

Specific Authority 39.407(5)(i) FS. Law Implemented 39.407(5) FS. History--
New

Section II Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Registration of Issuer/Dealers, Principals and Branch Offices	3E-600.004
Termination of Registration as Dealer, Investment Adviser, Branch Office, Principal or Agent	3E-600.008
Registration Renewals	3E-600.009

PURPOSE AND EFFECT: Section 517.12(6), F.S., authorizes the Department to adopt rules establishing procedures for depositing fees and filing documents by electronic means. The purpose of the proposed changes is to provide for electronic filing of certain information or forms and to allow the electronic payment of registration renewal fees through the Department's website.

SUMMARY: The proposed change to Rule 3E-600.004, F.A.C., will allow a dealer or investment adviser registered with the Department to amend the branch office registration information electronically or by submitting a written request in lieu of filing Form DA-1-91. The proposed changes to Rule 3E-600.008, F.A.C., will allow electronic filing for withdrawals, cancellations, or terminations of registrations for branch offices and to authorize a registrant to terminate a branch office registration by submitting the request in writing in lieu of filing Form DA-1-91. The proposed change to Rule 3E-600.009, F.A.C., will allow non-NASD member firms, associated persons of non-NASD member firms and branch offices to electronically pay registration renewal fees through the Department's website.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 517.03(1), 517.12(6),(15) FS.

LAW IMPLEMENTED: 517.12, 517.161(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., April 30, 2001

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rick White, Financial Administrator, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3E-600.004 Registration of Issuer/Dealers, Principals and Branch Offices.

(1) An issuer required to be registered or who elects to be registered pursuant to Sections 517.12(1), 517.051(9), or 517.061(11), ~~F.S. Florida Statutes~~, selling its own securities exclusively through its principals or agents (as those terms are defined ~~in under~~ Section 517.021, ~~F.S. Florida Statutes~~, and Rule 3E-200.001, ~~F.A.C.~~, respectively) may obtain registration as an issuer/dealer by filing as required under Rules 3E-600.001(1), 3E-400.002, or 3E-500.011, F.A.C., as appropriate, provided that:

(a) The associated persons of said issuer/dealer comply with the registration requirements of Section 517.12, F.S., and Rules 3E-600.005 and 3E-600.006, F.A.C., ~~thereunder~~, provided that such person primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities;

(b) Said issuer/dealer may register up to five (5) associated persons, which persons will be exempted from the examination requirements of Rule 3E-600.005(2), F.A.C., provided such issuer/dealer shall register no more than five (5) associated persons, and at the time of application for registration advises the Department of his intention to register no more than five (5) associated persons. Failure to so advise the Department will require all associated person applicants to fulfill the examination requirements of Rule 3E-600.005(2), F.A.C. Registration of more than five (5) such associated persons, at any one time, will void this exemption, and all such associated persons will be required to meet the examination requirements of Rule 3E-600.005(2), F.A.C.

(2) No change.

(3)(a) through (b) No change.

(c) If the information contained in any branch office registration form becomes inaccurate or incomplete for any reason before or after the branch office becomes registered, including changing the location of the branch office or the supervisory personnel thereof, the dealer or investment adviser shall amend the information by filing a complete and originally executed Form DA-1-91 (Revised 11-91) with the Department within thirty (30) days of the change and denoting thereon that the information reported is an amendment to a previous filing. In lieu of filing Form DA-1-91, a registrant may amend the branch office registration information electronically at the time of renewal by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. Also, a registrant may change the address or terminate a branch

office location by submission of the request in writing to the Department in lieu of filing Form DA-1-91. Failure to file any amendment or written notification, as provided herein, shall be considered a violation of Section 517.12(13), F.S. Florida Statutes.

(d) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(5), (6), (10) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.04, Amended 10-14-90, 6-16-92, 1-11-93, 11-7-93, 11-14-93, 12-29-96, 10-20-97, 6-10-99, 8-19-99, _____.

3E-600.008 Termination of Registration as Dealer, Investment Adviser, Branch Office, Principal or Agent.

(1) through (2) No change.

(3) Any withdrawals, cancellations, or terminations of registrations for branch offices shall be filed directly with the Department as prescribed in Rule 3E-600.004(3)(c), F.A.C. ~~on the forms prescribed by the Department.~~

(4) The Department may deny any request to terminate or withdraw any application or registration as provided under Section 517.161(5), F.S. Florida Statutes.

(5) through (6) No change.

Specific Authority 517.03(1) FS. Law Implemented 517.12(12)(b), 517.161(5) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.08, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 6-22-98, 6-10-99, 5-10-00, _____.

3E-600.009 Registration Renewals.

(1) No change.

(2) In addition to verifying registration with the Department as provided in subsection (1), to renew its registration and that of its branch offices and associated persons, each dealer and investment adviser shall pay all renewal fees as required by Section 517.12(11), F.S. Renewal fees for non-NASD member firms, associated persons of non-NASD member firms and all branch offices shall be sent directly to the Department or may be paid electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. The Department shall deem a fee received as payment at such time as it has been date stamped by the cashier's office of the Department of Banking and Finance or the date the renewal process has been completed on the Department's website. All renewal fees for NASD member firms and for associated persons of NASD member firms shall be submitted through the CRD. All renewal fees must be received by the Department or the CRD by the last business day prior to January 1 of the year following the year the registration expires.

(3) Failure to submit the requisite amount of fees to the Department or to the NASD as appropriate and as provided for in subsection (2) of this Rule by December 31 of the year of expiration of the registration shall result in such registration not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received. However, an expired registration may be reinstated in

accordance with the provisions of Section 517.12(11), F.S., provided that all requisite information and fees are filed with the Department on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the year of expiration shall result in such registration not being reinstated. If January 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day will be considered timely received. In the event that the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration shall become the revenue of the state pursuant to Section 517.12(10), F.S. Florida Statutes, and shall not be returnable.

Specific Authority 517.03(1), 517.12(6), (15) FS. Law Implemented 517.12(6), (10), (11), (15) FS. History--New 12-5-79, Amended 9-20-82, 8-29-83, Formerly 3E-600.09, Amended 1-7-88, 6-16-92, 11-14-93, 2-5-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rick White, Financial Administrator, Division of Securities and Finance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don B. Saxon, Director, Division of Securities and Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2001

DEPARTMENT OF INSURANCE

RULE TITLE: RULE NO.:

Private Passenger Motor Vehicle Insurance;
Completion of Underwriting Notice of
Incorrect Premium, Return of
Unearned Premium 4-167.002

PURPOSE AND EFFECT: The purpose of the proposed action is to amend the procedure for notifying insureds of additional premium and the options related thereto and for the return of unearned premium.

SUMMARY: The rule clarifies procedures for return of premium for private passenger motor vehicle insurance policies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 624.3081(1) FS.

LAW IMPLEMENTED: 624.307(1), 626.9541(1)(o)3.a., 627.420, 627.421, 627.728, 627.7282 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., Wednesday, May 2, 2001
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Steve Roddenberry, Deputy Director, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0330, phone (850)413-3148

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-167.002 Private Passenger Motor Vehicle Insurance; Completion of Underwriting Notice of Incorrect Premium, Return of Unearned Premium.

(1) Pursuant to the provisions of Section 627.728, Florida Statutes, any insurer which issues a policy of private passenger motor vehicle insurance in this state shall be required to complete the underwriting of the policy and make a final determination of the correct premium for the coverage set forth in the insurance application within sixty (60) days after the effectuation of coverage. The requirements of this subsection shall not apply in the event that an incorrect premium was charged due to material misrepresentation or fraud on the part of the insured in the application for insurance. Insurers asserting a common law right of rescission or otherwise asserting rights to void insurance policies ab initio shall, within 90 days of taking such action, report to the Department of Insurance, Bureau of Property and Casualty Insurer Solvency Forms and Market Conduct Review, regarding any policies rescinded. The report shall be on Form DI4-493, "Report of Rescinded Policy," rev. 7/90, which is hereby adopted and incorporated by reference. The form may be obtained from and shall be submitted to the Bureau of Property and Casualty Insurer Solvency Forms and Market Conduct Review, Department of Insurance, Larson Building, Tallahassee, FL 32399-0300. The insurer shall retain its files on each rescinded policy for three (3) calendar years from the date of the report to the Department. Each file shall contain a copy of the initial application, a copy of the policy, copies of any claim forms filed, all documentation used by the insurer as a basis for its rescission, including the basis for any denial of coverage; and the name, business address and telephone number of any independent claims adjusting service where files may be located, if no longer in the possession of the insurer.

(2) In the event that an insurer issues a policy of private passenger motor vehicle insurance and timely determines that the policyholder has been charged an incorrect premium, the insurer shall provide notice to the policyholder as provided in section 627.7282, Florida Statutes. Such notice shall include a period of time no less than ten (10) days and no greater than forty-five (45) days within which the policyholder has the option to pay the additional amount of premium due or to cancel the policy and demand a refund of any unearned premiums. The maximum 45-day time period shall not apply in the event the amount of the additional premium due is equal to or less than five percent of the correct premium. The maximum forty-five (45) day period shall not apply in the event that the notice is sent within fifteen (15) days of the effective date of the policy. In that event, the maximum time period shall be sixty (60) days.

(3) ~~If the policyholder fails to timely respond to the notice referred to in (2), above, the insurer shall cancel the policy as required in Section 627.7282, Florida Statutes, on a date no less than fourteen (14) days and no greater than forty-five (45) days after the date of the notice, and return any unearned premium to the insured. In the event the notice was sent within fifteen (15) days of the effective date of the policy, the cancellation date shall be no greater than sixty (60) days after the date of the notice. The unearned premium shall be returned within thirty (30) days of the effective date of cancellation. If the unearned premium is not returned within the thirty (30) day period, the insurer must pay eight (8) percent interest per annum on the amount due. If the unearned premium is not returned within forty-five (45) days of the effective date of cancellation, the insured may bring an action against the insurer pursuant to Section 624.155, Florida Statutes. If the policyholder fails to timely respond to the notice referred to in (2), above, the insurer shall cancel the policy as required in section 627.7282, Florida Statutes, on a date no less than fourteen (14) days and no greater than forty five (45) days after the notice, and return any unearned premium to the insured.~~

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 626.9541(1)(o)3.a., 627.420, 627.421, 627.728, 627.7282 FS. History--New 7-23-88, Amended 9-18-90, Formerly 4-28.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Roddenberry, Deputy Director, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Beth Vecchioli, Deputy Director, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 9, 2001

DEPARTMENT OF INSURANCE

RULE TITLE: Cancellation of Subscriber Contracts
 RULE NO.: 4-191.043

PURPOSE AND EFFECT: Contingent repeal of provision regarding HMOs found to be unnecessary or lacking in delegated legislative authority during the 120.536(2)(b), F.S., analysis.

SUMMARY: Contingent repeal of provisions regarding HMOs found to be unnecessary or lacking in delegated legislative authority during the 120.536(2)(b), F.S., analysis.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 641.36 FS.

LAW IMPLEMENTED: 641.27(1), 641.3108 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:30 a.m., May 8, 2001

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Bracher, Bureau of Managed Care, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0347, phone (850)413-2500

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-191.043 Cancellation of Subscriber Contracts.

Specific Authority 641.36 FS. Law Implemented 641.3108, 641.27(1) FS. History—New 5-28-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Bracher, Bureau Chief, Bureau of Managed Care, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michelle Newell, Director, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2001

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Extinguishers and Pre-Engineered Systems
 RULE CHAPTER NO.: 4A-21

RULE TITLES: Dealer License
 RULE NOS.: 4A-21.102
 Permit 4A-21.103

Prescribed Certification Training Course for Portable Fire Extinguisher Licenses and Permits 4A-21.104

Transferring a License 4A-21.106

Transferring a Permit 4A-21.107

Upgrade of License 4A-21.108

Upgrade of Permit 4A-21.109

Duplicate License or Permit 4A-21.110

Required Continuing Education 4A-21.113

Insurance Requirements 4A-21.114

Standards of National Fire Protection Association Adopted 4A-21.203

Inspection, Maintenance and Hydrostatic Tests; Replacement While Recharging 4A-21.238

Standard Service Tags, Requirements 4A-21.240

Standard Service Tags, Specifications 4A-21.241

Hydrostatic Tests 4A-21.242

Hydrostatic Tests; Record Tag 4A-21.245

Leak Tests; Tamper Indicators or Seals to be Replaced 4A-21.249

Invoices 4A-21.251

Standards of National Fire Protection Association to be Complied With 4A-21.302

Standard Service Tag 4A-21.303

Installation; Service 4A-21.304

PURPOSE AND EFFECT: The changes have the following purposes and effects:

1. Update NFPA and other sources previously adopted in the rules.
2. Add two additional forms to be adopted.
3. Streamline and update requirements for taking courses and examinations in conjunction with the Florida State Fire College to make them more easily accessible by the public.
4. Make technical changes such as changing the outdated name of the Section to the current name.
5. Present certain tables in more readable fashion.
6. Update rules to accommodate changes in the statutes; for example, to conform with the "two-year" recertification cycle adopted by the legislature recently, having been changed from a one-year cycle which the rules currently address.
7. Repeal unnecessary and/or outdated rule sections, subsections, and paragraphs.

SUMMARY: These changes update standards, add additional forms, conform to changes in statutes, and repeal unnecessary rules relating to Fire Extinguishers and Preengineered Systems. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of regulatory 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: 633.01(1) FS.

LAW IMPLEMENTED: 633.061, 633.161, 633.162, 633.163, 633.071, 633.171, 633.081 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m., April 30, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terry Hawkins, Safety Program Manager, Regulatory Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)922-3171

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Millicent King at (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-21.102 Dealer License.

(1) The applicant shall submit an application on ~~form~~ forms DI4A-32, "Fire Extinguisher Dealer License" revised 11/99 9/96 and/or ~~DI4 433 "Pre Engineered Systems Dealer License" revised 9/96~~ as adopted and incorporated herein by reference furnished by the Regulatory Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal ~~division~~ which shall conform with Section 633.061, Florida Statutes, identifying the class of license requested. Each licensee shall maintain a specific business location. A separate application and license are required for each business location. Any advertisement that the services of installing, recharging, repairing, or inspecting or other maintenance of portable fire extinguishers or pre-engineered systems are available shall

indicate that the premises, business, room, shop, store or establishment in or upon which it appears or to which it refers are a separate business location.

(2) through (4) No change.

(5) The person signing the application must meet the experience, or experience and education requirements as prescribed in Section 633.061, Florida Statutes, and shall successfully complete a prescribed certification training course offered by the Florida State Fire College or an equivalent course approved by the Bureau of Fire Standards and Training State Fire Marshal pursuant to rule 4A-21.104(4)(e).

(6) Upon successful completion of the prescribed training course, the applicant will be administered an examination testing his or her competency and knowledge of the tasks to be performed pursuant to the class license requested.

(7) No change.

(8) When the applicant has completed the requirements in subsections (1) through (7), above, a pre-license inspection will be conducted at the facility of the applicant to determine that the equipment is functional and meets the requirements ~~have been met pursuant to the provisions~~ of subsection (11), below. The Regulatory Licensing Section ~~division~~ shall inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the license. After issuance of a license, such facilities shall be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirements continue to be met.

(9) through (10) No change.

(11) Any fire equipment dealer, licensed pursuant to Section 633.061, Florida Statutes, who does not want to engage in servicing, inspecting, recharging, repairing or installing halon equipment must file an affidavit on form DI4-1482, (3/01) "Fire Equipment Dealer Halon Exemption Affidavit" as adopted and incorporated herein by reference furnished by the Regulatory Licensing Section.

(12) Equipment requirements.

(a) Each licensed business location shall be required to possess, at a minimum, the required equipment listed below. the equipment shall be demonstrated at the time of any inspection, to be functional to perform service as indicated by the license. All facilities must be in possession of a retester's identification number and certification in compliance with the Code of Federal Regulation Pamphlet 49, Part 173.

(b) Minimum Equipment and Facilities Requirements.

MINIMUM EQUIPMENT AND FACILITIES REQUIRED PER CLASS OF LICENSE

<u>1. Hydrostatic test equipment for high pressure testing and calibrated cylinder maintained in compliance with the requirements of CGA C-1. DOT certification letter posted on or near the test apparatus identifying a current retester identification number issued to the facility.</u>	<u>A</u>			
<u>2. Equipment for test dating United States Department of Transportation specification and nonspecification cylinders. Die stamps for Class A and D facilities must be a minimum of 1/4 inch and include the retester identification number issued to the facility.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>3. Clock with sweep second hand or digital clock with second increments on or close to hydrostatic test apparatus.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>4. CO2 receiver – cascade system CO2 for proper filling of CO2 extinguishers.</u>	<u>A</u>	<u>B</u>		
<u>5. Conductivity tester and tags as required by NFPA 10, as adopted in Rule Chapter 4A-3, Florida Administrative Code.</u>	<u>A</u>	<u>B</u>	<u>C</u>	
<u>6. Drying method with does not exceed 150 degrees Fahrenheit for high and low pressure cylinders in accordance with NFPA 10, as adopted in Rule Chapter 4A-3, Florida Administrative Code and the manufacturer’s specifications.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>7. Proper wrenches with non-serrated jaws or valve puller, hydraulic or electric.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>8. Appropriate inspection light.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>9. Low pressure test apparatus for the licenses held, with gauges certified accurate in compliance with the requirements of CGA-C1 and maintained in accordance with the requirements of CGA-C1. United States Department of Transportation certification letter identifying a current retester identification number issued to the facility.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>10. All record tags, service, hydrotest, 6 year maintenance, as required by Rule 4A-21, as adopted in Rule Chapter 4A-3, Florida Administrative Code and CFR 49.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>11. Scales with division of not more than 1/4 ounce with adequate weighing capacity for weighing CO2 cartridges, must be certified annually or tested for accuracy annually by a service agency in accordance with the provisions of Chapter 531, Florida Statutes.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>12. Scales with adequate weighing capacity for extinguisher inspection and filling must be certified annually or tested for accuracy annually by a service agency in accordance with the provisions of Chapter 531, Florida Statutes.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>13. Vise, 6 inch minimum (chain or bench).</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>14. Supply of chemicals in accordance with manufacturer’s specifications in proper storage for all extinguishers and systems being serviced.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>

<u>15. Facilities for leak testing of pressurized extinguishers and preengineered system cylinders in accordance with the manufacturer's specifications.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>16. Regulator and indicator in accordance with NFPA standards and manufacturer's specifications. Gauges shall be calibrated in accordance with Section 4-5.4.2, NFPA 10, as adopted in Rule Chapter 4A-3, Florida Administrative Code.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>17. Adapters, fittings and equipment for properly servicing and/or recharging all extinguishers and preengineered systems cylinders being serviced and recharged.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>18. Safety cage or barrier for hydrostatic testing of low pressure cylinders.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>19. Scales with divisions of not more than 1/2 pound and minimum 150 pounds for weighing chemical recharging. Must be certified annually or tested for accuracy annually in accordance with the provisions of Chapter 531, Florida Statutes.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>20. Cable crimping tool (where required) for preengineered systems being installed and serviced in accordance with the manufacturer's specifications.</u>				<u>D</u>
<u>21. Cocking lever (where required) for preengineered systems being installed and serviced in accordance with the manufacturer's specifications.</u>				<u>D</u>
<u>22. Pipe vise, dies, reamer, etc. For preengineered systems being installed and serviced in accordance with the manufacturer's specifications.</u>				<u>D</u>
<u>23. Stock of supplies for extinguishers and/or preengineered systems being installed and serviced in accordance with the manufacturer's specifications.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>24. Installation, maintenance and recharge manuals for extinguishers and preengineered systems being inspected, serviced and installed.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>25. Closed recovery system for reusing dry chemical in accordance with NFPA 10, as adopted in Rule Chapter 4A-3, Florida Administrative Code.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>26. NFPA 10 and NFPA 96, as adopted in Rule Chapter 4A-3, Florida Administrative Code, CGA C-1, C-6, C-6.1, C-6.3, CFR 49, parts 100-177, and CFR 29 parts 1900-1910, all as adopted in Rule Chapter 4A-3, Florida Administrative Code.</u>	<u>A</u>	<u>B</u>	<u>C</u>	
<u>27. NFPA 12, 12A, 34, 17, 17A, 96, 2001, CGA C-1, C-6, C-6.1, C-6.3, CFR 49 parts 100-177, and CFR 29 parts 1900-1910, all as adopted in Rule Chapter 4A-3, Florida Administrative Code.</u>				<u>D</u>
<u>28. Closed recovery system for removal and recharge of halon as required in NFPA 10, as adopted in Rule Chapter 4A-3, Florida Administrative Code, or an exemption from the State Fire Marshal.</u>				
<u>29. Printed invoices properly completed.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<u>30. System inspection reports.</u>				<u>D</u>

(11) Equipment requirements.

(a) Each licensed business location shall be required to possess, at a minimum the equipment listed below in accordance with the class of license requested. Facilities engaged in high pressure hydrostatic testing shall be properly certified by the U.S. Department of Transportation.

(b) Minimum Equipment and Facilities Requirements:
REQUIRED FOR CLASS MINIMUM EQUIPMENT AND FACILITIES REQUIRED

A 1. ADEQUATE HYDROSTATIC TEST EQUIPMENT FOR HIGH PRESSURE TESTING AND CALIBRATED CYLINDER DOT CERTIFICATION LETTER POSTED ON OR NEAR THE TEST APPARATUS.

A 2. ADEQUATE EQUIPMENT FOR TEST DATING HIGH PRESSURE CYLINDERS. DIE STAMPS MUST BE MINIMUM OF 1/4 INCH

A 3. CLOCK WITH SWEEP SECOND HAND ON OR CLOSE TO HYDROSTATIC TEST APPARATUS.

A B 4. CO2 RECEIVER — CASCADE SYSTEM CO2, FOR PROPER FILLING OF CO2 EXTINGUISHERS.

A B C 5. CONDUCTIVITY TESTER AND TAGS AS REQUIRED BY NFPA 10, 1994 EDITION.

ABCD 6. DRYING METHOD FAHRENHEIT FOR HIGH AND LOW PRESSURE CYLINDERS, MEETING THE GUIDELINES OF NFPA 10, 1994 EDITION.

ABCD 7. PROPER WRENCHES WITH NON SERRATED JAWS OR VALVE PULLER, HYDRAULIC OR ELECTRIC.

ABCD 8. ADEQUATE INSPECTION LIGHT.

ABCD 9. LOW PRESSURE TEST APPARATUS WITH DUAL GAUGES OR SINGLE GAUGE CERTIFIED ACCURATE ANNUALLY (DEALER MUST PROVIDE EVIDENCE OF CERTIFICATION DURING INSPECTION.)

ABCD 10. ALL RECORD TAGS, SERVICE, HYDROTEST, 6 YEAR MAINTENANCE, INTERNAL, ETC. AS REQUIRED BY RULE CHAPTER 4A 21.

ABCD 11. SCALES WITH DIVISIONS OF NOT MORE THAN 1/4 OUNCE FOR WEIGHING CO2 CARTRIDGES. MUST BE CERTIFIED ANNUALLY OR TESTED FOR ACCURACY ANNUALLY BY A SERVICE AGENCY AS DEFINED IN CHAPTER 5F 4, FLA. ADMIN. CODE.

ABCD 12. ACCURATE WEIGHING SCALES FOR EXTINGUISHER INSPECTION AND FILLING. MUST BE CERTIFIED ANNUALLY OR TESTED FOR ACCURACY ANNUALLY BY A SERVICE AGENCY AS DEFINED IN CHAPTER 5F 4, FLA. ADMIN. CODE.

ABCD 13. VISE, 6 INCH MINIMUM (CHAIN OR BENCH).

ABCD 14. SUPPLY OF DRY CHEMICALS IN PROPER STORAGE FOR ALL EXTINGUISHERS AND SYSTEMS BEING SERVICED.

ABCD 15. FACILITIES FOR LEAK TESTING OF PRESSURIZED EXTINGUISHERS.

ABCD 16. NITROGEN WITH REGULATOR AND INDICATOR. REGULATOR NOT TO EXCEED 1500 PSI — MINIMUM 500 PSI. THE INDICATING GAUGE FOR THE REGULATOR SHALL HAVE A SECOND GAUGE OF THE SAME TYPE AND RANGE FOR THE PURPOSE OF MONITORING ACCURACY.

ABCD 17. ADAPTERS, FITTINGS AND SUFFICIENT TOOLS AND EQUIPMENT FOR PROPERLY SERVICING AND/OR RECHARGING ALL EXTINGUISHERS AND PRE-ENGINEERED SYSTEMS BEING SERVICED AND RECHARGED.

ABCD 18. SAFETY CAGE FOR HYDROSTATIC TESTING OF LOW PRESSURE CYLINDERS.

D 19. SCALES WITH DIVISIONS OF NOT MORE THAN 1/2 POUND AND MINIMUM 150 POUNDS FOR WEIGHING CHEMICAL RECHARGING. MUST BE CERTIFIED ANNUALLY OR TESTED FOR ACCURACY CHAPTER 5F 4, FLA. ADMIN. CODE.

D 20. CABLE CRIMPING TOOL (WHERE REQUIRED).

D 21. COCKING LEVER (WHERE REQUIRED).

D 22. PIPE VISE, DIES, REAMER, ETC.

D 23. STOCK OF SUPPLIES FOR SYSTEMS WHICH ARE BEING INSTALLED AND SERVICED.

ABCD 24. INSTALLATION, MAINTENANCE AND RECHARGE MANUALS FOR EXTINGUISHERS AND SYSTEMS BEING SERVICED AND INSTALLED.

ABCD 25. CLOSED RECOVERY SYSTEM FOR REUSING DRY CHEMICAL.

ABC 26. NFPA 10, AS ADOPTED IN 4A 21.202, NFPA 96 AS ADOPTED IN 4A 21.302, CGA, C 6, C 6.1, CFR 49, PARTS 100 177, AND 29 FOR CLASS "A" ONLY CGC C 1. D 27. NFPA 12, 2000, 12A, 12B, 34, 17, 17A, 96, 2001, CFR PARTS 100 177, AND 29, AS ADOPTED IN RULE 4A 21.302.

ABCD 28. CLOSED RECOVERY SYSTEM FOR REMOVAL AND RECHARGE OF HALON AS REQUIRED IN NFPA 10, 1994 EDITION.

ABCD 29. INVOICES PROPERLY KEPT AND PRINTED.

D 30. SYSTEM INSPECTION REPORTS.

(13)(42) Any change of corporate officers must be reported in writing to the Regulatory Licensing Section division within 14 days. This change does not require a revised application.

(14)(43) All requirements set forth in this rule, except the dealer training and examination requirements, shall be met by any corporation, firm, association, state agency, or its subdivision, if the license requested is for work to be performed by that corporation, firm, association, state agency or its subdivision upon its own properties and for its own use, pursuant to the provisions of Section 633.061, Florida Statutes.

(15)(44) Revised license and permit.

(a) through (e) No change.

(f) No licensee shall conduct his or her licensed business under a name other than the name which appears on his or her license.

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History—New 2-7-89, Amended 10-20-93, 10-2-96, 6-8-98, _____.

4A-21.103 Permit.

(1) The applicant shall submit an application on a form furnished by the Regulatory Licensing Section ~~division~~ which shall conform with Section 633.061, Florida Statutes, Form DI4-31, "Application for Fire Equipment Permit," revised and dated 11/99 ~~4/93~~, which is incorporated herein by reference, which is available from the Bureau of Fire Prevention, Regulatory Licensing ~~and Statistics~~, 200 East Gaines Street, Tallahassee, Florida 32399-0342 ~~0300~~, identifying the class permit requested.

(2) No change.

(3) The application shall be accompanied by two current full-face color passport size photographs, along with a photocopy of the applicant's drivers license or identification card issued by the Florida Department of Highway Safety and Motor Vehicles. Each photograph shall have the name of the applicant printed legibly on the back of the photographs at least 2" x 2" in size, which shall be of sufficient quality to allow the applicant to be recognized from it.

(4) No change.

(5) The applicant shall successfully complete a prescribed certification training course offered by the Florida State Fire College or an equivalent course approved by the Bureau of Fire Standards and Training ~~State Fire Marshal~~.

(6) Upon successful completion of the prescribed certification training course, the applicant will be administered an examination testing his or her competency and knowledge of the tasks to be performed pursuant to the class permit requested.

(7) Upon successful completion of the application and examination, a permit and photo identification card will be issued.

(8) No change.

(9) A permit shall be valid solely for use by the holder thereof in his or her employment by the licensee under whose license the permit was issued. A permittee changing his or her place of employment shall obtain a new permit under the license of the licenseholder at the new place of employment. The licensee shall notify the Regulatory Licensing Section, in writing, of an individual leaving his or her employment within fifteen days of the termination ~~retain the permit of an individual leaving his employ and shall forward it to the division with notification that the individual is no longer employed.~~ The Regulatory Licensing Section ~~division~~ will then change the records to reflect the status of the permit. A permit

and photo identification card of an individual leaving the employment of a licensee becomes void and inoperative the date of departure.

(10) Any fire equipment permittee employed by a licensed dealer holding a Halon Exemption, must file an affidavit as required by Section 633.061(1)(e), (3/01) Florida Statutes, on form DI4-1483, (3/01) "Fire Equipment Permit Halon Exemption Affidavit" as adopted and incorporated herein by reference furnished by the Regulatory Licensing Section.

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History—New 2-7-89, Amended 10-20-93, _____.

4A-21.104 Prescribed Certification Training Course for Portable Fire Extinguisher Licenses and Permits.

(1) The prescribed certification training course shall may be taken at the Florida State Fire College in Ocala or at another facility approved as provided in subsection (3) by the State Fire Marshal in accordance with the procedures in subsection (4), below.

(2) The procedure regarding the course at the Florida State Fire College is as follows:

(a) All applicants for licenses and permits shall apply to the Regulatory Licensing and Statistics Section, Bureau of Fire Prevention in Tallahassee.

(b) Both the application fee and the exam fee shall be submitted to the Regulatory Licensing Section ~~Bureau~~.

(c) Once an application is complete and acceptable, the applicant will be scheduled for the next available course at the Florida State Fire College. The Regulatory Licensing Section ~~Bureau~~ will send a roster to the Florida State Fire College notifying telling the Florida State Fire College of the identity of the persons who to expect for each offering of the course.

(d) No applications for licensure shall be sent to the Florida State Fire College. No one whose name is not on the roster prepared by the Regulatory Licensing Section ~~Bureau~~ in Tallahassee will be admitted to the course at the Florida State Fire College.

(e) The charge for the course is \$150.00 and is a nonrefundable fee. This fee must be paid directly to the Florida State Fire College 15 calendar days prior to the date of the scheduled course at the beginning of the course.

(f) The Florida State Fire College will stock all the required study materials. Copies of the required Florida Statutes and of the required State Fire Marshal's Rules will be free. All other material will be available at cost. If the required study material is purchased directly from the Florida State Fire College, then the Florida State Fire College must be paid directly. The application packet will contain a list of study material.

(g) No change.

~~(h) Applicants will be tested daily on course materials. A passing score will be 70%. Each applicant will be tested on material related to the class of license or permit for which he or she has applied.~~

~~(i) At the conclusion of the 40 hour certification course of instruction at the Florida State Fire College, those applicants who have successfully completed the course, receiving an average score of 70% on the daily examinations, will be given the State Certification Examination for the license or permit for which she or he has applied. Those individuals taking the certification course at an approved training facility will be scheduled for testing at regional testing sites on regularly scheduled testing dates by the Regulatory Licensing Section after the individual has met and complied with the requirements set forth in Section 633.061, Florida Statutes. Those persons attending a certification course for purposes of continuing education shall receive 20 hours of continuing education credit upon successful completion of the course, regardless of the location the course was taken.~~

~~(j)(+) A passing score for the state certification exam is 70%. Scores on the examination test will be mailed by the Florida State Fire College to the Regulatory Licensing Section Bureau in Tallahassee. The Regulatory Licensing Section Bureau will then notify each applicant of the score by mail within five working days from the date of receipt in the Regulatory Licensing Section and will proceed to issue the license or permit to those who have passed. No results will be given by telephone.~~

~~(k) Anyone failing to successfully complete a certification course shall be rescheduled at no fewer than 30 day intervals.~~

~~(l)(+) Anyone failing the exam will be permitted to take the exam at intervals of no fewer than thirty (30) day days intervals.~~

~~(3) The 40 hour certification training course may be offered at a community college, a vocational technical center, or at any of the training centers certified by the Bureau of Fire Standards and Training. The course must be equivalent to that offered by the Florida State Fire College (Course Number FSFC-708).~~

~~(a) The course must be approved in advance by the Chief of the Bureau of Fire Standards and Training or his designee. A copy of the course outline, lesson plan or plans, instructor or instructors, and proposed facility with appropriate props for performing extinguisher training evolutions must be submitted.~~

~~(b) Each instructor for the course must be certified at a minimum of Fire Instructor I by the Bureau of Fire Standards and Training or must qualify for a Single Course Exemption as specified in Rule Chapter 4A-39, Florida Administrative Code.~~

~~(c) At the conclusion of any course of instruction the community college, vocational technical center, or other approved training center must provide to the Regulatory Licensing Section a roster of students, daily examination results, and cumulative scores on the approved course.~~

~~(k) Persons interested in taking the course but not wishing to be licensed as a fire equipment dealer or permittee may take the course. These persons shall apply to the Bureau in Tallahassee and will be scheduled for the next available course. Persons not wishing licensure shall pay the course fee to the Fire College. In addition, persons not wishing licensure but wishing to take the test at the end of the course shall pay the exam fee in advance to the Bureau in Tallahassee.~~

~~(l) All persons taking the course and passing the exams shall be issued a Certificate of Training by the Fire College. The successful completion of this training shall be good for one year for testing purposes.~~

~~(d)(m) Anyone wishing to upgrade a license or permit must meet the requirements of Section 633.061, Florida Statutes may do so by complying with requirements of Section 4A 21.108 or 4A 21.109.~~

~~(3) An applicant must submit an examination filing fee for each examination administered by the division pursuant to Sections 633.061(3)(c)5. and (3)(d)1., Florida Statutes.~~

~~(4) Persons wishing to offer the portable extinguisher course as an approved equivalent to the course offered at the Fire College in Ocala shall take the following steps and upon the successful completion of those steps shall be approved to offer the course:~~

~~(a) Inform the Regulatory Licensing and Statistics Section, Bureau of Fire Prevention, by letter, of his desire to offer the course;~~

~~(b) Contact the Chief of the Bureau of Fire Standards and Training (Fire College) in Ocala and receive approval of the person who will be teaching the course and of the facilities at which the course will be taught;~~

~~(c) Submit a proposed curriculum to the Regulatory Licensing and Statistics Section, Bureau of Fire Prevention which curriculum shall, at a minimum, cover all the material in the curriculum taught at the Fire College, and shall also submit a proposed schedule for offering the course, which shall, at a minimum, be at least 40 hours in duration; and~~

~~(d) Receive a letter from the Regulatory Licensing and Statistics Section, Bureau of Fire Prevention approving offering the course.~~

~~(5) Persons wishing to offer the portable extinguisher course as an approved equivalent to the course offered at the Fire College need not be licensed as a fire equipment dealer nor is a presently or previously licensed dealer precluded from offering the course, except under the circumstances described in the next sentences. Any person licensed or permitted to engage in the fire equipment business under the provisions of Section 633.061, F.S., who has had administrative action taken against him for violations of the statutes, rules, codes, or standards regulating his activities under that license or permit, regardless of whether or not a formal administrative complaint was filed, shall be ineligible to apply to offer nor shall be in any way associated with offering the course until two years~~

~~after any fine imposed has been paid or after any period of probation, suspension, or revocation has been completed satisfactorily. Any licensed or permitted person who, during the two year period following the completion of any punishment imposed, commits other violations of the statutes, rules, codes or standards regulating his activities under that license or permit shall be deemed not to have completed the two year period satisfactorily and a new two year period will start to run from the discovery of the violation.~~

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History–New 2-7-89, Amended 10-20-93, _____.

