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MANAGEMENT OF UPLANDS VESTED
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18-2.001 Intent. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 FS History — New 5-24-87, Repealed 6-4-96.

18-2.002 Scope and Effective Date. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 FS History — New 5-24-87, Amended 6-15-93, Repealed 6-4-96.

18-2.003 Definitions. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 FS History — New 5-24-87, Repealed 6-4-96.

18-2.004 Policies, Standards, and Criteria. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.034 FS History — New 5-24-87, Repealed 6-4-96.

**18-2.005 Leases, Other than Agricultural, Oil, Gas, and Mineral.
(REPEALED)**

Specific Authority 253.03 FS Law Implemented 253.03 , 253.034 FS History — New 5-24-87, Amended 6-15-93, Repealed 6-4-96

18-2.006 Subleases. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 , 253.034 FS History — New 5-24-87, Repealed 6-4-96.

18-2.007 Agricultural Leases. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 FS History — New 5-24-87, Repealed 6-4-96.

18-2.008 Leases of Oil, Gas, and Other Mineral Interests.(REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 , 253.51 — .61 FS History — New 5-24-87, Repealed 6-4-96.

18-2.009 Management and Use Agreements. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 , 253.034 FS History — New 5-24-87, Repealed 6-4-96.

18-2.010 Easements.(REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 FS History — New 5-24-87, Repealed 6-4-96.

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18-2.011 Disposal of Trustees-owned Uplands.(REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 , 253.111 , 253.115 , 270.07 — .09 FS History — New 5-24-87, Repealed 6-4-96.

18-2.012 Exchanges. (REPEALED)

Specific Authority 253.03 FS Law Implemented 253.03 , 253.42 — .44, 253.115 FS History — New 5-24-87, Repealed 6-4-96.

18-2.013 Solid Mineral Interest Sales. (REPEALED)

Specific Authority 253.03 Law Implemented 253.03 , 253.45 FS History — New 5-24-87, Repealed 6-4-96

18-2.016 Agency Administrative Fee.(REPEALED)

Specific Authority 253.03 (2) FS. Law Implemented 253.03 (2) FS History — New 6-15-93, Repealed 6-4-96.

18-2.017 Definitions.

When used in this rule chapter, the following shall mean:

(1) “Activity” means any use of uplands which requires Trustees’ approval under Sections 253.03(1) and 253.77, F.S., such as a letter of authorization, lease, use agreement, easement, disposal, exchange, or transfer of any interest, including sub-surface, in uplands.

(2) “Agency” means any governmental entity including the United States of America.

(3) “Applicant” means any person making application for any activity involving uplands.

(4) “Appraisal services” has the same meaning as provided in Rule 18-1.002, F.A.C.

(5) “Approved appraisal” has the same meaning as provided in Rule 18-1.002, F.A.C.

(6) “Assignment” means a transfer of one’s use, right or interest from one person to another person.

(7) “Authorization” means the permission granted by the Board of Trustees for a person to construct a facility or to carry out an activity on uplands.

(8) “Beach” means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves). Unless otherwise specified, the seaward limit of a beach is the mean low water line. “Beach” is alternatively termed the shore.

(9) “Best management practices” means methods, measures or practices that are developed, selected, or approved by agencies to protect, enhance and preserve natural resources. They include, but are not limited to, engineering, conservation, and

management practices for mining, agriculture, silviculture, and other land uses, that are designed to conserve the soil and associated nutrients while simultaneously controlling nonpoint pollution to provide good overall upland management.

(10) "Board" means the Board of Trustees of the Internal Improvement Trust Fund.

(11) "Bonus" means a one time payment offered by competitive bid on which the award of an oil or gas lease is based.

(12) "Conservation lands" means lands titled in the name of the board that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation. All lands acquired by the state prior to July 1, 1999, using proceeds from a land acquisition program to protect natural, cultural or resource-based recreational resources, which lands are within original project boundaries or identified as core parcels, shall be deemed to have been acquired for conservation purposes. For any lands purchased by the state on or after July 1, 1999, a determination has been or shall be made by the board prior to acquisition as to those parcels that shall be designated as having been acquired for conservation purposes. Lands associated with correction and detention facilities, military installations and state university system that possess significant natural or historical resources and that are specifically managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation also shall be deemed to be conservation lands.

(13) "Consideration" means something of value given in exchange as part of a legal agreement.

(14) "Convey" means to transfer title or interest in land from one party to another for consideration.

(15) "Conveyance" means an instrument or transfer of title of land from one party to another.

(16) "Cooperating agency" means a lessee which, as party to a multiple state agency lease, has designated management responsibilities to be carried out under the guidance of the lead agency so that each party utilizes its particular expertise in order to achieve the management goal.

(17) "Cooperative management" means single or multiple use management by more than one agency so that each utilizes its particular expertise in order to achieve a particular management goal.

(18) "Council" means the Acquisition and Restoration Council as defined in Section 259.035, F.S.

(19) "Department" means the State of Florida Department of Environmental Protection.

(20) "Development of Regional Impact (DRI)" means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(21) "Division" means the Division of State Lands of the Department of Environmental Protection.

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(22) "Dry hole" means a dry well which has been plugged and abandoned without ever having produced hydrocarbons in commercial quantities.

(23) "Easement" means a nonpossessory interest in uplands created by a grant or agreement, which confers upon the applicant the limited right, liberty and privilege to use uplands for a specific purpose, term and fee.

(24) "Everglades Agricultural Area" means that area which is described on the map entitled "Everglades Agricultural Area", filed in the office of the Secretary of State as Exhibit A to this rule and made an integral part hereof.

(25) "Factual or physical exploration results" means all data and information gathered as the result of any and all operations conducted under a geophysical testing use agreement.

(26) "Fine" means a monetary assessment imposed, pursuant to Section 253.04, F.S., on a person or the agent of a person who willingly damages state lands, willfully damages or removes products of state lands in violation of state or federal law, or knowingly refuses to comply with or willfully violates Chapter 253, F.S., or the rules of the Division.

(27) "Geophysical testing" means the use of gravity, seismic and similar geophysical techniques to obtain information and data on oil, gas or other resources.

(28) "Historic resources" means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, or any part thereof, relating to the history, government, or culture of the state.

(29) "Land acquisition program" means a state program established to acquire land or interests therein for a particular purpose; for example to protect natural, cultural or resource-based recreational resources, such as: Conservation and Recreation Lands, as specified in Section 259.032, F.S.; Environmentally Endangered Lands as established under the Land Conservation Act of 1972; Florida Forever, as specified in Section 259.105, F.S.; Florida Preservation 2000, as specified in Section 259.101, F.S.; Land Acquisition Trust Fund, as specified in Chapter 375, F.S.; Land and Water Conservation Fund as established under the federal Land and Water Conservation Act of 1965; Outdoor Recreation Lands as established under the Outdoor Recreation and Conservation Act of 1963; or Save Our Coast as established by the Governor and Cabinet by official agency action on November 3, 1981.

