



Florida Department of State

OVERVIEW AND UPDATE ON RULES – What's Ahead

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December 8, 2014



Overview of Rulemaking Process

General Rulemaking Timelines: Law

1-2 days for notice to be published in the Florida Administrative Register (FAR). (Submit by 3pm, will be published the following day in FAR.)

- **Notice of Rule Development:** 14-day advance published notice before workshop (1 or more workshops can be held)
- **Notice of Proposed Rule:** 21-day advance published notice (w/ proposed text) before public hearing. (90-day clock to adopt rule starts ticking from published notice.)
- **Notice of Change:** 21-day advance published notice before rule adoption (required if substantive changes made after Notice of Proposed Rule)

General Rulemaking Timelines: Law

- **Filing for Adoption:** 7-day advance review by Legislature's Joint Administrative Procedures Committee (JAPC) to give its OK before rule adoption (Purpose to ensure: adequate statutory basis, all applicable procedures are followed, and not illegal)
- **Effective Date:**
 - Default: 20 days from date filed for adoption
 - Later specified date (*i.e.*, 20 days plus)
 - Upon legislative ratification (for those rules that trigger economic impact thresholds)

General Rulemaking Timelines: Additional Requirements

- **DOS Internal review:** All notices must be reviewed and approved by chain of command - Division Director, General Counsel, Deputy Secretary, Assistant Secretary and Secretary
- **OFARR:** At a minimum, notices of Rule Development, Proposed Rule and Notice of Change must be submitted to Governor's **Office of Fiscal Accountability & Regulatory Reform** one week in advance of FAR submission (includes economic impact analysis which also determines whether rule will require legislative ratification to become effective)
 - **Annual Regulatory Plan** (due July 1 to OFARR, legislative leaders & JAPC) – provides anticipated rulemaking for the FY.

RULES --

What's Ahead?

Thoughts to Ponder

Elections are like the God of the Old Testament -- lots of rules and little mercy, except for the few righteous who follow the rules!

Elections rules are *not* meant to be broken.

“Major” Rules Undergoing Revision in 2015

- **Rule 1S-2.0115** (SOE Salary Certification)
- **Rule 1S-2.015** (Minimum Security Procedures)
- **Rule 1S-2.031** (Recount)
- **Rule 1S-2.032** (Uniform Ballot)
- **Rule 1S-2.043** (Electronic File Reporting of AB, EV, Election Results, Voting History) – to be split and new **Rule 1S-2.053** created
- **Rule 1S-5.001** (Voting Systems Standards)

Rule 1S-2.0115 (Certification Requirements for Supervisors of Elections for Special Qualification Salary)

- **FS 145.09:** To qualify for the special salary, the SOE “must complete the requirements established by the Division of Elections” and DOS “shall adopt rules to establish the certification requirements.”
- Rule not updated since creation in January 2006.
- Expect Notice of Rule Development soon!

Rule 1S-2.0115: Why update?

1. Have DOE assume responsibility for all aspects of developing, administering, and grading of the certification test.
2. Simplify the calculations for credit hours to obtain initial certification – one credit for each hour (not one credit for 12 hours of training).
3. Include attendance at DOE workshops for obtaining continuing education credits.
4. Limit permissible “for credit” courses to those that more closely deal with election law (in lieu of public records, ethics, public administration, office and stress management).
5. Clarify more fully the timelines for certification.
6. Mandate that Division provide notice to SOEs as they near the certification deadline.

Rule 1S-2.015 (Minimum Security Procedures for Voting Systems)

- **FS 101.015:** Contains 4 specific mandates for the DOS to adopt rules in the areas of minimum security standards for hardware, software, and voting systems, as well as to achieve and maintain maximum degree of correctness and efficiency of voting procedures.
- Rule not updated since November 2004.
- Expect Notice of Rule Development soon!

Rule 1S-2.015: Why update?

1. Define additional terms used in the rule.
2. Ensure that DOE has latest version of county's security procedures on file.
3. Adapt rule to current procedures for odd-year review of counties' minimum security procedures and to clarify timelines for the review process.
4. Provide more detailed contents for security procedures to enhance security of the voting system and all ballots (absentee, provisional, early voting, and Election Day).

