

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLE: Financial Reporting Requirements – Statement of Financial Condition – Dealers and Investment Advisers
 RULE NO.: 3E-600.015

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The purpose of the proposed rulemaking workshop is to develop guidelines for when the thirty (30) day extension referenced in subpart (2)(a) of Rule 3E-600.015, F.A.C., is to be granted.

SPECIFIC AUTHORITY: 517.03(1), 517.12(9), 517.121(2) FS.

LAW IMPLEMENTED: 517.12(9), 517.121(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:30 p.m., Wednesday, November 12, 2003

PLACE: Office of Financial Regulation, Sixth Floor, Conference Room, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Reilly, Financial Administrator, Division of Securities, 200 East Gaines Street, Fletcher Building, Suite 604, Tallahassee, Florida 32399-0350, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER TITLE: Pesticides
 RULE CHAPTER NO.: 5E-2

RULE TITLE: Organo-Auxin Herbicides: Restrictions and Prohibitions
 RULE NO.: 5E-2.033

PURPOSE AND EFFECT: The purpose of the rule amendment is to further qualify the restrictions placed on the use of the organo-auxin herbicide 2,4D registered in the State of Florida, providing an exemption covering its use according to label instructions as a plant growth regulator in dosages substantially less than for herbicidal use.

SUBJECT AREA TO BE ADDRESSED: The use of 2,4D compounds in the state of Florida.

SPECIFIC AUTHORITY: 570.07(16)(b), 570.07(23) FS.

LAW IMPLEMENTED: 487.031(10), 487.031(13)(e) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:00 a.m., November 21, 2003

PLACE: AES, Conference Room, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Dale Dubberly, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Tallahassee, FL 32399-1650

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5E-2.033 Organo-Auxin Herbicides: Restrictions and Prohibitions.

(1) through (8) No change.

(9) The application of low volatility 2,4D compounds registered in the State of Florida in accordance with label instructions for use as a growth regulator in small dosages substantially less than for herbicidal use is not subject to the use regulations and restrictions set forth in subsections (3), (4), and (5) of this rule but is subject to the record keeping requirements in subsection (6) and label instructions must be followed.

Specific Authority 487.051(4), 487.154, 570.07(16)(b), 570.07(23) FS. Law Implemented 487.031(10), 487.031(13)(e) FS. History–New 2-4-86, Amended 7-10-89, _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLES: Standards of National Fire Protection
 RULE NOS.: Association Adopted 5F-11.002

Out of Service Account Procedure 5F-11.043

Out-of-Gas, Leak Call, and Interrupted Service Procedure 5F-11.044

Installation of Unvented Room Heaters 5F-11.050

PURPOSE AND EFFECT: The purpose of this rule is to adopt the most current edition of the National Fire Protection Association Standard 54, the National Fuel Gas Code. Also, this rule updates references to specific code sections within other rules in this chapter.

SUBJECT AREA TO BE ADDRESSED: This rule addresses the adoption of National Fire Protection Association Standard 54, the National Fuel Gas Code.

SPECIFIC AUTHORITY: 527.06 FS.

LAW IMPLEMENTED: 527.06 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS Vicki O'Neil, Bureau Chief of LP Gas Inspections, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32314-1650, (850)921-8001

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5F-11.002 Standards of National Fire Protection Association Adopted.

(1) The standards of the National Fire Protection Association for the storage and handling of liquefied petroleum gases as published in NFPA No. 58, LP-Gas Code 2001 edition, and for gas appliances and gas piping as published in NFPA No. 54, ~~American National Standard~~ National Fuel Gas Code, 2002 ~~1999~~ edition, shall be the accepted standards for this state, subject to such additions and exceptions as are set forth in these rules. Reference to NFPA 58 and NFPA 54 in these rules shall be to the most recent edition as adopted herein.

(a) Section 3.2.10 of NFPA 58, 2001 edition, titled "Installation of Containers on Roofs," is hereby excluded from adoption.

(b) Each of the NFPA publications listed in subsection (1) above is incorporated by reference in each rule within this rule chapter in which referenced is made to the publication. In each instance, the publication becomes a part of the rule, in the entirety of the publication, or in part thereof, as the rule provides or the context of the rule may require.

(2) "NFPA" is the recognized abbreviation for the National Fire Protection Association, Inc., and generally the abbreviation is used in these rules in identifying the publications of the association. The public may obtain a copy of any NFPA publication by writing the association, whose address is: National Fire Protection Association, Inc., Batterymarch Park, Quincy, Massachusetts 02269.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History--New 8-7-80, Formerly 4A-1.01, Amended 7-18-85, Formerly 4B-1.01, Amended 10-8-86, 2-6-90, 8-9-92, Formerly 4B-1.001, Amended 7-20-95, 7-23-97, 6-8-99, 5-23-00, 9-2-02, _____.

5F-11.043 Out of Service Account Procedure.

(1) All licensed suppliers of LP gas shall:

(a) Identify those accounts where stationary, company-owned tanks with a 100 gallon or more container capacity have been out of service for a period of 12 months, and within 60 days, initiate appropriate container abandonment procedures pursuant to Section 3-2.9.1(f) of NFPA 58. Alternatively, licensed suppliers may provide for the safe removal of the container or containers, install a suitable

mechanical device that prevents the system from being activated or have a pressure leak safety check pursuant to Annex Appendix D of NFPA 54 performed every 12 months. The supplier shall provide reasonable notice to the customer prior to initiating such procedures.

(b) In the event an account is reactivated, the supplier shall perform an appropriate pressure leak safety check. Each supplier shall maintain records of such inactive accounts suitable for inspection by the Department.

(2) All consumers, end users or owners of LP gas containers shall:

(a) Within 60 days initiate the safety procedures outlined in subparagraph (1)(a) above, for any stationary LP gas tank with a 100 gallon or more container capacity which has not been in use for a period of 12 months.

(b) Alternatively, have a prescribed pressure leak safety check performed annually by licensed, qualified personnel.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History--New 7-23-86, Amended 2-6-90, Formerly 5F-11.044, Amended 4-30-96, 9-2-02, _____.

5F-11.044 Out-of-Gas, Leak Call, and Interrupted Service Procedure.

(1) Prior to filling an LP gas container in an out-of-gas situation, a licensed supplier of LP gas shall:

(a) Close all container valves.

(b) If practical, physically check all appliances and appliance outlets to be certain they are closed and check for evidence of appliance changes and open or uncapped lines.

(c) If the customer is not present or appliances are inaccessible, close container(s) valves and provide ~~adequate~~ adequate written notice to the customer of the work done and advising the customer to contact the supplier for relighting of appliances. ~~Written notice as provided in NPGA #102-91, which is hereby incorporated by reference, shall be deemed adequate.~~

(d) Fill container(s) or replace safely with filled container(s).

(e) If access is possible, put all appliances back in service, making certain all pilots are properly lighted.

(f) An LP gas serviceman may, subsequent to the filling of an LP gas container in an out-of-gas situation, perform the safety procedures required in subsections (b), (c) and (e) above.

(2) If reason exists to suspect LP gas leakage, an LP gas license holder or its employee shall:

(a) Check for leakage by performing an appropriate leak test pursuant to Annex Appendix D of NFPA 54 as adopted in Rule 5F-11.002, F.A.C.

(b) Make necessary repairs or leave system in a safe condition.

(c) After repairs are made, place the system back into service, pursuant to Section 4.2, NFPA 54 as adopted in Rule 5F-11.002, F.A.C.

(3) In instances involving the interruption of gas supply to a system, the following procedures shall be followed:

(a) The LP gas license holder or its employee shall check for leakage of the affected areas of the system in accordance with Chapter 4 of NFPA 54 as adopted in Rule 5F-11.002, F.A.C.

(b) A leak test of the system as prescribed in Annex Appendix D of NFPA 54 as adopted in Rule 5F-11.002, F.A.C. must be performed prior to placing the system back into service.

(c) A leak test as prescribed in Annex Appendix D of NFPA 54 as adopted in Rule 5F-11.002, F.A.C. shall not be required where the LP gas license holder or its employee has caused the interruption of the gas supply to the system for the purpose of minor repairs to the system, and where the license holder or its employee remains on the system site and monitors the system during the service. However, the repairs shall be leak tested by means of an approved combustible gas detector or a leak detector solution.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History—New 7-23-86. Amended 6-8-88, 2-6-90, 12-31-91. Formerly 4B-1.030, Amended

5F-11.050 Installation of Unvented Room Heaters.

