and shall recommend for or against the establishment of the requested site to the State Board of Education ~~campus or center~~. The State Board of Education ~~Community Colleges~~ shall approve or disapprove the proposal for a new site ~~special purpose centers~~. The following shall apply.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lynn Abbott, Agency Clerk, Department of Education, 325 W. Gaines St., Room 1514, Tallahassee, FL 32399, (850)245-9661

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-14.076
 RULE TITLE: FTE Calculation for the Community College Program Fund

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 20, May 14, 2004, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: 6E-4.001
 RULE TITLE: Fees and Expenses

NOTICE OF CORRECTION

The Commission for Independent Education hereby gives notice that the following correction has been made to the proposed rule as published in Vol. 30, No. 14, of the April 2, 2004, issue of the Florida Administrative Weekly.

A scrivener's error was made in the fee amount for the Degree Programs in subsection (2) and should revert back to the existing fee with no change. The Notice inadvertently stated that the fee was \$500 and it should remain as it currently appears in the F.A.C., that is at \$1,000.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apachee Parkway, Suite A, Tallahassee, Florida 32301

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-111
 RULE CHAPTER TITLE: 511 Traveler Information Phone Service Modification

RULE NO.: 14-111.001
 RULE TITLE: 511 Traveler Information Phone Service Modification

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 15, April 9, 2004 issue of the Florida Administrative Weekly.

SUMMARY OF CHANGE: Section (4) is deleted in its entirety and other sections are revised to clarify language in response to the review by the Joint Administrative Procedures Committee. The rule title also is changed to delete the "s" on Services and to add "Modification."

NOTE: Although the rule actual rule to be filed will be shown as all new and underlined, the following draft shows deletions and additions based upon the previously proposed text.

14-111.001 511 Traveler Information Phone Services Modification.

(1) Definitions.

(a) "Department" means the Florida Department of Transportation.

(b) "Governmental Entity" means as defined in Section 11.45, Florida Statutes.

(2) The 511 dialing code is reserved for the provision of traveler information. The 511 dialing code may not be used for any other purpose.

(3) Any person or entity wishing to provide traveler information utilizing the, whether private or governmental, prior to providing 511 dialing code anywhere in the state shall demonstrate to the Department the following criteria: services anywhere within the state, shall notify the ITS Office of the Department, 605 Suwannee Street, MS 90, Tallahassee, Florida 32399-0450, in writing, and negotiate with the Department for the authorization to implement 511 services. No person or entity may implement 511 services in the state, directly or through a governmental entity, without the Department's written authorization.

(a) The ability to provide traveler information that is pertinent to the general public.

(b) The ability to provide traveler information in a timely and accurate manner.

(c) The ability to provide traveler information through a telephonic system that can handle a reasonable number of calls (capacity to handle 98% of the anticipated calls without a busy signal).

(d) The ability to expand the telephonic system to accommodate a greater number of calls.

(e) The ability to provide traveler information at no more than the cost of a local call to the end user.

(f) An understanding of the telecommunication industry and how wireless telecommunication systems work, and

(g) A dedication both in policy and financial programming to continue to offer traveler information for a five-year period. The Department shall authorize the use of the 511 dialing code if the governmental entity requesting the use of the 511 dialing code meets the criteria above and no 511 dialing code has been previously implemented in the area being considered for 511 service.

~~(4) The provision of 511 services shall be in accordance with the Implementation and Operational Guidelines for 511 Services, Version 2.0, September 2003, published by the 511 Deployment Coalition; the Federal Communications Commission's Third Report and Order, CC Docket No. 92-105, NSD-L-99-24, adopted July 21, 2000; and the Department's Conceptual Design for Statewide 511 Advanced Traveler Information System, issued January 18, 2004; incorporated herein by reference. All agreements entered with~~

511 service providers shall comply with the requirements of this rule chapter. The plan is available at: <http://www.dot.state.fl.us/IntelligentTransportationSystems/>.

(4)(5) Any governmental entity authorized to disseminate traveler information through the use of the 511 dialing code may ~~not~~ license or transfer the authority to another governmental ~~any person or~~ entity meeting the criteria set forth in the paragraph above without the written consent of the Department. The governmental entity shall be responsible for all costs to implement the 511 dialing code services, including tariff or other charges assessed by its provider of 511 dialing code services.

(6) At no time shall the authorized use of the 511 ~~number or~~ dialing code imply any ownership of the ~~number or~~ dialing code by a ~~provider of 511 services, whether by a private or~~ governmental entity authorized to use the 511 dialing code.

Specific Authority 334.60 FS. Law Implemented 334.03, 334.044, 334.60 FS. History—New _____.

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.”

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
59G-6.010 Payment Methodology for Nursing Home Services

NOTICE OF CORRECTION

The above-proposed rule was published in the Florida Administrative Weekly on May 28, 2004 in Vol. 30, No. 22, page 2082. The notice of rulemaking incorrectly stated the date of publication for the notice of rule development as May 28, 2004 when the notice of rule development actually published on May 21, 2004.

The foregoing changes do not affect the substance of the proposed rule.

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE NO.: RULE TITLE:
60A-1.001 Definitions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 30, No. 22, May 28, 2004 issue of the Florida Administrative Weekly:

PROPOSED RULE 60A-1.001, F.A.C., IS CHANGED TO READ AS FOLLOWS:

60A-1.001 Definitions.

This section defines terms and phrases used throughout Chapter 60A-1, F.A.C. In this chapter, terms and phrases shall have the meanings defined in Chapter 287, F.S., or in this section. Terms and phrases not defined by statute or rule shall be construed according to their plain meaning, and in all cases with the objective of advancing the purpose of the rule in which they appear.

(1) Contract. With regards to these rules and Chapter 287, F.S., the term “contract” refers to the following:

(a) Definite Quantity Contract. A definite quantity contract is an agreement between an agency and a vendor whereby the vendor agrees to furnish a specific quantity of an item or items specific commodity or a specific contractual service, at a specified price, to a specified location.