(30) "Lead agency" means that agency designated by the Board as being responsible for coordinating the development of a management plan for a cooperative management area with input from cooperating agencies pursuant to the terms of the management agreement/multiple agency lease.

(31) "Lease" means an interest in lands designated by a contract creating a landlord-tenant relationship between the Board as landlord and the applicant as tenant whereby the Board grants and transfers to the agency the exclusive use, possession, and control of certain specified lands, for a determinate number of years, with conditions attached. On those properties which considerable capital improvements are to be made,

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the term of a lease shall be limited to the expected amortization or life cycle of the improvements.

(32) "Letter of authorization" means a nonpossessory form of authorization that allows the applicant the right to erect specific structures or conduct specific activities on uplands.

(33) "Management agreement/multiple agency lease" means the legal instrument by which the management purpose(s) of a property and the responsibilities of each managing party are delineated in a cooperative management situation. It is a contractual agreement between the Board and one or more agencies which does not create an interest in real property but merely authorizes conduct of certain management activities on lands owned by the Board.

(34) "Market value" has the same meaning as provided in Rule 18-1.002, F.A.C.

(35) "Mean high water line" means the intersection of the tidal plane of mean high water with the shore. This is the boundary between sovereignty submerged land and the adjacent upland along tidal waterbodies.

(36) "Mitigation" means an action or series of actions which would offset adverse impacts of a proposed activity involving uplands.

(37) "Multiple use" means management for two or more primary purposes in order to insure that the greatest possible combination of public benefits are derived from the use of State lands. These uses may include, but are not limited to management for: timber, wildlife habitat, forage, open space, recreation, public facilities, archaeological and historic sites, or water resources. Individual resources in multiple use management areas may be managed at less than full potential in order to provide the most beneficial combination of uses.

(38) "Net positive benefit" means any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset any requested use or activity which would preclude or affect, in whole or in part, current or future uses of natural resource lands that are managed primarily for the conservation and protection of natural, historical or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical or recreational benefits, as applicable, to the affected management unit.

(39) "Nonconservation lands" means lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation; such as correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or state community college campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that possess no significant natural or historical resources, and lands that were acquired solely to

facilitate the acquisition of other conservation lands as identified by the board when it approved the acquisition.

(40) "Ordinary high water line" means the boundary between uplands and submerged lands beneath non-tidal navigable natural water bodies.

(41) "Person" means any individual, corporation, partnership, firm, association, joint venture, estate, trust, business trust, syndicate, fiduciary, commission, county, municipality or political subdivision of a state, any interstate body, the federal government, or any subdivision thereof and all other groups or combinations, whether public or private.

(42) "Plan" means a management plan as required by Section 253.034, F.S.

(43) "Policies" means guidelines for the decision-making process whereby programs, services and actions of the State are implemented, consistent with existing law.

(44) "Preliminary Development Agreement (PDA)" means a written agreement between the developer and the Department of Community Affairs to allow the developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk. This written agreement is entered into prior to issuance of a final development order which grants, denies or denies with conditions an application for a development permit.

(45) "Private" means affecting or belonging to private individuals, as distinguished from the public in general and not belonging to the public sector or a unit of government.

(46) "Processed records" means data collected under the term of a use agreement for geophysical testing. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements. Processing shall not include the interpretation of any data collection.

(47) "Producing" means the yielding of product including oil, gas, minerals, crops and livestock from Trustees owned uplands.

(48) "Property" means land and permanent improvements that are located there on and affixed thereto.

(49) "Public interest" means demonstrable environmental, social, historical and economic benefits which would accrue to the public in general as a result of a proposed activity and which would clearly exceed all demonstrable environmental, social, historical and economic costs of the proposed activity.

(50) "Release" means the relinquishment, concession or giving up of a right, claim or privilege by the party for whom it exists or to whom it accrues.

(51) "Royalty" means the percentage of the value of a natural resource paid to the owner of the resource by those extracting and selling it.

(52) "Rule" means a rule adopted pursuant to Chapter 120, F.S.

(53) "Satisfactory evidence of title" means a current title insurance policy or current title insurance binder or commitment, not more than 6 months old, issued by a title insurance company authorized to do business in the State of Florida or an opinion of title prepared by a member of the Florida Bar, covering title to the lands involved and indicating any mineral or other interest.

(54) "Single use" means management for one primary purpose. Single use properties may be managed for compatible secondary uses as long as those uses do not interfere or detract from the designated primary purpose. Single use properties will most often be managed by a single agency but may be placed under cooperative management if the expertise of two or more agencies is required to carry out the primary purpose.

(55) "Sole management" means management by one agency on a single or multiple use management tract.

(56) "State agency" means each department created pursuant to Chapter 20, F.S.

(57) "State land" as used in this rule means land to which the title is vested in the Board.

(58) "State Lands Management Plan" means the Conceptual State Lands Management Plan adopted by the Board on March 17, 1981 and as amended by the Board on July 7, 1981 and March 15, 1983.

(59) "Sublease" means a lesser than leasehold interest in lands executed by the lessee to a third party for a definite time period with specific conditions attached.

(60) "Surplus lands" means lands which are not needed by any State agency, and are recommended for disposal, pursuant to Rule 18-2.021, F.A.C.

(61) "Supplemental Standards" has the same meaning as provided in Rule 18-1.002, F.A.C.

(62) "Trustees" means the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida or its designated agents.

(63) "Uplands" means those lands above the mean high water line or ordinary high water line title to which is vested in the Trustees.

(64) "Use agreement" means a grant or agreement which confers upon the applicant a nonexclusive and limited right, liberty and privilege to use uplands for a specific purpose and for a specific time and does not create a title interest in real property.

(65) USPAP has the same meaning as provided in Rule 18-1.002, F.A.C.

(66) "Water conservation areas" means those areas which are described on the map entitled "Conservation Areas", attached as Exhibit C to this rule and made an integral part thereof.

Specific Authority 253.03, 259.035 FS. Law Implemented 253.03, 253.034, 259.035, 259.101, 259.105 FS. History – New 6-4-96, Amended 5-15-08, 5-29-08.

18-2.018 Policies, Standards, and Criteria for Evaluating, Approving or Denying Requests to Use Uplands.

