

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

Section II
Proposed Rules

FINANCIAL SERVICES COMMISSION

Finance

RULE NO.: 69V-40.002
RULE TITLE: Adoption of Forms

PURPOSE AND EFFECT: During the regular 2008 legislative session, the Florida Legislature passed HB 5049, which amended Section 494.0033, F.S., to reduce the mortgage broker license application fee from \$200 to \$195. This bill was signed into law (Chapter 2008-135, Laws of Florida) by Governor Crist. Form OFR-494-03, Application for Licensure as a Mortgage Broker, which is incorporated by reference in Rule 69V-40.002, F.A.C., is amended to reflect the reduction in the license application fee.

SUBJECT AREA TO BE ADDRESSED: Mortgage Brokers.

SPECIFIC AUTHORITY: 494.0011 FS.

LAW IMPLEMENTED: 494.0033 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Greg Oaks, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, greg.oaks@lofr.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-40.002 Adoption of Forms.

(1) The forms referred to in this section below are incorporated by reference and readopted by this rule for the purposes of Rules 69V-40.001-.290, Florida Administrative Code:

(a) and (b) No change.

(c) Application for Licensure as a Mortgage Broker, Form OFR-494-03, effective ~~March 23, 2008~~;

(d) through (m) No Change.

(2) All forms adopted by this rule are available on the Office's website at www.lofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Specific Authority 494.0011(2) FS. Law Implemented 494.0025, 494.0033, 494.0041, 494.0042 FS. History—New 3-23-08, Amended .

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE NOS.:	RULE TITLES:
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9K-9.002	Definitions
9K-9.003	General Requirements and Eligibility Standards
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9K-9.008	Grant Contracts
9K-9.009	Modification of Project Boundaries
9K-9.010	Preparation and Acceptance of the Management Plan
9K-9.011	Title, Acquisition Procedures, Lease Agreements and Transfer of Title
9K-9.012	Annual Stewardship Report Requirement

PURPOSE AND EFFECT: To implement rules to govern the Stan Mayfield Working Waterfronts Program.

SUMMARY: These rules govern the grant application procedures and process for the Stan Mayfield Working Waterfronts program that was created during the 2008 legislative session pursuant to Section 380.5105, Florida Statutes. This rule chapter implements Chapter 2008-229, Laws of Florida, which created Sections 380.503 and 380.5105, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 380.507(11), 380.5105(2) FS.

LAW IMPLEMENTED: 259.105, 380.5105 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 29, 2008, 1:00 p.m.

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-9.001 Purpose.

This rule chapter sets forth the procedures that must be followed for grant applications for Florida Forever Funds awarded by Florida Communities Trust. The purpose of the program is to provide grants for the acquisition of interests in land for the restoration and preservation of Working Waterfront pursuant to Section 259.105(3)(j), F.S.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.002 Definitions.

(1) "Acquisition" means the act of obtaining real property or interests and rights therein through a voluntarily-negotiated transaction and through appropriate legal means in furtherance of The Florida Forever Act and this rule chapter.

(2) "Applicant" means an eligible Local Government or Nonprofit Working Waterfront Organization or a partnership between a Local Government and Nonprofit Working Waterfront Organization, which submits an Application for Florida Forever funds through the Trust. An Applicant that has been approved for funding by the Trust and has executed a Grant Contract with the Trust shall also be referred to as a Recipient.

(3) "Application" means a formal request by an Applicant on an approved form for Florida Forever Funds from the Trust, and consisting of a project proposal together with required documentation submitted pursuant to this rule chapter.

(4) "Award" means a grant from the Trust pursuant to the procedures developed in this rule chapter.

(5) "Business Summary" means information that describes an organization's status and future goals. It generally projects the vision and future opportunities for the organization and outlines the operations, expected needs, finances and organizational strategies that will enable the organization to achieve its goals. The information required for a Business Summary is specified in Form SMWW-1.

(6) "Board of Trustees" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

(7) "Declaration of Restrictive Covenants" means a recordable document that states all conditions to be placed on the Project Site upon its conveyance to the Recipient using Trust Funds. This document contains the obligations, rights and responsibilities of each party, the actions that are prohibited on the property, and enforcement provisions.

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

(9) "Donation" means a voluntary transfer of cash or title to real property without consideration; the conveyance of land by the owner at a purchase price below its market value can be considered a donation of a portion of the purchase price only when the owner expresses the intent, in advance of purchase and sale negotiations, to make a bargain sale, with no conditions placed on the bargain sale or donation.

(10) "Florida Forever Funds" means proceeds from the Florida Forever Trust Fund created by Section 259.1051, F.S., and distributed to the Department of Community Affairs pursuant to Sections 259.105(3)(j) and 380.5105, F.S., for the purpose of providing Acquisition Awards through the Florida Communities Trust Florida Forever Stan Mayfield Working Waterfront Program.

(11) "Grant Contract" means a written contract between the Trust and the Recipient setting forth the requirements and responsibilities for Acquisition and management of the Project Site.

(12) "Governing Board" means the six-member governing body of the Trust as described in Section 380.504 and 380.505, F.S.; the powers of the Trust are vested in its Governing Board members, pursuant to Section 380.505, F.S.

(13) "Local Government" means a county or a municipality within the State of Florida.

(14) "Management Plan" means a plan prepared by the Recipient under this rule chapter and approved by the Trust regarding the long-term care and management of the Project Site.

(15) "Match" means cash, eligible Project Costs, or the value of real property, pledged by a party(ies).

(16) "Nonprofit Working Waterfront Organization" means a private Nonprofit Working Waterfront Organization, existing under the provisions of Section 501(c)(3) of the United States Internal Revenue Code that can demonstrate that the support of Working Waterfront as defined in Section 380.503(18)(a) and (b), F.S., are among its principal purposes and goals.

(17) "Project Costs" means the total of all eligible costs associated with the Acquisition of the Project Site in accordance with this rule chapter and Chapter 9K-10, F.A.C., and may include the cost of the following items: purchase price for Acquisition of all or a portion of the Project Site; certified survey containing an adequate legal description of the Project

Site: any assessment or examination essential and necessary to determine Project Site boundary; appraisal report(s) and appraisal review of the Project Site; title report and title insurance premium; and environmental site assessment(s) performed pursuant to Rule 9K-10.010, F.A.C.

(18) "Project Site" means the specific area(s), defined by a boundary map or legal description and Certified Survey, where Florida Forever Funds are proposed in an Application to be used for all or a portion of the Acquisition. The Project Site may include up to three (3) ownerships. The Project Site may include non-contiguous parcels, so long as the non-contiguous areas are part of a unified scheme of development and management within the same Working Waterfront and sufficiently close that the unified scheme can be maintained.

(19) "Reasonable Assurance" means the Applicant's ability to demonstrate to the Trust that there is a substantial likelihood that the project will be successfully implemented and managed in accordance with the Application and the Grant Contract, and may include the Trust's review of: the Applicant's current and prospective financial condition; the Applicant's history in acquiring, developing and managing similar projects; the Applicant's financial commitment to the subject project as evidenced by the amount and type of any Match in the form of monies, real estate; and the Applicant's partners, directors, officers, managers, project administrators, controlling shareholders (if applicable), and appointed or elected officials.

(20) "Recipient" means an Applicant that has been approved for funding by the Trust and who has executed a Grant Contract with the Trust for an Award.

(21) "Seafood House" means a facility that manufactures, processes, packs, holds or prepares seafoods for wholesale, whose primary source of income is derived from these activities, that is licensed by the Department of Agriculture And Consumer Services as a Food Establishment pursuant to Section 500.03, F.S., or a Shellfish Processor licensed pursuant to Section 597.020, F.S. A Seafood House may have retail or food serving facilities in conjunction with its other business operations.

(22) "Small Local Government" means county governments with populations of 75,000 or fewer and municipal governments with populations of 10,000 or fewer.

(23) "Trust" means the Florida Communities Trust, a nonregulatory agency and instrumentality, which is a public body corporate and politic, created within the Department of Community Affairs pursuant to Chapter 380, Part III, F.S.

(24) "Voluntarily-Negotiated Transaction" means an arm's length market value transaction between a willing seller and a willing buyer. The use of condemnation or the threat of condemnation is not considered a Voluntarily-Negotiated Transaction.

(25) "Working Waterfront Business" means any enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Working Waterfront Business" includes without limitation: Licensed commercial fishermen or aquaculturists; persons providing direct services to commercial fishermen or aquaculturists, as long as provision of these direct services requires the use of working waterfront real estate; and, municipal and private piers and wharves operated primarily to provide waterfront access to commercial fishermen or aquaculturists.

(26) "Working Waterfront Covenants" means a legal document entered into by the seller and Recipient, and recorded in the public records of the county or counties in which the project is located that conveys a perpetual less than fee interest, in the property to the Recipient. This document contains the obligations, rights and responsibilities of each party, the actions that are prohibited on the property, and enforcement provisions.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.003 General Requirements and Eligibility Standards. The following constitutes the general procedures for the Stan Mayfield Working Waterfront Florida Forever grant program of the Florida Communities Trust.

(1) Application Form. Application Form SMWW-1 (eff. _____) is prescribed for use with these rules and is incorporated by reference. Applications for funding must be submitted on Application Form SMWW-1. Applicants may only submit one Application Form per Project Site. A copy, or instructions for receiving the Application Form in an electronic format, may be obtained by writing to the, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, or by calling (850)922-2207.

