

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Adoption of Rule 25-30.060,  
F.A.C., Application for Exemption  
from Regulation.

) DOCKET NO. 910919-WS  
) ORDER NO. 25289  
) ISSUED: 11/01/91  
)

NOTICE OF RULEMAKING

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to adopt Rule 25-30.060, F.A.C., relating to application for exemption from regulation or nonjurisdictional finding. The attached Notice of Rulemaking will appear in the November 8, 1991 edition of the Florida Administrative Weekly. If requested, a hearing will be held at the following time and place:

9:30 a.m., Tuesday, December 10, 1991  
Room 122, Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than November 29, 1991.

By Direction of the Florida Public Service Commission, this  
1st day of NOVEMBER, 1991.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records & Reporting

( S E A L )

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by: Kay Flynn  
Chief, Bureau of Records

DOCUMENT NUMBER-DATE

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FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 910919-WS

RULE TITLE:

RULE NO.:

Application for Exemption from Regulation

25-30.060

PURPOSE AND EFFECT: The Commission has proposed Rule 25-30.060, F.A.C., to implement sections 367.021(12), 367.022, and 367.031, Florida Statutes. The filing requirements for exemption from regulation of certain water and wastewater services or for a nonjurisdictional finding that the Commission has developed to implement these statutory provisions are codified in the rule.

SUMMARY: Rule 25-30.060 prescribes the requirements for application for exemption from regulation for the provision of certain water and wastewater services or for a finding by the Commission that a water or wastewater activity is not subject to its jurisdiction.

RULEMAKING AUTHORITY: 367.121(1), F.S.

LAW IMPLEMENTED: 367.021(12), 367.022, 367.031, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THIS RULE: Adoption of this rule is not expected to cause additional expense to the companies affected by it or to the Commission. The filing requirements of the rule are the same as have been required by Commission practice and orders and are believed to be the minimum required for compliance with the statute.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE

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SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:  
TIME AND DATE: 9:30 A.M., December 10, 1991.

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE RULE IS:

25-30.060 Application for Exemption from Regulation or Nonjurisdictional Finding.

(1) Each application for an exemption shall be filed in original and two copies, except that applications filed under Section 367.022(7), Florida Statutes, shall be filed in original and 15 copies, with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870. Sample application forms may be obtained from the Division of Water and Sewer, Bureau of Certification, 101 East Gaines Street, Tallahassee, Florida 32399-0873.

(2) Each application for an exemption from regulation shall contain the following information:

- (a) The name of the system owner;
- (b) The physical address of the system;

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(c) The mailing address of the applicant, if different from the system address;

(d) The name, address, and phone number of the primary contact person for the exemption request;

(e) The nature of the applicant's business organization, e.g., corporation, partnership, limited partnership, sole proprietorship, association; and

(f) A statement that the applicant is aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Each application must specifically state which type of exemption is being applied for and contain one of the following:

(a) For an exemption pursuant to Section 367.022(1), Florida Statutes, a statement from the owner of the system that the system is used solely to provide bottled water and that water is not provided to customers through a water main or service pipe;

(b) For an exemption pursuant to Section 367.022(2), Florida Statutes, a statement from the governmental authority specifying the statutory authority for the governmental authority; that the system is owned, operated, managed, or controlled by the governmental authority; stating whether it provides water service,

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wastewater service or both; and specifying the service area. The applicant shall describe with particularity the nature of the ownership, operation, management, and control of the system;

(c) For an exemption pursuant to Section 367.022(3), Florida Statutes, a statement from the manufacturer that service is provided solely in connection with its operations; stating whether it provides water service, wastewater service or both; and specifying the service area;

(d) For an exemption pursuant to Section 367.022(4), Florida Statutes, a statement from the public lodging establishment that service is provided solely in connection with service to its guests; stating whether it provides water service, wastewater service or both; and specifying the service area;

(e) For an exemption pursuant to Section 367.022(5), Florida Statutes, a statement from the landlord that it provides service solely to tenants; that charges for service are non-specifically contained in rental charges; stating whether it provides water service, wastewater service or both; and specifying the service area. A copy of the landlord's most recent version of a standard lease or rental agreement, stating that there is no separate charge for water service, wastewater service, or both, shall be submitted with the application;

(f) For an exemption pursuant to Section 367.022(6), Florida Statutes, a statement from the owner of the system that the system

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has or will have the capacity to serve 100 or fewer persons; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall submit documentation verifying the capacity of the system(s). For a wastewater system, the capacity of both the treatment and disposal facilities shall be documented;

(g) For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation. The applicant must provide proof of its ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease;

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(h) For an exemption pursuant to Section 367.022(8), Florida Statutes, a statement from the reseller that service is provided at a rate or charge that does not exceed the actual purchase price; stating that the reseller is aware of the requirements of Rule 25-30.111, Florida Administrative Code; stating whether it provides water service, wastewater service or both; and specifying the service area. The reseller must also provide the name of the utility providing service to it and that utility's current rates and charges. The reseller must submit a schedule of all of its proposed rates and charges, an explanation of the proposed method of billing customers, separately, for both water and wastewater, and a schedule showing that the amount billed will not exceed the amount paid for water, wastewater, or both;

(i) For an exemption pursuant to Section 367.022(9), Florida Statutes, a statement from the owner of the wastewater system that the system is primarily for the treatment of wastewater other than domestic wastewater, such as runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling or processing; identifying the principal source or nature of such wastewater; and specifying the service area;

(j) For a nonjurisdictional finding pursuant to Section 367.021(12), Florida Statutes, a statement from the system owner stating that it does not charge for providing utility service; specifying how operational costs of providing service are treated

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or recovered; stating whether it provides water service, wastewater service, or both; and specifying the service area.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.021(12), 367.022, 367.031, F.S.

History: New, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patti Daniel, Division of Water and Wastewater

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED: October 22, 1991

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.