(b) Term Contract. A term contract is an agreement between an agency and a vendor whereby the vendor agrees to provide an indefinite quantity of commodities or contractual services, on an indefinite delivery schedule, over a specified period of time. Term contracts issued by agencies are referred to as “Agency Term Contracts,” and are reserved for use only by the issuing agency (unless otherwise approved for use by the Department; see Rule 60A-1.047, F.A.C.). Term contracts issued by the Department’s Division of State Purchasing are referred to as “State Term Contracts,” and are available for use by all Eligible Users (see Rule 60A-1.044, F.A.C.).

(2) Purchase Orders.

(a) A purchase order is a written agreement formalizing a transaction between an agency and a vendor. The purchase order ~~shall~~ may represent (i) a contractual procurement from a vendor, or (ii) a transaction issued pursuant to an agency or state term contract. In either event, the purchase order ~~shall~~ should contain statements regarding the quantity, description, and price of the commodity or contractual service; applicable terms regarding payment, discount, date of performance, and transportation; and other pertinent information (e.g., a bid or contract number).

(b) A “blanket purchase order,” prescribing the term and maximum amount of money which may be spent, allows the agency to order the specified commodity or contractual service on an as-needed basis until the term has elapsed or the maximum dollar amount has been reached. Blanket purchase orders totaling in excess of Category Two shall be awarded in accordance with the requirements of Section 287.057, F.S.

(c) A “field purchase order” is a purchase order issued by an office or facility of an agency that is separate from the agency purchasing office(s).

(3) Requisition. A requisition is a formal request to procure commodities or contractual services on behalf of a program area.

Specific Authority 287.032, 287.042 FS. Law Implemented 287.001, 287.012, 287.042, 287.057, 287.058 FS. History—New 5-20-64, Revised 2-6-68, 5-20-71, Amended 5-19-72, 7-31-75, 10-1-78, 11-14-79, 8-6-81, 10-11-81, 4-29-82, 8-26-82, 11-4-82, 10-13-83, 3-1-84, 11-12-84, 2-28-85, 12-17-85, Formerly 13A-1.01, Amended 2-9-87, 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.001, Amended 8-24-93, 4-24-94, 1-9-95, 1-1-96, 9-23-96, 7-6-98, 1-2-00, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, State Purchasing, 4050 Esplanade Way, Tallahassee, FL 32399, (850)488-3049, (850)414-6122 (facsimile), brownr2@dms.state.fl.us (email)

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE NO.: 60A-1.002
 RULE TITLE: Purchase of Commodities and Contractual Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 30, No. 14, April 2, 2004 issue of the Florida Administrative Weekly: PROPOSED RULE 60A-1.002, F.A.C., IS CHANGED TO READ AS FOLLOWS:

60A-1.002 Purchase of Commodities and Contractual Services.

(1) Agencies are delegated the conditional authority to purchase commodities or contractual services (except insurance, unless permitted pursuant to Section 287.022, F.S.) The conditions of this delegation are (i) that the agencies comply with the requirements of subsection 287.042(13), F.S.; (ii) that State Purchasing retains the full supervisory authority provided by that subsection; and (iii) that State Purchasing reserves the right to rescind the authority delegated to all agencies by amendment to this rule and reserves the right to rescind the authority delegated to an agency for failure to comply with that subsection. ~~If State Purchasing proposes to rescind an agency's authority, it shall give the agency notice pursuant to subsection 60-4.013(2), F.A.C.~~

(2) Purchases with value below \$2,500 ~~are not subject to formal requirements, but the Department strongly encourages purchasing practices such as shall be carried out using good purchasing practices. Such practices include but are not limited to~~ the receipt of written quotations or written records of telephone quotations.

(3) Purchases which meet or exceed \$2,500, but are less than or equal to the threshold for Category Two may be made using written quotations, ~~or~~ written records of telephone quotations, or informal bids to be opened upon receipt, whenever practical. If the agency receives verbal quotations, the name and address of each respondent and the amount quoted shall be a part of the written documentation. If the agency receives less than two quotations, it must include a statement as to why additional quotes were not received. If the agency determines that commodities or contractual services are

available only from a single source, or that conditions warrant negotiation on the best terms and conditions, the agency may proceed with the procurement. The agency shall document the conditions and circumstances used to determine the procurement method.

(4) In accordance with Chapter 287, F.S., all purchases for which the total contract value is in excess of the threshold amount for Category Two for a commodity or group of commodities or contractual service shall be made by first securing formal competitive solicitations, unless an exemption applies. The following purchases are not subject to competitive solicitation requirements.

(a) Regulated Utilities and government franchised services.

(b) Regulated Public communications, except long distance telecommunications services or facilities.

(c) Artistic services, which include any artistic work performed by an artist, as defined in Section 287.012(3), F.S., including cases in which the acquisition requires that the artist furnish a commodity created through the artistic work.

(d) An academic program review, defined as a structured evaluation of the relative merits of an established university or secondary educational program or program component conducted by recognized experts in the field of study and resulting in a written report with specific recommendations.

(e) Lectures by individuals. A lecture is a formal or methodical reading or presentation on any subject, but it is not intended to be used for the purpose of, or in connection with, training of personnel.

(f) Auditing services, which are services provided by a licensee under Chapter 473, F.S., in which the licensee attests as an expert in accountancy to the reliability or fairness of presentation of financial information or utilizes any form of disclaimer of opinion which is intended or conventionally understood to convey an assurance of reliability as to matters not specifically disclaimed.

(g) Promotional services and events purchased from donated funds by the Secretary of State for purposes provided in Section 15.18(7), F.S.

(h) Payments for membership dues pursuant to Section 216.345, F.S.

(i) Examinations approved in accordance with Section 455.217(1)(c), F.S.

(j) Adoption placement services licensed by the Department of Children and Families.

(k) Other purchases identified in Section 287.057(5)(f), F.S.

(l) Purchases from alternate contract sources, pursuant to Section 287.042(16), F.S.

(m) Purchases made by agencies pursuant to Section 287.056(1), F.S., from state term contracts competitively procured by the Department.