4A-21.106 Transferring a License.

A fire equipment dealer license is not transferable to another person or business organization. Any individual who wishes to change company affiliation must comply with Section 633.061, Florida Statutes 4A-21.102.

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History–New 2-7-89, Amended 10-20-93, _____.

4A-21.107 Transferring a Permit.

A fire equipment permit is not transferable to another person or business organization. Any individual who wishes to change company affiliation must comply with Section 633.061, Florida Statutes 4A-21.103.

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History–New 2-7-89, Amended 10-20-93, _____.

4A-21.108 Upgrade of License.

~~(1) The applicant shall submit an application on a form furnished by the division which shall conform to Section 633.061, Florida Statutes, identifying the class license requested.~~

~~(2) The application shall be accompanied by a fee as prescribed in Section 633.061(1), Florida Statutes, for the type license requested.~~

~~(3) A non refundable fee as prescribed in Section 633.061(3)(c)5., Florida Statutes, shall accompany each application requiring an examination.~~

~~(4) The person signing the application shall submit evidence of experience as a permitholder or a combination of experience and education as prescribed in Section 633.061, Florida Statutes. The person signing the application shall successfully complete an examination testing competency and knowledge of the task to be performed pursuant to the class of license requested. An individual who has not attended a 40 hour training course within five years from the date of request to upgrade, must comply with the training requirements of Section 4A-21.104. The applicant must submit a Certificate of Completion of the 40 hour course with the upgrade request.~~

~~(5) The applicant shall successfully complete an examination testing his competency and knowledge of the tasks to be performed pursuant to the class of license requested.~~

~~(6) Upon successful completion of the competency examination, the applicant must provide evidence of insurance coverage as required by Section 633.061(3)(c)3., Florida Statutes.~~

~~(7) When the applicant has completed the requirements in subsections (1) through (6), above, a pre-license inspection will be conducted to determine that the equipment requirements have been met as required in Rule 4A-21.102(11).~~

~~(8) Each license application shall be accompanied by at least one application for an individual to obtain a permit pursuant to the provisions of Rule 4A-21.103.~~

~~(9) Upon satisfactory completion of the application, examination, insurance and equipment requirements, a license will be issued.~~

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History–New 2-7-89, Amended 10-20-93, Repealed _____.

4A-21.109 Upgrade of Permit.

~~(1) The applicant shall submit an application on Form DI4-31, Application for Fire Equipment Permit, adopted as in 4A-21.103, furnished by the division which shall conform to Section 633.061, Florida Statutes, identifying the class permit requested.~~

~~(2) The application shall be accompanied by a fee as prescribed in Section 633.061(2), Florida Statutes, for the type permit requested.~~

~~(3) A non refundable fee as prescribed in Section 633.061(3)(d)1., Florida Statutes, shall accompany each application requiring an examination.~~

~~(4) The person signing the application shall successfully complete an examination testing competency and knowledge of the tasks to be performed pursuant to the class of permit requested. An individual who has not attended a 40 hour training course within five years from the date of request to upgrade, must comply with the training requirements of Section 4A-21.104. The applicant must submit a Certificate of Completion of the 40 hour course with the upgrade request.~~

~~(5) Upon satisfactory completion of the application and examination requirements, a permit will be issued.~~

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History–New 2-7-89, Amended 10-20-93, 10-2-96, Repealed _____.

4A-21.110 Duplicate License or Permit.

~~A duplicate license or permit must be obtained to replace a lost or destroyed license or permit. A written request must be submitted to the division stating that the license or permit has been lost or destroyed along with a fee as prescribed in Sections 633.061(1)(e) and (2)(e), Florida Statutes, and requesting the duplicate.~~

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History–New 2-7-89, Amended 10-20-93, Repealed _____.

4A-21.113 Required Continuing Education.

(1) Licenseholders and permit holders shall complete a continuing education course or combination of courses in compliance with Section 633.061, Florida Statutes ~~this rule within 5 years following initial licensure or within 5 years of the completion of the required continuing education.~~ If a licenseholder or permit holder loses his license or permit through administrative action or for failure to renew, and subsequently becomes licensed or permitted again, the date of the subsequent licensure or permitting shall start a new 5 year period during which continuing education will be required.

(2) The continuing education course or combination of courses shall be related to the scope of license or permit held fire equipment business. ~~All licensed fire equipment dealers are required to complete at least one hour of a workplace safety class, one hour of a business practices class, and one hour of a workers' compensation class as part of the 32 hours or required continuing education of license renewal each four year period. This course or combination of courses shall be a total of 40 contact hours in duration.~~

(3) The course or combination of courses shall be conducted by persons approved by the Regulatory Licensing Section Division. Approval of such persons shall be based on the person's training, experience, and expertise in the subject of the course. The instructor must be qualified, by education or experience, to teach the course, or parts of a course to which the instructor is assigned. Any person with a four year college or graduate degree is qualified to teach any course in their field of study. Any state certified fire equipment dealer with at least fire years' experience may teach any technical course within the scope of the dealer's license; however, no dealer whose license is suspended or revoked as a result of administrative action shall teach any course or serve as a continuing education course instructor. The Regulatory Licensing Section is not permitted to reject a course based upon the proposed instructor, but is permitted to approve a course contingent on certification that all instructors meet those minimum requirements before conducting the course and before advertising that the course is approved for continuing education credit.

~~(4) The course or combination of courses shall be conducted at facilities approved by the Division. Approval of such facilities shall be based on the requirements necessary to assure that the subject of the course is properly and adequately presented. To the extent applicable to the subject of the course, the factors to be taken into consideration shall include, but shall not be limited to:~~

~~(a) The physical condition of the classroom with regard to seating capacity, adequacy of lighting, heating, and ventilation; and~~

~~(b) Adequacy of written instructional materials and any audio-visual aids.~~

~~(4)(5) The course or combination of courses shall be approved by the Regulatory Licensing Section Division. The number of contact hours assigned to any course shall be determined by the Regulatory Licensing Section Division based on course content; and length, degree of difficulty, and any other factors which will result in an informed and appropriate decision. No contact hour credit will be assigned for registration periods; coffee breaks; meals; keynote speakers; and similar non-substantive time periods.~~

(5) Requests for approval of a course shall be submitted on Form DI4-394, Revised 03/00 "Request for Approval of Fire Equipment Continuing Education Course Work" as adopted and incorporated herein by reference. Forms are available from and submission shall be sent to: Regulatory Licensing Section, 200 East Gaines Street, Tallahassee, Florida 32399-0342. The application shall include the total number of classroom or interactive distance learning hours, the course syllabus, a detailed outline of the contents of the course, and the name and qualifications of all instructors. The Regulatory Licensing Section shall approve each continuing education course which appropriately relates to the technical skills required of fire equipment licensees and permittees and contain sufficient educational content to improve the quality of the licensee's or permittee's performance and are taught by qualified instructors. Continuing education coursework approval is valid for two years from the date of issue, provided no substantial change is made in the approved course. The number of classroom hours must be devoted to course content and does not include registration periods, meals and keynote speakers or any similar nonsubstantive time periods.

(6) The Regulatory Licensing Section shall approve continuing education courses within 90 days from the date of receipt. Such approval shall be based upon the submission of coursework which relates to the technical fire protection skills of fire equipment dealers and permittees which contain educational content to improve the quality of work being performed. Courses not offered by the State Fire Marshal shall be submitted by an interested person for approval for credit toward the continuing education requirement either before or after the course has occurred. Anyone submitting a course for approval after the course has occurred is cautioned that no assumptions can be made as to the number of contact hour credits which will be assigned to the course by the Division. Submissions shall be on Form DI4-394, "Request for Approval of Fire Equipment Continuing Education Coursework," as adopted and incorporated herein by reference, and shall include sufficient information on which to base a decision. Forms are available from and submissions shall be sent to: Regulatory Licensing and Statistics Section, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0300. Examples of courses which may be approved include, but are not limited to: NAFED meetings; Florida Fire Equipment Dealer Association meetings; NFPA meetings and seminars; and training sessions conducted by fire equipment systems

manufacturers. At the conclusion of each approved course, the organization or company offering the course shall inform the Bureau that the course was completed and of any deviations from the outline as approved and shall supply the Bureau with a sign-in sheet or roster check-off sheet to confirm attendance.

(7) Each approved course will be assigned a course number and the course will be identified by course title as submitted and the number of continuing education hours awarded. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course. A listing of approved courses will be available from the Regulatory License Section, the course list will include the course number, the course title, the course submitter, and the type course (portable or preengineered systems).

(8) Within 30 days of the conclusion of each approved course, the organization or person offering the course shall inform the Regulatory Licensing Section that the course was completed and shall supply the Regulatory Licensing Section with a sign in sheet or roster. The sign-in sheet or roster shall identify:

- (a) The course name;
- (b) The course number;
- (c) The course provider;
- (d) The date the course was offered;
- (e) The duration of the course;
- (f) The licensee's or permittee's name;
- (g) The license or permit number; and
- (h) The licensee's or permittee's signature.

For interactive distance learning courses, in lieu of the original sign-in sheet required above, the course provider shall maintain and provide a records of the registration log-in, course access log, and course completion, which shall contain the information required above. In lieu of providing a document bearing the licensee's or permittee's signature, the course provider shall provide the licensee's or permittee's identity verification data which shall include the licensee's or permittee's password and the licensee's or permittee's mother's maiden name.

(9) Each person who completes an approved course shall be issued a certificate of completion by the course provider. The certificate of completion shall contain the name of the person who completed the course, the course provider's name, the course name as approved by the Regulatory Licensing Section, the course number, the date the course was taken, and the number of continuing education hours awarded for the course as approved for the course by the Regulatory Licensing Section. The course provider shall maintain a list of the names and license or permit numbers of each person who completes each course conducted by the course provider for four years from the date of the course.

(10)(7) Each licenseholder or permittholder is responsible for attending the appropriate course or courses and for maintaining proof of completion of the course or courses. Such proof shall be in the form of copies of certificates awarded; transcripts; or similar material. The Bureau will not accept any proof of completion except that submitted in accordance with subsection (11)(8), below.

(11)(8) At least 30 days before the expiration of a 5-year period, the licenseholder or permittholder shall submit proof of completion of the required course or courses to the Regulatory Licensing Section Bureau on Form DI4-393, "Fire Equipment Continuing Education Coursework," revised and dated 03/00 8/93, as adopted and incorporated herein by reference. Form DI4-393 may be obtained by writing Bureau of Fire Prevention, Regulatory Licensing and Statistics Section, 200 East Gaines Street, Tallahassee, Florida 32399-03420300. Each licenseholder or permittholder will be notified by the Regulatory Licensing Section Bureau, in writing, if the continuing education course work submitted does not satisfy as to whether or not the coursework satisfies the continuing education requirement in Section 633.061(3)(a), Florida Statutes. No notification will be given over the telephone.

(12)(9) Any licenseholder or permittholder who does not complete the continuing education requirements of Section 633.061, Florida Statutes requirement during the 5-year period shall not have his or her license or permit renewed. If the license or permit is not renewed, the former licenseholder or permittholder shall perform no work for which a license or permit is required. A former licenseholder or permittholder wishing to become licensed again shall meet the requirements of Section 633.061, Florida Statutes Rules 4A-21-102 and 4A-21-103.

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History--New 2-7-89, Amended 10-20-93, _____.

4A-21.114 Insurance Requirements.

(1) The Fire Equipment Dealer A, B, C and D licensed pursuant to Section 633.061, Florida Statutes, shall provide evidence of current and subsisting insurance coverage meeting the requirements of Section 633.061, Florida Statutes, to the Regulatory Licensing Section State Fire Marshal on a Form DI4-28, "Insurance Certificate Fire Equipment Dealer", revised and dated 10/99 9/93, as adopted and incorporated herein by reference. This form is available from the Regulatory Licensing and Statistics Section, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0300.

(2) through (3) No change.

Specific Authority 633.01 FS. Law Implemented 633.061 FS. History--New 10-20-93, Amended _____.

4A-21.203 Standards of National Fire Protection Association Adopted.

Licensed fire equipment dealers are required to install, inspect, maintain, or recharge portable fire extinguishers in accordance with NFPA 10, Standard for Portable Fire Extinguishers, ~~1994 the edition as adopted in Rule Chapter 4A-3, Florida Administrative Code, which is hereby adopted and incorporated herein by reference.~~ The provisions of NFPA 10, ~~1994 the edition as adopted in Rule Chapter 4A-3, Florida Administrative Code,~~ are mandatory. Copies of NFPA 10, ~~the 1994 edition as adopted in Rule Chapter 4A-3, Florida Administrative Code,~~ may be obtained from: National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.065, 633.071, 633.081, 633.083 FS. History—New 2-7-89, Amended 10-20-93, 10-2-96, 6-8-98,_____.

4A-21.238 Inspection, Maintenance and Hydrostatic Tests; Replacement While Recharging.

No licenseholder shall remove or permit any of his or her employees to remove any in-service fire extinguisher from its designed location for maintenance purposes without first meeting the requirements of NFPA 10, the edition as adopted in Rule Chapter 4A-3, Florida Administrative Code Section 4-4.1.4 of NFPA 10, 1988 edition.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.061, 633.081 FS. History—New 10-18-67, Formerly 4A-21.38, 4A-21.038, Amended 2-7-89, _____.

4A-21.240 Standard Service Tags, Requirements.

Each portable extinguisher which has been subjected to any type of service shall have an approved standard record tag securely attached thereto, before being placed into service. Standard service tags shall not be attached to fire extinguishers which do not comply with this rule or the standards adopted herein, until the violation is corrected in accordance with Section 633.071, Florida Statutes. The standard service tag on a fire extinguisher shall indicate that the person, whose name and permit number appear on the tag, has serviced the fire extinguisher in compliance with these rules and the standards adopted herein. Only the person performing the service shall prepare and affix the appropriate service tag as provided by this rule chapter.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.061, 633.081 FS. History—New 10-18-67, Formerly 4A-21.40, 4A-21.040, Amended 8-15-85, 2-7-89, 10-20-93,_____.

4A-21.241 Standard Service Tags, Specifications.

(1) Service Tags, Annual Maintenance.

(a) through (c) No change.

(d) The size of the standard service tags, pressure sensitive labels or decals shall be a minimum size of no less than 2 1/2" and no greater than 3" by no less than 5 1/4" and no greater than 5 3/4" approximately 2 1/2" x 5 1/4".

(e) No change.

(f) The name, street address and telephone number of the company or organization performing said service must be printed on the front center section of the service tag, pressure sensitive label or decal.

(g) No change.

(2) ~~Internal Record Tags, 6-year Maintenance, Record Tags.~~

(a) A verification of service collar meeting the requirements of NFPA 10, the edition as adopted in Rule Chapter 4A-3, Florida Administrative Code An internal record tag shall be provided each time an extinguisher is opened for any type of service or for any purpose. Verification service collars shall be of durable material and shall not have a center opening greater than 1/4 inch larger than the cylinder neck opening and shall include only the month and year the service was performed and the permit number of the person performing the service. A new verification service collar shall be provided for an extinguisher each time an extinguisher is opened for any type of internal service or for any other purpose. No advertisement or any other information shall be included on the verification service collar. The following types of extinguishers are excepted from this requirement: carbon dioxide extinguishers; halogenated vaporizing liquid fire extinguishers; external cartridge operated extinguishers; and extinguishers containing water.

~~(b) The approved standard internal record tag shall be at least 1/2" x 3" on durable material either white or yellow in color with a pressure sensitive adhesive backing conforming to the standards of U. L. No. 969.~~

~~(c) Internal record tags shall bear the following information:~~

- ~~1. Permit number of the person who performed the service.~~
- ~~2. Day, month and year that the service was performed.~~

~~(d) A new internal record tag shall be provided for an extinguisher each time internal service is performed for any purpose:~~

~~(e) Internal record tags shall be affixed in the following manner:~~

~~1. Any tag previously attached shall be removed prior to affixing a new tag.~~

~~2. The area to which the tag is to be adhered shall be cleaned to remove all residue of any kind, including old adhesive from a previously attached tag.~~

~~3. The tag shall be placed within 1" of the top of the siphon tube below the valve assembly.~~

~~4. The adhesive side of the tag shall be tightly adhered against the tube, in accordance with the manufacturer's recommended procedures.~~

~~5. The tag shall be pressed and adhered solidly around the tube and the information must remain accessible and legible at all times. Under no circumstances shall the required information be written directly on the siphon tube.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.071, 633.081 FS. History—New 10-18-67, Amended 12-30-70, 8-15-85, Formerly 4A-21.41, 4A-21.041, Amended 2-7-89, 10-20-93,_____.

4A-21.242 Hydrostatic Tests.

(1) Hydrostatic tests shall be conducted in accordance with the procedures in NFPA 10, as adopted in Rule Chapter 4A-3, Florida Administrative Code and CFR 49 AND CGA C-1, C-6, C-6.1 and C-6.3 4A-21.203.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.071, 633.081 FS. History—New 10-18-67, Amended 8-15-85, Formerly 4A-21.42, 4A-21.042, Amended 2-7-89, 10-20-93,_____.

4A-21.245 Hydrostatic Tests; Record Tag.

The hydrostatic test record tag shall comply with the requirements of NFPA 10 as adopted in Rule Chapter 4A-3, Florida Administrative Code and CFR 49 AND CGA C-1, C-6, C-6.1 and C-6.3 4A-21.203. It shall remain adhered to the extinguisher for the required period of time. It shall not corrode. It shall remain legible for the duration of the performed hydrotest interval not fade, wash away, or otherwise become illegible.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.071, 633.081 FS. History—New 10-18-67, Formerly 4A-21.45, 4A-21.045, Amended 2-7-89, 10-20-93,_____.

4A-21.249 Leak Tests; Tamper Indicators or Seals to be Replaced.

The leak test shall be performed ~~either~~ by following the manufacturer's recommendations ~~or by totally immersing the extinguisher in water horizontally.~~ Any tamper indicators or seals shall be replaced each year or after recharging a portable fire extinguisher. Tamper indicator pull pressure or break pressure shall not exceed 15 pounds.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.061, 633.071, 633.081 FS. History—New 10-18-67, Formerly 4A-21.49, 4A-21.049, Amended 2-7-89, 10-20-93,_____.

4A-21.251 Invoices.

Invoices shall include the business name, physical business address and license number of the fire equipment dealer. The license number on the invoice shall coincide with the permit number on the tags which are attached to the extinguishers being invoiced for service. Invoices for servicing fire extinguishers shall include serial numbers of each extinguisher and identify, per serial number, along with the services performed and any parts replaced for each extinguisher. This information is permitted to ~~may~~ be on a separate equable sheet attached to the invoice.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.061, 633.065, 633.071 FS. History—New 2-7-89, Amended 10-20-93,_____.

4A-21.302 Standards of National Fire Protection Association to be Complied With.

The following standards of the National Fire Protection Association as adopted in Rule Chapter 4A-3, Florida Administrative Code are applicable to Part III of this rule chapter and shall be complied with and are hereby adopted and incorporated by reference:

(1) NFPA 12 ~~—1993,~~ Standard on Carbon Dioxide Extinguishing Systems.

(2) NFPA 12A ~~—1992,~~ Standard on Halon 1301 Fire Extinguishing Systems.

~~(3) NFPA 12B —1990, Standard on Halon 1211 Fire Extinguishing Systems.~~

~~(3)(4)~~ NFPA 17 ~~—1994,~~ Standard for Dry Chemical Extinguishing Systems.

~~(4)(5)~~ NFPA 17A ~~—1994,~~ Standard for Wet Chemical Extinguishing Systems.

~~(5)(6)~~ NFPA 96 ~~—1994,~~ Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. Section 7-2.2 of NFPA 96 applies prospectively only. Existing installations are permitted to remain in place subject to the approval of the authority having jurisdiction.

~~(6)(7)~~ NFPA 2001 ~~—1996,~~ Standard on Clean Agent Fire Extinguishing Systems.

(7) NFPA 34 – Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.061, 633.081 FS. History—New 10-18-67, Amended 8-15-85, Formerly 4A-21.57, 4A-21.057, Amended 2-7-89, 10-20-93, 10-2-96, 6-8-98,_____.

4A-21.303 Standard Service Tag.

(1) A standard service tag shall be affixed to pre-engineered fire protection systems when the system is found to be in compliance with Chapter 633, F.S., this rule and the standards adopted pursuant to Rule Chapter 4A-3, Florida Administrative Code herein. The standard service tag on a pre-engineered fire protection system shall indicate that the person, whose name and permit number appear on the tag, has serviced the system in compliance with this rule and the standards adopted herein.

(2) through (3) No change.

(4) The verification service collar requirements ~~internal tag requirements~~ of Rule 4A-21.241(2) shall be applicable to pre-engineered fire protection systems.

(5) through (6) No change.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.071, 633.081 FS. History—New 8-15-85, Formerly 4A-21.58, 4A-21.058, Amended 2-7-89, 10-20-93,_____.

4A-21.304 Installation; Service.

(1) No change.

(2) Whenever a pre-engineered system is installed, inspected, repaired, maintained or otherwise serviced, the permittee shall complete an inspection report containing, at a

minimum, the information in paragraphs (a) through (o), in this subsection. One copy shall be signed by and delivered to the owner or the representative of the owner of the facility in which the system was installed. The other copy shall be retained in the fire equipment dealer's files for a period of not less than three years after the last inspection.

- (a) through (d) No change.
- (e) Method, style and degree of actuation;
- (f) Reference to drawing number ~~or, and~~ page number, and date of ~~in~~ the manufacturer's manual;
- (g) through (j) No change.
- (k) A drawing of a new installation; a first inspection; or whenever changes are made. The drawing shall include the following as a minimum:

- 1. Sizes of the hood, plenum, and ducts.
- 2. Sizes, types and locations of cooking appliances.
- 3. Positions of all nozzles, identification of nozzles, their distances from the hazards that they protect.
- 4. Positions of all detectors.
- 5. Diagram of the entire piping installation.
- ~~6. (The drawing shall include the size of the hood and the size of the ducts); and the size and type of all appliances protected;~~

- (l) through (n) No change.
- (o) The permittee's name, signature and permit number; the date and time of inspection; and the customer's signature.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.071, 633.081 FS. History--New 2-7-89, Amended 10-20-93, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2001

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Fire Protection System Contractors and Systems	4A-46

RULE TITLES:	RULE NOS.:
Testing	4A-46.015
Insurance Requirements	4A-46.016
Required Continuing Education	4A-46.017

Standards of the National Fire Protection Association to be Complied With	4A-46.035
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Installation Requirements for Automatic Sprinkler Systems Employing Water as the Extinguishing Agent	4A-46.040
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Inspection, Testing and Maintenance Requirements for Fire Protection Systems	4A-46.041
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PURPOSE AND EFFECT: The changes have the following purposes and effects:

1. Update editions of National Fire Protection Association, Code of Federal Regulations, and other sources previously adopted.
2. Streamline and update requirements for taking courses and examinations in conjunction with the Florida State Fire College to make them more easily accessible by the public.
3. Make technical changes such as changing the outdated name of the Section to the current name.
4. Update rules to accommodate changes in the statutes.
5. Repeal unnecessary and/or outdated rule sections, subsections, and paragraphs.

SUMMARY: These rules update standards, accommodate changes in statutes, and streamline and update requirements for taking courses for Fire Protection System Contractors and Systems.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been 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: 633.01(1), 633.517 FS.

LAW IMPLEMENTED: 471.025, 553.79, 633.051, 633.065, 633.082, 633.521, 633.539, 633.547 FS.

A RULE HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m., April 30, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terry Hawkins, Safety Program Manager, Regulatory Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)413-3644

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-46.015 Testing.

(1) An applicant who has been qualified to challenge an examination will be notified in writing of available examination dates and examination locations at a division district office. Upon receipt of a written request for a specific examination date, the applicant will be sent a notice of exam date, time and location at least seven days prior to the scheduled exam. The applicant will be expected to challenge the exam on that day unless he or she submits a written waiver of his or her right to challenge the exam on that day and requests a later date. The Regulatory Licensing License and Statistics Section will schedule an applicant for a later day upon receipt of a written request. The applicant will also be permitted to challenge the examination at the Regulatory Licensing License and Statistics Section's offices in Tallahassee if the applicant makes a request for such testing in writing and receives written notification when the next available scheduled examination will be held in Tallahassee.

Specific Authority 633.01, 633.517(1) FS. Law Implemented 633.521 FS. History—New 10-14-86, Amended 12-21-88, 8-1-90, 10-20-93, 10-2-96, 6-8-98.

4A-46.016 Insurance Requirements.

(1) The Fire Protection System Contractor I, II, III, IV, or V licensed pursuant to Section 633.521, Florida Statutes, shall provide evidence of current and subsisting insurance coverage meeting the requirements of Section 633.521, Florida Statutes, to the Regulatory Licensing Section State Fire Marshal on Form DI4A-25, Certificate of Insurance Fire Protection System Contractor, revised and dated 10/99 8/93, as adopted and incorporated herein by reference. This form is available from the Regulatory Licensing and Statistics Section, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342 32399-0300.

(2) The licensed Fire Protection System Contractor I, II, III, IV, or V shall be responsible to ensure current and subsisting insurance coverage meeting the requirements of Section 633.521, Florida Statutes, is on file with the Regulatory Licensing Section State Fire Marshal.

(3) Failure to provide evidence of insurance coverage within 30 days of the expiration date of the policy or within 30 days of a notice to provide evidence of coverage shall result in administrative proceedings pursuant to Section 633.547, Florida Statutes.

Specific Authority 633.01, 633.517(1) FS. Law Implemented 633.521, 633.521(4) FS. History—New 10-20-93, Amended.

4A-46.017 Required Continuing Education.

(1) Certificateholders shall complete a continuing education course or combination of courses in compliance with Section 633.537, Florida Statutes, within each license period year which begins July 1 and expires June 30.

(2) The continuing education course or combination of courses shall be in a fire protection discipline related to the Certificate of Competency held by the Fire Protection System Contractor. All licensed Fire Protection System Contractors are required to complete at least one hour of workplace safety class, one hour of business practices class, and one hour of a worker's compensation class as part of the required continuing education for each biennial renewal period. This course or combination of courses shall be a total of 24 contact hours in duration.

(3) The course or combination of courses shall be conducted by persons approved by the Regulatory Licensing Section Division. Approval of such persons shall be based on the person's training, experience and expertise in fire protection under Florida law. The instructor must be qualified by education or experience to teach the course, or parts of a course to which the instructor is assigned. Any person with a four year college or graduate degree is qualified to teach any course in his or her field of study. Any state certified fire protection system contractor with at least five years' experience may teach any technical course within the scope of the contractor license held; however, no contractor whose license is suspended or revoked as a result of administrative action shall teach or serve as a continuing education instructor. The Regulatory Licensing Section is not permitted to reject a course based upon the proposed instructor, but is permitted to approve a course contingent on certification that all instructors meet those minimum requirements before conducting the course and before advertising that the course is approved for continuing education credit.

(4) Written instructional materials and any audio-visual aids must provide instruction relevant to fire protection under Florida law.

(5) The course or combination of courses shall be approved by the Regulatory Licensing Section Division. The Regulatory Licensing Section Division shall approve any course, seminar, or conference in the technical areas provided by any university, community college, vocational-technical center, public or private school, firm, association, person, corporation or entity which meets the criteria provided in this rule.

(6) The course or combination of courses shall be approved by the Regulatory Licensing Section. The number of contact hours assigned to any course shall be determined by the Regulatory Licensing Section based on the course content and length of the course. Courses shall be submitted for approval for credit toward the continuing education requirement.

(a) Requests for approval shall be submitted on Form DI4-1239 03/00 (6/97), "Request for Approval of Fire Protection System Contractor Continuing Education Coursework" as adopted and incorporated herein by reference.

(b) Forms are available from and submissions shall be sent to: Regulatory Licensing and Statistics Section, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(c) Each certificateholder shall be notified by the Regulatory Licensing and Statistics Section, in writing if the coursework does not satisfy the continuing education requirement in Section 633.537, Florida Statutes. No notification will be given over the telephone.

(d) The application shall include the total number of classroom or interactive distance learning hours, the course syllabus, a detailed outline of the contents of the course, the name and qualifications of all instructors. The Regulatory Licensing Section shall approve continuing education courses which appropriately relate to the technical skills required of fire protection contractors and contain sufficient educational content to improve the quality of the contractor's performance and are taught by qualified instructors. Continuing education coursework approval shall be valid for two years from the date of issue, provided that no substantial change is made in the approved coursework.

1. The total number of classroom hours;
2. The course outline of the contents of the course;
3. The name and qualifications of instructors;
4. A written description of any audio-visual aids, and
5. A copy of any instructional materials or handouts must be attached.

(e) The number of classroom hours must be devoted to course content and does not include registration periods, meals, and keynote speakers or similar nonsubstantive time periods.

(f) Examples of courses which will be approved if the criteria and procedures of this rule are met:

1. Florida Fire Sprinkler Association meetings;
2. American Fire Sprinkler Association meetings;
3. NFPA meetings and seminars; and
4. training sessions conducted by manufacturers.

(g) The Regulatory Licensing Section Division shall approve continuing education courses within 90 days from the date of receipt. Such approval will be based upon the submission of coursework which related to the technical skills of the fire protection system contractors which contain educational content to improve the quality of work being performed which relate to the technical fire protection skills of certificateholders which contain educational content to improve the quality of a contractor's fire protection performance.

(h) Each approved course will be assigned a course number and the course will be identified by course title as submitted and the number of continuing education hours awarded. A listing of approved courses will be available from the Regulatory Licensing Section, the course list will include the course number, the course title, the course submitter and the type course.

~~(i)(h)~~ Within 90 days of At the conclusion of each approved course, the organization or person offering the course shall inform the Regulatory Licensing Section division that the course was completed and shall supply the Regulatory Licensing Section Division with a sign-in sheet or roster. The sign-in sheet or roster shall contain: require every person to print their name, list their contractor's certificate number and sign their name.

1. The course name;
2. The course number;
3. The course provider;
4. The date the course was offered;
5. The duration of the course;
6. The contractor's name;
7. The contractor's license number;
8. The contractor's signature.

For interactive distance learning courses, in lieu of the original sign-in sheet required above, the course provider shall maintain and provide a record of the registration login, course access log, and course completion, which shall include the information required in subparagraphs 1. through 7., above. In lieu of providing a document bearing the contractor's signature, the course provider shall provide the contractor's identity verification data which shall include the contractor's password and the contractor's mother's maiden name.

~~(j)(i)~~ Each person who completes an approved course shall be issued a certificate of completion by the course provider. The certificate of completion shall contain the name of the person who completed the course, the course provider's name, the course name as approved by the Regulatory Licensing Section, the course number, the date the course was taken, the number of continuing education hours awarded for the course as approved for the course by the Regulatory Licensing Section. The course provider shall maintain a list of the names and license number of each person who completes each course conducted by the course provider for four years from the date of the course. Each person who completes an approved course shall be issued a certificate of completion. The certificate of completion shall contain the name and license number of the person who completed the course. The certificate shall include the name of the course and the course number assigned by the Division.

(7) Each certificateholder is responsible for attending the appropriate course or courses and for maintaining proof of completion of the course or courses. Such proof shall be in the form of copies of certificates of completion awarded. The Regulatory Licensing and Statistics Section will not accept any proof of completion except that submitted in accordance with subsection (8) below.

(8) Prior to the annual expiration of the Certificate of Competency, the certificateholder shall submit proof of completion of the required course or courses to the Regulatory Licensing and Statistics Section. Submissions shall be

submitted on a "Fire Protection System Contractor Continuing Education Coursework" form, DI4-1240 (03/00) ~~(8/96)~~ as adopted and incorporated herein by reference. Forms are available from and submissions shall be sent to: Regulatory Licensing and Statistics Section, 200 East Gaines Street, Tallahassee, Florida 32399-0342. Each certificateholder will be notified by the Regulatory Licensing and Statistics Section, in writing, if the coursework does not satisfy the continuing education requirement in Section 633.537, Florida Statutes. No notification will be given over the telephone.

(9) No change.

Specific Authority 633.01, 633.517(1) FS. Law Implemented 633.521, 633.537 FS. History--New 10-2-96, Amended 6-18-97, 6-8-98, _____.

4A-46.035 Standards of the National Fire Protection Association to be Complied With.

(1) The following standards of the National Fire Protection Association which are ~~hereby~~ adopted in rule chapter 4A-3, Florida Administrative Code, including the editions as adopted therein, and incorporated herein by reference shall be complied with by all those holding certificates of competency as fire protection system contractors pursuant to the provisions of Chapter 633, Florida Statutes:

(a) NFPA 11, ~~1994 Edition~~, Standard for Low Expansion Foam ~~and Combined Agent Systems~~.

(b) NFPA 11A, ~~1994 Edition~~, Standard for Medium and High Expansion Foam ~~Systems~~.

(c) NFPA 12, ~~1993 Edition~~, Standard on Carbon Dioxide Extinguishing Systems.

(d) NFPA 12A, ~~1992 Edition~~, Standard on Halon 1301 Fire Extinguishing Systems.

~~(e) NFPA 12B, 1990 Edition, Standard on Halon 1211 Fire Extinguishing Systems.~~

~~(e)(f) NFPA 13, 1994 Edition, Standard for the Installation of Sprinkler Systems.~~

~~(f)(g) NFPA 13D, 1991 Edition, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Mobile Homes.~~

~~(g)(h) NFPA 14, 1996 Edition, Standard for the Installation of Standpipe and Hose Systems.~~

~~(h)(i) NFPA 15, 1990 Edition, Standard for Water Spray Fixed Systems for Fire Protection.~~

~~(i)(j) NFPA 16, 1995 Edition, Standard for the Installation of for Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems.~~

~~(j)(k) NFPA 17, 1994 Edition, Standard for Dry Chemical Extinguishing Systems.~~

~~(k)(l) NFPA 17A, 1994 Edition, Standard on Wet Chemical Extinguishing Systems.~~

~~(l)(m) NFPA 20, 1993 Edition, Standard for the Installation of Centrifugal Fire Pumps.~~

~~(m)(n) NFPA 22, 1996 Edition, Standard for Water Tanks for Private Fire Protection.~~

~~(n)(o) NFPA 24, 1995 Edition, Standard for the Installation of Private Fire Service Mains and Their Appurtenances.~~

~~(o)(p) NFPA 72, 1993 Edition, National Fire Alarm Code Standard for the Installation, Maintenance and Use of Protective Signalling Systems.~~

~~(p)(q) NFPA 96, 1994 Edition, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. Section 7-2.2 of NFPA 96 applies prospectively only. Existing installations are permitted to remain in place subject to the approval of the authority having jurisdiction.~~

~~(q)(r) NFPA 214, 1992 Edition, Standard for Water Cooling Towers.~~

~~(s) NFPA 231, 1995 Edition, Standard for General Storage Indoor.~~

~~(t) NFPA 231C, 1995 Edition, Standard for Rack Storage of Materials.~~

~~(r)(u) NFPA 231D, 1994 Edition, Standard for Storage of Rubber Tires.~~

~~(s)(v) NFPA 232, 1995 Edition, Standard for Protection of Records Record Protection.~~

~~(t)(w) NFPA 409, 1995 Edition, Standard on Aircraft Hangars for Protection of Aircraft Hangars.~~

~~(u)(x) NFPA 13R, 1994 Edition, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including four Stories in Height.~~

~~(v)(y) NFPA 25, 1995 Edition, Standard for the inspection, testing, and maintenance of Water-based Fire Protection Systems, except that quarterly flow tests will be required for those systems supplied by a municipal water supply.~~

~~(w)(z) NFPA 2001, 1996 Edition, Standard on Clean Agent Fire Extinguishing Systems.~~

(x) NFPA 230, Standard on Fire Protection of Storage.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.051, 633.065, 633.082 FS. History--New 12-21-88, Amended 7-19-89, 8-1-90, 10-20-93, 10-2-96, 6-8-98, _____.