The following exceptions to the requirements of Section 9.23 6.24 of NFPA 54, ~~1999 edition~~, are adopted with regard to the installation of unvented room heaters:

(1) One listed, wall-mounted, unvented room heater, equipped with an oxygen depletion safety shutoff system may be installed in a bathroom, provided that the input rating shall not exceed 6000 BTU per hour and combustion and ventilation air are provided as specified in by Section 6-1(b) of NFPA 54.

(2) One listed, wall-mounted, unvented room heater equipped with an oxygen depletion safety shutoff system may be installed in a bedroom, provided that the input rating shall not exceed 10,000 BTU per hour and combustion and ventilation air are provided as specified in by Section 6-1(b) of NFPA 54.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History—New 1-24-95, Amended

DEPARTMENT OF EDUCATION

State Board of Education

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Reemployment Services	6A-22
RULE TITLES:	RULE NOS.:
Definitions	6A-22.001
Rehabilitation Provider Qualifications	6A-22.002
Reemployment Status Review	6A-22.003
Reemployment Assessments	6A-22.0031
Notice Requirements	6A-22.004

Carrier Referrals for Services	6A-22.005
Screening Process	6A-22.006
Vocational Evaluations	6A-22.007
Reemployment Services and Programs	6A-22.008
Employee Responsibilities	6A-22.009
Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities	6A-22.010
List of Forms	6A-22.011
Expenditures from the Workers' Compensation Administration Trust Fund	6A-22.012

PURPOSE AND EFFECT: The changes being proposed are to clarify various issues that have arisen since the last rule revision of this chapter, and to expand the definition of those who may be a qualified rehabilitation provider. Lists documentation required for reemployment assessments. Citations to educational programs are corrected. Rehabilitation services provided by a rehabilitation company, and who may provide those services, is clarified. The trial work period is eliminated. Registered Nurses who are also Certified Case Managers would be allowed to be qualified rehabilitation providers. The identity of applicants for services would be documented.

SUBJECT AREA TO BE ADDRESSED: Reemployment Assessments under Section 440.491(4), F.S., Training and education under Section 440.491(6), F.S. and provider qualifications under Section 440.491(7), F.S.

SPECIFIC AUTHORITY: 440.491(4), 440.491(6), 440.491(7) FS.

LAW IMPLEMENTED: 440.491(4), 440.491(6), 440.491(7) 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: Larry D. Wood, Chief Operating Officer, Department of Education, 325 West Gaines Street, Suite 1514, Turlington Bldg., Tallahassee, Florida, (850)245-0505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-22.001 Definitions.

(1) "Cooperative working agreement" means a written contractual agreement between the Department and a qualified rehabilitation provider or a public or private agency to provide comprehensive reemployment services such as on-the-job training development, job placement and follow up.

(2) "Customary residence" is the injured employee's place of permanent residence.

(3) "Customary vicinity" is the distance traveled by the injured employee from his customary residence to his place of employment at the time of injury.

(4) "Education program" means a formal course of study or a certificate program in a training and education facility, agency or institution operating under Chapters 1004, Parts II, III, and IV, 1005, 239, Part II, 240, Parts II and III or 246, F.S., or a career and technical education program defined in Chapter 1003.01(4)(c) ~~228.041(22)(e)~~, F.S. (2002 ~~1997~~), which states: "At the post secondary education level, courses of study that provide ~~vocational~~ competencies needed for entry into specific occupations or for advancement within an occupation." Outside of the State of Florida, an education program shall be approved as governed by comparable statutes of that state.

(5) "Ergonomic job analysis" is the objective study of the relationship among job demands, environmental conditions and human functional characteristics.

(6) "Good cause" is termination resulting from employee conduct:

(a) Evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.

(7) "Individualized written rehabilitation program" (IWRP) is an individualized written rehabilitation program as defined in the Rehabilitation Act of 1973, 29 U.S.C. §§ 701, et seq.

(8) "Labor market" means an area not to exceed a 50 mile radius of the injured employee's customary vicinity.

(9) "On-the-job training (OJT) contractor" is a qualified rehabilitation provider or employee of a public or private agency which has entered into a cooperative working agreement with the Department for the provision of on-the-job development and follow-up services.

(10) "On-the-job training (OJT) contract" is a contract between an employer, injured employee and the Department in which an employer agrees to hire an injured employee subject to the same working conditions and benefits as all other similarly situated employees. Pursuant to the contract, the employer shall provide training and adequate supervision to enable the injured employee to achieve predetermined competencies to ensure a return to suitable gainful employment with the contract employer at the end of the contract period.

(11) "Rehabilitation Company" means a business entity such as a corporation, or partnership, ~~or sole proprietorship~~ which employs or contracts to provide services pursuant to Section 440.491, F.S. All services provided by a carrier or a rehabilitation company under Section 440.491, Florida

Statutes, shall be provided only by an individual who is a qualified rehabilitation provider or a facility that is a qualified rehabilitation provider. Neither the employment status of the person providing the services, nor the main method of communication in providing the services negates the statutory requirement that a person providing such services must be a qualified rehabilitation provider.

(12) "Rehabilitation Facility" means an institution or agency accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) for a specific vocational rehabilitation program.

(13) "Test-site" is a Department approved location that may be inspected by the Department, to be used by a qualified rehabilitation provider for vocational evaluation and assessment services.

~~(14) "Trial period of reemployment" is a period of employment to validate whether an injured employee who has been determined to be permanently and totally disabled has been rehabilitated to the extent that he has reestablished an earning capacity.~~

~~(14)(15)~~ "Vocational evaluator" is a qualified individual employed by the Department or who holds the designation of a certified vocational evaluator and is approved by the Department to perform vocational evaluations.

~~(15)(16)~~ "Vocational specialist" means an individual who possesses:

(a) A master's degree in vocational rehabilitation (counseling, evaluation, adjustment); or

(b) Is certified by the Commission on Rehabilitation Counselor Certification, or by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists; and

(c) Is employed by a CARF-accredited facility.

Specific Authority 440.491(5),(6),(7),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 2-9-00, 6-26-01, Formerly 38F-55.001, Amended _____.

6A-22.002 Rehabilitation Provider Qualifications.

(1) The Department shall approve qualified rehabilitation providers who submit proof of meeting the following requirements:

(a) Rehabilitation nurse:

1. A current Florida license as a registered professional nurse, and

2. A current C.R.R.N. certificate as a Certified Rehabilitation Registered Nurse from the Association of Rehabilitation Nurses, or

3. A current C.O.H.N. certificate as a Certified Occupational Health Nurse from the American Board for Occupational Health Nurses, or

4. A current C.R.C. certificate as a Certified Rehabilitation Counselor from the Commission on Rehabilitation Counselor Certification, or

5. A current C.D.M.S. certificate as a Certified Disability Management Specialist from the Certification of Disability Management Specialists Commission, or-

6. A current C.C.M. certificate as a Certified Case Manager from the Commission for Case Management Certification.

(b) Rehabilitation counselor:

1. A current C.R.C. certificate as a Certified Rehabilitation Counselor from the Commission on Rehabilitation Counselor Certification, or

2. A current C.D.M.S. certificate as a Certified Disability Management Specialist from the Certification of Disability Management Specialists Commission.

(c) Vocational evaluator: A current C.V.E. certificate as a Certified Vocational Evaluator from the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(d) Facilities, other than hospitals:

1. Current accreditation by CARF in a specific vocational rehabilitation program in which the facility will provide services, and

2. Designation on the application of the qualified rehabilitation counselor or vocational specialist who will be a member of the core team to provide services to injured employees.

(e) Companies:

1. Employ only qualified rehabilitation providers for the purpose of providing all services under Section 440.491, Florida Statutes and are,

2. Incorporated under Chapters 607 and 617, F.S., or are a partnership under Chapter 620, F.S.

3. Submit a non-refundable \$25.00 biennial renewal fee, and a signed, typed and completed qualified rehabilitation provider application on form DWC-96, which is incorporated by reference into this rule, for each business address providing any services under Section 440.491, Florida Statutes.

(2) Applicants applying for renewal shall submit a non-refundable \$25.00 biennial renewal fee, and a signed, typed and completed qualified rehabilitation provider application on form DWC-96, ~~which is incorporated by reference into this rule,~~ and a copy of current certification and applicable licensure.

(a) Attendance at a Department sponsored or approved qualified rehabilitation provider workshop is required before the initial application and also before each renewal.

(b) An applicant for initial listing in the directory or an applicant whose qualified rehabilitation provider number has expired shall not provide services to injured employees until notification of an assigned provider number or renewal is received from the Department.

