

subline as calculated in subsection (6) from the investment income opportunity for the Liability subline as calculated in subsection (6).

(e) The underwriting profit allowance for the Liability subline shall be the underwriting profit allowance for the Physical Damage subline from paragraph (7)(a), minus the investment income differential from paragraph (7)(b), subject to the provisions of paragraph (7)(d).

(d) If the underwriting profit allowance in paragraph (7)(e) is negative, then the insurer may deviate from the underwriting profit allowance in paragraph (7)(e) only to the extent needed to give a positive underwriting profit allowance.

(8) All provisions for contingencies shall be derived utilizing reasonable actuarial techniques, and appropriate supporting material shall be included in the rate filing. Provisions for contingencies greater than 1.5% of premium are prima facie excessive and unreasonable until actuarially supported by clear and convincing evidence. Provisions for contingencies shall be added to the underwriting profit allowance, as determined under subsection (7) of this rule, in order to produce the percentage factor included in the rate filing for profit and contingencies.

(9) An underwriting profit allowance calculated in accordance with this rule is considered to be compatible with a reasonable expected rate of return on net worth plus provisions for contingencies. If a determination must be made as to whether an expected rate of return is reasonable, the following criteria shall be used in that determination:

(a) An expected rate of return for Florida business is to be considered reasonable if, when sustained by the auto insurer for its business during the period for which the rates under scrutiny are in effect, it neither threatens the insurer's solvency nor makes the insurer more attractive to policyholders or investors from a corporate financial perspective than the same insurer would be had this rule not been implemented, all other variables being equal; or

(b) Alternatively, the expected rate of return for Florida business is to be considered reasonable if commensurate with the rate of return anticipated for other industries having corresponding risk and sufficient to assure confidence in the financial integrity of the company so as to maintain its credit and, if a stock insurer, to attract capital, or if a mutual or a reciprocal insurer, to accumulate surplus reasonably necessary to support growth in Florida premium reasonably expected during the time the rates under scrutiny are in effect.

(10) If an insurer writes less than one half (1/2) of one percent of the Florida market for a subline of insurance, calculated by dividing the current premiums written by the preceding year's total premiums written in the state for that subline, then the insurer shall use industry data for purposes of subsection (4) of this rule unless evidence is presented that such use of industry data by the insurer does not produce a

reasonable expected rate of return for the insurer. The Office of Insurance Regulation shall provide industry data to such an insurer.

(11) Patterns of loss payments for the insurance coverage components of the sublines of auto insurance specified in subsection (4) may be developed if needed to be consistent with an insurer's rating practice. The loss payment patterns shall be used in subsections (6) and (7) to produce an investment income differential and underwriting profit allowance for the components of the sublines of auto insurance similar to the investment income differential and underwriting profit allowance calculated for the Liability and Physical Damage sublines. For purposes of applying this subsection, when it is deemed necessary to do so, the component with the smallest investment income opportunity as calculated by the subsection (6) method shall be substituted for the Physical Damage subline in applying paragraph (7)(a). The remaining components shall individually be substituted for the Liability subline in applying paragraphs (7)(b)-(d) for each such component.

(12) Each insurer filing auto insurance rates in Florida shall use an underwriting profit allowance for each subline that is developed in accordance with this rule.

Specific Authority 624.308(1), 627.0651(2)(d) FS. Law Implemented 624.307(1), 627.031(1),(2), 627.0651(1),(2)(d) FS. History—New 10-1-82, Amended 6-28-84, Formerly 4-57.01, 4-57.001, 4-175.001, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Frank Dino, Actuary, Property and Casualty Product Review,
Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Tom Streukens, Deputy
Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: October 4, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 12, 2004

Section III Notices of Changes, Corrections and Withdrawals

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."

DEPARTMENT OF CITRUS

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
20-15	Equalization Tax on Non-Florida, United States Juice
RULE NOS.:	RULE TITLES:
20-15.001	Intent
20-15.002	Definitions
20-15.003	Collection

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule amendment published in the Florida Administrative Weekly, Vol. 28, No. 46, November 15, 2002, has been withdrawn.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40D-4	Individual Environmental Resource Permits
RULE NO.:	RULE TITLE:
40D-4.091	Publications and Agreements Incorporated by Reference

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 31, No. 9, Pages 862 and 863, on March 4, 2005, in the Florida Administrative Weekly has been withdrawn. The proposed rule would have deleted references to several methods for demonstrating the financial responsibility necessary to conduct certain wetland mitigation activities.

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact: Dianne Lee, (352)796-7211, Ext. 4658, TDD only 1(800)231-6103.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:	RULE TITLE:
59G-13.030	Aged and Disabled Adult Waiver Services

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 6, February 11, 2005, issue of the Florida Administrative Weekly. This change is in response to written comments received prior to the public hearing.

The rule incorporates by reference the Florida Medicaid Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook, March 2004. The following change was made to the handbook.