4A-46.040 Installation Requirements for Automatic Sprinkler Systems Employing Water as the Extinguishing Agent.

(1) Fire protection system contractors installing an automatic sprinkler system employing water as the extinguishing agent shall supervise and be responsible for the complete system, except that a contractor installing the underground pipe shall supervise and be responsible only for the portion he or she installs and the contractor installing the remaining portion of the system shall be responsible only for his or her portion of the work. The contractor shall be responsible to install the complete system in compliance with the National Fire Protection Association standards adopted pursuant to Rule Chapter 4A-3, Florida Administrative Code Rule 4A-46.035, except that if a contractor installs the

underground pipe he or she shall be responsible for that portion of the system, and the contractor installing the remaining portion shall be responsible for the system from the point of connection to the underground throughout the remainder of the system.

(2) No change.

(3) In order to ensure that sufficient water is available at the point-of-service to provide the water inside the facility as required by the plans, the contractor who installs the underground portion shall be responsible for conducting the acceptance tests required by ~~Section 1-11~~, NFPA 13 and shall personally, sign and maintain on file the Contractor's Material and Test Certificate for Underground Piping as specified in NFPA 13, as adopted in Rule Chapter 4A-3, Florida Administrative Code 4A-46.035.

(a) If the above ground pipe is installed by a contractor other than the one who installed the underground, the contractor shall be responsible to obtain a copy of the underground certificate from the underground contractor and maintain it on file before connection to the underground is made. If the contractor is unable to obtain the certificate, the contractor he shall notify the Regulatory Licensing Section State Fire Marshal.

(4) through (5) No change.

(6) The contractor whose name appears on the application for the building permit shall be responsible for the acceptance tests which are required in NFPA 13, ~~Section 1-11~~. The contractor shall complete all portions of the Contractor's Material and Test Certificate(s) that are related to the system being tested. The contractor shall sign and date the test certificates. In cases where there is no may not be a building permit, the contractor that supervised the installation shall be responsible for the performance of these duties.

(7) through (8) No change.

Specific Authority 633.01 FS. Law Implemented 471.025, 553.79(6), 633.065, 633.547(2)(e), 633.539 FS. History--New 12-21-88, Amended 8-1-90, 10-20-93, _____.

4A-46.041 Inspection, Testing and Maintenance Requirements for Fire Protection Systems.

The contractor I or II shall submit in writing to the Regulatory Licensing Section State Fire Marshal the names, addresses, and evidence of NFPA 25 training ~~and addresses~~ of all individuals in his or her employ that are performing inspections of fire protection systems. In addition, the licensed contractor I or II shall submit a full face current color passport photograph of each inspector along with a copy of the inspector's current driver's license or identification card issued by the Florida Department of Highway Safety and Motor Vehicles. The contractor shall not allow any individual to perform inspections under his or her certificate until that individual has been listed with the Regulatory Licensing Section State Fire Marshal. The Regulatory Licensing Section shall issue a identification card to each inspector. The identification card is

not a license. The contractor shall be responsible for each listed individual's inspections until he or she has requested in writing that the Regulatory Licensing Section State Fire Marshal delete the individual from his or her list of inspectors. The licensed fire protection system contractor shall notify the Regulatory Licensing Section, in writing, of an inspector leaving his or her employ within fifteen days of the termination. An inspector photo identification card of an individual leaving the employ of a contractor becomes void and inoperative on the date of departure.

(1) A Fire Protection Contractor contracting to perform inspecting, testing, and maintenance service on a fire protection system shall comply with the requirements of the applicable NFPA standard as adopted in Rule Chapter 4A-3, Florida Administrative Code 4A-46.035.

(2) Each system that has been inspected, tested, or maintained by a fire protection contractor, or his or her designated inspector, shall have a record tag of durable and weather resistant material placed on the riser or control device. The tag at "Figure A" shall include the following:

(a) Name, address and contractor license number ~~and address~~ of company.

(b) through (f) No change.

(3) The contractor shall maintain in his or her file all records of any fire protection system having been serviced.

(4) No change.

(5) The contractor or the his designated inspector shall complete in detail the an inspection reports as required in NFPA 25, as adopted in Rule Chapter 4A-3, Florida Administrative Code ~~report~~ that outlines all points of the inspection, test, and maintenance as required by the applicable NFPA standards. A copy of which shall be provided to given to the owner at the completion of each inspection performed.

(6) The inspection report shall include detailed explanation of any deficiencies. The report shall indicate if the inspection is a weekly, monthly, quarterly or annual inspection. The inspection report shall include the name of the registered inspector, the inspector registration number, signature, the date and time of inspection, and the signature of the owner or the owner's representative.

Specific Authority 633.01 FS. Law Implemented 471.025, 553.79(6), 633.065, 633.547(2)(e) FS. History--New 10-20-93, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2001

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Forever Program	9K-7
RULE TITLES:	RULE NOS.:
Purpose	9K-7.001
Definitions	9K-7.002
General Requirements and Eligibility Standards	9K-7.003
Submission of Application and Application Materials	9K-7.004
Communications to the Governing Board	9K-7.005
Determination of Application Completeness	9K-7.006
Project Evaluation Criteria	9K-7.007
Ranking and Selection of Applications	9K-7.008
Conceptual Approval of Projects	9K-7.009
Modification to the Project Boundary	9K-7.010
Preparation and Acceptance of the Management Plan	9K-7.011
Title, Acquisition Procedures, Project Plans, Lease Agreements and Transfer of Title	9K-7.012
Annual Stewardship Report Requirement	9K-7.013

PURPOSE, EFFECT AND SUMMARY: The purpose of this rule is to establish Florida Communities Trust grant application procedures using Florida Forever funds. The purpose of the program described in this rule chapter is to provide grants to Local Governments and Nonprofit Environmental Organizations for the acquisition of community-based projects, urban open spaces, natural resource conservation areas, parks, greenways, and outdoor recreation areas to implement Local Comprehensive Plans.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 380.507(11) FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 259.105, 380.501-.515 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 1:00 p.m., Monday, April 30, 2001

PLACE: Randall Kelley Training Center, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-2207, Suncom 292-2207, at least seven days before the date of the hearing. If you are hearing or

speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 (850)922-2207, Suncom 292-2207

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-7.001 Purpose.

This rule chapter sets forth the procedures that must be followed for grant applications for Florida Forever funds awarded by Florida Communities Trust.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History—New.

9K-7.002 Definitions.

(1) “Acquisition” means the act of obtaining real property or interests and rights therein by appropriate legal means in furtherance of The Florida Forever Act and this rule chapter.

(2) “Acquisition Plan” applies to Project Sites with multiple parcels or multiple owners and means a written description of the priority parcels and the general order in which the parcels will be acquired to assure that, in the event that all parcels cannot be acquired, the purposes of the project can be achieved.

(3) “Applicant” means an entity(ies) eligible pursuant to this rule chapter to submit an Application for Florida Forever funds through the Trust. Eligible entities are limited to Local Governments, Nonprofit Environmental Organizations, and partnerships between or among Local Governments and Nonprofit Environmental Organizations. An Applicant who has been approved for funding by the Trust and who has executed a Conceptual Approval Agreement with the Trust shall also be referred to as a Recipient.

(4) “Application” means a formal request by an Applicant on an approved form for Florida Forever funds from the Florida Trust, and consisting of a project proposal together with required documentation submitted pursuant to this rule chapter.

(5) “Award” means a grant from the Trust pursuant to the procedures developed in this rule chapter.

(6) “Board of Trustees” means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(7) “Conceptual Approval Agreement” means a written contract between the Trust and the Recipient setting forth the requirements and responsibilities for Acquisition and management of the Project Site.

(8) “Department” means the Florida Department of Community Affairs.

(9) "Donation" means a voluntary transfer of title and possession of cash or real property without consideration; the conveyance of land by the owner at a purchase price below its market value can be considered a donation of a portion of the purchase price only when the owner expresses the intent, in advance of purchase and sale negotiations, to make a bargain sale, with no conditions placed on the bargain sale or donation.

(10) "Florida Forever Funds" means proceeds from the Florida Forever Trust Fund created by Section 259.1051, F.S., and distributed to the Department of Community Affairs pursuant to Sections 259.105(3)(c) and 380.5115, F.S., for the purpose of providing Acquisition Awards through the Florida Communities Trust Florida Forever Program.

(11) "Future Land Use Map" means a map or map series included within the future land use element of a local comprehensive plan that meets the requirements of Rule 9J-5.006(4), F.A.C.

(12) "Governing Board" means that six-member governing body described in Sections 380.504 and 380.505, F.S.; the powers of the Trust are vested in its Governing Board members, pursuant to Section 380.505, F.S.

(13) "Grant Award Agreement" means a recordable document that states all conditions to be placed on the Project Site upon its conveyance to the Recipient using Trust Funds.

(14) "Greenway" means a linear open space protected and managed as part of linked conservation lands or recreation opportunities. Greenways typically follow natural landscape features such as rivers, streams, shorelines, man-made corridors such as utility and abandoned railroad right-of-ways, and scenic roadways or any area defined in Section 260.13, F.S. Greenways may protect the habitat of native plants and wildlife, maintain wildlife movement routes and natural connections, or provide opportunities for outdoor recreation.

(15) "Habitat" means a natural community or communities composed of physical and biological elements that typically support populations of plants and animals.

(16) "Listed Animal Species" means animal species listed as endangered, threatened or of special concern by the Florida Fish and Wildlife Conservation Commission in Chapter 68A-27, F.A.C.

(17) "Local Comprehensive Plan" means a plan that meets the requirements of Sections 163.3177, 163.3178, and 163.3191, F.S., and has been found to be in compliance in accordance with Section 163.3184, F.S.

(18) "Local Government" means a county or a municipality within the State.

(19) "Low-income Community" means a U.S. Census tract where 51 percent of the residents are low-income families with an annual income that does not exceed 80 percent of the median income for the area or that does not exceed 80 percent of the median income for the State, whichever is higher, as most recently determined by U.S. Department of Housing and Urban Development.

(20) "Management Plan" means a plan prepared by the Recipient under this rule chapter and approved by the Trust regarding the long-term care and management of the Project Site.

(21) "Match" means the provision of cash, eligible Project Costs, value of real property donated by a party(ies) other than the Applicant, or real property owned by the Applicant, provided the Match is from an eligible source as set forth in Section 259.105(3)(c), F.S.

(22) "Natural Community" means a community that is dominated by native plant species as described in the Florida Natural Areas Inventory publication, "Guide to the Natural Communities of Florida." A Natural Community generally possesses the following characteristics: the plant species composition includes most of the more common species typical of that natural community type; the community may contain small areas of exotic or invasive plants that could be easily controlled by prescribed burning or other forms of management; evidence of historical disturbance may be present but disturbance has not destroyed or prevented the re-establishment of a mature natural community type; and, the community is not substantially disturbed by recent human activities, except for such disturbance as low intensity forestry activities that allow the natural community to recover to previous conditions.

(23) "Nonprofit Environmental Organization" means any private nonprofit organization, existing under the provisions of Section 501(c)(3) of the United States Internal Revenue Code which has and can demonstrate that the conservation of natural resources or protection of the environment are among its principal purposes and goals.

(24) "Outdoor Recreation" means the pursuit of leisure-time activities that occur in an outdoor setting and that are dependent on some particular element or combination of elements in the natural environment. Examples of such activities include bicycling, walking, hiking, skating, swimming, horseback riding, boating, camping, fishing, hunting, picnicking, studying nature, and visiting archaeological and historical sites.

(25) "Partnership Application" means an Application for an Award submitted to the Trust by two or more eligible Applicants.

(26) "Phased Project" means the phased continuation of a project which has been approved for funding by the Trust in a prior funding cycle. A Phased Project is generally characterized as a unified project but which, as a result of numerous owners, unique or linear configuration, or funding limitations, causes the project to be difficult or burdensome to develop and complete during a single funding cycle of the Trust and is instead developed as part of two or more Trust funding cycles.

(27) "Pre-acquired" means the Project Site or a portion of the Project Site has been or will be acquired by the Applicant through a voluntarily-negotiated transaction within 24 months prior to or 18 months after the Application deadline.

(28) "Project Cost" means the total of all eligible costs associated with the Acquisition of the Project Site in accordance with this rule chapter and Chapter 9K-8, F.A.C., and may include the cost of the following items: purchase price for Acquisition of all or a portion of the Project Site; Certified Survey containing an adequate legal description of the Project Site; any assessment or examination essential and necessary to determine Project Site boundary, if any; appraisal report(s) and appraisal review of the Project Site; title report and title insurance premium; reasonable real estate fees or commissions paid by the Recipient for Acquisition and environmental site assessment(s) performed pursuant to Rule 9K-8.012, F.A.C.

(29) "Project Plan" means the compilation of items to be approved by the Trust that when taken together provide a detailed description of a proposed project that has received conceptual approval for an Award from the Trust; a Project Plan shall be prepared by the Recipient pursuant to the requirements of this rule chapter and Chapter 9K-8, F.A.C., and shall be approved by the Trust prior to disbursement of Florida Forever Funds.

(30) "Project Site" means the specific area(s), defined by a boundary map or legal description and Certified Survey, where Trust funds are proposed in an Application to be used for all or a portion of the Acquisition. Project Site may include non-contiguous areas, so long as connectivity through other public ownership (excluding road right-of-ways and water bodies unless parcels are directly across from each other) is demonstrated, and the non-contiguous areas are part of a unified scheme of development and management.

(31) "Reasonable Assurance" means the Applicant's ability to demonstrate to the Trust that there is a substantial likelihood that the project will be successfully implemented and managed in accordance with the Application and the Conceptual Approval Agreement, and may include the Trust's inquiry into: the Applicant's current and prospective financial condition; the Applicant's history in acquiring, developing and managing similar projects; the Applicant's financial commitment to the subject project as evidenced by the amount and type of any Match in the form of monies or real estate; and the character and background of the Applicant's partners, directors, officers, managers, project administrators, controlling shareholders (if applicable), and appointed or elected officials.

(32) "Recipient" means an Applicant that has been approved for funding by the Trust and who has executed a Conceptual Approval Agreement with the Trust for an Award.

(33) "Recreational Trail System" means a linear corridor and any adjacent support parcels connecting parks, schools, residential, commercial, or retail areas on land providing

public access for recreation and authorized alternative modes of transportation such as bicycling, walking, hiking, skating, and horseback riding.

(34) "Reimbursement" means recognition of those eligible Project Costs incurred for Pre-acquired parcel(s) either for a one parcel Project Site or at the Acquisition of additional parcels. Project Site.

(35) "Standard Metropolitan Statistical Area" or "Metropolitan Statistical Area" means an area that has been defined or designated by the United States Census Bureau or by the Office of Management and Budget of the Executive Office of the President.

(36) "Trust" means the Florida Communities Trust, a nonregulatory agency and instrumentality, which is a public body corporate and politic, created within the Department of Community Affairs pursuant to Chapter 380, Part III, F.S., or the Governing Board of the Florida Communities Trust.

(37) "Urban Area" means an area of or for development characterized by social, economic and institutional activities which are predominantly based on the manufacture, production, distribution, or provision of goods and services in a setting which typically includes residential and nonresidential development uses other than those which are characteristic of rural areas.

(38) "Urban Service Area" means built-up areas where public facilities and services such as sewage treatment systems, roads, schools, and recreation areas, are already in place. For the purpose of this rule, it may also include other similar designations that have been formally adopted by a local government on its Future Land Use Map, or it may be an area that is currently provided services such as those listed above.

(39) "Voluntarily-Negotiated Transaction" means an arm's length market value transaction between a willing seller and a willing buyer. The use of condemnation or the threat of condemnation is not considered a Voluntarily-Negotiated Transaction.

Specific Authority 380.507(11) FS, Law Implemented 259.105, 380.501-.515 FS, History--New

9K-7.003 General Requirements and Eligibility Standards. The following constitutes the general procedures for the Florida Forever Program of the Florida Communities Trust.

(1) Application Form. Application Form FF-1 (eff. 5-1-01) is prescribed for use with these rules and is incorporated by reference. Applications for funding must be submitted on Application Form FF-1. A copy, or instructions for receiving the Application Form in an electronic format, may be obtained by writing to the Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, or by calling 850-922-2207 (SunCom 292-2207). As a part of the Application process the Trust may request supplementary information from Applicants.

(2) Notice of Application Period. The Trust shall announce the amount of Florida Forever bond funds available for Awards, the limitation on Award amounts, and applicable deadlines in the Notice of Application Period published in the Florida Administrative Weekly.

(3) Limitation of Awards. The amount of any Award or combination of Awards applied for by any Applicant under any Application(s) or Partnership Application(s) for a project or projects shall not exceed ten percent of the total Florida Forever Funds as advertised available for Awards in the Notice of Application Period announcing the cycle.

(4) Match Requirement. All Local Governments shall provide a minimum of 25 percent match toward the Project Costs, including:

(a) Partnership Applications between Local Governments (other than a small Local Government as defined in Rule 9K-7.003(4)(c)1., F.A.C., below) and Nonprofit Environmental Organizations shall be required to provide a Match.

(b) Partnership Applications between two or more Local Governments shall be required to provide a Match unless all of the Local Governments are small Local Governments as defined in Rule 9K-7.003(4)(c)1., F.A.C., below.

(c) A minimum Match shall not be required under the following circumstances:

1. The Trust shall award a portion of the Florida Forever funds for Awards, for which no Match is required, for the benefit of small Local Governments, as follows: county governments with populations of 75,000 or fewer and municipal governments with populations of 10,000 or fewer.

2. The Trust shall award a portion of the Florida Forever funds for Awards, for which no Match is required, for the benefit of Nonprofit Environmental Organizations that have provided the Trust with Reasonable Assurance that they can develop and manage the Project Site in a qualified, competent and professional manner.

(5) Eligible Sources of Match. For any Match, Applicant may use funds generated by a Local Government, Nonprofit Environmental Organization, state or federal grants or loans, private cash donations, or the commitment by the Owner(s) in advance of negotiations of the value of a bargain sale or donation of all or part of the purchase price of the Project Site. Applicants may not use funds from the Florida Forever Trust Fund for any part of any local Match. Real property owned by the Applicant or donated by a party other than the Applicant may be an eligible source for a Match, provided that any real property owned by the Applicant has been acquired, by the Applicant through a Voluntarily-Negotiated Transaction, within 24 months prior to or 18 months after the Application deadline. Further, any real property utilized by an Applicant as a Match must be included in the Application, shall be

considered part of the Project Site and shall be subject to the same conditions that placed on the remainder of the Project Site.

(6) Site Acquisition. The Acquisition of a Project Site shall take place under one of the following procedures:

(a) For a Project Site that consists of five or fewer ownerships, the Recipient can request that the Trust or the Recipient act as the party responsible for the Acquisition activities.

(b) For a Project Site that consists of six or more ownerships, the Recipient will be required to act as the party responsible for the Acquisition activities.

(7) Site Management. Each Applicant is required to provide a Management Plan as outlined in this rule chapter. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105, F.S., and Chapter 380, Part III, F.S., the Applicant shall be required to provide the Trust with Reasonable Assurance that they have the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner. Where the Application or Partnership Application does not include at least one Local Government, the Trust shall: require the Recipient to post a performance or other bond in an amount sufficient to insure performance by the Recipient that the Project Site shall be reasonably and professionally managed in perpetuity; require the Recipient to establish an endowment or other fund in an amount sufficient to insure performance; require a guaranty or pledge by the Local Government, in whose jurisdiction the Project Site is located, which shall require the Local Government to take over the responsibility for management of the Project Site in the event the Nonprofit Environmental Organization is unable to; require the Local Government to be a named co-signer on the Grant Award Agreement; or require such other assurances as the governing board may deem necessary to adequately protect the public interest.

Specific Authority 380.507(11) FS. Law Implemented 720.55(1)(a)4., 259.105, 380.501-.515 FS. History—New

9K-7.004 Submission of Application and Application Materials.

(1) Applications must be submitted by mail or delivery to the Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100. To be timely submitted, Applications must be received on or before the published Application deadline.

(2) Deadlines for submitting Applications shall be announced in the Florida Administrative Weekly at least 75 days prior to each deadline.

(3) Applications must be transmitted with an original signature cover letter on Applicant's letterhead, signed by the appropriate representative, official or administrator, binding the Applicant to fulfill the commitments made in the

Application, and identifying the employee or representative that will act as the key contact between the Trust and the Applicant(s).

(4) Applicants must submit six complete sets of Application materials. One set shall contain original text and non-text items. The remaining five sets shall contain legible copies of text and non-text items, unless otherwise specified in the Application form.

(5) Applications received after the published deadline shall not be considered by the Trust unless an exception for good cause is made by the Executive Director of the Trust. Good cause shall be based on whether the Applicant made diligent effort to provide the Application on or before the published deadline, but due to the failure of the delivery service the Application was not timely received.

(6) To receive consideration by the Trust, all Applicants must submit a completed Application Form FF-1, and provide the following information as exhibits to the Application:

(a) Copy of each Local Comprehensive Plan objective and policy cited or relied upon in the Application.

(b) All proposed text and map amendments to the Local Comprehensive Plan cited or relied upon in the Application as pertaining to the Project Site.

(c) United States Geological Survey 7 1/2 minute quadrangle map with the boundary of the Project Site clearly delineated.

(d) County Tax Appraiser's map clearly delineating property boundaries, access points, names of the property owners, and parcel tax identification numbers, and ownership boundaries using an appropriate scale.

(e) Aerial photograph (1 inch = 2,000 feet or greater detail) with the Project Site boundary clearly delineated.

(f) Natural Communities map of an appropriate scale that depicts the Natural Communities on the Project Site, utilizing the Florida Natural Areas Inventory classification system and providing the approximate acreage of the various Natural Communities.

(g) Physical improvements map of an appropriate scale that clearly delineates all existing physical improvements, alterations, or disturbances occurring on the Project Site, and including all cleared areas, buildings, roads, fences, docks, power lines, billboards, borrow pits, manmade lakes and excavations, and known easements and rights-of-ways, and the approximate acreage of the foregoing.

(h) Future Land Use Map covering the Project Site and surrounding area that indicates future land use designations and which clearly delineates the Project Site boundaries.

(i) Resource conservation, open space, and outdoor recreation map that identifies the Project Site and surrounding lands in a five-mile radius that are used for natural resource conservation and outdoor recreation and including all parks, preserves, wildlife management areas, greenways, trails, linkages and designated outdoor recreation areas.

(j) Map depicting any applicable 100-year floodplain, coastal high-hazard area, or wellfield protection zone with the boundary of the Project Site clearly delineated.

(k) Conceptual site plan that clearly delineates the project site boundary and shows the approximate location of all proposed site improvements.

(l) One set of labeled photographs of the Project Site which depict all on-site features on the Project Site and including Natural Communities, waterbodies, shorelines, plants, Habitat, unique biological or geological features, and historical or archaeological features. Each photograph submitted shall include a legend that identifies the photograph location and key features that the photograph is intended to depict.

(m) If applicable, evidence of status as a Nonprofit Environmental Organization as defined in Rule 9K-7.002(23), F.A.C.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New

9K-7.005 Communications to the Governing Board.

After an Application has been submitted for funding under the conditions described herein, all communications to the Governing Board of the Trust regarding any Application under consideration shall be in writing and mailed or delivered to the Executive Director for distribution to all members of the Governing Board or be presented in writing or orally to the Governing Board at the ranking and selection meeting.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.508 FS. History—New

9K-7.006 Determination of Application Completeness.

(1) Following closure of an Application submission period, Trust staff will review all Applications for completeness. A Notice of Completeness will be sent to Applicants by first-class mail within 30 days following the Application deadline. The notice will state whether or not the Application was timely received and whether or not the Application was found to be complete.

(2) A determination of completeness will be based on the inclusion of all items listed in this rule chapter. Failure to timely provide the information required shall be deemed to be a request to withdraw the Application unless the Executive Director determines from a review of the Application that the Application meets the minimum requirements and intent of this rule chapter and is sufficiently complete and adequate for staff review.

(3) If an Application is found to be incomplete, the Applicant will be notified of the deficiency in the Notice of Completeness and provided an opportunity to complete the Application. Materials requested in the Notice of Completeness must be received by the Trust within 21 days following the date that the Notice of Completeness is mailed to the Applicant. Failure to timely provide the information

required in the Notice of Completeness shall be deemed to be a request to withdraw the Application unless the Executive Director determines from a review of the Application that the Application meets the minimum requirements and intent of this rule chapter and is sufficiently complete and proper for staff review.

(4) No additional information shall be accepted after the deadline stated in the Notice of Completeness, unless specifically requested by the Trust staff for clarification purposes. Without exception any clarification information requested by the Trust shall be received by the Trust no later than 30 days prior to the ranking and selection meeting. Information that by the due diligence of the Applicant could not have been discovered and submitted with the Application will be considered new information. The Trust may accept new information subsequent to the Application deadline but all new information must be received by to the Trust no later than seven days prior to the ranking and selection meeting.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.508 FS. History—New

9K-7.007 Project Evaluation Criteria.

The evaluation of complete Applications shall be based on the criteria set forth in this rule chapter and in Application Form FF-1. Trust staff will be responsible for evaluating Applications and recommending point scores to the Governing Board. Trust staff shall utilize the information contained in the Application (including all required exhibits) and all information obtained during its review of the Application for scoring recommendations to the Governing Board. Personnel from other state agencies, regional planning councils, water management districts, and other public and private groups may assist the Trust staff in project evaluation as requested by Trust Staff on an application-by-application basis. Unless otherwise noted, an Application shall receive all the points assigned to a particular criterion if the criterion is met; no partial scores will be given for a criterion. If a criterion does not apply to the proposed Project Site, the Applicant should state “No” in the response to the criterion. Criterion that are missing or not answered will not be evaluated, will not be considered incomplete in the Notice of Completeness, and will not be awarded points.

(1) Furtherance of specified general standards (up to 50 points) based on the following criteria:

(a) Pre-acquired. The entire Project Site has been acquired by the Applicant through a voluntarily-negotiated transaction within 24 months prior to the Application deadline (5 points).

(b) Phased Project. The proposed project is a continuation of a previous project that was selected for FCT funding such that it constitutes a Phased Project (5 points).

(c) Providing a greater share of the Match. The Applicant is committed to providing a greater percentage of the Match for an Award. Up to 25 points based on whether:

1. The Applicant provides a Match between 40 percent to 49 percent of the Project Costs (10 points); or

2. The Applicant provides a Match between 50 percent to 59 percent of the Project Costs (20 points); or

3. The Applicant provides a Match for 60 percent or more of the Project Costs (25 points).

(d) No prior funding. This is the Applicant’s first Application to FCT, or the Applicant has previously submitted an Application but was not funded (5 points).

(e) Innovative Acquisition. The proposed project provides for alternatives to the Acquisition of fee interests in land, such as Acquisition of less than fee interest of the Project Site through conservation easements (5 points).

(f) Multiple benefits. The Acquisition of the Project Site furthers the purpose(s) of a recent or proposed purchase of adjacent conservation or Outdoor Recreation lands by other federal, state, local, or nonprofit agencies (5 points).

(2) Furtherance of Outdoor Recreation, natural and cultural resources (up to 135 points) based on the following criteria:

(a) Providing Outdoor Recreation or open space. The Project Site provides for Outdoor Recreation or open space. Up to 35 points, based on whether the proposed project:

1. Provides Outdoor Recreation areas or open space adjacent to other publicly-owned areas or facilities, such as existing parks, museums, schools, libraries, affordable housing, Recreational Trail Systems, or Greenways (5 points);

2. Provides two or more resource-based Outdoor Recreation facilities, such as nature trail, picnic pavilion, fishing pier, wildlife observation area, canoe launch, boardwalk or camping area (5 points).

3. Provides two or more user-oriented Outdoor Recreation facilities, such as playgrounds, basketball courts, tennis courts, bocci ball courts, shuffleboard courts, volleyball courts or swimming areas (5 points);

4. Provides access to a shoreline or beach and managed for recreation uses (5 points);

5. The proposed project furthers Outdoor Recreation or open space within an Urban Area (up to 15 points) based on whether the Project Site is located:

a. Within an Urban Service Area (5 points);

b. Within an Urban Service Area and is also within one-half mile of a built-up commercial, industrial or mixed-use Urban Area (5 points);

c. Within an Urban Service Area and is also within a built-up commercial, industrial, or mixed-use Urban Area (5 points).

(b) Providing Greenways and Recreational Trail Systems. The Project Site provides for new or enhanced Greenways and Recreational Trail Systems. Up to 20 points, based on whether the proposed project:

1. Provides new or enhanced nature, waterway, bike or equestrian trails that are at least one-quarter mile in length (5 points);

2. Enhances existing local, regional or statewide Recreational Trail Systems by connecting, extending or closing gaps in existing Recreational Trail Systems or by providing trailhead or trailside facilities (5 points);

3. Enhances existing local, regional or statewide network of linked Greenways by connecting, extending or closing gaps in an existing network of linked Greenways (5 points);

4. Furthers a locally-adopted Greenway or Recreational Trail System plan (5 points).

(c) Providing educational opportunities. The Project Site provides for environmental or historical educational opportunities. Up to 15 points, based on whether the proposed project:

1. Provides interpretive signs which educate visitors about the natural environment or unique history of the Project Site (5 points);

2. Provides at least 24 environmental or historical education classes or programs per year at the Project Site conducted by trained educators or resource professionals (5 points);

3. Includes a nature center or museum which provides, through adequate staffing, year-round educational classes or programming concerning the natural environment or unique history of the area (5 points).

(d) Protecting natural and biological resources. The Project Site protects natural and biological resources. Up to 20 points, based on whether the Project Site:

1. Consists of predominantly Natural Communities that have not been impacted by human disturbance or alteration (5 points);

2. Contains one or more Natural Communities identified by the Florida Natural Areas Inventory as "imperiled" or "critically imperiled" (5 points);

3. Contains Habitat recognized as typically suitable for one or more Listed Animal Species (5 points);

4. Contains Habitat recognized as typically suitable for one or more Listed Animal Species and said Habitat is located in a Strategic Habitat Conservation Area, as identified by the Florida Fish and Wildlife Conservation Commission (5 points).

(e) Landscaping or restoration. The Project Site provides for new or enhanced landscaping or restoration. Up to 15 points, based on the following criteria:

1. Degraded or altered areas on the Project Site will be landscaped with native vegetation (5 points);

2. Degraded or altered upland communities on the Project Site will be restored as a Natural Community (5 points);

3. Degraded or altered wetland communities on the Project Site will be restored as a Natural Community (5 points).

(f) Water quality. The Project Site provides for the protection or enhancement of water quality. Up to 15 points, based on the following criteria:

1. The proposed project will improve the quality of surface waters occurring on or adjacent to the Project Site by the elimination of pollution sources, removal of impervious surfaces, or other means (5 points);

2. The Project Site is adjacent to and will protect an Outstanding Florida Waters as designated by the Department of Environmental Protection (5 points);

3. The proposed Project Site will protect Class I waters as identified by the Department of Environmental Protection, or the Project Site is located within a locally-designated wellfield protection zone (5 points).

(g) Historical resources. The Project Site provides new or enhanced historic resources. Up to 15 points, based on whether the Project Site:

1. Contains, or is within one-quarter mile of, a site listed in the Florida Master Site File with the Division of Historical Resources (5 points);

2. Is listed on the Florida Master Site File and is also recognized by a local historic board or the Division of Historical Resources as being historically significant at the local, regional or state level (5 points);

3. Is listed on the National Register of Historic Places by the National Park Service (5 points).

(3) Furtherance of Community Planning (up to 110 points), based on the following criteria:

(a) Local Comprehensive Plan. Acquisition of the Project Site will assist the Local Government in furthering the Local Comprehensive Plan directives. When used in this part, the term "furthered" means that proposed project(s) will assist the Local Government in realizing the objectives or policies of the Local Comprehensive Plan. For each criterion that is furthered by an objective or policy of the Local Government Plan, the objective or policy number is to be cited in the response to the criterion and a copy of the objective or policy, and any associated exhibits or documents, shall be included as an exhibit as provided in this rule chapter. If a copy of the entire objective or policy that is cited in response to a criterion is not included in the exhibit, that objective or policy will not be evaluated as to whether it furthers that criterion. If a criterion addresses specific resources or facilities, these must be present on the Project Site in order for points to be awarded.

If the Project Site is located entirely in one jurisdiction, the Local Comprehensive Plan of the jurisdiction shall be evaluated for scoring purposes. If the Project Site is located in two or more jurisdictions, the Local Comprehensive Plan of each jurisdiction shall be compared for compatibility and evaluated for scoring purposes. Up to 50 points, based on the following criteria:

1. Provides acreage or outdoor recreational facilities necessary to maintain or improve adopted levels of service standards for recreation (5 points).

2. Ensures acquisition of natural areas or open space through public acquisition (5 points).

3. Provides new or enhanced public access to water bodies and saltwater beaches (5 points).

4. Provides for new or enhanced Greenways or Recreational Trail Systems (5 points).

5. Ensures the preservation of Natural Communities or Listed Animal Species Habitat (5 points).

6. Provides for coordination among federal, state and local agencies or non-profit organizations acquiring or managing natural areas or open space for outdoor recreation (5 points).

7. Provides for restoration or enhancement of degraded natural areas, such as restoration of Natural Communities, restoration of natural hydrology, or removal of non-native vegetation (5 points).

8. Ensures the protection or enhancement of surface or groundwater quality (5 points).

9. Ensures the preservation of historical, cultural or archaeological features on the Project Site (5 points).

10. Directs development to a locally designated urban infill, urban redevelopment or downtown revitalization area as defined in Section 163.3164, F.S. (5 points).

(b) Hazard Mitigation. The proposed project furthers hazard mitigation. Up to 15 points, based on whether the proposed project:

1. Provides recreational opportunities and open space areas that direct residential and commercial development away from a Coastal High Hazard Area or a 100-year flood plain (5 points).

2. Is located within an area identified in the Local Government's Local Mitigation Strategy as a mitigation priority (5 points).