(2) Notice of Application Period. The Trust shall announce the amount of Florida Forever funds available for Awards and applicable deadlines in the Notice of Application Period published in the Florida Administrative Weekly.

(3) Eligible Applicants are Local Governments of the State of Florida, Nonprofit Working Waterfront Organizations or a partnership between a Local Government and a Nonprofit Working Waterfront Organization.

(4) Nonprofit Working Waterfront Organizations. In all acquisitions by a Nonprofit Working Waterfront Organization, a guaranty or pledge by a Local Government, the Water Management District in which the project is located, or a managing agency of the Board of Trustees to act as a backup manager to assume responsibility for management of the Project Site in the event the Nonprofit Working Waterfront Organization is unable to continue to manage the Project Site shall be obtained.

In addition, when acquiring a less than fee interest in the Project Site, the Nonprofit Working Waterfront Organization must provide assurance that they have the capacity to monitor and enforce the easement conditions. Such assurance shall be in the form of an endowment equal to five percent of the appraised value of the less than fee interest.

Or, if the Nonprofit Working Waterfront Organization is acquiring a fee-simple interest in the Project Site, the Nonprofit Working Waterfront Organization must provide assurance that they have the capacity to manage the Project Site. Such assurance shall be in the form of an endowment equal to ten percent of the appraised value of the fee interest.

(5) Working Waterfront Activities. Business activities performed on a project site acquired under this program must derive their primary source of income from services supporting the commercial harvesting of wild or aquacultured marine organisms. Any new structure to be located on sovereignty-submerged lands shall comply with the criteria set forth in Chapter 18-21, F.A.C. including but not limited to the requirement that the structure(s) be water dependent.

(6) Limitation of Awards. The total amount of any Award or combination of Awards applied for by any Applicant(s) under any Application(s) for any project(s) shall not exceed the amount annually appropriated and accumulated for this program during any fiscal year.

(7) Eligible Sources of Match. The Applicant's eligible sources of Match may include, but are not limited to, the following sources: Local Government or other government revenue; existing cash from Nonprofit Working Waterfront Organization or Donations as defined in this rule.

(8) Site Acquisition. The Trust shall be responsible for the Acquisition activities.

(9) Site Management. Each Applicant is required to provide a Management Plan as outlined in this rule chapter. To ensure that future management funds will be available for the management of the site in perpetuity, the Applicant shall be required to provide the Trust with Reasonable Assurance that they have the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner that is consistent with the approved management plan.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.004 Submission of Application and Application Materials.

(1) Applications must be submitted by mail or delivery to the Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100. To be timely submitted, Applications must be received on or before the published Application deadline.

(2) Deadlines for submitting Applications shall be announced in the Florida Administrative Weekly.

(3) Applications must be transmitted with an original signature cover letter on Applicant's letterhead, signed by the appropriate representative, official or administrator, binding the Applicant to fulfill the commitments made in the Application, and identifying the employee of the Local Government or Nonprofit Working Waterfront Organization who will act as the key contact between the Trust and the Applicant.

(4) Applicants must submit three (3) complete sets of Application materials. One set shall contain original text and non-text items. The remaining two sets shall contain legible copies of text and non-text items, unless otherwise specified in the Application form.

(5) Applications must be received on or before the published Application deadline. Applications received after the published Application deadline shall be deemed late, and will not be considered by the Trust.

(6) All applications must be submitted on Application Form SMWW-1.

(7) A Business Summary that provides information on the applicable criteria outlined in the Business Summary section of Form SMWW-1 must be provided by the Applicant. Except in the case of a local government proposal to acquire fee simple interest in the Project Site for a public use. Applications submitted without the required Business Summary will not be considered by the Trust for recommendation to the Board of Trustees. Applications containing a Business Summary that is deemed insufficient by the Trust will not be considered by the Board of Trustees. The Business Summary and other relevant information shall be the basis for the Management Plan that will guide the management and operation of funded projects.

(8) The following exhibits shall be provided:

(a) United States Geological Survey 7 1/2 minute quadrangle map with the boundary of the Project Site clearly delineated.

(b) County Tax Appraiser's map clearly delineating the project site boundary, names of the property owners, and parcel tax identification numbers, and ownership boundaries using an appropriate scale.

(c) Aerial photograph (1 inch = 2,000 feet or greater detail) with the Project Site boundary clearly delineated.

(d) Physical improvements map of an appropriate scale that clearly delineates all existing physical improvements, alterations, or disturbances occurring on the Project Site, and including, but not limited to, all cleared areas, buildings, roads, fences, docks, power lines, billboards, boat ramps, parking areas and known easements and rights-of-ways, and the approximate acreage of the foregoing.

(e) Conceptual site plan that clearly delineates the project site boundary and shows the approximate location of all existing and proposed site improvements.

(f) One set of labeled photographs of the Project Site which depict all on-site features on the Project Site and including, waterbodies, shorelines, historical features and existing improvements. Each photograph submitted shall include a legend that identifies the photograph location and key features that the photograph is intended to depict.

(g) If applicable, evidence of status as a Nonprofit Working Waterfront Organization as defined in subsection 9K-9.002(16), F.A.C.

(h) A signed statement from the owner(s) of each parcel indicating their willingness to consider an offer to purchase or to donate their parcel(s).

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.005 Application Review.

(1) Applications received by the Application deadline shall be reviewed and evaluated by Trust staff based on the materials submitted. Applicants will be notified of the timely receipt and status of their Application(s).

(2) No additional information shall be accepted after the Application deadline, unless specifically requested by the Trust staff for clarification of information provided in the Application received by the published Application deadline. Any clarification information requested must be received by the Trust no later than 21 days prior to the Governing Board meeting or the information will not be considered by the Trust. At a publicly noticed meeting, the Governing Board will finalize the ranking report which will be presented to the Board of Trustees.

(3) A project shall be eligible for scoring only if its purpose is to restore or preserve Working Waterfront as defined in Section 380.503(18), F.S.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.006 Project Evaluation Criteria.

The evaluation of Applications shall be based on the criteria set forth in this rule chapter and the information in Application Form SMWW-1. Trust staff shall utilize the information contained in the Application (including exhibits) and all information obtained during its review of the Application, including information obtained during site visits, in drafting an evaluation report and developing a ranking report to present to the Governing Board. At a publicly noticed meeting, the Governing Board will evaluate the reports and approve the recommended ranking report that will be presented to the Board of Trustees.

The Business Summary shall be evaluated for sufficiency based on information provided in Application Form SMWW-1. Staff from the Department of Agriculture and Consumer Services, and other state agencies as deemed necessary by the Trust, shall review each Business Summary and provide

comments to the Trust. Trust staff shall prepare a recommended Business Summary sufficiency determination that takes into consideration comments received from the Department of Agriculture and Consumer Services and other agencies for consideration by the Governing Board. Applications containing a Business Summary deemed insufficient by the Trust will not be considered by the Board of Trustees.

An Application shall receive all the points assigned to a particular criterion if the criterion is met; no partial scores will be given for a criterion. If a criterion does not apply to the proposed Project Site, the Applicant should state "No" in the response to the criterion.

Points shall be awarded when the following criteria are met:

(1) Location:

(a) The Project Site is located within the boundary of a locally designated Community Redevelopment Area as defined in Section 163.340, F.S. and furthers the adopted community redevelopment plan (10 points);

(b) The Project Site is adjacent to state-owned submerged lands designated as an aquatic preserve identified in Section 258.39, F.S. (10 points);

(c) The Project Site is located within a municipality with a population less than 30,000 (10 points);

(d) The Project Site is within an area designated as an active "Waterfronts Florida Partnership Community" (9 points);

(e) The Project Site provides services and is located within 15 miles of a state designated aquaculture "High Density Lease Area" (5 points); and

(f) The Project Site is within an area designated as a "Rural Area of Critical Economic Concern" (4 points).

(2) Economic Consideration:

(a) The proposed project provides an economic benefit to the community (10 points);

(b) The Project Site is located in a municipality or in the unincorporated county with a growth rate that exceeds the average growth rate for the state, as shown by population increase since the last census (10 points); and

(c) The Project Site has sustained significant hurricane damage in the past 5 years (5 points).

(3) Site Suitability/Readiness:

(a) The Project Site contains existing structures that can be used or require only minor improvements, for use as commercial saltwater fisheries or aquaculture operations (points may be awarded based on the following criteria):

1. Docking facility for commercial fishing vessels (12 points);

2. Seafood House or other buildings to be used for Working Waterfront Business (10 points);

3. Boat ramp for commercial fishing vessels (8 points);

4. Storage area for traps, nets, and other gear needed for commercial fishing or aquaculture operations (4 points);

(b) The Project Site has a submerged land lease from the Board of Trustees, Environmental Resource Permit, or Wetland Resource Permit for the existing or proposed docking facility (7 points);

(c) The Project Site has obtained all necessary permits from the local government for the existing or proposed uses on the uplands (7 points);

(d) The proposed project will be acquired using a less-than-fee Working Waterfront Covenant for all of the land to be acquired (5 points);

(e) The Project Site will participate in Florida's Clean Marina Program (4 points).