Page 2-4, Level of Care, third paragraph, we replaced the requirement that a case manager “should submit a new assessment and physician form whenever a reassessment is completed,” with the requirement that, “A revised updated

physician referral form must be completed whenever there is a change in the recipient’s medical, mental or physician condition.”

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 Hearing Aid Specialists

RULE NO.:	RULE TITLE:
64B6-7.007	Citations

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 4, of the January 28, 2005, issue of the Florida Administrative Weekly. The change is in subsection (3)(d), as this paragraph was published with an incorrect citation. Subsection (3)(d) will now read: Violation of Rule 64B6-6.004, F.A.C. (Certified Testing Room);

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
68A-17	Wildlife and Environmental Areas
RULE NO.:	RULE TITLE:
68A-17.004	General Regulations Relating to Wildlife and Environmental Areas

NOTICE OF ADDITIONAL CHANGES

The Fish and Wildlife Conservation Commission announces additional changes to the above-referenced proposed rule amendment, as a result of comments concerning the proposed rule amendment by the staff of the Joint Administrative Procedures Committee. Previous changes were published in Vol. 31, No. 8, February 25, 2005 issue of the Florida Administrative Weekly.

The rule will now read as follows:

68A-17.004 General Regulations Relating to Wildlife and Environmental Areas.

- (1) No change.
- (2) Permits required:
- (a) through (c) No change.

(d) The lead managing agency or landowner of a wildlife and environmental area may authorize persons to engage in otherwise prohibited activities not relating to the taking of fish or wildlife, to allow for access, vehicles, vessels, camping, or horses, valid only during periods closed to hunting. The landowner of a wildlife and environmental area that requires a Recreational Use Permit (RUP) may only give such authorization to persons holding a RUP for that area. Persons so authorized must possess a copy of the authorization when engaged in such activities.

(3) through (17) No change.

PROPOSED EFFECTIVE DATE: July 1, 2005.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.57 FS. History—New 4-12-98, Amended 12-28-98, Formerly 39-17.004, Amended 7-1-00, 7-1-04, 7-1-05.

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers' Compensation

RULE CHAPTER TITLE: Electronic Data Interchange (EDI) REQUIREMENTS FOR PROOF OF COVERAGE AND CLAIMS RULE CHAPTER NO.: 69L-56

Requirements for Proof of Coverage and Claims	69L-56
RULE TITLES:	RULE NOS.:
Forms and Instructions	69L-56.001
Technical Requirements for POC EDI Transactions	69L-56.110
Electronic Filing Time Periods for Policy Information	69L-56.210
Technical Requirements for Voluntary Claims EDI Transmissions	69L-56.310
Electronic Formats for Reporting the Employee's 8th Day of Disability	69L-56.330

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed Rules 69L-56.001, 69L-56.110, 69L-56.210, 69L-56.310, and 69L-56.330, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 3, January 21, 2005, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing and by the Joint Administrative Procedures Committee.

The rule sections enumerated above are changed to read:

69L-56.001 Forms and Instructions.

(1) The following forms are incorporated herein by reference and adopted for use in filing Proof of Coverage (POC) and Claims Electronic Data Interchange (EDI) ~~transmissions to submissions with~~ the Division. All of the forms may be obtained from the Division of Workers' Compensation at its website, ~~www2.myflorida.com/les/wc/~~ <http://www.fldfs.com/wc/edi.html>, or by sending a request to the Division of Workers' Compensation, Office of Data Quality & Collection, Bureau of Information Management 200 East Gaines Street, Tallahassee, Florida 32399-4226.

(a) ~~DFS-F5-DWC-EDI-1, "EDI Trading Partner Profile" (01/01/2005) DWC Form POCEDI-1: "POC EDI Production Profile" (3/02).~~

(b) ~~DFS-F5-DWC-EDI-2, "EDI Trading Partner Insurer/Claim Administrator ID List" (01/01/2005) DWC Form POCEDI-2: "POC EDI Trading Partner Agreement" (3/02).~~

~~(2) The following form is incorporated herein by reference and adopted for use in filing both POC and CLAIMS EDI submissions with the Division:~~

~~(c) DFS-F5-DWC-EDI-3, DWC Form EDI-3: "EDI Transmission Profile-Sender's Specifications" (01/01/2005 3/02).~~

(d) DFS-F5-DWC-EDI-4, Secure Socket Layer (SSL)/File Transfer Protocol (FTP) Instructions (01/01/2005).

69L-56.110 Technical Requirements for POC EDI Transactions.

(1) through (2) No change.

~~(3)(2)~~ Header records shall include the following information:

(a) No change.

(b) "Receiver Postal Code" for the State of Florida: 323994226 effective June 1, 2005. (Receiver Postal Code may be sent as 323990685 through May 31, 2005) as indicated in the EDI Transmission Profile Receiver Specifications, located in the Florida Division of Workers' Compensation Proof of Coverage Electronic Data Interchange (EDI) Implementation Manual, November 2004.

