

## **9G DIVISION OF EMERGENCY MANAGEMENT**

### **CHAPTER 9G-2 COMPREHENSIVE EMERGENCY MANAGEMENT PLAN**

- 9G-2.001        Comprehensive Emergency Management Plan. (Repealed)  
9G-2.002        State Comprehensive Emergency Management Plan Adopted.

#### **9G-2.002 State Comprehensive Emergency Management Plan Adopted.**

(1) The Department hereby adopts and incorporates by reference into this Chapter the State Comprehensive Emergency Management Plan (February 1, 2000 Edition).

(2) The State Comprehensive Emergency Management Plan shall be the master operations document for the State of Florida in responding to all emergencies, and all catastrophic, major, and minor disasters.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(a) FS. History—New 1-4-01.*

## **CHAPTER 9G-5 LOCAL DISASTER PREPAREDNESS AGENCIES APPROVAL OF LOCAL DIRECTOR**

- 9G-5.001 Purpose. (Repealed)
- 9G-5.002 Qualifications. (Repealed)
- 9G-5.003 Special Requirements. (Repealed)
- 9G-5.004 Appointment Procedures. (Repealed)
- 9G-5.005 Reappointment Procedure. (Repealed)
- 9G-5.006 Forms. (Repealed)
- 9G-5.007 Forms for Appointment and Reappointment of Local Disaster Preparedness Directors. (Repealed)

## CHAPTER 9G-6 REVIEW OF LOCAL EMERGENCY MANAGEMENT PLANS

|           |  |
|-----------|--|
| 9G-6.001  | Purpose. (Repealed)  |
| 9G-6.002  | Definitions.   |
| 9G-6.0023 | County Comprehensive Emergency Management Plans.   |
| 9G-6.0025 | The County Radiological Emergency Plan for Nuclear Power Plants.   |
| 9G-6.003  | State Comprehensive Emergency Management Plan - Process of Adoption. (Repealed)                                  |
| 9G-6.004  | The Content of County Emergency Management Plans. (Repealed)   |
| 9G-6.005  | Schedule for Development and Review of County and Municipal Comprehensive Emergency Management Plans. (Repealed) |
| 9G-6.006  | County Comprehensive Emergency Management Plans - Review by Division.  |
| 9G-6.007  | Adoption by County Government. (Repealed)  |
| 9G-6.008  | Implementation of County Emergency Management Plans and Procedures. (Repealed)                                   |
| 9G-6.009  | Periodic Review by Division. (Repealed)  |
| 9G-6.0095 | Municipal Comprehensive Emergency Management Plans.  |
| 9G-6.010  | Municipal Comprehensive Emergency Management Plans - Review by County Emergency Management.                      |

### **9G-6.002 Definitions.**

(1) "County Emergency Management Agency" means the emergency management agency authorized and directed to be established and maintained by each county of the state pursuant to Section 252.38(1), F.S.

(2) "Division" means the Division of Emergency Management of the Department of Community Affairs.

(3) "State Plan" means the State Comprehensive Emergency Management Plan, as developed and adopted pursuant to the authority contained in Section 252.35(2)(b), F.S.

(4) "County Comprehensive Emergency Management Plans" are the county counterparts of the State Plan.

(5) "Municipal Emergency Management Program" means the emergency management program authorized and encouraged by Section 252.83(2), F.S., to be created by each legally constituted municipality in the state. Municipalities are not required to develop a municipal emergency management program.

(6) "Municipal Comprehensive Emergency Management Plans" are the municipal counterparts of the County Comprehensive Emergency Management Plan which must be consistent with and subject to the applicable county plan. Municipalities are encouraged, but not required, to develop a municipal comprehensive emergency management plan.

(7) "County Radiological Emergency Plan for Nuclear Power Plants" means the plan to be prepared by the Division and county governments within 50 miles of a commercial nuclear power plant.

(8) "County Emergency Management Program" means the emergency management program authorized and mandated by Chapter 252, F.S., to be created by each legally constituted county in the state.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1), (2)(a), (b), (c), (d), (k), (v) FS. History—New 1-18-81, Amended 2-24-85, Formerly 9G-6.02, Amended 2-5-91, 5-11-95, 2-11-01.*

### **9G-6.0023 County Comprehensive Emergency Management Plans.**

(1) Each county emergency management agency established pursuant to the authority contained in Section 252.38(2), F.S., shall develop and submit to the Board of County Commissioners for adoption a County Comprehensive Emergency Management Plan in compliance with the requirements, format and standards contained in this rule chapter.

(2) County Comprehensive Emergency Management Plans will be coordinated and consistent with the provisions of the State Plan. The county emergency management plan will include an evacuation component, a shelter component (risk and host events), and a post-disaster and recovery component and will consist of provisions addressing aspects of preparedness, response, recovery and mitigation. The county plan will assign lead and support responsibilities for county agencies and personnel that coordinate with the emergency support functions outlined in the State Plan.

(3) The County Comprehensive Emergency Management Plan shall be specific and shall address responses and actions in the event of an emergency. It shall clearly identify those positions or agencies responsible for specific functions under given circumstances. Responsibilities must be assigned by position title or agency name, and specific duties for each position or agency must be listed. Checklists and other readily accessible and easy-to-use guidelines are encouraged. Where appropriate, the county plan shall contain maps, diagrams and other visual aids. Copies of the forms the local government will use shall be available for review.

(4) The County Comprehensive Emergency Management Plan shall be divided into a minimum of two components: the Basic Plan and the Capability Assessment. The Basic Plan shall be narrative in form and generally describe responsibilities within the emergency management framework. It shall include but not be limited to two annexes addressing the recovery and mitigation functions of the county emergency management program. The Basic Plan and the Recovery and Mitigation Annexes shall include

organizational charts, maps and checklists. The Capability Assessment shall demonstrate competencies and present information outlined in the County Comprehensive Emergency Management Plan, standard operating procedures and other supporting documents that are involved in the emergency management program, i.e., emergency response, recovery and mitigation activities.

(5) The County Comprehensive Emergency Management Plan shall cover county agencies and resources and should cover applicable municipal agencies and resources. County plans shall interface with plans of contiguous jurisdictions, regional, municipalities and the state comprehensive emergency management plans.

(6) The County Comprehensive Emergency Management Plan or supporting operating procedures referred to in the plan shall provide a detailed description of the process to be followed at the local level whenever an emergency or disaster occurs as a result of the many consequences generated by natural, technological or manmade causes. Such emergencies include, but are not limited to: tornadoes, hurricanes, flooding, freezes, extreme temperatures, disease outbreaks, wildfires, terrorism, drought, hazardous materials releases or spills and civil disturbances. The plan shall identify and describe pre-emergency warning systems, evacuation and sheltering plans, hazard mitigation and other anticipatory actions as well as post-event response and recovery actions.

(7) The Division hereby adopts and incorporates by reference "Local Comprehensive Emergency Management Plan Compliance Criteria" and the "Emergency Management Capabilities Assessment Checklist" (Form Numbers CEMP-001 and CEMP-002, 2000 Edition) as part of this chapter. County Comprehensive Emergency Management Plans and County Emergency Management Programs shall comply with these criteria. These criteria are available from the Division and may be obtained by writing the Division at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399 or online at [www.floridadisaster.org](http://www.floridadisaster.org). These criteria shall be used in the development and review of County Comprehensive Emergency Management Plans and Programs. Counties shall complete the compliance criteria prior to the Division's review of their Comprehensive Emergency Management Plan and have them available to the Division thirty days after receiving notification of the Division's intent to review. Counties shall demonstrate satisfaction of the required plan criteria by noting the page and section in their plan, or supporting documents, where each criterion is satisfied. Counties shall provide the documentation needed to satisfy the requirements of the Capabilities Assessment.

(8) Counties are encouraged to follow the format of the State Plan in development of the County Comprehensive Emergency Management Plan. County emergency management agencies are not required to duplicate the suggested format, but should be able to demonstrate the ability to communicate with those emergency support functions and state agencies that support the State Plan.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1), (2)(a), (b), (c), (d), (k), (v), 252.38(1) FS. History—New 2-11-01.*

#### **9G-6.0025 The County Radiological Emergency Plan for Nuclear Power Plants.**

This county plan shall provide a detailed description of the process to be used to protect the public from the potential health effects associated with a radiological emergency at a commercial nuclear power plant. Only those counties within a 50 mile radius of a commercial nuclear power plant are required to develop this plan. This plan shall be developed with direct assistance from the Division and shall be incorporated into the appropriate site plan contained in Annex A of the State Plan. This plan shall comply with the Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (NUREG-06541 FEMA REP-1 Rev. 1). These criteria are available from the Division and may be obtained by writing the Division at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399. This plan or annex shall be submitted to the Federal Emergency Management Agency for review and approval.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1), (2)(a), (b), (c), (d), (k), (v), 252.60 FS. History—New 2-11-01.*

#### **9G-6.006 County Comprehensive Emergency Management Plans - Review by Division.**

(1) The provisions of this section shall apply to the Division's initial review of County Comprehensive Emergency Management Plans, and review of plans revised as a result of a determination by the Division that a county comprehensive emergency management plan is not in compliance with the terms of this chapter.

(2) The Division shall review each county comprehensive emergency management plan at a minimum of every four years and shall offer the affected regional planning council an opportunity to participate in the review. The Division shall review the county plan in accordance with the criteria CEMP-001 and CEMP-002. The Division shall provide notice of its intent to review a County Comprehensive Emergency Management Plan at least 60 days prior to initiation of the review. Within 30 days of receipt of this notification the county shall provide to the Division three copies of the plan to be reviewed with three copies of the completed compliance criteria. The county may waive the 60 day review notification. Upon receiving notification of the intent to review, the county and the Division shall coordinate to finalize the Capabilities Assessment prior to the date of the plan review. The Division will provide the county with the results of its review and its finding as to the compliance of the plan within 60 days of its initial review. If the Division finds the county plan meets the requirements of this chapter, it shall issue a notice of compliance.

(3) If the Division finds that a county plan does not meet all of the criteria established in this chapter the Division shall withhold a notice of compliance and issue an official notification by certified mail specifically stating the reasons the plan does not meet the criteria. Upon receipt of the official notification, the county shall either:

(a) Within 60 days, revise its plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) Within 60 days develop a workplan to be approved by the Division which addresses all changes necessary for compliance and a timetable for completion; or

(c) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

(4) If the county does not submit a revised plan, or a workplan 60 days after the receipt of the official notification or request an administrative hearing the Division shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of the notice of non-compliance the county shall either:

(a) Within 30 days revise the plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

(5) If upon the submittal of the revised plan, either after the 60 days allotted or upon completion of the workplan, the Division finds that the revised plan is not in compliance, the Division shall issue a notice of non-compliance, specifically stating the reasons for non-compliance. Upon receipt of the notice of non-compliance the county shall either:

(a) Within thirty days revise the plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

(6) If the workplan is not completed in the time frame established, the Division shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of the notice of non-compliance, the county shall either:

(a) Within 30 days revise the plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

(7) All requests for an administrative proceeding shall be filed in accordance with Section 120.57, F.S., and Rule Section 28-106.201, F.A.C. Failure to request an administrative proceeding within the time frames noted above and failure to request an administrative proceeding in accordance with this chapter shall constitute a waiver of the opportunity to contest the non-compliance determination.

(8) If the Division is unable, for any reason, to provide notice to the county regarding the results of its review within 60 days, it will forward a notice to the county stating its intent to extend the review period for the specifically identified time period necessary to provide notice.

