

NAME OF PERSON ORIGINATING PROPOSED RULE:
Don Davis, Office of Data Quality and Collection, Division of
Workers' Compensation, Department of Financial Services
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Tanner Holloman, Director of
Workers' Compensation, Department of Financial Services
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 23, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: March 5, 2004

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5E-14	Entomology – Pest Control Regulations
RULE NOS.:	RULE TITLES:
5E-14.103	Licensee Identification – Vehicles, Equipment
5E-14.142	Responsibilities and Duties – Records Reports, Advertising, Applications

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d) 1., published in Vol. 30, No. 7, February 13, 2004, issue of the Florida Administrative Weekly. These changes reflect comments received from the Joint Administrative Procedures Committee and comments received at the hearing on March 11, 2004.

THE RULE NOW READS AS FOLLOWS:

5E-14.103 Licensee Identification – Vehicles, Equipment.
To assist the Department in enforcement of Chapter 482, F.S., and all regulations thereunder, the licensee shall identify all units or equipment used by him or in his behalf for pest control as follows:

(1) All motor vehicles and all trailers used in behalf of or by any licensee or licensee's employees in the conduct of pest control shall be ~~permanently~~ marked for easy identification with the licensee's name or trade name, as registered with the Department. Vehicles shall be permanently marked except as provided below. The term "permanently marked" shall mean paint or decals applied to the vehicle body itself. Only those vehicles used exclusively for the purpose of sales and soliciting of business may be temporarily marked, including the use of

magnetic signs, provided that no pesticides or pesticide application equipment are carried in the vehicle. All vehicles used in the conduct of pest control that carry or contain pesticides or pesticide application equipment, shall be permanently marked. Magnetic signs are prohibited. This requirement may be waived by the Department for a period of time not to exceed fifteen (15) working days in authentic and verifiable emergencies when the licensee has given written notice to the Entomologist Inspector in the area describing the cause of the emergency, the vehicle being replaced, the substituting vehicle, and the anticipated termination date of the emergency.

Specific Authority 482.051(2)(4) FS. Law Implemented 482.051(2)(4), 482.161, 482.191 FS., Section 1, Chapter 92-203, Laws of Florida. History—New 1-1-77, Joint Administrative Procedures Committee Objection Withdrawn – See FAW Vol. 3, No. 30, July 29, 1977, Amended 6-27-79, Formerly 10D-55.103,_____.

5E-14.142 Responsibilities and Duties – Records Reports, Advertising, Applications.

(1) through (2)(b) No change.

(c) Termite or other wood-destroying organism inspection report:

Pursuant to Sections 482.226(1),(2),(4) and (5), F.S., each licensee having a certified operator in the category of termite or other wood-destroying organism control and who makes and reports the findings of a wood-destroying organism inspection in writing shall provide the party requesting the inspection with the inspection findings in the Wood-Destroying Organisms Inspection Report prescribed by the Department and furnished by the licensee, DACS 13645, Rev. 02/04 ~~3/02~~, which is incorporated by reference. The licensee shall not place any disclaimers or additional language on the Wood Destroying Organisms Inspection Report. The licensee shall inspect for all wood-destroying organisms as defined in Section 482.021(28), F.S., in accordance with the following inspection standards:

1. through 2. No change.

3. The inspection shall include an examination for visual evidence of wood-decaying fungi and damage caused by wood-decaying fungi. Wood-decaying fungi are fungi that can cause damage to wood, such as those that produce white rot, brown rot, poria and cubical rot, but not surface molds that do not cause damage to sound wood.

Specific Authority 482.051 F.S. Law Implemented 482.061, 482.071, 482.091, 482.111(5),(9), 482.161(1)(g), 482.226(1),(2),(4),(5), and (6) FS. History—New 1-2-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03,_____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Steve Dwinell, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Tallahassee, Florida 32399-1650, (850)488-7447

DEPARTMENT OF EDUCATION**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-1.0501	Definition of Instructional Staff
6A-1.0502	Noncertificated Instructional Personnel
6A-1.0503	Definition of Qualified Instructional Personnel

NOTICE OF HEARING CORRECTION

Notice is hereby given that the hearing of the State Board of Education to be held on April 20, 2004, regarding Proposed Rules 6A-1.0501 – Definition of Instructional Staff; 6A-1.0502 – Noncertificated Instructional Personnel; and 6A-1.0503 – Definition of Qualified Instructional Personnel; as noticed in Vol. 30, No. 12, March 19, 2004, Florida Administrative Weekly, and Proposed Rule 6A-10.060 – The Dale Hickam Excellent Teaching Program, as noticed in Vol. 30, No. 8, February 20, 2004, will be conducted via phone conference from 10:00 a.m. – 12:00 Noon on April 20, 2004.

