

Mexico red snapper fishery exceeded its total allowable catch by 2.15 million pounds in 2009. By law the National Marine Fisheries Service is required to correct this overage to keep the red snapper rebuilding plan on schedule. The National Marine Fisheries Service’s correction will shorten the 2010 red snapper season from June 1 through August 14 to June 1 through July 23 (53 days). The effect of this rule amendment is that federal and state regulations will be consistently applied. Where practicable, this minimizes public confusion, aids enforceability, and contributes to the overall red snapper rebuilding effort in the Gulf of Mexico.

SUMMARY: Rule 68B-14.0038, F.A.C., (Recreational Snapper Seasons) would amend the Commission’s Reef Fish Rule governing the recreational red snapper fishing season such that it is consistent with the recreational red snapper fishing season in federally managed waters of the Gulf of Mexico as instituted by the National Marine Fisheries Service. The proposed Commission rule would change the recreational red snapper fishing season from June 1 through August 14 to June 1 through July 23.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0038 Recreational Snapper Seasons.

(1) Recreational Red Snapper Season. In all state waters of the Gulf of Mexico, the season for the recreational harvest and possession of red snapper shall be from June 1 through July 23 ~~August 14~~, each year (consistent with the Federal Standard established in vol. 75 of the 74 Fed. Reg., page 23186 21-558). Except for persons harvesting red snapper for commercial purposes pursuant to Rule 68B-14.0045, F.A.C., from July 24 ~~August 15~~ through May 31, no person shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, any red snapper.

(2) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-20-98, Formerly 46-14.0038, Amended 12-30-99, 3-12-09, 8-7-09, 10-16-09, _____.

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NO.: 9B-76.001
RULE TITLE: Administration

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. 35, No. 25, June 26, 2009 issue of the Florida Administrative Weekly.

9B-76.001 Administration.

(1) The objective of this section is to establish administrative procedures for implementing and managing Neighborhood Stabilization Program (NSP) funded ~~NSP funded~~ projects in accordance with Public Law 110-289 and 24 C.F.R. Part 570. This rule applies to ~~the~~ all State-funded NSP grant recipients, whether Urban Entitlement or participants of the Florida Small Cities Community Development Block Grant (CDBG) Program, listed below ~~located in the following jurisdictions:~~

- Alachua County
- ~~Apopka~~
- Bay County
- Bradenton
- Charlotte County
- Citrus County
- Clay County
- ~~Clearwater~~
- Davie
- Daytona Beach
- Delray Beach
- Ft. Pierce
- Hernando County
- Indian River County
- Martin County
- Melbourne
- Miami Beach
- Ocala
- Okaloosa County
- Osceola County
- Palm Coast
- Santa Rosa County
- St. Johns County

St. Lucie County
Tallahassee
Titusville

Except as described in the Federal Register Notice (Vol. 73, No. 194) and in the Federal Register Notice (Vol. 74, No. 117), all statutory and regulatory provisions governing the ~~Community Development Block Grant (CDBG)~~ program for states, including 24 C.F.R. part 570 subpart I, for CDBG entitlement communities, including those at 24 C.F.R. part 570 subparts A, C, D, J, K and O, and applicable program guidance, shall apply to the use of these funds, as effective on _____. In addition, the following provisions are applicable:

(2) Definitions.

(a) "Activity delivery costs" are non-administrative costs which can be directly associated with and are necessary to carry out NSP required for an eligible activities. NSP activity and Activity delivery costs for housing rehabilitation may not exceed ten percent (10%) 40 percent of the housing rehabilitation construction budget line item. Each local government, contractor, sub-grantee, developer or partner, is required to maintain supporting documentation for all activity delivery costs. If paid to the developer, these costs shall be identified included in the developer's proposal. ~~Activity delivery costs must be consistent with the guidelines in Technical Memo CDBG-HCD-08-01.~~

(b) "Affordable rents" is defined as the Fair Market Rents (FMR) as published annually by HUD for the sub-grantees.

(c) "Blighted structure" means a structure that has substantial deterioration in which conditions are leading to economic distress or endangerment of life, the sub-recipient jurisdiction concurs that the structure is blighted, and one or more of the following factors are present:

1. Unsanitary or unsafe conditions;
2. Deterioration of site or other improvement; or
3. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.

(d) "CATF" means the Citizen Advisory Task Force which the State's sub-grantee recipient must create or adopt in order to provide public participation and comply with citizen participation requirements. Local governments may designate an existing housing-related advisory board or commission to serve as the Citizen Advisory Task Force, provided that there is no conflict of interest for any task force member.

(e) "Current market appraised value" means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 C.F.R. 24.103 and completed within sixty (60) days prior to an offer made for the property by a grantee, sub-recipient, developer, or individual homebuyer.

(f) "Day" means calendar day.

(g) "Developer" means an entity provided NSP funds for purchasing, rehabilitating and disposing of properties that have been abandoned or foreclosed upon including maintaining, assembling, and facilitating the redevelopment of vacant property, and/or marketing, and disposing of land-banked properties.

