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RURAL AND FAMILY LANDS PROTECTION PROGRAM

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5I-7.001 - Purpose.

(1) The purpose of this chapter is to provide uniform and efficient procedures for the application, priority ranking, and acquisition of perpetual less-than-fee simple interests on working agricultural lands, title to which will vest in the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

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(2) This chapter is promulgated pursuant to Section 570.71 and 259.105, Florida Statutes F.S. and establishes an application process and criteria for the use of program funds to protect rural and agricultural lands through perpetual easements.

(3) This chapter also establishes appraisal and title review processes, and a method to assure compliance with the terms of the perpetual easements.

(4) Acquisition procedures provided for in this rule are for voluntary, negotiated acquisitions and conveyances under agreements for purchase of perpetual less-than-fee simple interests.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71(10), 259.105(3)(i) FS. History—New _____.

5I-7.002 - Definitions

For the purposes of this chapter, the following terms are defined as follows:

(1) “Acquisition project” means a parcel or parcels of land proposed for acquisition in accordance with Section 570.71, F.S., and this rule.

(2) “Agriculture” is as defined in Section 570.02(1), F.S.

(3) “Agricultural Cooperative” means an established organization where farmers pool their resources in certain areas.

(4) “Agricultural Lands” means lands on which agriculture is conducted.

(5) “Baseline Documentation Report” means a report used for long term perpetual easement monitoring that documents existing conditions at the time of execution of the easement, such as surface and minerals ownership, improvements, and land uses. The report also documents conservation values protected by the perpetual easement, including

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but not limited to agriculture, significant natural areas, water resources, and wildlife habitat.

- (6) "Best Management Practices" or "BMPs" means a practice or combination of practices established by rule of the Department, based on research, field-testing, and expert review, to be the most effective and practicable on-location means, including economic and technological considerations, of protecting environmental values.
- (7) "Board" or "Board of Trustees" means the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.
- (8) "Commissioner" means the Florida Commissioner of Agriculture.
- (9) "Council" means the Acquisition and Restoration Council, pursuant to Section 259.035, F.S.
- (10) "Department" means the Department of Agriculture and Consumer Services.
- (11) "Division" means the Division of Forestry in the Department of Agriculture and Consumer Services.
- (12) "Groundwater Recharge" means areas that provide water to an aquifer that is critical to springs, sinks, lakes, rivers, other natural systems, or water supply.
- (13) "Natural Floodplain" means Federal Emergency Management Agency (FEMA) "special flood hazard areas (SFHA)" associated with major rivers. In counties where no FEMA data is available, the natural floodplain is estimated based on water management district landcover data, landsat data, and National Wetlands Inventory data.
- (14) "Outparcel" means land within the boundaries of a parcel which is not owned or under the control of the parent tract owner or is intended to be excluded from the project by the parent tract owner.

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- (15) “Perpetual Easement” means a Conservation Easement as defined in Section 704.06, F.S., or a Rural Lands Protection Easement as defined in Section 570.71(3), F.S.
- (16) “Program” means the Rural and Family Lands Protection Program.
- (17) “Project” means a proposed perpetual easement as provided for in Sections 570.71 and 704.06, F.S.
- (18) “Significant Natural Areas” as outlined in Section 570.71(1)(c), F.S., means agricultural lands with important species habitat or water resources.
- (19) “Supplemental Standards” means the Supplemental Appraisal Standards for Board of Trustees Land, which contains appraisal requirements that establish public policy and add to the standard appraisal procedures and practices of the appraisal profession for the development and reporting of all appraisal services, including those outlined in Chapters 253 and 259, F.S., adopted by the Board of Trustees of the Internal Improvement Trust Fund, dated April 14, 2008, incorporated by reference and available on the internet at: <http://www.dep.state.fl.us/lands/appraisal/> or by sending a request to: Department of Environmental Protection, Bureau of Appraisal, 3900 Commonwealth Boulevard, M.S. 110, Tallahassee, Florida 32399-3000 or by phone at (850) 245-2658 or by fax at (850) 245-2668.
- (20) “Uniform Standards of Professional Appraisal Practices (USPAP)” means the generally accepted and recognized standards of real property appraisal practice in the United States promulgated by the Appraisal Foundation and used by state and federal agencies and others, incorporated by reference and available on the internet at: <http://commerce.appraisalfoundation.org/html/> or by sending a request to: The Appraisal Foundation, 1155 15th Street, NW Suite 1111, Washington, DC 20005.

