

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

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

RULEMAKING AUTHORITY: 624.308(1), 624.316(1)(c) FS.

LAW IMPLEMENTED: 624.316(1)(c) FS.

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

DATE AND TIME: September 15, 2009, 9:30 a.m.

PLACE: 143 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(a) No change.

(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook ~~2009~~ ~~2008~~ is hereby adopted and incorporated by reference.

(2) through (3) No change.

Rulemaking Specific Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History–New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 22, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Fruit and Vegetables

RULE NOS.:	RULE TITLES:
5G-6.007	Annual Food Permit Requirements of Tomato Packers and Repackers
5G-6.009	Tomato Best Practices Manual

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 3, January 23, 2009 issue of the Florida Administrative Weekly.

5G-6.007 Annual Food Permit Requirements of Tomato Packers and Repackers.

(1) An annual food permit is required for all packers and repackers of tomatoes in Florida. A permit number will be assigned by the Department following receipt of the Annual Tomato Packer/Repacker Permit Application, DACS-07151 (Rev. ~~06/09~~ ~~08/08~~), herein incorporated by reference. A copy of the permit application can be obtained by contacting the Florida Department of Agriculture and Consumer Services, Division of Fruit and Vegetables, P. O. Box 1072, Winter Haven, Florida 32881-3403 or on the internet at <http://www.doacs.state.fl.us/onestop/forms/07151.pdf>.

(2) The annual permit fee shall be \$100.00 per applicant and must accompany the Annual Tomato_Packer/Repacker Permit Application. No establishment shall be issued a food permit until all applicable fees are received by the Department.

(3) All fees and fines collected by the Department to cover the cost of providing the inspection service for tomato packinghouses and repackers shall be deposited into the General Inspection Trust Fund.

Rulemaking Authority 500.09(3), 500.12(1)(b), (f), ~~570.07(6)~~, 570.07(23) FS. Law Implemented 500.03(1)(n), 500.12(1)(a), (b), 570.48(2)(e), 570.481(1)(a), (b) FS. History–New 4-16-08, Amended_____.

5G-6.009 Tomato Best Practices Manual.

(1) The Tomato Best Practices Manual (DACs-P-01580, Rev.10/08) is hereby incorporated by reference and contains the specifications of the T-GAP and the T-BMP. Copies of the manual may be obtained by contacting the Florida Department

of Agriculture and Consumer Services, Division of Fruits and Vegetables, P. O. Box 1072, Winter Haven, Florida 33881-3403, (863)291-5820 or obtained electronically through the following website: <http://www.doacs.state.fl.us/fruits/>. The Tomato Best Practices Manual (DACs-P-01580, Rev.10/08) refers to the following Federal regulations which are hereby adopted and incorporated by reference: 21 CFR § 110 (2008); 21 CFR § 178.1010 (2008); 29 CFR § 1928.110 (2008); 40 CFR § 131.41(c) (2008); and 40 CFR § 141.63 (2008) which are available at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>.

(2) The Commodity Specific Food Safety Guidelines for the Fresh Tomato Supply Chain, 2nd Edition (July 2008), is hereby adopted and incorporated by reference with the exception that on page 18, chapter VI.4.a.vii. all preharvest agricultural water sources used in greenhouse production for non-foliar irrigation shall meet the standard for E.coli in recreational waters contained in 40 CFR § 131.41(c) (2008). The Guidelines document was developed by the North American Tomato Trade Working Group composed of the United States, Canada and Mexico and is recognized in the Tomato Best Practices Manual as guidance for good agricultural practices. A copy may be obtained electronically through the following website: [http://www.florida.tomatoes.org/Tomato Guidelines July08 FINAL.pdf](http://www.florida.tomatoes.org/Tomato_Guidelines_July08_FINAL.pdf). The Commodity Specific Food Safety Guidelines for the Fresh Tomato Supply Chain, 2nd Edition (July 2008) refers to following Federal regulations which are hereby adopted and incorporated by reference: 21 CFR 173.315; and 21 CFR Chapter 1, Subpart J (1.326-1.368) (2008) which are available at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>.