A copy of the agenda as well as the conference phone number may be obtained from the Commissioner of Education's website at <http://www.fldoe.org>.

DEPARTMENT OF EDUCATION**State Board of Education**

RULE NO.:	RULE TITLE:
6A-10.060	Definition of Instructional Staff

NOTICE OF HEARING CORRECTION

Notice is hereby given that the hearing of the State Board of Education to be held on April 20, 2004, regarding Proposed Rule 6A-10.060 – The Dale Hickam Excellent Teaching Program, as noticed in Vol. 30, No. 8, February 20, 2004, will be conducted via phone conference from 10:00 a.m. – 12:00 Noon on April 20, 2004.

A copy of the agenda as well as the conference phone number may be obtained from the Commissioner of Education's website at <http://www.fldoe.org>.

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."

AGENCY FOR HEALTH CARE ADMINISTRATION**Medicaid**

RULE NOS.:	RULE TITLES:
59G-8.201	The Supervision of Self-Administration of Medications by and the Administration of Medication to Developmental Services (DS) Waiver Recipients, by Unlicensed Direct Service Providers
59G-8.202	Definitions
59G-8.203	Medication Administration Training and Medication Administration Skills Validation Requirements for the Unlicensed Direct Service Provider
59G-8.204	Requirements for Administration of Medication
59G-8.205	Requirements for Supervision of Self-Administration of Medication
59G-8.206	Storage Requirements for Prescription Medications
59G-8.207	Additional Requirements
59G-8.208	Required Record Keeping for the Administration of Medications or the Supervisions of Self-Administration of Medication, by Validated Direct Service Providers
59G-8.209	Special Requirements for Recipients who Require Medication While Traveling or Away for a Visit
59G-8.210	Informed Consent
59G-8.211	Requests for Exemption

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules as noticed in Vol. 29, No. 30, July 25, 2003, Florida Administrative Weekly, has been withdrawn.

DEPARTMENT OF MANAGEMENT SERVICES

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
60-8	Prohibition of Smoking in State Offices
RULE NOS.:	RULE TITLES:
60-8.001	Purpose and Scope
60-8.002	Definitions
60-8.003	Prohibition
60-8.004	No-Smoking Areas
60-8.005	Action By Department Officials and Employees
60-8.006	Posting of Signs
60-8.007	Enforcement, Penalties

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules, as noticed in Vol. 28, No. 34, August 23, 2002, Florida Administrative Weekly have been withdrawn.

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 Medicine**

RULE NO.:	RULE TITLE:
64B8-2.001	Definitions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 8, of the Florida Administrative Weekly on February 20, 2004, has been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

DEPARTMENT OF HEALTH**Board of Optometry**

RULE NO.:	RULE TITLE:
64B13-11.001	Inactive Status

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 03, of the January 16, 2004, issue of the Florida Administrative Weekly. These changes are being made in response to comments received from the Joint Administrative Procedures Committee. The Board, at its April 2, 2004 meeting, voted to make the following changes. The changes are as follows:

Subsection (2)(d) is not being struck, but shall read: If applicable, the change of status fee in subsection 64B13-6.001(7)(44), F.A.C.

Subsection (3)(f) is not being struck, but shall read: If the request of change licensure is made at any time other than at the beginning of a licensure cycle, pays the change of status fee of subsection 64B13-6.001(7)(44), F.A.C, and

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH**Board of Optometry**

RULE NO.:	RULE TITLE:
64B13-11.004	Delinquent Status License

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 3, of the January 16, 2004, issue of the Florida Administrative Weekly.

These changes are being made in response to comments received from the Joint Administrative Procedures Committee. The Board, at its April 2, 2004 meeting, voted to make the following changes. The changes are as follows:

Subsection (3) shall read: The delinquent ~~status~~ licensee who applies for an active or inactive license status shall pay to the board ~~the either the active status fee of subsection 64B13-6.001(4)(3), F.A.C., or the inactive status license fee of subsection 64B13-6.001(8), F.A.C., and the delinquent status license fee of subsection 64B13-6.001(13)(15), F.A.C. ,and, if applicable, the change of status fee of subsection 64B13-6.001(7)(44), F.A.C.~~