3. Provides recreation or open space opportunities within a state-designated "brownfield" area (5 points).

(c) Priority investment areas and special state-designated areas. The Project Site will provide new or enhanced Outdoor Recreation or open space within an identified priority investment area or other special state-designated area targeted for investment or redevelopment. Up to 45 points, based on whether the proposed project is:

1. Within an area designated as a "Front Porch Community" (5 points).

2. Within an area designated as a "Florida Main Street Community" (5 points).

3. Within an area designated as an "Eastward Ho! Corridor" under Executive Order 94-54 (5 points).

4. Within an area designated as a "Waterfront Florida Community" (5 points).

5. Within an area defined as a "Low-Income Community" under Rule 9K-7.002, F.A.C. (5 points).

6. Within an area designated as a "Rural Area of Critical Economic Concern" (5 points).

7. Within the boundary of a locally designated urban infill, urban redevelopment or downtown revitalization area as defined in Section 163.3164, F.S. (5 points).

8. Within a designated "Area of Critical State Concern" under Section 380.05, F.S. (5 points).

9. Within or adjacent to a state or federally designated area, not identified elsewhere in the Application criteria, that is intended to protect or restore natural resources, such as the Aquatic Preserve, the National Estuarine Research Reserve, the Marine Sanctuary, and the American Heritage River boundaries (5 points).

(4) The proposed project furthers and exemplifies "project excellence." Up to 10 points, based on whether the proposed project exhibits strong community-based support, possesses exemplary characteristics, or assists an otherwise disadvantaged community in a manner that was not adequately addressed by the criteria established in this rule chapter.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History--New

9K-7.008 Ranking and Selection of Applications.

(1) Evaluation Report. After a period for review, not to exceed 120 days from the Application deadline, the Trust staff shall prepare a written evaluation report for consideration by the Governing Board.

(2) The Governing Board shall meet for the purpose of ranking and selecting Applications for funding at a publicly noticed meeting for this purpose.

(a) The Governing Board shall consider each Application and approve or modify the point scoring totals assigned in the Trust staff evaluation report. Decisions to modify point totals shall be based on review of Applications by the Governing Board, and public presentations to the Governing Board by Trust staff, Applicants and other members of the general public.

(b) All proposed amendments to the Local Comprehensive Plan that are included with the Application, and submitted within the Application deadline established by the Trust, will be considered in the preliminary Application scoring. Proposed amendments cited in the Application must be adopted by the Local Government prior to the date of the Governing Board ranking and selection meeting in order for points to be awarded in the final score.

(c) After a final determination of the scoring of each Application, the Governing Board shall consider the point totals, as well as any other relevant factors not considered directly in the assignment of point totals, including the

statutory requirements of this rule chapter, and rank the Applications in descending order, with the highest ranking Application being given highest funding priority.

1. At least 75 percent of the funds available shall be matched by Local Governments on a dollar-for-dollar basis.

2. At least 30 percent of the total allocation shall be used within Metropolitan Statistical Areas and one-half of that amount shall be used within localities where the Project Site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas.

3. No less than five percent of the total allocation shall be used to acquire lands for Recreational Trail Systems, provided that in the event these funds are not needed for such projects, they will be available for other Trust projects.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History--New

9K-7.009 Conceptual Approval of Projects.

(1) Following the ranking and selection of Applications described above but prior to the conceptual approval meeting, the Trust staff shall conduct site visits or other investigations. If such visits or investigations reveal undisclosed facts or erroneous evaluation conclusions, the Trust staff shall report such findings to the Governing Board. The Trust shall impose conditions relevant to these findings, or any other conditions deemed necessary to protect the interests of the State. Such conditions will be imposed on the Applicant by the Conceptual Approval Agreement at the conceptual approval meeting. Applicants will be advised of the conditions prior to the conceptual approval meeting. Any such conditions must be met by the Applicant prior to receiving Project Plan approval. Further, the Trust shall have the right to alter the ranking of Applications based on the site visit or investigation findings.

(2) At the conclusion of the conceptual approval meeting, those projects selected will be considered to have received conceptual approval for funding. The Trust shall publish a Notice of Conceptual Approval in the Florida Administrative Weekly that shall list all Applications considered, whether the Application has received conceptual approval, and the amount of funding conceptually approved for each selected project.

(3) Any person with substantial interests that are or may be determined by the conceptual approval of funds for projects by the Trust may request an administrative proceeding pursuant to Section 120.57, F.S., within 21 days of publication of the Notice of Conceptual Approval.

(4) If for any reason funds awarded to a conceptually approved project become available prior to the ranking and selection meeting for the next Application cycle, those funds may be committed to project(s) for the same series funding cycle based upon available funds.

(5) The established time frame for conceptual approval for funding shall be for a period not to exceed 12 months from the conceptual approval meeting. Conceptual approval shall be evidenced by an executed Conceptual Approval Agreement between the Trust and the Recipient. When the established time frame has expired and a conceptually approved project has not received Project Plan approval, conceptual approval shall be terminated and Trust funds committed to the project shall then be committed to Applications that are conceptually approved in subsequent funding cycles. The Trust may extend the Conceptual Approval Agreement beyond the established time frame if the Recipient demonstrates that significant progress is being made toward Project Plan approval or that extenuating circumstances warrant an extension of time. All requests for extensions shall be made in writing to the Executive Director, fully explaining the reason for the delay and why the extension is necessary.

(5) Pursuant to Section 380.510(3)(f), F.S., the time period of the Conceptual Approval Agreement and extensions shall not exceed a total of 24 months; unless, however, the Trust extends an Award beyond 24 months when the Recipient demonstrates that significant progress is being made toward closing the project or that extenuating circumstances warrant an extension of time.

(6) The Trust may unilaterally terminate the Conceptual Approval Agreement prior to the established time frame, if it is determined by the Trust that no significant progress is being made toward the Acquisition of the Project Site or other circumstances are present which would, in all likelihood, preclude or prevent the successful Acquisition of the Project Site within the established time frame.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History--New

9K-7.010 Modification to the Project Boundary.

Modifications to the boundary of a Project Site selected for conceptual approval will be considered by the Trust on a case-by-case basis. Requests to modify the project boundary shall be submitted to the Trust within 12 months of the approval of the Conceptual Approval Agreement. Requests for boundary amendments received after said deadline shall not be considered unless an exception is granted by the Executive Director based upon the demonstration of good cause. Good cause shall be based on whether the boundary modification is necessary to the successful development and management of the Project Site. The following procedures are established to guide the submission and review of boundary modification requests.

(1) A written request for boundary modification must be submitted and contain the items listed below. The request must be transmitted with an original signature cover letter on the Recipient's letterhead, signed by the appropriate authorized

representative named in the Conceptual Approval Agreement, and include a statement binding the Recipient to fulfill the commitments made in the request for boundary modification.

(a) An explanation of how the proposed modification complies with the intent and purpose of the project as stated in the original Application;

(b) An explanation of why the requested boundary change was not contained in the original Application;

(c) An explanation of the effect on the overall project if the requested modification is not approved;

(d) A written statement signed by the Recipient detailing any and all changes to the original Application which result from the boundary modification being proposed; and

(e) An amended acquisition plan.

(2) Following receipt of a request for boundary modification, Trust staff shall conduct a preliminary review to determine if the information provided includes the required items listed in this rule chapter. Trust staff shall notify the Recipient's key contact of any additional information or clarification that is needed to complete the review.

(3) Trust staff shall prepare a recommendation for consideration and approval by the Trust following the same review procedures used to evaluate the original Application. The report will contain the following:

(a) Whether the proposed boundary modification is consistent with the purpose and intent of the original Application;

(b) Whether the proposed boundary modification would facilitate the Acquisition of the overall Project Site;

(c) Whether the proposed boundary modification would change the final project score if it had been part of the original Application and whether the revised score would result in any change in the funding status of the project;

(d) Whether the Trust has funds available to cover the additional Project Costs and that the increase in the Trust Award would not exceed the Award limit contained in this rule chapter.

(4) Trust staff may conduct a site visit to verify representations made in the boundary modification request before final approval of the boundary change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History--New _____.

9K-7.011 Preparation and Acceptance of the Management Plan.

(1) Prior to release of Florida Forever Funds for a project, the Recipients shall submit a Management Plan for approval by the Trust. Phased Projects or additions to Trust funded projects can be combined into existing Management Plans. The Management Plan, which is intended to explain how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of the Conceptual Approval Agreement, shall include the following:

(a) An introduction containing the project name, location and other background information relevant to management.

(b) The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.

(c) The identification of known natural resources including natural communities, listed animal species, soil types, surface and groundwater characteristics and a plan to inventory all unknown resources.

(d) A detailed description of all proposed uses including existing and proposed physical and access improvements.

(e) A detailed description of proposed restoration or enhancement activities, if any, including the objective of the effort and the techniques to be used.

(f) A scaled site plan drawing showing the project site boundary, existing and proposed physical improvements and any natural resource restoration or enhancement areas.

(g) A description of management needs and problems associated with implementing the Management Plan.

(h) The identification and protection of known cultural or historical resources and a commitment to conduct surveys prior to any ground disturbing activity, if applicable.

(i) A description of proposed educational displays and programs to be offered, if applicable.

(j) A description of how the management will be coordinated with other agencies and public lands, if applicable.

(k) Cost estimates based on categories established by the Land Management Uniform Accounting Council.

(l) A schedule for implementing the development and management activities of the Management Plan.

(m) Funding sources to implement the Management Plan.

(2) If the Recipient is not the proposed managing entity, the Management Plan must include a signed agreement between the Recipient and the managing entity stating the managing entity's willingness to manage the site, the manner in which the site will be managed to further the purpose(s) of the project, and identification of the source of funding for management.

(3) The Trust shall approve the Management Plan upon confirmation that it is consistent with the purposes of the Application and the terms and conditions of the Conceptual Approval Agreement.

(4) Any revision or modification to the approved Management Plan will require review and approval by the Trust. The Recipient shall provide a written request for any Management Plan change including all appropriate supporting materials.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History--New _____.

9K-7.012 Title, Acquisition Procedures, Project Plans, Lease Agreements and Transfer of Title.

This rule chapter and Chapter 9K-8, F.A.C., shall govern in all matters of title, acquisition procedures, Project Plans, lease agreements and transfer of title for lands acquired with Florida Forever funds received under the Florida Forever Program.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New _____.

9K-7.013 Annual Stewardship Report Requirement.

(1) Each award to a Recipient shall include a condition that, after Acquisition of the Project Site, a stewardship report is required from the Recipient for a period lasting at least five years from completion of all site improvements and restoration activities identified in the approved Management Plan. The stewardship report is intended to verify that conditions imposed at the time the award was made are being followed and to monitor the stewardship and use of the property. The stewardship report shall be due on January 30 of each year and include discussion of the following items for the year being reported:

- (a) All work completed;
- (b) All program activities conducted;
- (c) Description of how the project protects and maintains natural resources and the results of all monitoring reports;
- (d) Listing of gross revenues for the year, such as all fees, concessions, sales and other revenues received;
- (e) Description of all easements, concessions and leases in effect for all or any portion of the year;
- (f) Description of all physical improvements and activities that are behind schedule and a listing of revised start and completion dates for each improvement and activity;
- (g) Listing of all funding sources allocated or received for management activities;
- (h) Listing of all development and management costs expended for the year; and
- (i) Listing of all revisions needed to the approved Management Plan and including all appropriated supporting materials as attachments.

(2) The stewardship report requirement may be phased out as follows:

(a) To initiate the five year phase-out of the stewardship report requirement, the Recipient shall provide the following:

1. Written statement of completion certifying that the project site was developed in accordance with the approved Management Plan;
2. As-built master site plan drawing;
3. Photographic record of all completed site improvements and restoration activities; and
4. Updated Management Plan, if appropriate.

(b) Upon the Trust's acceptance of the Recipient's statement of completion, and timely submission of five consecutive stewardship reports that have met the requirements

of this rule chapter, the Trust may suspend the stewardship report requirement if the Recipient has demonstrated that the terms and conditions of the Grant Award Agreement and the approved Management Plan made are being followed. After suspension of the stewardship report requirement, if the Trust finds that the terms and conditions of the Grant Award Agreement are not being followed, the stewardship report requirement shall be reimposed for an additional two years.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janice Browning, Executive Director, Florida Communities Trust

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Janice Browning, Executive Director, Florida Communities Trust

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 20, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2000

**DEPARTMENT OF COMMUNITY AFFAIRS
Florida Communities Trust**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Land Acquisition Procedures With Florida Forever Program	9K-8
RULE TITLES:	RULE NOS.:
Purpose	9K-8.001
Definitions	9K-8.002
General Information	9K-8.003
Election by Recipient of Titleholder and Negotiating Entity; Rules Governing Acquisitions; Title	9K-8.004
Title Report and Evidence of Marketable Title	9K-8.005
Certified Survey	9K-8.006
Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price	9K-8.007
Confidentiality of Appraisals, Other Reports Relating to Value, Offers and Counteroffers	9K-8.008
Negotiation of Offers and Counteroffers	9K-8.009
Purchase Agreements	9K-8.010
Preparation and Acceptance of Project Plans	9K-8.011
Examination for Hazardous Materials Contamination	9K-8.012
Trust Governing Board Action	9K-8.013
Closing	9K-8.014

PURPOSE, EFFECT AND SUMMARY: The purpose of this rule is to establish Florida Communities Trust land acquisition procedures using Florida Forever funds. The purpose of the program described in this rule chapter is to provide grants to Local Governments and Nonprofit Environmental Organizations for the acquisition of community-based projects,

urban open spaces, natural resource conservation areas, parks, greenways, and outdoor recreation areas to implement Local Comprehensive Plans.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 380.507(11) FS.

LAW IMPLEMENTED: 259.105, 380.501-.515, 380.507(11), 380.508, 380.510 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 1:00 p.m., Monday, April 30, 2001

PLACE: Randall Kelley Training Center, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-2207, Suncom 292-2207, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 (850)922-2207, Suncom 292-2207

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-8.001 Purpose.

This rule chapter sets forth the procedures that must be followed for land acquisitions using Florida Forever funds awarded by Florida Communities Trust.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New

9K-8.002 Definitions.

The definitions set forth in Rule 9K-7.002, F.A.C., shall apply as used in this rule chapter and are incorporated herein by reference. Additionally, the following definitions shall apply as used in this rule chapter:

(1) "Agent" means an authorized representative assisting the Applicant, Recipient, or Trust to negotiate and acquire real property, such as attorneys, real estate brokers, and cooperating governmental agencies. As required under Chapter 475, F.S.,

when real estate services are performed for compensation or other valuable consideration in connection with any acquisition, sale, lease, or exchange under this chapter, the Agent shall have a current, valid and active Florida real estate license.

(2) "Appraisal" or "Appraisal Services" means the services provided by Florida certified or licensed Appraisers pursuant to Section 475.611(1), F.S.

(3) "Appraisal Report" means the written analyses, opinions, and conclusions issued by an Approved Appraiser in connection with the Acquisition of any interest in real property under this rule chapter or Chapter 9K-7, F.A.C.

(4) "Appraiser" means any person who is certified or licensed by the State pursuant to Chapter 475, Part II, F.S., and whose certification or license is current, valid and active.

(5) "Approved Appraisal" means an Appraisal that has been reviewed and approved by the Trust for use in determining the Maximum Approved Purchase Price that the Trust and the Recipient will pay for property.

(6) "Approved Appraiser" means an Appraiser who has the necessary background, qualifications and experience to appraise the interest in real estate being acquired under this Chapter and whose name is on the current list of approved appraisers on file with the Division of State Lands, Department of Environmental Protection. A copy of the list of Approved Appraisers shall be maintained for public examination in the offices of the Trust.

(7) "Approved Survey" means a Certified Survey that has been reviewed and approved by the Trust.

(8) "Certified Survey" means a survey, as further defined in Rule 9K-8.006, F.A.C., that is certified, signed and sealed by a registered land surveyor authorized to practice surveying in the State pursuant to Chapter 472, F.S.

(9) "Confidential" refers to information that shall not be available for public disclosure or inspection and is exempt from the provisions of Section 119.07, F.S.

(10) "Florida Forever Funds" means proceeds from the Florida Forever Trust Fund created by Section 380.5115, F.S., and distributed to the Department pursuant to Section 295.105(3)(c), F.S., for the purpose of providing Acquisition grants through the Florida Communities Trust.

(11) "Hazardous Materials Contamination" means radon, PCBs, oil or other petroleum based products, chemicals, any noxious, hazardous, offensive, explosive or toxic substances or waste, or any hazardous materials or toxic substances as such terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. (CERCLA), the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq. (HMTA), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 5101 et seq. (RCRA), and the regulations adopted pursuant thereto.

(12) “Market Value”, as defined in the Uniform Standards of Professional Appraisal Practice (as promulgated by the Appraisal Standards Board of The Appraisal Foundation), means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming that the price is not affected by undue stimulus.

(13) “Maximum Approved Purchase Price” means the maximum purchase price that the Trust can participate in as determined by Appraisals performed on a Project Site that have been reviewed and approved by the Trust.

(14) “Minimum Technical Standards” means the Minimum Technical Standards for Surveyors as set forth by the Florida Board of Professional Surveyors and Mappers pursuant to Chapter 472, F.S., and Chapter 61G17-6, F.A.C.

(15) “Option Agreement” or “Option Contract” means a proposed written agreement between the Recipient and the Trust to purchase all or a portion of the property lying within the Project Site, subject to the approval of the Recipient’s governing body and the Trust after appropriate notice and hearing (as may be required).

(16) “Owner(s)” or “Seller(s)” means the fee simple title owner(s) of the Project Site.

(17) “Purchase Agreement” means the various types of written contracts to purchase real property, including purchase agreements, Option Agreements, exchange agreements and other forms of such agreements, that become binding on all parties to the contract at the time the Purchase Agreement is duly executed.

(18) “Safe Upland Line” means a line at or above the mean or ordinary high water line used to calculate the acreage of a parcel of land.

(19) “Title Insurance Commitment” means a written agreement issued by a Florida licensed title insurer agreeing to issue to the Recipient, the Trust, or the Board of Trustees, individually or as co-insureds, upon the recording of the deed, an owner’s policy of title insurance in the amount of the Project Site’s purchase price insuring marketability of title to the Project Site, subject only to liens, encumbrances, exceptions or qualifications that are acceptable to the Trust and the Recipient, and those which will be discharged by the Owner(s) at closing.

(20) “Uniform Standards of Professional Appraisal Practice” means the most recent standards approved and adopted by the Appraisals Standards Board of The Appraisal Foundation.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History—New _____.

9K-8.003 General Information.

(1) This rule chapter shall govern the activities for Acquisition of real property using proceeds from the Florida Forever Trust Fund, when title to such real property vests in the Recipient or the Board of Trustees.

(2) The disbursement of Florida Forever Funds from the Trust shall be subject to the following conditions: The administration and use of any funds received by the Trust from the Florida Forever Trust Fund shall be subject to such terms and conditions imposed thereon by the agency of the state responsible for the revenue bonds, the proceeds of which are deposited in the Florida Forever Trust Fund, including restrictions imposed to ensure that the interest on any such revenue bonds issued by the state as tax-exempt revenue bonds will not be included in the gross income of the holders of such bonds for federal income tax purposes.

(3) The Recipient shall designate an employee or officer who shall serve as the key contact for the exchange of information regarding the Acquisition activities and who shall be responsible for ensuring compliance with the provisions of all applicable statutes, the Conceptual Approval Agreement, rules of the Trust and any local land acquisition ordinances that may apply.

(4) Funds awarded through any program of the Trust that derive from the Florida Forever Trust Fund may only be used to pay the eligible Project Costs associated with Voluntarily Negotiated Transactions.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History—New _____.

9K-8.004 Election by Recipient of Titleholder and Negotiating Entity: Rules Governing Acquisitions: Title.

(1) Section 259.105(3)(c), F.S., allocates proceeds deposited into the Forever Florida Trust Fund to the Department to provide land Acquisition grants through the Florida Communities Trust pursuant to Chapter 380, Part III, F.S. Title to real property purchased with these funds may be vested in the Recipient or the Board of Trustees.

(2) At the time the Recipient executes the Conceptual Approval Agreement, the Recipient shall elect one of the following options: either

(a) Title to the Project Site will vest in the Recipient, or

(b) Title to the Project Site will vest permanently in the Board of Trustees.

(3) If the Recipient elects to hold title, then the following applies:

(a) The election is subject to approval by the Trust, such approval indicated when the Conceptual Approval Agreement governing the grant funds is executed between the Recipient and the Trust;

(b) The Trust shall not withhold approval of the Recipient’s election to take title unless the Trust specifically finds on the record of a public meeting that the Recipient is not

capable of holding title or has failed to provide the Trust with reasonable and adequate assurances that the public interests will be protected:

(c) The Acquisition of a Project Site shall take place under one of the following procedures:

1. For a Project Site that consists of five or fewer ownerships, the Recipient can request that the Trust or the Recipient act as the party responsible for the Acquisition activities.

2. For a Project Site that consists of six or more ownerships, the Recipient will be required to act as the party responsible for the Acquisition activities.

(d) When the Recipient is the party responsible for Acquisition activities, the Recipient will follow the Acquisition procedures outlined in this rule chapter. If the Recipient contracts with an Agent to act on the Recipient's behalf in pursuing the Acquisition in accordance with this rule chapter, the Agent's fee may be recognized as an eligible Project Cost only if the Acquisition closes.

(4) If the Recipient elects that title vest in the Board of Trustees, the following applies:

(a) The election must be approved by the Trust and the Board of Trustees; and

(b) The Acquisition activities and negotiations shall be conducted by the Trust following the requirements of Section 253.025, F.S., and Chapter 18-1, F.A.C., the applicable statutes and rules for all Acquisitions of the Board of Trustees.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-8.005 Title Report and Evidence of Marketable Title.

(1) To obtain Appraisals, the party responsible for Acquisition activities may obtain a title report or title commitment which shall include a legal description of the Project Site to be acquired that is sufficient to inform the Trust, the Recipient and the Appraisers of the status of ownership, encumbrances, exceptions, reservations, and previous ownership history.

(2) Evidence of Owner(s)' marketable title shall be provided to the Recipient(s) and the Trust prior to the conveyance of title. The Trust shall further be provided a Title Insurance Commitment in accordance with the Purchase Agreement. The Title Insurance Commitment shall be followed after conveyance by an owner's marketable title insurance policy (ALTA Form B) in favor of the Recipient or the Board of Trustees in accordance with the Recipient's election under Rule 9K-8.004, Florida Administrative Code. The Trust shall be listed as a co-insured on the Title Insurance Commitment and title insurance policy.

The Trust and Recipient may mutually agree to waive the requirement of evidence of marketable title for Acquisition of property assessed by the county property appraiser at \$10,000 or less. Such waiver shall be based on such review of the title

records as is reasonable under the circumstances that shows no apparent impediment to marketability or to management of the Project Site by the Recipient.

(3) The standard for examination of condition of title shall be The Uniform Title Standards of the Real Property, Probate & Trust Law Section of The Florida Bar, 1981 edition together with all updates.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-8.006 Certified Survey.

(1) At least 30 days prior to closing, a Certified Survey must be submitted to the Trust for final approval to rectify acreage and title issues against the title commitment, the negotiated Purchase Agreement and the Appraisal(s) used to determine the Maximum Approved Purchase Price.

(2) In cases where a Certified Survey cannot be practically completed or where the cost of the Certified Survey would be prohibited relative to the expected value of the real property, the requirement for such Certified Survey may, in whole or in part, be waived by the Recipient and the Trust. Such a waiver shall be requested by the Recipient at the time of Project Plan approval.

(3) The Certified Survey shall be prepared according to the Minimum Technical Standards for Land Surveying and such additional requirements as may be determined by the Trust and the Recipient to be necessary to meet the intent of the statute and this rule chapter. The Certified Survey shall accurately portray to the greatest extent practicable the condition of the real property as it currently exists. The survey must have been certified within 90 days of the closing on the property unless this requirement is waived by the title insurer for the purpose of deleting the standard survey exception from the owner's title insurance policy.

(4) If a Project Site includes associated water bodies, a Safe Upland Line, as opposed to a surveyed mean or ordinary high water line, shall be an acceptable line for determining the acreage upon which the purchase price of the site to be acquired is based.

(5) The Certified Survey shall be approved by the Trust as being in compliance with the requirements of this rule chapter.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-8.007 Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price.

(1) The party responsible for Acquisition activities shall contract with the Approved Appraiser(s) according to contract requirements of the Recipient or the Trust, whichever is responsible for Acquisition activities.

(2) Techniques and methods used by the Appraiser shall substantially conform to the Uniform Standards of Professional Appraisal Practice (USPAP), as defined in Chapter 475, Part II, F.S., as well as Trust appraisal instructions and format.

(3) The party responsible for Acquisition activities shall provide to the Appraiser all pertinent title information developed in the title report, a specification of the rights to be acquired, a list of items, if any, considered to be noncompensable, required appraisal forms or formats, and the most recent survey, if available.

(4) The party responsible for Acquisition activities shall obtain at least one Appraisal by an Approved Appraiser for each ownership in a Project Site estimated to be valued less than \$500,000. For each ownership in a Project Site estimated to be valued at or greater than \$500,000, the party responsible for Acquisition activities shall obtain at least two Appraisals by Approved Appraisers.

(5) Determination of Maximum Approved Purchase Price.

(a) For purposes of calculating the Trust and the Recipient shares of the purchase price paid for real property, a Maximum Approved Purchase Price shall be determined. The Conceptual Approval Agreement will describe financial participation by the Trust and the Recipient on a percentage basis. The Trust considers that the maximum purchase price in which it will participate shall be the Maximum Approved Purchase Price. If the Recipient or its Agent negotiates a purchase price higher than the Maximum Approved Purchase Price, the Recipient shall pay all the purchase price amount over the Maximum Approved Purchase Price, in addition to the Match percentage share of the Maximum Approved Purchase Price.

(b) Appraisals of properties valued at or greater than \$100,000 shall be reviewed by a review Appraiser who is employed by or under contract to the Trust. The review Appraiser must certify to the Trust that the Appraisals have been conducted substantially in accordance with this rule chapter and with correct Appraisal standards and methods, and must certify the appraised value(s) of the subject real property. This certified value shall also be referred to as "the Maximum Approved Purchase Price." Appraisals of properties valued at less than \$100,000 may be approved and certified by the Trust.

(c) The Maximum Approved Purchase Price shall be the value indicated in a single reviewed and approved Appraisal if only one Appraisal is required. If two Appraisals are obtained and approved when only one is required by this rule chapter, the Maximum Approved Purchase Price shall be the higher of the two values indicated in the Appraisals.

(d) If two Appraisals are required and their values do not differ significantly, the Maximum Approved Purchase Price shall be the higher value indicated in the two Appraisals. The two Appraisals shall be considered to differ significantly if the higher of the two values exceeds 120 percent of the lower value.

(e) When two Appraisals required under paragraph (6) above differ significantly, the following steps shall be taken:

1. The review Appraiser shall request that the two Appraisers review the differences in their respective reports to attempt to rectify their value conclusions so that the two value conclusions are not significantly different;

2. A third Appraisal shall be obtained if the two Appraisals differ significantly and cannot be rectified as in the above paragraph unless a decision is made by the party responsible for Acquisition activities to negotiate an Acquisition price of no more than 120 percent of the lower of the two reviewed and approved Appraisals.

3. If a third Appraisal is obtained and reviewed and approved, the Maximum Approved Purchase Price shall be the value contained in the higher of the two closest Appraisals, so long as the two closest Appraisals do not differ significantly. If the two closest Appraisals differ significantly, 120 percent of the lower of the two Appraisals shall be the Maximum Approved Purchase Price.

(7) The Trust shall compare the Maximum Approved Purchase Price with the cost to purchase the land as estimated in the Application. If that estimated cost is greater than the Maximum Approved Purchase Price, the Trust shall reduce the amount of the Award by an amendment to the Conceptual Approval Agreement.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History—New

9K-8.008 Confidentiality of Appraisals, Other Reports Relating to Value, Offers and Counteroffers.

(1) The Trust, the Recipient, and the Recipient's Agent(s) shall maintain confidentiality of all Appraisals, and any other reports relating to value, offers and counter-offers. Appraisals, and any other reports relating to value, offers and counteroffers are not available for public disclosure or inspection and are exempt from the provisions of Section 119.07(1), F.S., until a Purchase Agreement is executed by the Owner(s) and Recipient and conditionally accepted by the Trust, or if no Purchase Agreement is executed, then as provided for in Sections 125.355(1)(a) and 166.045(1)(a), F.S.

(2) If a Purchase Agreement is not submitted to the Trust for approval, the exemption from Section 119.07(1), F.S., will expire 30 days after the termination of negotiations. The date of termination of negotiations may be based on a written statement from a party to the negotiations that good faith efforts at negotiating a Purchase Agreement have failed and that the party desires to cease negotiations. Reinitiation of negotiations shall require approval of the Trust.

(3) The Trust and the Recipient, and the Recipient's Agent(s) if any, shall execute an agreement to maintain confidentiality of all Appraisals, reports relating to value, written offers and written counteroffers until such time as the information is no longer exempt from Section 119.07(1), F.S. This agreement of confidentiality shall expressly name the

individuals to whom the information may be disclosed during the period that the information is exempt from the requirements of Section 119.07(1), F.S. The exemptions from Section 119.07(1), F.S., that are provided in this paragraph are subject to the Open Government Sunset Review Act in accordance with Section 119.15, F.S.

Specific Authority 380.507(11) FS, Law Implemented 259.105, 380.501-.515 FS, History--New

9K-8.009 Negotiation of Offers and Counteroffers.

(1) It shall be the goal of the Trust and the Recipient that the Acquisition of the real property be negotiated at the best price and terms that can be negotiated in the interest of the project's public purpose. The objective of all purchase negotiations shall be to obtain, at the lowest possible price, the appropriate interest in real property free of encumbrances, conditions, restrictions and reservations that would impede the purposes or management of the Project Site. In the course of negotiations the party responsible for negotiations may discuss the advantages of a Donation and bargain sale. If the real property to be acquired is not already surveyed and the acreage of the site is not known, the Owner(s) shall be advised of the benefits of obtaining a Safe Upland Line survey, as opposed to a mean high water or ordinary high water survey, for calculating the acreage of the site. In making an offer, the party responsible for negotiations shall consider the benefit to the Owner(s) of a single cash payment in relation to the maximum offer allowed by law.

(2) All offers and counteroffers shall be in writing.

(3) The Trust desires that the party responsible for negotiations negotiate the purchase price at or below the Maximum Approved Purchase Price.

(4) The party responsible for negotiations may negotiate and enter into a Purchase Agreement prior to or after the receipt and approval of Appraisals. However, such negotiations and agreements are subject to the conditions established in this rule chapter. The party responsible for conducting negotiations shall maintain appropriate records regarding any and all contact(s) the party had with the Owner(s).

(5) When the party responsible for negotiations initiates Acquisition negotiations prior to the receipt of the required number of Appraisal reports reviewed and approved in accordance with this rule chapter, that party assumes all risk and responsibility that may arise out of a negotiated purchase price that exceeds the Maximum Approved Purchase Price or other review standards set forth in this rule chapter.

(6) Initial contact with the Owner(s) by the party responsible for negotiations may be established prior to negotiations. When initiated, such contact should be limited to the following:

(a) To inform the Owner(s) about the Trust's land Acquisition program.

(b) To explain in general terms the possible tax advantages of land Donations and bargain sales.

(c) To request permission from the Owner(s) in order to have his property appraised and surveyed.

(d) To discuss the timing of possible future Acquisitions, and the competition for funds under the various Trust Acquisition programs.

(e) To discuss the matter of representation of the Owner(s) by an Agent in any future negotiations, and the necessary confirmation by the Owner(s) of the Agent's status.

(f) To request available title data.

(g) To advise of disclosure requirements.

(h) To request available property survey data.

(i) To discuss other information pertinent to the Acquisition process in general.

(7) Upon the initiation of negotiations, the Owner(s) shall be notified in writing that the terms of the final Purchase Agreement are subject to affirmative action by the Recipient and the Trust, if title is to be conveyed to the Recipient, and also the Board of Trustees, if title is to be conveyed to the Board of Trustees.

(8) Recipient shall maintain complete and accurate records of every such offer and counteroffer.

(9) When the Owner(s) is represented by an Agent, negotiations may not be initiated or continued with the Agent until a written statement signed by the Owner(s) verifying the Agent's legal or fiduciary relationship with the Owner(s) has been received by the party responsible for negotiations and a copy has been provided to the Trust.

Specific Authority 380.507(11) FS, Law Implemented 259.105, 380.501-.515 FS, History--New

9K-8.010 Purchase Agreements.

(1) The form of the final negotiated purchase shall be a written Purchase Agreement that is signed by the Owner(s), the Recipient and the Trust.

(2) The Trust or Recipient may prepare and use any form of Purchase Agreement approved by the Trust as meeting the intent of all applicable laws and this rule chapter.

(3) The Trust shall develop a model standard Purchase Agreement that may be used by the party conducting the negotiations.

(4) The party responsible for negotiations shall obtain all disclosures of beneficial interest required in Section 286.23, F.S., before entering into a Purchase Agreement.

Specific Authority 380.507(11) FS, Law Implemented 259.105, 380.501-.515 FS, History--New

9K-8.011 Preparation and Acceptance of Project Plans.

(1) Prior to release of Florida Forever Funds for a project, the Recipient shall submit a Project Plan for approval by the Trust. The Project Plan shall include the following:

(a) A Purchase Agreement as defined in this rule chapter for Acquisition of the Project Site, executed by the Owner(s) and the Recipient, that is based on an Appraisal(s) prepared consistent with the requirements of this rule chapter.

(b) A letter from the Trust indicating approval of the Management Plan prepared in accordance with Chapter 9K-7, F.A.C.

(c) A statement of the total Project Cost as defined in Chapter 9K-7, F.A.C.

(d) A statement of the amount of the Award being requested.

(e) Supporting documentation that the conditions imposed as part of the Conceptual Approval Agreement have been satisfied.

(f) A signed statement by the Recipient that the Recipient is not aware of any pending criminal, civil or regulatory violations imposed on the Project Site by any governmental agency or body.

(g) Additional documentation as may be requested by the Trust as Reasonable Assurance that the Recipient will be able to fulfill its obligations under the Conceptual Approval Agreement, the Grant Award Agreement, and Chapter 9K-7, F.A.C.

(2) The Trust shall review Project Plans for completeness of all items required under this rule chapter, Chapter 9K-7, F.A.C., and the Conceptual Approval Agreement.

(3) The Trust shall approve the Project Plan based upon the Recipient's compliance with this rule chapter, Chapter 9K-7, F.A.C., and the Conceptual Approval Agreement. The Trust shall reject any Project Plan if any portion is insufficient to carry out the purpose of the project or is inconsistent with statutory or administrative requirements.

(4) The Trust shall publish a Notice of Approval for Florida Forever Funds in the Florida Administrative Weekly that shall list each approved Project Plan and the amount of funding to be released. Any person with substantial interests that are or may be determined by the decision of the Trust to reject or approve the Project Plan may request an administrative proceeding pursuant to Section 120.57, F.S., within 21 days from publication of the Notice of Approval for Florida Forever Funds.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.507(11), 380.508, 380.510 FS. History—New

9K-8.012 Examination for Hazardous Materials Contamination.

(1) All sites acquired with funds from the Florida Forever Trust Fund shall be examined for hazardous materials contamination within 45 days before closing.

