

State of Florida

Commissioners:
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DIVISION OF APPEALS
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ORIGINAL
FILE COPY

Public Service Commission

September 13, 1996

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

Re: Docket No. 960933-WS - Proposed Repeal of Rule 25-30.060,
F.A.C., Application for Exemption from Regulation of
Nonjurisdictional Finding

Dear Mr. Webb:

Enclosed are an original and two copies of the following
materials concerning the above referenced proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal comparison statement.
5. A statement of the impact of the rule on small business.
6. An economic impact statement.
7. A statement that the agency has chosen the regulatory alternative that imposes the lowest net cost to society.

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,

Diana W. Caldwell
Diana W. Caldwell
Associate General Counsel

Enclosures
cc: Division of Records & Reporting

DOCUMENT NUMBER-DATE

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1 25-30.060 Application for Exemption from Regulation or
2 Nonjurisdictional Finding.

3 ~~(1) Each application for an exemption shall be filed in~~
4 ~~original and four copies, with the Director, Division of Records~~
5 ~~and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida~~
6 ~~32399-0870. Sample application forms may be obtained from the~~
7 ~~Division of Water and Wastewater, 2540 Shumard Oak Boulevard,~~
8 ~~Tallahassee, Florida 32399-0850.~~

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

11 ~~(a) The name of the system owner;~~

12 ~~(b) The physical address of the system;~~

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

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

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

20 ~~(f) A statement that the applicant is aware that pursuant to~~
21 ~~Section 837.06, Florida Statutes, whoever knowingly makes a false~~
22 ~~statement in writing with the intent to mislead a public servant in~~
23 ~~the performance of his official duty shall be guilty of a~~
24 ~~misdemeanor of the second degree, punishable as provided in s.~~
25 ~~775.082 or s. 775.083.~~

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struck-through type are deletions from existing law.

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

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

7 ~~(b) For an exemption pursuant to Section 367.022(2), Florida~~
8 ~~Statutes, a statement from the governmental authority specifying~~
9 ~~the statutory authority for the governmental authority; that the~~
10 ~~system is owned, operated, managed, or controlled by the~~
11 ~~governmental authority; and stating whether it provides water~~
12 ~~service, wastewater service or both. The applicant shall describe~~
13 ~~with particularity the nature of the ownership, operation,~~
14 ~~management, and control of the system;~~

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

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

24 ~~(e) For an exemption pursuant to Section 367.022(5), Florida~~
25 ~~Statutes, a statement from the landlord that it provides service~~

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1 ~~solely to tenants; that charges for service are non specifically~~
2 ~~contained in rental charges; and stating whether it provides water~~
3 ~~service, wastewater service or both. A copy of the landlord's most~~
4 ~~recent version of a standard lease or rental agreement shall be~~
5 ~~submitted with the application;~~

6 ~~(f) For an exemption pursuant to Section 367.022(6), Florida~~
7 ~~Statutes, a statement from the owner of the system that the system~~
8 ~~has or will have the capacity to serve 100 or fewer persons; and~~
9 ~~stating whether it provides water service, wastewater service or~~
10 ~~both. The applicant shall submit documentation verifying the~~
11 ~~capacity of the system(s). For a wastewater system, the capacity~~
12 ~~of both the treatment and disposal facilities shall be documented;~~

13 ~~(g) For an exemption pursuant to section 367.022(7), Florida~~
14 ~~Statutes, a statement that it provides service solely to members~~
15 ~~who own and control it; and stating that it provides water service,~~
16 ~~wastewater service or both.~~

17 ~~1. When the applicant is a condominium formed pursuant to~~
18 ~~the Condominium Act, Chapter 718, Florida Statutes, it must~~
19 ~~provide:~~

20 ~~a. A copy of the certificate obtained from the Secretary of~~
21 ~~State showing that it is formed under Chapter 718, Florida~~
22 ~~Statutes;~~

23 ~~b. A statement as to whether the applicant's articles of~~
24 ~~incorporation and bylaws contain the requirements for turnover of~~
25 ~~control of the condominium to the nondeveloper members as set out~~

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1 ~~in Chapter 718, Florida Statutes. If turnover of control has not~~
2 ~~occurred, a statement as to the date turnover of control to the~~
3 ~~nondeveloper members is expected to occur.~~

4 ~~2. When the applicant is a cooperative formed pursuant to~~
5 ~~the Cooperative Act, Chapter 719, Florida Statutes, it must~~
6 ~~provide:~~