(9) In order to ensure that County and Municipal Comprehensive Emergency Management Plans can be implemented in the event of a disaster or emergency, each agency assigned responsibility in the plan must coordinate the development of implementation procedures. The jurisdiction promulgating the plan shall document this coordination.

(10) After a determination that a County Comprehensive Emergency Management Plan is in compliance with the terms of this chapter the approved plan must be adopted by resolution of the governing body of the jurisdiction within 60 days of receiving notification of compliance from the Division before it becomes the Comprehensive Emergency Management Plan for such local government. If the county is unable to adopt the plan within 60 days the county may request in writing to the Division, stating just cause, an extension of no more than an additional 90 days to adopt the plan. Adoption must occur, at a minimum, every four years. Notification of the date of adoption shall be sent to the Division. Failure to adopt, to notify the Division of an adoption date or make available for review a revised plan will constitute non-compliance. Upon adoption of the plan, the county shall submit a copy of the adopted plan to the Division.

*Specific Authority 120.53, 120.57, 252.35(2)(u) FS. Law Implemented 120.57, 252.35(1), (2)(a), (b), (c), (d), (k), (v) FS. History–New 1-18-81, Amended 2-24-85, Formerly 9G-6.06, Amended 2-5-91, 5-11-95, 2-11-01.*

#### **9G-6.0095 Municipal Comprehensive Emergency Management Plans.**

Municipal Comprehensive Emergency Management Plans must comply with all the standards and requirements applicable to County Comprehensive Emergency Management Plans. Municipal Comprehensive Emergency Management Plans shall comply with the Local Comprehensive Emergency Plan Compliance Criteria adopted by reference in Rule 9G-6.0023(7), F.A.C. These criteria are available from the Division and shall be used in the development and review of Municipal Comprehensive Emergency Management Plans. Municipal Comprehensive Emergency Management Plans are encouraged to follow the suggested format for County Comprehensive Emergency Management Plans. Municipal emergency management programs are not required to duplicate the suggested format, but should conform to it as closely as possible.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a), (b), (c), (d), (k), (u), 252.38(2) FS. History–New 2-11-01.*

**9G-6.010 Municipal Comprehensive Emergency Management Plans - Review by County Emergency Management.**

(1) The provisions of this section shall apply to either initial review by the County Emergency Management Agency, or to review of revised information as a result of a determination by the county emergency management agency that a municipal comprehensive emergency management plan is not in compliance with the terms of this chapter.

(2) If a municipality elects to prepare a comprehensive emergency management plan, the plan shall be periodically reviewed by its respective county emergency management agency to determine compliance with the established criteria.

(3) The County Emergency Management Agency shall provide initial notice to the chief elected official of each municipality in the county of the county's intent to establish a schedule to review municipal comprehensive emergency management plans. A county shall provide notice to the municipalities of its intent to review a Municipal Comprehensive Emergency Management Plan at least 60 days prior to the initiation of the review. This notice shall also advise the municipalities, in general terms, of the applicable plan requirements. Each municipality must respond to this notice and advise the county of the existence of a municipal comprehensive emergency plan or program. Each municipality shall also provide a copy of this response to the Division. If any municipality creates a comprehensive emergency management plan or program subsequent to this initial notice, it must advise the county emergency management director and the Division in writing, and request that the municipality be included in the county's plan review schedule.

(4) The County Emergency Management Agency shall provide the municipal emergency program with the results of its review and its finding as to the compliance of the municipal comprehensive emergency management plan within 60 days of completion of its initial review. If the county emergency management agency determines that the municipal comprehensive emergency management plan complies with the requirements of this rule chapter it shall issue a notice of compliance to the municipal emergency management program and to the Division.

(5) When the county emergency management agency determines that a municipal comprehensive emergency management plan is not in compliance with the requirements of this rule chapter and Chapter 9G-7, F.A.C., it shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of a notice of non-compliance, the municipal emergency program shall, within 60 days, revise its plan, notify the county emergency management agency and make the revised information available for review by the county emergency management agency.

(6) If the county is unable, for any reason, to provide notice to the municipality regarding the results of its review within 60 days, it will forward a notice to the municipal emergency management program stating its intent to extend the review period for the specifically identified time necessary to provide notice.

(7) In order to ensure that Municipal Comprehensive Emergency Management Plans can be implemented in the event of a disaster or emergency, each agency assigned responsibility in the plan must coordinate the development of implementation procedures. The jurisdiction promulgating the plan shall document this coordination.

(8) After a determination that a Municipal Comprehensive Emergency Management Plan is in compliance with the terms of this chapter, the approved plan must be adopted by resolution of the governing body of the jurisdiction before it becomes the Comprehensive Emergency Management Plan for such local government.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a), (b), (c), (d), (k), (v), 252.38(1), (2) FS. History—New 5-11-95, Amended 2-11-01.*

## **CHAPTER 9G-7 LOCAL EMERGENCY MANAGEMENT PLANS**

- 9G-7.001 Local Plans. (Repealed)
- 9G-7.0011 Purpose. (Repealed)
- 9G-7.0012 Definitions. (Repealed)
- 9G-7.002 Local Plans - Elements. (Repealed)
- 9G-7.003 County Comprehensive Emergency Management Plans. (Repealed)
- 9G-7.004 Basic Content and Format of County Plans. (Repealed)
- 9G-7.005 The County Peacetime Emergency Plan. (Repealed)
- 9G-7.006 The County Nuclear Civil Protection Plan. (Repealed)
- 9G-7.007 The Local Plan for Management of Resources. (Repealed)
- 9G-7.008 The County Radiological Emergency Plan for Nuclear Power Plants. (Repealed)
- 9G-7.009 The County Hazardous Materials Emergency Plan. (Repealed)
- 9G-7.010 Municipal Comprehensive Emergency Management Plans. (Repealed)

## **CHAPTER 9G-8 CRIMINAL JUSTICE APPEAL PROCEDURES**

- 9G-8.001 Scope. (Repealed)
- 9G-8.002 Definitions. (Repealed)
- 9G-8.003 Filing of a Grievance. (Repealed)
- 9G-8.004 Informal Resolution. (Repealed)
- 9G-8.005 Grievance Hearings. (Repealed)

## **CHAPTER 9G-9 ENTITLEMENT AREA APPEAL PROCEDURES**

- 9G-9.001 Scope. (Repealed)
- 9G-9.002 Definitions. (Repealed)
- 9G-9.003 Filing of a Grievance. (Repealed)
- 9G-9.004 Informal Resolution. (Repealed)
- 9G-9.005 Grievance Hearings. (Repealed)

## **CHAPTER 9G-10 CRIMINAL JUSTICE BLOCK GRANT COMPETITIVE FUNDING PROGRAM**

- 9G-10.001 Purpose. (Transferred to 9B-31.001)
- 9G-10.002 Definitions. (Transferred to 9B-31.002)
- 9G-10.003 Policy. (Transferred to 9B-31.003)
- 9G-10.004 Notification Process. (Transferred to 9B-31.004)
- 9G-10.005 Screening Process. (Transferred to 9B-31.005)
- 9G-10.006 Selection Criteria. (Transferred to 9B-31.006)
- 9G-10.007 Program Guidelines. (Transferred to 9B-31.007)
- 9G-10.008 Final Authority. (Transferred to 9B-31.008)
- 9G-10.009 Appeal. (Transferred to 9B-31.009)

## CHAPTER 9G-11 FUNDING FORMULA

|            |  |
|------------|--|
| 9G-11.001  | Purpose. (Repealed)  |
| 9G-11.002  | Definitions. (Repealed)  |
| 9G-11.003  | Eligibility. (Repealed)  |
| 9G-11.004  | Prerequisites.   |
| 9G-11.005  | Funding Limits to EMA Funds. (Repealed)                        |
| 9G-11.0051 | Use of Emergency Management Assistance (EMA) Funds. (Repealed) |
| 9G-11.006  | Municipal Eligibility. (Repealed)                              |
| 9G-11.0061 | Funding.   |
| 9G-11.007  | Priorities. (Repealed)   |
| 9G-11.008  | Effective Date. (Repealed)                                     |

### **9G-11.004 Prerequisites.**

No application for matching funding will be considered unless an applying county complies with each of the following requirements:

(1) The county must have an emergency management director, who devotes no less than one half of his/her time (20 hours per week) to the duties of the director. Counties with populations of 50,000 or more must have a full-time director. "Full-time Director" means a single professional emergency management program Administrator working full-time as identified in the position description established by the Board of County Commissioners.

(2) The county must have an emergency management program which has been approved by the Division of Emergency Management. Program approval will require: compliance with appropriate federal and state laws, rules and regulations; satisfactory completion of work elements of the previous year; and, a current proposal containing work elements commensurate with the needs (vulnerability) of that county, the county's self assessment, the county's emergency management strategic plan and the proposed budget.

*Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-5-82, 10-1-84, Formerly 9G-11.04, Amended 9-18-96, 10-2-97.*

### **9G-11.0061 Funding.**

Eligible County Emergency Management Agencies in the state shall be allocated annual Federal Emergency Management Agency (FEMA) State and Local Assistance (SLA) funding based on the following: Each county shall be allocated the amount initially allocated to the county under its Fiscal Year 1994-95 Emergency Management Assistance agreement with the Department of Community Affairs, Division of Emergency Management (Division). This amount shall be increased or decreased to reflect additions or reductions in the availability of FEMA SLA funds to the Division and the Division's distribution of funds to local governments. Each county's increase or decrease shall be commensurate with its proportionate share of the state's total population based on the most recent official population estimates.

Federal SLA funds shall be used by the county for personnel, travel and administrative expenses. Each county must be able to provide a non-federal match for federal funds on a dollar for dollar basis.

*Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 10-1-84, Formerly 9G-11.061, Amended 9-18-96.*

**CHAPTER 9G-12 CONTRACT PROCEDURES FOR FUNDING OF RADIOLOGICAL EMERGENCY RESPONSE PLANS**

- 9G-12.001 Purpose. (Repealed)
- 9G-12.002 Definitions. (Repealed)
- 9G-12.003 Contract Period. (Repealed)
- 9G-12.004 Procedures for Negotiating Contracts. (Repealed)
- 9G-12.005 Limitation on Activities. (Repealed)
- 9G-12.006 Resolution of Differences. (Repealed)

## **CHAPTER 9G-13 POST-DISASTER REDEVELOPMENT RULE**

- 9G-13.001 Purpose. (Repealed)
- 9G-13.002 Application. (Repealed)
- 9G-13.003 Definitions. (Repealed)
- 9G-13.004 Federal Post-Disaster Assistance to Coastal Areas. (Repealed)
- 9G-13.005 Preventive Measures. (Repealed)

## CHAPTER 9G-14 HAZARDOUS MATERIALS

|            |  |
|------------|--|
| 9G-14.001  | Purpose. (Repealed)  |
| 9G-14.002  | Definitions.   |
| 9G-14.003  | Annual Registration Fee.   |
| 9G-14.004  | Filing Fee.  |
| 9G-14.0045 | Section 313 Toxic Chemical Release Inventory Fee.                        |
| 9G-14.005  | Late Fees.   |
| 9G-14.006  | Approved Forms.  |
| 9G-14.007  | Refunds.   |
| 9G-14.008  | Filings; Amended Filings; Electronic Transmission.                       |
| 9G-14.009  | Notification of Change in Owner/Operator Status.                         |
| 9G-14.010  | EPCRA Public Information Requests; Inspection and Copies.                |
| 9G-14.011  | Hazardous Substance and Extremely Hazardous Substance Release Reporting. |