Applications to use Trustees-owned uplands and decisions to approve or reject such applications will be based on all of the following:

- (1) Public Interest Evaluation
 - (a) The decision to authorize the use of Trustees-owned uplands requires a determination that such use is not contrary to the public interest. The public interest determination requires an evaluation of the probable impacts of the proposed activity on the uplands. All direct and indirect impacts related to the proposed activity as well as the cumulative effects of those impacts shall be taken into consideration. Relevant factors to be considered include: conservation, general environmental and natural resource concerns, wetlands values, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, recreation, aesthetics, economics, public health and safety, relative extent of the public need for the proposed use or activity, reasonable alternative locations and methods to accomplish the objective of the proposed use or activity, potential detrimental effects on the public uses to which the area is otherwise suited, the effect on cultural, scenic and recreational values, and the needs and welfare of the people.
 - (2) General Policies
 - (a) Uplands may be leased or subleased, managed by use agreement, encumbered by easements or licenses, disposed of to either the public or private sector, or may be retained and managed by the division.
 - (b) All uplands shall be administered, managed, or disposed of in a manner that will provide the greatest combination of benefits to the general public.
 - (c) Any use of uplands must comply with specific statutory or legislative mandates or other legal restrictions governing the property.
 - (d) Any approval granted for any activity on uplands shall contain such terms, conditions, and restrictions as deemed necessary to provide for responsible management that will protect and enhance uplands.
 - (e) The Board will not grant any form of authorization for a period greater than is necessary to provide for reasonable use of the land for the existing or planned life cycle or amortization of the improvements.
 - (f) Any authorization to use uplands shall be subject to cancellation if the applicant converts the facility to a use that was not authorized or if the land ceases to be used for the purpose which was approved. In addition, the Trustees may require removal of the structure and restoration of parcel to its natural state, and administrative fines and damages as stipulated by rule.
 - (g) Unless otherwise provided herein, no activity may commence until the authorizing document is executed by the Department.
 - (h) All activities on uplands shall implement applicable best management practices that have been selected, developed, or approved by the Trustees or other land managing agencies.

(i) Equitable compensation shall be required when the use of uplands will generate income or revenue for a private user or will limit or preempt use by the general public. The Trustees shall award authorization for such uses on the basis of competitive bidding rather than negotiation unless otherwise provided herein or determined by the Trustees to be in the public interest pursuant to the results of an evaluation of the impacts, both direct and indirect, which may occur as a result of the proposed use. Relevant factors to be considered in the evaluation shall include those specified in subsection 18-2.018(1), F.A.C. The Trustees shall make its final determination at a regularly scheduled meeting of the Governor and Cabinet. The Trustees reserve the right to reject any and all bids.

(j) The successful bidder shall pay all costs of legal advertisement, title work, taxes or assessments for any activity requiring such items.

(k) Appraisal services shall be obtained through the Division in accordance with the procedures and requirements provided in Chapter 18-1, F.A.C., except as follows:

1. For single family or platted lots, any state-certified appraiser can be solicited and used for appraisal services.

2. The appraisal service fee shall be paid by the applicant. No appraisal work will proceed until the Division receives the appraisal fee. When appraisal services are required prior to an applicant being identified, funding will be provided by the requesting agency or the Division and shall be reimbursed to that agency or the Division by the purchaser, lessee or sublessee. If the applicant withdraws its application after appraisal services have begun and any appraisal expenses have been incurred, the appraisal fee will be non-refundable. If no services have begun and no expenses have been incurred, the appraisal fee is refundable upon written request of the applicant. For sales for which the applicant paid for the appraisal services and submit a qualified competitive bid but the bid was awarded to another bidder, the winning bidder shall reimburse the applicant who paid for the appraisal services.

(l) Single use properties may be managed for compatible secondary uses as long as those uses do not interfere with or detract from the designated primary purpose.

(m) Individual resources on multiple use properties may be managed at less than full potential in order to provide the most beneficial combination of uses.

(n) It shall be the Trustees policy to provide for public access upon uplands to the greatest extent practicable unless the Trustees determine that public access is not in the public interest or conflicts with the parcel's management criteria or plan.

(o) Requests by local governmental agencies for any activity on uplands shall be by formal action by the appropriate governing board.

(p) All authorizations must contain a provision allowing for access for inspection by department staff.

(3) Standards and Criteria. The following standards and criteria must be met for approval of the following described authorizations to use state-owned uplands.

(a) Leases and Subleases.

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1. Unless determined by the Trustees to be in the public interest, the term of any lease or sublease shall not exceed a maximum term of fifty years. Specific terms are as follows:
 - a. Sublease terms shall not exceed 50 years or a period conterminous with the principal lease if the remaining lease term is less than 50 years.
 - b. The standard lease term for agricultural or grazing leases shall be six years.
 - c. Oil, gas, and other mineral interest leases shall be limited to a primary term of ten years.
 2. Leases and subleases shall be noticed pursuant to Chapter 18-2, F.A.C., and applicable law.
 3. Lessees and sublessees shall be responsible for acquiring all permits and paying any and all ad valorem taxes, drainage, special assessments or other taxes.
 4. Lessees and sublessees shall be required to provide level one environmental reports and information regarding uses of land which may involve hazardous or toxic waste.
 5. Lessees and sublessees shall be responsible for preparing either a management plan or an operational report as follows:
 - a. All state agency lessees and sublessees, through the sublessor, shall prepare and submit to the division parcel-specific management plans in accordance with Rule 18-2.021. No physical alteration of the leased premises shall occur unless such activity has been authorized via an approved management plan.
 - b. All other lessees except agriculture, grazing and oil and gas lessees shall prepare a site-specific operational report which shall be prepared and submitted to the division by lessee within a year of lease execution or other dates as designated in the lease. The operational report shall include the following:
 - I. The common name of the property, if any;
 - II. A map showing the approximate location and boundaries of the property, the location of any structures or improvements to the property, and a statement as to whether the property is adjacent to an aquatic preserve or a designated area of critical state concern or an area under study for such designation;
 - III. The legal description and acreage of the property;
 - IV. The land acquisition program, if any, under which the property was acquired;
 - V. The designated single or multiple use management for the property, including use by other managing entities;
 - VI. The approximate location and description of known renewable and non-renewable resources of the property including archaeological and historical resources; fish and wildlife resources, both game and non-game; mineral resources (such as oil, gas, phosphate, etc.); and natural resources (such as virgin timber stands, scenic vistas, rivers, streams, etc.);

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VII. A description of past and existing uses, including unauthorized uses of the property;

VIII. A description of alternative or multiple uses of the property considered by the lessee and a statement detailing why such uses were not adopted;

IX. An assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a description of the specific actions that will be taken to protect, enhance and conserve those resources and to compensate/mitigate the damage that is caused by such use;

X. A description of management needs and problems on the property;

XI. A description of the management responsibilities of each entity and how such responsibilities will be coordinated;

XII. A statement concerning the extent of public involvement and local government participation, if any, in the development of the plan; and

XIII. A statement of gross income generated, net income and expenses.

c. For agricultural and grazing leases, a certified agricultural operational report, documenting the status of operations on the leases area, shall be submitted to the division annually, one month prior to the end of the lease year. Such report shall include, at a minimum, the following:

I. The kind and location of the crop or livestock grown;

II. The stewardship practices utilized;

III. The capital improvements completed;

IV. A schedule for installing future improvements;

V. Types and amounts of pesticides, herbicides, and fertilizers used; and

VI. A detailed description of how the implementation of best management practices were carried out during the lease year including, but not limited to, muck soil measurement and plans for best management practices for the following year.

d. Oil, gas, or mineral lessees shall provide a notarized annual report to the Trustees in accordance with Section 253.511, F.S., documenting the status of operations on the leased area. Failure to submit this report within 90 days following the anniversary of the respective lease shall be grounds for termination in accordance with the terms and conditions of the lease.