Rulemaking Authority 500.09(1)(b), (4), 500.12(1)(f), ~~570.07(6)~~, 570.07(23) FS. Law Implemented 500.09(1)(b), (4), 500.12(1)(f) FS. History—New 4-16-08, Amended _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.139
 RULE TITLE: Americans with Disabilities Act and Discrimination in Federally Funded Programs Public Grievance Procedures

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 18, May 8, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-3.001
 RULE TITLE: Sanitation and Safety Requirements
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 22, June 5, 2009 issue of the Florida Administrative Weekly.

The changes are in response to public comment received from the public hearing held on July 15, 2009, and written comments received from the Joint Administrative Procedures Committee.

61C-3.001 Sanitation and Safety Requirements.

The following requirements and standards shall be met by all public lodging establishments.

(1) through (11) No change.

(12) Carbon Monoxide Sensor Devices. Carbon monoxide sensor devices shall be installed or carbon monoxide mitigation shall be approved in accordance with Section 509.211(4), F.S., and this rule.

(a) No change.

(b) Installation.

1. No change.

2. Carbon monoxide detectors shall be integrated into any new or the existing fire alarm detection system as a supervisory signal in accordance with ~~according to~~ NFPA 72, National Fire Alarm Code, as adopted by the State Fire Marshal in Rule 69A-3.012, F.A.C.

a. The activation of a carbon monoxide detector shall initiate a supervisory signal at a constantly attended location. Acknowledgement at the attended location of the initiation of the supervisory signal shall occur within 15 seconds of activation in order to initiate an investigation of the cause of the carbon monoxide detector activation. If the signal is not acknowledged within 15 seconds, the connected fire alarm shall be automatically and immediately activated.

b. Trained personnel shall have up to 180 seconds to determine the cause of the carbon monoxide detector activation and reset the system. If the system is not reset within 180 seconds, the connected fire alarm shall be automatically and immediately activated.

c. If a second carbon monoxide detector or any automatic smoke or fire detector connected to the fire alarm system is activated during this 180 second period, the connected fire alarm shall be automatically and immediately activated.

3. Public lodging establishments not required by law to have a fire ~~alarm detection~~ system shall install either a single station carbon monoxide alarm or a fire ~~alarm detection~~ system including a carbon monoxide detector integrated as a supervisory signal. A single station carbon monoxide alarm installed in compliance with this rule shall provide an audible

signal ~~with a minimum rating of 85 dBA at a distance of 10 feet capable of being heard outside of the space in which it has been installed~~ and shall activate a visible signal with a minimum rating of 15 candela ~~capable of being seen outside of the space in which it has been installed.~~

4. Carbon monoxide sensor devices shall receive primary power from the public lodging establishment's electrical system and shall connect to a secondary power source consisting of ~~Secondary power sources include~~ a battery directly installed in the carbon monoxide sensor device or an external generator connected to the carbon monoxide sensor device.

(c) Mitigation. Under Section 509.211(4), F.S., a public lodging establishment may perform carbon monoxide hazard mitigation instead of installing a carbon monoxide sensor device. A public lodging establishment performing carbon monoxide hazard mitigation shall have the mitigation certified and submit certification to the division as specified in this rule.

1. No change.

2. The operator of the public lodging establishment shall obtain certification of adequate carbon monoxide hazard mitigation on DBPR Form HR 5022-048, CERTIFICATE OF CARBON MONOXIDE MITIGATION (certificate), incorporated herein by reference and effective 2009 July 31 ~~2009 May 13~~. This form is available on the division's Internet website www.MyFloridaLicense.com/dbpr/hr, from any division office, or by writing to Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

3. All carbon monoxide hazard mitigation certifications must be conducted by a licensed professional engineer whose license is current and in good standing with the Florida Board of Professional Engineers. ~~The operator of the public lodging establishment is responsible for verifying the license status of the person conducting the certification.~~ The professional engineer's license number and license expiration date shall be clearly written on the certificate.