Subsection (4) shall read: The delinquent ~~status~~ licensee who applies for active status license shall, in addition to complying with (3) immediately above, affirm compliance with the continuing education requirements of Rule 64B13-5.001, F.A.C., for the years the licensee was inactive prior to becoming ~~been inactive or~~ delinquent.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH**Board of Podiatric Medicine**

RULE NO.:	RULE TITLE:
64B18-14.010	Citations

NOTICE OF PUBLIC HEARING

The Board of Podiatric Medicine hereby gives notice of a public hearing on the above-referenced rule to be held on April 30, 2004 at 10:30 a.m., or shortly thereafter, at The Double Tree Galleria, 2670 East Sunrise Boulevard, Lauderdale, FL

33304, (954)565-3800. The hearing is being set to consider the Notice of Change published in Vol. 30, No. 14, of the April 2, 2004, Florida Administrative Weekly. The rule was originally published in Vol. 30, No. 9, of the February 27, 2004, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE NO.:	RULE TITLE:
64F-12.012	Records of Drugs, Cosmetics and Devices

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 52, on December 26, 2003, and the Notice of Change published in Vol. 29, No. 52, on February 20, 2003, of the Florida Administrative Weekly.

The changes are the result of written comments received from staff of the Joint Administrative Procedures Commission.

Paragraph (16) of Rule 64F-12.012, F.A.C., shall now read as follows:

64F-12.012 Records of Drugs, Cosmetics and Devices.

(16) Establishing an ongoing relationship pursuant to Section 499.0121(6)(d)5.b. and c., F.S. A wholesale distributor that is not listed as an authorized distributor of record on the list submitted to the department by a prescription drug manufacturer may request the department add the wholesale distributor to the department's web site of authorized distributors of record for a drug manufacturer for purposes of the pedigree paper requirements of Section 499.0121(6)(d), F.S., that become effective March 1, 2004, provided that such wholesale distributor satisfies the requirements of paragraph (a) or (b) below.

(a) A wholesale distributor or its affiliated group must submit the information in subparagraph 1. and 2. below to document eligibility for inclusion as an authorized distributor of record for a manufacturer of prescription drugs pursuant to Section 499.0121(6)(d)5.b., F.S. If the information submitted in subparagraph 1. and 2. is based on the cumulative activity of an affiliated group, a wholesale distributor or its affiliated group must submit the information in 3. below to document the eligibility of the individual wholesaler establishment that is a

member of the affiliated group to be an authorized distributor of record for a manufacturer of prescription drugs pursuant to Section 499.0121(6)(d)5.b. F.S.

1. To document total annual prescription drug sales of \$100 million or more submit either:

a. The most recent audited financial report that includes an Income Statement or Statement of Profit /Loss that indicates sales of prescription drugs of at least \$100 million. (Note: the statement or notes in the audited financial report must clearly demonstrate the sales amount related to prescription drugs as opposed to other commodities). OR

b. A signed attestation from a certified public accountant that the establishment or affiliated group, if applicable, had total annual prescription drug sales of \$100 million or more in the most recent fiscal year. OR

c. A computerized listing of prescription drug sales transactions during the period 10/1/02-9/30/03, or a 12-month period ending on the last day of the most recent calendar quarter, of at least \$100 million. This report must be totaled. The detail should include the invoice number, invoice date, customer name, and total invoice amount related to prescription drugs. A statement must be provided that the report documents at least \$100 million in prescription drug sales, excluding customer returns.

and

2. For each manufacturer for whom the wholesaler claims authorized distributor of record status, submit both sub-subparagraph a. and b. to document that the wholesaler annually purchases not less than 90%, based on dollar volume, of all of its purchases of a manufacturer's prescription drug products directly from that manufacturer.

a. A computerized listing of all of a manufacturer's prescription drugs purchased by the wholesaler during the period 10/1/02-9/30/03, or a 12-month period ending on the last day of the most recent calendar quarter, regardless of the source of those prescription drugs. This report must be totaled. AND

b. A computerized listing of all purchases of a manufacturer's prescription drugs directly from the manufacturer during the same time period. This report must be totaled. The detail should include the invoice number, invoice date, and total invoice amount related to prescription drugs. A statement must be provided that the report documents at least 90% of the wholesaler's purchases of a manufacturer's prescription drug products directly from that manufacturer, excluding returns to the manufacturer. OR

c. Copies of the manufacturer's sales invoices of prescription drugs to the wholesaler. An adding machine tape, or equivalent, must be included that lists each invoice, in order, and provides a total of all invoices submitted. A statement must be provided that the invoices document at least 90% of

the wholesaler's purchases of a manufacturer's prescription drug products directly from that manufacturer, excluding returns to the manufacturer.