6. Additional specific criteria for subleases are as follows:

a. Subleases shall be in compliance with the lease and management plan or operational report for the master lease.

b. Subleases of conservation lands which are 160 acres or greater in size shall be reviewed by the council.

7. Additional specific criteria for agricultural and grazing leases are as follows:

a. New agricultural lessees shall totally compensate the vacating lessees for ratoon, stubble or other residual crops.

b. Site-specific minimum stewardship measures shall be required.

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- c. The lessee will not cause or allow damage to the leased premises or remove soil, sod, muck, or other materials from the leased premises.
8. Additional specific criteria for oil and gas leases are as follows:
- a. After the cessation of any oil, gas, or mineral lease, the site shall be restored by the lessee to the original condition to the greatest extent practicable.
- b. An oil and gas lease within the corporate limits of any municipality; or, in the tidal waters abutting or immediately adjacent to the corporate limits of a municipality; or, within 3 miles of the corporate limits of a municipality may be approved only if a resolution of approval has been received from the municipality. In addition, a public hearing, in the vicinity of the lease, must be held if the lease is within 3 miles of an incorporated city, town or, beach.
- c. An oil and gas lease on an improved beach, as defined in Section 253.61, F.S., located outside of an incorporated town or municipality; or, abutting or immediately adjacent to an improved beach within the tidal waters of the state; or, within 3 miles of an improved beach into such tidal waters of the state, may be approved only if a resolution of approval has been received from the county within which the beach is situated.
- d. Applicants for mineral leases, other than oil and gas, shall obtain written consent from the owners of the surface overlying the mineral interest.
- e. Commencement of the required mitigation or other action necessary to satisfy net positive benefit will be required only if and when the lessee conducts any physical activity on the surface of the leased property or if the grant of rights under the oil and gas lease precludes or affects the use of the surface of the leased property for any use other than oil and gas exploration.
- f. Drilling, exploration, or production of oil and gas is prohibited within the boundaries of the South Florida Water Management District's water conservation areas on lands where title is vested in the Trustees.
- g. Oil, gas or mineral leases shall clearly specify the particular mineral to be drilled or mined and the manner in which it may be extracted.
- h. Prior to extracting any oil, gas, or minerals, lessees may be required to provide financial security against damages caused by its activities on uplands. Examples of acceptable forms of security include a surety or property bond, an irrevocable letter of credit, or payment into the Department of Environmental Protection's Petroleum Exploration and Production Bond Trust Fund. Examples of factors to be considered by the Trustees in determining whether to require such security include: the potential for air, water, or ground pollution; destruction of wildlife or marine productivity; and damage which impairs the health and general welfare of the citizens of the state. Such security as provided in Section 253.571, F.S., shall be forfeited to the Trustees to pay for any damages caused by such mining or drilling activities. The department shall notify the lessee and give lessee time to take corrective action before applying the security to correct the violation. Should the lessee not respond in the time

provided, or if an emergency situation exists, the department shall take immediate remedial or corrective action without further notice.

i. Lessees shall complete the drilling of at least one test well on the leased area within the first 2 1/2 years of the lease term and complete drilling of at least one additional well every 2 1/2 years thereafter until the total number of wells drilled equals one half the number of sections encompassed in the lease. The lessee shall provide a written designation describing the two sections of land to which such well shall apply. For purposes of this provision a well drilled on lands validly pooled with state leasehold acreages shall be considered to have been drilled on the respective Trustees' lease.

j. If no test well for an oil or gas lease is completed within the first 2 1/2 years of the lease term or each succeeding 2 1/2 year period, the lease shall become void at the end of the applicable 2 1/2 year period as to all of the land covered by the lease, except for that upon which wells have been drilled in accordance with the provisions of Section 253.55, F.S.

k. Wells required in the several periods of said lease shall be drilled in accordance with the provisions of Chapter 253, F.S., in an efficient, diligent and workmanlike manner, and in accordance with the best practice, to a depth of 6000 feet before the abandonment thereof, unless oil or gas has been found in paying quantities at a lesser depth.

l. Drilling operations shall be conducted in accordance with the provisions of Section 253.55, F.S.

m. The 2 1/2 year drilling periods described in j. and k. above shall be extended upon documentation by the applicant prior to expiration that additional time is necessary to obtain all permits. Such additional time may not exceed one year.

(b) Disposal of Trustees-owned Uplands.

1. Examples of conditions under which the Trustees may convey an upland parcel include:

a. The parcel was vested in the state pursuant to Chapter 18296, Laws of Florida, 1937 (Murphy Act), and is 10 acres or less in size and has a market value of \$250,000 or less; or

b. The parcel has been designated surplus pursuant to Chapter 253.034, F.S.; or

c. The Trustees determine that conveyance of the parcel by sale, gift or exchange provides a greater benefit to the public than its retention in state ownership.

2. Parcels to be conveyed pursuant to this subsection shall be noticed in accordance with Chapter 18-2, F.A.C., and applicable law.

3. Conveyance of property pursuant to this section shall be in accordance with the following requirements:

a. Property and improvements shall be sold "as is", with no warranties nor representations whatsoever.

