

DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION
NOTICE OF PROPOSED RULEMAKING

RULE NO: 69L-6.021, F.A.C. RULE TITLE: Construction Industry Classification Codes, Descriptions, and Operations Scope of Exemption

PURPOSE AND EFFECT: The proposed rule deletes discontinued class codes, adds new class codes and revises descriptions of construction class codes, as published in the Florida exception pages in the National Council on Compensation Insurance, Inc. (NCCI), Basic Manual, 2001 edition. The proposed rule also adopts the corresponding definitions published in the NCCI, Scopes[®] of Basic Manual Classifications (February, 2011) and defines when an employer is engaged in the construction industry, for purposes of this rule. The aforementioned materials include updates through February 1, 2011. The effect of the proposed rule is to incorporate and maintain accurate construction class codes, descriptions and definitions for purposes of determining the necessary coverage requirements when obtaining workers' compensation insurance.

SUMMARY: Adopts the updated and revised descriptions of construction class codes as published in the Florida exception pages in the NCCI, Basic Manual; and the corresponding definitions published in the NCCI, Scopes[®] of Basic Manual Classifications; also defines when an employer is engaged in the construction industry.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No economic or non-economic impact will occur as a result of the proposed rule.

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.

RULEMAKING AUTHORITY: 440.02(8), 440.591, F.S.

LAW IMPLEMENTED: 440.02(8), F.S.

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

DATE AND TIME: Tuesday, July 19, 2011 @ 1:30 P.M.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robin Delaney, Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 E. Gaines Street, Tallahassee, Florida 32399-4228, (850)-413-1775 or Robin.Delaney@myfloridacfo.com.

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-6.021, F.A.C. Construction Industry Classification Codes, Descriptions, and Operations Scope of Exemption.

(1) The Division adopts the classification codes and descriptions that are specified in the Florida Contracting Classification Premium Adjustment Program, and published in the Florida exception pages of the National Council on Compensation Insurance, Inc. (NCCI), Basic Manual (2001 ~~October 2005~~ ed.), including updates through January 1, 2011. For convenience, the Division lists here the classification codes and descriptions that are published in the Florida exception pages of the Basic Manual and adopted in this rule.

(2) For purposes of this rule, an employer is engaged in the construction industry when any portion of the employer's business operations is described in the construction industry classification codes that are adopted in this rule.

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| (a) | 0042 | Landscape Gardening and Drivers |
| (b) | 0050 | Farm Machinery Operation By Contractor and Drivers |
| (c) | 1322 | Oil or Gas _ Well - Cleaning or Swabbing of Old Wells - <u>By Specialist Contractor - Having Previously Produced Gas or Oil - By Contractor - No Drilling & Drivers</u> |
| (d) | <u>2799</u> | <u>Manufactured, Modular or Prefabricated Home Setup, Hookup, or Installation at Building Site</u> |