### 9G-14.002 Definitions.

As used in this rule chapter:

- (1) "Agricultural Employee" means each full-time and each part-time non-seasonal employee within this state reported by the owner or operator of an agricultural facility to the Department of Labor and Employment Security for unemployment compensation tax purposes, the total number of which shall not be less than the number for the month reflecting the lowest number of employees for the calendar year.
- (2) "Agricultural facility" means a facility which engages primarily in the commercial production of agricultural commodities, and has hazardous materials present which qualify for the routine agricultural use exemption under the Emergency Planning and Community Right-To-Know Act (EPCRA), Section 311(e). Commercial production shall include the handling and packaging of the owner/operator's agricultural commodities only when the handling and packaging is incidental to or in conjunction with the owner/operator's agricultural operation.
- (3) "Commission" means the State Hazardous Materials Emergency Response Commission created pursuant to s. 301 of EPCRA.
- (4) "Committee" means any local emergency planning committee established in the state pursuant to s. 301 of EPCRA.
- (5) "Employee" means each full-time and each part-time employee employed within the State by the owner or operator of a facility as reported to the Department of Labor and Employment Security for unemployment compensation tax purposes for the last month of the calendar year.
- (6) "Department" means the Department of Community Affairs.
- (7) "Facility" means facility as defined in s. 329 of EPCRA. Vehicles placarded according to 49 Code of Federal Regulations shall not be considered a facility except for the purposes of Section 304 of EPCRA.
- (8) "Hazardous material" means any hazardous chemical, toxic chemical, or extremely hazardous substance, as defined in s. 329 of EPCRA.
- (9) "Report" means a notification under s. 302 of EPCRA or an inventory form under s. 312 of EPCRA.
- (10) "EPCRA" means the Emergency Planning and Community Right-To-Know Act of 1986, Title III of the Superfund Amendments and Reauthorization Act of 1986, ss. 300 through 329 of Pub. L. No. 99-499, 42 U.S.C. ss. 11001, et seq.; and federal regulations adopted thereunder.
- (11) "Owner/Operator" means a sole proprietorship, or partnership, or company with an assigned Federal Employer Identification number, that reports employees to the Florida Department of Labor and Employment Security including, at a minimum, employees at the facility in Florida subject to reporting under EPCRA Sections 302 or 312.
- (12) "Vehicle" means "motor vehicle" as defined in 49 Code of Federal Regulations, Section 171.8.
- (13) "Electronic transmission" means the transmission of documents by electronic signals to or from the Department which when received can be transferred electronically into existing databases or can be transformed and stored or reproduced on paper or other electronic record keeping system.

*Specific Authority 252.83(1) FS. Law Implemented 252.82 FS. History—New 11-24-88, Amended 12-31-92, 1-3-01.*

### 9G-14.003 Annual Registration Fee.

(1) Any owner or operator of a facility required by s. 302 or 312 of EPCRA or Section 252.87, F.S., to submit a notification or an annual inventory form to the Commission for any calendar year shall be required to pay an annual registration fee based on the total number of employees as provided in this subsection.

(2) The registration fee shall be due on March 1 of each year during which one or more facilities became or remained subject to the requirements of this section.

(3) For any facility owner or operator regulated under Chapter 368, Chapter 527, or Section 376.303, F.S., which does not have present any extremely hazardous substance, as defined by EPCRA, equal to or in excess of the applicable threshold planning quantity established pursuant to EPCRA, the amount of the registration fee shall be \$2.50 for each employee employed within the State by such facility owner or operator, but shall be not less than \$25.00 nor more than \$500.00 per year.

(4) For any owner or operator of an agricultural facility, the amount of the registration fee for any company shall be \$10.00 for each agricultural employee employed within the state by such facility owner or operator, but shall not be less than \$25.00 nor more than \$2,000.00 per year. For any owner or operator of a facility with a Standard Industrial Classification code of 01, 02, or 07, which is eligible for the routine agricultural use exemption provided under EPCRA, Section 311(e), the amount of the fee shall be \$10.00 for each employee employed within the state by such facility owner or operator, but shall not be less than \$25.00 nor more than \$1,000.00 per year.

(5) For all other facilities the amount of the registration fee shall be \$10.00 for each employee employed within the State by such facility owner or operator, but shall be not less than \$25.00 nor more than \$2,000.00 per year.

(6) Governmental bodies as defined in s. 252.87, F.S., are exempt from the annual registration fee.

*Specific Authority 252.83(1) FS. Law Implemented 252.84, 252.85, 252.87 FS. History—New 11-24-88, Amended 12-31-92, 2-26-97.*

#### **9G-14.004 Filing Fee.**

(1) Any owner or operator of a facility, including any government body as defined by Section 252.87, F.S., who has notified or is required to notify the Commission pursuant to s. 302(c) of EPCRA that the facility owner or operator is subject to the requirements of subchapter I of EPCRA shall be required to pay a one time filing fee of \$50.00 per facility as provided by subsection 252.85(2), F.S.

(2) Such fee shall be due at the same time the notification is due. Any change in the identity of the owner/operator shall require a new notification and filing fee.

(3) An owner or operator of a facility who gives the notice required by s. 302(c) of EPCRA for more than one facility shall pay the filing fee for each facility, regardless of whether more than one notification is given.

(4) Any owner or operator of a facility with a Standard Industrial Classification code of 01, 02, or 07 subject to the notification or annual inventory form requirement solely because of the presence of EPCRA listed substances in temporary or portable storage units located at the facility for less than 48 consecutive hours shall not be required to pay a one-time filing fee of \$50.

*Specific Authority 252.83(1) FS. Law Implemented 252.84, 252.85 FS. History—New 11-24-88, Amended 12-31-92, 2-26-97.*

#### **9G-14.0045 Section 313 Toxic Chemical Release Inventory Fee.**

(1) An owner or operator of one or more facilities who is required to submit a United States Environmental Protection Agency Toxic Chemical Release Inventory Form-R report or alternate threshold Form-A filing to the Commission under s. 313 of EPCRA shall be required to pay an annual reporting fee of \$150.00 per Toxic Chemical Release Inventory Form-R report and \$75 per chemical listed on each Form-A alternate threshold filing for each s. 313 listed EPCRA substances in effect on January 1, 1998, using Form Number HMP-08-00.

(2) Such fee shall be due on July 1 of each year.

*Specific Authority 252.83(1) FS. Law Implemented 252.85, 252.84 FS. History—New 12-31-92, Amended 2-26-97, 12-20-98, 1-3-01.*

#### **9G-14.005 Late Fees.**

(1) In addition to any registration, filing fee or Toxic Chemical Release Inventory fee required by Section 252.85, F.S., the Department shall add a late fee as provided in this section for the following:

(a) Each failure to file a report or filing that substantially complies with the requirements of EPCRA or Section 252.85, F.S., by the required due date; or

(b) Each failure to pay any fee required by Section 252.85, F.S.

(2) The following procedure shall be utilized by the Department to assess late fees:

(a) A written notification shall be sent which specifies the requirement that has not been met and the amount of the late fee to be paid if the report, filing, or fee necessary to meet the requirement is not submitted to the Department within 30 days of receipt of the notice. The amount of the late fee shall be equal to the amount of the annual registration, filing fee or Toxic Chemical Release Inventory fee required for timely submission, not to exceed \$2,000.00 per late submission.

(b) If the report, filing, or fee is not submitted within 90 days after receipt of the first notice, the Department shall issue a second notice which specifies the requirement which has not been met and the amount of the late fee to be paid if the report or fee necessary to meet the requirement is not submitted within 30 days after receipt of the Department's second notice. The amount of the late fee shall be twice the amount of the annual registration, filing fee or Toxic Chemical Release Inventory fee required for timely submission, not to exceed \$4,000.00 per late submission.

(3) The date of receipt of notice by the owner or operator shall be the actual date of receipt as evidenced by the executed postal return receipt.

(4) If the report, fee, or both, are mailed, the date of submittal by the owner or operator shall be the postmark. If the report, fee, or both, are hand delivered, the date of submittal by the owner or operator shall be the date of actual receipt by the Department as evidenced by the Department's date stamp. Hand delivery includes the use of overnight or other private mail carriers.

*Specific Authority 252.83(1) FS. Law Implemented 252.84, 252.85 FS. History--New 11-24-88, Amended 12-31-92, 6-1-95, 2-26-97, 12-20-98.*

**9G-14.006 Approved Forms.**

The following forms are adopted by reference. Use of Form HMP-02-00 is required for submission of an annual registration fee. Use of Form HMP-01-98 is required for submission of a notification pursuant to EPCRA s. 302. Use of Form HMP-05-00 is required for submission of an annual inventory form pursuant to EPCRA Chapters 312 and 324 and subsection 252.88(3), F.S. Use of Form HMP-09-00 is required for submission of a request for a refund for overpayment of fees or for fees paid in error pursuant to Rule 9G-14.007, F.A.C. Use of Form HMP-10-00 is required for electronic transmission of an annual inventory report pursuant to EPCRA s. 312 and 324 and subsection 252.88(3), F.S. Use of Form HMP-11-00 is required for providing certification of accuracy for electronic transmission filings. Use of Form HMP-08-98 is required for submission of an annual inventory report or alternate threshold filing fee submitted pursuant to EPCRA s. 313. These forms are available at no charge from the Department of Community Affairs, Division of Emergency Management, Bureau of Compliance Planning and Support, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399.

EFFECTIVE

| FORM NO.  | SUBJECT                                       | DATE     |
|-----------|---|----------|
| HMP-01-98 | Section 302 – Emergency Planning Notification |          |
| HMP-02-00 | Annual Registration Form                      | 1-3-01   |
| HMP-05-00 | Tier Two Form (with instructions)             | 1-3-01   |
| HMP-06-95 | Confidential Location Information Sheet       | 12-31-92 |
| HMP-08-00 | Toxic Chemical Release Inventory Fee Form     | 1-3-01   |
| HMP-09-00 | Refund Application Form                       | 1-3-01   |
| HMP-10-00 | Electronic Tier Two Form (with instructions)  | 1-3-01   |
| HMP-11-00 | Tier Two Certification Statement Form         | 1-3-01   |

*Specific Authority 120.53, 252.83(1) FS. Law Implemented 120.53, 215.26, 252.84, 252.85 FS. History--New 11-28-90, Amended 12-31-92, 6-1-95, 2-26-97, 12-20-98, 1-3-01.*

**9G-14.007 Refunds.**

Any owner or operator of a facility may request a refund for overpayment of fees or for fees paid in error. In order to request a refund, the owner or operator of a facility must complete a Refund Application Form (HMP-09-00) and submit it to the Commission. Refunds will be processed only after the request has been verified and approved by the Department, all facility reports required pursuant to EPCRA have been filed, and completed accurately, for all required years, and with all required recipients. Applications for refunds must be filed within three (3) years of the date of payment or else the right to a refund shall be barred.

*Specific Authority 252.83(1) FS. Law Implemented 120.53, 215.26, 252.84, 252.85 FS. History--New 6-1-95, Amended 1-3-01.*

**9G-14.008 Filings; Amended Filings; Electronic Transmission.**

(1) Filings with the Department shall be complete and accurate when filed. The filing entity is responsible for any required information omitted from a required filing. The Department's rejection of a filing for failure to include required information shall comply with Rule 9G-14.005(2), F.A.C.