(5) When determining the amount or amounts of purchases for the purpose of applying the threshold categories, agencies shall follow the definitions and classes and groups of commodities or contractual services established by the Department. Acquisitions shall be reviewed and considered on an agency-wide basis, except that acquisitions by agencies with decentralized purchasing functions shall be considered and reviewed on the basis of each purchasing office that maintains full-time purchasing staff. A purchasing office shall not divide its purchases or its purchasing operations to circumvent these requirements. Determination of the threshold amount for Category Two for lease or rental is based on a twelve (12) month period of time. Extension of a contract for an additional period of time is not subject to this provision.

(6) In any procurement which exceeds the threshold amount for Category Two and is accomplished without competition, the individuals taking part in the development or selection criteria for evaluation, the evaluation process, or the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected. The attestation shall be placed in the agency file.

(7) All formal solicitations issued by an agency shall include the standard "General Contract Conditions" Form PUR 1000 (03/02), and the standard "Instructions to Respondents" Form PUR 1001 (03/02), each of which is hereby incorporated by reference. The forms are available on the internet at <http://dms.myflorida.com/purchasing>. Pursuant to Rule 60A-1.041, ~~the agency may attach additional materials (e.g., "Special Contract Conditions") that contain additional terms and conditions.~~

(a) PUR 1001 contains instructions explaining the solicitation process and the actions necessary to respond. The agency shall attach additional materials specific to each particular solicitation, including but not limited to contact information, a solicitation timeline, a location for the public opening, evaluation criteria, required information regarding renewal of the contract, and any other necessary information.

(b) PUR 1000 contains standard terms and conditions that will apply to the contract which results from the solicitation event. The agency shall attach additional contract terms and conditions specific to each particular solicitation. These additional terms are commonly referred to as "Special Conditions." In the event of any conflict between the PUR 1000 form and any Special Conditions attached by the agency, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is required by any section of the Florida Statutes, in which case the term contained in PUR 1000 shall take precedence.

Specific Authority ~~15-18(7), 287.042(4),(13), 287.017 FS. Law Implemented 119.07(3), 216.311, 287.012, 287.042(1),(4),(14), 287.057(1),(3),(4), 287.0595, 287.133, 288.121(5), 288.703, 288.705, 695.25 FS. History—New 5-20-64, Amended 4-4-67, Revised 2-6-68, Amended 2-8-69, Revised 5-20-71, Amended 7-31-75, 10-1-78, Revised 11-14-79, Amended 8-18-80, 8-6-81, 10-13-83, 3-1-84, 3-14-84, 11-12-84, 2-28-85, 12-17-85, Formerly 13A-1.02, Amended 6-5-86, 2-9-87, 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.002, Amended 4-24-94, 1-9-95, 1-1-96, 3-21-96, 9-23-96, 7-6-98, 1-2-00, _____.~~

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, State Purchasing, 4050 Esplanade Way, Tallahassee, FL 32399, (850)488-3049, (850)414-6122 (facsimile), brownr2@dms.state.fl.us (email)

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE NO.: 60A-1.011
 RULE TITLE: Identical Responses Received
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 30, No. 10, March 5, 2004 issue of the Florida Administrative Weekly and subsequently changed in Vol. 30, No. 21, May 21, 2004 issue of the Florida Administrative Weekly:

PROPOSED RULE 60A-1.011, F.A.C., IS CHANGED TO READ AS FOLLOWS:

60A-1.011 Identical Responses Received.

(1) Criteria. When evaluating vendor responses to solicitations, if the agency is confronted with identical pricing or scoring from multiple vendors, the agency shall determine the order of award using the following criteria, in the order of preference listed below (from highest priority to lowest priority):

~~(a) The response is from a Florida domiciled entity, as determined by the Department of State;~~

~~(a)(b)~~ If the response relates to manufactured commodities, the response provides for manufacturing such commodities within the state (in preference over any foreign manufacturer);

~~(b)(e)~~ If the response relates to manufactured commodities, the response provides for a foreign manufacturer that also has at least 200 employees working in the state (in preference over a foreign manufacturer with less than 200 employees working in the state); or

~~(c)(d)~~ The response certifies that a drug-free workplace has been implemented in accordance with Section 287.087, F.S.

(2) No Applicable Criteria. If none of the criteria in subsection (1) are applicable, the agency may determine the order of award by using the number of valid vendor complaints of file or by a means of random selection (e.g., a coin toss or drawing of numbers) ~~lot~~.

Specific Authority 287.042(12) FS. Law Implemented ~~287.051(1),(12), 287.082, 287.084, 287.087, 287.092~~ FS. History–New 2-6-68, Revised 5-20-71, Amended 7-31-75, 10-1-78, 8-6-81, 2-13-83, 10-13-83, 3-1-84, Formerly 13A-1.11, Amended 11-3-88, 4-10-91, Formerly 13A-1.011, Amended _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, State Purchasing, 4050 Esplanade Way, Tallahassee, FL 32399, (850)488-3049, (850)414-6122 (facsimile), brownr2@dms.state.fl.us (email)

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE NO.: 60A-1.021 RULE TITLE: Electronic Posting of Decisions and Intended Decisions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 30, No. 14, April 2, 2004 issue of the Florida Administrative Weekly and subsequently changed in Vol. 30, No. 21, May 21, 2004 issue of the Florida Administrative Weekly:

PROPOSED RULE 60A-1.021, F.A.C., IS CHANGED TO READ AS FOLLOWS:

60A-1.021 Electronic Posting of Decisions and Intended Decisions.

All agency decisions or intended decisions (as defined in Rule 28-110.002, F.A.C.) shall be electronically posted on the myflorida.com website. All competitive solicitations issued by agencies pursuant to Sections ~~287.057~~ 287.051(1)-(3), F.S., shall be advertised by electronic posting for no less than 10 calendar days prior to the date for receipt of responses, unless the department or agency determines in writing that a shorter period of time is necessary to avoid harming the interests of the state.

Specific Authority 287.042(12) FS. Law Implemented 287.042(3)(b)(2) FS. History–Formerly 60A-1.002(4), Amended _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, State Purchasing, 4050 Esplanade Way, Tallahassee, FL 32399, (850)488-3049, (850)414-6122 (facsimile), brownr2@dms.state.fl.us (email)

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE NO.: 60A-1.041 RULE TITLE: Solicitation Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 30, No. 14, April 2, 2004 issue of the Florida Administrative Weekly:

PROPOSED RULE 60A-1.041, F.A.C., IS CHANGED TO READ AS FOLLOWS:

60A-1.041 Solicitation Requirements.