(4) Financial Contribution:

(a) Providing a share of the eligible Match. The Applicant is committed to:

1. Provide a Match between 25 percent to 34 percent of the Project Costs, or, for Small Local Governments as defined in subsection 9K-9.002(21), F.A.C., and Nonprofit Working Waterfront Organizations, a Match between 10 percent and 19 percent of the Project Costs (5 points); or

2. Provide a Match of 35 percent or more of the Project Costs, or, for Small Local Governments as defined in subsection 9K-9.002(21), F.A.C., and Nonprofit Working Waterfront Organizations, a Match of 20 percent or more of the Project Costs (10 points).

(b) The applicant has committed to major restoration of an existing docking facility for commercial fishing vessels or to construct a new docking facility for commercial fishing vessels (8 points);

(c) The applicant has committed to major restoration of an existing Seafood House or other building used for working waterfront business or to construct a new Seafood House or other buildings of at least 1,000 square feet to be used for Working Waterfront Business (6 points);

(d) The applicant has committed to major restoration of an existing boat ramp or to construct a new boat ramp for commercial fishing vessels (4 points).

(5) Community Planning:

(a) The project is located in a Future Land Use category, zoning district, or overlay district that has been identified for the protection and preservation of Working Waterfront (5 points);

(b) The project furthers local government comprehensive plan objectives and policies directives that ensure the protection and preservation of Working Waterfront for use by commercial fisherman, aquaculturists, or business entities that support these industries (5 points);

(c) The project furthers local government comprehensive plan objectives and policies directives to provide facilities that promote and educate the public about the economic, cultural and historical heritage of Florida's traditional Working Waterfront (3 points).

(6) Public Education:

(a) The Projects Site provides permanent structured displays of artifacts and other items open to the public that provide information about the economic, cultural or historic heritage of Florida's traditional Working Waterfront (4 points);

(b) Project Site contains a structure(s) that is listed on the National Register of Historic Places administered by the National Park Service (3 points);

(c) Interpretive kiosk or signs are provided that educate the public about the economic, cultural, or historic heritage of Florida's traditional Working Waterfront (2 points).

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New

9K-9.007 Ranking and Selection of Applications.

(1) Prior to preparing the ranking report of projects, Trust staff shall conduct site visits as needed to verify the conditions represented by the Applicants in the SMWW-1.

(2) Ranking report and evaluation reports. After a period for review, Trust staff shall prepare a preliminary ranking report and written evaluation reports listing the criteria for which points were received by each Applicant, based on information provided in the Applications and the site visits. The preliminary ranking report and evaluation reports for each Applicant shall be provided to the Governing Board.

(3) The Governing Board shall meet for the purpose of approving the recommended scoring report of all Applications at a publicly noticed meeting. Staff shall also provide a copy of the preliminary scoring report and evaluation report to each Applicant prior to the Governing Board meeting.

(a) The Governing Board shall consider each Application and the scores assigned in the Trust staff evaluation report. The Board may modify staff recommended scores in order to settle unresolved issues arising from written objections from Applicant(s) to scores received in the evaluation report. Applicant objections to staff recommended scores must be submitted in writing to the Trust staff at least 48 hours prior to the Board ranking meeting in order to be considered. Decisions to modify point totals shall be based on review of Applications by the Governing Board, and public presentations to the Governing Board by Trust staff, Applicants and other members of the general public.

(b) All proposed amendments to the Local Comprehensive Plan that are included with the Application will be considered in the staff evaluation. Proposed amendments cited in the Application must be adopted by the Local Government and

approved by the Department prior to the date of the Governing Board ranking meeting in order for points to be awarded in the final score.

(4) The Governing Board shall develop and approve a list of all Projects in rank order for consideration by the Board of Trustees. Each Applicant shall be provided with the recommended ranking list prior to the Board of Trustees' meeting.

(5) The recommended ranking list shall be considered by the Board of Trustees, at a noticed meeting, for their approval in accordance with Section 380.5105(4), F.S.

(6) Following the approval by the Board of Trustees of projects to be funded, the Trust shall enter into a Grant Contract that contains the conditions of the Grant. Such conditions shall be based on Applicant representations, findings from site visits and other investigations. Applicants will be advised of the conditions prior to completion of the Grant Contract.

(7) If for any reason funds awarded to an approved project become available prior to the next Application cycle, those funds may be committed to other project(s) based upon available funds and the final ranking of projects as designated by the Board of Trustees.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.008 Grant Contracts.

(1) The established time frame for funding approval shall be for a period not to exceed 12 months. Approval shall be evidenced by a fully executed Grant Contract between the Trust and the Recipient. When the established time frame has expired, the project shall be terminated and funds committed to the project shall then be committed to other approved Applications. The Trust may extend the Grant Contract beyond the established time frame if significant progress is being made toward the acquisition of the project site or if extenuating circumstances warrant an extension of time.

(2) The time period of the Grant Contract and extensions shall not exceed a total of 24 months; unless, however, the Trust extends an Award beyond 24 months when significant progress is being made toward closing the project or if extenuating circumstances warrant an extension of time.

(3) The Recipient must request an extension in writing that includes an explanation of the goals currently accomplished to complete the project and the timeframe needed to complete outstanding goals. The Recipient may also include an explanation of circumstances beyond their control that have negatively impacted the completion of the project site.

(4) The Trust may unilaterally terminate the Grant Contract prior to the established time frame, if it is determined by the Trust that no significant progress is being made toward the Acquisition of the Project Site or other circumstances are

present which would, in all likelihood, preclude or prevent the successful Acquisition of the Project Site within the established time frame.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.009 Modification of Project Boundaries.

Modification to the boundary of a Project Site selected for approval will be considered by the Trust on a case-by-case basis. Requests to modify the project boundary shall be submitted to the Trust within 12 months of the approval of the Grant Contract. Requests for boundary amendments received after said deadline shall not be considered unless an exception is granted by the Trust based upon the demonstration of good cause. Good cause shall be based on whether the boundary modification is necessary to the successful development and management of the Project Site. The following procedures are established to guide the submission and review of boundary modification requests.

(1) A written request for boundary modification must be submitted and contain the items listed below. The request must be transmitted with an original signature cover letter on the Recipient's letterhead, signed by the appropriate authorized representative named in the Grant Contract, and include a statement binding the Recipient to fulfill the commitments made in the request for boundary modification.

(a) An explanation of how the proposed modification complies with the intent and purpose of the project as stated in the original Application;

(b) An explanation of why the requested boundary change was not contained in the original Application;

(c) An explanation of the effect on the overall project if the requested modification is not approved.

(2) Following receipt of a request for boundary modification, Trust staff shall conduct a preliminary review to determine if the information provided includes the required items listed in this rule chapter. Trust staff shall notify the Recipient's key contact of any additional information or clarification that is needed to complete the review.

(3) In considering on whether to approve the boundary modification, Trust staff shall give consideration to the following:

(a) Whether the proposed boundary modification is consistent with the purpose and intent of the original Application; and

(b) Whether the proposed boundary modification would facilitate the Acquisition of the overall Project Site;

(4) Trust staff may conduct a site visit to verify representations made in the boundary modification request before making a final determination whether the boundary change is appropriate.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.010 Preparation and Acceptance of the Management Plan.

(1) Prior to release of Florida Forever Funds for a project, the Recipients shall submit a Management Plan for approval by the Trust. The Management Plan shall explain how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of the Grant Contract.

(2) The Trust shall approve the Management Plan upon confirmation that it is consistent with the purposes of the Application and the terms and conditions of the Grant Contract.

(3) Any revision or modification to the approved Management Plan will require review and approval by the Trust. The Recipient shall provide a written request for any Management Plan change including all appropriate supporting materials.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.011 Title, Acquisition Procedures, Lease Agreements and Transfer of Title.

This rule chapter and Chapter 9K-10, F.A.C., shall govern in all matters of title, acquisition procedures, lease agreements and transfer of title for lands acquired pursuant to this rule.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-9.012 Annual Stewardship Report Requirement.

Pursuant to Section 380.5105(5), F.S., each award to a Recipient shall include a condition that, after Acquisition of the Project Site, a stewardship report is required. The stewardship report is intended to verify that conditions imposed at the time the award was made are being followed and to monitor the stewardship and use of the property. The stewardship report shall be due each year.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary of Department of Community Affairs and Chair of the Florida Communities Trust Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE NOS.:	RULE TITLES:
9K-10.001	Purpose
9K-10.002	Definitions
9K-10.003	General Information
9K-10.004	Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price
9K-10.005	Confidentiality of Appraisals, Other Reports Relating to Value, Offers and Counteroffers
9K-10.006	Negotiation of Offers and Counteroffers
9K-10.007	Purchase Agreements
9K-10.008	Title Report and Evidence of Marketable Title
9K-10.009	Certified Survey
9K-10.010	Examination for Hazardous Materials Contamination
9K-10.011	Closing

PURPOSE AND EFFECT: To implement rules to govern the Stan Mayfield Working Waterfronts Program.

SUMMARY: These rules govern the land acquisition procedures for the Stan Mayfield Working Waterfronts program that was created during the 2008 legislative session pursuant to Section 380.5105, Florida Statutes. This rule chapter implements Chapter 2008-229, Laws of Florida, which created Sections 380.503 and 380.5105, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 380.507(11), 380.5105(2) FS.

LAW IMPLEMENTED: 259.105, 380.5105 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 29, 2008, 1:00 p.m.

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities

Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-10.001 Purpose.

This rule chapter sets forth the procedures that must be followed for land acquisitions for the Stan Mayfield Working Waterfronts Program using Florida Forever funds awarded by Florida Communities Trust.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New

9K-10.002 Definitions.