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- b. The cost of title insurance, documentary stamp tax, recording fees, any property taxes due, abstract, title certificate, survey, legal advertisement and purchaser's legal fees shall be the responsibility of the purchaser.
- c. Property shall be conveyed by quitclaim deed without warranties and shall reserve or contain a reservation prescribed in Section 270.11, F.S., unless waived by the Trustees pursuant to Section 270.11(2)(a), F.S., or exempt from the requirement for reservation pursuant to subsection 253.03(3) or Section 253.62, F.S.
- d. Closings shall be in accordance with a sales contract executed by the Trustees.
4. A state agency or the Division may apply for an exchange of state-owned uplands for a parcel of privately-owned uplands by certifying:
- a. That it needs a parcel of private land for a particular use; and
- b. That it manages uplands vested in the Trustees which it wishes to use for a state agency exchange. If no uplands managed by the state agency can be identified as excess to its management needs, then uplands which have been selected through the land disposal process may be used instead.
5. Other governmental agencies may apply for an exchange by:
- a. Certifying that they need a parcel of Trustees-owned uplands for a specific project; and
- b. Certifying that they own or can acquire exchange property suitable to the Trustees.
6. Exchanges may be applied for by private landowners only if they own or can acquire land on an approved state acquisition list and the parcel sought by the private landowner has been selected for conveyance through the land disposal process.
- (c) Use Agreements.
1. Use agreements may be executed when it is determined that the use or management of uplands does not require a lease, sublease, easement, or other similar form of approval.
2. Use agreements shall be limited to a term of five years.
3. Geophysical testing agreements shall be limited to a term of one year.
4. Geophysical testing on uplands shall require a use agreement from the Trustees and a permit for geophysical testing acquired from the Bureau of Geology, Department of Environmental Protection pursuant to Chapter 62C-26, F.A.C.
5. A separate approval for geophysical testing shall not be required when geophysical operations are conducted by the current leaseholder upon land subject to a valid oil, gas or mineral lease granted by the Trustees.
6. The protection of uplands from unnecessary environmental damage shall be achieved by requiring all parties who conduct geophysical testing to strictly follow the Bureau of Geology's guidelines, procedures, and operational requirements for geophysical testing as specified in Chapters 62C-25 and 62C-26, F.A.C.
7. After completion of any geophysical testing upon uplands, the parcel shall be returned to the original condition prior to the conducting of geophysical testing.

8. Geophysical testing for oil and gas within the boundaries of the South Florida Water Management District's water conservation areas on lands where title is vested in the Trustees is prohibited.

9. The applicant for a geophysical use agreement shall submit a field operations report to the Department of Environmental Protection, Bureau of Geology, within thirty days after the completion of any survey activities conducted under a geophysical testing use agreement. The report shall contain the following:

- a. A narrative description of the work performed, including the type of data obtained and the types of logs produced from the operations;
- b. Maps, plats or charts indicating the area in which any exploration was conducted, specifically identifying the lines of geophysical traverses and/or locations where geophysical exploration was conducted, accompanied by a reference sufficient to identify the data produced from each activity;
- c. The dates and times during which the actual exploration was performed;
- d. The nature and location of any environmental hazards created by the activity;
- e. A description of any damage to or loss of state property which resulted from the reported activities; and

10. Upon written request, the applicant shall provide to the Bureau of Geology, at no cost, one copy of the information described in paragraphs a. through c. below, if available. Where possible, the information may be furnished in the form of paper copies as opposed to mylar, film or tape. Duplicates shall be furnished upon request at cost of reproduction. The Bureau of Geology shall also have the right to inspect and/or copy at cost, factual and physical exploration results, logs, records and any other processed records excluding interpreted data, including but not limited to the following:

- a. Blackline or blue-line paper copies of final stacked sections and migrated sections. Paper copies of section chosen for State use shall be made at one-half scale, (2 1/2 inches per second);
- b. Post-plot maps at a scale of 1:48,000 (1 inch equals 4,000 feet) whenever possible or a readable and legible scale for the dimensions of the survey; and
- c. Gravity data reduced or compiled in profile form and magnetometer data corrected for International Geomagnetic Reference Field in profile form whenever available. Data shall include how reductions and corrections were made.

(d) Easements.

1. If a requested easement is located on lands under lease, sublease, management or other use, the applicant shall obtain permission from the authorized managing entity for the easement prior to application to the Trustees.

2. Applications for easements shall be noticed pursuant to Chapter 18-2, F.A.C., and applicable law.

3. If the requested easement is for the benefit of the authorized managing entity and the lease, sublease, etc. provides for the granting of an easement related to

the functional use of the property, the authorized managing entity for the property may process and grant the easement. In such case, a copy of any easement granted shall be provided to the Division by the managing entity.

(e) Release of Reservation, Deed and Dedication Restrictions and Reverters

1. The right of entry for the purpose of exploration and for phosphate, minerals, metals and petroleum or any interest as reserved pursuant to Section 270.11, F.S., in any contract or deed for sale of land executed by the Trustees is hereby released, provided that the property is, or ever has been, a contiguous tract of less than 20 acres in the aggregate and under the same ownership. This provision does not release the Trustees' oil, gas, or other mineral interest.

2. The right of entry for the purpose of exploration for phosphate, minerals, metals and petroleum or any interest as reserved pursuant to Section 270.11, F.S., in any contract or deed for sale of land executed by the Trustees for parcels 20 acres or greater shall be released, in whole or in part, to the record surface owners, provided the owners certify that the parcel will be a permanent building site and the land use will not involve phosphate, mineral, metal or petroleum extraction. This provision does not release the Trustees' oil, gas, or other mineral interest.

3. Canal and drainage reservations as reserved by the Trustees shall be released to the record owner(s), provided recommendation from the water management district with jurisdiction has been obtained, and the Trustees determine there is no further need for the reservation.

4. Road right-of-way reservations as reserved by the Trustees shall be released to the record owner(s), provided recommendation from the transportation authority with jurisdiction has been obtained, and the Trustees determine there is no further need for the reservation.

5. Deed or dedication restrictions or reverters shall be released to the record owner(s) if the Trustees determine that there is no longer any present or future public purpose for retaining them and that the affected parcel contains no fragile environmental, historical, archaeological or recreational resources which would require protection through continued enforcement of the restrictions or reverters.

(f) Letters of authorization.

1. Letters of authorization are issued upon receipt by the Division of a written request for an incidental, one-time use, and a determination by the Division that the requested activity which will result in no permanent alteration of Trustees-owned uplands, and will not adversely affect the management of the land.

2. Letters of authorization shall contain a condition that the grantee accept all liability associated with the proposed use and shall be countersigned by the grantee. Specific Authority 253.03(7)(a) FS. Law Implemented 253.001, 253.02, 253.03, 253.04, 253.034, 253.111, 253.115, 253.42-.44, 253.47, 253.51-.61, 253.62, 253.77, 253.82, 259.035, 270.07, 270.08, 270.11 FS. History – New 6-4-96, Amended 4-17-02, 5-15-08, 5-29-08.

18-2.019 Procedures to Obtain Authorization.

(1) Written authorization from the Trustees is required to conduct activities on Trustee-owned uplands.

(2) Applications to use uplands which are subject to the DRI or PDA review process shall be processed only after the DRI or PDA application review process is complete and the DRI or PDA has been authorized.

(3) An applicant shall have 90 days to respond to a request for additional information. If the additional information is not received by the division within the 90 day period, the application shall be considered deactivated.