Rule 1S-2.031 (Recount Procedures)

- FS 102.141(7)(d) and 102.166(5)(d) require DOS to adopt detailed rules prescribing additional recount procedures other than those specified in statute.
- Last updated in November 2005.
- Expect 2d Notice of Rule Development soon – we had a workshop on April 9, 2014. We have revised the draft rule based upon comments made at the workshop.

Rule 1S-2.031: Why update?

1. Revise who orders a recount in a state contest based upon statutory change.
2. Define additional terms used in the rule.
3. Clarify that rule applies to municipal elections when county voting system is used.
4. Stress security of ballots.
5. Clarify when recount may begin.
6. Advance notice of who representatives at recount will be.
7. Provide procedures when recount exists in race where votes may be given to more than one candidate.
8. Update names of applicable voting systems.

Rule 1S-2.032 (Uniform Primary and General Election Ballot)

- **FS 101.151** requires DOS to adopt rules prescribing a uniform primary and general election ballot for each certified voting system, to include graphic depiction of ballots.
- Last updated in July 2004.
- Expect Notice of Rule Development in first part of year. Currently in process of drafting graphic depictions of ballots.

Rule 1S-2.032: Why update?

1. Substantial rewrite to update, reorganize and clarify the rule's content and ballot samples.
2. Conform to statutory changes (elimination of contest headings).
3. Define additional terms used in the rule.
4. Add more specificity regarding ballot layout.
5. Provide more flexibility for possible future certifications of voting systems.
6. Clarify reasons for SOE to request deviation from the rule.

Rule 1S-2.043 (Electronic File Reporting Relating to Absentee Ballot Request Information, Voting Activity, and Election Results)

- FS 98.0981(5) requires DOS to adopt rules and prescribe forms to carry out purpose of statute prescribing the electronic format for precinct-level elections results, voter history, and reconciliation of ballots cast with voter history.
- FS 102.141(4) and (10) require DOS to adopt rules establish required content and formats for election results.
- FS 101.62(3) and 101.657(2) require DOS to prescribe the electronic format for AB & EV upload. 17

Rule 1S-2.043 (Electronic File Reporting Relating to Absentee Ballot Request Information, Voting Activity, and Election Results)

- Last updated in October 2010.
- Rule hearing held on September 15, 2014; Expect withdrawal of rule and a new Notice of Rule Development soon.
- Rule will create new **Rule 1S-2.053**, which will cover Election Results, Precinct-Level Election Results, and Reconciliation reporting.
- Rule 1S-2.043 will cover Absentee Ballot, Early Voting, and Voting History reporting.

Rule 1S-2.043: Why update?

1. Respond to statutory changes.
2. Create uniform format for submission of election results, precinct-level election results, and the reconciliation report.
3. Better define the codes for absentee ballot status reporting.
4. Eliminate the submission of EV summary file; only require EV voters list file.
5. Specify the upload deadline is the time zone of SOE office.

Rule 1S-5.001 (Voting Systems Equipment Regulations)

- **FS 101.015** requires the DOS to adopt rules which establish minimum standards for voting systems, to include provisional approval.
- Last updated in January 2005.
- Expect Notice of Rule Development in first part of year. Division currently is reviewing a draft 134-page “Florida Voting Systems Standards” form to be incorporated into the rule.
- Beware: This is a “techie” rule!

Rule 1S-5.001: Why update?

1. Out-of-date based upon current technology and standards in use for new voting systems.
2. Provide standards for approval of non-tabulation systems.
3. Make the Florida Voting Systems Standards form (DS-DE 101) more comprehensive as to the standards required.
4. Modify the layout of the Standards to enhance the clarity of how the voting systems will be tested regarding each standard.

Other rules?

You're darn tooting there are others to be revised!
--- 2015 will be a busy year!

- Qualifying Requirements (1S-2.0001)
- Random Sampling Procedure (1S-2.008)
- Const. Amendment Initiative Petition (1S-2.0091)
- Reporting Requirements for Campaign Treasurer's reports (1S-2.017)
- Mail Ballot Election (1S-2.022)
- 3PVRO (1S-2.042)
- Candidate Petition Process (1S-2.045)
- State Campaign Matching Funds Program (1S-2.047)
- Cancellation of Political Party Filings (1S-2.050)

What more is there to be said?

Any Comments or Questions

... The End ...