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(21) “Water Resources” means water bodies, aquifer recharge areas, wetlands, and watersheds.

(22) “Species Habitat” means an environment consisting of an assemblage of plants, animals and associated processes that provide a plant or animal with its physical and chemical requirements.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71(10), 259.105(3)(i) FS. History—New _____.

5I-7.003 – Program Goals and Objectives.

(1) In order to qualify for acquisition pursuant to this rule, agricultural land must protect the integrity and function of working landscapes, ensure opportunities for viable agricultural activities on working lands threatened by conversion to other uses, and meet at least one of the following public purposes consistent with Sections 259.105(3)(i) and 570.70(5), F.S.:

(a) Perpetuate open space on working lands that contain significant natural areas;

(b) Protect, restore or enhance water bodies, aquifer recharge areas including uplands and springsheds, wetlands, or watersheds;

(c) Consistent with 5I-7.003(1), F.A.C., promote a more complete pattern of protection, including buffers to natural areas, ecological greenways, functioning ecosystems; and military installations as provided in Section 259.105(2)(h)1.-3., F.S.

(d) Promote the restoration, enhancement or management of species habitat, consistent with the purposes for which the easement is acquired.

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Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History—New _____.

5I-7.004 - Application Procedures and Requirements.

- (1) For purposes of Sections 259.105(3)(i), 570.70(5) and 570.71, F.S., anyone submitting an application for consideration of a project under this rule shall utilize form DACS-11207, RURAL & FAMILY LANDS PROTECTION PROGRAM APPLICATION, 08/08, hereby incorporated by reference. Copies are immediately available on the internet at: http://www.fl-dof.com/forest_management/rural_family_lands_index.html or by sending a request to: Florida Department of Agriculture and Consumer Services, Division of Forestry, 3125 Conner Boulevard, Suite “I”, Tallahassee, FL 32399–1650.
- (2) Landowners applying to the Program who have submitted information to another agency under the Florida Forever program, Section 259.105, F.S., may submit a Rural and Family Lands Protection Program application. If the required supporting documentation has previously been provided to another agency, the applicant shall notify the Department, which will then assist in identifying and securing information and documentation previously submitted and available from the other Florida Forever program.
- (3) The Department shall accept applications on an ongoing basis that will be reviewed during the application review cycle in which they are received.
- (4) Not less than once per year the Department shall publish a Notice of Application Review Cycle with a date by which all applications must be received. All notices shall be published in the Florida Administrative Weekly, and available on the internet at:

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http://www.fl-dof.com/forest_management/rural_family_lands_index.html no less than 45 days prior to the application review cycle deadline.

(5) Each acquisition project application received shall, within 30 days of receipt, be reviewed by Division staff to verify sufficiency of information and that on its face is eligible for further review and evaluation in accordance with this section.

(a) Incomplete applications shall be returned to the applicant with a letter stating every deficiency, for completion and resubmission. If the supplemental information is not received by the application review cycle deadline, the entire file will be returned to the applicant.

(b) Applications determined to be ineligible shall be returned to the applicant with an explanation of the reason that the project was determined to be ineligible.

(c) Applications received after the application review cycle deadline shall be considered in the next group of projects.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History—New _____.

5I-7.005 - Technical Review and Evaluation of Project Applications.

(1) Once complete, the application shall receive an independent review within 45 days by members of a Technical Review Team appointed by the Commissioner or his designee.

(2) The Technical Review Team shall consist of no fewer than three (3) representatives from the following disciplines:

(a) divisions within the Department with expertise in the types of agricultural activities currently in place within the project and contemplated for the future. The representatives

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from the Department shall be responsible for an evaluation of the agricultural operation, whether BMPs are being implemented, and suitability of land for long term agricultural use.

(b) The Florida Natural Areas Inventory, a scientific organization proficient in biological natural resource based evaluations, which shall perform a scientific assessment of natural resource attributes of each property.

(c) a state or local agency responsible for land planning and growth management, which shall perform an assessment of the level of threat of conversion to non-agricultural use including, at a minimum, the land use designation of the property and surrounding area; development trends in the surrounding area that might serve to adversely impact future agriculture, or conversely, encourage the continuation of agriculture; and any known state or local rural land area designation applicable to the property.

(d) geographically applicable water management district on projects where hydrological considerations are integral to the proposal, which shall assess the potential benefits of the property relating to floodplain, surface water, wetlands and aquifer recharge.