3. Each wholesaler establishment that applies to the department to be listed as an authorized distributor of record of a drug manufacturer based upon its affiliated group's ongoing relationship with the manufacturer, or the affiliated group on behalf of each wholesaler establishment, must submit the names and address of all member wholesaler establishments of the affiliated group. In addition, each wholesaler establishment must either:

a. Conduct its prescription drug wholesale activities under an establishment name that incorporates the same business name as the affiliated group upon which the eligibility criteria for the affiliated group was met, or

b. Hold a valid prescription drug wholesaler permit or out-of-state prescription drug wholesaler permit issued under ch. 499, F.S.

(b) A wholesale distributor or its affiliated group must submit the information in 1. and 2. below to document eligibility for inclusion as an authorized distributor of record for a manufacturer of prescription drugs pursuant to Section 499.0121(6)(d)5.c., F.S.

1. To document total annual prescription drug sales of \$100 million or more submit either:

a. The most recent audited financial report that includes an Income Statement or Statement of Profit /Loss that indicates sales of prescription drugs of at least \$100 million. (Note: the statement or notes in the audited financial report must clearly demonstrate the sales amount related to prescription drugs as opposed to other commodities), OR

b. A signed attestation from a certified public accountant that the establishment or affiliated group, if applicable, had total annual prescription drug sales of \$100 million or more in the most recent fiscal year, OR

c. A computerized listing of prescription drug sales transactions during the period 10/1/02-9/30/03, or a 12-month period based on the most recent calendar quarter, of at least \$100 million. This report must be totaled. The detail should include the invoice number, invoice date, customer name, and total invoice amount related to prescription drugs. A statement must be provided that the report documents at least \$100 million in prescription drug sales, excluding customer returns.

2. For each manufacturer for whom the wholesaler claims authorized distributor of record status, submit a., b., or c. to document that the wholesaler has a verifiable account number issued by the manufacturer and has made at least 12 purchases of prescription drugs directly from that manufacturer using the verifiable account number.

a. If the wholesaler is a member of an affiliated group and all purchases from that manufacturer are made at a central location for the wholesaler, copies of at least 12 invoices dated during the previous 12 months from the date the information is

submitted, which invoices document purchases of prescription drugs, at least one unit of which on each invoice was not returned, under that central account number but shipped to the wholesaler's address for whom the authorized distributor of record status is claimed. A statement must be provided that the invoices document purchases of prescription drugs for the wholesaler for whom the authorized distributor of record status is claimed and that the wholesaler did not return to the manufacturer at least one unit of the prescription drugs on each invoice.

b. If the wholesaler is a member of an affiliated group and all purchases from that manufacturer are made at a central location and received at a central location for the wholesaler, copies of at least 12 invoices dated during the previous 12 months from the date the information was submitted, under the same account number which is clearly assigned to the wholesaler at the permitted address. Each invoice must document the purchase of prescription drugs, of which at least one unit identified on the invoice was not returned. A statement must be provided that the invoices document purchases of prescription drugs by that central location and that the central location or wholesaler for which the drugs were obtained did not return to the manufacturer at least one unit of the prescription drugs on each invoice, and that the central location shipped at least 12 times to the individual wholesaler for whom the authorized distributor of record status is claimed during the 12 months based on the fiscal year or designated timeframe.

c. For all other wholesale distributors, copies of at least 12 invoices dated during the previous 12 months from the date the information was submitted, under the same account number that is clearly assigned to the wholesaler at the permitted address. Each invoice must document the purchase of prescription drugs, of which at least one unit identified on the invoice was not returned. A statement must be provided that the invoices document purchases of prescription drugs by that wholesaler and that the wholesaler did not return to the manufacturer at least one unit of the prescription drugs on each invoice.

Specific Authority 499.01, 499.012, 499.0122, 499.013, 499.014, 499.028, 499.04, 499.041, 499.05, 499.62, 499.63, 499.64, 499.66, 499.67, 499.701 FS. Law Implemented 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.028, 499.04, 499.041, 499.05, 499.06, 499.062, 499.063, 499.064, 499.066, 499.067 FS. History—New 12-12-82, Amended 7-8-84, 1-30-85, Formerly 10D-45.54, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.054, Amended 1-26-99, 4-17-01, 10-29-02, 7-6-03, 1-1-04, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sandra Stovall, Compliance Officer, 2818-A Mahan Drive, Tallahassee, Florida 32308, (850)487-1257, Ext. 210, sandra_stovall@doh.state.fl.us