7 ~~a. A copy of the certificate obtained from the Secretary of~~
8 ~~State showing that it is formed under Chapter 719, Florida~~
9 ~~Statutes;~~

10 ~~b. A statement as to whether the applicant's articles of~~
11 ~~incorporation and bylaws contain the requirements for turnover of~~
12 ~~control of the cooperative to the nondeveloper members as set out~~
13 ~~in Chapter 719, Florida Statutes. If turnover of control has not~~
14 ~~occurred, a statement as to the date turnover of control to the~~
15 ~~nondeveloper members is expected to occur.~~

16 ~~3. When the applicant is a nonprofit corporation formed~~
17 ~~pursuant to Chapter 617, Florida Statutes, it must provide:~~

18 ~~a. The articles of incorporation as filed with the Secretary~~
19 ~~of State and the bylaws which documents must demonstrate that it~~
20 ~~provides service solely to members who own the corporation;~~

21 ~~b. A description of the voting rights and their location in~~
22 ~~the articles of incorporation and the bylaws. The voting rights~~
23 ~~shall be one vote per unit of ownership or other voting rights if~~
24 ~~the Commission finds they are fair and nondiscriminatory so that~~
25 ~~members have equitable control of the corporation.~~

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1 e. ~~In circumstances where the applicant is a nonprofit~~
2 ~~corporation formed by a developer pursuant to Chapter 617, Florida~~
3 ~~Statutes, it must provide documentation showing that control has~~
4 ~~passed or, if not, the circumstances under which control of the~~
5 ~~corporation will pass to the nondeveloper members. The time must~~
6 ~~not exceed seven years from the date of incorporation unless the~~
7 ~~Commission finds that special circumstances justify a longer time.~~

8 (h) ~~For an exemption pursuant to Section 367.022(8), Florida~~
9 ~~Statutes, a statement from the reseller that service is provided at~~
10 ~~a rate or charge that does not exceed the actual purchase price,~~
11 ~~stating that the reseller is aware of the requirements of Rule~~
12 ~~25-30.111, Florida Administrative Code, stating that the reseller~~
13 ~~is aware of the requirements of Section 367.122, Florida Statutes,~~
14 ~~and Rules 25-30.262, .263, .264, .265, .266 and .267, Florida~~
15 ~~Administrative Code, relating to examination and testing of meters,~~
16 ~~and stating whether it provides water service, wastewater service~~
17 ~~or both. The reseller must also provide the name of the utility~~
18 ~~providing service to it and that utility's current rates and~~
19 ~~charges. The reseller must submit a schedule of all of its~~
20 ~~proposed rates and charges, an explanation of the proposed method~~
21 ~~of billing customers, separately, for both water and wastewater,~~
22 ~~and a schedule showing that the amount billed will not exceed the~~
23 ~~amount paid for water, wastewater, or both;~~

24 (i) ~~For an exemption pursuant to Section 367.022(9), Florida~~
25 ~~Statutes, a statement from the owner of the wastewater system that~~

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1 ~~the system is primarily for the treatment of wastewater other than~~
2 ~~domestic wastewater, such as runoff and leachate from areas that~~
3 ~~receive pollutants associated with industrial or commercial~~
4 ~~storage, handling or processing, and identifying the principal~~
5 ~~source or nature of such wastewater;~~

6 ~~(j) For a nonjurisdictional finding pursuant to Section~~
7 ~~367.021(12), Florida Statutes, a statement from the system owner~~
8 ~~stating that it does not charge for providing utility service;~~
9 ~~specifying how operational costs of providing service are treated~~
10 ~~or recovered, and stating whether it provides water service,~~
11 ~~wastewater service, or both.~~

12 Specific Authority 350.127(2), 367.121(1) FS.

13 Law Implemented 367.021(12), 367.022, 367.031 FS.

14 History--New 1-5-92, Amended 11-30-93, 2-15-96, Repealed.

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**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

Section 367.031, F.S., was amended to eliminate the requirement that an order recognizing a system is exempt from regulation as provided by Section 367.022, F.S., be issued by the Commission. The rule repeal will effect the statutory change.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

STATEMENT OF IMPACT ON SMALL BUSINESS

No impact on small business is anticipated.

**STATEMENT THAT THE AGENCY HAS CHOSEN THE REGULATORY ALTERNATIVE
THAT IMPOSES THE LOWEST NET COST ALTERNATIVE TO SOCIETY**

No additional significant cost or adverse impact could be identified as a result of the rule repeal, therefore, no EIS was prepared.

The Commission has chosen the regulatory alternative that imposes the lowest net cost to society.