(1) When preparing a solicitation, an agency shall consider which form of competitive solicitation will result in the best value for the State.

(a) Pursuant to Section 287.057(2)(a), F.S., if the agency determines that the Invitation to Bid method is not practicable, the agency shall document the reason for its use of the Request for Proposal.

(b) Pursuant to Section 287.057(3)(a), F.S., if the agency determines that neither the Invitation to Bid method nor the Request for Proposal are practicable, the agency shall document the reason for its use of the Invitation to Negotiate method. This written determination must be approved in writing by the agency head or his or her designee, prior to advertising the solicitation.

~~(2) As required by Rule 60A-1.002(7), all competitive solicitations shall include the standard “General Contract Conditions” Form PUR 1000 (03/02), and the standard “Instructions to Respondents” Form PUR 1001 (03/02).~~

~~(a) PUR 1001 contains instructions explaining the solicitation process and the actions necessary to respond. The agency shall attach additional materials specific to each particular solicitation, including but not limited to contact information, a solicitation timeline, a location for the public opening, evaluation criteria (including the relative weight of each criterion, if appropriate), required information regarding renewal of the contract, and any other necessary information.~~

~~(b) PUR 1000 contains standard terms and conditions that will apply to the contract which results from the solicitation event. The agency may also attach additional contract terms and conditions specific to each particular solicitation. These additional terms are commonly referred to as “Special Conditions.” In the event of any conflict between the PUR 1000 form and any Special Conditions attached by the agency, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is statutorily required, in which case the term contained in the form shall take precedence.~~

Specific Authority 287.042(12) FS. Law Implemented 287.032, 287.042, 287.057, 287.058 FS. History–New _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, State Purchasing, 4050 Esplanade Way, Tallahassee, FL 32399, (850)488-3049, (850)414-6122 (facsimile), brownr2@dms.state.fl.us (email)

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 Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-5.003 Technologist
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 9, February 27, 2004, issue of the Florida Administrative Weekly. The changes are in response to comments received from a public hearing during the duly noticed Board meeting held on June 18, 2004.

Subsection (1)(l) of the rule shall now read as follows:

(1)(l) Qualifications for Cytology Technologist. For the specialty of cytology, applicants for technologist shall be nationally certified in cytology by the American Society for Clinical Pathology.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Division of Disease Control

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
64D-4	Eligibility Requirements for HIV/AIDS Patient Care Programs
RULE NOS.:	RULE TITLES:
64D-4.001	Purpose
64D-4.002	Definitions
64D-4.003	Eligibility and Documentation Requirements
64D-4.004	Determination of Eligibility or Ineligibility
64D-4.005	Determination of Continued Eligibility
64D-4.006	Rights and Responsibilities

NOTICE OF CORRECTION

Notice is hereby given that the rule numbers were incorrectly listed in the Notice of Proposed Rule Development for the above rule Chapter, which was published in Vol. 30, No. 25, June 18, 2004 issue of the FAW. The correct Rule numbers and titles are listed above.

DEPARTMENT OF HEALTH

Division of Health Awareness and Tobacco

RULE NOS.:	RULE TITLES:
64E-25.001	Procedures to be Followed by DOH Personnel When Investigating Florida Clean Indoor Air Act Complaints and Notifying Alleged Violators
64E-25.002	On-Site Investigations of Public Places
64E-25.003	Procedures for Responding to Complaints and Complaint Referrals Involving Public Places

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 18, April 30, 2004, of the Florida Administrative Weekly.

The changes were made in response to written comments received from the Florida Legislature Joint Administrative Procedures Committee and comments received from the public hearing held on May 24, 2004.

The proposed rules were changed as follows:

- 64E-25.001(2)(a) has been deleted.
- 64E-25.001(2)(b) has been changed to (2)(a)
- 64E-25.001(2)(c) has been changed to (2)(b).
- 64E-25.001(4)(a) has been deleted.
- 64E-25.001(4)(b) has been changed to (4)(a)
- 64E-25.001(4)(c) has been changed to (4)(b).

64E-25.002(2) has been changed so that when adopted it will read: The proprietor or other person in charge of an enclosed indoor workplace shall implement a policy regarding smoking prohibition. If persons are observed violating the policy, and the proprietor or other person in charge witnesses or is made aware of a violation of Section 386.204, F.S., in the enclosed indoor workplace but nonetheless fails to implement the policy, a violation of Section 386.206(2), F.S., exists and shall be documented as: "Failure to implement a policy regarding smoking prohibition."

Subsection 64E-25.003(4), F.A.C., has been changed so that when adopted it will read: Request that county health department personnel conduct an inspection of the enclosed indoor workplace alleged to be in violation upon receipt of the Request for Inspection Form following the inspection guidelines delineated in Rule 64E-25.002, F.A.C.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS:	RULE TITLES:
69A-62.0001	Definitions
69A-62.003	Additional Requirements Relating to Fire Scenes

69A-62.006 Requirements for Recognition as a Fire Department
 69A-62.007 Minimum Requirements for Class 9 Protection
 69A-62.020 Definitions
 69A-62.021 General Guidelines for Firefighter Employer Comprehensive Safety and Health Programs
 69A-62.022 Firefighter Employer Comprehensive Safety and Health Remediation Plan
 69A-62.023 Criteria for Identifying Firefighter Employers With a High Frequency or Severity of Injuries
 69A-62.030 Definitions
 69A-62.033 Recordkeeping Responsibilities of Firefighter Employers
 69A-62.034 Notice of Violation
 69A-62.035 Safety Training
 69A-62.036 Procedures Relating to Penalties

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules, in accordance with subparagraph 120.54(3)(d)1., Florida Statutes, (2003), published in Vol. 29, No. 44, October 31, 2003, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing and comments by the Joint Administrative Procedures Committee.

The rule sections enumerated above are changed to read:

69A-62.0001 Definitions.