(h) "Developer Fee" is an amount ~~in addition to activity costs~~ paid to a developer in consideration of the developer's efforts and is. This amount is considered "estimated profit." In these cases, activity delivery costs are considered only those actual costs incurred and should be paid by the State's sub-grantee to third parties or subcontractors performing work necessary and appropriate to carry out the primary activity.

(i) "~~Foreclosed and abandoned property.~~" ~~has been foreclosed upon at the point that, under state or local law, the mortgage or tax foreclosure is complete. The U.S. Department of Housing and Urban Development (HUD) generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.~~

1. Properties are eligible for NSP assistance if any of the following conditions apply:

a. The property is at least 60 days delinquent on its mortgage and the owner has been notified;

b. The property owner is 90 days or more delinquent on tax payments;

c. Under state or local law, foreclosure proceedings have been initiated or completed;

d. Foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP sub-grantee, sub-recipient, developer, or end user.

2. Abandoned property includes homes where no mortgage or tax payments have been made by the property owner for at least 90 days or a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies.

(j) "Land bank" is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purposes of the NSP program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and disposal of the land-banked properties. If the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.

(k) "NSP Target Area" means a geographical area to be served by an NSP activity.

(l) "State Sub-grantee recipient" refers to the unit of general purpose local government that is eligible to receive State NSP funds.

(m) "Sub-grantee recipient" has the same meaning as in the first sentence of 24 C.F.R. 570.500(c). This includes any nonprofit organization or unit of general purpose local government that the state awards NSP funding.

(n) "Sub-prime loan refers to ~~a banking and mortgage an industry loan product to describe loans~~ with less stringent lending and underwriting terms and conditions than conventional underwriting guidelines require. Due to the higher risk, sub-prime loans charge higher interest rates and fees. For the purposes of NSP, sub-prime loans are those loans which do not meet conventional underwriting guidelines for prime mortgages.

(o) "Revenue" for the purposes of section 2301(d)(4) of Title III of HERA has the same meaning as program income, as defined at 24 C.F.R. 570.500(a), as amended.

(3) Interlocal Agreements. Housing acquisition and disposition, including homeownership assistance and counseling, will not require an interlocal agreement. NSP State sub-grantees recipients proposing eligible public facility or infrastructure activities within the boundaries of another jurisdiction shall be required to enter into an Interlocal Agreement. Both jurisdictions must be eligible to participate in NSP. The Interlocal Agreement must include the following provisions, or submit documentation of an established relationship between jurisdictions, which includes the following provisions:

(a) Includes as parties all State sub-grantees recipients whose jurisdictions are included in the project and/or target area(s);

(b) Authorizes the State's sub-grantee recipient to undertake the activities in all jurisdictions included in the interlocal agreement; and

(c) Affirms that all activities are consistent with each sub-grantee's recipient's comprehensive plan and provides documentation which includes applicable excerpts of each sub-grantee's recipient's comprehensive plan in the supporting documentation section of the application, as effective on February 1, 2009, which is hereby incorporated by reference and may be found on the Department's website at <http://www.floridacommunitydevelopment.org/cdbg/NSPTraining.cfm#Downloads>.

(4) Expenditures and Limitations.

(a) State sub-grantees recipients must submit at least one request for funds each month.

(b) State sub-grantees recipients must comply with the provisions of 24 C.F.R. 85.20, which is hereby incorporated by reference as effective on _____ may maintain no more than

~~\$100,000 cash on hand to meet daily cash needs. Amounts greater than \$100,000 shall be expended within fourteen (14) days or returned to the Department.~~

(c) Escrow Accounts. Escrow accounts may be established for Housing Rehabilitation as provided by 24 C.F.R. 570.511. Escrowed funds must be limited to paying actual rehabilitation costs. Accounts in which escrow funds are deposited must be interest-bearing and the interest must be returned to the Department on a quarterly basis. Funds must be expended as close to the day funds were received as possible. In any case, funds must be expended within 10 days. Recipients and/or sub-recipients may draw down NSP funds and deposit them into an interest bearing escrow account for rehabilitation. The sub-recipient must separately track, for each housing unit, the receipt and disbursement of all escrowed funds, including funds escrowed by a sub-recipient.

~~1. Funds may be requested only after execution of the contract by the State sub-recipient or their sub-recipients.~~

~~2. Escrowed funds must be used in accordance with the escrow agreement. The Department may refuse to disburse funds for escrow accounts if the State's sub-recipient fails to comply with the terms of prior escrow accounts.~~

~~3. Any request for escrow funds shall be accompanied by information identifying the activity and the basis for the amount, i.e., address of the home and the cost for rehabilitation. Escrowed funds must be expended within ten (10) days from date of deposit in the escrow account or be returned to the Department. At the end of a calendar quarter during which escrow funds were received, the State's sub-recipient shall submit a report identifying the amount and date escrow funds were received, the amount expended during the quarter and escrow balance. If there is a balance at the end of the quarter, and the 10 day period has not expired, a final report shall be submitted within seven days after the 10 day period, along with any unexpended balance and interest.~~

~~4. Interest earned on escrow accounts shall be returned quarterly to the Department.~~

(d) A land bank may not hold property for more than ten years without obligating the property for a specific NSP eligible activity. Under no circumstances may NSP grant funds be used:

1. To pay more than the appraised value of the property, or
2. For activities that displace a tenant/homeowner.

(e) Up to 6.8 percent of the funds allocated to a jurisdiction may be used for administrative costs as specified in 24 C.F.R. 570.206.

