

## Section I

Notices of Development of Proposed Rules  
and Negotiated Rulemaking**DEPARTMENT OF STATE****Division of Elections**

RULE NO.:                   RULE TITLE:  
IS-2.031                    Recount Procedures

**PURPOSE AND EFFECT:** The purpose of the proposed rule revision is to conform the rule to law that now allows the Secretary of State in lieu of the Elections Canvassing Commission, to order recounts for federal, statewide, and multicounty races. Additionally the revisions codify practices that have evolved over time to improve the machine and manual recount processes. The revisions will also reflect a substantial re-write of the rule in order to re-organize and simplify the language in the rule. The rule incorporates by reference DS-DE 72/105 which contains the sample ballot image reports for the various voting systems that are to be used in a manual recount of touchscreen ballots for determining whether a voter has cast an undervote.

**SUBJECT AREA TO BE ADDRESSED:** Recount procedures.

**RULEMAKING AUTHORITY:** 20.10(3), 97.012(1), 102.166 FS.

**LAW IMPLEMENTED:** 102.166 FS.

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

**DATE AND TIME:** December 19, 2011, 2:00 p.m.

**PLACE:** Room 307, R.A. Gray Building, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eddie L. Phillips, Executive Assistant, Office of General Counsel, Department of State at (850)245-6500 or at eddie.phillips@dos.myflorida.com no later than 5 days before the workshop. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Maria Matthews, Assistant General Counsel, Office of General Counsel at (850)245-6536, Maria.Matthews@dos.myflorida.com or Dr. Gisela Salas, Director, Division of Elections, (850)245-6200, Gisela.Salas@dos.myflorida.com, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250

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

**DEPARTMENT OF STATE****Division of Elections**

RULE NO.:                   RULE TITLE:  
IS-2.051                    Federal Write-In Absentee Ballot

**PURPOSE AND EFFECT:** The purpose of the proposed new rule is to implement the requirements of Chapter law 2011-162, Laws of Florida, which expanded the use of federal write-in absentee ballots (which is a back-up ballot to the state absentee ballot) beyond federal elections to include a state or local election involving two or more candidates. The new law takes effect July 1, 2011. The new law requires the Department of State to adopt directions and criteria for determining voter intent on a federal write-in absentee ballot in the event of a recount.

**SUBJECT AREA TO BE ADDRESSED:** Establishing standards for determining voter's choice on federal write-in absentee ballots.

**RULEMAKING AUTHORITY:** 20.10(3), 97.012(1), 102.166(4) FS.

**LAW IMPLEMENTED:** 101.6952, 101.5614, 102.166 FS.

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

**DATE AND TIME:** December 19, 2011, 2:00 p.m.

**PLACE:** Room 307, R.A. Gray Building, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Maria Matthews, Assistant General Counsel, Office of General Counsel at (850)245-6536, maria.matthews@dos.myflorida.com or Dr. Gisela Salas, Director, Division of Elections, (850)245-6200, Gisela.Salas@dos.myflorida.com, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250

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

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Water Policy**

RULE NOS.:	RULE TITLES:
5M-14.001	Purpose
5M-14.002	Approved Best Management Practices
5M-14.003	Presumption of Compliance
5M-14.004	Notice of Intent to Implement
5M-14.005	BMP Record Keeping

PURPOSE AND EFFECT: The purpose of this rulemaking is to adopt the “Water Quality/Quantity Best Management Practices for Florida Equine Operations” by rule.

SUBJECT AREA TO BE ADDRESSED: The proposed rule will address the development of practices that protect water quality, the procedures for filing a Notice of Intent, and associated recordkeeping requirements. The draft manual can be viewed at: [www.floridaagwaterpolicy.com/BestManagementPractices.html](http://www.floridaagwaterpolicy.com/BestManagementPractices.html).

RULEMAKING AUTHORITY: 403.067(7)(c)2., 570.07(10), (23) FS.

LAW IMPLEMENTED: 403.067(7)(c)2. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor Square Blvd., Suite 200, Tallahassee, Florida 32301, (850)617-1700 or Fax (850)617-1701

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

**DEPARTMENT OF CORRECTIONS**

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

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to eliminate language referring to internal management memoranda.

SUBJECT AREA TO BE ADDRESSED: Random Drug Testing of Employees.