Unless the text or context clearly requires otherwise, the definitions in Section 633.802, Florida Statutes (2003), are applicable to this rule chapter. In addition, for purposes of this rule chapter, the following definitions apply.

(1) through (6) No change.

(7) "Trained commensurate to duty" means that the person must have documented training in the specific task assigned or combination of skills required to accomplish any series of tasks which may be assigned to that individual given a set of conditions or circumstances of which that individual may undertake. Anticipated special circumstances such as hazardous materials operations, technical rescue, and similar conditions or circumstances require additional training.

(8) No change.

Specific Authority 633.01(1), 633.45(1)(a), 633.821 FS. Law Implemented 633.45(1)(a), 633.802, 633.821 FS. History--New _____.

69A-62.003 Uniform Minimum Firefighter Employment Standards; Adoption of 29 C.F.R. 1910.134(g)(3) and 1910.134(g)(4), Including Notes One and Two and Additional Requirements Applicable to Fire Scenes.

(1) through (3) No change.

(a) No change.

1. No change.

2. a. A volunteer firefighter who possesses the State Basic Volunteer certificate previously issued by the division is exempt from the Firefighter I and Firefighter II requirement in subparagraph 1. The training encompassed in the basic Basic volunteer certificate in itself may not meet "trained commensurate to duty" as defined depending upon duties or tasks assigned or undertaken in the exclusionary zone.

b. A volunteer firefighter who provides evidence of having completed curriculum equivalent to the Florida Firefighter I course of study as provided in subsection 69A-37.055(6), F.A.C., prior to January 1, 2004, is exempt from the Firefighter I and Firefighter II requirement in subparagraph 1. if:

(I) The fire chief or other chief administrative officer of the fire department of which the firefighter is a member files with the State Fire Marshal form DFS-K4-1594, "Firefighter I Training Exemption Application," which is hereby adopted and incorporated by reference, and;

(II) The said form is accepted by the State Fire Marshal after confirmation of the evidence provided.

Form DFS-K4-1594 may be obtained by writing the Bureau of Fire Standards and Training, 11655 Northwest Gainesville Road, Ocala, Florida 34482-1486.

c. Any volunteer exempted by sub-subparagraphs a. or b. is permitted to take the Florida Firefighter I examination until December 31, 2005, upon the completion and filing with the division of form DFS-K4-1380, "Firefighter I Training Record." Rev. 03/00, adopted in Rule 69A-37.039, F.A.C., by a Florida certified instructor that verifies equivalent training and demonstration of competency.

d. If:

(I) The fire chief or other chief administrative officer of the fire department fails or refuses to file form DFS-K4-1380 with the division, or

(II) The division is unable to accept such form because the evidence provided cannot be confirmed, the volunteer firefighter is not permitted to take the Firefighter I examination without first having successfully completed the Firefighter I course.

3. through 4. No change.

(b) It is each Firefighter Employer's responsibility to be familiar with the training standards of commonly used mutual aid agreements, automatic aid agreements, and other similar resources with other entities whom the Firefighter Employer has an agreement. Each fire department responding pursuant to a mutual aid agreement or automatic aid agreement or similar document is responsible for the training and certification of its own personnel. Unless otherwise specified, requests for assistance shall constitute requests for personnel meeting the training standard required by these rules.

(4) No change.

Specific Authority 633.01(1), 633.45(1)(a), 633.821 FS. Law Implemented 633.45(1)(A), 633.821 FS. History--New 11-21-01, Amended _____.

69A-62.006 Requirements for Recognition as a Fire Department.

(1) To be recognized as an organized fire department by the division, compliance with the following must be documented:

~~(a) Establishment in accordance with the provisions of the National Fire Protection Association Standard 1201, 2000 edition;~~

~~(a)(b)~~ Capability of providing fire protection 24 hours a day, seven days a week;

~~(b)(e)~~ Responsibility for response in an area capable of being depicted on a map; and

~~(c)(d)~~ Staffing with a sufficient number of qualified firefighters who are employed fulltime or part-time or serve as volunteers and who shall have successfully completed an approved basic firefighting course recognized by the Bureau of Fire Standards and Training.

(2)(a) A fire department shall meet the requirements of the Insurance Services Office (ISO) for Class 9 Protection, the 2003 edition, the Fire Suppression Rating Schedule, effective February, 2003, which is hereby adopted and incorporated by reference and which may be obtained from Insurance Services Office (ISO), 545 Washington Blvd., Jersey City, NJ 07310-1686 or at www.iso.com. If the fire department does not meet the requirements of this section, the fire department shall submit a plan of compliance which provides for meeting these requirements within 90 days of the date of submission of the plan.

(b) ISO measures the major elements of a community's fire-suppression system and develops a numerical grade ranging from 1 to 10. Class 1 represents the best public protection rating and Class 10 indicates no recognized protection.

(c) No change.

Specific Authority 633.01(1), 633.821 FS. Law Implemented 633.45(1)(a), 633.821 FS. History--New _____.

69A-62.007 Minimum Requirements for Class 9 Protection.

(1) No change.

(a) No change.

1. No change.

2. The fire department must serve an area with definite boundaries. If a municipality is not served by a fire department solely operated by or for the governing body of that city, the fire department providing such service shall do so under a contract or resolution. When a fire department's service area involves one or more jurisdictions municipalities, a contract shall be executed with each jurisdiction municipality served.

(b) Membership: The department shall have a sufficient number of firefighters/members to assure the response of at least 4 firefighters/members that can assemble at the scene of a fire as contemplated by subsection (1) of Rule 69A-62.003,

F.A.C., to be compliant with Rule 69A-62.003, F.A.C., the two-in, two-out rule to alarms. The "alarms" to which this paragraph refers are first alarms for fires in structures. The fire chief may be one of the 4 responding firefighters/members.

(c) through (d) No change.

(e) Apparatus:

1. The fire department shall have at least one piece of apparatus meeting the general criteria of Section 106E, of the Fire Suppression Rating Schedule from ISO, which is located at 545 Washington Blvd., Jersey City, NJ 07310-1686 or which may be found at www.iso.com NFPA 1901, 1999 edition.

2. No change.

(f) through (g) No change.