(4) Public notice

(a) After receiving an application in compliance with such forms as may be required by this rule requesting the Trustees to sell, exchange, lease, or grant an easement on, over, under, above, or across any land to which it holds title, the Trustees must provide notice of the application. The notice must include the name and address of the applicant; a brief description of the proposed activity and any mitigation; the location of the proposed activity, including whether it is located adjacent to an Outstanding Florida Water or an aquatic preserve; a map identifying the location of the proposed activity subject to the application; a diagram of the limits of the proposed activity; and a name or number identifying the application and the office where the application can be inspected. A copy of this notice must be sent to those persons who have requested to be on a mailing list and to each owner of land lying within 500 feet of the land proposed to be leased, sold, exchanged, or granted for an easement, addressed to such owner as his name and address appears on the latest county tax assessment roll.

(b) The department shall consider comments and objections received in response to the public notice in reaching its decision to approve or deny use of Trustees-owned lands for a proposed activity. If objections are raised which show that the activity does not conform to the requirements of this rule, and the local public would be affected by the activity, the department shall hold an informal public hearing in the county in which the subject property lies.

(c) The department shall provide notice of intended agency action to the applicant and to those who have requested a copy of the intended agency action for that application.

(d) In addition to the notice and publication requirements of subparagraph (a) above, before any lease for oil and gas activities within a radius of 3 miles of the boundaries of any incorporated city, or town, or within such radius of any bathing beach, or beaches, outside thereof is offered, the department shall hold a public hearing. Such public hearing shall be noticed by publication once in a newspaper of general circulation, published at least one week prior to said hearing, in the vicinity of the land, or lands, offered to be leased. After such hearing, the board may withdraw said land, or any part thereof, from the market, and refuse to execute such lease or leases if it considers such execution contrary to the public welfare.

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- (e) Failure to provide the notice as set out in subparagraphs (a) and (c) will not invalidate the sale, exchange, lease, or easement.
- (f) The notice and publication requirements of this paragraph do not apply to:
1. The release of any reservations contained in Murphy Act deeds or other deeds of the Trustees;
 2. Any conveyance of uplands which do not exceed 5 acres in area;
 3. The lease or easement for any land when the land is being leased to a state agency;
 4. The conveyance of lands pursuant to the provisions of Section 373.4592, F.S.; or
 5. Renewals, modifications or assignments.
 6. Leases where management of a property has been determined through the selection process for a state acquisition list.
- (5) State agency notice
- (a) Before a parcel of land is offered for lease, sublease or sale to a local or federal unit of government or a private party, it shall first be offered to state agencies.
- (b) This provision shall be waived in instances where:
1. A managing entity proposes subleasing property and that sublease is directly related to the purpose of the primary lease, as certified by the sublessor;
 2. Management of a property has been determined through the selection process for a state acquisition list;
 3. The proposed lease or sale is for subsurface rights or interests;
 4. The Trustees determine that conveyance of the parcel by sale, gift or exchange provides a greater benefit to the public than retention in state ownership; or
 5. The land is being exchanged pursuant to Chapter 18-2, F.A.C.
- (6) Applications for authorization to use uplands shall be accompanied by a non-refundable application fee. This fee does not apply to applications filed by agencies. Fees shall be made payable to the Florida Department of Environmental Protection. The application fees are as follows:
- (a) Lease: \$300
 - (b) Sublease: \$300
 - (c) Renewal, Modification, or \$300 Assignment:
 - (d) Easement: \$300
 - (e) Use Agreement:
 1. Geophysical Testing \$800 involving uplands only
 2. Geophysical Testing \$1,000 involving submerged lands and uplands
 3. Others \$300
 - (f) Disposal of Lands: N/A
 - (g) Exchange of Lands: \$300
 - (h) Mineral Interest Sale: \$1,000
 - (i) Release of Reservation \$300

(j) Reactivation of an Same as Application and transfer or the assignment of a previous original fee. authorization:

Specific Authority 253.03 FS. Law Implemented 253.03,253.034, 253.115, 253.42, 253.52, 253.77, FS. History — New 6-4-96.

18-2.020 Payments and Consideration.

(1) Leases.

(a) Consideration for private leases shall be based upon appraisal services obtained as provided in Chapter 18-1, F.A.C., except for oil and gas leases.

(b) For leases, other than oil and gas, staff will recommend awarding of the lease to the bidder offering the highest annual rental.

(c) For oil and gas leases, staff will recommend awarding of the lease to the bidder offering the highest bonus.

(d) Annual payments for oil and gas leases shall be determined by whether the leased parcel is producing or non-producing, as follows:

1. If the leased parcel is non-producing, the annual rental fee shall be \$3.50 per net mineral acre.

2. If the leased parcel is producing, the royalties shall be as follows:

a. The royalty shall be 1/4 when the lease area is located within a section that is contiguous to any section with hydrocarbon production or a shut in well capable of producing hydrocarbons. However, if there is an intervening dry hole, the royalty shall be 1/5;

b. The royalty shall be 1/5 when the lease area is located at least one mile but no more than 3 miles from any section with hydrocarbon production or a shut in well capable of producing hydrocarbons. However, if there is an intervening dry hole in the 1/5 royalty area, the royalty shall be 1/6;

c. The royalty shall be 1/6 when the lease area is more than 3 miles from any section with hydrocarbon production or a shut in well capable of producing hydrocarbons.

d. An intervening dry hole must be located between a producing well and the proposed lease area and must be at least to the depth of or the stratigraphic equivalent of the well proposed to be drilled on the lease area.

e. Where multiple wells are drilled and the geographic location raises doubt as to whether the royalty for a potential new location is 1/4, 1/5, or 1/6, the higher royalty shall prevail.

f. As used in reference to oil and gas leases, a chart entitled "Royalty Areas Defined", is shown as Exhibit "B".

(e) The annual payment for mineral leases, other than oil and gas leases, shall be a predetermined percentage of revenues received from the extraction of mineral based on current fair market practices.

(2) Disposal.

(a) For parcels with an estimated value in excess of \$100,000, the sale price for the disposal of uplands shall take into consideration appraisal services as provided in Chapter 18-1, F.A.C.

(b) Disposal of surplus land shall be competitively bid except that parcels with a market value of \$100,000 or less may be sold by any reasonable means, including open or exclusive listing with real estate sales services, competitive bid, auction, and negotiated direct sales. In no case shall a real estate brokerage fee or auction fee exceed 10% of the purchase price.

(c) Sales of mineral interests shall be competitively bid unless the Trustees do not own the surface, in which case the consideration shall be negotiated with the surface owner.

(d) If successful in the bid process, private landowners may apply their land as full or partial payment for the state parcel but in no case shall the credit given be more than the market value.

(3) Use Agreements.