(e) adjacent public land managers, if applicable, who shall assess the benefits of the property relating to buffering and connectivity.

(f) other agencies or organizations deemed necessary by the Department, based upon the specific nature of the property involved in the application, to effectuate a thorough review and evaluation of an application.

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- (3) Review by Technical Review Team members will consist of an evaluation of each project application based on the program goals and objectives applicable to each team member's particular area of expertise as outlined in paragraph (2) above.
- (4) Upon completion of the review, a narrative of each team member's findings shall be provided to the Department along with an evaluation of the extent to which the project achieves the goals and objectives in Subsection 5I-7.003, F.A.C.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History—New _____.

5I-7.006 - Program Review and Evaluation of Project Applications.

- (1) Division staff shall prepare a Program Evaluation Report for each project within 30 days of receipt of the findings of the Technical Review Team.
- (2) The Project Evaluation Report shall include:
- (a) a compilation of all Technical Review Team member reports, a summary of the information in the application, and any additional information relied upon by the team members. If applicable, this shall include a determination that the project does not meet the eligibility requirements for the RFLPP, or a recommendation that a project, or portion thereof, might be more suitably acquired by another Florida Forever land acquisition program pursuant to Section 259.105, F.S., because the property meets the goals and objectives that program. When such a recommendation is made, the landowner shall be contacted and provided the reason why the project is ineligible, or that another program may be appropriate. If the landowner applies to another program, the Department shall coordinate with the other program(s) by transferring all data and technical reviews that are available.

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- (b) confirmation of the project boundary as contained in the application and any recommended boundary adjustments.
- (c) a recommended monitoring entity for the project and a brief rationale for the recommendation, if said entity is different from the Department.
- (d) known or potential opportunities for cost sharing partnerships with complementary local, state and federal programs. A potential cost sharing opportunity or program shall be considered complementary if:
 - 1. the goals, objectives and eligibility criteria of the partnering programs are compatible;
 - 2. the property owner is willing to comply with the requirements of all entities or programs engaged in the partnership; and,
 - 3. funding is or will be available from participating programs to cost share the proposed perpetual easement.
- (e) Whether the property is within an agricultural area as determined by a local government comprehensive plan pursuant to Section 163.3177(6)(a), F.S.; is within a rural land stewardship area pursuant to Section 163.3177(11)(d), F.S.; is classified as agricultural pursuant to Section 193.461, F.S.; or is part of an Agricultural Cooperative.
- (f) other relevant information based on a review of all evaluations and comments received, including those from local government and the general public.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History–New _____.

5I-7.007 - Ranking, Review and Approval of Priority Acquisition List.

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- (1) The Commissioner will designate a Rural and Family Lands Selection Committee of no fewer than five (5) members drawn from divisions and offices within the Department with expertise in various agricultural activities.
- (2) Rural and Family Lands Selection Committee members shall independently evaluate projects based on consideration of the Program Evaluation Report detailed in 5I-7.006, F.A.C., giving preference to ranch and timberlands managed using practices that provide multiple use and sustained yield of the renewable surface resources with the goal of sustaining the economic and ecological integrity of the property while allowing the agricultural business to operate and prosper.
- (3) Eligible projects are those that protect the integrity and function of working landscapes, ensure opportunities for viable agricultural activities on working lands threatened by conversion to other uses, and meet at least one of the following public purposes consistent with Sections 259.105(3)(i) and 570.71(1), F.S.:
 - (a) Perpetuate open space on working lands that contain significant natural areas;
 - (b) Protect, restore or enhance water bodies, aquifer recharge areas including uplands and springsheds, wetlands or watersheds;
 - (c) Consistent with 5I-7.003(1), F.A.C., promote a more complete pattern of protection, including buffers to natural areas, ecological greenways, functioning ecosystems; and military installations as provided in Section 259.105(2)(h)1.-3., F.S.
 - (d) Promote the restoration, enhancement or management of species habitat, consistent with the purposes for which the easement is acquired
- (4) The Rural and Family Lands Selection Committee shall consider the list of projects at a public meeting conducted pursuant to Section 120.525, F.S. The purpose of the

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meeting shall be to receive public comment and by majority vote adopt a list of projects in priority order that qualify for acquisition under the Program.