(2) The examination for hazardous materials contamination shall be performed by an individual who is experienced in performing such an environmental site assessment and shall be documented in writing to the Trust and the Recipient.

(3) The examination for hazardous materials contamination shall be performed to the standard of practice of the American Society of Testing Materials (ASTM). For Phase I environmental site assessment, such standard of practice shall be the ASTM Practice E 1527. If the findings and conclusions section of the assessment reports evidence of recognized environmental conditions, then a Phase II Environmental Site Assessment shall be performed to address any suspicions raised in the Phase I environmental site assessment and to confirm the presence of contaminants on site.

(4) Prior to closing the Recipient shall examine the written assessment and advise the Trust in writing of its understanding that by accepting title, it may be assuming liability for future adverse action or cleanup associated with the lands covered by the assessment.

(5) In the event an adverse environmental assessment is reported on a site after approval of the Project Plan for the site, the Trust shall confer with the appropriate staff of the Department of Environmental Protection for assistance in assessing the risk to the State. Because the Board of Trustees will have an executory interest in the Project Site, the Trust shall have the right to refuse to deliver funds for closing if the Trust and the Department of Environmental Protection determine the hazardous materials contamination presents a liability to the State that outweighs the benefits to be derived from the Acquisition of the Project Site. If it is determined by the Trust and the Department of Environmental Protection that a delay in, or termination of the Acquisition is necessary, the Trust shall immediately notify the Recipient. The party responsible for negotiations shall immediately notify all other parties to the Purchase Agreement of the action taken and the basis for the action.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-515 FS. History—New

9K-8.013 Trust Governing Board Action.

The Trust shall approve the terms under which the interest in land is acquired. Such approval shall be evidenced by the Trust execution of the Purchase Agreement. Notice of approval shall be published in the Florida Administrative Weekly, which shall notify the public that any person with substantial interests that are or may be determined by the approval or denial of funds for projects by the Trust may request an administrative proceeding pursuant to Section 120.57, F.S., within 21 days from publication of the Notice of Approval for Florida Forever Funds.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-515 FS. History—New

9K-8.014 Closing.

(1) Prior to closing the Trust shall prepare a grant reconciliation statement which shall evidence expenditures for all eligible Project Costs for the portion of the Project Site to be closed. The reconciliation statement shall be based on the prepared Buyer and Seller closing statements, the prepaid Project Costs of the Recipient and the Trust evidenced by paid receipts, any reimbursements to the Seller or others to be made after closing, the Award amount and any revisions to the Award. The reconciliation statement shall evidence the amount of funds needed from the Trust and Recipient in order that the closing may occur.

(2) The Executive Director shall have the authority to modify the Purchase Agreement previously approved by the Trust to extend the time for option exercise, closing date, submittal deadlines or any other time limit relating to such agreement. The Executive Director shall also have the authority to execute or modify all documents necessary for the implementation of Trust action, such as the Purchase Agreement, letter of notification of exercise of option, leases, easements, legal descriptions, deeds, assignments, and other miscellaneous agreements and affidavits, provided the modification does not change the substance nor the scope of Trust approval, and provided the document executed or modified was either approved by the Trust or contemplated by Trust approval. Any changes in the purchase price to be paid to the Seller(s) not contemplated by the terms of the Purchase Agreement must be approved by the Trust. An extension or modification may only be made under the terms of the Purchase Agreement, or with the Seller's agreement.

(3) The party responsible for negotiations shall be the party responsible for proper completion of the closing, and proper recording of all legal documents.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Janice Browning, Executive Director, Florida Communities Trust

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Janice Browning, Executive Director, Florida Communities Trust

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 20, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2000

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Qualification, Selection, and Performance Evaluation Requirements for Professional Consultants to Perform Work for DOT
RULE CHAPTER NO.: 14-75

Table with 2 columns: RULE TITLES and RULE NOS.:
Consultant Qualification Process 14-75.0022
Minimum Technical Qualification Standards by Type of Work 14-75.003
Consultant Competitive Selection Process 14-75.004
Revocation, Denial, or Suspension of Qualification 14-75.0051
Professional Consultant Work Performance Evaluation System 14-75.0052
Suspension Due to Poor Performance 14-75.0053
Reapplication and Reinstatement 14-75.0071
Notification of Contract Crime 14-75.008

PURPOSE AND EFFECT: Rule Chapter 14-75 is being amended to streamline the rules and to include restructuring the rules. The Groups of Work and Types of Work are clarified. Rules are being repealed with some of the language combined with existing rules. The office references are also being amended to reflect the consolidation of the "Contractual Services Office" into the "Procurement Office."

SUMMARY: Rule Chapter 14-75 is being amended. The amendments include restructuring of rules, repeal of rules, and overall clarification of rules.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 337.105, 337.165 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

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

TIME AND DATE: 2:00 p.m., May 15, 2001

PLACE: Fourth Floor Conference Room (Room 479), Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-75.0022 Consultant Qualification Process.

(1) This rule chapter establishes minimum qualification standards by type of work for consultants, the consultant competitive selection process, and the consultant work performance evaluation system for professional consultants who seek to provide professional services to contract with the Department pursuant to Sections 287.055, 337.107, and 337.1075, Florida Statutes.

(2) The provisions of Rule 28-106.103, F.A.C., will be used in computing any period of time prescribed by this rule chapter.

(3) Application for Qualification.

(a) ~~A Professional Consultants or their related firms who desires to qualify obtain qualifications with the Department shall submit a Request for Qualification Package for Professional Consultants, Form No. 375-030-01, Rev. 05/01 05/96. A Request for Qualification Package for Professional Consultants, Form No. 375-030-01, Rev. 05/96, incorporated herein, which may be obtained from the Procurement Contractual Services Office, MS 20, Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32399-0450, or from the Department's web page at www.dot.state.fl.us or from the Office of Right of Way, MS 22, Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32399-0450.~~

(b) ~~Professional Consultants Complete applications for qualifications for those consultants who are not prequalified at the time of advertisement for a consultant project must file with be received by the Department a complete Request for Qualification Package on or before the project's advertised letter of response date. Prequalified consultants who lack technical qualification in a project's advertised major types of work may supplement their technical qualifications by relying on the services of other consultants who are technically qualified in the subject type of work, and have an approved accounting system. The cost of such services may not exceed \$250,000, unless the other consultant is fully prequalified. The Department is will not be obligated to delay any part of the consultant selection process or the execution of a contract, for a consultant who has not been qualified.~~

(4) Procedure.

(a) Within 30 days after receipt of a completed Request for Qualification Package, the Department shall examine the application and notify the applicant in writing of any apparent errors or omissions, and request any additional information required by the Department to properly evaluate the application. The applicant shall submit any requested information to the Department within 30 days of receipt of the Department's request for such information. The Department shall process the application within 30 days after receipt of the requested additional information or correction of apparent errors or omissions. If the information is not provided within 30 days after receipt of the request, the application shall be processed with the information provided available.

(b) Upon receipt of a complete application, ~~the~~ Department ~~shall will~~ make such inquiries and investigations as deemed necessary to verify and evaluate the applicant's statements and determine competency for qualification.

(c) Information Factors which the Department shall consider in determining whether a consultant is qualified to perform the technical qualifications by types of work shall include:

1. Current license or registration as regulated by the State of Florida or national organizations, as appropriate;-

2. Personnel with appropriate experience and training as detailed in the type of work qualifications;-

3. Registration with the Florida Secretary of State, if the applicant is a corporation or limited partnership;

~~4.3-~~ History of ~~current~~ suspension for failure to maintain adequate due to Department's type of work performance grades with the Department in specified types of work;-

5.4- Integrity and responsibility, which shall include including but not limited to history of debarment or suspension from consideration for work with any other governmental entity.

6.5- History of conviction for contract crime pursuant to Section 337.165, Florida Statutes, and Rule 14-75.0071, F.A.C., by the applicant or its affiliate, including reapplication or reinstatement under Rule 14-75.0071.

7.6- Employment of, or otherwise providing compensation to, any employee or officer of the Department.

8.7- Willfully offering an employee or officer of the Department any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

(d) ~~Factors which the Department shall consider in determining consultant administrative qualifications shall include the above technical factors and the following:-~~

9. An audit report prepared by an independent Certified Public Accountant or governmental agency. The audit report will be no more than six months old and will include the following:

~~a.4-~~ A statement indicating the eExistence of an adequate accounting system that meets the Department's audit requirements, as evidenced by certification by an independent Certified Public Accountant or governmental agency. The system must be adequate to support all billings made to the Department and other clients. The requirement for having an accounting system meeting the Department's audit standards becomes effective at the beginning of each consultant's fiscal year which begins on or after July 1, 1997, for the following types of work: 20.1 Appraisal, 20.2 Appraisal Review, 22 Acquisition Business Damage Estimating and Review, 24 Acquisition Relocation Assistance, and 25 Right of Way Clearing and Leasing.

b. An overhead statement and overhead rate for the most recently completed fiscal year.

c. A statement that the consultant's method of estimating costs for proposals is consistent with the accounting system.

d. A statement that the audit was performed in accordance with the criteria required by the Department and applicable generally accepted governmental auditing standards. Criteria will include compliance with the Department's *Overhead Audit Guidelines*, 2000, and the *Government Audit Guidelines*, Rev. July 1999, published by the U.S. Government Printing Office.

~~2. Submittal of an annual overhead audit for the most recently completed fiscal year performed by an independent Certified Public Accountant or governmental agency.~~

~~10. Consultants who have been in business for less than one complete fiscal year, consultants who have reorganized to the extent that the most recent overhead audit does not reflect a currently valid overhead rate, and consultants who have established and operated an accounting system in accordance with the minimum standards provided in the Department's Overhead Audit Guidelines Auditing Standards, 2000 1995, for a period of less than one year, will prepare a projected overhead rate which will be supported by estimated revenues and expenditures for the first fiscal year's operations since organization, reorganization, or implementation of the acceptable accounting system. The Department's Office of Inspector General Internal Audit Section shall review the estimate and establish a provisional combined overhead rate, which may be used in Department contracts until the firm has completed its first fiscal year of operation, at which time the firm shall submit an annual overhead audit performed by an independent Certified Public Accountant or governmental agency. The requirement for the submittal of an annual overhead audit becomes effective at the end of each consultant's fiscal year which begins on or after July 1, 1997, for the following types of work: 20.1 Appraisal, 20.2 Appraisal Review, 22 Acquisition Business Damage Estimating and Review, 24 Acquisition Relocation Assistance, 25 Right of Way Clearing and Leasing. For consultants qualifying solely in type of work 22 Acquisition Business Damage Estimating and Review, an overhead statement certified by a principal will be accepted in lieu of an independent audit.~~

~~a. The audit report shall include statements that the audit was performed in accordance with the criteria required by the Department and applicable generally accepted governmental auditing standards. Criteria shall include compliance with the Department's Overhead Audit Guidelines, 1995, and the Government Auditing Standards, 1994 [GAO/OCG 94-4] published by the U.S. General Accounting Office, which are incorporated herein by reference.~~

~~b. The audit report shall describe the consultant's estimating system and state whether estimates are prepared in accordance with the accounting system.~~

~~e. The Department reserves the right to perform overhead audits of any consultant under contract to, or desiring to do business with, the Department. These audits will be conducted consistent with the criteria outlined above.~~

11. Consultants requesting qualification for minor projects only, with contract fees under \$250,000, or consultants qualifying solely as certified public accountants, may submit a self-certified overhead report and statement describing their accounting system, certified by a principal, in lieu of an audit report and accounting system certification prepared by an independent CPA or governmental agency. Such a report will

be in a format prescribed by the Department. The requirements for an overhead audit and accounting system report will be waived for consultants requesting qualification for projects with contract fees under \$250,000 only, and who are individuals or sole proprietorships without employees.

~~12.3. Submittal of Proof of professional liability insurance by one of the following methods:~~

~~a. Submittal of a current certificate of professional liability insurance from a company or companies authorized to do business in Florida; or an unequivocal commitment letter from such an insurance company stating that professional liability insurance would be provided to the applicant; or~~

~~b. Submittal of a commitment letter from a financial institution meeting the requirements of Section 337.106, Florida Statutes, stating that a nonassignable and nontransferable irrevocable letter of credit, established pursuant to Chapter 675 and Section 337.106, Florida Statutes, and Rule Chapter 14-116, F.A.C., can be provided to the applicant in a minimum amount of \$250,000.~~

~~4. Approval of the consultant's annual overhead audit, accounting system, and professional liability insurance in addition to all other technical and administrative requirements enables the consultant to contract with the Department in any amount. The Department may contract with a consultant lacking an approved overhead audit if:~~

~~a. The value of the contract is less than \$250,000;~~

~~b. The consultant can adequately document and support all proposed costs;~~

~~e. All other qualification requirements are met.~~

~~(d)(e) If the Department intends to deny the application, or deny qualification for any type of work, the Department shall state in writing and with particularity the grounds or reasons for the denial, and shall inform the applicant of the right to a hearing pursuant to Section 120.57, Florida Statutes notice of the Department's intended action will be provided in accordance with Rule 28-106.111, F.A.C. Delivery of the Notice of Intent to Deny shall be made by certified mail or express delivery, return receipt, to the address listed in the applicant's application for qualification. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C.~~

(5) Period of Validity of Qualification. Should the applicant be found to possess the prescribed qualification, the consultant will be randomly assigned an expiration date, by which qualification must be renewed annually. The Notice of Qualification shall be valid for a period not to exceed 12 months from the date of issuance of the Notice of Qualification. The qualification anniversary date shall be within 180 days after the Consultant's Fiscal Year ends.

(6) Changes in Qualification Status.

(a) A consultant shall submit a revised application in the event a ~~significant~~ change in the status of its firm occurs; including a change of ownership, a change in the form of the business entity under which the firm operates, a substantial change in manpower which affects the firm's qualifications to perform any type of work, or any other change which ~~adversely~~ affects an element the Department considers under Rule 14-75.0022 when initially qualifying consultants. A revised application may be the basis for notice of agency action under Rule 14-75.0051.

(b) A consultant need not submit a revised application solely because of any change in the officers or the name of a corporation, but such information shall be certified to the Department within ten days ~~of its occurrence~~.

~~(7) A consultant may apply for qualification up to three months prior to the expiration of an existing qualification. Annual Renewals. To remain qualified, a consultant must apply for annual renewal between the 60th calendar day and the 30th calendar day prior to its qualification anniversary date. A complete application for qualification shall not be submitted unless changes as indicated in paragraph 14-75.0022(4)(a) have occurred. In lieu of a complete application for qualification, the consultant shall submit the following:~~

~~(a) A statement that the employees who were used to qualify the firm for the previous year are still employed by the firm;~~

~~(b) A current overhead audit covering the consultant's most recently completed fiscal year. Such fiscal year shall have been closed not more than 150 calendar days prior to submission. The audit must be approved prior to renewal; and~~

~~(c) Proof of current professional liability insurance (as described in paragraph 14-75.0022(2)(b)10.).~~

Specific Authority 287.055, 334.044(2), 337.105(4), ~~337.107, 337.1075~~ FS. Law Implemented 287.055, 337.167 FS. History—New 3-29-89, Amended 1-2-91, 9-29-92, 2-22-94, 8-5-96, 1-17-99,_____.

14-75.003 Minimum Technical Qualification Standards by Type of Work.

The following criteria apply to the qualification of professional consultants:

~~(1) Any corporation or limited partnership requesting qualification with the Department must be duly authorized to conduct business in the State of Florida and registered accordingly with the Secretary of State.~~

~~(2) If the practice of work described by a type of work is governed by the Department of Business and Professional Regulation, the individual, firm, and employees thereof whose credentials are presented to establish qualification to perform such work on Department projects must be registered with the governing board designated for the profession by the State and shall have all appropriate licenses and registrations required by Florida law.~~

~~(1)(3)~~ No professional or key personnel may be listed as employees of more than one consultant currently qualified with the Department. If a newly listed employee has been employed by a consultant currently qualified with the Department, within the 12 months immediately preceding the application, the application must so indicate and provide the date that such employee was hired by the consultant. The employee shall be deleted from the personnel list of the previous employer's firm, and if such deletion affects the qualification status of the previous employer, notice shall be given to said previous employer pursuant to Rule 14-75.0051.

~~(2)(4)~~ The Department shall not recognize joint ventures for purposes of ~~annually~~ qualifying consultants to ~~do~~ work for the Department. Each individual or firm will be annually qualified based upon individual or firm capability.

~~(3)(5)~~ Appropriate type of work codes will be included in each public notice regarding needed professional services in the Florida Administrative Weekly. Persons or firms responding to such notices must be qualified with the Department in the advertised types of work, meet the minimum experience and personnel requirements listed herein unless otherwise specified in the notice. Subconsultants qualified with the Department may be used to meet these requirements, where appropriate, so long as the responding consultant is also qualified with the Department in some standard type of work.

~~(4)(6)~~ All personnel listed by the consultant in order to qualify for any type of work or sub-category must be bona fide employees of the firm, or under exclusive contract to the firm, must be actively engaged in the type of work for which they are listed, and must have work experience ~~clearly~~ demonstrating an ability to perform the activities normally associated with the particular type of work or sub-category for which qualification is sought. The Department must be notified within 10 days of the departure from the firm of personnel used to prequalify the firm in any type of work.

~~(5)(7)~~ Qualification may be sought in any of the following categories or sub-categories: A determination of qualification will be based on information submitted with the application, including résumés; verification of professional registration, certification, and degree requirements where appropriate; and a check of references as needed. Additionally, the Department may require the consultant to submit examples of recently completed work performed by the personnel listed in the application to qualify the applicant to perform the indicated activities. Qualification may be sought in any of the following categories or sub-categories:

~~(a) Group 1. Reserved.~~

~~(a)(b)~~ Group 2. Project Development and Environmental (PD&E) Studies.

1. Type of Work. This type of work group involves the study and evaluation of the social, economic, and environmental effects on the human and natural environment by transportation systems and alternate transportation modes in

meeting identified community transportation and growth needs. Such work also includes the evaluation of alternate transportation corridors, and location/design alternatives within viable corridors. The work involves preparing engineering studies to address the economic and engineering feasibility of alternatives, level of service, traffic capacity, geometrics, soils, structures, intersection and interchange improvements, etc., to accommodate travel demand at an acceptable level of service. Additionally, the work entails the detailed study and preparation of environmental reports and documents which evaluate the physical, natural, social, cultural, economic, and human impacts of the alternatives under consideration upon the adjacent community. Public involvement and interagency coordination are integral parts of the assessment process. Potential mitigations identified based on the studies and public involvement are evaluated and incorporated into the alternatives as appropriate.

2. Qualification Requirements. Group 2: Project Development and Environmental (PD&E) Studies. This type of work group requires a professional engineer, registered with the Florida State Board of Professional Engineers, having a background or experience in civil engineering, including roadway design, proficiency in environmental engineering and experience in or education in social, economic or environmental impact assessment of transportation projects, involving especially highway projects including experience with public involvement issues; a natural scientist person with a four-year university or college degree and experience in a natural science such as ecology, biology, environmental science, or wildlife management, or geology; and a social scientist person with a four-year university or college degree and experience in a social science such as psychology, sociology, statistics, political science, geography, urban planning demographics, archeology, or economics.

~~(b)(e)~~ Group 3. Highway Design – Roadway. This type of work group involves is defined as the production and/or review of competently engineered highway plans, related design studies, creative utilization of roadsides, and the accommodation of utilities and utility crossings (where appropriate), which conform with acceptable design standards and which meet the specific requirements of the Florida Department of Transportation or the Federal Highway Administration. Due to the broad nature of this type of work, the Department has developed the following sub-categories. Consultants may be restricted to certain of these sub-categories based on the consultant's level of experience.

1. This group includes the following sub-categories of qualification:

~~a.1-~~ Type of Work 3.1: ~~Group 3.1-~~ Minor Highway Design. This type of work group includes roadway design for small and/or rural projects; repair, resurfacing, and rehabilitation projects which do not involve major reconstruction or substantial capacity improvements; and as

well as associated activities, such as drainage, utility relocation, minor traffic operations improvements, miscellaneous minor design services, etc.

~~b.2-~~ Type of Work 3.2: ~~Group 3.2-~~ Major Highway Design. This type of work group includes roadway design for urban arterial highways with curb and gutter, including the design of enclosed drainage systems. This type of work may include utility relocation plans, stormwater permits, maintenance of traffic plans, traffic engineering applications, etc.

~~c.3-~~ Type of Work 3.3: ~~Group 3.3-~~ Complex Highway Design. This type of work group is applicable to expressways, limited access facilities, interchanges, and interstate highways. This type of work includes all types of new roadway and reconstruction work on complex projects, including the use of complex geometrics, substantial drainage evaluation and design features, traffic engineering applications, utility relocation plans, and maintenance of traffic plans, etc.

~~2.4-~~ Qualification Requirements.

~~a.~~ Type of Work 3.1: ~~Group 3.1-~~ Minor Highway Design. This type of work group requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having proficiency in civil engineering and demonstrated plans, production, and design experience in the activities normally associated with this category. Sufficient production staff to perform these activities must also be shown.

~~b.~~ Types of Work 3.2 and 3.3: ~~Groups 3.2 and 3.3-~~ Major Highway Design and Complex Highway Design. These types of work groups require at least two professional engineers, registered with the Florida State Board of Professional Engineers, having proficiency in civil engineering and demonstrated plans, production, and design experience in the activities normally associated with the category. Sufficient production staff to perform these activities must also be shown.

~~(c)(d)~~ Group 4. Highway Design – Bridges. This type of work group involves is defined as the production and/or review of competently engineered bridge plans which conform with acceptable design standards and which meet the specific requirements of the Florida Department of Transportation or the Federal Highway Administration. Due to the broad nature of this type of work the Department has developed the following sub-categories. Consultants may be restricted to certain of these sub-categories based on the consultant's level of experience. The intent is to assure that a proper level of professional involvement is available for the responsible, expeditious, and accurate development of bridge plans with minimal participation by Department personnel.

1. This group includes the following sub-categories of qualification:

~~a.1-~~ Type of Work 4.1: ~~Group 4.1-~~ Minor Bridge Design. This type of work group includes the design of conventional, non-complex bridges and the structural design of other highway-related structures such as non-standard concrete box

culverts and retaining walls. Generally, this group is limited to designs utilizing conventional foundation types, simple geometry, and having total estimated bridge(s) plan area(s) no greater than 100,000 square feet (sum of the areas of multiple bridges). Typically, this includes design for the construction, rehabilitation, widening, or lengthening of box culverts, retaining walls, cast-in-place or precast prestressed short span slab type bridges, simple span prestressed concrete beam bridges, and simple span I-beam bridges. Generally, the following type of designs are included:

- a. Box culverts.
- b. Retaining walls.
- c. Cast-in-place or precast prestressed short span slab type bridges.
- d. Simple span prestressed concrete beam bridges.
- e. Simple span steel I-beam bridges.
- f. Rehabilitation, widening or lengthening of any of the above bridges.

~~b.2. Type of Work 4.2: Group 4.2: Major Bridge Design.~~ This ~~type of work group~~ includes the design of structures that cannot be included in ~~Type of Work Group 4.1~~ because of deck area or complex geometry (curvature, skew, or variable width), complexity of design (including bridges with statically indeterminate superstructure components) spans estimated to be less than 300 feet, non-conventional substructures, substructures requiring ship impact design, and railroad bridges. Typically, this includes design for the construction, rehabilitation, widening, or lengthening of bridges over navigable waters, bridges carrying rail traffic, steel box girders, structurally-continuous superstructures, longitudinally post-tensioned concrete bridges, and curved girder bridges. Generally, the following type of designs are included:

- a. Bridges over navigable waters.
- b. Bridges carrying rail traffic.
- c. Steel box girders.
- d. Structurally continuous superstructures.
- e. Longitudinally post-tensioned concrete bridges.
- f. Curved girder bridges.
- g. Rehabilitation, widening or lengthening of any of the above bridges.

~~c.3. Type of Work 4.3: Group 4.3: Complex Bridge Design.~~ This ~~type of work group~~ includes the design of unique, specialized, and uncommon types of designs as determined by the Florida Department of Transportation. Typically, this includes design for the construction, rehabilitation, widening, or lengthening of bridges with estimated span(s) longer than 300 feet, tunnels, cable-stayed bridges, suspension bridges, steel truss spans, concrete arch bridges, and bridges requiring unique analytical methods or other design features not commonly addressed in AASHTO publications. Generally, the following type of designs are included:

- a. Bridges with estimated span(s) longer than 300 feet.
- b. Tunnels.
- c. Cable-stayed bridges.
- d. Suspension bridges.
- e. Steel truss spans.
- f. Concrete arch bridges.
- g. Bridges requiring unique analytical methods or other design features not commonly addressed in AASHTO publications.

~~h. Rehabilitation, widening or lengthening of any of the above bridges.~~

~~d.4. Type of Work 4.4: Group 4.4: Movable Span Bridge Design.~~ This ~~type of work group~~ includes the design of bascule bridges and other movable bridges. The work includes all structural, electrical, and mechanical requirements. Typically, this includes design for the construction, rehabilitation, widening, or lengthening of bascule bridges, swing bridges, and vertical lift bridges. Generally, the following type of designs are included:

- a. Bascule bridges.
- b. Swing bridges.
- c. Vertical lift bridges.
- d. Rehabilitation or widening of any of the above bridges.

~~2.5. Qualification Requirements.~~

~~a. Type of Work 4.1: Group 4.1: Minor Bridge Design.~~ This ~~type of work requires~~ ~~The consultant must have~~ at least one professional engineer, registered with the Florida State Board of Professional Engineers, having a minimum of five years structural bridge design experience; ~~and~~ two structural design engineers/technicians having a minimum of three years each of bridge design experience; ~~and a sufficient number of experienced drafting/technical support staff.~~ The professional engineer shall be responsible for quality assurance of all the design services.

~~b. Type of Work 4.2: Group 4.2: Major Bridge Design.~~ This ~~type of work requires~~ ~~The consultant must have~~ at least two professional engineers, registered with the Florida State Board of Professional Engineers, having a minimum of five years each of structural bridge design experience in continuous span bridges (steel plate girder and box girder), post-tensioned continuous concrete spans, and foundations subject to significant lateral loads; ~~and~~ three or more structural design engineers/technicians having a minimum of three years each of bridge design experience; ~~and a sufficient number of experienced drafting/technical support staff.~~ The professional engineers shall be responsible for the quality assurance of all the design services. ~~A firm qualified to do this type of work is automatically qualified to do Minor Bridge Design.~~

~~c. Type of Work 4.3: Group 4.3: Complex Bridge Design.~~ This ~~type of work requires~~ ~~The consultant must have~~ at least three professional engineers, registered with the Florida State Board of Professional Engineers, having a minimum of five

years each of structural bridge design experience in categories as listed in Major Bridge Design, as well as spans estimated to be greater than 300 feet consisting of steel truss or arch, or steel or concrete cable-stayed and suspension type structures; and four or more structural design engineers/technicians having a minimum of three years each of bridge design experience, and a sufficient number of experienced drafting/technical support staff. The professional engineers shall be responsible for the quality assurance of all the design services. A firm qualified to do this type of work is automatically qualified to do Minor and Major Bridge Design.

d. Type of Work 4.4: Group 4.4: Movable Span Bridge Design. This type of work requires The consultant must have at least two professional engineers, registered with the Florida State Board of Professional Engineers, having a minimum of five years each of movable span bridge structural design experience; and one or more also employ professional engineers, registered with the Florida State Board of Professional Engineers, having appropriate experience in electrical power distribution; controls systems; hydraulic drive and control systems; and mechanical gearing, mechanism, and machinery.

~~(d)(e)~~ Group 5. Bridge Inspection. This ~~type of work group~~ is defined as the on-site inspection, load rating, and preparation of bridge inspection reports in accordance with approved federal and state statutes, policies, guidelines, and standards. ~~Due to the broad nature of this type of work, the Department has developed the following sub-categories. Consultants may be restricted to certain sub-categories based on the level of experience of their professional engineers, certified bridge inspectors and support personnel. Availability of required equipment will also be considered, along with level of experience in evaluating qualification.~~

1. This group includes the following sub-categories of qualification:

~~a.1- Type of Work 5.1: Group 5.1: Conventional Bridge Inspection.~~ This type of work sub-category includes inspection and load rating of all types of bridges except movable bridges, box girders, bulb-tees, suspension, cable stayed, post-tensioned segmental concrete, large steel trusses, high-rise structures, and ~~or~~ other complex bridge structures.

~~b.2- Type of Work 5.2: Group 5.2: Movable Bridge Inspection.~~ This type of work sub-category includes inspection and load rating of all types of movable structures (vertical lift, swing span, and bascule), utilizing specialty skills in inspection, load rating, and design of mechanical and electrical equipment.

~~c.3- Type of Work 5.3: Group 5.3: Complex Bridge Inspection.~~ This type of work sub-category includes inspection and load rating of all complex bridges except the movable bridges. Typical types of structures will include box girders, bulb-tees, suspension, cable stayed, post-tensioned segmental concrete, high-rise structures, and large steel trusses.

d. Type of Work 5.4: Bridge Load Rating. This type of work involves the process of determining the live load capacity of a structure.

~~2.4- Qualification Requirements. Types of work Groups 5.1, 5.2, 5.3, and 5.4: Bridge Inspection. This type of work requires~~ The consultant must have at least one professional engineer registered with the Florida State Board of Professional Engineers, having experience appropriate to the sub-category requested. ~~The consultant must also employ and list sufficient certified bridge inspectors, divers, and other technical personnel as required to perform the activities normally associated with each sub-category.~~

~~(e)(f)~~ Group 6. Traffic Engineering and Operations Studies. This ~~type of work group~~ includes is defined as the performance of studies of existing traffic problems within an urban area; and the determination of the most effective way to improve traffic flow and safety through the application of traffic engineering techniques and other corrective measures. It includes street and signal inventories; intersection and crossing diagrams; highway lighting information at nighttime high accident locations; and analysis of accident reports, traffic counts, travel times, parking practices, and laws and ordinances affecting transportation. This ~~type of work group~~ is limited to generalized description and schematic layouts of the proposed improvements, including right of way requirements, and generally does not include the preparation of construction plans and the writing of specifications for traffic system projects. ~~Due to the broad nature of this type of work the Department has developed the following sub-categories. Consultants may be restricted to certain of these sub-categories based on the consultant's level of experience.~~

1. This group includes the following sub-categories of qualification:

~~a.1- Type of Work 6.1: Group 6.1: Traffic Engineering Studies.~~ This type category of work is defined as the study of operational problems and the determination of traffic operational improvements for efficiency and safety. This work group includes studies for the following: signing, marking, and signal inventories; traffic counts; intersection and collision diagrams; signal warrant and intersection analysis; and travel time and delay studies. Many of the traffic engineering studies require knowledge and experience with traffic engineering computer programs such as SOAP, PASSER, and TRANSYT. This type of work group requires the consultant to make specific recommendations to improve the operational efficiency at a particular location.

~~b.2- Type of Work 6.2: Group 6.2: Traffic Signal Timing.~~ This type category of work is defined as the timing of traffic signals to improve traffic flow and safety. Department approved traffic engineering computerized timing programs shall be used. This type of work includes data collection,

intersection analysis and documentation, section analysis and documentation, timing implementation and fine tuning, and timing evaluation.

~~c.3. Type of Work 6.3: Group 6.3: Intelligent Transportation Traffic Control~~ Systems Analysis, Design, and Implementation. This ~~type category~~ of work is defined as the use of electrical engineering, electronics engineering, computer science, and traffic engineering to analyze, design, and implement real-time intelligent transportation traffic control systems. This includes system performance and cost analysis, system hardware and software design, development of management plans, system installation and operation, system testing and debugging, system documentation, and the training of operations personnel.

~~2.4. Qualification Requirements.~~

a. ~~Type of Work 6.1: Group 6.1: Traffic Engineering Studies.~~ This type of work requires a professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated traffic studies experience.

b. ~~Type of Work 6.2: Group 6.2: Traffic Signal Timing.~~ This type of work requires a professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated traffic signal timing experience in the application and interpretation of traffic flow and signal timing models. ~~The consultant also must employ and list sufficient personnel having experience using traffic engineering software applications, loading timings into field equipment, and loading databases into central computers for retiming.~~

c. ~~Type of Work 6.3: Group 6.3: Intelligent Transportation Traffic Control~~ Systems Analysis, Design and Implementation. This type of work requires a professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated experience in activities associated with intelligent transportation traffic control systems. Restrictions to the type of intelligent transportation traffic control systems work may apply depending on the consultant's demonstrated proficiency or documented experience in one or more of the following defined technical skill areas:

(I) ~~Intelligent Transportation Traffic~~ Systems Analysis and Design. This type of work requires ~~Engineering/Technical staff with~~ experience in the production of competently engineered design, and preparation of construction plans and specifications for traffic control systems, freeway operations systems, dynamic message sign systems, closed circuit television camera systems, detection systems, and automatic vehicle identification systems ~~work~~. The consultant must also demonstrate experience with traffic engineering software applications, freeway control software, and ~~with~~ computerized timing programs.

(II) ~~Intelligent Transportation Traffic Engineering~~ Systems Implementation. This type of work requires ~~Engineering/Technical staff having~~ documented experience with realtime traffic control systems, system installation and

testing, and knowledge of Construction Engineering Inspection (CEI) requirements for intelligent transportation signal construction projects.

(III) ~~Intelligent Transportation Traffic Engineering~~ Systems Communications. This type of work requires ~~Engineering/Technical staff with~~ documented experience proficiency in electronic engineering of system hardware, digital system design, specifications, and utilization. The applicant must show experience in electrical engineering of power and communications, including power distribution, standby power supply, lightning protection, hardware interconnect, fiber optic networks, wireless communications networks, local area networks, wide area networks, Internet communications, data recording, data transmission, modulating, and multiplexing techniques.

(IV) ~~Intelligent Transportation Traffic Engineering~~ Systems Software Development. This type of work requires documented experience in software development, specifically with intelligent transportation systems traffic engineering applications, and computer science (realtime process control software systems, including realtime executive I/O processing and priority interrupt based processing). The applicant must also show experience with system software testing and debugging, data base software, graphical user interfaces, system documentation, and training of operations personnel.

~~(f)(g) Group 7. Traffic Operations Design.~~ This ~~type of work group~~ is defined as the production of competently engineered designs, and preparation of construction plans and/or specifications for a variety of traffic operations type work. ~~Due to the broad nature of this type of work the Department has developed the following sub-categories. Applicants may be qualified only in certain of these sub-categories based on the applicant's level of experience.~~

a.1. ~~Type of Work 7.1: Group 7.1: Signing, Pavement Marking, and Channelization.~~ This type of work includes designing, preparing construction plans, and writing specifications for signing, pavement marking, and channelization. Such work involves structural support and foundation calculations, and requires a basic knowledge of traffic engineering studies.

b.2. ~~Type of Work 7.2: Group 7.2: Lighting.~~ This type of work includes designing, preparing construction plans, and writing specifications for roadway lighting improvements. Such work involves lighting calculations, ~~and~~ pole location, foundation design, electrical circuit calculations ~~and~~ power supply and ~~power~~ distribution design; and requires a basic knowledge of traffic engineering studies.

c.3. ~~Type of Work 7.3: Group 7.3: Signalization.~~ This type of work includes designing, preparing construction plans, and writing specifications for traffic signalization. Such work involves capacity calculations, signal operating plan

development, timing calculations, equipment location, pole and foundation designs, etc., and requires a basic knowledge of traffic engineering studies and traffic signal retiming.