(3) Each applicant shall submit a signed, typed and completed form DWC-96, proof of attendance at a Department sponsored or approved qualified rehabilitation provider workshop, and a non-refundable check or money order in the amount of \$25.00 payable to Workers' Compensation Administrative Trust Fund to the Department of Education, Bureau of Rehabilitation and Reemployment Services, Provider Relations Section, 2728 Centerview Drive, 101A Forrest Building, Tallahassee, Florida 32399-~~0400664~~. Illegible or unsigned applications and applications submitted without the application fee shall be returned. Facilities and companies must attach to this application a listing of all individuals listed in the directory as qualified rehabilitation providers who provide services under Section 440.491, Florida Statutes for the facility or company.

(4) Department approval of a qualified rehabilitation provider, facility or company shall be revoked for a period of six (6) months for one or more of the following:

(a) Revocation of credentials or certification by the applicable certification or credentialing board.

(b) Misrepresentation of credentials or certification.

(c) Allowing a non-qualified rehabilitation provider to report and bill for services using an individual's, company's and or facility's qualified rehabilitation provider number.

(5) Employees of the Department, other public agencies and private agencies receiving federal or state funds to provide reemployment services are exempt from the requirements of subsections 6A-22.002(2) and (3), F.A.C.

Specific Authority 440.491(7) FS. Law Implemented 440.491(7) FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.002, Amended _____.

6A-22.003 Reemployment Status Review.

(1) The carrier shall conduct a reemployment status review by completing a reemployment status review form on the DWC-22, which is incorporated by reference in Rule 6A-22.011, F.A.C.

(2) The carrier shall complete form DWC-22 within 15 days of the reporting requirement deadlines set forth in Section 440.491(3)(a), F.S., and

(a) Shall retain a copy in the carrier's file, and

(b) Shall submit form DWC-22 to the Department within 15 business days of completion.

Specific Authority 440.491(3),(5),(6),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.005, Repromulgated _____.

6A-22.0031 Reemployment Assessments.

(1) Reemployment assessments shall include documentation of the following:

(a) From the injured employee:

1. Discussion of the injured employee's understanding of their injury, treatment and prognosis.

2. Description of the injured employees job duties, including physical demands.

3. Discussion about accommodations that might allow the injured employee to return to work.

4. The injured employee's work history.

5. Factors that would impede the injured employee's ability to return to work, and

6. Results of any vocational, interest, academic, psychological or other testing if conducted with the injured employee.

(b) From the employer:

1. Discussion of the injured employee's job of injury, including a job description with the essential functions and physical demands of the job.

2. Discussion about the ability to return the injured employee to work in either the same job, modified job or different job, and

3. Discussion of possible accommodations that could allow the injured employee to return to work in either the same job, modified job or different job.

(c) From the Health Care Provider(s):

1. Discussion of the injured employee's diagnosis and prognosis.

2. Discussion of factors that could enhance or impede the healing process.

3. Anticipated release to return-to-work date and anticipated physical limitations, and

4. Anticipated Maximum Medical Improvement date and anticipated permanent physical imitations.

Specific Authority 440.491(1),(4),(8) FS. Law Implemented 440.491 FS. History—New _____.

6A-22.004 Notice Requirements.

(1) If an injured employee remains unemployed 180 days after the date of accident and is receiving compensation, the carrier shall notify the injured employee in writing within 190 days of the date of accident of the availability of a Department screening.

(2) A carrier shall use the following written notice: "Your continuing disability indicates you may be unable to perform the duties of the job held at the time of your work-related injury. If this is correct and you are unable to return to work in any capacity with your current employer or find other employment which would allow you to earn your pre-injury wages, you may be eligible for a screening for reemployment services from the State of Florida, Department of Education. Upon receipt of your request, the Department will assess your case to determine what services are necessary to return you to suitable gainful employment. Reemployment services that you may be eligible for include job seeking skills training, counseling, referrals to other agencies, job market information, transferable skills analysis, job development, job placement, job analysis, job modification, vocational testing, vocational

evaluation, on-the-job training, or formal training and education. Additionally, if you have reached maximum medical improvement, the carrier shall pay temporary total disability benefits for a period up to 26 weeks upon beginning a Department approved retraining program or the carrier may elect to pay temporary partial disability/wage loss benefits if you earn wages as the result of on-the-job training or work while enrolled in a program. An additional 26 weeks may be approved if deemed necessary by the Judge of Compensation Claims. To request a screening, contact your local state Division of Vocational Rehabilitation, Bureau of Rehabilitation and Reemployment Services District Office or the Central Office in Tallahassee at (850)245-3470 ~~488-3431~~ and ask to speak with a staff person in the Reemployment Services Section of the Bureau of Rehabilitation and Reemployment Services." The carrier shall send a copy of this notification to the Bureau of Rehabilitation and Reemployment Services, Department of Education, 101A Forrest Building, 2728 Centerview Drive, Tallahassee, Florida 32399-0400~~0664~~ within ten days of mailing the notification to the injured employee.

Specific Authority 440.491(5),(6),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.006, Amended _____.

6A-22.005 Carrier Referrals for Services.

(1) A carrier may make a referral of an injured employee at anytime to the Department to be considered for the Department provided reemployment services program. The carrier shall make referrals to the Department for reemployment services on a request for screening form DWC-23, which is incorporated by reference in Rule 6A-22.011, F.A.C.

(2) Upon discontinuation of carrier sponsored services pursuant to Section 440.491(5), F.S., the carrier shall make referrals to the Department for reemployment services on a request for screening form DWC-23, which is incorporated by reference in Rule 6A-22.011, F.A.C.

(3) A Form DWC-23 submitted by the carrier to the Department shall not be considered complete until signed by the injured employee.

Specific Authority 440.491(5),(6),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.008, Reprimulgated _____.

6A-22.006 Screening Process.

(1) A request for screening is made using a form DWC-23. Before the Department will consider a request complete and initiate a screening, the injured employee must sign the form DWC-23.

(2) The screening process shall consist of:

(a) A review of all available medical and vocational documentation relevant to the compensable injury to determine whether the injured employee is able to perform the duties of the pre-injury occupation; and

(b) A review of the documentation which supports the payment of temporary partial disability and wage loss benefits to determine the injured employee's inability to obtain suitable gainful employment because of his injury; and

(c) An interview with the injured employee.

(3) The carrier shall provide, within 10 business days of receipt of a request from the Department, any medical, vocational, and other requested documents or reports related to the injured employee's workers' compensation case.

(4) The Department may request the information directly from the authorized treating physician(s), or qualified rehabilitation provider(s), or obtain the services of an expert medical adviser to identify the injured employee's ability to return to work, permanent impairment rating, and permanent work restrictions.

(5) The Department shall not provide any reemployment services, including a vocational evaluation unless the injured employee provides documentation to establish identity and employment eligibility. Such documentation shall be consistent with the acceptable documents for verifying identity and employment eligibility as required by the US Department of Justice, Immigration and Naturalization Service's Employment Eligibility Verification Form I-9.

~~(6)(5)~~ The Department shall not provide a vocational evaluation or any reemployment services when form DWC-23, which is signed by the injured employee, is received by the Department more than one (1) year from the date of last payment of indemnity benefits or the furnishing of remedial treatment, care, or attendance from the employer or carrier.

~~(7)(6)~~ Following a Department screening the Department shall not provide any additional reemployment services or refer the injured employee for a vocational evaluation:

(a) If the injured employee has filed a claim for permanent total disability benefits under Section 440.15(1), F.S., which the carrier has denied, wherein either the injured employee's medical condition or vocational capabilities are in dispute, until such time as an Office of the Judge of Compensation Claims adjudicates the injured employee's claim; or

(b) If the injured employee's medical condition is unresolved or unstable, until such time as the medical condition becomes stable; or

(c) If the injured employee has reached maximum medical improvement and returned to and maintained suitable gainful employment for at least 90 calendar days; or

(d) If the injured employee refuses to accept reemployment services from the Department.

~~(8)(7)~~ The Department shall not refer the injured employee for a vocational evaluation if the injured employee:

(a) Has returned to suitable gainful employment as a result of placement services provided by the Department; or

(b) Has no documented permanent physical restrictions related to the injury; or

(c) Has transferable skills which would allow return to work in suitable gainful employment; or

(d) Was terminated by the employer for good cause unrelated to the injury or any restrictions or limitations resulting therefrom; or

(e) Terminated suitable gainful employment for reasons unrelated to the injury.

Specific Authority 440.491(5),(6),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.009, Amended

6A-22.007 Vocational Evaluations.

(1) The provision of Department sponsored vocational evaluations shall be limited to one per injured employee, per date of accident. Vocational evaluations shall be adapted to the specific needs of an injured employee to insure validity.