(h) Housing: Apparatus shall be protected so housed as to provide protection from the weather.

(2) through (3) No change.

(4)(a) The chief of any the fire department that includes volunteer firefighters shall annually submit a Roster of Volunteer Firefighters personnel roster to the State Fire Marshal SFM utilizing form DFS-K4-1581, effective 05/04, which is hereby adopted and incorporated by reference, no later than June 30 of each year. Form DFS-K4-1581 may be obtained by contacting the Division of State Fire Marshal, Bureau of Fire Standards and Training, 11655 Old Gainesville Road, Ocala, Florida 34482 or at the division's website located at http://www.fldfs.com/SFM/.

1. through 3. No change.

4. The fire department contact person, telephone number and the fire department fax number, if any,

5. The certification level for each firefighter reported, and, if any equivalency exemption has been issued, the number of persons for whom such exemption has been issued, and

6. The firefighter certification number, the issue date of the certification, and the status of the certification, i.e., volunteer or career, and the status of each firefighter who has been issued an equivalency exemption, i.e., volunteer or career, if any.

(b) No change.

Specific Authority 633.01(1), 633.821 FS. Law Implemented 633.45(1)(a), 633.821 FS. History--New _____.

69A-62.020 Definitions.

Unless otherwise specified herein, for purposes of this rule chapter the definitions of the words and terms contained in Section 440.02, Florida Statutes (2003), apply. For the purposes of Part II of this rule chapter, unless the context clearly requires otherwise, the following definitions also apply:

(1) through (4) No change.

(5) "Lost Time Case" means an injury or illness which results in the firefighter employee requiring initial medical care at a medical care facility and involves a loss of time or service

beyond the time required for initial treatment and his or her inability to return to normal duty upon his or her next scheduled work period ~~perform firefighting duties.~~

(6) through (12) No change.

Specific Authority 633.804 FS. Law Implemented 633.804 FS. History—New _____.

69A-62.021 General Guidelines For Firefighter Employer Comprehensive Safety and Health Programs.

The following are the guidelines for a Firefighter Employer Comprehensive Safety and Health Program. These guidelines shall be used by firefighter employers that are notified by the division that they have a high frequency or severity of workers' compensation claims to prepare their Firefighter Employer Comprehensive Safety and Health Remediation Plan.

(1) through (2) No change.

(3) No change.

(a) through (c) No change.

(d) Each Basic Life Support (BLS) and each Advanced Life Support (ALS) provider, as described in Rules 64E-2.002 and 64E-2.003, F.A.C., respectively, shall document that each driver has completed at least a 16-hour course of instruction on driving an authorized emergency vehicle, as defined by Section 316.003(1), F.S., which includes, at a minimum, classroom and behind-the-wheel training as outlined below: An emergency vehicle operations course for all emergency vehicle operators as recognized by the division.

1. Classroom Training.

a. Legal aspects of authorized emergency vehicle operators.

b. Selecting routes and reporting emergency operation.

c. The practice of defensive driving.

d. Accident avoidance.

e. Principles of vehicle control.

f. Routine safety checks of vehicle.

2. Practical.

a. Braking and control braking.

b. Backing: road position, fender judgment and steering technique.

c. Slalom: steering technique and chassis set.

d. Steering technique during a skid; a skid pad is optional.

e. Turn-around-steering technique: fender judgment, road position, controlled braking, controlled acceleration, understeer, oversteer and chassis set.

A list of approved courses is posted on the "Firefighter Safety and Health" webpage at <http://www.fsfc.ufl.edu/SafetyHealth/Notices.htm> or may be obtained from the Safety Program Office of the Bureau of Fire Standards and Training at (352)369-2800. Fire Department or Training Center requests for the approval of other courses must be directed to the same office.

(e) through (m) No change.

(4) Each firefighter employer shall assure that training and education is conducted frequently enough to assure that each firefighter is able to perform the firefighter's assigned duties and functions satisfactorily and in a safe manner so as not to endanger such firefighter or any other firefighter. Training shall be provided on an as needed basis and must be provided at least annually. In addition, firefighters who are expected to perform interior structural firefighting shall be provided with an education session or training at least quarterly. All such training shall be documented and a permanent record of attendance shall be kept ~~placed in each employee's personnel file.~~

(5) The quality of the training and education programs for firefighters and officers shall be similar to the courses or curriculum of the Florida State Fire College ~~or those which use national consensus curriculums as recognized by the Division, such as the International Fire Service Training Association (IFSTA)®.~~ The quality of the training for supervisory personnel shall generally conform to the standards enumerated in the National Fire Protection Association standards in NFPA 1021, "Fire Officer Professional Qualifications," for Fire Officer I, II, III, or IV, as applicable, or similar or equivalent standards.

(6) Each firefighter employer shall inform each firefighter about known special hazards such as storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, and water reactive substances, to which they may be exposed during fire and other emergencies. The firefighters shall also be advised of any changes that occur in relation to the special hazards. The firefighter employer shall develop and make available for inspection by firefighters written procedures that describe the actions to be taken in situations involving the special hazards and shall include these in the training and education program.

(7) Policy for enforcement of safety rules and regulations.

(a) Accident Investigation Program. Each firefighter employer shall implement an accident investigation program ~~and which~~ shall investigate and record all accidents and near ~~misses accidents~~ involving personnel, including medical only injuries, and accidents in which equipment or motor vehicles are damaged. A near miss is an incident in which no property was damaged and no personal injury sustained, but where, given a slight shift in time, position, or other circumstance, damage or injury would or might have occurred. The investigation shall determine all obtainable facts of each accident and cite cause factors and recommend corrective action.

(b) Incident Reporting. Each firefighter employer shall implement the Fire Service Casualty Module (NFIRS-5) Firefighter Casualty Report, Form DFS-K4-1569, revised August, 2003, ~~(which is substantially the same form as Form 902G, NFIRS-5),~~ which is hereby adopted and incorporated by

reference, revised August, 2003. Form DFS-K4-1569 may be obtained by writing to the Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340.