(5) Each year that cash disbursements or bonds are to be issued pursuant to Section 259.105, F.S., the Department shall present the priority list, approved by the Rural and Family Lands Selection Committee, for review by the Council at a regularly scheduled public meeting.

(6) Following review by the Council, the Department shall present the priority list to the Board for approval, along with supporting information outlined in paragraph (7) below. The Board is authorized to remove projects from the list, but may not add projects or change project rankings, as provided in 259.04(1)(c), F.S.

(7) The Department shall submit to the Board, with its priority list, a report that includes, but is not limited to, the following information for each project listed:

(a) A summary of the project evaluation, including the type of agricultural activities currently on the property, the natural resource benefits of the project, and the current threat of conversion to non-agricultural uses.

(b) A map delineating project boundaries, and, where applicable, proximity to other protected lands.

(8) The combined value of all projects recommended to the Board by the Department may exceed the amount of money available for acquisition.

(9) Upon approval of the priority list by the Board and subject to the availability of funds, the Department may proceed with the acquisition process for perpetual easements, including appraisals, survey and title review.

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(10) All acquisition projects approved by the Board shall be eligible for funding, with available resources targeted initially toward the highest ranked projects. However, the Board is authorized to approve the purchase of any project from the list, pursuant to Sections 259.105, 570.70 and 570.71, F.S.

(11) A priority list approved by the Board shall replace all prior lists. If a project from a prior list is removed, all acquisition activities shall cease, unless there is a fully executed contract on the property.

Specific Authority: 570.07(23), 570.71(10), 259.105, 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105, 259.04(1)(c) FS. History–New _____.

5I-7.008 Title and Survey.

(1) Initial Title Report. In order for the Department to obtain appraisals, a title report shall be obtained from a licensed title company or title attorney authorized to do business in the State of Florida. The title report shall include an adequate legal description of the property to be acquired sufficient to inform the Department and the appraisers of the status of ownership, encumbrances, exceptions, reservations, previous ownership history, and tax assessment history.

(2) Evidence of Marketability. A title commitment shall be obtained by the Department, from a licensed title company or title attorney authorized to do business in the State of Florida, prior to the conveyance of title. The content of such evidence of marketable title shall demonstrate that title is marketable and compatible with the purposes of the acquisition.

(3) Condition of Title. The objective of negotiations for acquisition of property interests is to obtain all the landowner's rights, title and interest in the property as are

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necessary for the planned easement. All exceptions, reservations, encroachments or other adverse conditions that are disclosed in the course of preparing to negotiate, negotiating, contracting or closing shall be individually examined and evaluated as to possible adverse effect on the objectives in acquiring the property interest. Such matters will be disclosed to the Board at the time the project is submitted on the Department's agenda for consideration by the Board.

(4) Prior to closing, a certified survey must be obtained, unless the requirement is waived by the Board if it determines that the available information is adequate to establish the boundaries of the property. Any certified survey shall be reviewed to ensure that it complies with the land acquisition survey standards of the Department of Environmental Protection, Division of State Lands, Bureau of Survey and Mapping dated September 3, 2002, incorporated by reference and available on the internet at: http://www.dep.state.fl.us/lands/surv_map/default.htm or by sending a request to: Department of Environmental Protection, Bureau of Survey and Mapping, 3900 Commonwealth Boulevard, M.S. 105, Tallahassee, Florida 32399-3000 or by phone at (850)245-2606 or by fax at (850)245-2645. The Department shall only use surveyors from the list of approved surveyors under contracts developed and maintained by the Bureau of Survey and Mapping.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i), FS. History--New _____.

5I-7.009 - Appraisal Procedures, Report Requirements and Determining Maximum Amounts.

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- (1) The Department shall only use appraisers and review appraisers from the list of approved appraisers under contracts developed and maintained pursuant to 18-1.007(1) and (2), F.A.C. The Department is authorized to contract directly with qualified appraisers and review appraisers or coordinate through the Department of Environmental Protection, Division of State Lands for review appraisal services.
- (2) Specific Project Appraiser Selection. Appraisers to be solicited for appraisal assignments will be those with competency in the area of specialization required by the proposed appraisal assignment, with additional consideration given to production time, cost efficiency, and contemplation of additional appraisal services in a specific project area.
- (3) Through competitive bidding, multiple bids will be sought with the objective of obtaining the best possible services efficiently and at the most reasonable cost.
- (4) Solicitations will include selection criteria to be used in making the final selection of the appraiser to be awarded the appraisal services required.
- (5) For increased time and cost efficiency, for recurring needs for additional appraisal services in a specific project area or for a specific parcel, use of the same appraisers used for these previous services is allowed.
- (6) The development and reporting of all appraisal services by the appraiser and review appraiser shall be consistent with the Uniform Standards of Professional Appraisal Practices (USPAP), Supplemental Standards, this chapter and the specific assignment. The Supplemental Standards identified in 5I-7.002(19), F.A.C., are hereby adopted by reference.