(f) Developer Fees are defined under Section (2) Definitions, and the amount paid from NSP funds shall be limited to a maximum of 12 percent of the total project cost. Unless a contract involving developer fees is procured by competitive bids, or no NSP funds are used for developer fees, recipients and sub-recipients shall negotiate fair and reasonable developer fees as required by 24 C.F.R. 85.36 (f)(2), which

shall include preparing a cost analysis. Written justification for the developer fee amount, based on a cost analysis and consideration of at least the elements identified in 24 C.F.R. 85.36 (f)(2), shall be part of the procurement documentation.

(g) Architectural and Engineering Costs. The maximum percentage of subgrant funds allowed for architectural and engineering costs shall be based on the subgrant activities which require architectural design and engineering and shall not exceed the Rural Development (RD) Rural Utility Service (RUS) fee schedule (Form RD 1942-19) in Florida RUS Bulletin 1780-9, which can be obtained from the Department, and which is incorporated herein by reference, as effective on 5-23-06.

1. If more than one design professional is needed for an activity or activities the local government shall not exceed the appropriate RD/RUS fee curve for each activity covered by each design professional negotiated separately. For projects involving both Table I and II activities, engineering costs shall be pro-rated appropriately.

2. For each additional engineering service and for preliminary engineering, the local government shall negotiate a reasonable fee for the service following procurement procedures in 24 C.F.R. 85.36, as effective on 5-23-06. Preliminary engineering costs not to exceed one-half of one percent of the estimated construction cost may be paid with NSP funds over and above the amounts included in the RD/RUS fee schedule.

(5) No less than 25 percent of the State's NSP allocation shall be allocated to assist the NSP Low-Income (NSPLI) target population not exceeding 50 percent of area median income. These supplemental funds must be used to provide permanent non-transitional rental housing for those individuals and families whose incomes do not exceed 50 percent of area median income. ~~If the NSP sub-grantee does not have at least five years experience providing rental housing to a low income target population, it must either partner with one or more local housing authorities or non-profit organizations in the county which have such experience, or designate one to be the eligible applicant for supplemental funding.~~

(6) Recapture and Re-allocation of NSP funds. The Department will evaluate the performance and capacity of each sub-grantee prior to September 3, 2010, and may shall recapture unobligated NSP funds and reallocate the funds to sub-grantees that have successfully obligated the funds awarded in the original contract. These funds are considered to be used as an Incentive-Based Set-Aside as described in the revised Substantial Amendment in accordance with the process outlined in the State of Florida's Action Plan Substantial Amendment as approved by HUD.

(7) Duration of assistance. NSP assistance may be provided for a maximum of four years based on the State's program and availability of funding.

(8) Program Income. Any program income earned as a result of activities funded under this grant may shall be retained by the local government as outlined in the State's revised Substantial Amendment returned to the Department within thirty (30) days of receipt or as otherwise outlined in the State's substantial amendment to the 2008 Action Plan. Interest earned on escrow accounts shall be considered separately from program income.

(9) The Department shall conduct on-site monitoring visits to determine whether State's sub-grantees recipients and any subrecipients are complying with program requirements. Sub-grantees and any subrecipients ~~Sub-recipients~~ shall respond to any issues identified in a monitoring report within thirty (30) days after receiving the report. Failure to respond may result in the Department rejecting requests to draw funds.

(10) Amendments. All proposed amendments to the Subgrant Agreement must be approved by the Department.

(a) Documentation Required. All requests for subgrant agreement amendments shall include the following written documentation for review by the Department:

1. A cover letter signed by the Chief Elected Official or his or her designee which describes the need for the proposed changes and their effect upon the approved project.

2. A completed DCA Modification to Grant Agreement form signed by the CEO or designee.

3. All application forms that would be changed by the proposed amendment.

4. Any ~~A~~ revised activity work plans if activity accomplishments, schedules or expenditures will change as a result of the amendment.

5. A revised budget showing the current and amended budget, if amounts for activities will be changed.

6. If there is a change in activity location, a legible map which indicates the proposed change.

7. For amendments involving addition of an activity, reduction or deletion of an activity, or a reduction in proposed beneficiaries, a copy of the minutes of the meeting of the Citizen's Advisory Task Force (CATF) when the proposed amendment was reviewed.

8. A public hearing to obtain citizen comments is required for any amendment involving addition of an activity, reduction or deletion of an activity, or a reduction in proposed beneficiaries. This hearing is in addition to review by the CATF. A copy of this notice must be submitted with the request for an amendment.

9. Three copies of a Request for Amendment, NSP Form 01.10, which is hereby incorporated by reference as effective on _____, must be submitted by the sub-grantee to the Department. Each of the three copies must bear the original signature of the Chief Elected Official, or designee, as provided by a resolution or ordinance approved by the governing body. This form may be obtained by requesting a copy from the Department, and it is posted to the Department's

website at <http://www.floridacommunitydevelopment.org/cdbg/NSP.cfm>. ~~Signature of the Chief Elected Official, or designee on Form DCA-07.02, Request for Amendment, (as adopted on March 28, 2002).~~

(b) The amendment must be received by the Department at least forty-five (45) days prior to the end of the subgrant agreement. If the amendment is extending the subgrant agreement period, it must be received by the Department at least ninety (90) days prior to the end of the subgrant agreement. No funds shall be obligated or expended on an activity until the Department is notified and concurs with ~~approves~~ the amendment if such funds are dependent on the amendment's approval.