(2) The Department shall accept a vocational evaluation only if the vocational evaluation meets the requirements of and contains the information identified in paragraph 6A-22.010(2)(e), F.A.C.

Specific Authority 440.491(5),(6),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Formerly 38F-55.010, Repromulgated

6A-22.008 Reemployment Services and Programs.

(1) The Department shall approve sponsorship of reemployment services provided through an on-the-job training program, vocational assessment, job placement or a training and education program when recommended and approved as part of a Department reemployment plan.

(2) The Department will approve and sponsor retraining services if:

(a) The vocational evaluation is completed by a Department approved vocational evaluator, and

(b) The vocational evaluation contains the information identified in paragraph 6A-22.010(2)(e), F.A.C.; and

(c) The vocational evaluation demonstrates that the injured employee:

1. Has no transferable skills which would allow for return to suitable gainful employment with the same employer, same job; same employer, different or modified job; new employer, same job; new employer, modified or different job; or

2. Requires additional Department sponsored reemployment services to enable the injured employee to return to suitable gainful employment.

(3) The Department shall sponsor retraining programs which exceed 52 weeks only when there is no program shorter than 52 weeks which would enable the injured employee to return to suitable gainful employment, the injured employee provides a plan for living expenses during the period in excess of 52 weeks, and one of the following conditions apply:

(a) The injured employee has no formal marketable vocational training and education; or

(b) The injured employee has documented physical restrictions as a result of the injury.

(4) If the Department determines a training program is necessary to return an injured employee to suitable gainful employment, the Department shall have the exclusive right to determine the educational programs and facilities at which to sponsor the injured employee.

(a) Training at private education facilities shall not be approved unless such recommended training is not offered at a public educational facility or provides an overall cost/time savings to the Workers' Compensation System, which can be justified.

(b) Training programs which only accept students from an applicant pool after the students complete a prerequisite curriculum may be approved only if the injured employee presents evidence of acceptance into such program.

(c) Baccalaureate or Graduate level studies may be approved only if the program capitalizes on prior education and/or aptitudes, and

1. The program under consideration firmly establishes marketability toward suitable gainful employment for that injured employee, and

2. The injured employee presents evidence of acceptance into a degree program prior to the Department's Disposition letter of approval, and

3. The program does not exceed the level of a Master's degree.

(5) The Department shall not transfer its sponsorship of reemployment services outside the range of the labor market survey unless a labor market survey for the new area supports the specific recommendation of the vocational evaluation.

(6) The Department shall not sponsor reemployment services if the vocational evaluation does not recommend reemployment services.

Specific Authority 440.491(5),(6) FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended 2-9-00, 6-26-01, Formerly 38F-55.011, Repromulgated

6A-22.009 Employee Responsibilities.

Upon approval of Department sponsored reemployment services, the injured employee and Department staff shall sign and date a Department and student agreement for sponsorship of training and education form DWC-24, which is incorporated by reference in Rule 6A-22.011, F.A.C.

Specific Authority 440.491(5),(6) FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended 6-26-01, Formerly 38F-55.012, Repromulgated

6A-22.010 Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities.

(1) A qualified rehabilitation provider providing employer or carrier sponsored reemployment services shall:

(a) Submit a properly completed individualized written rehabilitation program within 30 days of referral which specifies the recommended services and associated costs

necessary to return the injured employee to suitable gainful employment, using terminology consistent with Department service code descriptions to the employer or carrier for approval when recommending:

1. Reemployment services as a result of a reemployment assessment, or
2. Three or more counseling sessions, or
3. A vocational evaluation, or
4. A work evaluation, or
5. Training and education, including on-the-job training, or
6. Placement services, or
7. Changes to the initial individualized written rehabilitation program.

(b) Maintain a copy of the properly completed individualized written rehabilitation program in the injured employee's file.

(2) A certified vocational evaluator providing Department sponsored vocational evaluations shall:

(a) Ensure any test site used for Department sponsored vocational evaluations meets the definition of "test site" set forth in subsection 6A-22.001(13), F.A.C.; and

(b) Be responsible for the administration, scoring and interpretation of all testing instruments and work samples used as part of the vocational evaluation process; and

(c) Remove or cure conditions that invalidate test results; and

(d) Provide adaptive evaluation tools or techniques to accommodate any physical or functional disability or language barrier; and

(e) Submit to the Department, within 30 calendar days of Department approval of services, a written report which shall:

1. Include an interpretation of testing instruments and work samples used, specifying the form and level of tests, percentile scores, norm groups, grade levels, standard scores and stanine scores as applicable to the test instrument; and

2. Identify the injured employee's physical and intellectual capabilities, aptitudes, achievements, work related behaviors; and interests. The interests of the injured employee alone cannot be the only basis for the vocational evaluator's recommendation; and

3. Identify residual or transferable skills; and

4. Identify the most appropriate vocational objectives; and

5. Identify which reemployment service(s) are necessary for the injured employee to return to suitable gainful employment; and

6. Discuss how the provision of the recommended service(s) will facilitate reemployment; and

7. When a retraining program is recommended, include the rationale for the recommended program, the entrance, enrollment and exit requirements of the program, the anticipated program costs and the proximity of the program to the injured employee's customary residence; and

8. Include an individualized labor market survey which supports the injured employee's ability to compete for employment in the identified vocational goal(s) and shall include information documenting:

a. The potential wage earning capacity,

b. The physical demands of the identified vocational goal as identified by potential employers,

c. The minimum educational requirements and work experience required by potential employers, and

d. Each potential employer's job openings for the six months prior to the survey and projected openings for the upcoming six months.

(f) Submit to the Department, within 10 days of submission of the written report, the original receipt statement signed by the injured employee and the vocational evaluator.

(3) Any qualified rehabilitation provider providing any employer or carrier or Department sponsored reemployment services, reemployment assessments or medical care coordination shall submit with each DWC-21, which is incorporated by reference into this rule, a written report which reports services provided and expected outcomes, covering the following points:

(a) Summary by date of contacts with the injured employee and other pertinent parties; and

(b) Problems or issues adversely affecting the reemployment process and the corrective actions taken in that process; and

(c) Continuing feasibility of the reemployment plan; and

(d) Vocational activities planned for the subsequent month; and

(e) Justification for change or modification of current plan.

(4) Upon request a qualified rehabilitation provider providing a Department sponsored reemployment service, including a vocational evaluation, shall make available to the Department information and documentation to certify that the authorized service that was rendered is complete pursuant to Rule 6A-22.010, F.A.C., if such information or documentation is identified by the Department Division.

(5) Failure of a qualified rehabilitation provider providing Department sponsored reemployment services to submit the written report and additional information and documentation as required by this rule shall result in the:

(a) Reassignment of the case,

(b) Termination of the contract,

(c) Forfeiture of any monies owing at the time of termination of contract.

(6) A qualified rehabilitation provider providing either employer or carrier or Department sponsored reemployment services, reemployment assessments, medical care coordination and vocational evaluations, shall:

(a) Report on form DWC-21 only those services provided by or through the authorized qualified rehabilitation provider. Services not rendered by or through the qualified rehabilitation provider may not be billed or reimbursed.

(b) Submit a properly completed form DWC-21 listing the specific service(s) provided, utilizing only valid service codes and descriptors for those direct services rendered to the injured employee. Direct services are those services provided or required by an individualized written rehabilitation program. Other services are to be billed in the manner agreed upon by the employer or carrier and the qualified rehabilitation provider.

1. The initial form DWC-21 shall be submitted to the Department within 30 days of the contract approval date for Department sponsored services or to the employer or carrier within 30 days of the date of the referral for employer or carrier sponsored services.

2. An interim DWC-21 shall be submitted at 30-day intervals thereafter during which the authorized services are provided. The DWC-21 should not be filed if services are not provided within any 30-day period.

3. A final DWC-21 shall be submitted within 30 days of the date of the last service provided or according to the terms of a contract with the Department for vocational evaluation services.

(c) Close a file and submit a final DWC-21 when attorney involvement interferes with the provision of direct services.

(7) Any qualified rehabilitation provider or employee of the Department or other public or private agencies administering, scoring and interpreting testing instruments shall have the training and education required by the publisher of the testing instrument.

(8) Testing instruments, including work samples, used in vocational evaluations, reemployment assessments or other reemployment service activities may be administered and scored under the supervision of a qualified rehabilitation provider. Testing instruments shall be interpreted by the qualified rehabilitation provider with whom the contract for services is authorized.