(a) Appraisals and competitive bidding are not required for use agreements.

(b) Except for geophysical crossings, the consideration for use agreements shall be negotiated based on the type of activity.

(c) The consideration for use agreements for geophysical crossings shall be set at \$600 per mile. The mileage fee shall be based upon the number of miles of uplands permitted and is non-refundable.

(4) Easements.

(a) A one-time fee for private easements of greater than one-quarter acre in size shall be assessed and based upon an appraisal.

(b) A one-time fee for private easements of one-quarter acre or less in size shall be negotiated by the Division if value information other than an appraisal is available.

(c) Competitive bidding shall not be required for this activity.

(5) Release of Restrictions or Reverters.

(a) There shall be no consideration for the release of reserved interest for road right of way, canal right of way and right of entry for oil and gas exploration activities.

(b) The consideration for release of all other deed or dedication restrictions or reverters shall be based upon negotiation and shall be sold only to the current property owner.

(6) Letters of authorization.

(a) Appraisals and competitive bidding are not required for letters of authorization.

(b) Consideration for letters of authorization shall be negotiated based on the type of activity.

(7) Competitive Bidding Procedures.

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(a) When competitive bidding is required, notice to bidders shall be given by publication in a newspaper published in the county in which the lands are located not less than once a week for three consecutive weeks. The notice shall provide the following:

1. Location of the parcel by Section, Township and Range, or by tax identification number;
2. The total acreage of the parcel for lease or sale;
3. The term of lease and any renewal options, if applicable;
4. A statement of obligations of the grantee for taxes and drainage assessments;
5. The minimum value of improvements to be made, if any;
6. Any conditions deemed necessary by the Trustees;
7. The deadline, date and time, for the receipt of sealed bids in the office of the division; and
8. The address to which the bid shall be directed and posted; or
9. In lieu of all the foregoing, the publication may be limited to items 1., 2. and 9. and notice that a complete statement concerning terms of the lease or sale will be forwarded to interested bidders upon request.

(b) When the requested lease is for oil and gas activities or a mineral sale, the notice to bidders shall be given by publication in a newspaper of general circulation in Leon County and in the area vicinity not less than once a week for four (4) consecutive weeks. The last publication in both newspapers shall not be less than 5 days in advance of the award date.

(c) Upon request, applicants will be sent a bid specification packet which shall include the following information:

1. Materials, instructions and deadline for submitting bids, and
2. A copy of the proposed lease or sales contract.

(d) Sealed bids shall be accompanied by a certified check or letter of credit from a financial institution as defined by Section 655.005, F.S., for 10% of the amount bid for the annual rental fee or 10% of the purchase price as payment for the earnest money. The deposits will be non-refundable to the successful bidder and will be credited toward the lease fee or purchase price.

(e) Deposits for unsuccessful or rejected bids shall be returned within 10 working days after the awarding of the bid by the Trustees.

(8) Administrative Fee.

Each government lessee shall pay to the division an annual administrative fee of \$300.00 for each lease, sublease or management agreement authorizing the lessee to occupy uplands.

(a) The annual administrative fee shall be payable in advance beginning on July 1, 1993, and continuing on July 1 of each year thereafter.

(b) For leases and for subleases executed after July 1, 1993, the initial annual administrative fee shall be prorated based on the number of months or fraction thereof remaining in the fiscal year of execution.

(c) Each annual payment thereafter shall be due and payable on July 1 of each subsequent year in the amount of \$300.00.

Specific Authority 253.03 FS. Law Implemented 253.03, 253.034, 253.42, 253.51-.54, 253.571, 270.11 FS. History – New 6-4-96, Amended 5-29-08.

18-2.021 Land Management Advisory Council.

(1) The Council shall hold periodic meetings at the request of the chair. The meetings shall be recorded electronically and such records shall be preserved pursuant to Chapters 119 and 267, F.S.

(2) Responsibilities and Procedures.

(a) The responsibilities of the council shall include:

1. Reviewing each plan or sublease over 160 acres, and each surplus land determination within 60 days after receipt from the division.

2. Considering the propriety of the agency's recommendations regarding the future use of the land, protection of fragile and non-renewable resources, maintenance and use of renewable resources.

3. Identifying the potential for alternative or multiple uses not recognized by the managing agency.

4. Identifying lands surplus to the agency's need which could be used by or reserved for other agency use or disposed of as surplus.

5. Considering whether lands would be more appropriately owned or managed by a county or other local government and whether a sale, lease, or other conveyance would be in the interests of the State and local government.

(b) The procedures of the council shall include:

1. All management plans and subleases for areas over 160 acres in size, and all surplus land determinations shall be reviewed by the council prior to submittal to the Board. Utilizing the policies, standards, and criteria of this rule, the council shall specifically recommend to the Board whether to approve, approve with modifications, or reject a management plan, sublease, or surplus lands determination.

2. Management plans and subleases for areas less than 160 acres in size, may at the request of three (3) or more council members, be submitted to the council for review and recommendations.

3. A recommendation by the Council to the Board on management plans and subleases shall be by majority vote of those present, while a recommendation to the Board to surplus conservation lands, including land exchanges, shall be by the concurrence of at least six (6) members.

4. The use of State-owned land in a manner which is inconsistent with the existing lease or the approved land management plan, shall cause the lease to be subject to termination by the Board. The council shall recommend to the Board when

such uses are not in accordance with the approved management plan or lease/agreement.

(3) Agency Duties.

(a) Primary staff support for the council shall be provided by the division, including the recording functions.

(b) The managing agency should be prepared to respond to any inquiries or issues.

(c) The managing agency shall prepare executive summaries which highlight important management facts, issues, or problems, and any public input which went into developing the plan or sublease.

(4) Management Plans. Plans submitted to the Division for Council review under the requirements of Sections 253.034 and 259.032, F.S., shall contain, where applicable to the management of resources, the following:

(a) The common name of the property.

(b) A map showing the location and boundaries of the property plus any structures or improvements to the property.

(c) The legal description and acreage of the property.

(d) The degree of title interest held by the Board, including reservations and encumbrances such as leases.

(e) The land acquisition program, if any, under which the property was acquired.

(f) The designated single use or multiple use management for the property, including other managing agencies and private land managers, if any, that could facilitate the restoration or management of the land.

(g) Proximity of property to other significant State, local, or federal land or water resources.

(h) A statement as to whether the property is within an aquatic preserve or a designated area of critical State concern or an area under study for such designation.