(c) If the State's sub-recipient requests administrative closeout prior to the termination date of the subgrant agreement, any amendment affecting closeout and requiring Department approval must be included with the closeout.

(d) Time Extensions to Subgrant Agreements. Any proposed amendment extending the termination date of the subgrant agreement must be approved by the Department. The State's sub-~~grantee recipient~~ grantee recipient must explain any delay affecting project completion and must justify the need for the extension.

(11) Beneficiaries of Public Improvements. For activities where hookups or connections are required for beneficiary access to NSP-funded infrastructure, low-, moderate-, and middle income area benefit (LMMA) shall be determined by the number of low-, moderate-, and middle-income persons in households connected to and able to use the water, sewer or other infrastructure at the time of administrative closeout. For activities where hookups or connections are required as a condition for beneficiary access to a NSP funded infrastructure, no hookup or connection fees shall be charged to very-low, low-, moderate-, and middle-income beneficiaries. Further, no portion of the project construction costs shall be charged to low-, moderate-, and middle-income beneficiaries.

(12) Lead-Based Paint. The applicant shall adopt and implement procedures to fulfill regulatory and statutory requirements relating to Lead-Based Paint pursuant to 24 C.F.R. 570.487, 24 C.F.R. Part 35, and Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 4822 et seq.), which is hereby incorporated by reference as effective on ~~00-00-09~~. The applicant is required to:

- (a) Prohibit use of lead-based paint;
- (b) Notify potential beneficiaries of the hazards of lead-based paint;
- (c) Inspect properties prior to initiating rehabilitation to determine if lead-based paint is present;
- (d) Take any necessary actions to ensure the protection of workers and occupants during abatement;
- (e) Ensure that proper cleanup and disposal procedures are used; and
- (f) Retain records of enforcement and monitoring for at least three years.

(13) Procurement. Grant funds shall be used to obtain commodities and services only in accordance with written procurement procedures adopted by the local government which and shall comply with the provisions of 24 C.F.R. 85.36, which is incorporated by reference as effective on ~~00-00-09, which is hereby incorporated by~~ ~~reference~~, and, for covered professional services contracts, Section 287.055, F.S., (Consultants Competitive Negotiation Act), which is hereby incorporated by reference as effective on ~~00-00-09~~. Nonprofit organizations must comply with procurement standards set out in 24 C.F.R. 84.40 through 84.48, which is hereby incorporated by reference as effective on ~~00-00-09~~.

(a) Any procurement which requires public notice in a newspaper shall be published in a daily newspaper of general circulation in a nearby Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, a local government may substitute such notice with a combination of local newspaper publication and mailed announcements to potential bidders, which generates at least three responsible and responsive bids or proposals. Such publication and/or mailing shall allow at least 12 days for receipt of the proposals or bids.

(b) The Department must provide written permission prior to the local government awarding any contract exceeding \$25,000 procured as a result of inadequate competition, a sole source or a noncompetitive procurement. For contracts below \$25,000, the local government's files must document the justification for such noncompetitive procurement which complies with 24 C.F.R. 85.36(b)(4).

(c) All contracts for professional services shall conform to the following:

1. Any Request for Proposals which includes more than one service shall provide that:
 - a. Proposals may be submitted for one or more of the services;
 - b. Qualifications and proposals shall be separately stated for each service;
 - c. The evaluation of the proposals shall be separate for each service.
2. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published Request for Proposals. Based on those ~~that~~ criteria, the written evaluation will document why the successful proposal was selected.
3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each particular NSP subgrant and each service. Each advertisement for procurement of NSP professional services, except for subgrant application preparation, must identify either the NSP subgrant cycle by federal fiscal year or the NSP subgrant agreement number.

4. Each professional services contract must reference the NSP subgrant agreement to which it is applicable.

(d) Construction Contracts.

1. If NSP and other sources of funding are being jointly used to fund activities under a single contract, the activities to be paid for with NSP funds must be shown separately in the bid proposal so that the NSP activities and the amount of the contract to be paid from NSP funds are identifiable.

2. If, after applying any specified deductive alternates, construction bids exceed available funds, the local government shall not negotiate with the low bidder unless there is only one bidder or all bidders are allowed to submit revised bids for the revised project.

3. If the construction cost can be reduced by deleting entire line items or reducing quantities based on unit prices identified in the bid, the effect of such deletions or reductions on all bidders' prices shall be determined. Contract award shall be made to the low, responsive and responsible bidder for the revised project.

4. All contracts in excess of \$100,000 covered by Section 3 regulations shall contain the language required in 24 C.F.R. 135.38, as effective on _____ ~~00-00-09~~, which is hereby incorporated by reference.

5. The provisions of this subsection shall not be construed to conflict with or supersede the requirements of Section 287.055, F.S., or any other applicable State or federal law.