(9) The employer or carrier shall:

(a) Ensure that the information required in this rule is provided on the form DWC-21 prior to payment and filing with the Department, and

(b) Approve or deny the provision of services recommended as part of an individualized written rehabilitation program within 15 calendar days of receipt of the same; and pay or deny form DWC-21 bills within 45 calendar days after receipt of a bill for services provided to an injured employee, and

(c) Complete items 20, 21 and 23 on every form DWC-21 filed with the Department. In item 20 it is necessary to legibly enter the date the form DWC-21 was received. In item 21 it is necessary to legibly enter the date the form DWC-21 was reimbursed. In item 23 it is necessary to enter the amount reimbursed only if it is different from the amount billed by the qualified rehabilitation provider or facility, and

(d) File form DWC-21 with the Department of Education at its office in Tallahassee, Florida within 30 days after the full or partial payment of form DWC-21 (A DWC-21 filed with the Department shall have a date stamp in the upper right hand corner indicating the date the DWC-21 is sent to the Department), and

(e) Be responsible for the legibility, accuracy and completeness of the social security number, date of accident, the employer or carrier's and servicing company/TPA's Department of Insurance, Division of Workers' Compensation's assigned four digit carrier code number and Federal Employer Identification Number (FEIN), and those areas that the employer or carrier completes on form DWC-21.

(10) If an employer or carrier is submitting to the Department and retaining DWC-21s on electronic media, that employer or carrier need not retain paper copies of those forms, but may treat the electronic media as the original documentation.

(11) A form DWC-21 filed with the Department which is not completed according to these rules will be returned by the Department to the employer or carrier. Upon receipt of the returned form, the employer or carrier shall properly complete and refile the form with the Department within 15 days.

(12) Form DWC-21 is incorporated by reference in Rule 6A-22.011, F.A.C.

Specific Authority 440.491(5),(6),(7) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.013, Amended

6A-22.011 List of Forms.

(1) Forms DWC-21, DWC-22, DWC-23, DWC-24 and DWC-96 and accompanying instructions are incorporated by reference as part of this rule chapter. Each form shall be typed or legibly completed in order for the form to be considered properly filed or submitted with the Department.

(a) Department reemployment services billing form shall be submitted to the Department on form DWC-21, dated 6/26/01.

(b) Reemployment status review form shall be submitted to the Department on form DWC-22, dated 6/26/01.

(c) Request for screening form shall be submitted to the Department on form DWC-23, dated 6/26/01.

(d) ~~Agency~~ Department and student agreement for sponsorship of training and education form shall be completed on form DWC-24, dated 6/26/01.

(e) Qualified rehabilitation provider application shall be submitted to the Department on form DWC-96, dated 6/26/01.

(2) A copy of the forms and accompanying instructions incorporated by subsection 6A-22.011(1), F.A.C., may be obtained from the Department of Education, Bureau of Rehabilitation and Reemployment Services, 2728 Centerview Drive, Suite 101A, Forrest Building, Tallahassee, Florida 32399-04000664. Copies are also available at the following Department web site: <http://www.firn.edu/doe/rules/rules.htm>.

Specific Authority 440.491(5),(6),(7),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.014, Amended

6A-22.012 Expenditures from the Workers' Compensation Administration Trust Fund.

(1) Upon receipt of the completed evaluation report, the Department shall authorize reimbursement for the evaluation from the Workers' Compensation Administration Trust Fund at a maximum rate of \$55.00 per hour, not to exceed \$1,100.00 per evaluation.

(2) The Department shall expend funds from the Workers' Compensation Administration Trust Fund only:

(a) For vocational evaluations and retraining for dates of accident on or after October 1, 1989 through December 31, 1993, and

(b) For reemployment services authorized by the Department pursuant to Rule Chapter 6A-22, F.A.C., for dates of accident on or after January 1, 1994.

(3) The maximum cost the Department shall expend for an approved retraining plan shall not exceed 85% of the injured employee's pre-injury average weekly wages as calculated on an annual basis, which amount shall include:

(a) Pre-approved costs for fees, tuition, books and special supplies required by the program curriculum, and

(b) Pre-approved costs for board, lodging, and travel at the rate currently allowed for state employees when an approved program requires temporary relocation for participation, or

(c) Pre-approved mileage reimbursement at the rate currently allowed for state employees for mileage to the training facility in excess of 50 miles, one-way, using the most direct route from the injured employee's customary residence. Mileage expense will not be reimbursed or paid by the Department when the training facility is less than 50 miles from the injured employee's customary residence at the time of approval for training.

(4) The Department shall pay from the Workers' Compensation Administration Trust Fund the direct costs to employers for on-the-job training according to the reimbursement schedule negotiated in the on-the-job training contract.

(5) The Department shall not reimburse or pay for any reemployment services independently initiated or obtained by the injured employee without prior written approval from the Department of the proposed reemployment plan recommending such reemployment services, including any expenses associated with retraining or education.

(6) The Department shall reimburse travel associated with the provision of reemployment services at a rate not to exceed one-half (1/2) the professional rate at which the services were contracted.

(7) The Department shall have exclusive jurisdiction over any dispute involving a claim made against it or the Workers' Compensation Administration Trust Fund for reemployment services, vocational evaluations, training and education, and rehabilitation.

(8) The Office of the Judge of Compensation Claims shall have jurisdiction over claims relating to additional temporary total disability compensation provided in Section 440.491(6)(b), F.S. (Supp. 1994).

Specific Authority 440.491(5),(6),(7),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 12-2-98, 6-26-01, Formerly 38F-55.015, Repromulgated _____.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE TITLE: Adjustments to Income

RULE NO.: 12C-1.044

PURPOSE AND EFFECT: The purpose of this new rule is to: (1) provide information on when the Department may require adjustments under Section 220.44, F.S., to clearly reflect Florida net income; and (2) provide information on when a taxpayer may ask the Department for an adjustment under Section 220.44, F.S.

SUBJECT AREA TO BE ADDRESSED: The subject area addressed by these proposed rule revisions is the Departmental procedures governing the adjustment of a taxpayer's income for Florida corporate income tax purposes.

SPECIFIC AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 220.44 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 12, 2003

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this workshop is asked to advise the Department at least 48 hours before the workshop by contacting: Larry Green, (850)922-4830. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4715, e-mail: ducasser@dor.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

CORPORATE INCOME TAX

12C-1.044 Adjustments to Income.

(1) The Executive Director or the Executive Director's designee is authorized to make adjustments to clearly reflect income in order to arrive at a proper and accurate tax. Such discretion may be exercised when any agreement, understanding, arrangement, or device, whether by inadvertence or design, improperly or inaccurately reflects Florida income. Adjustments are authorized to be made, but are not limited to, any item or items of income, loss, deduction, apportionment factor, or exclusion and can be made to all or part of any such item or items to the extent required to properly and accurately reflect income. Utilization of this authority by the Executive Director or the Executive Director's designee shall not be limited to circumstances where the improper or inaccurate reflection of income results from efforts to reduce, avoid, or escape tax.

(2) Examples when such adjustments are authorized to be made include, but are not limited to:

(a) Transactions at more or less than a fair price, which include, but are not limited to:

- 1. Transfers of property.
- 2. Loans and advances.
- 3. Services.
- 4. Transfers or use of intangible property.

(b) Transactions, arrangements, or agreements with little or no business purpose other than the reduction or avoidance of tax;

(c) Methods of accounting that fail to properly and accurately reflect income such as the inconsistent treatment of items of income, loss, or expense; or

(d) Acquisitions requiring substantial capital investment in Florida resulting in substantial changes in organizational structure and increases in the Florida apportionment fraction of the newly acquired corporation or group of corporations due to increases in the property and payroll factors.

(3)(a) If a taxpayer requests an adjustment under s. 220.44, F.S., pursuant to (2)(d), such request shall be made by the taxpayer through submission of a request for such adjustment to the Executive Director or the Executive Director's designee. Whether such adjustment shall be allowed and the amount of any adjustment shall be determined through an analysis that takes into account and balances the factors listed in this rule

against the net tax effect of the amount of the adjustment. The taxpayer shall provide information requested by the Executive Director or the Executive Director's designee that shall be utilized when making the analysis and the determination of whether and to what extent an adjustment is appropriate under s. 220.44, F.S.