(2) Supplemental filings, or amendments to existing filings, shall not be permitted absent accompanying written explanation by the amending entity. Supplemental filings or amendments to remedy incorrect information are authorized provided that the information initially submitted is shown to have been indisputably incorrect. Supplemental filings or amendments are authorized in order to add omitted information, correct misspellings, correct figures and numbers, or remedy incorrect terminology. Supplemental filings or amendments solely for the purpose of reducing the fee owed shall not be permitted. Supplemental filings or amendments solely for the purpose of substituting the owner for the operator, or the operator for the owner, shall not be permitted.

(3) Any supplemental filings or amendments shall identify the particular filings to be supplemented or amended, shall be accompanied by the required written explanation, shall demonstrate that copies have been supplied to all other required recipients, and shall be accompanied by any fees or late fees owed.

(4) Annual inventory reports required under EPCRA s. 312 and 324 and subsection 252.88(3), F.S. may be submitted by electronic transmission to the State Emergency Response Commission. The format must be consistent with electronic transmission software provided by the SERC. While required by federal law, the manner of execution should be accomplished through the use of a certification statement using Form HMP-11-00 certifying authenticity and requiring an original signature of the facility owner/operator or an officially designated representative. The method of electronic transmission will be accomplished by the Department

providing the electronic software including instructions to facility owners/operators via the Internet or, upon request, other available electronic means. Facility owners/operators must return completed electronic annual chemical inventory reports to the SERC by diskette or other available electronic means within established deadlines.

*Specific Authority 120.53, 252.83(1), 252.90(1) FS. Law Implemented 120.53, 252.90(1) FS. History—New 6-1-95, Amended 1-3-01.*

**9G-14.009 Notification of Change in Owner/Operator Status.**

The facility owner or operator shall promptly inform the Commission and the Committee of any changes in information necessary for developing and implementing the emergency plan, and any changes in information included on filings with the Commission or Committee, as such changes occur or are expected to occur. In the event that the ownership of the facility changes, the successor entity shall submit supplemental filings to the Commission, Committee and fire department, identifying the successor entity and that the filings are being made due to a change in ownership.

*Specific Authority 120.53, 252.83(1) FS. Law Implemented 252.83, 252.85 FS. History—New 6-1-95.*

**9G-14.010 EPCRA Public Information Requests; Inspection and Copies.**

(1) Requests for information may be directed to the Local Emergency Planning Committee (LEPC), c/o the Regional Planning Council (RPC), at the following addresses:

District One LEPC  
c/o West Florida RPC  
Post Office Box 486  
Pensacola, Florida 32593-0486

District Two LEPC  
c/o Apalachee RPC  
314 East Central Avenue, Room 119  
Blountstown, Florida 32424

District Three LEPC  
c/o North Central Florida RPC  
Suite A  
2009 Northwest 67 Place  
Gainesville, Florida 32653

District Four LEPC  
c/o Northeast Florida RPC  
9143 Phillips Highway, Suite 350  
Jacksonville, Florida 32256

District Five LEPC  
c/o Withlacoochee RPC  
1241 Southwest Tenth Street  
Ocala, Florida 34474-2798

District Six LEPC  
c/o East Central Florida RPC  
631 Wymore Road  
Maitland, Florida 32789

District Seven LEPC  
c/o Central Florida RPC  
Post Office Box 2089  
Bartow, Florida 33831

District Eight LEPC  
c/o Tampa Bay RPC  
9455 Koger Boulevard  
Suite 219  
St. Petersburg, Florida 33702

District Nine LEPC  
c/o Southwest Florida RPC  
Post Office Box 3455  
Fort Myers, Florida 33918-3455

District Ten LEPC  
c/o Treasure Coast RPC  
301 East Ocean Boulevard, Ste. 300  
Stuart, Florida 34994

District Eleven LEPC  
c/o South Florida RPC  
3440 Hollywood Boulevard, Suite 140  
Hollywood, Florida 33021

Requests for inspection and copying of any EPCRA records that are open to the public may be directed to the same office or to the Commission, c/o the Department of Community Affairs at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2149.

(2) There will be a charge of \$0.15 per page for standard legal or letter size copies, or if special equipment or paper is required, the RPC or the Department shall charge the estimated actual cost of materials and supplies.

(3) In addition to the actual cost of materials and supplies, a special service charge will be assessed for providing information when the nature or volume of the records requested requires extensive clerical or supervisory assistance by RPC or Department personnel. For the purpose of this rule, "extensive" means that it will take more than 15 minutes to locate, review for confidential information, copy and refile the requested material and any request for EPCRA records which are not currently in the custody of the Committee or the Department, and which must be requested from the facility. The special service charge will be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay for the pay grade of the person who performed the service, and will be assessed when appropriate regardless of the number of individual copies made. The RPC or the Department shall add a charge for mailing the requested records when the postal service charge exceeds the cost of mailing a one ounce first class standard size letter.

(4) Payment of costs assessed in (2) or (3) must be received before copies will be provided.

(5) Pursuant to Section 252.88(4), Florida Statutes, a fee of \$1 per page shall be assessed for copies of 25 or more pages of EPCRA documents.

*Specific Authority 120.53, 252.83(1) FS. Law Implemented 119.07(1), 120.53, 252.83, 252.88 FS. History--New 6-1-95, Amended 2-26-97, 1-3-01.*

#### **9G-14.011 Hazardous Substance and Extremely Hazardous Substance Release Reporting.**

(1) Any facility required by 42 USC 11004(a) to immediately report the release of a hazardous substance or extremely hazardous substance to the Commission shall provide said notification to the State Warning Point, telephone number (850) 413-9911 or (800) 320-0519.

(2) Any facility required by 42 USC 11004(c) to provide a written follow-up emergency notice to the Commission and a Committee shall submit said written follow-up report as soon as practicable to the Community Emergency Coordinator for the Committee as designated in the Committee plan, at the Committee mailing address, and to the Commission. The written follow-up emergency notice shall include all information required by 42 USC 11004(c).

*Specific Authority 252.83(1), 120.53 FS. Law Implemented 252.83, 252.35 FS. History--New 6-1-95, Amended 2-26-97, 1-3-01.*

## **CHAPTER 9G-15 HIGHWAY SAFETY PROGRAM**

- 9G-15.001 Purpose. (Transferred to 14-98.001)
- 9G-15.002 Definitions. (Transferred to 14-98.002)
- 9G-15.003 Policy. (Transferred to 14-98.003)
- 9G-15.004 Funds Availability. (Transferred to 14-98.004)
- 9G-15.005 Application and Award Procedures. (Transferred to 14-98.005)
- 9G-15.006 Funds Distribution. (Transferred to 14-98.006)
- 9G-15.007 Grant Conditions. (Transferred to 14-98.007)
- 9G-15.008 Forms and Instructions. (Transferred to 14-98.008)

## **CHAPTER 9G-16 ANTI-DRUG ABUSE ACT OF 1988**

- 9G-16.001 Purpose. (Transferred to 9B-61.001)
- 9G-16.002 Definitions. (Transferred to 9B-61.002)
- 9G-16.003 Funds Availability. (Transferred to 9B-61.003)
- 9G-16.004 Matching Requirements. (Transferred to 9B-61.004)
- 9G-16.005 Title to Personal Property. (Transferred to 9B-61.005)
- 9G-16.006 Limitations on Funds Use. (Transferred to 9B-61.006)
- 9G-16.007 Eligible Purposes and Programs. (Transferred to 9B-61.007)
- 9G-16.008 Application and Award Procedures. (Transferred to 9B-61.008)
- 9G-16.009 Forms and Instructions. (Transferred to 9B-61.009)

**CHAPTER 9G-17 FUNDING OF COUNTY HAZARDOUS MATERIALS EMERGENCY PLANS**

- 9G-17.001 Purpose. (Repealed)
- 9G-17.002 Definitions. (Repealed)
- 9G-17.003 Funds Available. (Repealed)
- 9G-17.004 Funds Distribution Formula. (Repealed)
- 9G-17.005 Distribution Procedures. (Repealed)
- 9G-17.006 Construction of Rule. (Repealed)

**CHAPTER 9G-18 EMERGENCY MANAGEMENT COMPETITIVE GRANT  
AND LOAN PROGRAM RULE**

- 9G-18.001 Purpose. (Repealed)
- 9G-18.002 Definitions. (Repealed)
- 9G-18.003 Notice of Fund Availability. (Repealed)
- 9G-18.004 Limitations. (Repealed)
- 9G-18.005 Application Procedures. (Repealed)
- 9G-18.006 Terms and Conditions of Loans. (Repealed)
- 9G-18.007 Selection Procedures and Criteria. (Repealed)
- 9G-18.008 Disbursement. (Repealed)
- 9G-18.009 Monitoring and Reporting. (Repealed)
- 9G-18.010 Subcontracts and Subgrants. (Repealed)
- 9G-18.011 Noncompliance. (Repealed)

## CHAPTER 9G-19 BASE FUNDING FOR COUNTY EMERGENCY MANAGEMENT AGENCIES, EMERGENCY MANAGEMENT COMPETITIVE GRANT PROGRAM AND MUNICIPAL COMPETITIVE GRANT PROGRAM RULE

|           |   |
|-----------|---|
| 9G-19.001 | Purpose. (Repealed)                                 |
| 9G-19.002 | Definitions.  |
| 9G-19.003 | Limitations.  |
| 9G-19.004 | Base Grant Eligibility.                             |
| 9G-19.005 | Base Grant Distribution Formula.                    |
| 9G-19.006 | Reallocation of Base Grant Funds.                   |
| 9G-19.007 | Competitive Awards Eligibility.                     |
| 9G-19.008 | Procedures for Awarding Competitive Grants.         |
| 9G-19.009 | Selection Criteria for Competitive Grants.          |
| 9G-19.010 | Disbursement.                                       |
| 9G-19.011 | Match Requirements.                                 |
| 9G-19.012 | Reporting. (Repealed)                               |
| 9G-19.013 | Procurement, Subcontracts and Subgrants. (Repealed) |
| 9G-19.014 | Noncompliance.                                      |

### 9G-19.002 Definitions.

(1) "Base Grant" means those funds allocated in accordance with the formula in Rule 9G-19.005, F.A.C., as a minimum allocation to County Emergency Management Agencies.

(2) "Competitive Awards" means those funds available for awards pursuant to the competitive award process identified in Rule 9G-19.007, F.A.C.

(3) "County Emergency Management Agency" means one of the sixty-seven (67) emergency management agencies authorized, established and maintained by each county pursuant to Section 252.38, Florida Statutes.

(4) "Department" means the Florida Department of Community Affairs.

(5) "Division" means the Division of Emergency Management, Department of Community Affairs.

(6) "Full-time Director" means a single professional emergency management program Administrator working full-time as identified in the position description established by the Board of County Commissioners.

(7) "Municipal Emergency Management Program" means an emergency management program authorized, established and maintained by a legally constituted municipality in Florida, which has signed the Statewide Mutual Aid Agreement and supplied all required information and documentation such that it is ready to be signed by the Division as of the date of the application deadline.

(8) "Part-time Coordinator" means a professional managerial or staff employee, with demonstrated experience in the field of emergency management, who works in an emergency management capacity at least 20 hours a week. Clerical staff shall not qualify as a "Part-time Coordinator."

(9) "Review Committee" means the group of persons who will review competitive grant applications. The review committee shall consist of a minimum of three persons appointed by the Secretary of the Department. Not later than five days after the due date for applications as noticed in the Florida Administrative Weekly, the Florida Emergency Preparedness Association may appoint one representative to the review committee, for a minimum total of four members. The Florida Emergency Preparedness Association representative shall have the same powers and duties as other review committee members, but will abstain from scoring applications received from his/her respective county, including municipalities and non-profit organizations located in his/her county, or from the Florida Emergency Preparedness Association. Meetings of the committee shall be at the call of the committee's chairperson, who shall be designated by the Secretary.