The definitions set forth in Rule 9K-9.002, F.A.C., shall apply as used in this rule chapter and are incorporated herein by reference. Additionally, the following definitions shall apply as used in this rule chapter:

(1) “Appraisal” or “Appraisal Services” means the services provided by Florida certified or licensed Appraisers pursuant to Section 475.611(1), F.S.

(2) “Appraisal Report” means the written analyses, opinions, and conclusions issued by an Approved Appraiser in connection with the Acquisition of any interest in real property under this rule chapter or Chapter 9K-9, F.A.C.

(3) “Appraiser” means any person who is certified or licensed by the State pursuant to Chapter 475, Part II, F.S., and whose certification or license is current, valid and active.

(4) “Approved Appraisal” means an Appraisal that has been reviewed and approved by the Trust for use in determining the Maximum Approved Purchase Price.

(5) “Approved Appraiser” means an Appraiser who has the necessary background, qualifications and experience to appraise the interest in real estate being acquired under this Chapter and whose name is on the current list of approved appraisers on file with the Division of State Lands, Department of Environmental Protection.

(6) “Approved Survey” means a Certified Survey that has been reviewed and approved by the Trust.

(7) “Certified Survey” means a survey that is certified, signed and sealed by a registered land surveyor authorized to practice surveying in the State pursuant to Chapter 472, F.S.

(8) “Confidential” refers to information that shall not be available for public disclosure or inspection and is exempt from the provisions of Section 119.07, F.S.

(9) “Hazardous Materials Contamination” means radon, PCBs, oil or other petroleum based products, chemicals, any noxious, hazardous, offensive, explosive or toxic substances or waste, or any hazardous materials or toxic substances as such terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq. (CERCLA), the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq. (HMTA), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 5101 et seq. (RCRA), and the regulations adopted pursuant thereto.

(10) “Market Value”, as defined in the Uniform Standards of Professional Appraisal Practice (as promulgated by the Appraisal Standards Board of The Appraisal Foundation), means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming that the price is not affected by undue stimulus.

(11) “Maximum Approved Purchase Price” means the maximum purchase price that the Trust can participate in as determined by Appraisals performed on a Project Site that have been reviewed and approved by the Trust.

(12) “Minimum Technical Standards” means the Minimum Technical Standards for Surveyors as set forth by the Florida Board of Professional Surveyors and Mappers pursuant to Chapter 472, F.S. and Chapter 61G17-6, F.A.C.

(13) “Option Agreement” or “Option Contract” means a proposed written agreement between the Recipient and the Trust to purchase all or a portion of the property lying within the Project Site, subject to the approval of the Recipient’s governing body and the Trust after appropriate notice and hearing (as may be required).

(14) “Owner(s)” or “Seller(s)” means the fee simple title owner(s) of the Project Site.

(15) “Purchase Agreement” means the various types of written contracts to purchase real property, including purchase agreements, Option Agreements, exchange agreements and other forms of such agreements, that become binding on all parties to the contract at the time the Purchase Agreement is duly executed.

(16) “Title Insurance Commitment” means a written agreement issued by a Florida licensed title insurer agreeing to issue to the Recipient, the Trust, or the Board of Trustees, individually or as co-insureds, upon the recording of the deed, an owner’s policy of title insurance in the amount of the Project Site’s purchase price insuring marketability of title to the Project Site, subject only to liens, encumbrances, exceptions or qualifications that are acceptable to the Trust and the Recipient, and those which will be discharged by the Owner(s) at closing.

(17) “Uniform Standards of Professional Appraisal Practice” means the standards in effect as of the effective date of this rule approved and adopted by the Appraisals Standards Board of The Appraisal Foundation.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History—New _____.

9K-10.003 General Information.

(1) This rule chapter shall govern the activities for Acquisition of real property for the Stan Mayfield Working Waterfronts program using proceeds from the Florida Forever Trust Fund, when title to such real property vests in the Recipient.

(2) The disbursement of Florida Forever Funds from the Trust shall be subject to the following conditions: The administration and use of any funds received by the Trust from the Florida Forever Trust Fund shall be subject to such terms and conditions imposed thereon by the agency of the state responsible for the revenue bonds, the proceeds of which are deposited in the Florida Forever Trust Fund, including restrictions imposed to ensure that the interest on any such revenue bonds issued by the state as tax-exempt revenue bonds will not be included in the gross income of the holders of such bonds for federal income tax purposes.

(3) The Recipient shall designate an employee or officer who shall serve as the key contact for the exchange of information regarding the Acquisition activities and who shall be responsible for ensuring compliance with the provisions of all applicable statutes, the Grant Contract, rules of the Trust and any local land acquisition ordinances that may apply.

(4) Funds awarded through any program of the Trust that derive from the Florida Forever Trust Fund may only be used to pay the eligible Project Costs associated with Voluntarily Negotiated Transactions.

(5) The Project Site will be a Joint Acquisition and all acquisition activities will be completed by the Trust.

(6) Prior to release of Florida Forever Funds for a project, the Recipient shall submit a signed statement by the Recipient that the Recipient is not aware of any pending criminal, civil or regulatory violations imposed on the Project Site by any governmental agency or body.

(7) If requested by the Trust, the Recipient shall provide additional documentation to provide Reasonable Assurance that the Recipient will be able to fulfill its obligations under the Grant Contract, the Declaration of Restrictive Covenants, and Chapter 9K-9, F.A.C.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History—New _____.

9K-10.004 Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price.

(1) The Trust shall contract with the Approved Appraiser(s) according to contract requirements of the Trust.

(2) Techniques and methods used by the Appraiser shall substantially conform to the Uniform Standards of Professional Appraisal Practice (USPAP), as defined in Chapter 475, Part II, F.S., as well as Trust appraisal instructions and format.

(3) The Trust shall provide to the Appraiser all pertinent title information developed in the title report, a specification of the rights to be acquired, a list of items, if any, considered to be noncompensable, required appraisal forms or formats, and the most recent survey, if available.

(4) The Trust shall obtain at least one Appraisal by an Approved Appraiser for each ownership in a Project Site estimated to be valued less than \$500,000. For each ownership in a Project Site estimated to be valued at or greater than \$500,000, the Trust shall obtain at least two Appraisals by Approved Appraisers.

(5) Determination of Maximum Approved Purchase Price.

(a) For purposes of calculating the Trust and the Recipient shares of the purchase price paid for real property, a Maximum Approved Purchase Price shall be determined. The Grant Contract will describe financial participation by the Trust and the Recipient on a percentage basis. The Trust considers that the maximum purchase price in which it will participate shall be the Maximum Approved Purchase Price or purchase price, whichever is less. If the Recipient decides to pay a purchase price higher than the Maximum Approved Purchase Price, the Recipient shall pay all the purchase price amount over the Maximum Approved Purchase Price, in addition to the Match percentage share of the Maximum Approved Purchase Price.

(b) Appraisals shall be reviewed by a review Appraiser who is employed by or under contract to the Trust. The review Appraiser must certify to the Trust that the Appraisals have been conducted substantially in accordance with this rule chapter and with correct Appraisal standards and methods, and must certify the appraised value(s) of the subject real property. This certified value shall also be referred to as “the Maximum Approved Purchase Price.”

(c) The Maximum Approved Purchase Price shall be the value indicated in a single reviewed and approved Appraisal if only one Appraisal is required. If two Appraisals are obtained and approved when only one is required by this rule chapter, the Maximum Approved Purchase Price shall be the higher of the two values indicated in the Appraisals.

(d) If two Appraisals are required and their values do not differ significantly, the Maximum Approved Purchase Price shall be the higher value indicated in the two Appraisals. The two Appraisals shall be considered to differ significantly if the higher of the two values exceeds 120 percent of the lower value.

(e) When two Appraisals required under subsection (4) above differ significantly, the following steps shall be taken:

1. The review Appraiser shall request that the two Appraisers review the differences in their respective reports to attempt to rectify their value conclusions so that the two value conclusions are not significantly different;

2. A third Appraisal shall be obtained if the two Appraisals differ significantly and cannot be rectified as in the above paragraph unless a decision is made by the Trust to negotiate an Acquisition price of no more than 120 percent of the lower of the two reviewed and approved Appraisals; and

3. If a third Appraisal is obtained and reviewed and approved, the Maximum Approved Purchase Price shall be the value contained in the higher of the two closest Appraisals, so long as the two closest Appraisals do not differ significantly. If the two closest Appraisals differ significantly, 120 percent of the lower of the two Appraisals shall be the Maximum Approved Purchase Price.

(6) The Trust shall compare the Maximum Approved Purchase Price with the cost to purchase the land as estimated in the Application. If that estimated cost is greater than the Maximum Approved Purchase Price, the Trust shall reduce the amount of the Award by a letter of notice to the Recipient.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History–New _____.

9K-10.005 Confidentiality of Appraisals, Other Reports Relating to Value, Offers and Counteroffers.

(1) The Trust and the Recipient shall maintain confidentiality of all Appraisals, and any other reports relating to value, offers and counter-offers. Appraisals, and any other reports relating to value, offers and counteroffers are not available for public disclosure or inspection and are exempt from the provisions of Section 119.07(1), F.S., until a Purchase Agreement is executed by the Owner(s) and Recipient and conditionally accepted by the Trust, or if no Purchase Agreement is executed, then as provided for in Sections 125.355(1)(a) and 166.045(1)(a), F.S.