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- (7) The Department shall make available to the appraiser all pertinent title information developed, a specification of the rights to be acquired, a list of items, if any, considered to be noncompensable, minimum appraisal requirements that apply, required appraisal forms or formats, and a certified survey or appraisal map.
- (8) The appraisal report shall state any extraordinary assumption or hypothetical condition made by the appraiser in determining market value and shall document and adequately support the appraiser's estimate or conclusion as to value.
- (9) The appraisal report shall be accompanied by a sales history of the parcel for the prior five years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible.
- (10) When two appraisals are required under Section 259.041(7)(b), F.S., a third appraisal shall be obtained if the two appraisals differ significantly. Two appraisals shall be considered to differ significantly if the higher of the two values exceeds 120% of the lower value. However, a third appraisal shall not be obtained if the decision is made by the Department to attempt to negotiate an acquisition price of no more than 120% of the lower of the two appraisals.
- (11) Determining the maximum amount:
- (a) The maximum amount that may be paid for a perpetual easement shall be the value indicated in a single approved appraisal if only one appraisal is required. If two appraisals are obtained and approved when only one is required by law, the maximum value shall be the higher of the appraisals, regardless of their divergence.

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(b) If two appraisals are required by law and their values do not differ significantly, the maximum amount that may be paid for the parcel shall be the higher value indicated in the two approved appraisals.

(c) If a third appraisal is obtained and approved, the maximum amount that may be paid for the parcel shall be the value contained in the higher of the two closest appraisals as long as the two closest appraisals do not differ significantly. If the two closest appraisals differ significantly, 120% of the lower of the two appraisals shall be the maximum value.

(12) Appraisal Reviews:

(a) Appraisal reviews will be conducted for each parcel by qualified review appraisers in accordance with USPAP requirements. Appraisals and appraisal review reports shall be submitted to the Department for the purpose of determining maximum amounts that may be paid for perpetual easements.

(b) For parcels with values greater than \$500,000 an appraisal review will be developed and reported according to the requirements of Standard 3 of the USPAP, the Supplemental Standards, and the specific requirements of the assignment. For parcels with values of \$500,000 or less, a cursory review by a qualified appraiser will be conducted for assurance that requirements of the assignment were met.

(13) All appraisers will be required to comply with Section 259.041(7)(c), F.S., and submit an affidavit substantiating that they have no vested or fiduciary interest in any property for which appraisal services will be awarded.

(14) Contract appraisal fees shall be paid by the Department.

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Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i), FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History–New _____.

5I-7.010 – Negotiations and Purchase Instruments.

- (1) Initial contact with the landowner by the Department may be established prior to negotiations, provided such contact is limited to the following:
 - (a) To request the owner’s permission for the Department to inspect the property in order to determine its suitability for the purposes of the Program.
 - (b) To confirm the owner’s interest in conveying a perpetual easement to the State and establish the terms of the proposed easement for appraisal purposes.
 - (c) To recommend that the owner confer with his or her tax advisor about the possibility of any tax advantages. Appraisals performed by the Department for acquisition purposes are not intended for use by the seller to qualify for tax advantages, and do not meet the federal requirements for such appraisals.
 - (d) To discuss the timing of possible future acquisitions, and the competition for funds under the Program.
 - (e) To discuss the matter of representation of the owner by an agent in any future negotiations, and the necessary confirmation by the owner of the agent’s status.
 - (f) To advise of disclosure requirements.
 - (g) To discuss other information pertinent to the acquisition process in general.
 - (h) To provide the owner a copy of this rule.
- (2) The Department is authorized to initiate purchase negotiations only upon receipt of the approved appraisal reports in accordance with this rule.

