

ORIGINATION FORM

Date: **02-17-14**

Originator: Jocelyn Croci

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Specification Title: **DEFINITIONS AND TERMS-DEFINITIONS**

Specification Section, Article, or Subarticle Number: **ARTICLE 1-3**

Why does the existing language need to be changed?

Under the case of Diversified v. Simpkins, 974 F. Supp. 1448, 1451 (S.D. Fla. 1997), a federal court interpreted Florida contract law and determined that broad covenants to comply with all federal regulations do not include compliance with environmental law. The existing language is a broad covenant to comply with all regulations and should be modified to follow the courts guidance and expressly incorporate environmental law.

Summary of the changes:

Federal, State, and Local Rules and Regulations.

The term "Federal, State and Local Rules and Regulations" includes: any and all Federal, State, and Local laws, bylaws, ordinances, rules, regulations, orders, permits, or decrees including environmental laws, rules, regulations, and permits.

Are these changes applicable to all Department jobs? Yes

If not, what are the restrictions?

Will these changes result in an increase or decrease in project costs? No cost change.

The department contracts are being updated to reflect the federal court's interpretation of Florida law.

If yes, what is the estimated change in costs?

With who have you discussed these changes? Calvin Johnson, Chief of Civil Litigation, Kathleen Toolan, Chief of Administrative Law, Erik Fenniman, Chief of Eminent Domain Litigation; Roger Wood, Special Counsel; Art Burger, Special Counsel, Construction

What other offices will be impacted by these changes? All department contracts

Are changes needed to the PPM, Design Standards, SDG, CPAM or other manual? No

Are all references to external publications current? Yes

If not, what references need to be updated (please include changes in the redline)?

Is a Design Bulletin, Construction Memo, or Estimates Bulletin needed? No.

Contact the State Specifications Office for assistance in completing this form.

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ANANTH PRASAD, P.E.
SECRETARY

MEMORANDUM

DATE: April 30, 2014
TO: Specification Review Distribution List
FROM: Daniel Scheer, P.E., State Specifications Engineer
SUBJECT: Proposed Specification: 0010301 Definitions and Terms - Definitions.

In accordance with Specification Development Procedures, we are sending you a copy of a proposed specification change.

The changes are proposed by Jocelyn Croci, D2 General Counsel Office, to expressly incorporate environmental law in our existing specification language.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or to my attention via e-mail at SP965DS, or daniel.scheer@dot.state.fl.us. Comments received after **May 29, 2014**, may not be considered. Your input is encouraged.

DS/ft
Attachment

DEFINITIONS AND TERMS – DEFINITIONS.
(REV 3-27-14)

ARTICLE 1-3. The following definition is added.

Federal, State, and Local Rules and Regulations.

The term “Federal, State and Local Rules and Regulations” includes: any and all Federal, State, and Local laws, bylaws, ordinances, rules, regulations, orders, permits, or decrees including environmental laws, rules, regulations, and permits.