(2) If a Purchase Agreement is not submitted to the Trust for approval, the exemption from Section 119.07(1), F.S., will expire 30 days after the termination of negotiations. The date of termination of negotiations may be based on a written statement from a party to the negotiations that good faith efforts at negotiating a Purchase Agreement have failed and that the party desires to cease negotiations. Reinitiation of negotiations shall require approval of the Trust.

(3) The Trust and the Recipient shall execute an agreement to maintain confidentiality of all Appraisals, reports relating to value, written offers and written counteroffers until such time as the information is no longer exempt from Section 119.07(1), F.S. This agreement of confidentiality shall expressly name the individuals to whom the information may be disclosed during the period that the information is exempt from the requirements of Section 119.07(1), F.S. The exemptions from

Section 119.07(1), F.S., that are provided in this paragraph are subject to the Open Government Sunset Review Act in accordance with Section 119.15, F.S.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History–New _____.

9K-10.006 Negotiation of Offers and Counteroffers.

(1) It shall be the goal of the Trust and the Recipient that the Acquisition of the real property be negotiated at the best price and terms that can be negotiated in the interest of the project's public purpose, with preference given to a purchase price at or below the Maximum Approved Purchase Price. The objective of all purchase negotiations shall be to obtain, at the lowest possible price, the appropriate interest in real property free of encumbrances, conditions, restrictions and reservations that would impede the purposes or management of the Project Site. In the course of negotiations the Trust may discuss the advantages of a Donation and bargain sale. If the real property to be acquired is not already surveyed and the acreage of the site is not known, the Owner shall be advised of the benefits of obtaining a safe upland line survey, as opposed to a mean high water or ordinary high water survey, for calculating the acreage of the site.

(2) All offers and counteroffers shall be in writing.

(3) The Trust may negotiate and enter into a Purchase Agreement prior to or after the receipt and approval of Appraisals. However, such negotiations and agreements are subject to the conditions established in this rule chapter. The Trust shall maintain appropriate records regarding any and all contact(s) with the Owner.

(4) Initial contact with the Owner may be established prior to negotiations. When initiated, such contact should be limited to the following:

(a) To inform the Owner about the Stan Mayfield Working Waterfronts land Acquisition program;

(b) To explain in general terms the possible tax advantages of land Donations and bargain sales;

(c) To request permission from the Owner in order to have his property appraised and surveyed

(d) To discuss the timing of the Acquisition, and the competition for funds under the Stan Mayfield Working Waterfronts program;

(e) To discuss the matter of representation of the Owner by an Agent in any future negotiations, and the necessary confirmation by the Owner of the Agent's status;

(f) To request available title data;

(g) To advise of disclosure requirements;

(h) To request available property survey data; and

(i) To discuss other information pertinent to the Acquisition process in general.

(5) Upon the initiation of negotiations, the Owner shall be notified in writing that the terms of the final Purchase Agreement are subject to affirmative action by the Recipient and the Trust.

(6) The Trust shall maintain complete and accurate records of every such offer and counteroffer.

(7) When the Owner is represented by an Agent, negotiations may not be initiated or continued with the Agent until a written statement signed by the Owner verifying the Agent's legal or fiduciary relationship with the Owner has been received by the party responsible for negotiations and a copy has been provided to the Trust.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-10.007 Purchase Agreements.

(1) The form of the final negotiated purchase shall be a written Purchase Agreement that is signed by the Owner(s), the Recipient and the Trust.

(2) The Trust will prepare and use any form of Purchase Agreement as meeting the intent of all applicable laws and this rule chapter.

(3) The Trust shall develop a model standard Purchase Agreement.

(4) The Trust shall obtain all disclosures of beneficial interest required in Section 286.23, F.S., before entering into a Purchase Agreement.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-10.008 Title Report and Evidence of Marketable Title.

(1) To obtain Appraisals, the Trust may obtain a title report or title commitment which shall include a legal description of the Project Site to be acquired that is sufficient to inform the Trust, the Recipient and the Appraisers of the status of ownership, encumbrances, exceptions, reservations, and previous ownership history.

(2) Evidence of Owner's marketable title shall be provided to the Recipient(s) and the Trust prior to the conveyance of title. The Trust shall further be provided a Title Insurance Commitment in accordance with the Purchase Agreement. The Title Insurance Commitment shall be followed after conveyance by an owner's marketable title insurance policy (ALTA Form B) in favor of the Recipient or the Board of Trustees in accordance with the Recipient's election under Rule 9K-8.004, F.A.C. The Trust shall be listed as a co-insured on the Title Insurance Commitment and title insurance policy.

(3) The standard for examination of condition of title shall be The Uniform Title Standards of the Real Property, Probate & Trust Law Section of The Florida Bar, 1981 edition together with all updates.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-10.009 Certified Survey.

(1) At least 30 days prior to closing, a Certified Survey must be submitted to the Trust for final approval to rectify acreage and title issues against the title commitment, the negotiated Purchase Agreement and the Appraisal(s) used to determine the Maximum Approved Purchase Price.

(2) In cases where a Certified Survey cannot be practically completed or where the cost of the Certified Survey would be prohibited relative to the expected value of the real property, the requirement for such Certified Survey may, in whole or in part, be waived by the Recipient and the Trust. Such a waiver shall be requested by the Recipient at the time of submitting the Application.

(3) The Certified Survey shall be prepared according to the Minimum Technical Standards for Land Surveying and such additional requirements as may be determined by the Trust and the Recipient to be necessary to meet the intent of the statute and this rule chapter. The Certified Survey shall accurately portray to the greatest extent practicable the condition of the real property as it currently exists. The survey must have been certified within 90 days of the closing on the property unless this requirement is waived by the title insurer for the purpose of deleting the standard survey exception from the owner's title insurance policy.

(4) The Certified Survey shall be approved by the Trust as being in compliance with the requirements of this rule chapter.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-10.010 Examination for Hazardous Materials Contamination.

(1) All sites acquired with funds from the Florida Forever Trust Fund shall be examined for hazardous materials contamination within 90 days before closing.

(2) The examination for hazardous materials contamination shall be performed by an individual who is experienced in performing such an environmental site assessment and shall be documented in writing to the Trust and the Recipient.

(3) The examination for hazardous materials contamination shall be performed to the standard of practice of the American Society of Testing Materials (ASTM). For Phase I environmental site assessment, such standard of practice shall be the ASTM Practice E 1527. If the findings and conclusions section of the assessment reports evidence of recognized environmental conditions, then a Phase II Environmental Site Assessment may be performed to address any suspicions raised in the Phase I environmental site assessment and to confirm the presence of contaminants on site.

(4) Prior to closing the Recipient shall examine the written assessment and advise the Trust in writing of its understanding that by accepting title, it may be assuming liability for future adverse action or cleanup associated with the lands covered by the assessment.

(5) In the event an adverse environmental assessment is reported on a site, the Trust may confer with the appropriate staff of the Department of Environmental Protection for assistance in assessing the risk to the State. Because the Board of Trustees will have an executory interest in the Project Site, the Trust shall have the right to refuse to deliver funds for closing if the Trust and the Department of Environmental Protection determine the hazardous materials contamination presents a liability to the State that outweighs the benefits to be derived from the Acquisition of the Project Site. If it is determined by the Trust and the Department of Environmental Protection that a delay in, or termination of the Acquisition is necessary, the Trust shall immediately notify the Recipient. The Trust shall immediately notify all other parties to the Purchase Agreement of the action taken and the basis for the action.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

9K-10.011 Closing.

(1) Prior to closing the Trust shall prepare a grant reconciliation statement which shall evidence expenditures for all eligible Project Costs for the Project Site. The reconciliation statement shall be based on the prepared Buyer and Seller closing statements, the prepaid Project Costs of the Recipient and the Trust evidenced by paid receipts, any reimbursements to the Seller or others to be made after closing, the Award amount and any revisions to the Award. The reconciliation statement shall evidence the amount of funds needed from the Trust and Recipient in order that the closing may occur.

(2) The Trust shall have the authority to modify the Purchase Agreement to extend the time for option exercise, closing date, submittal deadlines or any other time limit relating to such agreement. The Trust shall also have the authority to execute or modify all documents necessary for the implementation of Trust action, such as the Purchase Agreement, letter of notification of exercise of option, leases, easements, legal descriptions, deeds, assignments, and other miscellaneous agreements and affidavits, provided the modification does not change the substance nor the scope of Trust approval, and provided the document executed or modified was either approved by the Trust or contemplated by Trust approval. Any changes in the purchase price to be paid to the Seller(s) not contemplated by the terms of the Purchase Agreement must be approved by the Trust. An extension or modification may only be made under the terms of the Purchase Agreement, or with the Seller's agreement.

Specific Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary of Department of Community Affairs and Chair of the Florida Communities Trust Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE NO: 33-208.002 RULE TITLE: Rules of Conduct

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to require employees to keep the department aware of the status of any criminal case or charge against the employee.

SUMMARY: The proposed amendment to Rule 33-208.002, F.A.C., requires employees to make a full written report of any status change in an arrest, Notice to Appear, or criminal charge filed against the employee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Jordan-Nunes, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.002 Rules of Conduct.