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- (3) Upon the initiation of negotiations the Department shall notify the landowner in writing that final purchase approval is subject to affirmative action by the Board and subject to legislative appropriation.
- (4) When the landowner is represented by an agent or broker, negotiations may not be initiated or continued with the agent until a written statement signed by the landowner verifying the agent's legal or fiduciary relationship with the owner has been received by the Department.
- (5) All offers and counter-offers shall be in writing, and shall be documented in the appropriate acquisition file of the Department.
- (6) All offers, counter-offers and appraisal reports shall be confidential and exempt from the provisions of Section 119.07(1), F.S., until 2 weeks before an option contract, contract, or agreement for purchase is considered for approval by the Board. However, the Department has the authority, at its discretion, to disclose appraisal reports to private landowners during negotiations for acquisitions under this Program if the Department determines that disclosure of such reports will bring the proposed acquisition to closure.
- (7) The objective of all purchase negotiations shall be to obtain the appropriate interest in land free of encumbrances, conditions, restrictions and reservations that conflict with the terms of the easement, at the lowest reasonable price. When negotiating the purchase of properties that include wetlands where the seller will bear the cost of the survey, the Department shall apprise the seller of the benefits of obtaining a survey that identifies a water line for acreage calculations, as opposed to a mean high water or ordinary high water survey.

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- (8) Purchase Instruments. The final negotiated purchase shall be placed in the form of a written purchase instrument signed by the owner and the Department, subject to approval by the Board.
- (9) The Department shall use a form of purchase instrument meeting the intent of the law and this rule.
- (10) Before the purchase instrument is submitted to the Board for approval, the provisions of Section 286.23, F.S., shall be complied with.
- (11) All agreements involving the purchase of a perpetual easement shall be reviewed and approved at a duly noticed meeting by the Board.
- (12) All conveyances of a real property interest shall vest in the Board. The Board may agree to jointly share title with a local government or water management district that has contributed funds to the purchase of the easement being jointly acquired. The title interest shall be no greater than the percentage of financial contribution by the governmental entity.
- (13) A purchase instrument approved by the Board shall be binding on all parties, except that performance by the Board and the Department is subject to legislative appropriation and any other contingencies in the approved purchase agreement.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History—New _____.

5I-7.011 - Board Action.

- (1) The Department shall furnish the following at the time a purchase is considered by the Board:
- (a) The original of the purchase instrument.

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- (b) A copy of the owner's disclosure form under Section 286.23, F.S.
 - (c) Evidence of the marketability of the title. The Department may defer submittal and approval of the title commitment until after Board approval of the purchase instrument. In such case the Department will provide a copy of the owner's deed to the property.
 - (d) The approved appraisal reports.
 - (e) A written statement by the Department outlining the public interest for which the acquisition is being made, citing statutory authority, and stating that the property proposed for purchase is within a project on the Department's acquisition program list.
 - (f) A written statement signed by the owner confirming the owner's relationship with his agent.
 - (g) A written confirmation by the Department of the source and availability of funding for the acquisition.
 - (h) A copy of the current certified survey or appraisal map.
 - (i) All disclosures required by Subsections 375.031(1) and 380.08(2), F.S.
 - (j) A statement identifying any expenditure made in the categories set forth in paragraphs (2)(a), (b) or (c) of 5I-7.012, F.A.C.
 - (k) A statement providing a good faith estimate of any additional expenditure in the categories set forth in paragraphs (2)(a), (b) or (c) of 5I-7.012, F.A.C.
- (2) The Department shall submit the proposed acquisition for consideration by the Board within 45 days after receipt from the landowner by the Department of the materials required by subsection (1) above. The Department shall supply a copy of the proposed purchase instrument and all supporting documentation to the Board for its review.

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(3) The Department shall obtain authorization from the Board prior to purchase, and pursuant to the provisions of Chapters 570 and 259, F.S., for all acquisitions of land, title to which will vest in the Board.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i), FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History—New _____.

5I-7.012 - Closing.

(1) The Department shall have the authority to modify the purchase instrument previously approved by the Board to extend the time for option exercise, closing date, submittal deadlines or any other time limit relating to such agreement, provided the total extension of time for closing does not exceed 180 calendar days after the date contemplated in the purchase instrument approved by the Board. The Department shall also have the authority to execute or modify all documents necessary for the implementation of Board action, including without limitation the purchase instrument, legal descriptions, deeds, assignments, title policies and other miscellaneous agreements and affidavits, provided the modification does not change the substance or the scope of Board approval, and provided the document executed or modified was either approved by the Board or contemplated by Board approval. Any changes in the purchase price to be paid to the seller not contemplated by the terms of the purchase instrument must be approved by the Board. An extension or modification may only be made under the terms of the purchase instrument, or with the seller's agreement.