(10) "Match" means, for purposes of the competitive grant programs only, contributions, both cash and in-kind, which meet the following requirements:

(a) Are verifiable from the applicant's official records;

(b) Are not used as required local contributions for any other state or federally assisted programs;

(c) Are necessary and reasonable for proper and efficient accomplishment of the emergency management project objectives, as specified in the application;

(d) Are allowable under OMB Circular A-87, and conform to OMB Circular A-102;

(e) Are provided for in the approved project budget;

(f) If indirect costs, have been approved by the Division and are directly attributable to the project;

(g) Represent an unconditional commitment of currently available funds contingent only upon the award of a grant from the Program;

(h) If the contributions are in-kind, the contributions are directly related to the project; and

(i) If the contributions are in-kind and consist of property, the contributions are based upon the actual value of the property, with allowance for depreciation. The value of employment time or equipment rental claimed as project match shall be identified specifically to the proposed project. All records supporting the treatment of a contribution as project match must be maintained and made available for public inspection, and must be furnished with the proposal.

(11) "Trust Fund" means the Emergency Management, Preparedness, and Assistance Trust Fund established pursuant to section 1 of Chapter 93-128, Laws of Florida.

(12) "Population" means that number identified in the Florida Estimates of Population published annually by the Population Division, Bureau of Economic and Business Research, University of Florida.

(13) "Recipient" means an Applicant that is offered and accepts an award from the Department.

(14) "Project" for purposes of the competitive grant programs, means a specifically defined and described activity undertaken to further state or local comprehensive emergency management plans including, but not limited to, preparedness, response, recovery and hazard mitigation activities, and priorities identified in the notice of fund availability. Every project shall be defined and described as provided in the program application packet. "Project" does not include financial support for recurring staffing needs.

(15) "Administrative Expenses" for purposes of the competitive grant programs only, means the direct costs of staff managing the project and other direct costs for managing the project, as well as the applicant's indirect rate, if any, applied to those direct costs of management. The sum total of direct and indirect costs identified herein shall not exceed 5% of total project costs.

(16) "Applicant" means, for purposes of the competitive grant programs only, the State of Florida, any Florida state or regional planning agency, Florida local government, or any private non-profit organization providing emergency management services in the State of Florida, proposing, pursuant to this rule chapter, a project that will further state and local emergency management objectives pursuant to the provisions of the Program.

(17) "Application cycle" means, for purposes of the competitive grant programs only, the period beginning with the publication of the Notice of Fund Availability of competitive grants pursuant to this rule chapter in the Florida Administrative Weekly and ending with the allocation of awards, including resolution of any administrative proceedings. There can be more than one application cycle during a single fiscal year.

(18) "Local government" means any county, municipality, or other political subdivision of the State of Florida.

(19) "Private nonprofit organization" for purposes of the competitive grant programs, means a nongovernmental entity that is formally constituted, authorized to do business in the State of Florida, that has a history of providing emergency management services in the State of Florida, and that currently has an effective ruling letter from the U.S. Internal Revenue Service, granting a tax exemption under Sections 501(c), (d), or (e) of the Internal Revenue Service Code. Evidence demonstrating that an Applicant meets this definition shall be supplied with the application.

(20) "Regional planning agency" means the regional planning council created pursuant to Sections 186.501-186.515, Florida Statutes, to exercise responsibilities under Sections 186.001-186.031 and 186.801-186.911, Florida Statutes, in a particular region of the state.

(21) "State agency" means each separate agency or unit of Florida state government, as opposed to local government, created or established by law, and includes the Fish and Wildlife Conservation Commission, Water Management Districts and the Department of Military Affairs.

(22) "Program" for purposes of the competitive grant programs only, means the Emergency Management, Preparedness, and Assistance Trust Fund Competitive Grant Program.

(23) "Application" means the original 15 page summary that will be submitted at or before the published application deadline, and will consist of the transmittal letter, table of contents, criteria narrative, and proposed budget only.

(24) "Proposal" means the full presentation that will be completed by all awarded applicants in a specific time frame, to be sent to the Division of Emergency Management with complete documentation.

*Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History--New 1-12-94, Amended 6-21-95, 11-13-96, 11-10-97, 10-11-98, 10-11-00.*

### **9G-19.003 Limitations.**

(1) The amount and availability of funds in the Trust Fund for allocation each year is subject to an annual appropriation by the Legislature.

(2) The amount of funds available pursuant to this rule chapter may be adjusted proportionally when necessary to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance or planning funds. In the event the need arises to proportionally adjust the funds available pursuant to this rule chapter, the Department shall provide notice, as soon as practicable, to all affected entities, of the need to implement the proportional adjustment. Thereafter, each affected entity shall cease expenditures of funds as necessary to meet the proportional adjustment. If authorized by the Legislature, and in the event that funds are available from receipts to the Trust Fund, the Department shall provide funds, up to the amount reduced by the previous proportional adjustment, to those entities whose funding was decreased by a previous proportional adjustment.

(3) Funds received from the Emergency Management, Preparedness, and Assistance Trust Fund may not be used to supplant existing funding, nor shall funds from one program under the Trust Fund be used to match funds received from another program under the Trust Fund.

(4) All percentages used in this rule are to be applied to the amount appropriated after the deletion of any service charges applied to the Trust Fund.

(5) As relates to the competitive grant programs only, no more than 5 percent of any award made pursuant to this rule may be used for administrative expenses.

(6) An applicant that is not in compliance with the terms of a prior award shall not be eligible for additional awards until the issue or issues that are not in compliance are brought into compliance with the terms of the prior award.

*Specific Authority Section 3, Chapter 93-128, Laws of Florida. Law Implemented Section 3, Chapter 93-128, Laws of Florida. History--New 1-12-94, Amended 11-13-96.*

#### **9G-19.004 Base Grant Eligibility.**

(1) To be eligible to receive the Base Grant, each County Emergency Management Agency shall annually certify their commitment to employ and maintain either a Full-time Director or Part-time Coordinator consistent with Sections 9G-19.005(4) and (5), F.A.C.

(2) Counties with population in excess of 75,000 shall have a Full-time Director in order to qualify for an allocation.

(3) Counties with a population less than 75,000, or which are parties to an inter-jurisdictional emergency management agreement entered into pursuant to Section 252.38(3)(b), Florida Statutes, shall have an emergency management coordinator or a Full-time Director in order to qualify for an allocation.

(4) County Emergency Management Agencies not in compliance with the terms of a prior award shall not be eligible for additional awards.

*Specific Authority 252.35, 252.373 FS. Law Implemented 216.052, 252.35, 252.373, 252.83 FS. History--New 1-12-94, Amended 6-21-95, 11-13-96, 10-11-00.*

#### **9G-19.005 Base Grant Distribution Formula.**

(1) Base Grants shall be awarded to a county for the use and benefit of the County Emergency Management Agency.

(2) 40.8 percent of the Trust Fund, or that amount designated pursuant to Section 3(1)(a), Chapter 93-128, Laws of Florida or by other Legislative appropriation, as available for distribution, shall be initially allocated for base grants to County Emergency Management Agencies. All allocations shall be subject to any pertinent Legislative appropriation.

(3) Base grant monies may be designated and retained by the Division in order to cover the operational costs associated with each of the county connections for the statewide communications system as administered and coordinated by the Division. For each county, this amount shall not exceed the individual cost of the county's communication link. These funds will be identified and withheld following the base grant allocations. The amount of funds so retained by the Division shall be identified to each County Emergency Management Agency.

(4) Each County Emergency Management Agency with a Full-time Director shall receive a base grant allocation based on the amount available in Section 9G-19.005(2), F.A.C., divided by 67, minus the amount determined for each county in Section 9G-19.005(3), F.A.C.

(5) Each County Emergency Management Agency with a Part-time coordinator shall receive a base grant allocation based on the amount available in Section 9G-19.005(2), F.A.C., divided by 67, multiplied by 65 percent, and minus the amount determined for each county in Section 9G-19.005(3), F.A.C.

(6) All base grant allocations shall be made contingent upon the County's commitment to, and accomplishment of, a scope of work identified by the Division each year. Said commitment shall be embodied in a written grant agreement executed between the County and the Division. The agreement shall provide for reimbursement of costs up to the fixed amount of the award. Failure to agree to, execute or comply with the terms of the grant agreement shall constitute noncompliance.

*Specific Authority 252.373, 252.35 FS. Law Implemented 252.373, 252.35, 252.83, 216.052 FS. History--New 1-12-94, Amended 6-21-95.*

#### **9G-19.006 Reallocation of Base Grant Funds.**

(1) Those funds available in Sections 9G-19.005(2), F.A.C., not allocated under Sections 9G-19.005(4) and (5), F.A.C., shall be identified by the Division prior to January 1 of each year for reallocation to County Emergency Management Agencies.

(2) 25 percent of those funds identified in Section 9G-19.006(1), F.A.C., shall be divided equally among counties participating in the Statewide Mutual Aid Agreement as of January 1 of each year. Such Mutual Aid Agreements shall be submitted to and approved by the Division.

(3) 75 percent of those funds identified in Section 9G-19.006(1), F.A.C., shall be divided proportionally among participating County Emergency Management Agencies based upon county population.

(4) Should any Base Grant funds which were originally allocated under Sections 9G-19.005(4) and (5), F.A.C., remain unspent after the annual closeout of each Base Grant award, they may be redistributed to the counties which spent all of that year's award plus carried forward amounts, if any, from the previous year's award. For purposes of this rule, any county which reverts \$250.00 or

less will be considered to have spent all of its award. Also, for purposes of this rule, amounts approved by the Division for carry forward from the award year being redistributed, into the next award year, will be considered to have been spent. The funds identified for this redistribution will be reallocated by the Division in accordance with subsections (2) and (3) of this rule; 25% based on mutual aid participation and 75% based on population. Redistributed funds will be made available to eligible counties as soon as possible after Division closeout activities have been completed. The minimum total reversion amount set as a threshold to initiate this redistribution process is an amount equal to one (1) percent of the total initial allocation for the year being redistributed.

*Specific Authority Section 3, Chapter 93-128, Laws of Florida. Law Implemented Section 3, Chapter 93-128, Laws of Florida. History--New 1-12-94, Amended 11-13-96, 11-10-97.*

#### **9G-19.007 Competitive Awards Eligibility.**

(1) Non-recurring Competitive Awards may be made to state, regional and local governments and nonprofit organizations under the Emergency Management Competitive Grant Program and to Municipal Emergency Management Programs under the Municipal Competitive Grant Program. "Municipal Emergency Management Program" means an emergency management program authorized, established and maintained by a legally constituted municipality in Florida, which has signed the current Statewide Mutual Aid Agreement and supplied all required information and documentation such that it is ready to be signed by the Division as of the date of the application deadline.

(2) Awards shall be disbursed pursuant to the procedures set forth in Rule 9G-19.008, F.A.C.

(3) 7.2 percent of the amount designated as available for distribution in the Trust Fund, as designated in Section 3(1)(a), Chapter 93-128, Laws of Florida or by other Legislative appropriation, shall be identified for awards to Municipal Emergency Management Programs under the Municipal Competitive Grant Program. 20 percent of the amount designated as available for distribution in the Trust Fund, as designated in Section 3(1)(a), Chapter 93-128, Laws of Florida., or by other Legislative appropriation, shall be identified for awards to state, regional and local governments and nonprofit organizations under the Emergency Management Competitive Grant Program. All allocations shall be subject to Legislative appropriations.