(c) The Fire Service Casualty Module (NFIRS-5) Firefighter Casualty Report, DFS Form DFS-K4-1569, shall record all injuries, including type of accident, agencies, nature or type of injury, body location, the specific activity at the time of the injury or occurrence, cause of injury, and contributing causes of injury. Such reports shall also contain any event, injury, or occurrence enumerated in Section 112.181, Florida Statutes, (2003), to which the presumptions therein are applicable. These reports shall be submitted to the division within seven (7) days of the occurrence.

Specific Authority 633.804 FS. Law Implemented 633.804 FS. History—New _____.

69A-62.022 Firefighter Employer Comprehensive Safety and Health Remediation Plan.

(1) All firefighter employers identified and notified by the division as having a high frequency or severity of work related injuries and illnesses shall submit their Firefighter Employer Comprehensive Safety and Health Program to the division for approval within one hundred twenty (120) days after receipt of notice. ~~The division may approve additional time for the firefighter employer to complete specific elements of the program providing the firefighter employer is making progress on the other elements. This approval must be in writing.~~

(2) through (4) No change.

Specific Authority 633.809 FS. Law Implemented 633.809 FS. History—New _____.

69A-62.023 Criteria for Identifying Firefighter Employers with a High Frequency or Severity of Injuries.

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

(b) The frequency rate shall be calculated using the following formula: Rate of reported lost-time injuries by a firefighter employer in a year shall be determined by Frequency divided by Average Daily Staffing where:

Frequency = total lost time cases reported by a firefighter employer in a year.

Average Daily Staffing = the average number of personnel on duty at one given time per day multiplied by the number of days staffed.

Example 1: the average number of personnel on duty at one given time per day multiplied by 365 for a 24 hour full-time department.

[Please note this is intended for three platoon (24/48) or four platoon (10/14 or 24/72)] Example 2: the average number of personnel on duty at one given time per day multiplied by 260 for Monday through Friday staffing.

Example 3: For volunteer firefighters it is the average staffing of all of their emergency responses times the number of responses they had in the year.

“High Frequency of Injury” means a frequency rating at least 20 percent higher than all other fire departments to which it is compared.

National Safety Council Frequency Computation:

Number of Injuries times (X) 8760 for 24 hour service or 2000 for a 40 hour week divided by (%) the total annual man-hours worked equals (=) the injury rate.

~~# INJ. X Total Annual Man Hours Worked = Injury Rate 8760 (24 hr sve) or 2000 (40 hr wk) = Injury Rate Total Annual Man Hours Worked~~

(c) through (d) No change.

1. through 7. No change.

8. To measure program effectiveness following the audit, the firefighter employer shall be required to submit copies of all first reports of injury and corresponding accident investigation reports to the division on a quarterly basis (every three months) for two years or until the firefighter employer’s frequency/severity rate of lost time cases falls below the statewide average for firefighter employers, as determined by the Division of Worker’s Compensation, whichever occurs last.

Specific Authority 633.809 FS. Law Implemented 633.809 FS. History—New _____.

69A-62.030 Definitions.

Part III of this rule chapter incorporates by reference the definition of “occupational disease” contained in Section 440.151(2), Florida Statutes, and the definitions contained in Section 440.02, Florida Statutes. Further, with respect to Part III of these rules, the division adopts the following definitions:

(1) through (10) No change.

(11) “Workplace” means the physical location ~~in Florida~~ where firefighter employees perform their duties and includes the scene of a fire or other emergency ~~unless the context clearly requires otherwise.~~ The Firefighter Employer is not responsible for the physical condition of any property not within its control or the control of its governmental unit.

Specific Authority 633.806 FS. Law Implemented 633.806 FS. History—New _____.

69A-62.033 Recordkeeping Responsibilities of Firefighter Employers.

(1) Each firefighter employer shall maintain for review by the division upon request the “Fire Service Log and Summary of Occupational Injuries, Diseases, and Illnesses” DFS-K4-1568, revised August, 2003, (sometimes referred to in these rules as “log and summary”), adopted and incorporated herein by reference and available from the division at the Bureau of Fire Standards and Training, 11655 North Gainesville Road, Ocala, Florida 33482. Each firefighter employer shall record each injury, illness, occupational disease, and fatality for that establishment on the log and summary within six working days of learning an injury, illness, occupational disease, or fatality has occurred. A firefighter employer may maintain a form equivalent to the log and

summary, which shall contain the same information and shall be as readable and comprehensible to a person unfamiliar with the log and summary. The firefighter employer or person who supervises the preparation of the log and summary shall sign ~~execute the certification of~~ the log and summary with his or her signature.

(2) In addition to the log and summary required in subsection (1), each firefighter employer shall maintain and make readily available upon request to the division the following supplementary records:

(a) The "First Report of Injury or Illness," Form DWC-1, Rev. 11/94, a form which was adopted in Rule 69L-3.025 and incorporated by reference by the Division of Workers Compensation and is herein incorporated by reference and which is available from the firefighter employer's Workers' Compensation insurance carrier or fund. The form may be obtained by writing to the Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340. Such form shall be submitted for each injury, illness, occupational disease, or fatality at each establishment, within 6 working days after a firefighter employee injury, illness, occupational disease, or fatality has occurred. The First Report of Injury or illness shall be completed in detail.

(b) The Fire Service Casualty Module (NFIRS-5) Firefighter Casualty Report, DFS Form DFS-K4-1569, (i.e., substantially the same as Form 902G, NFIRS-5), which shall be submitted for each injury, illness, occupational disease, or fatality at each establishment, within six (6) working days after a firefighter employee injury, illness, occupational disease, or fatality has occurred. The First Report of Injury or Illness, Form DWC-1, Rev. 11/94, Notice of Injury shall be completed in the detail prescribed in the instructions on the Notice of Injury itself.

(c) No change.

(3) through (5) No change.

Specific Authority 633.808(4) FS. Law Implemented 633.808(4) FS. History–New _____.

69A-62.034 Notice of Violation.

(1)(a) No change.

(b) The Notice of Violation shall specify the section of the statute or rule chapter violated, set forth particular facts that support the division's allegation of a violation, and set an abatement date not to exceed thirty ~~calendar~~ days from the date of receipt of issuance ~~on~~ the Notice of Violation.

(c) through (d) No change.

(2) No change.