2.4- Qualification Requirements.

a. Type of Work 7.1: Group 7.1: Signing, Pavement Marking, and Channelization. This type of work requires a professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated experience in this category of work.

b. Type of Work 7.2: Group 7.2: Lighting. This type of work requires the consultant to demonstrate experience in the areas of illumination and electrical engineering, as well as to employ a professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated lighting plans design and production experience.

c. Type of Work 7.3: Group 7.3: Signalization. This type of work requires the consultant to demonstrate experience in the area of electrical engineering, as well as to employ a professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated experience in the design and production of traffic signalization plans.

~~(g)(h)~~ Group 8. Surveying and Mapping Surveys. This type of work group includes land and boundary surveying and mapping, as defined in Rule Chapter 61G17-6, F.A.C., other types of surveys required for the land acquisition, design, and construction of transportation engineering projects.

1. This group includes the following sub-categories of qualification:

a. Type of Work 8.1: Control Surveying. This type of work provides horizontal and/or vertical data to a specified standard for all Department projects.

b. Type of Work 8.2: Design, Right of Way, and Construction Surveying. This type of work includes boundary surveys, right of way surveys, as-built surveys, construction layout surveys, topographic surveys, hydrographic surveys, quantity surveys, record surveys, mean high water line surveys, and special purpose surveys.

c. Type of Work 8.3: Photogrammetric Mapping. This type of work includes surveys and the preparation of maps using photogrammetric methods.

d. Type of Work 8.4: Right of Way Mapping. This type of work includes the production of right of way related maps, as well as the preparation of legal descriptions and sketches of legal descriptions based on information supported by the applicable surveys or maps defined in the preceding types of work, title searches, and other documents.

2. Qualification Requirements: To qualify to perform surveying and mapping services as defined above, the consultant must employ at least one professional surveyor and mapper, registered with the Florida Board of Professional Surveyors and Mappers, having at least one year of documented post registration experience in the specific type of work for which qualification is requested. The consultant must

also employ at least two additional technical personnel, each having at least one year of documented experience in the specific type of work for which qualification is requested. In addition, the consultant must submit a written statement of intent to use equipment and software meeting the accuracy, formatting, and other requirements defined in Department policies, procedures, manuals, or handbooks, related to the type(s) of work for which qualification is sought.

1. Group 8.1: Land and Right of Way Survey. This type of work includes determining the perimeter of a parcel or tract of land by establishing or reestablishing corners, monuments, and boundary lines for the purpose of describing, locating fixed improvements, platting or subdividing a parcel, and surveying of a strip or area of land used or proposed to be used for the construction and maintenance of a transportation facility.

2. Group 8.2: Design survey. This type of work includes preparing control surveys providing horizontal or vertical position data for the support or control of subordinate surveys or for mapping; construction layout surveys for measurements to control elevation, horizontal position and dimensions and configuration prior to or while construction is in progress; topographic surveys of the natural and selected man made features of a part of the earth's surface by remote sensing and/or ground measurements to determine horizontal and vertical spacial relations of tracts of land; or hydrographic surveys to determine data relating to bodies of water which may consist of the determination of depth of water and configuration of the bottom at particular points; directions and force of current; heights, times and water stages; and location of fixed objects for survey and navigation purposes.

3. Qualification Requirements. Groups 8.1 and 8.2: Surveys. This group requires at least one land surveyor, registered with the Florida State Board of Land Surveyors, having at least one year of land surveying experience acting in responsible charge. The consultant must employ and list sufficient staff to undertake the requirements normally associated with this type of work, and must document the availability of proper equipment to perform this work.

~~(h)(i)~~ Group 9. Soil Exploration, Material Testing, and Foundations. Due to the broad nature of this type of work, the Department has developed the following sub-categories. Consultants may be restricted to certain of these sub-categories based on their level of experience and ability to provide required equipment.

1. This group includes the following sub-categories of qualification:

a. Type of Work 9.1: Group 9.1: Soil Exploration. This type of work includes acquisition and reporting of subsurface material, hydrological, and environmental information to be used for the planning, design, construction, and performance of transportation facilities. The methodology involved includes on-site investigations by performing borings, Standard Penetration tests, Cone Penetration tests, and rock coring; the

use of specialized test equipment, such as the field vane, pressuremeter, or dilatometer; and the use of geophysical methods. Also included is the field classification of materials and acquisition of soil and rock samples.

b.2. Type of Work 9.2: ~~Group 9.2:~~ Geotechnical Classification Lab Exploration Testing. This type of work includes conducting tests on soil and rock according to Department approved specifications for the purpose of classifying materials ~~and identifying their physical properties.~~ The methodology involved includes testing moisture content, grain size, Atterberg limits, compaction, and Limerock Bearing Ratio (LBR) tests permeability, consolidation, unconfined compression, direct shear, and triaxial.

c.3. Type of Work 9.3: ~~Group 9.3:~~ Highway Materials Testing. This type of work includes sampling and testing various materials and reporting results and recommendations. Work will be performed at mines, quarries, mills, refineries, processors, producers, fabricators, constructors, laboratories, and project construction sites; some of which will be outside the State of Florida. Materials to be tested include, ~~but are not limited to,~~ aggregates; concrete products; cements and additives, including water, epoxies, and curing compounds; bituminous materials, mixtures, additives, and joint fillers; metals; galvanizing, rubber, paints, and other coatings; and soils and limerock.

d.4. Type of Work 9.4: ~~Group 9.4:~~ Foundation Studies. This type of work includes producing reports which include selection of the type (footings, piles, drilled shafts, etc.) and depth of foundation for bridges and other structures; bearing capacity and the predicted settlement of the selected foundation; slope stability; surcharge or stage construction time schedules for construction over soft ground; pile load tests; soil treatment; stabilization; and direction of field instrumentation installation, including the interpretation of data obtained and other foundation studies using the applicable ~~Department~~ FDOT Standard Specifications for Road and Bridge Construction, ~~Department~~ FDOT Soils and Foundation Manual ~~procedures,~~ and Federal Highway Administration guidelines and checklist.

e. Type of Work 9.5: Geotechnical Specialty Lab Testing. This type of work includes conducting tests on soil and rock according to Department approved specifications for the purpose of identifying their physical properties. The methodology involved includes testing permeability, consolidation, unconfined compression, direct shear, splitting tensile, and triaxial.

2.5. Qualification Requirements. ~~a.~~ For all sub-categories this work requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having demonstrated experience in the activities normally associated with the category(ies) under consideration.

a.b. Type of Work 9.1: ~~Group 9.1:~~ Soil Exploration. The consultant must document the availability of equipment (in-house or subcontracted) necessary to perform the work. Documentation of availability includes equipment listings for explorations subcontractors who will be used on ~~Department~~ DOT projects. It should be noted that the qualified consultant shall be solely responsible for any and all explorations work, whether performed by the consultant or ~~its~~ his subcontractor.

b.e. Type of Work 9.2: ~~Group 9.2:~~ Geotechnical Classification Lab Exploration Testing. The consultant must have at least one technician with a minimum of two years of experience in geotechnical testing and LBR Technician qualification under the Department's Construction Training Qualification Program (in-house) the equipment and qualified staff necessary to perform the work.

c.d. Type of Work 9.3: ~~Group 9.3:~~ Highway Materials Testing. Among the consultant's personnel, at least one individual The consultant must possess have (in-house) the equipment and qualified, certified staff necessary to perform the work. Certification requirements include at least one FDOT Limerock Bearing Ratio (LBR) Technician qualification certification, one individual must possess FDOT Asphalt Plant Level I qualification Technician certification, one individual must possess Concrete Field testing Technician Level I qualification under the Department's Construction Training Qualification Program American Concrete Institute (ACI) concrete testing certification, and one individual must possess nuclear gauge operator certification as provided by a gauge manufacturer. In addition, the consultant must have (in-house) at least the following test equipment: oven, balances, sieves, mechanical shaker, colorimetric kit, compression testing machine, moisture curing room or tanks, slump cone, air meters, gravity apparatus, thermometers, pycnometer, pulverizing apparatus, jaw crusher apparatus, splitter or quartering device, Los Angeles machine, flowmeter, water bath, vacuum extractor, muffle furnace, compaction hammer, molds LBR loading devices with penetration piston, soak tanks, superpave gyatory apparatus, and ignition furnace. Procedures for certification of FDOT Limerock Bearing Ratio Technicians are provided in FDOT *Limerock Bearing Ratio Technician Certification Study Guide*, 1986, and procedures for certification of FDOT Asphalt Plant Technicians are provided in the FDOT *Asphalt Technician Manual*, 1992. These two manuals are hereby incorporated by reference herein.

e. Type of Work 9.5: Geotechnical Specialty Lab Testing. The consultant must have at least one staff member with at least four years of experience performing the tests, or an equivalent bachelor's degree. In addition, the consultant must have (in-house) at least the following test equipment: oven, balances, permeameter, consolidation load device, load frame, direct shear machine, triaxial panel, and a triaxial cell.

~~(i)(j)~~ Group 10. Construction Engineering Inspection. This type of work group involves the monitoring and inspection of the work required under various construction contracts. This type of work includes coordinating with other public agencies, utilities, and affected property owners. ~~A registered professional engineer is required to act in the capacity of resident engineer under the supervision of a representative of the Department. Other technical support personnel will be required as necessary depending on the nature, extent and complexity of the work under contract. Due to the nature of this type of work, the Department has developed the following sub categories. Consultants may be restricted to certain of these sub categories based on their level of professional experience and the number of experienced technical support personnel.~~

~~a.1. Type of Work 10.1: Group 10.1: Roadway Construction Engineering Inspection. This type of work includes the administration and inspection of single or multiple construction contracts on rural, municipal, urban, and interstate facilities; including necessary minor bridges as defined in Type of Work 3.1 Group 4.1.~~

~~b.2. Type of Work 10.2: Group 10.2: Major Bridge Construction Engineering Inspection. This type of work includes the administration and inspection of single or multiple construction contracts involving the construction of major bridges as defined in Types of Work Groups 4.2, 4.3, and 4.4.~~

~~c.3. Type of Work 10.3: Group 10.3: Construction Materials Inspection. This type of work includes conducting inspections and investigations of various highway materials or products, together with the proper recording, analysis, and reporting of results and recommendations. The work will be performed at mines, quarries, mills, refineries, processors, producers, fabricators, constructors, and project construction sites; some of which will be outside the State of Florida.~~

2.4. Qualification Requirements.

~~a. Type of Work 10.1: Group 10.1: Roadway Construction Engineering Inspection. This type of work requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having at least two years of responsible charge experience as a project engineer on a roadway construction inspection project.~~

~~b. Type of Work 10.2: Group 10.2: Major Bridge Construction Engineering Inspection. This type of work requires a minimum of three professional engineers, registered with the Florida State Board of Professional Engineers. One of these engineers must have at least five years of demonstrated major bridge construction inspection experience.~~

~~c. Type of Work 10.3: Group 10.3: Construction Materials Inspection. This type of work requires a minimum of one professional engineer, registered with the Florida State Board of Professional Engineers, having at least three years of responsible experience in bridge or roadway construction inspection.~~

~~(j)(k)~~ Group 11. Engineering Contract Administration and Management.

1. Type of Work: ~~Group 11: Engineering Contract Administration and Management.~~ This type of work is defined as the administration and management of engineering activities. Consultants applying for qualification in this type of work must be determined qualified in a number of categories under this rule chapter. Examples of assignments made to a consultant qualified for this type of work are:

a. Engineering analysis of transportation facility deficiencies; and the preparation of an engineering scope of services and manhour estimate to correct those deficiencies.

b. Project schedule development for planning, environmental, design, and construction engineering inspection activities.

c. Review and analysis of professional engineering issues contained in statements of qualification and technical proposals submitted by consultants competing for professional contracts.

d. Conducting Scope of Service meetings with professional consultants.

e. Preparation of contractual agreements for professional services in accordance with Department policies and procedures.

f. Supervision and management of engineering consultants on individual projects, responding to their technical questions, and reviewing their work in progress and completed work.

g. Representing the Department during professional service negotiations with consultants, utilities, and other entities.

h. Other professional engineering activities associated with the acquisition and management of professional consulting services.

2. Qualification Requirements. ~~Group 11: Engineering Contract Administration and Management.~~ To be determined qualified for this type of work, a consultant must be qualified by the Department in the following Groups and Types of Work under this rule chapter: Group 3, Types of Work Groups 4.1, and 4.2, and Group 6.1, Group 7, and Type of Work Group 10.1. Firms deemed determined qualified in these groups and requesting qualification for Group 11 will be deemed determined qualified without a requirement to submit additional qualification documentation or materials.

~~(l) Group 12. Right of Way Surveying and Mapping. Due to the nature of this work, the Department has developed the following sub categories. Consultants may be restricted to certain of these sub categories based on the level of their experience and availability of personnel.~~

~~1. Group 12.1: Right of Way Map Preparation. This type of work includes the production of competently prepared right of way maps which must conform to Rule Chapter 61G17-6, F.A.C., pursuant to Section 472.027, Florida Statutes. Included in this type of work is the alignment of the proposed facility;~~

~~sectional ties, depiction of the parent tract, identification of property ownership lines, complete parcel definition by distances and bearings, parcel identification numbers and tabulation of areas including those required for the facility and the remainder.~~

~~2. Group 12.2: Legal Description Preparation. This type of work includes the production of competently prepared legal descriptions based upon right of way maps information. Descriptions must conform to Rule Chapter 61G17-6, FAC, pursuant to Section 472.027, Florida Statutes.~~

~~3. Qualification Requirements for Groups 12.1 and 12.2: Right of Way Surveying and Mapping. These Groups require at least one professional land surveyor, registered with the Florida State Board of Land Surveyors and a minimum of two technical personnel, all having demonstrated experience in the applicable category of work.~~

~~(k)(m) Group 13. Planning. This type of work group involves is defined as the determination of future actions necessary to address the need for transportation facilities and services. The work effort may involve planning both short range (up to 10 years) and long range (more than 10 years) time periods, and may involve any or all typical activities of planning, including but not limited to development and refinement of processes and procedures; development and analysis of policies, goals, and objectives; data collection and analysis; issue analysis; development and use of forecasting and other models; analysis of transportation/land use relationships; assessing the impact that planning transportation improvements may have on private property; establishment of standards and performance criteria; forecasts of transportation and transportation - related data; determination and analysis of alternatives; multimodal/intermodal tradeoff analysis; analysis of alternatives; multimodal/intermodal tradeoff analysis; development of recommended plans and courses of action; financial feasibility; assessment of the impacts of growth management requirements on transportation; and public participation and coordination with other planning processes and plans. Due to the nature of the type of work, the Department has developed the following sub-categories. Consultants may be restricted to certain of these sub-categories based on their level of experience.~~

~~1. This group includes the following subcategories of qualification:~~

~~a.1- Type of Work Group 13.1: Reserved.~~

~~b.2- Type of Work Group 13.2: Reserved.~~

~~c.3- Type of Work Group 13.3: Policy Planning. This type of work involves deals with transportation and transportation - related planning activities in the broadest or most general way. Included in this sub-category are development and refinement of statewide transportation plans or plan components, and activities involving the impacts and implications of policies, legislative legislation issues, processes, and standards on a wide variety of subjects, including: transportation facilities and~~

services; land use; the environment; the private sector; and the public. Planning in this sub-category usually occurs at levels where difficult trade-offs in the use and allocation of resources must be made and where many people will be affected in important but often subtle ways. Hence, the ability to use judgement, both political and technical/professional, is very important, as is the ability to effectively communicate using a variety of media.

~~d.4- Type of Work Group 13.4: Systems Planning. This type of work deals with planning for entire systems (one or several modes) of transportation covering an entire geographic area. Included in this sub-category are activities involving the systematic analysis of future demand for transportation facilities and services, leading to recommendations for addressing that demand. Typical activities include: data collection and analysis, including analysis of transportation/land use relationships; estimation, forecasting, and assignment of travel demand, including modeling the characteristics and use of transportation systems; mode split and multimodal tradeoff analysis; impact analysis; evaluation and decision making; cost analysis and financial feasibility; and modal coordination and management. Although recommendations as to the type, number, and approximate location of transportation facilities are to be made, this sub-category does not include determination of the precise location or design of facilities or systems.~~

~~e.5- Type of Work Group 13.5: Subarea/Corridor Planning. This type of work deals with planning for entire or portions of systems (one or several modes) of transportation covering a portion of a geographic area. Included in this sub-category are activities involving the systematic analysis of future demand for transportation facilities and services, leading to recommendations for addressing that demand. Typical activities, usually performed at a more detailed level than with systems planning, include data collection and analysis, as well as including: analysis of transportation/land use relationships; estimation, forecasting, and assignment of travel demand, including modeling the characteristics and use of transportation systems; mode split and multimodal tradeoff analysis; impact analysis; evaluation and decision making; cost analysis; and financial feasibility; and modal coordination and management. Although recommendations as to the type, number, and approximate location of transportation facilities are to be made, this sub-category does not include determination of the precise location or design of facilities or systems.~~

~~f.6- Type of Work Group 13.6: Land Planning/Engineering. This work involves planning and engineering in support of assessing the impacts that proposed transportation improvements may have on private property. Included in this sub-category are activities involving site analysis for compliance with comprehensive plans, local ordinances, and appraisers' cost to cure; reviewing. ~~Review~~~~

and ~~providing~~ ~~provide~~ engineering opinions of site plans for feasibility and conformance with applicable codes and regulations; ~~assessing~~—Assess the impact to drainage and environment; and ~~preparing~~—Prepare site plan and studies which may encompass parking layout, vehicle use areas, and general site consideration in conformance with applicable codes, laws, and regulations.

g. Type of Work 13.7: Transportation Statistics. This type of work involves data collection, analysis, editing, processing, and reporting to support planning, design, and maintenance of the transportation network. This type of work also involves the construction, replacement, or repair of traffic monitoring equipment including sensors (either installed in, or along the roadway) and associated equipment and appurtenances. The construction of traffic monitoring sites may include design, preparing construction plans, writing specifications, and construction engineering supervision. Special traffic counts may also be performed under this activity to support production and development activities and special needs.

2.7- Qualification Requirements.

a. ~~Type of Work Group~~ 13.1: Reserved.

b. ~~Type of Work Group~~ 13.2: Reserved.

c. ~~Type of Work Group~~ 13.3: Policy Planning. This type of work requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having training and experience in areas directly related to policy planning; or at least one professional engineer, registered with the Florida State Board of Professional Engineers, with at least one employed planner having training and experience in areas directly related to policy planning; or at least one planner, certified with the American Institute of Certified Planners, having training and experience in areas directly related to policy planning.

d. ~~Type of Work Group~~ 13.4: Systems Planning. This type of work requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having training and experience in areas directly related to systems planning; or at least one professional engineer, registered with the Florida State Board of Professional Engineers with at least one employed planner having training and experience in areas directly related to systems planning; or at least one planner, certified with the American Institute of Certified Planners, having training and experience in areas directly related to systems planning.

e. ~~Type of Work Group~~ 13.5: Subarea/Corridor Planning. This type of work requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having training and experience in areas directly related to subarea/corridor planning; or at least one professional engineer, registered with the Florida State Board of Professional Engineers, with at least one employed planner having training and experience in areas directly related to subarea/corridor planning; or at least one planner, certified

with the American Institute of Certified Planners, having training and experience in areas directly related to subarea/corridor planning.

f. ~~Type of Work Group~~ 13.6: Land Planning/Engineering. This type of work requires at least one professional engineer, registered with the Florida State Board of Professional Engineers, having training and experience in comprehensive planning or areas directly related to assessing impacts to private property; or at least one professional engineer, registered with the Florida State Board of Professional Engineers, with at least one employed planner having training and experience in comprehensive planning or areas directly related to assessing impacts to private property; or at least one planner, certified with the American Institute of Certified Planners, having training and experience in comprehensive planning or areas directly related to assessing impacts to private property.

g. Type of Work 13.7: Transportation Statistics. This type of work requires at least one professional engineer registered with the Florida State Board of Professional Engineers, having demonstrated experience in activities associated with the collection of traffic data of a statistical nature that can be used in the Department's data bases such as the Rail-highway Crossing Inventory (RHCI), Traffic Characteristics Inventory (TCI), and Roadway Characteristics Inventory (RCI), or used to support other Department activities such as highway design. In addition, either the same engineer, or an additional professional engineer registered with the State Board of Professional Engineers with demonstrated experience in the construction, replacement, or repair of traffic monitoring equipment, including sensors (either installed in, on, or alongside the roadway) and associated equipment and appurtenances, and maintenance of traffic is required.

~~(l)(n)~~ Group 14. Architect.

1. Type of Work. This type of work is defined as the rendering of services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning; providing preliminary study designs, drawings, and specifications; architectural supervision; job-site inspection; and administration of construction contracts.

2. Qualification Requirements. This type of work requires at least one architect, registered with the Florida State Board of Architecture and Interior Design, with documentation indicating five years of post registration experience in commercial design and favorable references. Additionally, the firm must employ and list sufficient project management and technical staff to provide services normally associated with this type of work; and provide documentation of past projects and favorable references.

~~(m)(o)~~ Group 15: Landscape Architect.

1. Type of Work. This type of work is defined as the rendering of services in connection with the design and construction of landscape projects. These services include planning; site planning; providing preliminary study designs, drawings, and specifications; landscape architectural supervision; job-site inspection; and administration of construction contracts.

2. Qualification Requirements. ~~Group 15: Landscape Architect.~~ This type of work requires at least one landscape architect, registered with the Florida State Board of Landscape Architecture, ~~with. Additionally, the firm must employ and list sufficient project management and technical staff to provide services normally associated with this type of work; and provide documentation of past projects and favorable references.~~

~~(p) Group 20. Appraisal Services. This type of work is defined as the services provided by an appraiser to the State of Florida Department of Transportation. Appraisal Services include: "Appraisal Assignment" denoting an engagement for which a person is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property; "Analysis Assignment" denoting limited appraisal services that relate to the Department's specifically identified needs such as estimates of project or parcel costs, specialized studies of project effects or influences, market activity, market conditions, trends and adjustments, financing, and feasibility as well as analyses, opinions and conclusions relating to such activities. Appraisal services require a written statement, independently and impartially prepared, which meets the Uniform Standards of Professional Appraisal Practice (USPAP), as incorporated by reference in Section 475.628, Florida Statutes. Due to the nature of this work, the Department has developed the following sub-categories. Consultants may be restricted to certain of these sub-categories based on the level of their experience and availability of personnel; and "Appraisal Review" denoting the act or process of critically studying an appraisal report prepared by others.~~

~~1. Group 20.1 Appraisal.~~

~~2. Group 20.2 Appraisal Review.~~

~~3. Qualification Requirements. These types of work requires a minimum of one person licensed as a State Certified General Real Estate Appraiser issued by the Florida Department of Business and Professional Regulation with a minimum of three years experience in appraising for eminent domain purposes. For Group 20.2, the certifying appraiser shall, in addition to the required three years experience in appraising for eminent domain purposes, have a minimum of three years experience in appraisal review for eminent domain purposes.~~

~~(n)(e) Group 21. Acquisition, Negotiation, Closing, and Order of Taking.~~

1. Type of Work. This type of work involves notifying all affected parties of their rights pursuant to Section 337.271, Florida Statutes; reviewing and verifying all title work; reviewing right of way maps and construction plans and verifying that all legal descriptions, right of way maps, and appraisals correspond; conducting interviews with business owners to determine eligibility for potential business damage claims and obtaining appropriate documentation; preparing real property/personal property inventories; making purchase offers including the approved market value estimate and, when applicable, approved business damages, and conducting negotiations in accordance with state policies and procedures and all applicable laws; participating in the non-binding pre-litigation mediation process; preparing recommendations for administrative settlements; preparing and processing invoices for requesting warrants for settlements, and order of taking deposits; conducting all necessary closings ~~including but not limited to updating the title search, ensuring satisfaction of all liens and transfers, recording of all documents, and collection and payment of prorated real estate taxes; obtaining all suit information from property owners, preparing public disclosure forms for execution, obtaining Secretary of State's reports,~~ as well as preparation, styling, and filing of lawsuit packages under the direction of the Department's attorney; providing assistance to the Department's attorneys in obtaining Orders of Taking, including providing testimony and responding to interrogatories; and maintaining complete written documentation of all contacts with property owners or property owners' representatives.

2. Qualification Requirements. This type of work requires registration of the consultant with the Florida Real Estate Commission and, at as a minimum, one real estate broker and one real estate ~~salesperson~~ salesman licensed by the State of Florida Department of Business and Professional Regulation. These employees each must have at least three years of demonstrated experience in transportation acquisition projects.

~~(o)(e) Group 22. Acquisition Business Damage Estimating and Estimate Review.~~

1. Type of Work. This work is defined as the preparation of business damage estimate reports describing the impact of a right of way acquisition on the income, expenses, and profits of a particular business, in accordance with the standards established in Chapter 14-102, F.A.C. Florida Administrative Code, and all other recognized accounting and performance standards; and the critical and analytical review and evaluation of business damage estimate reports, exhibits, and other documentation submitted to the Department by the business damage estimator on behalf of the Department or business owners. ~~Performance of the estimates entail visiting each site to determine the probable impact of the taking on the business~~

operation; interviewing business owners or any other designated representatives to the extent necessary to ensure that a complete understanding of the business operation is obtained; making a preliminary determination as to whether the business meets the eligibility requirements for a business damage claim in accordance with statutory provisions; performing preliminary cost estimates; conducting research in areas such as, parking studies, and traffic studies; coordinating with the Department's appraiser, review appraiser or relocation agent to ensure that any potential for duplicate payment is removed prior to completion of the estimate; and making a presentation to the Department's Business Damage Review Committee regarding the taking, appraisal report, other pertinent studies and business damage reports, including reports submitted on behalf of the owner. Performance of estimate reviews entail the physical inspection of the business for which damages are being estimated and a determination of:

- a. ~~Compliance with Chapter 14 102, Florida Administrative Code;~~
- b. ~~The reasonableness of and consistency among the facts and circumstances of the estimators' reports;~~
- c. ~~The reasonableness of the estimators' conclusions and rationale; and~~
- d. ~~The estimators' compliance with Chapter 14 102, Florida Administrative Code. This work also involves a review of invoices submitted by estimators of business damages. A written report is required consisting of the reviewer's conclusions regarding items a, b, c and d above.~~

2. Qualification Requirements. This type of work requires a minimum of one employee, registered as a Certified Public Accountant in the State of Florida, with a minimum of three years of demonstrated professional accounting work, after registration. This type of work also requires the CPA to show demonstrated previous experience in the preparation of accepted business damage estimate reports for the Florida Department of Transportation within the last three years immediately preceding application for qualification; or service as an expert witness in the State of Florida in eminent domain cases or other legal cases regarding business valuation or damages within the last three years immediately preceding application for qualification; or a minimum of 24 hours of completed course work since January 1, 1981, directly related to business valuation. Verification of course work shall be by copies of course certificates of completion issued by the course provider which will indicate the number of hours that may be counted for continuing professional education credits.

~~(p)(s)~~ Group 24. Acquisition Relocation Assistance.

1. Type of Work. This type of work is defined as relocation planning at the conceptual stage of a transportation project and the preparation of the Relocation Needs Assessment Survey, identifying displaced persons and likely business damage candidates pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies

Act and 49 C.F.R., Part 24. This would involve the study and evaluation of the characteristics and needs of individuals, families, business operations, non profit organizations, outdoor advertising signs (if applicable), farming operations, and personal property to be affected by the transportation project and by what means those needs will be met. Advisory services, including personal interviews and coordination with displaced persons, must be provided to insure the timely relocation to replacement properties. Relocation assistance also involves the delivery of all required notices and offers to owners and tenants, the location and offering of comparable decent, safe, and sanitary replacement dwellings available for sale or rent, the computation of replacement housing payments, the determination of appropriate move cost payments, the monitoring of moves, the preparation of claim packages, invoicing of payment amounts and delivery of warrants. The work also entails obtaining all information pertinent to evictions and relocation appeals, and includes providing testimony. ~~The preparation and maintenance of complete written documentation of all advisory services, notice delivery, comparability and payment determinations and contacts with all persons involved in the relocation process is required.~~

2. Qualification Requirements. This type of work requires a minimum of one full time employee ~~with to have~~ a minimum of three years of demonstrated current experience in administering and providing relocation assistance for transportation projects under the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act and 49 C.F.R., Part 24.

~~(q)(t)~~ Group 25. Right of Way Clearing and Leasing.

1. Type of Work: This ~~type of~~ work involves preparing real property/personal property inventories and inventory updates up to and including final disposition of the property; performing property inspections on an ongoing basis to determine the need for rodent control, maintenance, and security; conducting negotiations for short-term leases and preparing leasing documents for real and personal property prior to construction of a project; preparing, obtaining, managing, and reviewing ~~departmental~~ contracts for consultant services to perform asbestos surveys, ~~preparing prepare~~ asbestos operation and maintenance plans, ~~preparing prepare~~ asbestos abatement specifications, and performing air and asbestos project monitoring; preparing, obtaining, and managing departmental contracts for asbestos abatement services ~~and assuring the contractor files appropriate notices, begins work on required dates and is in compliance with applicable laws and regulations;~~ preparing, obtaining, and managing departmental contracts for demolition and removal services ~~and assuring the contractor files appropriate notices, begins work on required dates and is in compliance with applicable laws and regulations;~~ inspecting demolition sites

and documenting demolition activities; and preparing, obtaining, and managing departmental contracts for removal of pollutant storage tanks.

2. Qualification Requirements. This type of work requires registration of the consultant with the Florida Real Estate Commission and, at as a minimum, one real estate broker and one real estate salesperson salesman licensed by the Florida State Department of Business and Professional Regulation. These employees each must have at least three years of demonstrated experience in managing properties acquired for transportation purposes and managing in management of contracts for demolition activities. Additionally, at least one employee must be certified as an Asbestos Inspector, and as an Asbestos Management Planner, and have a minimum of three years of administrative experience in the asbestos field.

Specific Authority 287.055, 334.044(2) FS. Law Implemented 287.055, 337.105, 337.1075 FS. History—New 6-30-73, Amended 3-24-77, 5-1-77, 8-31-77, 11-13-77, 9-20-83, 10-21-85, Formerly 14-75.03, Amended 3-29-89, 1-2-91, 9-29-92, 2-22-94, 8-5-96, 6-30-98, _____.

14-75.004 Consultant Competitive Selection Process.

Selection of professional consultants by the Department shall be in accordance with the provisions enumerated below.

(1) Notice.

(a) Except when there is a public emergency certified by the Secretary of Transportation, the Department shall provide notice whenever it requires professional services for a project, the basic construction cost of which is estimated by the Department to be more than the threshold amount in Section 287.017, Florida Statutes, for category five or when the fee for professional services for a fixed capital outlay study or planning activity exceeds the threshold amount provided in Section 287.017, Florida Statutes, for category two. The Department will provide the foregoing notice at its Internet address (<http://www.dot.state.fl.us/>) and, until March 1, 1998, will also publish the foregoing notice in the *Florida Administrative Weekly*. A project may include the following:

1. Professional services associated with a specifically identified project. A grouping of minor professional service assignments specifically identified in the project advertisement, each assignment of \$150,000 or less, with a maximum contract price of \$750,000; or a grouping of construction engineering inspection assignments specifically identified in the project advertisement, each assignment of \$250,000 or less, with a maximum contract price of \$1,000,000.

2. A grouping of professional service assignments for substantially similar activities where the grouping of assignments provides advantage to the Department because of the geographic proximity of the existing or proposed transportation facilities involved, or use of shared resources for multiple projects, or to allow multiple use of a single design concept. A districtwide or statewide miscellaneous minor professional service contract for a specified period of time,

~~initially not to exceed two years, with a maximum contract price of \$750,000, in which individual minor project assignments, of no more than \$150,000 each, may be given for professional services as needed for work assignments required on a priority basis because of work program deadlines, work program schedule changes, or the necessity of complementary professional services to assist Department forces concurrently involved in other professional service assignments; or because project schedules or deadlines make it impractical to advertise the work assignment. The contract may allow extensions of the contract time if the original contract time expires and the maximum contract amount has not been reached. However, the total contract time, including all extensions, shall not exceed five years. The contract shall not be renewed, nor shall the maximum contract amount be increased over \$750,000. Projects shall not be divided for the purpose of circumventing the dollar limit on assignments.~~

3. Miscellaneous minor professional services, performed on a task assignment basis. The total contract fee may not exceed \$1,500,000 and individual assignments may not exceed \$300,000. However, these limits may be exceeded with unplanned cost increases. ~~A districtwide or statewide miscellaneous minor construction engineering inspection contract for a specified period of time, initially not to exceed two years, with a maximum contract price of \$1,000,000, in which individual minor project assignments, of no more than \$250,000 each, may be given for professional services as needed for work assignments required on a priority basis because of work program deadlines, work program schedule changes, or the necessity of complementary professional services to assist Department forces concurrently involved in other professional service assignments; or because project schedules or deadlines make it impractical to advertise the work assignment. The contract may allow extensions of the contract time if the original contract time expires and the maximum contract amount has not been reached. However, the total contract time, including all extensions, shall not exceed five years. The contract may not be renewed, nor shall the maximum contract amount be increased over \$1,000,000. Projects shall not be divided for the purpose of circumventing the dollar limit on assignments.~~

4. A grouping of specifically identified major professional service assignments for substantially similar construction, rehabilitation, or renovation activities with a maximum contract price of \$3,000,000; where the grouping of assignments provides economic advantage to the Department because of the geographic proximity of the existing or proposed transportation facilities involved, or allows simultaneous use of shared manpower on multiple assignments by the consultant, or maximizes the simultaneous use on multiple assignments of the consultant's available offices or field facilities, or to allow multiple use of a single design concept. The maximum contract price of \$3,000,000 may be exceeded with prior written approval of the Secretary of the

~~Department of Transportation when two or more of the above criteria are met and it is economically advantageous or otherwise serves the best interests of the Department.~~

~~4.5-~~ Professional services of a general consultant, which include the administration, support, and management of engineering, architectural, surveying, planning, or right of way acquisition and appraisal activities. These activities may involve a number of different projects in the work program. The contract time, shall not exceed five years, unless extended to complete assignments previously authorized.

~~6. Professional services provided to the Department on a continuing basis with no time limitation except that the contract shall provide a termination clause. Continuing contracts for professional services shall be restricted in use to services for projects which construction costs do not exceed \$500,000 each, or for each study activity when the fee for such professional service does not exceed \$25,000, or for work of a specified nature as outlined in the contract.~~

~~(b) The notice shall contain time frames for submittal of a letter of response, a general description of the project, including where a detailed description may be obtained, the Department DOT district and county where the project is located, a list of the major types of work, an indication as to whether the project is considered a minor project for qualification purposes, for which prequalification is required, and a description of the means by which interested consultants can apply for consideration. Projects that do not conform to the prequalified types of work shall be advertised requesting any interested consultant to submit a Letter of Qualification. The qualifications required to be shown in a Letter of Qualification shall be determined by the Department and listed in the Advertisement. Consultants responding to Letter of Qualification advertisements for such non-standard types of work do not need to possess previous qualification be prequalified.~~

(2) Response to Advertisement and Selection.