The Department of Corrections requires all employees to familiarize themselves with all rules and regulations pertaining to their positions and duties, and that employees abide by these rules and regulations. The following rules of conduct and performance standards are applicable both on and off the job to all Department of Corrections employees. Some of these rules of conduct are found again in abbreviated form in the next section titled "Range of Disciplinary Actions," however, all rules of conduct are enforceable by appropriate disciplinary action regardless of whether they are listed in the range of disciplinary actions.

(1) No change.

(2)(a) Each employee shall make a full written report of any of the following within 24 hours or upon reporting to work for his next assigned shift, whichever is sooner:

1. through 2. No change.

3. Any 'status change' in the case described in subparagraphs 1. and 2., above, to include any pleadings filed, appearances made, dates set, sanctions ordered, and decisions rendered.

~~4.~~ Knowledge of any violation of the law, rules, directives or procedures of the Department.

(b) No change.

(3) through (26) No change.

Specific Authority 944.09 FS. Law Implemented 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS. History--New 10-8-76, Amended 10-11-77, 4-19-79, 6-18-83, Formerly 33-4.02, Amended 8-15-89, 10-20-90, 3-20-91, 1-30-96, 3-24-97, 4-19-98, Formerly 33-4.002, Amended 7-17-02, 4-5-04, 4-17-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ralph Kiessig, Director of Human Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 26, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2008

DEPARTMENT OF CORRECTIONS

RULE NOS.:	RULE TITLES:
33-208.506	Staff Housing Agreement Form
33-208.507	Responsibilities of Staff Housing Occupants

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide limitations on the number and type of firearms, ammunition, black powder, and smokeless propellant powder that may be stored in staff housing.

SUMMARY: The proposed amendment to Rule 33-208.506, F.A.C., amends Form DC2-808A to comply with Chapter 790, F.S. The proposed amendment to Rule 33-208.507, F.A.C., limits the number and type of firearms allowed in staff housing and requires that firearms be stored safely and securely in accordance with Section 790.174(1), F.S., limits the amount of ammunition and smokeless propellant powder or black powder. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 20.315, 944.09(1), 945.025(1) FS.

LAW IMPLEMENTED: 20.315, 944.09(1), 945.025(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Jordan-Nunes, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.506 Staff Housing Agreement Form.

(1) Any employee who is required or requests to occupy staff housing shall submit a completed Staff Housing Agreement, Form DC2-808A, for processing in compliance with the assignment criteria in Rule 33-208.504, F.A.C., herein. This form is hereby incorporated by reference, and a copy may be obtained from the Forms Control Administrator, ~~Office of Research, Planning and Support Services,~~ Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____ April 8, 2002.

(2) through (3) No change.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History--New 9-1-88, Formerly 33-26.006, 33-602.506, Amended 8-16-00, 4-8-02, 3-30-05, _____.

33-208.507 Responsibilities of Staff Housing Occupants.

(1) through (3) No change.

(4) Firearms.

(a) The warden is authorized to enforce the following maximum limits on the number and type of firearms kept in any type of staff housing, to include mobile homes. These quantities are per each occupant who is legally authorized by statute to own or possess firearms.

1. Four shotguns,
2. Four rifles, and
3. Four handguns.

(b) These weapons must be stored safely and securely in accordance with Section 790.174(1), Florida Statutes. It is unlawful to store or leave a firearm in any place within the reach or easy access of a minor under 18 years of age.

(c) Ammunition for the firearms listed above is expressly limited to a maximum of one full case per firearm.

(d) Occupants of staff housing are expressly prohibited from possessing machine guns, short barreled shotguns, short barreled rifles, destructive devices, explosives, electric weapons or devices, and dart-firing stun guns, as defined in Section 790.001, Florida Statutes.

(e) Occupants of staff housing are expressly prohibited from possessing or storing smokeless propellant powder in quantities exceeding 20 pounds, or commercially manufactured sporting grades of black powder exceeding 20 pounds.

(f) Occupants of staff housing shall follow the restrictions placed on the possession and use of BB guns, air or gas-operated guns, or electric weapons or devices by minors under 16 in accordance with Section 790.22, Florida Statutes.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History--New 9-1-88, Formerly 33-26.007, 33-602.507, Amended 8-16-00, 1-19-03, 3-30-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
George Sapp, Assistant Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.210
RULE TITLE: Custody Classification

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend the rule to remove obsolete forms and to reflect the change of Immigration and Naturalization Services to Immigration and Customs Enforcement.

SUMMARY: The rule is amended to remove obsolete forms, DC4-803, Approval for Community Release and Furlough, and DC40, Community Release Recommendation, which are no longer in use and replace with DC6-127, Checklist for Transfers to Work Release Centers. The Rule is also amended to reflect the change of Immigration and Naturalization Services to Immigration and Customs Enforcement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09, 958.11 FS.

LAW IMPLEMENTED: 20.315, 921.20, 944.09, 944.17(2), 944.1905, 958.11 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Jordan-Nunes, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.210 Custody Classification.

(1) No change.

(2) Custody Grade Classification.

(a) through (i) No change.

(j) Any inmate who has been designated as an alien by the department, who has been in the custody of the department less than six months, and:

1. For whom no decision has been made by ~~the~~ Immigration and Customs Enforcement ~~Naturalization Service~~ regarding deportation,

2. through 3. No change.

(k) through (l) No change.

(3) No change.

(4) Progress Assessments.

(a) through (e) No change.

(f) In preparing assessments, care should be taken that all pertinent facts are included to insure that all up-to-date information concerning changes in an inmate's activity are documented. Additionally, any new recommendations of the committee in regard to inmate goals should be carefully documented and supporting facts included. If at the time of the review the inmate is being recommended for work release, the Form DC6-127, Checklist for Transfers to Work Release Centers ~~DC4-803, Approval for Community Release and Furlough, or Form DC40, Community Release Recommendation~~ will suffice for the assessment. Form DC6-127 is incorporated by reference in Rule 33-601.602, F.A.C.

(g) through (m) No change.

~~(5) Forms and Attachments. Form DC4-869, Custody Questionnaire, is incorporated by reference in this rule. A copy of this form may be obtained by writing the Forms Control Administrator, Office of Research, Planning and Support Services, Department of Corrections, 2601 Blair Stone Road,~~

~~Tallahassee, Florida 32399-2500. Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is May 13, 1996.~~

Specific Authority 944.09, 958.11 FS. Law Implemented 20.315, 921.20, 944.09, 944.17(2), 944.1905, 958.11 FS. History—New 12-7-81, Formerly 33-6.09, Amended 6-8-82, 10-26-83, 6-8-86, 7-8-86, 10-27-88, 1-1-89, 7-4-89, 10-12-89, 1-2-91, Formerly 33-6.009, Amended 7-21-91, 8-30-92, 5-13-96, 6-12-96, 11-19-96, 10-15-97, Formerly 33-6.0045, Amended 9-19-00, 2-25-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE NO.: 61G17-4.001
RULE TITLE: Written Examination Designated; General Requirements

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to delete the essay portion of the examination.

SUMMARY: The essay portion of the examination will be deleted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.217(1), 472.008 FS.
LAW IMPLEMENTED: 455.217(1), 472.013, 472.015 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Morrison, Executive Director, Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-4.001 Written Examination Designated; General Requirements.

(1) The examination shall consist of the following:

(a) Principles and Practice Examination prepared by the National Council of Examiners for Engineering and Surveying (NCEES);

(b) Fundamentals Examination prepared by the National Council of Examiners for Engineering and Surveying (NCEES);

(c) Florida Jurisdictional Multiple Choice Examination prepared by the Department or Board designee, and given prior to the NCEES examinations;

~~(d) Florida Jurisdictional Essay Examination, prepared by the Department, will be given following the Florida Jurisdictional Multiple Choice Examination.~~

(2) through (3) No change.

(4) National examination security requirements as set forth by the NCEES shall be followed throughout the administration of the NCEES Principles and Practice Examination and the NCEES Fundamentals Examination. Examination security requirements as set forth by the Department in Rule 61-11.014, F.A.C., shall be followed throughout the administration of the Florida Jurisdictional Multiple Choice Examination ~~and the Florida Jurisdictional Essay Examination.~~

THIS RULE SHALL TAKE EFFECT OCTOBER 31, 2008.

Specific Authority 455.217(1), 472.008 FS. Law Implemented 455.217(1), 472.013, 472.015 FS. History—New 1-3-80, Amended 6-9-80, 1-25-84, 5-22-85, Formerly 21HH-4.01, Amended 9-16-87, 8-30-92, Formerly 21HH-4.001, Amended 5-30-95, 11-15-95, 4-16-96, 8-10-97, 7-27-00, 10-31-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Surveyors and Mappers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.410
RULE TITLE: Santa Fe Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs), and their allocations, to address nutrient and dissolved oxygen impairments in Alligator Lake.

NOTE: Amendment to proposed new rule which was published in Vol. 34, No. 34, August 22, 2008 FAW. This amendment will not be adopted until after the adoption of the proposed new rule.

SUMMARY: The Alligator Lake TMDL addresses nutrients and dissolved oxygen impairments in Alligator Lake. This waterbody was verified as impaired by nutrients and dissolved oxygen using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The Watershed Management Model (WMM) and an empirical multi-variable method were used to simulate the total nitrogen and total phosphorus TMDLs. For dissolved oxygen, the nutrient TMDL targets, set as annual total nitrogen and total phosphorus loads, will decrease algal biomass in the lake from the current conditions, thereby reducing any pollutant impacts associated with the depressed dissolved oxygen.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: October 2, 2008, 10:00 a.m. – 12:00 Noon

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 609, Bob Martinez Center, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.410 Santa Fe River Basin TMDLs.
(1) through (2) No change.