(3) Each firefighter employer shall bring into compliance any violation identified in the Notice of Violation on or before its abatement date. The division shall ~~may~~ grant an extension of the original abatement date upon written request by the firefighter employer if any one the following criteria occurs: for good cause shown, which means

(a) The firefighter employer experiences an incident or occurrence beyond the control of the firefighter employer, such as in the event of an identified hazard, or

(b) The firefighter employer provides proof of a forthcoming delivery of necessary contracted services or materials, or together with

(c) The firefighter employer takes remedial action ~~by the firefighter employer~~ to remove firefighter employees from the hazard.

(4) through (5) No change.

(6) The firefighter employer who receives a Notice of Violation may request the division to withdraw the Notice of Violation. The request must be in writing and received by the division on or before the abatement date. The division shall withdraw a Notice of Violation for good cause, as expressed in subsection (3), shown by the firefighter employer.

(7) through (8) No change.

Specific Authority 633.808 FS. Law Implemented 633.808 FS. History–New _____.

69A-62.035 Safety Training.

After a firefighter employer has abated a noticed violation that created a particular hazard, ~~the division shall require~~ the firefighter employer shall ~~to~~ provide to each affected firefighter employee safety training designed to prevent recurrence of the violation within the time frame specified by the Division. Safety training shall include at least recognition and avoidance of the particular hazard and knowledge of the protective measures required to prevent injury. Abatement of a safety training violation under this subsection shall include completion and documentation of the training. If a condition for abatement of a noticed violation includes safety training and the firefighter employer fails to provide the training to all affected firefighter employees, each affected firefighter employee not trained constitutes a separate violation. All training shall be documented and a copy placed in each effected employee's personnel file.

Specific Authority 633.808, 633.811 FS. Law Implemented 633.808, 633.811 FS. History–New _____.

69A-62.036 Procedures Relating to Penalties.

(1) through (3) No change.

(4) Except as otherwise provided in this rule, the division shall assess against a firefighter employer who violates the Act, such penalty as is permitted in Section 633.811 ~~633.014~~, Florida Statutes (2003). If the division grants an extension of the abatement date and the firefighter employer fails to timely abate, the penalty shall accrue from the original abatement date on the Notice of Violation.

(5) No change.

(a) No change.

(b) Unless the firefighter employer violates a provision specifically enumerated in paragraph ~~(a)(5)(b)~~, above, the division shall assess a penalty that considers:

- 1. through 2. No change.
- (6) through (8) No change.

(9) A firefighter employer shall be assessed a penalty which must be paid to the division within 30 days of the issuance date of the Notice assessing a penalty. The payment must ~~be made by certified check or money order, which shall be made payable to the "Division of State Fire Marshal" and~~ include the case file number and penalty number(s) specified on the Notice assessing a penalty. Penalty payments shall be addressed to: Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340. The division shall deposit all penalties collected in the Florida Insurance Commissioner's Regulatory Trust Fund.

- (10) No change.

Specific Authority 633.811 FS. Law Implemented 633.811 FS. History--New

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:

RULE NO.:

Sales of Books, Clothing and School
Supplies during the Period July 24
through August 1, 2004

12AER04-5

SPECIFIC FACTS AND REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY, OR WELFARE: Chapter 2004-73, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement the provisions of the law specifying a period during which the sale of certain books, clothing, and school supplies are exempt from sales and use tax. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate means regarding the exemption during the period from 12:01 a.m., July 24, 2004, through midnight, August 1, 2004, for sales of books, clothing, wallets, or bags having a selling price of \$50 or less per item and for sales of school supplies having a selling price of \$10 per item or less. The exemption does not apply to sales within a theme park or entertainment complex as defined in Section 509.013(9), F.S., or within a public lodging establishment as defined in Section 509.013(4), F.S., or within an airport as defined in Section 330.27(2), F.S. The rule defines "clothing," "books," "school supplies," "theme park or entertainment complex," "public lodging establishment," "airport" and "mail order sales." The rule describes the items that are included in the exemption and explains how various transactions are to be handled for purposes of the exemption, including sales of sets of both exempt and taxable items, items normally sold as a unit, mail order sales, shipping and handling charges, layaway sales, rain checks, exchanges, refunds,

coupons, rebates, and discounts, repairs and alterations, gift certificates, rentals of clothing, reporting requirements, documentation to be maintained, and merchant's license fees. The rule provides a list of items and their taxable status during the exemption period for clothing, school supplies, and books.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 1, Chapter 2004-73, Laws of Florida, which specify a period during which the sale of certain books, clothing, and school supplies are exempt from sales and use tax. Additionally, an emergency rule is the most expedient and appropriate means of notifying dealers and taxpayers of the provisions of Section 1, Chapter 2004-73, Laws of Florida.

SUMMARY OF THE RULE: Emergency Rule 12AER04-5, F.A.C., notifies the general public and retailers of the exemption during the period from 12:01 a.m., July 24, 2004, through midnight, August 1, 2004, for sales of books, clothing, wallets, or bags having a selling price of \$50 or less per item and for sales of school supplies having a selling price of \$10 per item or less.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Sara Faulkenberry, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-9838

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER04-5 Sales of Books, Clothing and School Supplies during the Period July 24 through August 1, 2004.

(1) Exempt Clothing and Book Sales.

(a) Beginning at 12:01 a.m. on July 24, 2004, and ending at midnight on August 1, 2004 (the exemption period), no tax is due on the sale or purchase of any book, article of clothing, wallet, or bag, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, with a selling price of \$50.00 or less. This exemption does not apply to sales of books, clothing, wallets, or bags within a theme park, entertainment complex, public lodging establishment, or airport.

(b)1. The sales tax exemption applies to each eligible book, item of clothing, wallet, or bag, selling for \$50.00 or less. The exemption applies regardless of how many items are sold on the same invoice to a customer.

2. Example: A customer purchases two shirts for \$40.00 each. Both items will qualify for the exemption, even though the customer's total purchase price (\$80.00) exceeds \$50.00.

(c)1. The exemption does not apply to the first \$50.00 of price of an eligible book, item of clothing, wallets, or bags, selling for more than \$50.00.