(a) Professional consultants who desire work with the Department shall timely submit a maximum of a two page letter of response, or a letter of qualification, to the Department whenever they feel qualified to perform projects for which notice has been provided in accordance with subsection (1)(a). To be considered for selection, the letter of response or letter of qualification must be received by the date specified in the advertisement and will include a list of all affiliates as defined in Section 337.165(1)(a), Florida Statutes. Only one letter of response/qualification will be considered from any consultant firm.

(b) After receipt of a letter of response, or letter of qualification, the Department shall review the submittal and verify that the consultant(s) possesses current qualification with the Department ~~is prequalified or qualified~~ to perform the major type(s) of work specified in the advertisement. In order to be considered for selection, any consultant which does is not

possess current qualification ~~prequalified~~ to perform the major type(s) of work specified in the advertisement shall submit a complete Request for Qualification Package, technical and administrative application ~~including the required overhead audit (if applicable), for prequalification~~ on or before the date letters of response are due. A ~~prequalified~~ consultant may use another consultant to meet the requirements of the major type(s) of work for which it is not currently ~~prequalified~~. However, the qualification status of the consultant will be valid for that project only. The consultant will be required to resubmit the necessary application for qualifications for subsequent projects in that type of work. The Department will not be obligated to delay any part of the consultant selection process or the execution of a contract for a consultant who has not been qualified for the major types of work or who cannot provide the required documentation prior to the process of final selection.

(c) If fewer than three consultants respond to the advertisement, the Department shall readvertise, or alternatively shall review its list of firms prequalified for the major type(s) of work advertised, and select no fewer than ten prequalified firms (or all prequalified firms if fewer than 10 are prequalified) deemed to be the most highly qualified, based on qualification data on file, DBE/MBE status, past performance grades, location, and volume of work previously awarded. The Department shall then contact each of the listed consultants and conduct similar discussions concerning the project, until it has at least three consultants interested in the project.

~~(d)(e)~~ When the fee for professional services is less than the threshold amount provided in Section 287.017, Florida Statutes, for category two, or when the Department's estimated basic construction cost is less than the threshold amount provided by Section 287.017, Florida Statutes, for category five, the Department may request, review, and approve certify in writing to the file the technical qualifications of the selected consultant if the consultant is not currently ~~prequalified~~ in the requested type of work.

(e) Selection of consultants will be in accordance with Section 287.055, Florida Statutes.

~~(3) Selection:~~

~~(a) The following procedures shall be utilized by the Department in the procurement of professional services:~~

~~1. Regarding the proposed project, the Department shall evaluate the letter of response or letter of qualification received from each consultant along with such factors as qualifications data on file, whether the firm is certified or utilizes other consultants certified by the Department as a Disadvantaged Business Enterprise (DBE) pursuant to Rule Chapter 14-78, Florida Administrative Code, and 14 C.F.R., Part 23, or by the Minority Business Advocacy and Assistance Office as a Minority Business Enterprise (MBE), past performance grades on file, consultant location, volume of work previously awarded by the Department and distribution of work among~~

qualified consultants. The Department shall select no fewer than three consultants and shall then conduct discussions with these three consultants, and may require technical proposals and public presentations regarding their qualifications, approach to the project, availability of adequate personnel, and ability to timely furnish the required service. If fewer than three consultants respond to the advertisement, the Department shall readvertise, or alternatively shall review its list of firms prequalified for the major type(s) of work advertised, and select no fewer than ten prequalified firms (or all prequalified firms if fewer than 10 are prequalified) deemed to be the most highly qualified, based on qualification data on file, DBE/MBE status, past performance grades, location and volume of work previously awarded. The Department shall then contact each of the listed consultants and conduct similar discussions concerning the project, until it has at least three consultants interested in the project.

2. The Department shall rank, in order of preference, no fewer than three consultants deemed to be most highly qualified to perform the required services after considering such factors as the technical proposal, technical plan (including, wherever appropriate, submission of estimated hours required in sufficient detail to ensure the consultant understands the scope of services); overall management procedures, including quality control plan and resource allocation; commitment to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and certification as a DBE or MBE. The Department strives for an equitable distribution of contracts among qualified firms; provided such distribution does not violate the principle of selection of the most highly qualified firms. The Department shall provide notice of the results of the Department's selection in accordance with subsection (1)(a).

3. The Department shall initiate negotiations with the number one ranked consultant. The negotiation shall include consideration of the scope and complexity of services required. The parties shall negotiate a price that the Department determines is fair, competitive, and reasonable for the services to be performed. In making such determination, the Department shall conduct a detailed analysis of the estimated number of hours by job classification to be expended on the project, direct labor rates, overhead rate, operating margin, expenses and any other costs directly attributable to the project, as detailed in an audit package and fee proposal furnished by the consultant at the request of the Department and according to its instructions.

4. Should the Department be unable to negotiate a satisfactory contract with the consultant at a price the Department determines to be fair, competitive, and reasonable; negotiations with that firm shall be formally terminated. The Department shall then undertake negotiations with the next ranked firm.

5. Should the Department be unable to negotiate a satisfactory contract with any of the initially selected firms, the Department shall either select additional firms from the letters of response or letters of qualification in order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached or initiate a new selection process in accordance with these rules.

6. Prior to execution of a contract by both parties, the consultant shall submit a certificate of insurance which evidences professional liability insurance coverage, or submit an irrevocable letter of credit established pursuant to Chapter 675 and Section 337.106, Florida Statutes. The submission must establish coverage in the amounts required by the contract.

7. The Department may enter into Supplemental Agreement(s) during the term of the contract to add additional services, costs or time, if the intent of the original contract is not changed.

8. If, during the term of the contract, the Consultant or Department must terminate the contract for any reason, the Department shall determine whether the rankings from the original selection process, taken as a whole, still have validity with respect to the unfinished work; and if so shall begin negotiations to complete the remaining services with the next ranked consultant and continue to proceed as though the original selection process had not been interrupted; except that if the Department determines that any previously ranked consultant's qualifications or other selection factors as noted in Rule Section 14-75.004(3) have changed so that its rank should be changed, the Department shall assign a new rank or reject said consultant and continue to proceed as though the original selection process had not been interrupted. If the Department determines that the rankings produced by the original selection process are no longer appropriate for the remaining consultants, it shall initiate a new selection process according to these rules.

(b) For all professional service contracts over \$60,000, the Department shall require the firms to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Department determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

Specific Authority 334.044(2) FS. Law Implemented 287.055, 337.105 FS. History—New 6-30-73, Amended 3-24-77, 6-30-83, 10-21-85, Formerly 14-75.04, Amended 3-29-89, 1-2-91, 9-29-92, 2-22-94, 8-5-96, 2-12-98,

14-75.0051 Suspension or Revocation, Denial, or Suspension of Qualification.

~~(1) The Department will, for good cause, deny or may suspend the qualification of any professional consultant, or other provider of service, to render services to the Department. A denial or suspension for good cause pursuant to this rule shall remove the person or firm from consideration for award of professional service contracts for a particular type of work for a period not to exceed three years. Such good cause shall include paragraphs (a) through (e) below; or revoke for good cause any Notice of Qualification. Such good cause shall include the following:~~

~~(a) One of the circumstances specified under Section 337.105(1)(a) through (i), Florida Statutes. The Department determines that a consultant has willfully made a false, deceptive, or fraudulent statement in the application for qualification, in any proposal, or in any hearing;~~

~~(b) The consultant defaulted on any Department contract, or the contract of any other governmental entity. Loss or suspension of current license or registration as regulated by the State of Florida;~~

~~(c) The consultant becomes insolvent or is declared bankrupt;~~

~~(d) The consultant failed to timely furnish all contract documents required by the contract specifications, or special provisions, to be provided after the Department's offer of final payment, employs or otherwise provides compensation to any employee or officer of the Department;~~

~~(e) The consultant has an unsatisfactory work performance grade average. A consultant must maintain a final grade of 70 to remain qualified with the Department to provide services in each type of work. A composite final average grade between 60 and 69 for schedule, management, and each quality grade will result in the consultant being suspended from the qualified list for three months for each type of work graded within this range. A composite final average grade below 60 for schedule, management, and each quality grade will result in the consultant being suspended from the qualified list for six months for each type of work graded within this range. willfully offers an employee or officer of the Department any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment; or~~

~~(f) Any other substantial reason established by the factual circumstances. The consultant receives a Professional Consultant Work Performance Final Grade below 70.~~

~~(g) Failure to achieve the proposed participation by certified DBE or MBE subconsultants without acceptable justification.~~

~~(h) Failure to notify the Department of departure from the firm of personnel used to prequalify the firm in any type of work;~~

~~(i) History of debarment or suspension from consideration for work with any other governmental entity, or~~

~~(j) Loss of professional liability insurance.~~

(2) For any of the reasons provided in Section 14-75.0051(1), other than receipt of an unsatisfactory work performance grade, the Department will deny or suspend a consultant's qualification for a period of time based upon the seriousness of the deficiency. Factors to be considered in determining the length of the suspension or denial include, but shall not be limited to, the following:

(a) Impact on project design or construction schedules;

(b) Frequency or number of occurrences;

(c) Impact on the Department, financial or otherwise;

(d) Potential for repetition;

(e) Length of bar or suspension from consideration of work by another governmental entity; and

(f) Severity or length of noncompliance with the requirements for qualification, found in Rule Chapter 14-75.

~~(3)(2) The Department shall deny or revoke the Notice of qualification to bid of any consultant, and its affiliates, for a period of 36 months, pursuant to Section 337.165, Florida Statutes, when it is determined that the consultant has, subsequent to January 1, 1978, been convicted of a contract crime within the jurisdiction of any state or federal court.~~

(4)(3) Procedure. Any decision by the Department to suspend, revoke, or deny a consultant's qualification Notice of the Department's intended action will be provided to the consultant in accordance with Rule 28-106.111, F.A.C. The Department's action will become final, unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C., within 21 days after receipt of the Department's notice. Where a consultant's qualification has been denied or revoked for conviction of a contract crime, a hearing shall be held within 30 days of the receipt of the request for hearing if the request for hearing is filed within 10 days of the Department's notice of intent. All requests for hearing shall be in writing and shall be in order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings, 605 Suwannee Street, MS 58, Haydon Burns Building, Tallahassee, Florida 32399-0458, within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C. A request for hearing is filed when it is delivered to, and received by, the Clerk of Agency Proceedings at the above address, and accordingly is not timely filed unless it is received by the Clerk of Agency Proceedings within the appropriate time period.

(a) Reapplication or Reinstatement. A consultant whose qualification has been denied or revoked for conviction of a contract crime may petition for reapplication or reinstatement at any time after denial or revocation.

1. The petition for reapplication or reinstatement shall be in writing and shall be filed with the Clerk of Agency Proceedings, Department of Transportation, 605 Suwannee Street, MS 58, Haydon Burns Building, Tallahassee, Florida 32399-0458, and shall include:

- a. The name and address of the party making the request;
- b. A statement of the specific grounds upon which the petition is based and the proposed terms and conditions upon which reapplication or reinstatement is sought;
- c. A list of all witnesses and exhibits to be presented; and
- d. A statement whether the consultant requests that the hearing be held by the Division of Administrative Hearings.

2. Upon the filing of a petition for reapplication or reinstatement, the Department shall:

- a. Conduct a hearing within 30 days after receipt of the petition, unless otherwise stipulated by the parties, or
- b. Notify the Division of Administrative Hearings within five days after receipt of the petition for scheduling of the hearing in accordance with Sections 337.165(2)(d) and 120.57, Florida Statutes.

3. If the petition for reapplication or reinstatement is denied, the consultant may not petition for a subsequent hearing for a period of nine months following the date of the order of denial or revocation.

4. If the petition for reinstatement is granted, the consultant shall file a current Request for Qualification with the Procurement Office, 605 Suwannee Street, MS 20, Haydon Burns Building, Tallahassee, Florida 32399-0450, before the reinstatement shall become effective.

(b) Notification of Contract Crime. A consultant who is qualified with the Department, or who has a letter of response or qualification, or who has a request for qualification pending before the Department pursuant to this Rule Chapter, shall notify the Department within 30 days after conviction of a contract crime applicable to it or to any of its affiliates or to any officers, directors, executives, shareholders active in management, employees or agents of it or any of its affiliates. The notification shall be forwarded to the Department of Transportation, Procurement Office, 605 Suwannee Street, MS 20, Haydon Burns Building, Tallahassee, Florida 32399-0450.

~~(4) The suspension or revocation of any Notice of Qualification shall not affect obligations under any preexisting contracts.~~

Specific Authority 334.044(2), 337.105 FS. Law Implemented 287.055(3), (6), 337.105, 337.165 FS. History—New 3-29-89, Amended 1-2-91, 9-29-92, 2-22-94, 1-17-99, _____.

14-75.0052 Professional Consultant Work Performance Evaluation System.

(1) The consultant's work performance on each professional service contract must be evaluated by the Department's project manager. A minimum of one interim evaluation shall be conducted ~~made~~ for all contracts with a duration of 18 months or more ~~duration~~. A final evaluation shall be conducted ~~made~~ for all contracts within 30 days of the approval of the final invoice for the basic services. A work performance grade for each major type of work shall be based on an evaluation of Schedule, Management, and Quality. The project manager shall assign the Quality Grade to any

~~administratively or technically~~ qualified consultant named in the agreement for each major type of work ~~they~~ performed. The Department's contracted consultant shall also receive a Schedule, Management, and Quality Grade in the same type of work as any technically qualified consultant.

(2) Each interim grade shall be based upon an evaluation of the consultant's work performance for the period of time since a previous interim evaluation was made. The Final Grade shall reflect the overall contract performance for the entire contract period. Interim grades shall be entered in the Department's Professional Services Information System until replaced by the final grade.

(3) Each professional service contract evaluation shall be based on an evaluation of contract performance using the following grading system for Schedule, Management, and Quality, except for Groups 10.1 and 10.2, Construction Engineering and Inspection, ~~which shall be developed using a similar grading system and procedure.~~

(a) The Schedule Grade. The schedule grade shall provide an indication of the consultant's compliance with performance ~~in meeting the contract schedule. The consultant is graded by selecting one of the following four tests and assigning a specific grade, within the assigned range, for the test selected:~~

Test	Score
1. Consistently met or bettered the approved schedule dates:	92-100
2. Some failure to meet scheduled dates but no adverse impact on overall project and future projects' schedule has resulted:	70-91
3. Adverse impact on the project schedule has resulted due to slow progress:	60-69
4. Consistent problems with meeting scheduled dates resulting in an adverse impact on the timely completion of the project and scheduled future projects:	0-59

(b) The Management Grade. The management grade shall provide an indication of the consultant's managerial knowledge and ability to manage all necessary resources to deliver a high quality product ~~while remaining within all contract time limits. The consultant is graded by assigning a specific score within an assigned range for the following five tests then adding these five specific scores to establish the total management grade:~~

Test	Score
1. Effectiveness of the consultant in implementing the intent and scope of the contracted services as determined from the completeness of scheduled submittals:	0-20
2. Effective application of the Department's criteria, standards and procedures (federal if applicable):	0-20
3. Effectiveness of consultant's project manager and staff to work with all involved project personnel including DOT staff, other consultants and citizens:	0-30
4. Effectiveness of the consultant in keeping to a minimum the unnecessary involvement of DOT staff:	0-20

5. Effectiveness of the consultant's management of this contract and budget, including achieving proposed DBE or MBE participation.	0-10
TOTAL	0-100

(c) The Quality Grade. The quality grade shall provide an indication of the consultant's attention and concern to the established quality control plan and a quality product. A quality grade is prepared, ~~at as~~ a minimum, for each major type of work as advertised. The quality grade for each type of work shall consider a minimum of four quality tests with a standard score range assigned to each test. The maximum grade for the summation of all quality tests for an individual quality grade is 100%.

(4) For all professional service contracts that result in the preparation of construction plans, a construction plan quality evaluation will be made by the Department's Resident Engineer within 30 days after final acceptance of the construction project. This Constructability Grade shall provide an indication of the design consultant's ability to develop practical, accurate, complete, and cost effective construction plans. The Department's CEI project manager or resident engineer shall assign a grade on the design consultant's plan quality. ~~The consultant is graded by selecting one of the following five tests and assigning a specific grade, within the assigned range, for the test selected. The Department's evaluator shall use the design contract number, WPA Number and State Project numbers and sign the document. This Constructability Grade will be reviewed when considering the consultant for future project selection.~~

Test	Grade
(a) The construction plans were free of error and omissions, requiring no correction assistance from the consultant. No difficulty was experienced in reading and understanding the construction plans. Neither plan corrections or plans reading resulted in any construction delays.	90-100
(b) Some minor problems with the construction plans but no construction delays resulted. Minor problems in reading the construction plans but no construction delays resulted.	80-89
(c) Some problems developed with errors and omissions on the construction plans. The consultant was required for a few meetings to resolve conflicts. The consultant was timely in its responses and the required meetings did not result in any construction delays. The construction plans required some thought to interpret.	70-79
(d) Quite a few problems developed with errors and omissions on the construction plans. The consultant was required for a few meetings to resolve conflicts and redesign certain areas. The consultant was timely in its responses but need for plan corrections caused construction delays. The construction plans required more interpretation than average.	60-69

~~(e) An extreme number of problems developed with the construction plans. The consultant was required for many meetings to resolve conflicts and redesign many areas. The consultant was not timely in its responses and this and the need for plan corrections caused construction delays. The construction plans were difficult to read, and this caused confusion and delays also.~~

(5) Additional interim consultant work performance evaluations can be submitted by the Department's project manager as needed. Items to be considered for submitting additional interim evaluations are:

- (a) Examples of extremely outstanding performance;
- (b) Examples of extremely poor performance;
- (c) Completion of critical phases of work, such as preliminary design, submittal of draft environmental documents and reports, 30%, 60%, and 90% submittals, etc.; and
- (d) Requests from the consultant based on possible improved performance when its ~~their~~ most recent grade was low.

(6) Evaluation Processing. The Department's project manager will submit the completed consultant performance grade, interim or final, to the Professional Services Administrator/Contractual Services Office (PSA/CSO) for entry into the Professional Services Information System. ~~The grades will be stored in the data base for five years for departmental use in future qualification and the selection processes.~~ All final grades will be retained in the system for five years, and may be referred to by the Department for use in future qualification selection matters ~~then deleted~~. Each interim grade shall be replaced by the succeeding interim grade and eventually by the final grade for each contract. A performance grade is established for each major type of work by averaging the schedule, management, and quality grade. An average grade of 70 or more for each type of work is considered satisfactory.

(7) Within 10 days after the Procurement Office PSA/CSO receives the completed grades, a copy of the performance grades with a cover letter shall be provided to the consultant's project manager and officer who executed the agreement, as well as to any other consultant who was named in the agreement and was assigned a Quality Grade for work it performed.

Specific Authority 287.055, 334.044(2) FS. Law Implemented 287.055, 337.105 FS. History--New 3-29-89, Amended 1-2-91, 9-29-92, 2-22-94, 8-5-96, _____.

14-75.0053 Suspension Due to Poor Performance.

Specific Authority 334.044(2), 337.105(1) FS. Law Implemented 337.105(1) FS. History--New 3-29-89, Amended 2-22-94, 8-5-96, Repealed _____.

14-75.0071 Reapplication and Reinstatement.

Specific Authority 334.044(2) FS. Law Implemented 337.165 FS. History--New 3-29-89, Amended 2-22-94, Repealed _____.

14-75.008 Notification of Contract Crime.

Specific Authority 334.044(2) FS. Law Implemented 337.105, 337.165 FS. History—New 6-30-83, Amended 10-21-85, Formerly 14-75.08, Amended 3-29-89, 2-22-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Terry Cappellini, Manager, Procurement Office
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2001

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Workers' Compensation

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Reemployment Services	38F-55
RULE TITLES:	RULE NOS.:
Definitions	38F-55.001
Rehabilitation Provider Qualifications	38F-55.002
Annual Case Status Review	38F-55.003
Trial Period of Reemployment	38F-55.004
Reemployment Status Review	38F-55.005
Notice Requirements	38F-55.006
Reemployment Assessments	38F-55.007
Carrier Referrals for Division Services	38F-55.008
Division Screening Process	38F-55.009
Division Sponsored Vocational Evaluations	38F-55.010
Division Sponsored Reemployment Services and Programs	38F-55.011
Employee Responsibilities	38F-55.012
Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities	38F-55.013
List of Forms	38F-55.014
Expenditures from the Workers' Compensation Administrative Trust Fund	38F-55.015

PURPOSE AND EFFECT: The purpose and effect of the proposed revisions to this rule chapter is to (a) make various technical changes reflecting changes in the professional field of vocational rehabilitation, (b) to change the Reemployment Services Reporting Form (DWC-21) and the Reemployment Services Case and Annual Status Review Form (DWC-22) to simplify reporting of carrier reemployment services, (c) to eliminate the Individualized Written Rehabilitation Plan (DWC-20) as a separate form, (d) to enable the reemployment services program to provide additional remedial training and education to injured employees, and (e) to make various other improvements in the reemployment services program.

SUMMARY: The proposed revisions to this rule chapter (a) make various technical changes reflecting changes in the professional field of vocational rehabilitation; (b) change the Reemployment Services Reporting Form (DWC-21) and the Reemployment Services Case and Annual Status Review Form (DWC-22) to simplify reporting of carrier reemployment services; (c) eliminate the Individualized Written Rehabilitation Plan (DWC-20) as a separate form; (d) eliminate the alternate DWC-22 form known as the DWC-22a; (e) enable the reemployment services program to provide additional remedial training and education to injured employees; and (f) make various other improvements in the reemployment services program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There is no projected fiscal impact of the rule changes. Two forms (the DWC-20 and the DWC-22a) are eliminated, but the individualized written rehabilitation plan (which was the DWC-20) must still be documented. While the filing of the forms DWC-21 and DWC-22 is simplified, the filing of such forms by the carriers with the reemployment services program is still required. The reemployment services program will, under the revisions, be able to pay for remedial training in certain situations. However, in many cases the reemployment services program can already pay for remedial training, and it is unknown how many more injured employees would become eligible for remedial training and education under this rule revision. The reemployment services program considered raising the hourly rate payable to private rehabilitation providers from \$55 per hour to \$60 per hour (or from \$1,100 to \$1,200 per evaluation) but rejected those increases as too costly for the program. Therefore, no fiscal impacts are projected as a result of these rule changes.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 440.15(1),(3), 440.491(3),(5), (6),(7),(8) FS.

LAW IMPLEMENTED: 440.15, 440.15(1), 440.491, 440.491(7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m. – 11:00 a.m., Tuesday, April 24, 2001

PLACE: Suite 317, Hartman Building, 2012 Capital Circle, S. E., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Reginald L. Watkins, (850)488-3431, email: WatkinR@wcpost.fdles.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

38F-55.001 Definitions.

~~(1) "Annual case status review" is the annual review of cases involving impairment income benefits or supplemental benefits payable under Section 440.15(3), Florida Statutes, to determine whether any unemployment or underemployment is due to the injured employee's work related permanent impairment.~~

~~(1)(2) "Cooperative working agreement" means a written contractual agreement between the Division and a qualified rehabilitation provider or a public or private not for profit agency to provide comprehensive reemployment services such as on-the-job training development, job placement and follow up.~~

~~(2)(3) "Customary residence" is the injured employee's place of permanent residence.~~

~~(3)(4) "Customary vicinity" is the distance traveled by the injured employee from his customary residence to his place of employment at the time of injury.~~

~~(4)(5) "Education program" means a formal course of study or a certificate program in a training and education facility, agency or institution operating under Chapters 239 Part II, 240 Parts II and III or 246, Florida Statutes, or a career education program defined in Chapter 228.041(22)(c), Florida Statutes (1997), which states: "At the post secondary education level, courses of study that provide vocational competencies needed for entry into specific occupations or for advancement within an occupation." Outside of the State of Florida, an education program shall be approved as governed by comparable statutes of that state.~~

~~(5)(6) "Ergonomic job analysis" is the objective study of the relationship among job demands, environmental conditions and human functional characteristics.~~

~~(6) "Good cause" is termination resulting from employee conduct:~~

~~(a) Evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or~~

~~(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.~~

~~(7) "Individualized written rehabilitation program" (IWRP) is an individualized written rehabilitation program as defined in the Rehabilitation Act of 1973.~~

~~(8)(7) "Labor market" means an area not to exceed a 50 mile radius of the injured employee's customary vicinity.~~

~~(9)(8) "On-the-job training (OJT) contractor" is a qualified rehabilitation provider or employee of a public or private non-profit agency which has entered into a cooperative working agreement with the Division for the provision of on-the-job development and follow-up services.~~

~~(10)(9) "On-the-job training (OJT) contract" is a contract between an employer, injured employee and the Division in which an employer agrees to hire an injured employee subject to the same working conditions and benefits as all other similarly situated employees. Pursuant to the contract, the employer shall provide training and adequate supervision to enable the injured employee to achieve predetermined competencies to ensure a return to suitable gainful employment with the contract employer Florida Department of Labor and Employment Security developed by an approved OJT contractor in which an employer agrees to provide training to include apprenticeship training and supervision to the injured employee for a specified time period and to retain the injured employee in permanent employment at the end of the contract period.~~

~~(10) "Reemployment plan" is a written plan specifying how the qualified rehabilitation provider will return the injured employee to suitable gainful employment.~~

~~(11) through (12) No change.~~

~~(13) "Test-site" is a Division approved location that may be inspected by the Division, for which a current occupational license has been issued listing an official business address to be used by a qualified rehabilitation provider for vocational evaluation and assessment services.~~

~~(14) "Travel" is transportation costs incurred by the injured employee to the facility at the beginning of the program and for the return home upon completion of the program, or mileage reimbursement for daily commuting.~~

~~(14)(15) "Trial period of reemployment" is a period of employment to validate whether an injured employee who has been determined to be permanently and totally disabled has been rehabilitated to the extent that he has reestablished an earning capacity.~~

~~(16) "Underemployment" is employment in which the injured employee's post injury average weekly wage is less than 80% of pre injury average weekly wage.~~

~~(15)(17) "Vocational evaluator" is a qualified individual employed by the Division or who holds the designation of a certified vocational evaluator and is approved by the Division to perform vocational evaluations.~~

~~(16)(18) "Vocational specialist" means an individual who possesses:~~

~~(a) A master's degree in vocational rehabilitation (counseling, evaluation, adjustment); or~~

~~(b) Is certified by the Commission on Rehabilitation Counselor Certification, or by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists; and~~

(c) Is employed by a CARF-accredited facility.

Specific Authority 440.15(1), 440.491(5),(6),(7),(8) FS. Law Implemented 440.15, 440.491 FS. History—New 7-1-96, Amended 2-9-00, _____.

38F-55.002 Rehabilitation Provider Qualifications.

(1) The Division shall approve qualified rehabilitation providers who submit proof of meeting the following requirements:

(a) Rehabilitation nurse:

1. A current Florida license as a registered professional nurse, and

2. A current C.R.R.N. certificate as a Certified Rehabilitation Registered Nurse from the Association of Rehabilitation Nurses ~~in Rehabilitation Nursing~~, or

3. A current C.O.H.N. certificate as a Certified Occupational Health Nurse from the American Board for Occupational Health Nurses, or

4. A current C.R.C. certificate as a Certified Rehabilitation Counselor from the Commission on Rehabilitation Counselor Certification, or

5. A current C.D.M.S. certificate as a Certified Disability Management Specialist from the Certification of Disability Management Specialists Certified Insurance Rehabilitation Specialist Commission.

(b) Rehabilitation counselor:

1. A current C.R.C. certificate as a Certified Rehabilitation Counselor from the Commission on Rehabilitation Counselor Certification, or

2. A current C.D.M.S. certificate as a Certified Disability Management Specialist from the Certification of Disability Management Specialists Certified Insurance Rehabilitation Specialist Commission.

(c) Vocational evaluator: A current C.V.E. certificate as a Certified Vocational Evaluator ~~vocational evaluator~~ from the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists, ~~and~~

2. ~~Proof of an occupational license for each test site when requested by the Division.~~

(d) No change.

(e) ~~Facilities pending CARF accreditation:~~

1. ~~Notification to the Division in writing of the pending survey dates identified by CARF for the specific rehabilitation program for which authorization is requested.~~

2. ~~Temporary approval from the Division shall not exceed two months past the CARF survey date.~~

3. ~~Carriers shall verify the status of a facility with pending CARF accreditation prior to authorizing services.~~

4. ~~A facility which fails to notify the Division of CARF accreditation or which fails to receive CARF accreditation shall not provide services to injured employees.~~

(e)(f) Companies:

1. Employ qualified rehabilitation providers and are

2. Incorporated under Chapters 607 and 617, Florida Statutes, or are a partnership under Chapter 620, Florida Statutes, ~~and possess a local occupational license.~~

(2) Applicants applying for renewal shall submit a non-refundable \$25.00 biennial renewal fee, and a signed, typed and completed qualified rehabilitation provider application on form DWC-96, and a copy of current certification and applicable licensure.

(a) Attendance at a Division sponsored or approved qualified rehabilitation provider workshop is required before the initial application and also before each renewal must be completed each two year renewal period.

(b) No change.

(3) Each applicant shall submit a signed, typed and completed ~~qualified rehabilitation provider application on form DWC-96,~~ proof of attendance at a division sponsored or approved qualified rehabilitation provider workshop, and a non-refundable check or money order in the amount of \$25.00 payable to Workers' Compensation Administrative Administration Trust Fund to the Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services, Provider Relations Section, 2728 Centerview Drive, ~~101 400~~ Forrest Building, Tallahassee, Florida 32399-0664. Illegible or unsigned applications and shall be returned. An applications application submitted without the application fee shall be returned. Form DWC-96 is incorporated by reference into Rule 38F-55.014, Florida Administrative Code.

(4) No change.

(5) Employees of the Division Department of Labor and Employment Security, other public agencies and private ~~not-for-profit~~ agencies receiving federal or state funds to provide reemployment services are exempt from the requirements of Rule 38F-55.002(2) and (3), ~~but shall otherwise meet the qualification requirements of Rule 38F-55.002(1), Florida Administrative Code.~~

Specific Authority 440.491(7), ~~440.591~~ FS. Law Implemented 440.491(7) FS. History—New 7-1-96, Amended _____.

38F-55.003 Annual Case Status Review.

Specific Authority 440.15(3), 440.491(5),(6),(8), 440.591 FS. Law Implemented 440.15, 440.491 FS. History—New 7-1-96, Repealed.

38F-55.004 Trial Period of Reemployment.

(1) ~~The trial period of reemployment is applicable for all dates of accident and the carrier shall file form DWC 22, reemployment and annual case status review, with the Division within 10 days of approving the trial period of reemployment. Form DWC 22 is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.~~

(2) ~~The carrier shall mail a copy of the DWC 22 to the employer and injured employee within 10 business days of filing with the Division.~~

(1)(3) The trial period of reemployment shall:

(a) Automatically commence on the ~~date indicated as the~~ date of hire ~~on the form DWC-22~~, and

~~(b) Be within the physical capabilities of the injured employee, and~~

~~(c) Not be a result of coercion or intimidation, and~~

~~(d)(b) Automatically terminate:~~

1. When the injured employee is unable to perform the duties as a result of the permanently disabling condition, or

2. ~~One year~~ 90 days from the date of hire ~~if, and~~ the injured employee is able to work 50 percent (50%) of his normal pre-injury working hours with an earning capacity of at least 80% of his previous wage.

~~(2)(4)~~ Following termination of the trial period of reemployment the carrier shall file a notice of action/change form DWC-4 with the Division to report whether the return to work was successful. Form DWC-4 is incorporated by reference in Rule 38F-3.025.

Specific Authority 440.15(1),(3), 440.491(5),(6),(8), ~~440.591~~ FS. Law Implemented 440.15, 440.491 FS. History—New 7-1-96, Amended.

38F-55.005 Reemployment Status Review.

(1) The carrier shall conduct a reemployment status review by completing a reemployment ~~and annual case~~ status review form on the DWC-22, which is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.

(2) No change.

~~(3) After an initial form DWC-22 has been filed with the Division, the carrier may, in lieu of (1) above, report the reemployment status of an injured employee to the division using form DWC-22a, alternate carrier reemployment services activity report form, which is incorporated by reference into this rule chapter in Rule 38F-55.014, Florida Administrative Code.~~

~~(4) Form DWC-22a shall be filed with the Division by July 15 of each calendar year for all DWC-22 forms completed on or after January 1 through June 30 of that calendar year and by January 15 for all DWC-22 forms completed on or after July 1 through December 31 of the previous calendar year.~~

Specific Authority 440.15(1),(3), 440.491(3),(5),(6),(8), ~~440.591~~ FS. Law Implemented 440.15, 440.491 FS. History—New 7-1-96, Amended.

38F-55.006 Notice Requirements.

(1) If an injured employee remains unemployed ~~180~~ ~~120~~ days after the date of accident and is receiving compensation, the carrier shall notify the injured employee in writing within 190 ~~130~~ days of the date of accident of the availability of a Division screening.

(2) A carrier ~~shall~~ ~~may~~ use the following written notice: "Your continuing disability indicates you may be unable to perform the duties of the job held at the time of your work-related injury. If this is correct and you are unable to return to work in any capacity with your current employer or find other employment which would allow you to earn your pre-injury wages, you may be eligible for a screening for a

~~vocational evaluation or reemployment services from the State of Florida, Division of Workers' Compensation. Upon receipt of your request, the Division will assess review your case to determine what services are necessary whether a vocational evaluation is appropriate to determine your reemployment service needs, if any, to return you to suitable gainful employment. Reemployment services that you may be eligible for include job seeking skills training, counseling, referrals to other agencies, job market information, transferable skills analysis, job development, job placement, job analysis, job modification, vocational testing, vocational evaluation, on-the-job training, or formal training and education. If reemployment services are necessary, the Division will pay the cost of the approved reemployment plan, including the cost of lodging, board and travel if you are required to temporarily relocate to participate in the approved program. Additionally, if you have reached maximum medical improvement, the carrier shall pay temporary total disability benefits for a period up to 26 weeks upon beginning a Division approved retraining program or vocational service plan or the carrier may elect to pay temporary partial disability/wage loss benefits if you earn wages as the result of on-the-job training or work while enrolled in a program. An additional 26 weeks may be approved if deemed necessary by the Judge of Compensation Claims. To request a screening, contact your local state Workers' Compensation Bureau of Rehabilitation and Medical Services District Office or the Central Office in Tallahassee at (850)488-3431 and ask to speak with a staff person in the Reemployment Services Section of the Bureau of Rehabilitation and Medical Services." The carrier shall send a copy of this notification to the Bureau of Rehabilitation and Medical Services, Division of Workers' Compensation, 101 Forrest Building, 2728 Centerview Drive, Tallahassee, Florida 32399-0664 within ten days of mailing the notification to the injured employee.~~

Specific Authority 440.15(1),(3), 440.491(5),(6),(8), ~~440.591~~ FS. Law Implemented 440.15, 440.491 FS. History—New 7-1-96, Amended.

38F-55.007 Reemployment Assessments.

Specific Authority 440.491(4),(5),(6),(8), 440.591 FS. Law Implemented 440.491 FS. History—New 7-1-96, Repealed.

38F-55.008 Carrier Referrals for Division Services.