(4) Under the Municipal Competitive Grant Program, each Municipal Emergency Management Program may apply for one competitive grant not to exceed \$50,000. Joint applications by two or more municipalities shall be permitted, however the total award for any municipality application shall be limited to \$50,000.00. Under the Emergency Management Competitive Grant Program, eligible applicants may submit multiple applications, however, no single application shall seek or receive an award in excess of \$300,000. Each Florida state or regional planning agency, each private non-profit organization, and each municipality shall be limited to no more than three (3) submissions in an application cycle.

(5) The Division shall administer the competitive grants once awarded. All applicants awarded funding must submit to the Division a proposal as defined in Section 9G-19.002(24), F.A.C. All awards shall be embodied in a written grant agreement. All awards shall be contingent upon commitment to and performance of a scope of work identified by the Division. The scope of work shall be based upon the project(s) identified in the grant application. The agreement shall provide for reimbursement of costs up to the fixed amount of the award. Failure to agree to, execute or comply with the terms of the grant agreement shall constitute noncompliance.

(6) Those municipal grant funds available in Section 9G-19.007(3), F.A.C., not allocated under Section 9G-19.007(4), F.A.C., will be reallocated by the Division in accordance with the provisions of Sections 9G-19.006(1), (2), and (3), F.A.C.

(7) Those funds not allocated under the rules pertaining to the Emergency Management Competitive Grant Program as prescribed in Section 9G-19.009(2), F.A.C., shall be retained in the Trust Fund.

*Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History--New 1-12-94, Amended 6-21-95, 11-13-96, 10-14-98, 10-11-00.*

#### **9G-19.008 Procedures for Awarding Competitive Grants.**

(1) Eligible applicants desiring to apply for a competitive grant shall submit their application to the Division by the deadline established annually by the Division in a Notice of Fund Availability in the Florida Administrative Weekly. Such notice shall be published at least 60 days prior to the application deadline date, shall also designate any priority projects and shall designate the location for submission of the applications. Municipalities desiring to apply for a competitive grant under the Municipal Competitive Grant Program must meet the applicable eligibility criteria in Rule 9G-19.007, F.A.C.

(2) Applications for a competitive award may include a statement from the County Emergency Management Agency describing the extent to which the project is consistent with the county's Comprehensive Emergency Management Plan. If such a consistency statement is desired, the applicant shall supply a description of the project to the applicable County Emergency Management Agency(ies) at the time of the request for a consistency statement, at least thirty (30) days prior to the deadline for submitting the application. If the applicable Emergency Management Agency(ies) determines that the project is consistent, no further explanation is required. If the applicable Emergency Management Agency(ies) determines that the project is inconsistent, or is unable to make a consistency determination for any reason, it (they) shall provide a written explanation of the inconsistency or its inability to respond to the Department. If a county fails to respond to an applicant's timely submitted request for such a statement, the application shall be considered consistent with the applicable Comprehensive Emergency Management Plan. In the event that the county fails to respond, the application shall describe the steps, including pertinent dates, by which the county consistency

review was requested. The county's consistency determination shall be considered by the review committee, provided it is received at least thirty (30) days before the deadline for transmitting preliminary scores and rankings. Failure to supply the project description to the County Emergency Management Agency at least thirty (30) days prior to the deadline for submitting application shall result in no award of points for consistency with local government plans and objectives.

(3) The Department hereby adopts by reference the Emergency Management, Preparedness, and Assistance Trust Fund Competitive Grant Program Application Packet, Form No. 006, May 2000, version, which provides forms, instructions, and other information necessary for submission of an application for Competitive Grant funds submitted pursuant to Rule 9G-19.008, F.A.C.

(4) Application packets may be obtained from the website as identified in the Application Packet or from the Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Attention: EMPATF Program. Requests should specify the Competitive Grant Program Application Packet.

(5) All applications shall conform to the following requirements, and shall be reviewed for technical conformity in accordance with the following procedures:

(a) All applications shall adhere to the format specified in the Application Packet, Form No. 006, May 2000 Version.

(b) All applications shall be complete, accurate and legible when submitted.

(c) Any applicant may receive a preliminary technical review of its application by submitting the application not later than twenty-one (21) days before the published application deadline. Preliminary technical review shall be limited to signature authority, technical conformity to the instructions in the Application Packet, and other technical requirements. No application will be scored or otherwise evaluated for content during preliminary technical review. The Division will inform the applicant of any technical deficiencies in the application by telephone or telecopier not later than ten (10) days in advance of the published application deadline to give the applicant an opportunity to cure them before the deadline.

(d) All applications shall be submitted not later than 4:00 p.m. Eastern Time on the date of the published application deadline. With the exception in paragraph (e) of this rule, no application may be amended, added to, or otherwise modified after 4:00 p.m. Eastern Time on the date of the published application deadline, other than to provide clarifying information as requested by the Division.

(e) The Division shall inform the applicant by telephone or telecopier not later than five (5) days after the date of the published application deadline if it intends to reject the application for failure to provide evidence of signature authority with the application, for technical noncompliance with the instructions in the Application Packet, or for noncompliance with other technical requirements. Notwithstanding any provision to the contrary elsewhere in this rule chapter, the applicant shall then have up to fifteen (15) days from the date of the published application deadline or to the close of the next business day thereafter to supplement its application with adequate written evidence of signature authority or to cure any other technical deficiencies.

(6) An original and five (5) copies of the application shall be submitted, unless submitted on-line and then one copy in a format and software as prescribed in the application packet shall be submitted.

(7) Applications submitted shall be executed by the chief elected official or the chairman of the governing board unless this authority has been delegated to the chief executive officer or other government official, who shall then endorse the application. Evidence of the delegation of authority shall be supplied with the application. If the governmental entity does not have a governing board or chief elected official, then the application shall be executed by the chief administrative officer and evidence of his or her authority to bind the governmental entity shall be supplied with the application. If the Applicant is not a governmental entity, then the application shall be executed by the governing board, or, if there is no governing board, then the application shall be executed by the chief executive officer. If the application is transmitted on-line, then a hard copy of the title page containing the original authorized signature must be submitted by mail, and must be received by the Division by the published application deadline date.

(8) Applications shall be rejected if:

(a) The Applicant has been found to have engaged in fraudulent actions or misrepresented facts in connection with the application;

(b) The Applicant had previously been found to have engaged in fraudulent actions or misrepresentations within three years of the Notice of Fund Availability;

(c) The application has not been submitted in accordance with the Application Packet and the accompanying instructions provided by the Division, or achieved the required threshold, or does not otherwise comply with this rule chapter;

(d) The project is inconsistent with the purposes of the Program or does not conform to the application requirements specified in this rule chapter;

(e) The application is not received before 4:00 p.m., Local Time, on the noticed application deadline date; or

(f) The Applicant has been notified that it is not in compliance with the terms and conditions of any open contractual agreement from any funding administered by the Division.

(g) The applicant is ineligible.

*Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 11-10-97, 10-14-98, 10-11-00.*

### **9G-19.009 Selection Criteria for Competitive Grants.**

(1) The review committee shall review all applications that are received by the noticed application deadline and that comply with the application procedures and requirements set forth in this rule. Applications that are either not received by the noticed application deadline or that do not comply with the application procedures and requirements set forth in this rule shall be rejected. Received means delivery by hand, certified mail, electronically transmitted (disk or on-line) or courier to the location designated in the Notice of Fund Availability no later than 4:00 p.m., Local Time, on the final day of the application period. Facsimile transmissions shall not be accepted.

(2) Applications shall be scored by the review committee independently and the scores shall be totaled and averaged. Thereafter, the committee shall evaluate the scores, adjusting them to arrive at preliminary scores and rankings. Preliminary scores and rankings shall be prepared within each category based upon the total number of points earned with the overall highest number of points determining priority for funding. The review committee shall, within 60 days of the application deadline date, transmit preliminary scores and rankings to all Applicants, along with any administrative proceeding rights. Final scores and rankings shall be transmitted to all Applicants in writing. Funds shall be offered to the Applicant with the overall highest score, then to the Applicant with the next overall highest score, and so on, until all funds have been offered and accepted, or all eligible applications have been funded, or insufficient funds remain to fund an eligible project. The Department may offer to fund all or part of the project or all or part of the amount requested in an application. Applicants shall be given 21 days to accept or reject a proposed award. Written notice of acceptance shall be delivered to the Division offices designated in the notice of award. In the event that an Applicant fails to accept or reject a proposed award offered for the Emergency Management Competitive Grant Program within the specified time, then the funds offered shall revert to the Trust Fund. In the event that an Applicant fails to accept or reject a proposed award offered for the Municipal Competitive Grant Program within the specified time, then the funds shall be reallocated in accordance with the provisions of Sections 9G-19.006(1)-(3), F.A.C.

(3) The review committee may use other Department staff, staff from other state and regional agencies and local governments that have not applied for funds, or professional consultants, to assist in reviewing an application.

(4) In the event of a tie, the review committee shall give first priority to the application which provides the largest amount of cash match of other funds for the project, and, if a tie still results, then preference shall be given in accordance with Section 18, Chapter 92-132, Laws of Florida, to the project exclusively located or to be performed in a county or municipality which has been adversely affected by an environmental cleanup initiative conducted by the state, or is located in a Front Porch Community.

(5) Applications will be accepted for awards in four separate categories. A municipality shall not apply for funding for the same project from both the funding available under the Emergency Management Competitive Grant Program and the funding available under the Municipal Competitive Grant Program. Each application must designate one, and only one, of the categories noted in this rule. Failure to designate a category, or designating a category that is unrelated to the proposed project, shall result in rejection of the application. If sufficient numbers of applications that achieve the minimum score are received, at least one application will be funded from each category. The categories are:

(a) Projects that will promote public education on disaster preparedness and recovery issues.

(b) Projects that will enhance coordination of relief efforts of statewide private sector organizations, including public-private business partnership efforts.

(c) Projects that will improve the training and operations capabilities of agencies assigned lead or support responsibilities in the State Comprehensive Emergency Management Plan.

(d) Other projects that will further state and local emergency management objectives designated as priorities in the applicable Notice of Fund Availability.

(6) Applications shall be awarded points and ranked using the following criteria:

(a) Extent to which the proposed project is consistent with and furthers the State Comprehensive Emergency Management Plan and the applicable local comprehensive emergency management plan or plans. [Maximum score 100 points]

(b) Proposed project method and approach. [Maximum score 100 points]

(c) Amount of eligible match supplied by the applicant for the proposed project. [Maximum score 50 points]

(d) Experience and ability applied to the project. [Maximum score 25 points]

(e) Immediacy of tangible emergency management benefits (short term projects, i.e. – less than 12 months in duration), or, long term emergency management benefits coupled with the availability of resources to continue implementation of the project past the term of the award (long term projects, i.e. – duration of 12 months or longer). Identify the emergency management organizations or the targeted population area whose emergency management needs will be directly benefitted by the project or both if applicable. [Maximum score 75 points]

(f) Extent to which the proposed project addresses a demonstrated emergency management need. [Maximum score 50 points]

(g) Extent to which the proposed project addresses an emergency management priority, as identified in the Notice of Fund Availability. [Maximum score 100 points]

(7) Points shall be awarded based upon the evidence contained in the application. No points shall be awarded based upon information not contained in the application. Applicants shall supply in their project application all information which they desire to be evaluated for an award of points.

(8) Regardless of their competitive ranking, applications that do not score at least 300 points shall be ineligible for funding.

*Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History–New 1-12-94, Amended 6-21-95, 11-13-96, 10-11-98, 10-11-00.*

**9G-19.010 Disbursement.**

(1) The amount of funds estimated as available for Base Grant and Competitive Award allocations shall be noticed prior to each grant cycle.

(2) Base Grant Awards provided under this rule shall be offered to the Board of County Commissioners. Competitive Awards shall be offered to and accepted by the chief executive officer, or by the appropriate governing body, if a local government.

(3) Funds disbursed to the Recipient for a competitive award by the Division that are not expended in implementing the project shall be returned to the Division, along with interest earned on the funds, within ninety (90) days of the expiration of the award agreement. If the Recipient succeeds in acquiring products or services for less than the budgeted amount, then it shall notify the Division and request authorization to apply the unexpended funds to the project, identifying the proposed use for the unexpended funds. If the unexpended funds can be applied to enhance the project through acquisition of additional equipment or services which will provide the same benefit as the approved project, then the Division may approve the use of the unexpended funds. Overbudgeting projects will result in a diminished score of the project.

(4) Each Recipient may receive trust funds from the Division on a quarterly basis, based on the submittal of reports. Said reports shall be provided using the forms included in the grant agreement, as supplemented by any particular information requested in writing by the Division prior to the due date of the report. The term of a competitive grant shall be as set forth in the grant agreement, subject to any limitations imposed by the applicable legislative appropriation. Any extensions shall be governed by Section 287.057(11), Florida Statutes.

(5) All recipients of trust funds shall cause a financial audit to be performed in accordance with Section 216.349, Florida Statutes. A report of the audit will be forwarded to the Division within 60 days of its completion.

(6) Upon written notification to the Division not later than July 31 of each year, Base Grant Recipients receiving trust funds may carry forward up to twenty-five (25) percent of a single year grant award to the next fiscal year.

(7) Recipients shall comply with all applicable procurement rules and regulations in securing goods and services to implement a proposed project. For purposes of the competitive grant programs only, the Recipient shall identify the applicable procurement rules, regulations and standards to be used in the first progress report to the Division following the notice of award.

(8) The Recipient shall establish a separate account code in an interest bearing account for tracking all deposits, expenditures and interest pertaining to an award. A separate account code shall be established for each award received.

(9) The Division shall be permitted to inspect and monitor the records and facilities of funded projects and award recipients. Such inspections may occur without notice at any reasonable time, which shall be presumed to be normal business hours on Monday through Friday.

(10) The Division shall prescribe the type of information, timing and format in which project information shall be reported in the grant agreement. In the event that the Department determines that additional reports are necessary in order to demonstrate compliance with this rule chapter or the terms of the grant agreement, then the grant recipient shall supply said reports. Failure to meet the requirements related to reporting shall constitute noncompliance.

(11) Allowable costs shall be determined in accordance with applicable Federal Office of Management and Budget Circulars, or, in the event no circular applies, by 48 C.F.R. part 31 CONTRACT COST PRINCIPLES AND PROCEDURES.

*Specific Authority 252.35, 252.373 FS. Law Implemented 216.052, 252.35, 252.373, 252.83 FS. History–New 1-12-94, Amended 6-21-95, 11-13-96.*

**9G-19.011 Match Requirements.**

(1) Base Grants shall be matched at an amount either equal to the average of the previous three years' level of county general revenue funding of the County Emergency Management Agency or the level of funding for the County Emergency Management Agency for the last fiscal year, whichever figure is lower. County general revenue funding for 911 services, emergency medical services, law enforcement, criminal justice, public works or other services outside the emergency management responsibilities assigned to the County Emergency Management Agency by Section 252.38, Florida Statutes, shall not be included in determining the "level of county funding of the County Emergency Management Agency." Each county shall certify compliance with this rule chapter and this rule, as a condition precedent to receipt of funding.

(2) If the Base Grant recipient demonstrates that exceptional financial circumstances prevent the Base Grant recipient from complying with the match requirements in Section 9G-19.011(1), F.A.C., then the Base Grant recipient may request that the Division authorize a reduction in the amount of match required. The match required shall not be reduced by a percentage amount in excess of reductions in funding for county 911 services, emergency medical services, law enforcement, criminal justice, public works or other emergency management related services, and shall not be reduced below twenty-five (25) percent of the Base Grant award. To be eligible for any reduction, the Base Grant recipient shall demonstrate and certify that the reduction is due to reductions in county general revenue funding and that the amount of the requested reduction is equivalent to across the board reductions in all county budgets. County requests for reduction shall be signed by the county's chief elected officer and the certification of reduction in county budget funding shall be signed by the county's chief financial officer. Requests shall certify the

intent to return to pre-reduced funding as soon as practicable, and shall provide an estimate of the date at which the county will return to the current level of funding. Requests for reduction shall also be accompanied by financial data for the previous three years indicating: the level of county funding for the County Emergency Management Agency budget; budget detail regarding all individual items of the County Emergency Management Agency budget; and the proposed level of funding, for all budget items, if the reduction is authorized by the Division. All requests for match reduction shall be submitted no later than forty-five (45) days prior to the beginning of the county fiscal year, or the opportunity to request shall be waived.

(3) Competitive Awards shall not have a minimum match requirement.

*Specific Authority Section 3, Chapter 93-128, Laws of Florida. Law Implemented Section 3, Chapter 93-128, Laws of Florida. History--New 1-12-94, Amended 11-13-96.*

**9G-19.014 Noncompliance.**

(1) If a recipient fails to comply with any term or condition applicable to an award under this rule chapter or any term or condition including, but not limited to, federal and state laws, rules and regulations, applicable to any other funding administered by the Division, then the Division shall take one or more of the following actions, as indicated by the attendant circumstances:

- (a) Temporarily withhold cash payments, pending correction of the deficiency;
- (b) Disallow all or part of the cost of the activity or action not in compliance;
- (c) Suspend or terminate the award;
- (d) Disallow future participation in the program or funding provided under this rule chapter;
- (e) Recover all funds provided under the current award.

(2) Costs of the recipient resulting from obligations incurred by the recipient during suspension or after termination of an award are not allowable, unless the Division determines that the recipient has substantially complied with, and has not knowingly violated, all applicable requirements, and thereafter expressly authorizes costs in writing. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(a) The costs result from obligations which were properly incurred by the recipient before the effective date of the suspension or termination, are not in anticipation of the suspension or termination, and, in the case of termination, are not cancelable, and

(b) The costs would be allowable if the award were not suspended or expired normally at the end of the period in which the termination occurs.

(3) Recipients of terminated grants shall remain obligated to provide all required closeout information.

(4) In the event that any audit determines that costs reimbursed or otherwise funded under this rule chapter should be disallowed, then the recipient shall return those disallowed funds to the Division. In the alternative, the Division may offset the disallowed amount against any current or future awards to the recipient.

*Specific Authority Section 3, Chapter 93-128, Laws of Florida. Law Implemented Section 3, Chapter 93-128, Laws of Florida. History--New 1-12-94, Amended 11-13-96.*

## CHAPTER 9G-20 FEE SCHEDULE FOR COUNTY EMERGENCY MANAGEMENT AGENCY REVIEW OF FACILITY EMERGENCY MANAGEMENT PLANS

|           |   |
|-----------|---|
| 9G-20.001 | Purpose. (Repealed)                                 |
| 9G-20.002 | Definitions.  |
| 9G-20.003 | Plan Review Fee.                                    |
| 9G-20.004 | Limitations and Record Keeping.                     |
| 9G-20.005 | Department Review of Fees in Excess of Maximum Fee. |
| 9G-20.006 | Applicability. (Repealed)                           |
| 9G-20.007 | Review Procedures.                                  |

### **9G-20.002 Definitions.**

(1) "County" means one of the 67 counties within the State of Florida.

(2) "Facility" means all buildings, equipment, structures and other items located on a single site or on contiguous and adjacent sites and which are owned or operated by the same person, or by any person which controls, is controlled by, or under common control with, such person, and which is required by statute or rule to prepare a plan. Adult congregate living facilities, nursing homes, group homes, intermediate care facilities for the developmentally disabled, ambulatory surgical centers, and hospitals shall all be included within the definition of "facility," however, each such entity shall constitute a separate facility for purposes of plan review.

(3) "Person" means any individual, sole proprietorship, trust, firm, joint stock company, corporation, partnership, association and any other legally constituted entity authorized to do business in the State of Florida.

(4) "Plan" means a facility specific operational or informational plan for purposes of managing emergency response, recovery, mitigation or preparation, the promulgation of which is required by statute or rule.

(5) "Department" means the Florida Department of Community Affairs, Division of Emergency Management.

(6) "County Emergency Management Agency" means the emergency management agency established by a County pursuant to s. 252.38, Florida Statutes, as amended by Chapter 93-211, Laws of Florida.

(7) "Criteria" means that standard adopted by Florida law for judging the plan, and shall include any standard adopted by rule of the Agency for Health Care Administration for plans of nursing home, ambulatory surgical center, and hospitals, and by rule of the Department of Health and Rehabilitative Services for plans of group homes, adult congregate living facilities and intermediate care facilities for the developmentally disabled.

(8) "Significant change" means:

(a) a change in ownership or operating entity of the facility; or

(b) an increase of 10% or more in the licensed capacity, if a Certificate of Need applies to the facility, or resident population, if no certificate of need applies, at the facility, calculated as of the date of submission of the plan, as compared to the resident population on the date of approval of the previous plan; or

(c) an alteration in the facility resulting from construction or renovation activities which has an effect on the plan; or

(d) a variation in service providers or other resource providers identified in the last approved plan; or

(e) a modification in the emergency management resources serving the facility; or

(f) a modification in the hazard(s) to which the facility is exposed; or

(g) any modification in in-patient services that requires a Certificate of Need; or any combination of (a) through (g).

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(l), 252.38(1)(e), 393.067(8), 395.1055(1)(c), 400.23(2)(g), 400.441(1)(b) FS. History—New 12-4-94.*

### **9G-20.003 Plan Review Fee.**

(1) County Emergency Management Agencies are authorized to charge a fee to compensate for the cost of the review of plans, submitted to the County Emergency Management Agency by facilities, to ensure compliance with plan review criteria. A separate fee is authorized for each plan submitted.

(2) The maximum fee shall be determined by the County Emergency Management Agency by calculating the actual number of hours or parts thereof necessary for review of the plan, multiplying that figure by the rate of \$25 per hour, and adding to that result an amount equal to not more than 25% of that figure, to cover miscellaneous and indirect costs. Upon receipt of each facility plan, the county shall establish a cost identifier for the plan for purposes of tracking review costs.

(3) For facilities licensed for more than 16 beds, County Emergency Management Agencies are authorized to charge up to five hundred dollars (\$500.00) for reviewing a facility plan, unless there is no significant change from the last approved plan submitted by that facility, or unless the facility requests technical assistance from the County Emergency Management Agency. This limit reflects up to sixteen (16) hours of review and processing time plus the authorized miscellaneous and indirect cost rate. If there is no significant change from the last approved plan submitted by that facility, or if the facility is licensed for 16 beds or less, then County Emergency Management Agencies are authorized to charge no more than two hundred and fifty dollars (\$250.00) for reviewing a facility plan. This limit reflects up to eight (8) hours of review and processing time plus the authorized miscellaneous

and indirect cost rate. If, in order to facilitate compliance with plan review criteria, a facility requests technical assistance from the County Emergency Management Agency, then the County Emergency Management Agency is authorized to charge up to twenty-five dollars (\$25) per hour, or any part thereof, up to a maximum of ten (10) hours, for time actually devoted to assisting a facility in writing or rewriting its plan. The fee attributable to requested technical assistance shall be in addition to the maximum fee otherwise established in this rule.

