

DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF WORKERS COMPENSATION

NOTICE OF PROPOSED RULEMAKING

RULE TITLE:

RULE NUMBER:

Employer Worksites

69L-6.029

PURPOSE AND EFFECT: Section 440.107(7)(a), F.S., declares that a stop-work order requires an employer to cease all business operations. Further, the section states that “[i]n addition to serving a stop-work order at a particular worksite which shall be effective immediately, the department shall immediately proceed with service upon the employer which shall be effective upon all employer worksites in the state for which the employer is not in compliance.” The purpose of this rule is to prescribe the scope of a stop-work order issued against an employer who violates the coverage requirements or the records production requirements specified in the Workers’ Compensation Law, chapter 440, Florida Statutes. In effect, this rule codifies worksites for which an employer is not in compliance for purposes of serving a stop-work order directing an employer to cease all business operations at all worksites in the state or at a particular worksite in the state. Also the rule declares that a penalty assessed under section 440.107(7)(d)1., F.S., shall be based on an employer’s payroll at all worksites where the employer is not in compliance.

SUMMARY: The scope of stop-work orders issued under section 440.107, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

No SERC has been prepared.

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

SPECIFIC AUTHORITY: 440.107(9), 440.591, F.S.

LAW IMPLEMENTED: 440.107(7)(a), 440.107(7)(d)1., F.S.

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

TIME AND DATE: 9:30 a.m., October 31, 2005

PLACE: 104J Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Andrew Sabolic, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850) 413-1600.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

**69L-6.029 Employer Worksites**

(1) "Worksite" for purposes of this rule means a place in Florida where an employer conducts business operations.

(2) Upon service of a stop work order on an employer, the stop work order shall

be effective upon all employer worksites in the state for which the employer is not in compliance.

(3) The worksites for which an employer is not in compliance shall be determined as follows:

(a) If the employer failed to meet the coverage requirements of Chapter 440, F.S. and the Florida Insurance Code, all worksites of the employer in the state are not in compliance and the stop work order shall be in effect for all the employer's worksites requiring the cessation of all business operations for such employer in the state.

(b) If an out-of-state employer that is required to provide workers' compensation coverage for employees engaged in work in Florida, pursuant to Rule 69L-6.019, F.A.C., failed to obtain or maintain a Florida policy or endorsement that utilizes Florida class codes, rates, rules, and manuals that are in compliance with and approved under the provisions of Chapter 440, F.S., and the Florida Insurance Code, all worksites of the employer in the state are not in compliance and the stop work order shall be in effect for all the employer's worksites requiring the cessation of all business operations for such employer in the state.

(c) If the employer failed to produce the required business records within five business days after receipt of the written request of the department, all worksites of the employer in the state are not in compliance and the stop work order shall be in effect for all the employer's worksites requiring the cessation of all business operations for such employer in the state.

(d) If the employer has materially understated or concealed payroll, all worksites

of the employer in the state are not in compliance and the stop work order shall be in effect for all the employer's worksites requiring the cessation of all business operations for such employer in the state.

(e) If the employer materially misrepresented or concealed employee duties so as to avoid proper classification for premium calculations, all worksites of the employer in the state are not in compliance and the stop work order shall be in effect for all the employer's worksites requiring the cessation of all business operations for such employer in the state.

(f) If the employer materially misrepresented or concealed information pertinent to the computation and application of an experience modification factor, all worksites of the employer in the state are not in compliance and the stop work order shall be in effect for the employer's worksites requiring the cessation of all business operations for such employer in the state.

(g) If the employer is a contractor that sublets any work at a particular worksite to a subcontractor and the contractor and subcontractor each failed to secure the payment of compensation for the subcontractor or the employees of the subcontractor engaged in work at the particular worksite, then a stop-work order issued to the contractor shall require the cessation of all business operations of the contractor at that particular worksite.

(4) A penalty assessed under Section 440.107(7)(d)1., F.S., that exceeds the statutory minimum penalty shall include the employer's payroll and any violations of Section 440.107, F.S., for all its worksites where the employer is not in compliance.

NAME OF PERSON ORIGINATING PROPOSED RULE: Andrew Sabolic, Bureau  
Chief, Bureau of Compliance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:  
Dan Sumner, Workers' Compensation, Assistant Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:  
July 8, 2005

Specific Authority 440.107(9), 440.591, F.S. Law Implemented 440.107(7)(a),  
440.107(7)(d)1., F.S. History-New