(b) When an affiliated group of corporations that is necessitated by regulatory and market requirements to create different legal entities and has never elected to file a Florida consolidated return acquires a separate group of affiliated corporations and:

1. The acquired group of corporations:

a. Is or will continue to be headquartered in Florida;

b. Was properly filing Florida consolidated returns prior to acquisition; and

c. Has substantial debt prior to acquisition, which is paid directly or indirectly by the purchaser as part of the purchase price;

2. The purchaser or its existing affiliates incurred substantial debt in order to effect the acquisition; and

3. The taxpayer demonstrates that substantial net operating losses will occur upon the filing of separate Florida returns by members of the affiliated group, the Executive Director or the Executive Director's designee is authorized to enter into an agreement with the parent company of the affiliated group for an adjustment to accelerate the deduction of current year net operating losses within the affiliated group for a period not to exceed 10 years. The Executive Director or the Executive Director's designee is authorized to impose other conditions so that the adjustment is limited to the acceleration of current year net operating losses. Under no circumstances shall a taxpayer be allowed to use more tax preference items than it would have been entitled to use without the acceleration effects of this rule. The tax effect of the acceleration of current year net operating losses in each of the years under the agreement shall not exceed the lesser of twenty-five percent (25%) of the additional Florida investments made in the first three tax years after the acquisition that contribute to the increased payroll and property factor related to the acquired companies, or \$2 million.

(c) The agreement shall include provisions for the recapture of any tax benefits resulting from such adjustments should the conditions set forth in this rule or the agreement no longer be met.

(d)1. A taxpayer, any successor entities, or other members of an affiliated group of corporations that includes the taxpayer or any successor entities that has entered into an agreement with the Department under this rule shall not submit a request to revise, amend, or modify the existing agreement unless the taxpayer presents information showing that unforeseen circumstances have arisen with respect to the transaction that is the subject of the agreement.

2. A taxpayer, any successor entities, or other members of an affiliated group of corporations that includes the taxpayer or any successor entities that has entered into an agreement with the Department under this rule shall not submit a request for another agreement under this subsection for a period of 10 years from the date of the existing agreement unless the taxpayer presents information regarding a new transaction that involves a different acquired corporation or group of corporations from those included in the existing agreement.

(e) Should a taxpayer disagree with a decision made by the Executive Director or the Executive Director's designee on a request for an adjustment made pursuant to this subsection, the taxpayer may request review of the decision by the Governor and Cabinet acting as the head of the Department of Revenue.

(4) When requested, a taxpayer shall be required to submit information under oath or affirmation and shall permit examination of books and records as may be necessary to allow the Executive Director or the Executive Director's designee to determine whether and to what extent an adjustment is appropriate.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.44 FS. History—New _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Delegation
 RULE NO.: 40C-3.0321

PURPOSE AND EFFECT: The purpose and effect of this proposed amendment is to: (1) delegate authority to issue water well contractor licenses and renewals from the District's Governing Board to the Executive Director, Assistant Executive Director, Director, Department of Resource Management, Assistant Director, Department of Resource Management, and Division Director, Division of Water Use Regulation; and (2) further delegate authority to issue permits for construction, repair, or modification of water wells to the Assistant Executive Director, Director, Department of Resource Management, Assistant Director, Department of Resource Management and Division Director, Division of Water Use Regulation.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment would delegate authority to issue water well contractor licenses and renewals and further delegate authority to issue permits for the construction, repair, or modification of water wells.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.
 LAW IMPLEMENTED: 373.083(5), 373.308, 373.309(2), 373.323(5), 373.324(2), 373.333, 373.342 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4459, Suncom 860-4459

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-3.0321 Delegation.

The authority for general administration of Chapter 40C-3, F.A.C., is delegated to the Executive Director of the District. It is the policy of the Board that in making this delegation the Executive Director is authorized to designate specific staff members to carry out various tasks but that overall supervision and responsibility shall rest with the executive director. The Executive Director, Assistant Executive Director, Director, Department of Resource Management, Assistant Director, Department of Resource Management, or Division Director, Division of Water Use Regulation ~~is~~ expressly authorized to issue permits under this chapter as provided in sections 373.342(1), 373.323(5) and 373.324(2), F.S.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(5), 373.308, 373.309(2), 373.323(5), 373.324(2), 373.333, 373.342 FS. History—New 10-14-84, Formerly 40C-3.032, 40C-3.0032, Amended 9-17-89, Formerly 40C-3.032, Amended

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Procedural	40D-1
RULE TITLE:	RULE NO.:
Variations from Water Shortage Rules (Chapter 40D-21, F.A.C.)	40D-1.1002

PURPOSE AND EFFECT: Update the Executive Director's water shortage plan variance authority consistent with the proposed updates to Chapter 40D-21, F.A.C., Water Shortage Plan.

SUBJECT AREA TO BE ADDRESSED: Rules of Chapter 40D-21, F.A.C., (Water Shortage Plan) and 40D-1.1002, F.A.C., (Variations from 40D-21) will be discussed. These rule development and staff workshops are designed to provide the same input opportunity at four different locations. District staff will briefly outline the legal framework for updating both rules, then will solicit input based on “lessons learned” from past drought events and other concerns or suggestions.

Workshop input will be considered during the development of preliminary text for Rules 40D-21 and 40D-1.002, F.A.C., that is currently projected to be available March 2004.

SPECIFIC AUTHORITY: 120.54(5), 373.044, 373.113 FS.
 LAW IMPLEMENTED: 120.54(5), 373.175, 373.246 FS.
 A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
 TIME AND DATE: 1:00 p.m. – 3:00 p.m., November 4, 2003
 PLACE: Southwest Florida Water Management District, Tampa Office, Board Room, 7601 Highway 301, North, Tampa, Florida
 TIME AND DATE: 9:30 a.m. – 11:30 a.m., November 10, 2003

PLACE: Southwest Florida Water Management District, Brooksville Office, Board Conference Rooms A & B, 2379 Broad Street, Brooksville, Florida

TIME AND DATE: 1:00 p.m. – 3:00 p.m., November 20, 2003

PLACE: Southwest Florida Water Management District, Bartow Office, Board Room, 170 Century Boulevard, Bartow, Florida

TIME AND DATE: 9:30 a.m. – 11:30 a.m., November 24, 2003

PLACE: Southwest Florida Water Management District, Sarasota Office, Board Room, 6750 Fruitville Road, Sarasota, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lois Sorensen, Water Shortage Coordinator, Records and Data Department, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4299

THE PRELIMINARY DRAFT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Regulation of Wells	40D-3
RULE TITLE:	RULE NO.:
Rules and Publications Incorporated by Reference	40D-3.037

PURPOSE AND EFFECT: The purpose of this rulemaking is to incorporate the effective dates of Chapters 62-524, 62-531, 62-532 and 62-555, F.A.C., into Rule 40D-3.037, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The Department of Environmental Protection amended Chapter 62-531, F.A.C. on July 17, 2003. Rule 40D-3.037, F.A.C. does not reference the date of the amendment. Chapters 62-524, 62-532 and 62-555, F.A.C., are also referenced in Rule 40D-3.037, F.A.C. However, the effective dates of these chapters are not included.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.309 FS.
LAW IMPLEMENTED: 373.046, 373.308, 373.309, 373.323, 373.324, 373.333 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: David C. Ryder, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-3.037 Rules and Publications Incorporated by Reference.

(1) The regulations promulgated by the Department governing the construction of water wells as set forth in Chapter 62-532, F.A.C., (3-28-02), the construction of water wells in delineated areas as set forth in Chapter 62-524 (6-27-00), the licensing requirements for Water Well Contractors as set forth in Chapter 62-531, F.A.C., (7-17-03), and the construction of public supply water wells as set forth in Chapter 62-555, F.A.C., (4-10-03), are hereby incorporated by reference and made a part of this rule and shall apply to all water wells constructed, repaired, modified or abandoned in the District.

(2) through (3) No change.

Specific Authority 373.044, 373.113, 373.309 FS. Law Implemented 373.046, 373.308, 373.309, 373.323, 373.324, 373.333 FS. History—New 7-1-90, Amended 12-31-92, 4-11-94, 6-27-94, 9-22-94, 7-5-95, 10-19-95, 7-15-99, 6-23-03,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Regulation of Wells
RULE CHAPTER NO.: 40D-3
RULE TITLES: Construction Methods
RULE NOS.: 40D-3.502
Casing and Liner Pipe Standards 40D-3.507

PURPOSE AND EFFECT: This purpose of this proposed rulemaking is to prohibit the drilling of a borehole using a drill bit larger than the inside diameter of the casing for wells constructed by combination method. In so doing, the proposed rulemaking will ensure that a good seal preventing water movement is obtained in wells constructed by such method.

SUBJECT AREA TO BE ADDRESSED: Water well construction requirements for wells constructed using a combination method of drilling a borehole and then driving the casing into the hole.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.306, 373.308, 373.309 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: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-3.502 Construction Methods.

(1) No change.