(i) The location and description of known and reasonably identifiable renewable and non-renewable resources of the property including, but not limited to, the following:

1. Brief description of soil types, using U. S. D. A. maps when available;
2. Archaeological and historical resources;
3. Water resources including the water quality classification for each water body and the identification of any such water body that is designated as an Outstanding Florida Water under Rule 62-302.700, F.A.C.;
4. Fish and wildlife and their habitat;
5. State and federally listed endangered or threatened species and their habitat;
6. Beaches and dunes;
7. Swamps, marshes and other wetlands;
8. Mineral resources, such as oil, gas and phosphate;

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9. Unique natural features, such as coral reefs, natural springs, caverns, large sinkholes, virgin timber stands, scenic vistas, and natural rivers and streams; and

10. Outstanding native landscapes containing relatively unaltered flora, fauna, and geological conditions.

(j) A description of actions the agency plans to take to locate and identify unknown resources such as surveys of unknown archaeological and historical resources.

(k) The identification of resources on the property that are listed in the Natural Area Inventory.

(l) A description of past uses, including any unauthorized uses of the property.

(m) A detailed description of existing and planned use(s) of the property.

(n) For managed areas larger than 1,000 acres, an analysis of the multiple-use potential of the property. Such analysis shall include:

1. The potential of the property to generate revenues to enhance the management of the property provided that no lease, easement, or license for such revenue-generating use shall be entered into if the granting of such lease, easement, or license would adversely affect the tax exemption of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, pursuant to Internal Revenue Service regulations; and

2. If the lead management agency determines that timber resource management is not in conflict with the primary management objectives of the managed area, a component or section, prepared by a qualified professional forester, that assesses the feasibility of managing timber resources pursuant to Section 253.036, F.S.

(o) A detailed assessment of the impact of planned uses on the renewable and non-renewable resources of the property, including soil and water resources, and a detailed description of the specific actions that will be taken to protect, enhance and conserve these resources and to mitigate damage caused by such uses, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination.

(p) A description of management needs and problems for the property, including:

1. Key management activities necessary to conserve and protect natural, historical and archaeological resources; to restore habitat; to control the spread of nonnative plants and animals; and to implement prescribed fire management; and other resource management activities that would enhance the natural, historical and archaeological resource values or public recreation value for which the lands were acquired;

2. A priority schedule for conducting key management activities and the other management activities, as identified in subparagraph 1., above; and

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3. A cost estimate for conducting key management activities and the other management activities as identified in subparagraph 1., above, including recommendations for cost-effective methods of accomplishing those activities.

(q) Identification of adjacent land uses that conflict with the planned use of the property, if any.

(r) A description of legislative or executive directives that constrain the use of such property.

(s) A finding regarding whether each planned use complies with the State Lands Management Plan, particularly whether such uses represent “balanced public utilization”, specific agency statutory authority, and other legislative or executive constraints. A copy of the Plan may be obtained electronically at www.dep.state.fl.us/lands/oes/SLMP.pdf, or by writing to the State of Florida Department of Environmental Protection, Division of State Lands, Office of Environmental Services, 3900 Commonwealth Boulevard, Mail Station 140, Tallahassee, Florida 32399-3000, or by calling (850) 245-2784.

(t) An assessment as to whether the property, or any portion, should be declared surplus.

(u) Identification of other parcels of land within or immediately adjacent to the property that should be purchased because they are essential to management of the property.

(v) A description of the management responsibilities of each agency and how such responsibilities will be coordinated, including a provision that requires that the managing agency consult with the Division of Historical Resources, Department of State before taking actions that may adversely affect archaeological or historic resources.

(w) A statement concerning the extent of public involvement and local government participation in the development of the plan, if any, including a summary of comments and concerns expressed by the advisory group, if required by Section 259.032, F.S., and the management review team, if required by Section 259.036, F.S.

(5) Policies, Standards, and Criteria. The following management policies, standards, and criteria will be used by the council to determine whether to recommend approval, approval with conditions or modifications, or to reject any agency management plan, sublease or surplus land determination.

(a) The policies, standards, and criteria that are enumerated in Chapter 18-2, F.A.C., “Management of Uplands Vested in the Board of Trustees”.

(b) The policies, standards, and criteria that are enumerated in Chapter 18-21, F.A.C., “Sovereignty Submerged Lands Management”.

(c) The policies, standards, and criteria that are enumerated in the “State Lands Management Plan”. A copy of the Plan may be obtained electronically at www.dep.state.fl.us/lands/oes/SLMP.pdf, or by writing to the State of Florida Department of Environmental Protection, Division of State Lands, Office of Environmental Services, 3900 Commonwealth Boulevard, Mail Station 140, Tallahassee, Florida 32399-3000, or by calling (850) 245-2784.

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(6) Sublease Reviews.

(a) Pursuant to Section 253.034, F.S., an agency managing or leasing conservation lands greater than 160 acres in size from the Board shall not sublease lands without prior review by the Division and the Council and subsequent approval by the Board.

(b) All sublease requests shall be made pursuant to Chapter 18-2, F.A.C., and applicable laws governing the leasing and subleasing of State-owned lands.

(c) Subleases submitted to the Division for review shall include the following:

1. Twelve copies of all material submitted.

2. A copy of the proposed sublease.

3. A statement regarding how the sublease complements and conforms with the agency's management plans for the subject property.

4. A statement specifically identifying how the sublease conforms to the agency's statutory authority.

5. Identification of the sublease fees, rentals, or other charges and how these fees were established; i.e., appraised market value, negotiated, or competitive bid.

6. Identification of where the sublease revenues will be deposited and how they will be utilized by the agency.

(7) Surplus Land Determination.

(a) The Council for conservation lands, or the division for nonconservation lands, shall review all state lands which are not actively managed by any state agency, for which a land management plan has not been completed, or are recommended for disposal by any state agency, and recommend to the Board if such lands should be disposed of.

(b) In developing a recommendation the council shall consider the following factors:

1. Environmental value including flora and fauna, geology, hydrology, and general importance to the regional ecological systems;

2. Recreational value, including potential as a state managed recreational area;

3. Cultural value;

4. Size and location, including management feasibility and relationship to other State managed areas; and

5. History and potential of revenue production.

(c) If a determination is made that a parcel of state land should be disposed of by the Board, the Council for conservation lands, or the Division for nonconservation lands shall consider and make recommendations of the following:

1. Whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located, and whether any unit of local government has expressed an interest in the subject parcel.

2. Whether the property should be leased, exchanged, transferred in fee simple, or transferred with a restriction as to use, right of reversion, or other special deed provisions.

3. For conservation lands, whether the property is no longer needed for conservation purposes.

(d) For conservation lands the Council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.

(e) When surplusing conservation lands as part of a land exchange, the Council also shall evaluate the lands being offered for exchange to determine if they are of equal or greater conservation benefit than the state lands and whether the exchange would result in a net-positive conservation benefit, regardless of appraised value. Specific Authority 253.03 FS. Law Implemented 253.022, 253.034 FS. History – New 6-4-96, Amended 5-15-08.