



## FLORIDA ARCHAEOLOGICAL COUNCIL, INC.

April 16, 2001

Mr. Fred Gaske  
Bureau of Historic Preservation  
Division of Historical Resources  
R.A. Gray Building  
500 S. Bronough St.  
Tallahassee, FL 32399-0250

Dear Fred;

Thank you for allowing the Florida Archaeological Council (FAC) to provide comments on the proposed amendments to Rule Chapter 1A-46. The FAC believes that the proposed amendments will strengthen this rule by providing standards for historic resource investigation, evaluation, and documentation reports as well as archaeological reports. There are, however, a few areas that we believe are in need of clarification. These are summarized below.

General comment: Much of the proposed wording seems to be an attempt to make state law and implementing rules consistent with federal law with regard to the State's responsibilities under the NHPA and 36CFR800. However, the Division's responsibilities under Chapter 267, FS exceed those mandated by federal law and include projects conducted on state lands or permitted by state agencies, as well as local projects for which the Division has been assigned review responsibilities. Consequently, review of archaeological and historic resource identification, evaluation, and documentation reports by the Division often includes projects for which there is no federal mandate. In terms of the Division's federally mandated responsibilities, it is clear that this rule must be consistent with federal law. However, a narrow interpretation of the state's review responsibilities only in terms of consistency with its federally mandated responsibilities seems to unnecessarily inhibit or make more difficult the Division's review of state or local projects.

1A-46.001 Title – "Guidelines" has been deleted from the Rule Chapter heading but is retained in the titles for this section. This should be consistent throughout.

1) Definitions

**A professional organization for the benefit and advancement of archaeology, especially in Florida.**

- e) “Completeness” – incomplete sentence; something is missing after “means the inclusion in the report of archaeological and historical...”
- g) “Determination of Eligibility (DOE)” – 2<sup>nd</sup> sentence, incomplete sentence.
- h) “Archaeological Resource Documentation” – insert NRHP before “eligibility”
- i) “Historical Resource Documentation” - insert NRHP before “eligibility;” insert “the building(s) or structure(s) after “or to document”

General comment: Is it necessary to replace the existing wording “significance” with “NRHP eligibility,” especially since significance is used elsewhere in the document (e.g., “Evaluation activities”)? Some sites may be significant, for example at the local level, but not NRHP eligible. This possibility is reflected on DHR’s own site file forms. We also note that the definition of “significance,” which is included in the existing 1A-46 has been removed. This definition specifies that “significance” or “historical importance” may be judged based on criteria other than NRHP eligibility criteria. At a minimum it would seem that a definition of “significance” should be included in 1A-46 since the term is used repeatedly in the text of the rule.

- l) “Florida Master Site File” – it is not clear why “known” was added to the existing wording. The FMSF is a list of “recorded” sites, not “known” sites, since some sites may be known to the profession and the Division but not recorded on the FMSF. If “known” is meant to modify “recorded” then it is redundant, since an “unknown” site cannot be “recorded.”
  - s) “State-assisted undertaking” – we note that the wording “is involved through the issuance of state permits or licenses” has been excluded from this definition. If this is meant to be covered by the new definition of “State undertaking” (subsection [r]) then that definition should be modified to make it explicit that a “state undertaking” also includes those projects for which a state agency issues a permit or license. If not, then the wording should be retained in the definition of “state-assisted undertaking.” By not making this explicit in either one or the other of these definitions, it may be possible for permit applicants to argue that they are not responsible for ensuring that cultural resource investigation, evaluation, or documentation projects be conducted for their projects. In this case, redundancy makes state policy more clear and less subject to misinterpretation.
- 2) Reports – It is not clear why reports of documentation activities have been removed from this section, particularly since the Division maintains review powers for documentation reports under Section (3) Review Procedures. If documentation reports are excluded from this section, then the Division has no basis for determining whether a documentation report is “complete and sufficient.” We also note that this section indicates that it shall apply to “state involved projects” yet this term is not defined in the rule. This should be changed to state or state-assisted projects since these terms are defined in the rule.
- c) With regard to providing maps of all testing locations, it should be made explicit that copies of aerial photographs or field maps with test locations are acceptable since replotting all shovel test locations for a large survey project is time consuming and impractical. Also USGS maps with archaeological site locations are not required under this section, although they are required for

historic resources (d). We recommend that this requirement be added for archaeological sites as well. Finally, requiring photographs of all archaeological sites in survey reports may be impractical since subsurface archaeological sites are not visible. It also is inconsistent with the requirements of the Florida Master Site File, which requires photographs only of historic structures. We recommend eliminating this requirement since it is of dubious use. If photographs of archaeological sites must be required, we would recommend that they be a requirement of Florida Site File Form submittals instead under (g)(3).

- d) For historic resources, USGS maps may not be the best way to depict the locations of historic resources in heavily urbanized areas where historic structures may be present in very dense concentrations. We suggest requiring the use of street maps to show structure locations in addition to or instead of USGS.
- g) This section should clarify when DOEs are applicable. For example, will DOEs for archaeological sites now be required? With regard to “accompanying documents” --
  - 2) Insert “archaeological and” between “FMSF” and “historical site forms.”
  - 3) This sentence indicates that labeled photographs of “all historic resources for which FMSF forms are completed” should be included in identification and evaluation reports. It is unclear whether this requirement refers to archaeological sites or just historic structures. If photographs of archaeological sites also need to be included, this should be made explicit by inserting “archaeological sites and” between “all” and “historic resources” and by changing “historic resources” to “historic structures.”

If the above recommendations are implemented, we feel that Rule Chapter 1A-46 will be greatly strengthened and will insure that archaeological and historical reports contain the necessary information for the efficient evaluation of work conducted under federal or state authority. Again, the FAC thanks you for requesting its input on this matter.

Sincerely,  
Robert J. Austin, Ph.D.  
President  
Florida Archaeological Council, Inc.