4. The operator of the public lodging establishment shall submit the completed certificate to the division at the address listed above. The division shall review the certificate to determine completeness, mark the determination status on the certificate, date stamp the certificate upon receipt, keep a copy of the completed certificate for its records, and provide the original completed ~~date stamped~~ certificate to the operator of the public lodging establishment. The operator of the public lodging establishment shall post either the original or a copy of the completed ~~date stamped~~ certificate in the room containing the boiler. Incomplete certificates shall be marked as incomplete and retained by the division. The division shall notify the person submitting the certificate of the incomplete

status of the certificate and advise the specific section of the certificate determined to be incomplete. Such notification shall be in writing.

5. through 6. No change.

(13) No change.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-4.010 RULE TITLE: Sanitation and Safety Requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule development, as noticed in Vol. 34, No. 33, August 15, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-162.011 RULE TITLE: Suitability and Disclosure in Annuity Contracts-Forms Required

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 20, May 22, 2009 issue of the Florida Administrative Weekly.

These changes are being made to address concerns expressed at the public hearing.

The text of forms DFS-H1-1980, "Annuity Suitability Questionnaire" and DFS-H1-1981, "Disclosure and Comparison of Annuity Contracts" in subsection 69B-162.011(1), F.A.C., have been modified to include the statement "The applicant, joint applicant and/or owner may substitute their initials for signatures on all form pages with the exception of the signatures below, which are required." Other minor changes were made which included the addition of the language "out-of-pocket" on page two of form DFS-H1-1980 on the third and fourth questions, and on form DFS-H1-1981 the definition of "Asset Fees" has been modified to include the word "are".

The remainder of the rule reads as previously published.

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: RULE TITLE:
 69K-12.002 Procedure for Licensing a Monument
 Establishment

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 24, June 19, 2009 issue of the Florida Administrative Weekly.

These changes are being made in response to comments received from the Joint Administrative Procedures Committee. The changes are as follows:

Law Implemented ~~497.550~~ ~~497.364~~ FS.

THE PERSON TO BE CONTACTED REGARDING THESE CHANGES IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.: RULE TITLES:
 69O-156.006 Minimum Benefit Standards for
 Policies or Certificates Issued for
 Delivery Prior to January 1, 1992
 69O-156.0085 Standard Medicare Supplement
 Benefit Plans for 2010 Standardized
 Medicare Supplement Benefit Plan
 Policies or Certificates Issued for
 Delivery with an Effective Date for
 Coverage on or After June 1, 2010.

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 24, June 19, 2009 issue of the Florida Administrative Weekly.

- 1) The phrase “Except as authorized by the office” has been removed from 69O-156.006(1)(f)1.
- 2) In 69O-156.0085, an effective date has been added to form OIR-B2-MS2, May 2009.
- 3) Persons wishing to review and download the forms are instructed to enter the form number at the search page of the Office’s website at www.floir.com.
- 4) In 69O-156.0085, the Form title for OIR-B2-MS2 has been corrected.

The remainder of the rules reads as previously published.

FINANCIAL SERVICES COMMISSION

Finance

RULE NO.: RULE TITLE:
 69V-560.1012 Adoption of Forms
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 22, June 5, 2009 issue of the Florida Administrative Weekly.

In response to written comments from the Joint Administrative Procedures Committee, form OFR-560-01, Application for Licensure as a Money Services Business, has been amended to request the name of an applicant’s registered agent in Florida for service of process, which is required by Section 560.141(1)(a)11., F.S. Technical and clarifying changes have also been made to this form and form OFR-560-07.

THE FULL TEXT OF THE PROPOSED RULE IS:

69V-560.1012 Adoption of Forms.