(e) -(d)	3365	Welding or Cutting NOC and Drivers
(f) -(e)	3719	Oil Still Erection or Repair
(g) -(f)	3724	Machinery or Equipment Erection or Repair NOC and Drivers
(h) -(g)	3726	Boiler Installation or Repair -Steam
(i) -(h)	5020	Ceiling Installation -Suspended Acoustical Grid Type
(j) -(i)	5022	Masonry NOC
(k) -(j)	5037	Painting: Metal Structures Over Two Stories in Height and Drivers
(l) -(k)	5040	Iron or Steel: Erection -Frame Structures
(m) -(l)	5057	Iron or Steel: Erection NOC
(n) -(m)	5059	Iron or Steel: Erection -Frame Structures Not Over Two Stories in Height
(o) -(n)	5069	Iron or Steel: Erection Construction of Dwellings Not Over Two Stories in Height
(p) -(o)	5102	<u>Door, and Window Installation – All Types – Residential and Commercial Door Frame or Sash Erection – Metal or Metal Covered</u>
(q) -(p)	5146	Furniture or Fixtures Installation -Portable -NOC
(r) -(q)	5160	Elevator Erection or Repair
(s) -(r)	5183	Plumbing NOC and Drivers
(t) -(s)	5188	Automatic Sprinkler Installation and Drivers
(u) -(t)	5190	Electrical Wiring Within Buildings and Drivers
(v) -(u)	5213	Concrete Construction NOC
(w) -(v)	5215	Concrete Work Incidental to the Construction of Private Residence
(x) -(w)	5221	Concrete or Cement Work -Floors, Driveways, Yards, and <u>or</u> Sidewalks and Drivers (N/A MA)
(y) -(x)	5222	Concrete Construction in Connection with Bridges or Culverts
(z) -(y)	5223	Swimming Pool Construction, <u>Installation, or Repair</u> -Not Iron or Steel & Drivers
(aa) -(z)	5348	<u>Ceramic Tile, Indoor Stone, Marble, or Mosaic Work</u> Stone, Mosaic or Terrazzo or Ceramic Tile Work Inside
(bb) -(aa)	5402	Hothouse Erection All Operations
(cc) -(bb)	5403	Carpentry-NOC
(dd) -(cc)	5437	Carpentry -Installation of Cabinet Work or Interior Trim
(ee) -(dd)	5443	Lathing and Drivers
(ff) -(ee)	5445	Wallboard Installation Within Buildings and Drivers
(gg) -(ff)	5462	Glazier Away From Shop and Drivers
(hh) -(gg)	5472	<u>Asbestos Removal Operations: Contractor-Pipe and Boiler Work Exclusively & Drivers</u> Asbestos Contractor Pipe and Boiler Work Exclusively and Drivers
(ii) -(hh)	5473	<u>Asbestos Removal Operations: Contractor-NOC and Drivers</u> Asbestos Contractor NOC and Drivers
(jj) -(ii)	5474	Painting or Paperhanging NOC & and Shop Operations, Drivers
(kk) -(jj)	5478	<u>Floor Covering Installation- Resilient Flooring- Carpet and Laminate Flooring</u> Carpet, Linoleum, Vinyl, Asphalt, or Rubber Floor Tile Installation
(ll) -(kk)	5479	Insulation Work NOC and Drivers
(mm) -(ll)	5480	Plastering NOC and Drivers
(nn) -(mm)	5491	Paperhanging and Drivers
(oo) -(nn)	5506	Street or Road Construction: Paving or Repaving and Drivers
(pp) -(oo)	5507	Street or Road Construction: Subsurface Work and Drivers
(qq) -(pp)	5508	Street or Road Construction: Rock Excavation and Drivers
(rr) -(qq)	5509	Street or Road Maintenance or Beautification & Drivers
(ss)	<u>5535</u>	<u>Sheet Metal Work – Installation & Drivers</u>
(tt) -(rr)	5537	Heating, Ventilation, Air-Conditioning and Refrigeration Systems Installations, Service and Repair, <u>Shop, Yard</u> & Drivers
(ss)	5538	Sheet Metal Work Shop and Outside NOC and Drivers
(uu) -(tt)	5551	Roofing -All Kinds and Yard Employees , Drivers
(vv) -(uu)	5606	<u>Contractor –Project Manager, Construction Executive, Construction Manager or Construction Superintendent</u> Executive Supervisor or Construction Superintendent
(ww) -(vv)	5610	Cleaner -Debris Removal – <u>Construction Contractor</u>
(xx) -(ww)	5613	Cleaner -Debris Removal -Temporary Labor Service
(yy) -(xx)	5645	Carpentry -Detached One or Two Family Dwellings