(4) Within sixty (60) days of completing the review of a plan submitted by a facility to the County Emergency Management Agency, the County Emergency Management Agency shall provide to the submitting facility an invoice for the cost of performing the plan review in accordance with the fee schedule established herein. Any dispute regarding the fee, other than the process identified in Rule 9G-20.005, F.A.C., shall be handled by the County in the same manner as other types of revenue collection disputes. Facilities shall notify the County in writing of any dispute regarding the fee within thirty (30) days of receipt of the invoice, or shall not dispute the amount. Facilities shall be liable for and pay fees regardless of whether their plan is approved.

(5) All fees shall be payable by certified check or bank draft in U.S. funds, made payable to the County to which the plan is submitted for review and approval.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(l), 252.38(1)(e), 393.067(8), 395.1055(1)(c), 400.23(2)(g), 400.441(1)(b) FS. History—New 12-4-94.*

#### **9G-20.004 Limitations and Record Keeping.**

(1) Fees shall be reasonable and may not exceed the actual cost of providing the review and requested technical assistance service, in accordance with the complexity of the criteria established by law for the particular facility emergency management plan, and taking into account facility size and other factors. The total amount of the fee shall not exceed seven hundred fifty dollars (\$750.00), the maximum amount established in this schedule for plan review and technical assistance, except under the circumstances identified in Rule 9G-20.005, F.A.C.

(2) The County Emergency Management Agency shall create and maintain accurate records of the actual costs associated with reviewing and approving each plan submitted to it. Such records shall be reasonably itemized, reflect generally acceptable accounting principles, and sufficiently and properly reflect the expenditure of funds. All costs associated with the review of the plan shall be charged to the facility plan's cost identifier.

(3) A facility that has not paid any amount due the County Emergency Management Agency as a result of previous plan review services shall not be permitted to submit a subsequent plan for review until the outstanding amount is paid or otherwise resolved and shall be considered to not have an approved facility emergency management plan.

(4) Funds received from fees paid shall be deposited in a separately identifiable fund or account. Unspent monies in this fund may be carried forward at the end of the fiscal year. However, each County Emergency Management Agency shall annually report to the Department the total amount received from facilities pursuant to this rule and the total costs of facility plan review and technical assistance. This report shall be submitted within sixty (60) days of the end of the County fiscal year. If the County Emergency Management Agency provides this information as part of any audit submitted by the County to the Department for any other purpose, then this information shall be separately identified within the audit report. Based upon that information, the Department shall revise the fee schedule as necessary so that fee amounts more closely reflect actual costs.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(l), 252.38(1)(e), 393.067(8), 395.1055(1)(c), 400.23(2)(g), 400.441(1)(b) FS. History—New 12-4-94.*

#### **9G-20.005 Department Review of Fees in Excess of Maximum Fee.**

(1) If the County Emergency Management Agency determines that the cost of plan review is in excess of the maximum amount established in Rule 9G-20.003, F.A.C., then it shall immediately, and in any event no later than the date the plan review and approval is completed, notify both the facility and the Department, in writing, by certified mail or hand delivery with a signed receipt, and provide a detailed written explanation as to why the cost is in excess of the maximum fee. This notification shall be entitled "Notification of Plan Review Fee in Excess of Maximum Fee." The detailed written explanation shall be accompanied by a copy of the plan, an explanation of the normal review practices of the County Emergency Management Agency, an explanation of costs attributable to the plan review, a copy of the criteria applicable to the facility plan, an explanation of the complexity of the review and the size of the facility, as well as any other pertinent factor, and shall be supported by additional documentation sufficient to enable the Department to determine whether the reasonable and necessary costs of plan review justifiably exceed the maximum fee. The County Emergency Management Agency shall identify the total cost of providing the review of the plan as the proposed fee. Failure to provide sufficient information shall result in disallowance of part or all of the proposed fee.

(2) The notification to the Department shall be addressed to the Director, Division Of Emergency Management. County Emergency Management Agencies shall provide the required "Notification of Plan Review Fee in Excess of Maximum Fee" within sixty days of receipt of the facility plan, or shall not exceed the maximum fee.

(3) In evaluating the County Emergency Management Agency's explanation the Department shall consider the plan, the identified normal review practices of the County Emergency Management Agency, the criteria applicable to the facility plan, the complexity of the review and the size of the facility, identified costs attributable to the plan review, as well as any other pertinent factor raised by either the facility, the County Emergency Management Agency, or the Department. The Department may request

additional information from the facility, the County Emergency Management Agency, and any other information source. Failure of the County Emergency Management Agency or the facility to supply requested information shall be considered in evaluating the proposed fee.

(4) The notice provided by the County Emergency Management Agency to the facility shall advise the facility of the opportunity to file a response to the County Emergency Management Agency's explanation, in writing, by certified mail or hand delivery with a signed receipt, within thirty (30) days of receipt by the facility. Filed means received by the Director, Division of Emergency Management. The facility's response shall be filed with the County Emergency Management Agency and the Department and shall address each item raised by the County Emergency Management Agency. The thirty day period shall begin on the date of the facility's receipt of the County Emergency Management Agency's explanation. Delivery to the facility shall be by certified mail, return receipt requested, or by hand delivery, with a signed receipt. Facilities shall file a response with the Department disputing the basis for the fee in excess of the maximum fee, or shall accept the proposed fee. No reply from the County Emergency Management Agency shall be permitted, except upon request of the Department.

(5) The Department's determination shall be issued within forty-five (45) days of receipt of a timely facility response, or if there is no timely response, within sixty (60) days of receipt of the County's explanation. The Department's determination of the reasonable and necessary costs of plan review shall be considered final agency action, binding upon the County and the facility.

(6) The time period(s) for review of the invoice, and payment of the fee, shall be tolled during the period of the Department review contemplated by this rule, until such time as the facility receives the Department's determination.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(l), 252.38(1)(e), 393.067(8), 395.1055(1)(c), 400.23(2)(g), 400.441(1)(b) FS. History—New 12-4-94.*

#### **9G-20.007 Review Procedures.**

(1) After receipt of a plan, the County Emergency Management Agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions. If the plan needs revision, the county agency shall notify the facility of the specific items that need revision and a reasonable time frame in which to submit the revisions. Once received, the County Emergency Management Agency shall review the revisions within fifteen (15) days, and either approve the plan or notify the facility of additional needed revisions. If a plan is not approved by the County Emergency Management Agency after the submission and review of two (2) sets of revisions, the plan shall be considered to be not approved. A subsequent plan submission by the same facility shall be treated as a new plan review for purposes of assessing fees as set forth in Rule 9G-20.003, F.A.C.

(2) As part of the review and approval process, the County Emergency Management Agency shall establish a procedure to provide written notice to applicable state agencies and appropriate volunteer organizations of the opportunity to review facility plans. Notices consisting of a biweekly or monthly announcement of the plans received for review since the last announcement shall be acceptable. State agencies that shall be notified include: the Department of Elder Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. If an applicable state agency has a local or district office whose jurisdiction includes all of the county, the notice or publication shall be directed to such local or district office unless the county is advised otherwise in writing by the applicable state agency.

*Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(l), 252.38(1)(e), 393.067(8), 395.1055(1)(c), 400.23(2)(g), 400.441(1)(b) FS. History—New 12-4-94.*

## CHAPTER 9G-21 HAZARDOUS MATERIALS RISK MANAGEMENT PLANNING FEE SCHEDULE

|           |                           |
|-----------|---------------------------|
| 9G-21.001 | Definitions.              |
| 9G-21.002 | Annual Registration Fees. |
| 9G-21.003 | Late Fees.                |
| 9G-21.004 | Approved Forms.           |

### **9G-21.001 Definitions.**

As used in this rule chapter:

- (1) "Department" means the Department of Community Affairs.
- (2) "Specified stationary source" means a stationary source as defined in Section 252.936(18), Florida Statutes, that is not exempt from Chapter 252, part IV, Florida Statutes.
- (3) "Standard Industrial Classification Group number 01, 02, and 07" means those enterprises included in major groups 01 (agricultural production crops), 02 (agricultural production livestock and animal specialties), and 07 (agricultural services), respectively, as described by the United States Office of Management and Budget, and the equivalent enterprises included in the North American Industry Classification System as described by the United States Department of Commerce, National Technical Information Service.

*Specific Authority 252.937(1)(b) FS. Law Implemented 252.939(1)(c) FS. History--New 10-8-98.*

### **9G-21.002 Annual Registration Fees.**

(1) The owner or operator of one or more specified stationary sources that are located within the State of Florida shall pay an annual registration fee for each stationary source based upon the source's highest program level, as determined from the source's Risk Management Plan.

(2) The owner or operator of one or more specified stationary sources located within the State of Florida, all of which are Program 1 stationary sources, shall pay fees as follows:

(a) The owner or operator of one Program 1 stationary source shall pay an annual registration fee of \$100 using Form Number RMP-001.

(b) The owner or operator of more than one Program 1 stationary source shall pay an annual registration fee of \$100 for each Program 1 stationary source using Form Number RMP-001 unless the owner qualifies for an alternative fee schedule under Rule 9G-21.002(2)(c), F.A.C.

(c) The owner of more than one Program 1 stationary sources, all of which have the same single chemical process, may pay an annual registration fee of \$100 for the first source and an annual registration fee of \$50 for each additional source up to a maximum of \$1,000 for all Program 1 stationary sources which have the same single chemical process only if the owner of such sources submits a single payment accompanied by a list of all source locations and an identification of the single chemical process using Form Number RMP-002.

(3) The owner or operator of one or more specified stationary sources located within the State of Florida all of which are Program 2 stationary sources shall pay fees as follows:

(a) The owner or operator of one Program 2 stationary source shall pay an annual registration fee of \$200 using Form Number RMP-001.

(b) The owner or operator of more than one Program 2 stationary source shall pay an annual registration fee of \$200 for each Program 2 stationary source using Form Number RMP-001 unless the owner qualifies for an alternate fee schedule under either Rule 9G-21.002(3)(c) or (d), F.A.C.

(c) The owner of more than one Program 2 stationary sources, all of which have the same single chemical process, may pay an annual registration fee of \$200 for each source up to and including three sources and an annual registration fee of \$100 for each additional source up to a maximum of \$2,000 for all Program 2 stationary sources which have the same single chemical process only if the owner of such sources submits a single payment accompanied by a list of all source locations and identification of the single chemical process using Form Number RMP-002.

(d) The owner of more than one Program 2 stationary source all of which have a Standard Industrial Classification group number 01, 02, or 07 may pay an annual registration fee of \$100 for the first source and an annual registration fee of \$50 for each additional source up to a maximum of \$800 for all Program 2 stationary sources which have a Standard Industrial Classification group number 01, 02, or 07 only if the owner of such sources submits a single payment accompanied by a listing of all source locations using Form Number RMP-002.

(4) The owner or operator of one or more specified stationary sources located within the State of Florida all of which are Program 3 stationary sources shall pay an annual registration fee of \$1,000 per stationary source location using Form Number RMP-001.

(5) The owner or operator of more than one specified stationary sources located within the State of Florida that have different Program levels shall pay an annual registration fee of \$100 for each Program 1 stationary source and each Program 2 stationary source that is classified with a Standard Industrial Classification group number 01, 02, or 07 using Form Number RMP-001; an