(1) A carrier may make a referral of an injured employee at anytime to the Division to be considered for the Division provided reemployment services program. The carrier shall make referrals to the Division for reemployment services on a request for screening form DWC-23, which is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.

~~(2)(4)~~ Upon discontinuation of carrier sponsored services pursuant to Section 440.491(5), Florida Statutes, the carrier shall make referrals to the Division for reemployment services

on a request for screening form DWC-23, which is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.

~~(3)(2)~~ A Form DWC-23 submitted by the carrier to the Division shall not be considered complete until signed by the injured employee. The carrier shall:

~~(a) provide the injured employee with a form DWC-23 for the injured employee's signature within 15 days of discontinuation of carrier sponsored reemployment services; and~~

~~(b) forward form DWC-23, form DWC-22, and all medical, vocational, and other documents specific to the injured employee's workers' compensation case to the Division within 15 days of receipt of the signed DWC-23 from the injured employee. Form DWC-22 is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.~~

Specific Authority 440.491(5),(6),(8), ~~440.594~~ FS. Law Implemented 440.15(1), 440.491 FS. History—New 7-1-96, Amended _____.

38F-55.009 Division Screening Process.

(1) A request for screening is made using a form DWC-23. Before the Division will consider a request complete and initiate a screening, the injured employee must sign the form DWC-23.

~~(2)(1)~~ The screening process shall consist of:

(a) a review of all available medical and vocational documentation relevant to the compensable injury to determine whether the injured employee is able to perform the duties of the pre-injury occupation; and

(b) a review of the documentation which supports the payment of temporary partial disability and wage loss benefits to determine the injured employee's inability to obtain suitable gainful employment because of his injury; and

(c) an interview with the injured employee.

~~(3)(2)~~ The carrier shall provide, within 10 business days of receipt of a request from the Division, any medical, vocational, and other requested documents or reports related to the injured employee's workers' compensation case.

~~(4)(3)~~ If the carrier is unable to or fails to provide the requested information within 10 business days as required by this rule, The the Division may shall request the information directly from the authorized treating physician(s), or qualified rehabilitation provider(s), or obtain the services of an expert medical adviser to identify the injured employee's ability to return to work, permanent impairment rating, and permanent work restrictions.

~~(5)(4)~~ The Division shall not provide a vocational evaluation or any reemployment services when form DWC-23, which is signed by the injured employee, is received by the Division more than one (1) year from the date of last payment of indemnity benefits or the furnishing of remedial treatment, care, or attendance from the employer or carrier.

~~(6)(5)~~ Following a Division screening the Division shall not provide any additional reemployment services or refer the injured employee for a vocational evaluation:

(a) if the injured employee has filed a claim for permanent total disability benefits under Section 440.15(1), Florida Statutes, which the carrier has denied, wherein either the injured employee's medical condition or vocational capabilities are in dispute, until such time as an Office of the Judge of Compensation Claims adjudicates the injured employee's claim; or

(b) If the injured employee's medical condition is unresolved or unstable, until such time as the medical condition becomes stable; or

(c) If the injured employee has reached maximum medical improvement and returned to and maintained suitable gainful employment for at least 90 calendar days; or

(d) If the injured employee refuses to accept reemployment services from the Division.

~~(7)(6)~~ The Division shall not refer the injured employee for a vocational evaluation if the injured employee:

(a) Has returned to suitable gainful employment as a result of placement services provided by the Division; or

(b) Has no documented permanent physical restrictions related to the injury; or

(c) Has transferable skills which would allow return to work in suitable gainful employment; or

(d) Was terminated by the employer for good cause unrelated to the injury or any restrictions or limitations resulting therefrom; or

(e) Terminated suitable gainful employment for reasons unrelated to the injury.

Specific Authority 440.491(5),(6),(8), ~~440.594~~ FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended _____.

38F-55.010 Division Sponsored Vocational Evaluations.

(1) through (2) No change.

Specific Authority 440.491(5),(6),(8), ~~440.594~~ FS. Law Implemented 440.491 FS. History—New 7-1-96.

38F-55.011 Division Sponsored Reemployment Services and Programs.

(1) The Division shall approve sponsorship of reemployment services provided through an on-the-job training program, vocational assessment, job placement or training and an ~~educational retraining~~ program when recommended and approved as part of a Division reemployment plan.

(2) The Division will approve and sponsor retraining services if:

(a) The vocational evaluation is completed by a division approved vocational evaluator, and

(b) The vocational evaluation contains the information identified in 38F-55.013(2)(e), Florida Administrative Code; and

(c) The vocational evaluation demonstrates that the injured employee:

1. Has no ~~transferable~~ ~~transferrable~~ skills which would allow for return to suitable gainful employment with the same employer, same job; same employer, different or modified job; new employer, same job; new employer, modified or different job; or

2. Requires additional Division sponsored reemployment services to enable the injured employee to return to suitable gainful employment.

(3) The Division shall sponsor retraining programs which exceed 52 weeks only when there is no program shorter than 52 weeks which would enable the injured employee to return to suitable gainful employment, the injured employee provides a ~~financial~~ plan for ~~living expenses~~ ~~maintenance~~ during the period in excess of 52 weeks, and one of the following conditions apply:

(a) The injured employee has no formal marketable vocational training and education; or

~~(b) The injured employee has an average weekly wage equal to or greater than \$500; or~~

~~(b)(c)~~ (c) The injured employee has a documented ~~permanent~~ impairment rating equal to or greater than 5% of the body as a whole and has ~~permanent~~ physical restrictions as a result of the injury.

(4) No change.

(5) The Division shall not, ~~under any circumstance~~, transfer its sponsorship of reemployment services outside the range of the labor market survey unless a labor market survey for the new area which supports the specific recommendation of the vocational evaluation.

~~(6) The Division shall not pay or expend any funds from the Workers' Compensation Administration Trust Fund for any remedial course work necessary to meet the entrance or exit requirements of a training program.~~

~~(7) The Division shall not reinstate sponsorship of reemployment service plans interrupted for reasons other than medical necessity as specified in Rule 38F-55.012, Florida Administrative Code.~~

~~(6)(8)~~ (8) The Division shall not sponsor reemployment services if the vocational evaluation does not recommend reemployment services.

Specific Authority 440.491(5),(6) FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended 2-9-00,_____.

38F-55.012 Employee Responsibilities.

Upon approval of Division sponsored reemployment services, the injured employee and Division staff shall sign and date an agency and student agreement for sponsorship of training and education ~~retraining~~ form DWC-24, which is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.

~~(2) The Division shall permanently withdraw sponsorship of any reemployment service plan if:~~

~~(a) The injured employee is able and fails to attend the program on a full-time, continuous basis, or~~

~~(b) The injured employee's participation is interrupted for reasons other than a medical exacerbation documented according to the terms agreed upon in form DWC 24, or~~

~~(c) The injured employee fails to maintain the minimum standards of the program, or~~

~~(d) The injured employee fails to abide by the terms agreed upon in form DWC 24.~~

Specific Authority 440.491(5),(6), ~~440.591~~ FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended_____.

38F-55.013 Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities.

(1) A qualified rehabilitation provider providing employer or carrier sponsored reemployment services shall:

(a) Submit a properly completed ~~form DWC-20~~, individualized written rehabilitation program ~~reemployment plan~~, within 30 days of referral which specifies the recommended services and associated costs necessary to return the injured employee to suitable gainful employment, using terminology consistent with division service code descriptions to the employer or carrier for approval when recommending:

1. Reemployment services as a result of a reemployment assessment, or

2. Three or more counseling sessions, or

3. A vocational evaluation, or

4. A work evaluation, or

5. Training and education, including on-the-job training,

or

6. Placement services, or

7. Changes to the initial individualized written rehabilitation program ~~DWC-20~~.

(b) Maintain a copy of the properly completed individualized written rehabilitation program ~~DWC-20~~ in the injured employee's file.

(2) A certified vocational evaluator providing division sponsored vocational evaluations shall:

(a) through (d) No change.

(e) Submit to the Division, within 30 calendar days of division approval of services, a written report which shall:

1. Include an interpretation of testing instruments and work samples used, specifying the form and level of tests, percentile scores, norm groups, grade levels, standard scores and stanine scores as applicable to the test instrument when available; and

2. Identify the injured employee's physical and intellectual capabilities, aptitudes, achievements, work related behaviors, and interests. The interests of the injured employee alone cannot be the only basis for the vocational evaluator's recommendation; and

3. Identify residual or transferable ~~transferable~~ skills; and

4. Identify the most appropriate vocational objectives; and

5. Identify which reemployment ~~vocational~~ service(s) are necessary for the injured employee to return to suitable gainful employment; and

6. through 7. No change.

8. Include an individualized labor market survey which supports the injured employee's ability to compete for employment in the identified vocational goal(s) and shall include information documenting:

a. The potential wage earning capacity, ~~including potential overtime wages and monetary fringe benefits,~~

b. through (f) No change.

(3) Any qualified rehabilitation provider providing any employer or carrier or Division sponsored reemployment services, reemployment assessments or medical care coordination ~~except a vocational evaluation~~, shall submit with each DWC-21 a written report which reports services provided and expected outcomes, covering the following points:

(a) through (d) No change.

(e) Justification for change or modification of current ~~plan, and~~

~~(f) Professional hours and costs to date.~~

(4) through (5) No change.

(6) A qualified rehabilitation provider providing either employer or carrier or division sponsored reemployment services, ~~including~~ reemployment assessments, medical care coordination and vocational evaluations, shall:

(a) Report on form DWC-21, ~~Division of Workers' Compensation reemployment services reporting form~~, only those services provided by or through the authorized qualified rehabilitation provider. Services not rendered by or through the qualified rehabilitation provider may not be billed or reimbursed.

(b) Submit a properly completed form DWC-21 listing the specific service(s) services provided, utilizing only valid service codes and descriptors for ~~and techniques and tests utilized to report and bill only for reemployment assessments~~ and those direct services rendered to the injured employee. Direct services are those services provided or required by an individualized written rehabilitation program ~~form DWC-20~~.

Other services are to be billed in the manner agreed upon by the employer or carrier and the qualified rehabilitation provider.

1. No change.

2. An interim DWC-21 shall be submitted at 30-day ~~30 day~~ intervals thereafter during which the authorized services are provided. The DWC-21 should not be filed if services are not provided within any 30-day ~~30 day~~ period.

3. No change.

(c) No change.

(7) Any qualified rehabilitation provider or employee of the Division ~~Department of Labor and Employment Security~~ or other public or ~~and~~ private not-for-profit ~~not-for-profit~~ agencies administering, scoring and interpreting testing instruments shall have the training and education required by the publisher of the testing instrument.

(8) No change.

(9) The employer or carrier shall:

(a) Ensure that the information required in this rule is provided on the form DWC-21 prior to payment and filing with the Division, and

(b) Approve or deny the provision of services recommended as part of an individualized written rehabilitation program ~~on form DWC-20~~ within 15 calendar days of receipt of the same ~~DWC-20~~; and pay or deny form ~~DWC-21~~ bills for reemployment services ~~within 45 calendar days after receipt of a bill for reemployment services provided to an injured employee, and~~

(c) Complete items 18 24, 19 25 ~~and 23 27~~ on every form DWC-21 filed with the Division. In item 18 24 it is necessary to legibly enter the date the form DWC-21 was received. In item 19 25 it is necessary to legibly enter the date the form DWC-21 was reimbursed. In item 23 27 it is necessary to enter the amount reimbursed only if it is different from the amount billed by the qualified rehabilitation provider or facility, and

(d) No change.

(e) Be responsible for the legibility, accuracy and completeness of the social security number, date of accident, the employer or carrier's and servicing company/TPA's Division assigned four digit carrier code number and Federal Employer Identification Number (FEIN), and those areas that the employer or carrier completes on form DWC-21, ~~and~~

~~(f) Report costs and services to the Division on a form DWC-21 when reemployment services or reemployment assessments are provided by an in-house employee or subsidiary of the employer or carrier and such services are not billed separately for each injured employee. The costs and services must be reported by injured employee's social security number and date of accident within 30 days after such in house services are first provided and within 30 day periods thereafter, unless no services are provided.~~

(10) through (11) No change.

(12) Forms ~~DWC-20~~ and DWC-21 ~~is~~ ~~are~~ incorporated by reference in Rule 38F-55.014, Florida Administrative Code.

Specific Authority 440.491(5),(6),(7),~~440.591~~ FS. Law Implemented 440.15(1), 440.491 FS. History—New 7-1-96, Amended.

38F-55.014 List of Forms.

(1) Forms ~~DWC-20~~, DWC-21, DWC-22, ~~DWC-22a~~, DWC-23, DWC-24 and DWC-96 and accompanying instructions are incorporated by reference as part of this rule chapter. Each form shall be typed or legibly completed in order for the form to be considered properly filed or submitted with the Division.

~~(a) Individualized written reemployment plan (IWRP) shall be submitted to the Division on form DWC-20, dated 8/30/95.~~

~~(a)(b)~~ Division reemployment services billing ~~reporting~~ form shall be submitted to the Division on form DWC-21, dated 8/30/95.

~~(b)(e)~~ Reemployment ~~and annual ease~~ status review form shall be submitted to the Division on form DWC-22, dated 8/30/95.

~~(d) Alternate carrier reemployment services activity report form shall be submitted to the Division on form DWC-22a, dated 8/30/95.~~

~~(c)(e)~~ Request for screening form shall be submitted to the Division on form DWC-23, dated 8/30/95.

~~(d)(f)~~ Agency and student agreement for sponsorship of ~~training and education~~ ~~retraining~~ form shall be completed on form DWC-24, dated 8/30/95.

~~(e)(g)~~ Qualified rehabilitation provider application shall be submitted to the Division on form DWC-96, dated 9/20/95.

(2) A copy of the forms and accompanying instructions incorporated by Rule 38F-55.014(1) may be obtained from the Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services, 2728 Centerview Drive, Suite ~~101~~ ~~400~~, Forrest Building, Tallahassee, Florida 32399-0664. Copies of the forms are also available on the Division's web page on the Internet.

Specific Authority 440.15(1), 440.491(5),(6),(7),(8),~~440.591~~ FS. Law Implemented 440.15(1), 440.491 FS. History—New 7-1-96, Amended.

38F-55.015 Expenditures from the Workers' Compensation ~~Administrative Administration~~ Trust Fund.

(1) through (5) No change.

(6) The Division shall reimburse travel associated with the provision of reemployment services at a rate not to exceed one-half (1/2) the professional rate at which the services were contracted, ~~or \$27.50, whichever is greater.~~

(7) through (8) No change.

Specific Authority 440.491(5),(6),(7),(8) FS. Law Implemented 440.15(1), 440.491 FS. History—New 7-1-96, Amended 12-2-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Reginald Watkins, Chief, Bureau of Rehabilitation and Medical Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Williams, Director, Division of Workers' Compensation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2001, Vol. 27, No. 12, Page 1318

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Publications, Rules and Interagency Agreements

RULE NO.:

Incorporated by Reference 40E-4.091

PURPOSE AND EFFECT: The rulemaking is required to adopt and incorporate by reference the Delegation Agreement among the Florida Department of Environmental Protection, South Florida Water Management District and Broward County regarding the delegation to Broward County, and the implementation by Broward County's Department of Planning and Environmental Protection, of certain environmental resource, wetland resource, and surface water management permitting, compliance and enforcement responsibilities pursuant to Part IV, Chapter 373, F.S.

SUMMARY: The South Florida Water Management District ("District") proposes to adopt by reference a "Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County" ("Delegation Agreement") which the District and the Department of Environmental Protection ("Department") have developed with Broward County's Department of Planning and Environmental Protection ("DPEP") regarding delegating the authority to Broward County to implement certain environmental resource, wetland resource, and surface water management permitting, compliance and enforcement responsibilities under Part IV, Chapter 373, F.S., and the rules promulgated thereto. This delegation is in accordance with Sections 373.441 and 403.182, F.S., and Chapter 62-344, F.A.C. The intent of the Delegation Agreement is to provide streamlined environmental resource, wetland resource, and surface water management permit processing for proposed development activities within the geographical extent of Broward County excluding the geographical areas in Broward County that are subject to the jurisdiction of special taxing districts, independent drainage districts, water control districts, community development districts, the Everglades Buffer Strip, and the Water Conservation Areas. The Delegation Agreement provides that Broward County will be responsible for certain permitting, compliance and enforcement activities under the

environmental resource, wetland resource, and surface water management permitting programs; perform formal determinations of wetlands and other surface waters under Section 373.421, F.S.; process and issue or deny requests for variances for mixing zones for turbidity and dissolved oxygen under Sections 373.414(17) and 403.201, F.S., when such variances are required as part of an environmental resource, wetland resource, or surface water management permit; and compliance and enforcement of the environmental resource, wetland resource, and surface water management permits issued by the Department and the District. The Delegation Agreement excludes the authority for permitting, compliance, or enforcement of certain activities that will be reserved to the Department and the District, including the processing of authorizations to use sovereign submerged lands as well as the authority to grant or deny petitions for variances and waivers under Section 120.542, F.S.

As publications, rules, and interagency agreements are incorporated by reference in Rule 40E-4.091, F.A.C., the District is amending Rule 40E-4.091, F.A.C. to incorporate by reference the subject Delegation Agreement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 373.441 FS.

LAW IMPLEMENTED: 373.441 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., May 10, 2001

PLACE: South Florida Water Management District Headquarters, Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Penelope Bell, South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, telephone 1(800)432-2045, extension 6320, Suncom 229-6320 or (561)682-6320 or via email: pbell@sfwmd.gov. Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) through (j) No change.

(k) Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County, effective [insert date].

(2) No change.

Specific Authority 373.044, 373.113, 373.171, 373.413 FS. Law Implemented 373.413, 373.415, 373.417, 373.414, 373.412, 373.416, 373.418, 373.421, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Robbins, Director, Natural Resources Management Department

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the South Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 26, No. 41, October 13, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 97-69R

RULE CHAPTER TITLE: Delegations RULE CHAPTER NO.: 62-113

RULE TITLE: Purpose RULE NO.: 62-113.100

PURPOSE, EFFECT AND SUMMARY: The Department of Environmental Protection (DEP) proposes to revise subsection 62-113.100(2) to adopt by reference a “Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County.” The delegation would be implemented by Broward County’s Department of Planning and Environmental Protection (DPEP). This delegation is in accordance with section 373.441 of the Florida Statutes and chapter 62-344 of the Florida Administrative Code.

The delegation would provide DPEP with the authority and responsibility to: review and take agency action on certain environmental resource (ERP), wetland resource, and surface water management (SWM) permitting, compliance and enforcement activities under part IV of chapter 373 of the Florida Statutes; perform formal determinations of wetlands and other surface waters under section 373.421 of the Florida Statutes; and process and issue or deny requests for variances

for mixing zones for turbidity and dissolved oxygen under sections 373.414(17) and 403.201 of the Florida Statutes when such variances are required as part of an ERP, wetland resource, or SWM permit; and conduct compliance and enforcement of the ERP, wetland resource, and SWM permits issued by the DEP or the SFWMD prior to the effective date of the delegation.

The intent of the delegation is to provide an effective, efficient, and streamlined program under part IV of chapter 373, implemented by DPEP within the geographical extent of Broward County, excluding areas in Broward County that are subject to the jurisdiction of special taxing districts, independent drainage districts, water control districts, community development districts, the Everglades Buffer Strip, the Water Conservation Areas, and the Seminole Tribe of Florida Reservation and Tribal Trust Lands.

Within the geographical extent of Broward County where DPEP otherwise would have delegated authority, additional permitting, compliance, and enforcement activities will be reserved to the Department and the South Florida Water Management District, and will not be delegated to DPEP. These include: processing and agency action on joint coastal permits; activities that are on sovereign submerged lands; activities that require separate domestic wastewater, hazardous waste, industrial waste, or certain solid waste permits from the Department; mining activities; mitigation banks; activities proposed by the Florida Department of Transportation, the U.S. Coast Guard, or the Department of Defense; electric distribution and transmission lines; natural gas and petroleum exploration; aquaculture; projects owned, operated, or controlled by Broward County; activities located in part outside the geographical areas covered by the agreement; and the authority to grant or deny petitions for variances and waivers under section 120.542 of the Florida Statutes.

In separate but concurrent rulemaking, the SFWMD also proposes to adopt the Delegation Agreement by reference in its rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: DEP has prepared a Statement of Estimated Regulatory Cost (SERC) for the proposed delegation to Broward County. DEP collected data from its Southeast District office on costs, completion times, and staff requirements for ERP activities in Broward County. Based on DEP's best estimates of cost and time requirements associated with its ERP, WR, and SWM regulatory responsibilities in Broward County, the delegation should reduce duplication of work effort for Broward County and reduce DEP's environmental resource permitting, compliance and enforcement workload.

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

SPECIFIC AUTHORITY: 373.026, 373.046 FS.

LAW IMPLEMENTED: 373.026, 373.046, 373.441 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:30 p.m., May 2, 2001 (Wednesday)

PLACE: Broward County Department of Planning and Environmental Protection, Cypress Room, 218 S. W. 1st Avenue, Fort Lauderdale, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice Heathcock, Division of Water Resource Management, Florida Department of Environmental Protection, 2600 Blair Stone Road-MS 2500, Tallahassee, Florida 32399-2400; telephone (850)921-9899; e-mail Alice.Heathcock@dep.state.fl.us. A draft of the proposed Operating Agreement may be obtained by contacting Alice Heathcock.

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or (800)955-8771 (TDD), at least seven days before the meeting.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-113.100 Purpose.

(1) No change.

(2) Delegations to political subdivisions.

(a) through (o) No change.

(p) #01-1: Operating Agreement Between the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County Regarding Implementation of Environmental Resource Permitting, Compliance, and Enforcement, under part IV, chapter 373, F.S., [insert date of execution].

(3) No change.

Specific Authority ~~420.54(1); 373.026, 373.043, 373.046, 373.103, 373.309, 373.418, 373.441, 403.061, 403.704~~ FS. Law Implemented 373.026, 373.046, ~~373.103, 373.308, 373.309, 373.413, 373.4135, 373.416, 373.418-439, 373.441, 403.061, 403.092, 403.182, 403.814, 403.862~~ FS. History—New 1-5-93, Amended 11-16-93, 3-14-94, Formerly 17-113.100, Amended 7-4-95, 4-3-96, 3-24-98, 12-3-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Eric Bush, Chief, Bureau of Submerged Lands and Environmental Resources

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 1998

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Residential Swimming Pools 64E-21

RULE TITLE: RULE NO.:

Drowning Prevention Education/Public
Information Publication 64E-21.001

PURPOSE AND EFFECT: To adopt a nationally recognized drowning prevention education program to be approved for use in local safety education programs; to adopt a nationally recognized drowning prevention and responsibilities of pool ownership publication and to incorporate the statute as the document containing the requirements of Chapter 515, Florida Statutes, that will be provided to the buyers by licensed pool contractors, home builders or developers.

SUMMARY: This rule implements the provisions of sections 515.31 and 515.33, Florida Statutes, as described in the purpose above.

STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory 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: 515.31, 515.35 FS.

LAW IMPLEMENTED: 515.31, 515.35 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 30, 2001

PLACE: Bureau of Emergency Medical Services, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida 32311-7829

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738, (850)245-4440, Ext. 2733 or Fax (850)487-2911

THE FULL TEXT OF THE PROPOSED RULE IS:

64E-21.001 Drowning Prevention Education/Public Information Publication.

(1) The educational program required in chapter 515, F.S., shall be the 1995 American Red Cross Community Water Safety Course which is incorporated by reference and available at a cost from the American Red Cross Chapter located within any Florida County.

(2) Information on drowning prevention and responsibilities of pool ownership is contained in the 1994 U.S. Consumer Product Safety Commission publication Number 362, Safety Barrier Guidelines for Home Pools which is

incorporated by reference and available at no charge from the Consumer Product Safety Commission, Washington, D.C. 20207.

(3) In accordance with section 515.33, F.S., the document containing the requirements of this chapter shall be sections 515.21 through 515.37, F.S., 2000, which are incorporated by reference and available at a cost from the Law Book Services Office, Room 612, 111 West Madison Street, Tallahassee, Florida 32399-1400.

Specific Authority 515.31, 515.35 FS. Law Implemented 515.31, 515.33 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Lesley, Senior Management Analyst

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Bement, Chief

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 11, 2000, August 18, 2000

P.O. F00396

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

RULE TITLE: RULE NO.:

Alternate Service Procurement Method (ASPM) 65-28.001

PURPOSE AND EFFECT: The purpose of this rule is to implement the provisions of Section 402.73(3), Florida Statutes (F.S.), to provide procedures for a methodology for the competitive procurement of contracted client services, which represents an alternative to the request-for-proposal or the invitation-to-bid process.

SUMMARY: The alternate service procurement method involves a two-phase process which may be used when continuous open exchange regarding the service requirement and the approach used to meet that requirement are essential or in the best interest of the department. In the first phase, offerors may submit statements of qualification for assessment by the department. In the second phase, the department will evaluate service proposals from qualified offerors (selected in Phase I) and will conduct negotiations with one or more offerors to determine which service proposal or combination of service proposals best meets the needs of the department.

At the conclusion of negotiations, the department shall request that each qualified offeror submit a Best And Final Offer (BAFO) which takes into consideration all of the information contained in the original Service Proposal Request as well as that provided through the negotiations. In those cases where negotiations generated a need for further clarification or restatement of the department's requirement, such clarification shall be clearly stated in the request for a BAFO. The department shall review each BAFO submitted in accordance

with the evaluation criteria contained in the Service Proposal Request. Award, if any, shall be made to the offeror(s) whose BAFO presents the greatest value to the state.

SPECIFIC AUTHORITY: 402.73(3) FS.

LAW IMPLEMENTED: 402.73(3) FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for this rule.

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., April 30, 2001

PLACE: 1317 Winewood Blvd., Building 5, Room 117, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy Neves, Policies and Publications Team Leader, (850)413-7464 or Suncom 293-7464

THE FULL TEXT OF THE PROPOSED RULE IS:

65-28.001 Alternate Service Procurement Method (ASPM).

(1) Definitions. For the purposes of this rule, the following definitions shall apply:

(a) "Advertisement" means an announcement designed to give notice of a procurement opportunity.

(b) "Alternate Service Procurement Method" or "ASPM" means a method of procurement that allows the department to solicit statements of qualification from offerors and to assess such statements before requesting service proposals.

(c) "Best And Final Offer" or "BAFO" means the last substantial concession made by a qualified offeror which conveys the message that there is no further room for movement--that the present offer is the final one and the provisions contained therein are the most advantageous provisions that will be offered to the department.

(d) "Call" means a formal published document requesting information about a person's or firm's qualifications including resumes, personnel information, organizational structures or histories, individual or organizational descriptions and financial information from prospective providers of contractual services.

(e) "Department" means the Department of Children and Families.

(f) "Evaluation Team" means a group that includes at least three department employees who have been selected or appointed for their experience and knowledge of the program or service area(s) for which client services are sought, and who

shall evaluate statements of qualification and service proposals submitted by potential providers to aid in the determination of contract award.

(g) "Offeror" means any person or firm that timely responds to all applicable provisions of any procurement of contractual services conducted pursuant to this rule.

(h) "Project" means the entire body of contractual services and associated or implied requirements described in any solicitation issued pursuant to this rule.

(i) "Qualified offeror" means a person or firm that is deemed to have described the capability to fully perform the project requirements and has provided evidence that it possesses the integrity and reliability to successfully complete the project.

(j) "Service Proposal Request" means a document requesting information from persons or firms regarding their detailed plans for delivering the services necessary under the project.

(k) "Statement of Qualification" means a document submitted by an offeror in response to a Call.

(2) The ASPM consists of a two-phase process. In the first phase prospective offerors will be required to submit statements of qualification to the department's evaluation team as required by the Call issued by the department. In the second phase the department's evaluation team will receive and evaluate service proposals from qualified offerors who have been identified as a result of the Phase I submissions. Following the evaluation of the service proposals, the department will conduct negotiations with one or more qualified offerors to determine which service proposal or combination of service proposals best meets the needs of the state. At any time during the conduct of the ASPM, the department may reject any or all statements of qualification or service proposals, and may modify its statement of services sought, tasks to be performed, or project description to meet the needs of the department. The department may negotiate with more than one prospective offeror at a time, but is under no obligation to do so.

(a) Phase I, Qualification Phase. The department shall prepare a Call for statements of qualification containing the general description, purpose, and scope of the project(s) and will advertise the department's desire to receive statements of qualification from prospective offerors. Any potential offeror may submit a statement of qualification for assessment by the department's evaluation team. The department's evaluation team shall assess the statements of qualification according to the criteria stated in the Call, and in accordance with applicable laws or administrative rules, Chapters 28 and 60, Florida Administrative Code, and Section 402.73(3), F.S., and will determine which of the prospective offerors to invite to submit service proposals.

(b) Phase II, Solicitation and Evaluation Phase. The department will invite the offerors deemed to be the most highly qualified as a result of Phase I to submit service proposals. The invitation will be made through the issuance of a Service Proposal Request, which describes the required contents of the service proposal, a description of the evaluation and selection process, and the basis for contract award, if any. The department's evaluation team will evaluate all responsive service proposals in accordance with the criteria set forth in the Service Proposal Request.

(3) Qualification Phase and Procedure.

(a) To start Phase I, the department shall advertise the project(s). The advertisement shall appear in the Florida Administrative Weekly publication or on the Florida Communities Network. The department may advertise the project in newspapers of general circulation, professional journals, or in other publications or in electronic format. The advertisement shall run for a period of no less than 10 days and shall include the project's general description and the name and location from which further information of the solicitation may be obtained:

(b) The Call shall contain the assessment criteria that will be used to determine qualified potential offerors. The assessment criteria will include:

1. The professional qualifications of offerors or offerors' staff, including appropriate licensure and certification.
2. The offeror's professional experience.
3. Business information demonstrating that the offeror is capable of providing the required service or services.

(c) The department shall assess the statements of qualification submitted in accordance with the criteria set forth in the Call, and shall give notice of the results of its decision by posting at the location at which the statements of qualification were opened. The department shall prepare a list of the most highly qualified offerors that are selected to participate in Phase II.

(d) The statements of qualification submitted will remain valid for a period of one hundred and eighty (180) days, and the department may issue one or more Service Proposal Requests against a single Call.

(4) Solicitation and Evaluation Phase.

(a) The department will invite those offerors selected to participate in Phase II to provide service proposals. The department may limit the firms invited to submit service proposals to only those firms that have demonstrated the highest level of professional capability to provide the services under consideration, in accordance with Section 402.73(3), F.S. The department may invite no fewer than three firms to submit service proposals, unless fewer than three firms submit satisfactory statements of qualification. If two firms submit satisfactory statements of qualification, the department shall review the facts and circumstances in order to determine the reason, if any, that fewer than three satisfactory statements of

qualification were submitted. The department shall document the reason that requesting service proposals from fewer than three firms is in the best interest of the state, and proceed with the issuance of the Service Proposal Request.

(b) If only one satisfactory statement of qualification is received, the department shall review the facts and circumstances in order to determine the reason, if any, that only one statement of qualification was submitted. If the department determines that re-solicitation would not be in the best interest of the state, the department shall explain in writing the basis for its determination and the documentation shall be maintained in the department's contract files. Thereafter, the department may proceed directly to negotiations with the offeror who submitted the satisfactory statement of qualification to determine the best contract terms and conditions.

(c) The invitation for the submission of service proposals will be made through the issuance of a Service Proposal Request, which shall contain the following:

1. The service requirements;
2. The general terms and conditions that will apply to the resultant contract;
3. The instructions for submission of service proposals, including formats and a listing of required contents;
4. A description of the evaluation process;
5. The evaluation criteria, along with their relative importance;
6. The schedule of significant events and deadlines;
7. The methods and timing of allowable communications between the department and entities remaining in the competition; and
8. The date, time, and location for service proposal submission.

(d) The department shall perform an evaluation of each responsive service proposal according to the evaluation methodology described in the Service Proposal Request, and in accordance with the criteria included in, but not limited to, Section 402.73(3), F.S.

At the conclusion of the evaluation, the department may negotiate with one or more offerors sequentially or simultaneously to determine contract award. However, an award may be made without negotiation based upon the evaluation of the responsive service proposals.

(e) A written record of any negotiations which may be held shall be maintained and shall include the following:

1. A description of the major issues addressed;
2. A summary of the negotiations;
3. Copies of any documentation provided;

(f) In accordance with Chapter 287.057(4), if fewer than two responsive service proposals are received, the department may negotiate on the best terms and conditions that are in the

best interest of the state. The department shall document the reasons that such action is in the best interest of the state in lieu of re-solicitation.

(5) The department may terminate negotiations at any time with any or all qualified offerors. When the department determines in writing that it is in the best interest of the state, it shall request that each qualified offeror submit a BAFO which takes into consideration all of the information contained in the original Service Proposal Request as well as that provided through the negotiations. In those cases where negotiations generated a need for further clarification or restatement of the department's requirement, such clarification shall be clearly stated in the request for the BAFO. The department shall review the BAFOs submitted in accordance with the evaluation criteria contained in the Service Proposal Request. The award, if any, shall be made to the qualified offeror whose BAFO represents the best value to the state.

(6) When it is in the best interest of the state, the department may award multiple contracts. The contract(s) resulting from this procurement process may cover all or part of the requirement described in the Service Proposal Request. The department may split the service procurement requirements into smaller components and may award different components to different qualified offerors.

Specific Authority 402.73(3) FS. Law Implemented 402.73(3) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Joy Neves
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Chatel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

Section III
Notices of Changes, Corrections and Withdrawals

PUBLIC SERVICE COMMISSION

DOCKET NO. 001521-EU

RULE NO.: RULE TITLE:
25-6.035 Adequacy of Supply
 NOTICE OF RESCHEDULING

The date for the hearing, if requested, has been rescheduled to:
TIME AND DATE: 9:30 a.m., April 26, 2001
PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-602.203 Control of Contraband
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 3, January 19, 2001, Florida Administrative Weekly has been withdrawn.

COMMISSION FOR THE TRANSPORTATION DISADVANTAGED

RULE NO.: RULE TITLE:
41-2.006 Insurance, Safety Requirements and Standards
 NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 27, No. 5, February 2, 2001, issue of the Florida Administrative Weekly. Based on comments received from the Joint Administrative Procedures Committee, the Commission has voted to change the rule as follows:

Subsection (4)(i) now reads:

(i) Billing requirements of the Community Transportation Coordinator to subcontractors shall be determined locally by the local Coordinating Board and provided in the local Transportation Disadvantaged Service Plan. All bills shall be paid within 7 working days to subcontractors, after receipt of said payment by the Community Transportation Coordinator, in accordance with Chapter 287.0585, F.S.;

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jo Ann Hutchinson, Executive Director, Commission for the Transportation Disadvantaged, 60 Suwannee Street, MS-49, Tallahassee, Florida 32399-0450

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NOS.: RULE TITLES:
61G1-25.001 General Responsibility
61G1-25.003 Qualification Program for Special Inspectors of Threshold Buildings

NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rules, as published in Vol. 27, No. 6, February 9, 2001, issue of the Florida Administrative Weekly. The changes are based upon written comments submitted by the staff of the Joint Administrative Procedures Committee and comments provided by the Board at its regularly scheduled board meeting held on March 8, 2001. The Board voted to change Rules 61G1-25.001 and 61G1-25.003.