(1) The following forms are incorporated by reference and readopted by this rule for the purposes of Rules 69V-560.102-.913, F.A.C.:

- (a) Application for Licensure as a Money Services Business, Form OFR-560-01, effective ~~_____~~ ~~1-13-09~~.
- (b) Location Notification Form, Form OFR-560-02, effective 1-13-09.
- (c) Declaration of Intent to Engage in Deferred Presentment Transactions, Form OFR-560-03, effective 1-13-09.
- (d) Money Services Business Quarterly Report Form, Form OFR-560-04, effective 1-13-09.
- (e) Pledge Agreement, Form OFR-560-05, effective 1-13-09.
- (f) Money Services Business Surety Bond Form, Form OFR-560-06, effective 1-13-09.
- (g) Security Device Calculation Form, Form OFR-560-07, effective ~~_____~~ ~~1-13-09~~.
- (h) Florida Fingerprint Card (FL922720Z), effective 1-13-09.
- (i) Currency Transaction Report, FinCEN Form 104, effective 1-13-09.
- (j) Suspicious Activity Report by Money Services Business, FinCEN Form 109, effective 1-13-09.
- (k) Report of International Transportation of Currency or Monetary Instruments, FinCEN Form 105, effective 1-13-09.

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

Rulemaking Authority 560.105, 560.118, 560.141, 560.2085, 560.209, 560.403 FS. Law Implemented 560.118, 560.1401, 560.141, 560.205, 560.2085, 560.209, 560.403 FS. History—New 1-13-09, Amended _____.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

PUBLIC SERVICE COMMISSION

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that Bellsouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast's petition for waiver of subsection 25-4.040(2), Florida Administrative Code, filed February 13, 2009, in Docket No. 090082-TL was denied by the Commission by Order No. PSC-09-0492-PAA-TL, issued July 8, 2009, consummated by Order No.: PSC-09-0529-CO-TL, issued July 31, 2009. The rule addresses the requirement of a local exchange company to furnish one copy of the residential listings section of the telephone directory to its subscribers on an up front basis. The petition was denied; however, a temporary rule waiver for a period of two (2) years was granted. Notice of the petition was published in the F.A.W., on March 6, 2009.

A copy of the Order can be obtained from: Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6770.

NOTICE IS HEREBY GIVEN THAT the Florida Public Service Commission has received a joint petition from Florida Power & Light Company and Progress Energy Florida, Inc., filed on July 31, 2009, in Docket No. 090009-EI, seeking a variance from or partial waiver from subparagraph 25-6.0423(5)(c)4., Florida Administrative Code. The rule prescribes the time frame within which the utility must file revisions to its fuel and purchased power cost recovery filings. Comments on the petition should be filed with the: Florida Public Service Commission, Office of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within 14 days after publication of this notice.

A copy of the Order can be obtained from either: Office of the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6770 or the Commission's Homepage at: <http://www.floridapsc.com>. For additional information, please contact: Keino Young, Office of the General Counsel, at the above address or (850)413-6226.

AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE IS HEREBY GIVEN THAT on July 30, 2009, the Agency for Health Care Administration has issued an order. The Agency for Health Care Administration has entered a Final Order denying the Petition for Waiver from Rule 59A-7.020, F.A.C., filed by DVA Laboratory Services Inc., on June 3, 2009. The Agency issued its Order on July 23, 2009, and a Corrected Order on July 30, 2009. The corrected Order informed DVA of the administrative procedures required to challenge the Agency's action only. The Petition was assigned Agency Case Number 2009000045. The following is a summary of the agency's Order on the petition: The Agency for Health Care Administration has issued a Final Order declaring that DVA's request for waiver did not show that DVA had a substantial hardship.

A copy of the Order may be obtained by contacting: Richard Shoop, Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, MS #3, Tallahassee, Florida 32308.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT on July 28, 2009, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for a temporary variance from A17.3, Section 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building