(14) Housing Rehabilitation Standards. Upon completion of the housing rehabilitation program, all housing units addressed with NSP funds must be in compliance with the subgrantee's local housing code and the HUD Section 8, Housing Quality Standards. This requirement does not apply if the construction activity is limited to water hookups, sewer hookups, the abandonment of wells, or the abandonment of septic systems with no internal or external modifications to the housing structure.

(15) If manufactured housing units are used for replacement housing, they must meet the following specifications:

(a) Manufactured housing units must be built to HUD post-1994 construction standards.

(b) The units must be new, previously uninstalled manufactured housing units.

(c) Units must bear HUD compliance certification meeting HUD wind resistance construction standards for wind zone 3.

(d) The county shall inspect and approve the installation of all manufactured housing units.

(e) Units must be installed to the manufacturer's installation instructions.

(f) These funds may not be used for furniture or interior design costs, insurance, financing points, or add-on structures.

(g) Replacement units may be placed on leased land or resident-owned land.

(h) Site location must meet minimum safety criteria (e.g., not located in floodplain, not in high velocity wind zone, etc.).

(i) Units must be for owner-occupancy,

(j) The costs of each manufactured housing unit must not exceed the appraised value of the unit per the Fannie Mae/Freddie Mac manufactured housing appraisal guidelines currently in effect (e.g., Fannie Mae, Announcement 03-06, Appraisal Guidelines for Manufactured Housing).

(16) Adjustable Rate Mortgages. No adjustable rate mortgages can be obtained by persons acquiring houses assisted with state NSP funds. Mortgages must be for a fixed rate for a minimum of 15 years.

(17) Davis Bacon Labor Standards. Compliance with Davis Bacon Labor Standards will be required for construction, including rehabilitation, contracts that exceed \$2,000 unless the property where rehabilitation or construction will occur contains or, for new construction, will contain less than eight units.

(18) Eminent Domain. State NSP funds cannot be used in conjunction with properties acquired through eminent domain.

(19) Environmental Review. All activities and projects must comply with the requirements of 24 C.F.R. Part 58, which is hereby incorporated by reference as effective on _____. A Request for Release of Funds and Certification (HUD Form 70.15), hereby incorporated by reference as effective on _____, and any public notices required under 24 C.F.R. 58, An environmental assessment must be submitted to the Department for approval and. A Release of Funds must be sent to the State's sub-grantee prior to the obligation or expenditure of more than \$50,000 ~~\$15,000~~ in administrative funds. No other funds can be obligated or expended prior to the Release of Funds being sent to the State's sub-grantee. Monitoring of environmental reviews will be conducted on-site.

(20) Housing Counseling. Each homebuyer assisted with NSP funds is required to receive and complete at least eight hours of homebuyer counseling from from a HUD-approved housing counseling agency before obtaining a mortgage loan. The counseling may be funded with NSP funds. No additional homebuyer qualification requirements may be imposed upon the homebuyer that is not required by NSP or approved by the Department.

(21) Property Acquisition. Each foreclosed property acquired with NSP funding must be acquired at a minimum discount of one percent (1%) ~~five percent~~ below the current appraised value. The State encourages each applicant to obtain as much discount as possible. The overall portfolio of all properties purchased with the State's allocation must meet a minimum of one percent (1%) ~~15 percent~~ discount. Each transaction will require a current appraisal completed within sixty (60) days of an offer made for the property.

(22) Settlement Cost. Subgrantees are encouraged to minimize settlement costs when selling to eligible property owners.

(23) Relocation Activities. No NSP funds can be used on permanent relocation activities under the State NSP. Temporary relocation is eligible provided the sub-recipient has an approved Anti-Displacement Relocation Policy.

(24) Subprime Mortgages. No subprime mortgages may be obtained by persons acquiring houses assisted with NSP funds.

(25) Uniform Relocation Act. All property acquisition is subject to the requirements of the federal Uniform Relocation and Real Properties Act, which is hereby incorporated by reference as effective on _____. This applies to both voluntary and involuntary transactions. NSP requires an exception to the Uniform Relocation Act and purchase price requirements under CDBG regulations. URA requires that sellers of property acquired with CDBG funds be paid an amount equal to the appraised value of the property. ~~Properties receiving NSP funds must be purchased at a minimum 15% discount from the current appraised value of the property. An appraisal by the purchasing entity is required and must be within 60 days of any offer.~~ All other URA requirements, including relocation continue to apply.

(26) Subgrant Closeout.

(a) An administrative closeout may be submitted only after all activities have been completed and all documents required for final payment for all activities, including, but not limited to final inspections, release of liens, certificates of occupancy, and recording of liens has been received. If the sub-grantee recipient has transferred funds from the NSP operating account or the escrow account and these funds remain under the control of the sub-recipient, the funds are not considered expended for purposes of administrative closeout unless they will be paid out as part of the closeout.

(b) At the time of submission of the closeout report, the State's sub-grantee recipient must have available documentation which verifies its certification that all construction has been completed, inspected and approved by all parties prior to the subgrant agreement end date and submission of the administrative closeout.