(3) Alligator Lake TMDLs. Alligator Lake TMDL for nutrient and dissolved oxygen impairments: The TMDL for nutrients in Alligator Lake is 42,595 pounds/year of total nitrogen (a 28.4 percent reduction) and 3,050 pounds/year of total phosphorus (a 61.2 percent reduction) and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable.

(c) The LAs for nonpoint sources are 42,595 pounds/year of total nitrogen and 3,050 pounds/year of total phosphorus, and

(d) The Margin of safety is implicit.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2008

DEPARTMENT OF HEALTH

Board of Optometry

RULE NOS.: 64B13-3.007
RULE TITLES: Minimum Procedures for Comprehensive Eye Examination
64B13-3.010 Standards of Practice

PURPOSE AND EFFECT: The purpose and effect for Rule 64B13-3.007, F.A.C., is to clarify the Board's intended meaning in subsection 64B13-3.007(6)(b), F.A.C., by changing the word "supplemental" to "consultative"; for Rule 64B13-3.010, F.A.C., it is to provide that engaging in the sale, possession or distribution of controlled substances for any other than legitimate purposes constitutes practicing below the standard of care.

SUMMARY: In Rule 64B13-3.007, F.A.C., the Board's intended meaning in subsection 64B13-3.007(6)(b), F.A.C., is clarified by changing the word "supplemental" to "consultative"; in Rule 64B13-3.010, F.A.C., it is provided that engaging in the sale, possession or distribution of controlled substances for any other than legitimate purposes constitutes practicing below the standard of care.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 463.005(1) FS.

LAW IMPLEMENTED: 463.005(1), 463.0135, 463.016(1)(g), (k) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

64B13-3.007 Minimum Procedures for Comprehensive Eye Examination.

(1) through (5) No change.

(6) The minimum procedures set forth in subsection (2) above shall not be required in the following circumstances:

(a) No change.

(b) When a licensed practitioner or certified optometrist is providing ~~consultative~~ ~~supplemental~~ optometric services on a limited basis at the request of one or more health care practitioners licensed pursuant to Chapter 458, 459, or 463, Florida Statutes. Such services shall be provided with the patient's full knowledge of the limited nature of the optometric care. The name of the requesting health care practitioner and the optometric care provided shall be noted on the patient's case record;

(c) through (d) No change.

(7) No change.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135, 463.016(1)(g), (k) FS. History--New 11-13-79, Amended 4-17-80, 7-29-85, Formerly 21Q-3.07, Amended 7-18-90, Formerly 21Q-3.007, 61F8-3.007, 59V-3.007, Amended 4-3-00, 4-5-04, 6-5-06, 11-5-07,_____.

64B13-3.010 Standards of Practice.

(1) through (8) No change.

(9) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in Chapter 893, F.S., or any other than legitimate purposes, constitutes grounds for disciplinary action by the Board.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135(1), 463.016(1) FS. History--New 9-16-80, Amended 12-20-82, Formerly 21Q-3.10, Amended 7-11-88, 6-18-92, 1-28-93, Formerly 21Q-3.010, Amended 3-16-94, Formerly 61F8-3.010, Amended 8-24-94, 9-21-94, 2-13-95, 12-31-95, Formerly 59V-3.010, Amended 6-15-00, 2-7-01, 11-16-05, 11-5-07, 11-5-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.004
 RULE TITLE: Manner of Application

PURPOSE AND EFFECT: The purpose of the amendment is to comply with statutory changes to continuing education requirements in Section 456.033, F.S.

SUMMARY: In this amendment, statutory changes to continuing education requirements in Section 456.033, F.S., are complied with.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.033, 463.006(1)(b), (2) FS.

LAW IMPLEMENTED: 456.013(7), 456.033, 463.006(1)(b), (2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.004 Manner of Application.

(1) through (2) No change.

~~(3) Each applicant for examination must complete an educational course on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS) approved by the Board of Optometry. To be Board approved an educational course on HIV/AIDS must:~~

~~(a) Consist of education on the transmission, control, treatment, and prevention of HIV/AIDS with emphasis on appropriate behavior and attitude change; and either~~

~~(b) Meet the requirements of Chapter 64B13-5, F.A.C.; or~~

~~(c) Be completed as part of the educational requirements of the school from which the applicant received his/her optometry degree.~~

~~(4) Any applicant for licensure who has not fulfilled the requirements of subsection (3) above at the time of licensure shall upon an affidavit showing good cause be allowed 6 months to complete an approved AIDS Management course as specified in Rule 64B13-4.004, F.A.C.~~

~~(3)(5)~~ Applicants are required to complete a 2-hour course relating to prevention of medical errors as part of the licensure process. The course shall be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety.

Specific Authority 456.033, 463.006(1)(b), (2) FS. Law Implemented 456.013(7), 456.033, 463.006(1)(b), (2) FS. History—New 11-13-79, Amended 4-17-80, Formerly 21Q-4.04, Amended 11-20-86, 4-19-89, 6-25-92, 6-6-93, Formerly 21Q-4.004, Amended 6-14-94, Formerly 61F8-4.004, Amended 3-21-95, 5-29-95, Formerly 59V-4.004, Amended 7-15-02, 11-3-03, 11-16-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF HEALTH

Board of Optometry

RULE NOS.:	RULE TITLES:
64B13-15.006	Designation of Patient Care Violations; Major; Minor
64B13-15.009	Citations

PURPOSE AND EFFECT: The purpose of the amendment for Rule 64B13-15.006, F.A.C., is to conform the rule to a previous amendment to Rule 64B13-3.007, F.A.C.; for Rule 64B13-15.009 it is to add citation violations to the rule.

SUMMARY: In Rule 64B13-15.006, F.A.C., the rule is conformed to a previous amendment to Rule 64B13-3.007, F.A.C.; in Rule 64B13-15.009, F.A.C., citation violations are added to the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.077, 456.079, 463.005 FS.
LAW IMPLEMENTED: 456.077, 456.079 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

64B13-15.006 Designation of Patient Care Violations; Major; Minor.

(1) Violations of the following statutory and rule provisions are considered to be Minor Patient Care Violations:

- (a) No change.
- (b) Subsections (1) and (2) of Rule 64B13-3.007, F.A.C., entitled “Minimum Procedures for Comprehensive Eye Examination ~~Vision Analysis~~,” if the violation is a first offense of failing to perform or record.
- (c) No change.

(2) Violations of the following statutory and rule provisions are considered to be Major Patient Care Violations:

- (a) through (h) No change.
- (i) Subsections (1) and (2) of Rule 64B13-3.007, F.A.C., entitled “Minimum Procedures for Comprehensive Eye Examination ~~Vision Analysis~~,” if the violation is at least a second offense of failing to perform or record.
- (j) through (o) No change.
- (3) No change.

Specific Authority 456.079 FS. Law Implemented 456.079 FS. History—New 2-24-87, Formerly 21Q-15.006, 61F8-15.006, 59V-15.006, Amended 5-1-02,_____.

64B13-15.009 Citations.
(1) through (3) No change.
(4) Pursuant to Section 456.077, F.S., the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare.

(a) The Board hereby designates the following as citation violations which shall result in a penalty of two hundred and fifty dollars (\$250.00):

- 1. through 5. No change.
- 6. Failure to respond to a continuing education audit as required by Rule 64B13-5.001, F.A.C. The licensee shall come into compliance by paying the citation fine within thirty (30) fifteen (15) days after receipt of the citation.
- (b) No change.
- (5) No change.

(6) Tendering a check payable to the Board of Optometry or to the Department of Health that is dishonored by the institution upon which it is drawn shall result in a fine of \$100 and payment of the check within thirty (30) days.

Specific Authority 456.077, 463.005 FS. Law Implemented 456.077 FS. History—New 1-1-92, Formerly 21Q-15.009, 61F8-15.009, 59V-15.009, Amended 3-21-00, 4-17-01, 12-26-01, 5-1-02, 7-15-02, 6-13-04, 11-16-05, 11-5-07, 7-13-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 26, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.2031
RULE TITLE: Licensure by Examination; Foreign
Pharmacy Graduates

PURPOSE AND EFFECT: The Board proposes the rule amendment to amend the qualifications of a foreign pharmacy graduate to sit for the licensure examination.

SUMMARY: The qualifications for a foreign pharmacy graduate to sit for the licensure examination will be amended.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 465.005, 465.007 FS.

LAW IMPLEMENTED: 465.007 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.2031 Licensure by Examination; Foreign Pharmacy Graduates.

In order for a foreign pharmacy graduate to be admitted to the professional licensure examination, the applicant must:

(1) Submit an application for licensure by examination on board approved form DOH/MQA/PH100 (Rev.07/08), Foreign Graduate Examination Application, which is hereby incorporated by reference, and which can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, and must be accompanied with a non-refundable examination fee and an initial license fee set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

~~(2)(4)~~ Be a graduate of a four year undergraduate pharmacy program at a school or college outside the United States and have completed an internship program approved by the board.

~~(2) Be certified by the Foreign Pharmacy Graduate Examination Commission to have passed the Foreign Pharmacy Graduate Equivalency Examination, the Test of English as a Foreign Language, and the Test of Spoken English.~~

(3) For applications received at the Board of Pharmacy on or before December 31, 2008, the applicant must:

(a) Successfully pass the foreign pharmacy graduate equivalency examination which is given by the Foreign Pharmacy Graduate Equivalency Commission.