(2) For wells constructed using the combination method of drilling a borehole and then driving the casing, the borehole shall be equal to or smaller in diameter than the inside diameter of the casing and shall be sealed by adding dry bentonite to the casing string at land surface and allowing that material to be carried down the outside of the casing as the casing is driven to completion. Dry bentonite shall be applied to maintain a grout seal around the casing. The first length of water bearing casing, excluding the attached drive shoe, shall not exceed 21 feet in length and must be driven into the ground before any additional borehole is constructed. During construction of a well in a delineated area, as defined in Rule 62-524.200, F.A.C., or a public supply well using the combination drilling method, the minimum acceptable grout seal shall be accomplished by undercutting or underreaming the last five feet of hole before sealing the casing. A minimum of one foot of such enlarged hole must be into the consolidated formation in which the casing is seated. The entire enlarged portion of the hole shall be filled with cement grout and then the casing shall be driven through the cement grout and seated into the enlarged portion of the consolidated formation. The top 20 feet of casing shall be sealed with no less than a 2-inch nominal thickness of cement grout. No other minimum seal shall be acceptable unless approved by the District or delegated permitting authority. Except as described above, the use of a drilling tool, such as an eccentric bit or an underreamer bit, that is capable of drilling a hole larger than the inside diameter of the casing is prohibited when constructing a well by combination method.

(2) through (7) renumbered (3) through (8) No change.

Specific Authority 373.044, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-3-91, 12-31-92,_____.

40D-3.507 Casing and Liner Pipe Standards.

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

(4) When any part of a well casing with an outside diameter of 4 inches or larger is intended to be installed in a bore hole which is larger in diameter than the ~~inside~~ ~~outside~~ diameter of the casing, the annular space shall be filled from bottom to top with not less than a nominal 2 inch thickness of neat cement grout. For those well casings with an outside diameter of less than 4 inches, the minimum grout thickness shall be a nominal 1 inch.

(5) No change.

Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-30-91, 12-31-92, _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Water Shortage Plan	40D-21
RULE TITLES:	RULE NOS.:
Policy and Purpose	40D-21.011
Elements of the Plan	40D-21.031
Definitions	40D-21.051
Evaluating Water Conditions	40D-21.221
Declaring a Water Shortage	40D-21-231
Water Shortage Phases	40D-21.251
Implementing a Water Shortage Declaration	40D-21.275
Variances	40D-21.291
Declaring a Water Shortage Emergency	40D-21.331
Water Use Restrictions in a Water Shortage Emergency	40D-21.371
Implementing a Water Shortage Emergency Declaration	40D-21.391
Monitoring	40D-21.401
Enforcement	40D-21.421
General	40D-21.511
Source Classifications	40D-21.531
Use Classifications	40D-21.541
Method of Withdrawal Classifications	40D-21.571
General	40D-21.601
Phase I: Moderate Water Shortage	40D-21.621
Phase II: Severe Water Shortage	40D-21.631
Phase III: Extreme Water Shortage	40D-21.641

PURPOSE AND EFFECT: Update the District's Water Shortage Plan.

SUBJECT AREA TO BE ADDRESSED: Rules of Chapter 40D-21, F.A.C., (Water Shortage Plan) and 40D-1.1002, F.A.C., (Variances from 40D-21) will be discussed. These rule development and staff workshops are designed to provide the same input opportunity at four different locations. District staff will briefly outline the legal framework for updating both rules, then will solicit input based on "lessons learned" from past drought events and other concerns or suggestions.

Workshop input will be considered during the development of preliminary text for Rule 40D-21 and 40D-1.002, F.A.C., that is currently projected to be available March 2004.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.119, 373.129, 373.136, 373.175, 373.246, 373.603, 373.609 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:00 p.m. – 3:00 p.m., November 4, 2003

PLACE: Southwest Florida Water Management District, Tampa Office, Board Room, 7601 Highway 301, North, Tampa, Florida

TIME AND DATE: 9:30 a.m. – 11:30 a.m., November 10, 2003

PLACE: Southwest Florida Water Management District, Board Conference Rooms A & B, Brooksville Office, 2379 Broad Street, Brooksville, Florida

TIME AND DATE: 1:00 p.m. – 3:00 p.m., November 20, 2003

PLACE: Southwest Florida Water Management District, Bartow Office, Board Room, 170 Century Boulevard, Bartow, Florida

TIME AND DATE: 9:30 a.m. – 11:30 a.m., November 24, 2003

PLACE: Southwest Florida Water Management District, Sarasota Office, Board Room, 6750 Fruitville Road, Sarasota, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lois Sorensen, Water Shortage Coordinator, Records and Data Department, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4299

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Nursing Facility Services
 RULE NO.: 59G-4.200

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, October 2003. The handbook contains changes required by the Health Insurance Portability and Accountability Act (HIPAA) and other necessary changes. The effect will be to incorporate by reference in the rule the current Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Nursing Facility Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 400 Part II, 409.905, 409.908 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m. – 11:00 a.m., November 10, 2003

PLACE: 2727 Mahan Drive, Building 3, Conference Room A, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kris Russell, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7353

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.200 Nursing Facility Services.

(1) No change.

(2) All participating nursing facility services providers must comply with the provisions of the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, October 2003, August, 2000 and the corresponding Florida Medicaid Provider Reimbursement Handbook, Institutional 021, September 1996 which are incorporated by reference. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 400 Part II, 409.905, 409.908 FS. History–New 1-1-77, Amended 6-13-77, 10-1-77, 1-1-78, 2-1-78, 12-28-78, 2-14-80, 4-5-83, 1-1-84, 8-29-84, 9-1-84, 9-5-84, 7-1-85, Formerly 10C-7.48, Amended 8-19-86, 6-1-89, 7-2-90, 6-4-92, 8-5-92, 11-2-92, 7-20-93, Formerly 10C-7.048, Amended 11-28-95, 5-9-99, 10-15-00, 10-4-01, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLE: RULE NO.:

Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status 61E1-3.001

PURPOSE AND EFFECT: This amendment to Rule Chapter 61E1, F.A.C., implements the rule-adoption requirement contained in Section 455.02(2), Florida Statutes, which exempts spouses of members of the Armed Forces of the United States from licensure renewal provisions, in cases of absence from the state because of their spouses’ duties with the Armed Forces.

SUBJECT AREA TO BE ADDRESSED: License renewal, asbestos removal.

SPECIFIC AUTHORITY: 455.02(2), 469.011 FS.

LAW IMPLEMENTED: 455.02(2) 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 IS: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61E1-3.001 Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status.

(1) through (4)(f) No change.

(g) Spouses of members of the Armed Forces of the United States shall be exempted from licensure renewal provisions, but only in cases of absence from the state because of their spouses’ duties with the Armed Forces.

(5) through (6) No change.

Specific Authority 455.02(2), 469.008, 469.011 FS. Law Implemented 455.02(2), 455.271, 469.006, 469.008 FS. History–New 9-22-94, Amended 10-17-95, 10-29-97, 4-27-00, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Inspections 61E1-5

RULE TITLE: RULE NO.:

Removal of Asbestos – Containing Resilient Floor Cover or its Adhesive 61E1-5.001

PURPOSE AND EFFECT: This amendment to Rule Chapter 61E1, F.A.C., implements the rule-adoption requirement contained in Section 469.002(3), Florida Statutes, regarding the inspection of asbestos removal sites. This inspection is a safeguard put in place in conjunction with the exemption from licensure for individuals or businesses involved in the removal of Category I type floor tile.

SUBJECT AREA TO BE ADDRESSED: Asbestos removal.

SPECIFIC AUTHORITY: 455.2035, 469.002(3) FS.

LAW IMPLEMENTED: 469.002(3) 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 IS: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

INSPECTIONS

61E1-5.001 Removal of Asbestos – Containing Resilient Floor Cover or its Adhesive.

The Department or its contractual designee may periodically inspect and oversee projects concerning the removal of asbestos-containing resilient floor cover or its adhesive. Such inspections shall be for the purposes of determining that the resilient floor covering is a Category I nonfriable material as defined in NESHAP and remains a Category I nonfriable material during removal activity and that all such removal activities are performed in accordance with all applicable asbestos standards of the United States Occupational Safety and Health Administration under 29 C. F. R., Part 1926. Upon completion of such inspections, the Department or its contractual designee shall submit a written report verifying the date, time, place and company performing the removal of the asbestos-containing resilient floor cover or its adhesive and certification that all conditions required pursuant to Section 469.002(3), F.S., have been met.

Specific Authority 469.002(3), 455.2035 FS. Law Implemented 469.002(3) FS. History–New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers’ Board

RULE TITLES:	RULE NOS.:
Normal Penalty Ranges	61G3-21.001
Suspension	61G3-21.014

PURPOSE AND EFFECT: The Board proposes the development of rules to include language regarding limitations on the imposition of penalties and to address the suspension of a license.