(c) Upon completion of the activities contained in the State's sub-grantee recipient NSP subgrant agreement, including any amendments, the State's sub-grantee recipient shall submit to the Department a closeout which, at a minimum, gives the final statement of costs, certifies that the project and all non-administrative activities are completed and accepted, certifies that all costs except those reflected on the closeout have been paid, and reports the demographics of the program's beneficiaries.

(d) If any change has been made since the application map or the last map amendment, the closeout shall also contain a revised map of the activities completed during the term of the NSP subgrant agreement.

(e) The closeout shall include a list of the households assisted under the subgrant agreement, and certify that they met NSP household income eligibility requirements. HUD or DCA may require additional information to be submitted.

(f) For activities where hookups or connections are required for beneficiary access to the public improvement, evidence at the time of closeout must show:

1. The total number of persons in all households in the service area;
2. The number of low-, moderate-, and middle-income households (LMMH) connected to the infrastructure; and
3. Projects meeting the low-, moderate-, and middle-income area (LMMA) NSP national objective must document that the number of LMMA persons in households connected to the infrastructure divided by the total number of beneficiaries in the service area equals at least 51 percent or higher.

(g) The closeout must contain original signatures from the authorized representative of the State's sub-recipient. Facsimile (FAX) submissions are not acceptable.

(h) If a State's sub-grantee recipient fails to meet contractual requirements on time, the Department reserves the right to require that a State's sub-grantee recipient financially (not administratively) close out a subgrant agreement in order to meet federal requirements for the timely distribution of funds set by HUD.

(i) The closeout is due within forty-five (45) days after expiration or termination of the subgrant agreement.

(27) Mitigation of fraud, waste and abuse.

(a) The Department will conduct oversight of the expenditure of NSP funds to prevent waste, fraud and abuse by monitoring, subgrantee monthly reporting and ensuring subgrantees are aware of federal financial recordkeeping and best practice methods for fraud prevention, through technical assistance and training.

(b) To prevent the opportunity for fraudulent activities or fiscal mismanagement related to real estate and financial transactions, sub-grantees, contractors, subrecipients, developers or partners, are required to allow work with a third party management or accounting entity procured by the Department, access to all records for the purpose of monitoring, auditing, or other review of activities associated with the grant that can assist with proper asset valuation and secured transactions, unless they can demonstrate significant experience in these areas.

Rulemaking Authority Chapter 2009-01, Law of Florida. Law Implemented Chapter 2009-01, Law of Florida. History—New _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jacquelyn Dupree, Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-3644, e-mail: jackie.dupree@dca.state.fl.us.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-35.060	Licensure Application Process
59A-35.062	Proof of Financial Ability to Operate
59A-35.080	License Categories
59A-35.090	Background Screening; Prohibited Offenses

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. 35, No. 47, November 25, 2009 issue of the Florida Administrative Weekly.

This proposed rule was revised in a Notice of Change published in Vol. 36, No. 6, February 12, 2010. Forms incorporated by reference in these rules have been revised following comments received from the Joint Administrative Procedures Committee.

A change has been made in the AHCA Form number in 59A-35.060(1)(h), and changes have been made in the following forms, as indicated in the description following the number of each form:

59A-35.060 Licensure Application Process.

(1) No change.

(a) AHCA Form 3170-5001, Rev July 2009, regarding drug-free workplace laboratories, was amended by striking the requirement for proof of applicant’s legal right to occupy the property from the items required in addition to the application form on the licensure application checklist.

(b) No change.

(c) AHCA Form 3130-1000, Rev. July 2009, regarding abortion clinics, was amended by adding the requirement for a statement that local zoning ordinances permit such location to the licensure application checklist as one of the items that must be submitted.

(d) AHCA Form 3180-5003, Rev. July 2009, regarding crisis stabilization units, was amended by striking the requirement to submit a current balance sheet from the licensure application checklist as one of the items that must be submitted.

(e) AHCA Form 3180-5003, Rev. July 2009, regarding short term residential treatment units, was amended by striking the requirement to submit a current balance sheet from the licensure application checklist as one of the items that must be submitted.

(f) AHCA Form 3180-5003, Rev. July 2009, regarding residential treatment facilities, was amended by striking the requirement to submit a current balance sheet from the licensure application checklist as one of the items that must be submitted.

(g) AHCA Form 3180-5004, Rev. July 2009, regarding residential treatment centers for children and adolescents, was amended by striking the requirement to submit a current balance sheet from the licensure application checklist as one of the items that must be submitted.

(h) Hospitals, as provided under Part I of Chapter 395, F.S.; AHCA Form 3130-~~8001~~ ~~8003~~, Rev July 2009,

(i) through (j) No change.

(k) AHCA Form RM-001, Rev. July 2009, regarding risk managers, was amended by striking the requirement to include a social security number on the licensure application in compliance with Section 119.071(5)(a)2.b.-c., Florida Statutes.

(l) No change.

(m) AHCA Form 3110-1011, Rev. July 2009, regarding home health agencies, was amended to include the requirement on the licensure application checklist to submit a business plan that details the home health agency’s methods to obtain patients and its plan to recruit and maintain staff as required under Section 400.471(2)(d), Florida Statutes.

(n) through (p) No change.

(q) AHCA Form 3110-3001, February 2010, was created to replace the recommended licensure application form for use by homes for special services.