(2) The Department shall obtain all disclosures of beneficial interest required in Section 286.23, F.S., before submitting a purchase instrument to the Board for approval. All other disclosures, including those required by Sections 375.031(1) and 380.08(2), F.S., shall be

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obtained prior to closing. The following information shall also be included in the statement obtained from the owner prior to closing:

- (a) The total amount of any finder's fee, real estate commission or other similar commission, including a statement as to whom those fees will ultimately be paid,
- (b) The total amount of the attorney's fees paid to the owner's attorney, including a statement as to whom these fees will ultimately be paid,
- (c) The amounts of other costs incidental to the sale, indicating to who these sums have been or are to be paid.
- (3) The Department shall be responsible for proper completion of the closing and proper recordation of all legal documents necessary to vest title in the Board.
- (4) All original documents including recorded documents shall be forwarded to the Department within 30 days after receipt by the closing agent from the county clerk. The Department shall forward all recorded documents and a copy of the title insurance policy to the Department of Environmental Protection, Division of State Lands within 30 days after receipt by the Department for inclusion in the Board's land title records system.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i)FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History–New _____.

5I-7.013 - Multi-Party Acquisitions.

- (1) The Department may enter into an acquisition agreement with a cooperating entity, which may consist of another state agency, a water management district, a local government or a nonprofit organization as defined in Section 259.041(7)(e), F.S., for any property that has been authorized for acquisition pursuant to Section 570.71, F.S.

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(2) The Department and a cooperating entity must execute an acquisition agreement prior to the cooperating entity obtaining title to, or any other legal interest in, the property to be acquired.

(3) An acquisition agreement may provide for the sharing of appraisals, offers, and other negotiation matters between the Department and the cooperating entity; provided, however the agreement shall require the cooperating entity to follow Department procedures and this chapter when acquiring appraisals and to deliver to the Department all negotiation files after negotiations with the owner have terminated. As a condition of the sharing of confidential information, the cooperating entity must agree to maintain, on its behalf and on behalf of its employees and agents, the confidentiality of appraisals, offers, and other negotiation matters, as required by Section 259.041(8)(c), F.S., and this chapter, and the cooperating entity must obtain the consent of the Department prior to disclosing the information to any other person.

Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70, 570.71, 259.105(3)(i) FS. History—New _____.

5I-7.014 – Compliance, Monitoring and Enforcement

(1) All perpetual easements acquired pursuant to this rule shall include provisions for assuring compliance, monitoring and enforcement of the terms and conditions of such perpetual easements.

(2) The Department shall procure or require any landowner to provide any reports, studies, or documents the Department deems necessary to document the existence and location of property boundaries, structures, environmental issues, conservation values,

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and natural features on the property in conjunction with and prior to closing for the purpose of developing a Baseline Documentation Report.

(3) All perpetual easements shall require the landowner to assure all activities adhere to established Best Management Practices (BMPs) or, in the absence of established BMPs, follow established standard industry practices.

(4) The Department shall monitor all perpetual easements utilizing form DACS-11208, RURAL & FAMILY LANDS PROTECTION PROGRAM EASEMENT MONITORING FORM, 08/08, hereby incorporated by reference and immediately available on the internet at:

http://www.fl-dof.com/forest_management/rural_family_lands_index.html or by sending a request to: the Florida Department of Agriculture and Consumer Services, Division of Forestry, 3125 Conner Boulevard, Suite "I", Tallahassee, FL 32399-1650

(5) The monitor shall be a Department employee, other public agency selected by the Department, or an independent contractor hired by the Department.

(6) The Department shall review all monitoring reports for compliance with monitoring specifications utilizing form DACS-11209, RURAL & FAMILY LANDS PROTECTION PROGRAM EASEMENT MONITORING REVIEW, 08/08, hereby incorporated by reference and immediately available on the internet at: http://www.fl-dof.com/forest_management/rural_family_lands_index.html or by sending a request to: the Florida Department of Agriculture and Consumer Services, Division of Forestry, 3125 Conner Boulevard, Suite "I", Tallahassee, FL 32399-1650

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Specific Authority: 570.07(23), 570.71(10), 259.105(3)(i) FS. Law Implemented 570.70,
570.71, 259.105(3)(i) FS. History–New.