(b) Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language (TOEFL), which is administered by the Educational Testing Service, Inc., with a score of at least 500 for the pencil and paper test or 173 for the computer version and by passing the Test of Spoken English (TSE) with a score of 45 on the recalibrated TSE; or

(c) Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language Internet-based test (TOEFL ibt) with a scores of: Listening – 18; Reading – 21; Speaking – 26; and Writing – 24.

(4) For applications received at the Board of Pharmacy on or after January 1, 2009; the applicant must:

(a) Successfully pass the foreign pharmacy graduate equivalency examination which is given by the Foreign Pharmacy Graduate Equivalency Commission;

(b) Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language (TOEFL), which is administered by the Educational Testing Service, Inc., with a score of at least 550 for the pencil and paper test or 213 for the computer version and by passing the Test of Spoken English (TSE) with a score of 50 on the recalibrated TSE; or

(c) Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language Internet-based test (TOEFL ibt) with a scores of: Listening – 18; Reading – 21; Speaking – 26; and Writing – 24.

~~(5)(3) Complete a minimum of 2080 hours of 500 hours of supervised work activity, of which a minimum of 500 hours must be completed within the State of Florida. Such experience must be equivalent to that required in the internship program as set forth in Rule 64B16-26.2032, F.A.C. The work experience program including both the preceptor and the permittee must be approved by the Board of Pharmacy. Further, no program of supervised work activity shall will be approved for any applicant until said applicant has obtained the specified passing scores on the TOEFL or the TOEFL ibt been certified by FPGE Foreign Pharmacy Graduate Examination Commission.~~

Specific Authority 465.005, 465.007 FS. Law Implemented 465.007 FS. History–New 1-11-05, Amended 8-8-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Pharmacy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2008

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.204
RULE TITLE: Licensure by Endorsement
PURPOSE AND EFFECT: The Board proposes the rule amendment to update information concerning incorporated forms and to update requirements for licensure by endorsement.

SUMMARY: Information concerning incorporated forms and requirements for licensure by endorsement will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.033, 465.005 FS.
LAW IMPLEMENTED: 456.013(1), (7), 456.033, 465.007, 465.0075, 465.022 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.204 Licensure by Endorsement.

An applicant for licensure by endorsement must be at least 18 years of age and a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education.

(1) All applications for licensure by endorsement shall be made on board approved form DOH/MQA/PH100 (06/08 ~~10-15-04~~). The instructions and application form, entitled Florida Pharmacist Endorsement Application, which is hereby incorporated by reference, effective 06/08 ~~11-8-04~~, shall be

accompanied with a non-refundable endorsement application fee and initial licensure fee as set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(2) through (3) No change.

(4) Applicants qualifying under the education requirements of Section 465.007(1)(b)2., F.S., (foreign graduates), must complete the requirements of Rule ~~64B16-26.2031~~ ~~64B16-26.205~~, F.A.C., prior to certification for the examination required in subsection (6) of this rule.

(5) No change.

(6) Applicants applying under the provisions of Section 465.0075, F.S., must have obtained a passing score on the licensure examination as described in subsection 64B16-26.200(1), F.A.C., ~~not more than 12 years prior to application.~~

(7) through (8) No change.

Specific Authority 456.033, 465.005, 465.0075 FS. Law Implemented 456.013(1), 456.033, 465.007, 465.0075, 465.022 FS. History—New 11-8-01, Amended 1-11-05, 2-18-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NO.: 69A-3.012
RULE TITLE: Standards of the National Fire Protection Association and Other Standards Adopted

PURPOSE AND EFFECT: The rule was amended effective May 18, 2008, to update the Florida Fire Prevention Code (“Code”) as required by Section 633.0215(1), Florida Statutes, by adopting current National Association of Fire Protection Standards. The Code is updated once every three years, together with the Florida Building Code. The Florida Building Commission recently voted to extend the effective date of the new Florida Building Code to December 31, 2008; therefore, the Department is extending the effective date of the updated Code to the same date for consistency.

SUMMARY: The effective date of the Florida Fire Prevention is changed to December 31, 2008.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 633.01, 633.022, 633.0215 FS.

LAW IMPLEMENTED: 633.01, 633.022, 633.0215 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, September 26, 2008, 9:00 a.m.

PLACE: Third Floor Conference Room, the Atrium Building, 325 John Knox Road, Tallahassee, Florida 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Belinda Chukes, (850)413-3619. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, FL 32399-0342. Phone: (850)413-3171; Fax: (850)414-6119

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-3.012 Standards of the National Fire Protection Association and Other Standards Adopted.

(1) through (5) No change.

(6) Proposed Effective Date is changed from May 18, 2008 to December 31, 2008.

Specific Authority 633.01(1), 633.022, 633.0215 FS. Law Implemented 633.01, 633.022, 633.0215 FS. History—New 5-14-86, Amended 2-12-87, 4-8-90, 10-30-91, 4-3-95, 11-27-01, Formerly 4A-3.012, Amended 8-7-05, 5-18-08, 12-31-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Les Hallman, Director, Division of State Fire Marshal, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2008

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:

RULE TITLES:

69A-60.002

Scope; Description of Florida Fire Prevention Code

69A-60.003

Standards of the National Fire Protection Association, NFPA 1, the Uniform Fire Code, Florida 2006 Edition, Adopted

69A-60.004

Standards of the National Fire Protection Association, NFPA 101, the Life Safety Code, Florida 2006 Edition, Adopted

69A-60.005

Publications Referenced in NFPA 1, the Florida 2006 Edition, and NFPA 101, the Florida 2006 Edition, Added to the Florida Fire Prevention Code

PURPOSE AND EFFECT: The rule was amended effective May 18, 2008, to update the Florida Fire Prevention Code (“Code”) as required by Section 633.0215(1), Florida Statutes, by adopting current National Association of Fire Protection Standards. The Code is updated once every three years, along with the Florida Building Code. The Florida Building Commission recently voted to extend the effective date of the new Florida Building Code to December 31, 2008; therefore, the Department is extending the effective date of the updated Code to the same date for consistency.

SUMMARY: The proposed amendment changes the effective date of the rule from May 18, 2008 to December 31, 2008 to conform to the new effective date of the updated Florida Building Code.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 633.01, 633.0215, 633.025 FS.

LAW IMPLEMENTED: 633.01, 633.0215, 633.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, September 26, 2008, 10:00 a.m.

PLACE: Third Floor Conference Room, the Atrium Building, 325 John Knox Road, Tallahassee, Florida 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Belinda Chukes, (850)413-3619. If you are hearing

or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, FL 32399-0342, phone: (850)413-3171; Fax: (850)414-6119

THE FULL TEXT OF THE PROPOSED RULES IS:

69A-60.002 Scope; Description of Florida Fire Prevention Code.

(1) through (3) No change.

(4) Proposed Effective Date is December 31, 2008.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History–New 11-15-01, Formerly 4A-60.002, Amended 11-28-04, 5-18-08, 12-31-08.

69A-60.003 Standards of the National Fire Protection Association, NFPA 1, the Uniform Fire Code, Florida 2006 Edition, Adopted.

(1) through (2) No change.

(3) Proposed Effective Date is December 31, 2008.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History–New 11-15-01, Formerly 4A-60.003, Amended 11-28-04, 5-18-08, 12-31-08.

69A-60.004 Standards of the National Fire Protection Association, NFPA 101, the Life Safety Code, Florida 2006 Edition, Adopted.

(1) through (2) No change.

(3) Proposed Effective Date is December 31, 2008.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History–New 11-15-01, Formerly 4A-60.004, Amended 11-28-04, 7-12-06, 5-18-08, 12-31-08.

69A-60.005 Publications Referenced in NFPA 1, the Florida 2006 Edition, and NFPA 101, the Florida 2006 Edition, Added to the Florida Fire Prevention Code.

(1) through (5) No change.

(6) Proposed Effective Date is December 31, 2008.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History–New 11-15-01, Formerly 4A-60.005, Amended 11-28-04, 5-18-08, 12-31-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Les Hallman, Director, Division of State Fire Marshal, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2008

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.094221	Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 34, August 22, 2008 Florida Administrative Weekly has been continued from August 19, 2008 to December 2, 2008.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.09942	State Uniform Transfer of Students in the Middle Grades

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 20, May 16, 2008 issue of the Florida Administrative Weekly.

As noticed in the June 27, 2008, edition of the Florida Administrative Weekly, Proposed Rule 6A-1.09942 was continued from June 17, 2008 to August 19, 2008. The State Board approved the proposed rule as rewritten to read:

6A-1.09942 State Uniform Transfer of Students in the Middle Grades.

The purpose of this rule is to establish uniform procedures relating to the acceptance of transfer work and courses for students entering Florida’s public schools composed of middle grades 6, 7, and 8 from out of state or out of country. The procedures shall be as follows:

(1) Grades earned and offered for acceptance shall be based on official transcripts and shall be accepted at face value subject to validation if required by the receiving school’s accreditation. If validation of the official transcript is deemed necessary, or if the student does not possess an official transcript or is a home education student, successful completion of courses shall be validated through performance during the first grading period as outlined in subsection (2) of this rule.

(2) Validation of courses shall be based on performance in classes at the receiving school. A student transferring into a school shall be placed at the appropriate sequential course level