(r) through (t) No change.

(u) AHCA Form 3110-5003, Rev. July 2009, regarding intermediate care facilities for the developmentally disabled, was amended to remove the reference to the licensure fee exemption since it is no longer authorized in statute or administrative rule.

(v) No change.

(w) AHCA Form 3110-0013, Rev. July 2009, regarding health care clinics, was amended to correct two statutory references pertaining to evidence of accreditation for magnetic resonance imaging services and the financial ability to operate a health care clinic AHCA Form 3110-0014, Rev. July 2009.

(x) through (z) No change.

(aa) AHCA Form 3170-2004, Rev. July 2009, regarding clinical laboratories, was amended to correct the authorizing statute on the licensure application.

AHCA Form 3170-2004B, Rev. July 2009, regarding clinical laboratories, was amended by striking the requirement for proof of applicant’s legal right to occupy the property from the licensure application checklist as one of the items that must be submitted.

AHCA Form 3170-2004C, Rev. July 2009, regarding clinical laboratories, was amended by striking the requirement for proof of applicant’s legal right to occupy the property from the licensure application checklist as one of the items that must be submitted.

AHCA Form 3170-2004D, September 2009, regarding clinical laboratories, was amended to correct the administrative rule reference the licensure fees.

(bb) AHCA Form 3170-4001, Rev. July 2009, regarding multiphasic health testing centers, was amended by striking the requirement for proof of applicant’s legal right to occupy the property from the licensure application checklist as one of the items that must be submitted.

(cc) AHCA Form 3140-2001, July 2009, regarding organ and tissue procurement agencies, was amended by striking the requirement for proof of applicant’s legal right to occupy the property from the licensure application checklist as one of the items that must be submitted.

(2) through (8) No change.

59A-35.062 Proof of Financial Ability to Operate.

(1) AHCA Form 3100-0009, July 2009, entitled Proof of Financial Ability to Operate, was amended to include the administrative rule reference incorporating the form as required under Section 120.55(1)(a)4., Florida Statutes.

(2) AHCA Form 3110-7004A, September 2009, entitled Nurse Registry Proof of Financial Ability to Operate, was amended to include the administrative rule reference incorporating the form as required under Section 120.55(1)(a)4., Florida Statutes.

(3) through (7) No change.

The text of the following rule is revised to as follows:

59A-35.080 License Categories.

(1) Provisional License. If a license expires while an action to deny or revoke the license is pending and renewal applications are filed, the Agency may issue a provisional license. The provisional license shall identify the pending action. The provisional license will expire when the Agency action is final or one year after issuance, whichever occurs first. The provisional license does not affect the revocation or denial action or constitute a defense on behalf of the licensee or applicant.

(2) No change.

The form incorporated in the following rule has been changed as described here:

59A-35.090 Background Screening.

(1) through (3)(b)1. No change.

2. AHCA Form 3100-0008, October 2009, entitled Affidavit of Compliance with Background Screening Requirements, was amended to include reference to the administrative rule incorporating the form as required under Section 120.55(1)(a)4., Florida Statutes.

(4) through (6) No change.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-6.020

RULE TITLE:
Payment Methodology for Inpatient
Hospital Services

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. 35, No. 48, December 4, 2009 issue of the Florida Administrative Weekly.

The chart on page 61 of the Title XIX Inpatient Hospital Reimbursement Plan provided an appropriation for primary care disproportionate share hospitals. This appropriation has been removed in accordance with Florida Statute 409.9117, which states in part: “For the 2009-2010 state fiscal year, the agency shall not distribute moneys under the primary care disproportionate share program.”

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 HEALTH

Board of Chiropractic

RULE NO.:
64B2-11.001

RULE TITLE:
Application for Licensure
Examination

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. 35, No. 50, December 18, 2009 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) Any person desiring to be licensed as a chiropractor shall apply to the Department of Health on board approved form DH-MQA 1147, (Rev 04/2010), Application for Chiropractic Examination and Initial Licensure, which is hereby incorporated by reference, and may be obtained from the Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, or from its website at http://www.doh.state.fl.us/mqa/chiro/ap_chap.doc.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Guilford, Acting Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: 64B2-11.012 RULE TITLE: Application for Acupuncture Certification

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. 35, No. 50, December 18, 2009 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) Any person licensed or applying for licensure by the Board who also desires to be certified in acupuncture shall apply to the Department of Health. Application shall be made on board approved form DH-MQA 1151, (Rev 04/2010), Application for Chiropractic Acupuncture Certification, which is hereby incorporated by reference, and may be obtained from the Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, or from its website at http://www.doh.state.fl.us/mqa/chiro/ap1_chacup.doc.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Guilford, Acting Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-6.001 RULE TITLE: Manner of Application

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. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) All applicants for licensure as a Clinical Laboratory Personnel Director, Supervisor, Technologist, or Technician shall apply to the Department on Form #DH-MQA 3000 (04/10) "Application for Clinical Laboratory Personnel Director, Supervisor, Technologist, and Technician" which is incorporated by reference herein, copies of which can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, or from its website at: <http://www.doh.state.fl.us/mqa/ClinLab/index.html>. The application must be accompanied by the appropriate application fee required by Rule 64B3-9.001, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Guilford, Acting Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.2032 RULE TITLE: Licensure by Examination; Internship Requirements

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. 35, No. 49, December 11, 2009 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (2) shall now read as follows:

(2) An applicant for pharmacy intern registration must submit proof of:

(a) Enrollment in an intern program at a college or school of pharmacy accredited by the Accreditation Council of Pharmaceutical Education (ACPE); or

(b) Graduation from a college or school of pharmacy accredited by the ACPE.