(zz) (yy)	5651	Carpentry -Dwellings -Three Stories or Less
(aaa) (zz)	5703	Building Raising or Moving and Drivers
(bbb) (aaa)	5705	Salvage Operation -No Wrecking or Any Structural Operations
(ccc) (bbb)	6004	Land Pile Driving
(ddd) (eee)	6006F	Marine Pile Driving, Dock & Seawall, Jetty or Breakwater, Dike or Revetment Construction – All Operations to Completion & Drivers
(eee) (ddd)	6017	Dam or Lock Construction: Concrete Work -All Operations
(fff) (eee)	6018	Dam or Lock Construction: Earth Moving or Placing -All Operations <u>and Drivers</u>
(ggg) (fff)	6045	Levee Construction -All Operations to Completion and Drivers
(hhh) (ggg)	6204	Drilling NOC and Drivers
(iii) (hhh)	6206	Oil or Gas Well: Cementing and Drivers
(jjj) (iii)	6213	Oil or Gas _ Well: _ Specialty Tool <u>& Equipment Leasing Operation</u> NOC -By Contractor -All Employees <u>& and Drivers</u>
(kkk) (jjj)	6214	Oil or Gas Well: Perforating of Casing -All Employees and Drivers
(lll) (kkk)	6216	Oil or Gas _Lease Work NOC -By <u>Specialist Contractor</u> <u>& and Drivers</u>
(mmm) (lll)	6217	Excavation and Drivers <u>NOC</u>
(nnn) (mmm)	6229	Irrigation or Draining System Construction & Drivers
(ooo) (nnn)	6233	Oil or Gas Pipeline Construction & Drivers
(ppp) (ooo)	6235	Oil or Gas Well: Drilling or Redrilling & Drivers
(qqq) (ppp)	6236	Oil or Gas Well: Installation or Recovery of Casing & Drivers
(rrr) (qqq)	6237	Oil or Gas Well: Instrument Logging or Survey Work and Drivers
(sss) (rrr)	6251	Tunneling -Not Pneumatic -All Operations
(ttt) (sss)	6252	Shaft Sinking -All Operations
(uuu) (ttt)	6260	Tunneling -Pneumatic -All Operations
(vvv) (uuu)	6306	Sewer Construction -All Operations and Drivers
(www) (vvv)	6319	Gas Main or Connection Construction and Drivers
(xxx) (www)	6325	Conduit Construction -For Cable or Wires -& Drivers
(yyy) (xxx)	6400	Fence <u>Erection Installation and Repair</u> -Metal, Vinyl, Wood or Prefabricated Concrete Panel Fence Installed By Hand
(zzz) (yyy)	7538	Electric Light or Power Line Construction & Drivers
(zzz)	7601	Telephone, Telegraph or Fire Alarm Line Construction and Drivers
(aaaa)	7605	Burglar <u>and Fire Alarm</u> Installation or Repair <u>& and Drivers</u>
(bbbb)	7611	Telephone or Cable TV Line Installation Contractors, Underground and Drivers
(eeee)	7612	Telephone or Cable TV Line Installation Contractors, Overhead and Drivers
(dddd)	7613	Telephone or Cable TV Line Installation Contractors, Service Lines and Connections and Drivers
(bbbb) (eeee)	7855	Railroad Construction: Laying or Relaying of Tracks or Maintenance of Way by Contractor -No Work on Elevated Railroads -& Drivers
(cccc) (ffff)	8227	Construction or Erection Permanent Yard
(dddd) (gggg)	9534	Mobile Crane and Hoisting Service Contractors -NOC - All Operations - Including Yard Employees and Drivers
(eeee) (hhhh)	9554	Sign Installation, Maintenance, Repair, Removal, or Replacement NOC & Drivers

(3) The Division adopts the definitions published by NCCI, SCOPES[®] of Basic Manual Classifications (February ~~October, 2011~~2005), including updates through February1, 2011, that correspond to the classification codes and descriptions adopted in subsection (1) above. The definitions identify the workplace operations that satisfy the criteria of the term “construction industry” as used in the workers’ compensation law. The definitions are hereby incorporated by reference and can be obtained by writing to the Division of Workers’ Compensation, Bureau of Compliance, 200 East Gaines Street, Tallahassee, Florida 32399-4228.

Rulemaking Specific Authority 440.02(8), 440.591 FS. Law Implemented 440.02(8) FS. History–New 10-21-02, Formerly 4L-6.021, Amended 7-4-04, 3-15-06, 2-8-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robin Delaney, Chief, Bureau of Compliance,
Division of Workers' Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

Jeff Atwater, Chief of Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010