(c) Sender Identifier. The Sender Identifier (Sender ID) shall consist of ~~Correct sender FEIN for the insurer's or third party vendor's FEIN and Postal Code as reported on Form DFS-F5-DWC-EDI-3 (01/01/2005).~~ EDI Transmission Profile - Sender's Specifications.

~~(4)(3)~~ POC EDI transmissions may be sent on a daily basis, and shall be sent via secured File Transfer Protocol (FTP). Effective June 1, 2005, electronic transmissions of Proof of Coverage data required pursuant to this rule, shall be sent to the Division using Secure Socket Layer/File Transfer Protocol (SSL/FTP) with a client software program to accomplish SSL/FTP uploads and downloads in accordance with instructions on Form DFS-F5-DWC-EDI-4 (01/01/2005).

(5) through (12) No change.

69L-56.210 Electronic Filing Time Periods for Policy Information.

Pursuant to Section 440.593(1), F.S., the Division may establish different deadlines for filing required reports electronically than are otherwise required when reporting information by other means. Accordingly, notwithstanding the deadlines for filing policy information by other means as set forth in Section 440.185(7), F.S., an insurer, other than an individual self-insurer approved under Section 440.38, F.S., must electronically file the following information in

accordance with the provisions of this rule, and shall have received an acknowledgement code of "Transaction Accepted" (TA)" by the Division within the following deadlines:

- (1) No change.
- (2) No later than thirty days after the issue date of each endorsement to any workers' compensation insurance policy, contract of insurance, or renewal, every insurer shall send the electronic Notice of Endorsement.
- (3) through (8) No change.

69L-56.310 Technical Requirements for Voluntary Claims EDI Transmissions.

(1) Effective June 1, 2005, as a voluntary alternative to paper filing pursuant to Chapter 69L-3, F.A.C., insurers may elect to send electronic transmissions of the First Report of Injury or Illness (Form DFS-F2-DWC-1 as incorporated by reference in Chapter 69L-3, F.A.C.), Claim Cost Report (Form DFS-F2-DWC-13 as incorporated by reference in Chapter 69L-3, F.A.C.), and the Division-approved electronic formats for reporting the employee's 8th day of disability and claim administrator's knowledge of the 8th day of disability required in Chapter 69L-3, F.A.C., to the Division using only the following transmission methods:

- (a) through (b) No change.
- (2) Effective June 1, 2005, voluntary electronic transmissions of the First Report of Injury or Illness (DFS-F2-DWC-1), and the Claim Cost Report (DFS-F2-DWC-13), shall be sent to the Division using the First Report of Injury (FROI) / 148 flat file transaction set, and the Subsequent Report (SROI) / A49 flat file transaction set, described on Pages "4-13" through "4-16" of the IAIABC EDI Implementation Guide for First, Subsequent, Acknowledgement Detail, Header, & Trailer Records, Release 1, February 15, 2002. The claim administrator shall not send transmissions containing files in the ANSI 148 format to the Division on or after June 1, 2005.
- (3)(a) through (c) No change.
- (d) Header records shall include the following information:

- 1. No change.
- 2. Receiver Postal Code for the State of Florida: 323994226 effective June 1, 2005 (Receiver Postal Code 323996085 may be sent through May 31, 2005.)
- 3. No change.
- (4) through (10) No change.

69L-56.330 Electronic Formats for Reporting the Employee's 8th Day of Disability.

If the electronic form equivalent of the DFS-F2-DWC-1, First Report of Injury or Illness, as incorporated by reference in Chapter 69L-3, F.A.C., is voluntarily sent via EDI with Claim Type "L" ("Became Lost Time", a.k.a., Medical Only to Lost Time), the claim administrator shall report the employee's 8th day of disability and the claim administrator's knowledge of

the 8th day of disability at the same time the electronic form equivalent of Form DFS-F2-DWC-1 is required to be sent to the Division as specified in Rule 69L-24.0231, F.A.C., using any of the electronic formats approved by the Division and adopted by reference in this section. The claim administrator shall utilize the electronic format, "Electronic Supplement to the First Report of Injury (DWC-1) Transaction (January 2005)", from the Division's web site at www.fldfs.com/wc/edi.html, or the "8th Day of Disability For EDI Submitters" database located at www.fldfs.com/wc/ to report the employee's 8th day of disability and the claim administrator's knowledge of the 8th day of disability required in Chapter 69L-3, F.A.C. The requirement to report the employee's 8th day of disability and the claim administrator's knowledge of the 8th day of disability via an alternative electronic format shall commence upon the effective date of this rule.

The remainder of the rule reads as previously published.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

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DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLE: RULE NO.:

Mandatory Hurricane Claims 69OER05-06
 Payment Requirements

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: The Financial Services Commission and the Office of Insurance Regulation ("Office") hereby state that the following circumstances constitute an immediate danger to the public health, safety, or welfare:

The 2004 hurricane season has been particularly destructive for Florida. Insured losses due to the multiple storms have been estimated to be collectively \$20 billion. Tropical Storm Bonnie caused damage in North Florida. Substantial damage in