2. Subsection (6) shall now read as follows:

(6) An internship program at a college or school of pharmacy accredited by the ACPE shall assure that community or institutional pharmacies utilized for the obtaining of internship experience meet the following minimum requirements:

3. Subsection (6)(a) through (e), will remain as noticed with no change.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE NO.: 68-1.003 RULE TITLE: Florida Fish and Wildlife Conservation Commission Grants Program

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. 35, No. 44, November 6, 2009 issue of the Florida Administrative Weekly.

Subsection (7), of the proposed rule has been changed to read:

(7) Derelict Vessel Removal Grant Program grants shall meet all requirements set forth in this section.

(a) through (b) No change.

~~1. Such designation shall be considered made when a written offense report, incident report, or similar report is submitted by a law enforcement officer, the notice as specified in Section 705.103(2), F.S., is affixed to the vessel, and the vessel is marked as derelict with the letters "DV," the two-digit year, and law enforcement agency's offense, incident, case, report, or other identifying number. The marking of the vessel will be done in such a way that it can be easily identified by other boaters or a removal contractor. If the condition of the vessel makes it impossible to affix the required notice and display the "DV" number (example: the vessel is entirely submerged or completely broken up), the notice and "DV" number shall be displayed on a sign or buoy attached to the vessel, and a copy of the report received by the Fish and Wildlife Conservation Commission, Division of Law Enforcement at 620 South Meridian Street, Tallahassee, FL 32399. Photographs of the vessel displaying the completed sticker and the DV number described below must be included in or attached to the report.~~

~~2. A copy of the report must be submitted to the Fish and Wildlife Conservation Commission, Division of Law Enforcement at 620 South Meridian Street, Tallahassee, FL 32399. Photographs of the vessel displaying the completed sticker and the DV number as described above must be included in or attached to the report. A law enforcement officer must affix the notice specified in Section 705.103(2), F.S. The vessel must be marked as derelict with the letters "DV, the two digit year, and law enforcement agency's offense, incident case, report, or other identifying number. The marking of the vessel will be done in such a way that it can be easily identified by other boaters or a removal contractor. If the condition of the vessel makes it impossible to affix the notice and "DV" number (example: the vessel is entirely submerged or completely broken up), the notice and "DV" number shall be displayed on a sign or buoy attached to the vessel.~~

Subsection (8) of the proposed rule has been changed to read:

(9) Florida Boating Improvement Program grants shall meet all additional program requirements set forth in the Florida Boating Improvement Program Guidelines (Feb. Jan. 2010), which are hereby incorporated by reference. The following forms are hereby adopted and incorporated by reference: FWC/FBIP-A, Florida Boating Improvement Program Grant Application for Recreational Channel Markers and Other Uniform Waterway Markers, 02/10 01/10; FWC/FBIP-B, Florida Boating Improvement Program Grant Application for Boating Access Facilities, 02/10 01/10; FWC/FBIP-C, Florida Boating Improvement Program Grant Application for Derelict Vessel Removal, 02/10 01/10; FWC/FBIP-D, Florida Boating Improvement Program Boater Education Grant Application, 02/10 01/10; FWC/FBIP-E,

Florida Boating Improvement Program Grant Application for Economic Initiatives and Other Local Boating Related Projects, 02/10 07/08. The guidelines and forms are available at http://myfwc.com/RECREATION/boat_grant_index.htm or from the Commission at 620 S. Meridian Street, 1M, Tallahassee, Florida 32399-1600.

No other changes were made to the rule amendments as proposed.

Section IV Emergency Rules

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 THE LOTTERY

RULE NO.:	RULE TITLE:
53ER10-13	Powerball® with Power Play® Bonus Sales Commission Retailer Incentive

SUMMARY: The Florida Lottery will award bonus sales commissions to the retailer(s) that sells one or more Powerball® with Power Play® tickets.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER10-13 Powerball® with Power Play® Bonus Sales Commission Retailer Incentive.

(1) Beginning April 29, 2010 through May 19, 2010, the Florida Lottery will conduct, as a retailer sales incentive, a Powerball® with Power Play® Retailer Bonus and Sales Commission Program in which the Florida Lottery will award bonus sales commissions to retailers.

(2) The Florida Lottery will pay retailers a 5% bonus sales commission on each Power Play sale in addition to the regular commission set forth in Rule 53ER05-14, F.A.C., for a total of \$.15 for each \$2.00 Powerball with Power Play sale.

(3) The bonus commission will be reflected on the retailer's weekly Settlement Report.

(4) Retailers whose Florida Lottery contracts are terminated or inactivated prior to payment of the bonus commissions shall be paid the commissions earned provided said termination or inactivation was not due to noncompliance with Chapter 24, F.S., Chapter 53, F.A.C., or contract terms.