RULEMAKING AUTHORITY: 944.09, 944.474 FS.

LAW IMPLEMENTED: 112.0455, 944.09, 944.474 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kendra Jowers, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-208.403 Random Drug Testing of Employees.

(1) through (16) No change.

(17) In the case of positive test results for which the employee did not or could not provide valid documentation of lawful intake of the identified controlled substance, the employee shall be notified in writing of the positive test results and the consequences of the results, in accordance with the following:

(a) For staff not certified under Section 943.13, F.S.:

1. First-time positive result:

a. All such employees will be given a mandatory referral to the employee assistance program (~~in accordance with Department procedure~~).

b. through c. No change.

d. If the employee refuses to comply with all requirements of the course of treatment recommended by the employee assistance program treatment provider, she/he will be dismissed ~~in accordance with Department procedure~~.

e. No change.

f. If actions by a governing licensure or certification board or body prevent placement into or ongoing employment in the previously held position, the Department will offer alternate position placement in accordance with the employee’s qualifications, if such is available. If no alternate position placement is available or the employee is unwilling to accept available placement options, the employee will be dismissed ~~in accordance with Department procedure~~.

g. No change.

2. Second time positive test result.

a. No change.

b. Any governing licensure or certification board or body relevant to the employee’s position requirements will be contacted and provided with a report ~~in accordance with established reporting procedures~~.

(b) For staff certified under Section 943.13, F.S., who test positive:

1. No change.

2. The Criminal Justice Standards and Training Commission or other governing licensure/certification board relevant to the employee’s position requirements will be contacted ~~and provided with a report in accordance with established reporting procedures~~, and the Department shall move to terminate the employee ~~in accordance with Department procedure~~.

(c) Employees in trainee or probationary status.

1. No change.

2. Any other governing licensure or certification board or body (relevant to the employee’s position requirements) will be contacted and provided with a report ~~in accordance with established reporting procedures.~~

(18) through (21) No change.

Rulemaking Authority 944.09, 944.474 FS. Law Implemented 112.0455, 944.09, 944.474 FS. History—New 9-11-05, Amended 12-18-06, 12-3-08, 10-9-11,\_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
40B-4.1020	Definitions
40B-4.3030	Conditions for Issuance of Works of the District Development Permits

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to adopt a definition for the term “clearing” and remove confusing language to be consistent with recently adopted language, which will allow for better comprehension of the rules within part III of this chapter by the public and District staff.

**SUBJECT AREA TO BE ADDRESSED:** This proposed rule will provide a definition for clearing and remove confusing language with respect to works of the district permits and environmental resource permits.

**RULEMAKING AUTHORITY:** 373.044, 373.113, 373.171 FS.

**LAW IMPLEMENTED:** 373.019, 373.084, 373.085, 373.086, 373.403 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Robin Lamm, Business Resource Specialist, SRWMD, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or 1(800)226-1066 (FL only)

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

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Elections**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
1S-2.030	Absentee Ballots for Overseas (Uniformed Services and Civilian) Voters

**PURPOSE AND EFFECT:** This rule deals exclusively with the request, delivery and return of absentee ballots for overseas voters (uniformed services members and civilian U.S. citizens who are overseas). The changes focus on updating the rule in four ways. The title of the rule is changed to read as “Absentee Ballots for Overseas Voters (Uniformed Services and Civilian).” Proposed revisions are consistent with changes in the Military and Overseas Voter Empowerment Act (Public law 111-84) which facilitated voting for military voters and overseas civilian including allowing e-mail to be used to communicate and transmit absentee ballot requests and blank ballots to voters subject to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Additionally, the rule acknowledges online ballot delivery systems. The ballot instructions are also amended to incorporate notice to voters regarding the importance of the signature in counting an absentee ballot. This conforms to new law from sections 38 and 39 of Chapter 2011-40, Laws of Florida, which became effective May 19, 2011. Additionally, the rule deletes subsection (8) of the rule which is no longer necessary.

**SUMMARY:** Provides procedures for absentee ballots provided to overseas voters subject to the Uniformed Services and Overseas Citizens Voting Act.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based upon the following, the Agency has determined that the proposed rule will or will not require legislative ratification pursuant to Section 120.541(3), F.S., or other applicable statutes: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and 2) based on past experiences with election-related activities and rules of this nature, the adverse impact or regulatory cost, if any, do not