SUBJECT AREA TO BE ADDRESSED: Limitations of fines imposed and authority to suspend a license.

SPECIFIC AUTHORITY: 476.064(4), 455.2273, 476.024, 476.214(2) FS.

LAW IMPLEMENTED: 455.2273, 476.024, 476.214(2) 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: Julie Malone, Executive Director, Barbers’ Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G3-21.001 Normal Penalty Ranges.

The following guidelines shall be used in disciplinary cases, absent aggravating or mitigating circumstances and subject to the other provisions of this chapter.

(1) through (13) No change.

(14) Penalties imposed by the Board pursuant to Rule 61G3-21.001, F.A.C., may be imposed in combination or individually but may not exceed the limitations enumerated below:

(a) Revocation or suspension of any license or registration issued pursuant to Chapter 476, Florida Statutes.

(b) Issuance of a reprimand or censure.

(c) Imposition of an administrative fine not to exceed \$500 for each count or separate offense.

(d) Placement on probation for a period of time and subject to such reasonable conditions as the Board may specify.

(e) Refusal to certify to the Department an applicant for licensure or registration.

Specific Authority 476.064(4), 455.2273 FS. Law Implemented 455.2273 FS. History–New 11-25-86, Amended 7-4-90, 12-23-90, Formerly 21C-21.001, Amended 10-30-95, _____.

61G3-21.014 Suspension.

The Board may suspend any license issued pursuant to Chapter 476, Florida Statutes, in any case where, in the Board’s opinion, it is in the interest of the public health, safety and welfare.

Specific Authority 476.024, 476.214(2) FS. Law Implemented 476.024, 476.214(2) FS. History–New _____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE:	RULE NO.:
Colonic Irrigation	64B7-31.001

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Colonic irrigation.

SPECIFIC AUTHORITY: 480.035(7), 480.041(4) FS.

LAW IMPLEMENTED: 480.032, 480.033, 480.041(4) 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, IF AVAILABLE, IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
List of Approved Forms; Incorporation 64B8-1.007
PURPOSE AND EFFECT: The proposed rule amendments are intended to incorporate revised forms into the rule.
SUBJECT AREA TO BE ADDRESSED: Incorporation of revised forms.

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.348, 458.351, 465.0276 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

(1) DH-MQA 1000, entitled “Board of Medicine Medical Doctor Application for Licensure ~~by Examination and Endorsement (Medical Doctor)~~” (10/03) ~~(12/02)~~.

(2) through (7) No change.

(8) DH-MQA 1008, entitled “Limited License Application Materials for Allopathic Physicians to be Licensed Pursuant to Section 458.317, F.S.,” (10/03) ~~(6/99)~~.

(9) DH-MQA 1009, entitled “Temporary Certificate for Practice in an Area of Critical Need,” (10/03) ~~(6/99)~~.

(10) through (16) No change.

(17) DH-MQA 1032, entitled “Board of Medicine Application Materials for Initial Registration & Renewal of ~~Unlicensed~~ Intern/Resident/Fellow & House Physician,” (10/03) ~~(12/00)~~.

(18) through (19) No change.

(20) DH-MQA 1072, entitled “Application Materials Medical Faculty Certificate,” (10/03) ~~(10/02)~~.

(21) through (25) No change.

Specific Authority 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.348, 458.351, 465.0276 FS. History—New 4-17-01, Amended 11-20-01, 8-13-02, 11-10-02, 3-19-03, 6-4-03, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
Continuing Education for Biennial Renewal 64B8-13.005
PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address continuing education credit by Board members.

SUBJECT AREA TO BE ADDRESSED: Continuing education credit for Board members.

SPECIFIC AUTHORITY: 456.013(6),(7), 456.031(4), 458.309, 458.319 FS.

LAW IMPLEMENTED: 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-13.005 Continuing Education for Biennial Renewal.

(1) No change.

(2)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks.

(b) Five hours of continuing medical education in the subject area of risk management may be obtained by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine in compliance with the following:

1. through 2. No change.

3. The licensee must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. A licensee may receive CME credit in risk management for attending the disciplinary portion of a Board meeting only if he or she is attending on that date solely for that purpose; he or she may not receive such credit if appearing at the Board meeting for another purpose. A member of the Board of Medicine may obtain 3 ½ hours of continuing medical education in the subject area of risk management and 2 hours of continuing medical education in the subject area of prevention of medical errors for attendance at the disciplinary portion of one Board meeting.

(3) through (11) No change.

Specific Authority 456.013(6),(7), 456.031(4), 458.309, 458.319 FS. Law Implemented 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS. History—New 9-7-86, Amended 11-17-87, 11-15-88, 1-31-90, 9-15-92, Formerly 21M-28.002, Amended 12-5-93, Formerly 61F6-28.002, Amended 3-1-95, 1-3-96, 1-26-97, Formerly 59R-13.005, Amended 5-18-99, 2-7-01, 6-4-02, 10-8-03, _____.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE TITLE:

Adoption of Federal Regulations and Other Standards

RULE NO.:

5K-4.002

PURPOSE AND EFFECT: Amendments to existing rules which reference specific federal codes, standards, publications and regulations are periodically updated to keep the rule current. This rule amendment adopts by reference: Current, revised, new and renumbered sections of Titles 7, 9, 19, 21 and 40, Code of Federal Regulations (CFR), and deletes reference to Title 50, CFR. This rule amendment adopts the following publications by reference: 1) Chapters 1-7 of The U.S. Food and Drug Administration (FDA) “2001 Food Code” (with some exclusions), and Chapters 1-7 of the “Supplement to the 2001 Food Code;” 2) the Model Consumer Commodity Salvage Code (2002); 3) the FDA/CFSAN Defect Action Level Handbook, The Food Defect Action Levels, (Revised May 1998), and 4) the Industry Activities Staff Booklet, Action Levels For Poisonous or Deleterious Substances in Human Food and Animal Feed (August 2000). The rule amendment also deletes existing rule language regarding

regulatory action levels for pesticide residues for fresh fruits and vegetables. The rule amendment excludes the 7° C (45° F), temperature standard, found in parts of the 2001 Food Code, and Supplement to the 2001 Food Code.

SUMMARY: The rule amendment adopts by reference new sections of Title 7, Code of Federal Regulation, federal standards for fresh fruit and vegetables, grading of shell eggs, inspection of eggs and egg products and grading of poultry products. The rule amendment deletes previously adopted sections of Title 7, regarding grading standards for meats. The rule amendment adopts by reference new sections of Title 9, Code of Federal Regulations, federal standards for cooking pork sausage. The rule amendment adopts by reference, all of Part 134 of Title 19, Code of Federal Regulations, a federal regulation requiring country of origin labeling on imported juices and juice concentrate. The rule amendment adopts by reference Part 1240 of Title 21, Code of Federal Regulations, a federal standard for control of communicable diseases, and deletes other Parts of Title 21. The rule amendment adopts by reference sections of Part 180 of Title 40, Code of Federal Regulations, federal standards for pesticide tolerances in food and animal feed, and deletes other Parts of Title 40, which were previously adopted. The rule amendment deletes reference to all previously adopted Parts of Title 50, Code of Federal Regulations; which are pertinent to the National Marine Fisheries Service, but inapplicable to the Department. The rule amendment deletes previously adopted provisions of the Federal Register regarding safe and sanitary procedures for fish processing and importing, because these provisions have been replaced by parts of Title 21, Code of Federal Regulations, which are adopted by reference in this rule amendment. The rule amendment adopts by reference the Model Consumer Commodity Salvage Code. The rule amendment addresses action levels for pesticide and other deleterious substances found in food and feed, by adopting by reference the FDA/CFSAN Defect Action Level Handbook, The Food Defect Action Levels, (Revised May 1998), and the Industry Activities Staff Booklet, Action Levels For Poisonous or Deleterious Substances in Human Food and Animal Feed (August 2000). The rule amendment also eliminates existing rule language regarding regulatory action levels for pesticide residues on fresh fruit and vegetables. The deletion of this rule language makes the FDA standard for pesticide residues on fresh fruit and vegetables the applicable standard.

The rule amendment updates the Department’s base sanitation code by adopting by reference Chapter 1-7 of the FDA “2001 Food Code” with some exclusions, and Chapters 1-7 of the Supplement to the 2001 Food Code. The rule amendment excludes a 7°C (45°F) temperature standard found in Chapters 1-7 of the 2001 Food Code and Supplement to the 2001 Food Code. Previous and current Food Codes gave industry 5 years to upgrade cooling equipment so that it would maintain a temperature of 5°C (41°F), which is necessary to suppress the growth of the bacterium, *Listeria monocytogenes*. The