

NOTICE OF PROPOSED RULE

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers' Compensation

RULE NO.:	RULE TITLE:
69L-5.205	Loss Data Reporting
69L-5.217	Civil Penalties and Fines

PURPOSE AND EFFECT: Rule 69L-5.205, F.A.C., is amended to clarify that former self-insurers must report loss data for the final period of authorization only once.

The proposed amendments to Rule 69L-5.217, F.A.C., will reduce the penalties assessed against self-insurers for late filing of required forms, reports and documents and also recalculate penalties that were assessed against a self-insurer.

If the self-insurer has already paid the penalty to the Department, the Department will refund the difference between the penalty paid and the new reduced penalty, unless the self-insurer owes any outstanding, unpaid penalties to the Department.

SUMMARY: Rule 69L-5.205, F.A.C., clarifies that former self-insurers must report loss data for the final period of authorization only once. Rule 69L-5.217, F.A.C., reduces the penalties assessed against self-insurers for late filing of required forms and reports.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION: The agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require

legislative ratification based on the statement of estimated regulatory costs.

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: 440.38(1), (2), (3), 440.385(6), 440.525(2), 440.591 FS

LAW IMPLEMENTED: 440.38(1), (2), (3), 440.385(1), (3), (6), 440.525 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: October 14, 2011 @ 2:00 P.M.

PLACE: Room 102, Hartman Building, 2012 Capital Circle S.E., Tallahassee, FL

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 Pam Macon at (850) 413-1708 or Pamela.Macon@MyFloridaCFO.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: Pam Macon, Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation, 2012 Capital Circle S.E., Tallahassee, Florida 32399 (850) 413-1708 or Pamela.Macon@MyFloridaCFO.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-5.205 Loss Data Reporting.

Current Self-Insurers and Former Self-Insurers shall submit loss data for all entities covered under the self-insurance authorization on Form DFS-F2-SI-17 (Unit Statistical Report), effective 08/09, as incorporated by reference, or the electronic equivalent provided by the Department. Copies of this form are available at the Division of Workers' Compensation, Bureau of Monitoring and Audit, Self-Insurance Section, 2012 Capital Circle, S.E., Hartman Building, Tallahassee, FL 32399-4224. Failure to submit the required loss data forms or material understatement or concealment of data shall constitute good cause for revocation of the self-insurance authorization in addition to civil penalties specified in Rule 69L-5.217, F.A.C.

(1) The Division or the Association shall, within at least ten (10) days prior to the evaluation date, notify in writing or email ~~advise~~ each self insurer of the covered periods for the submission of the loss data.

(2) No change.

(3) Former Self-Insurers shall continue to submit this report until the loss data for the final period of authorization has been reported ~~for three (3) years~~.

(4) through (7) No change.

Rulemaking Authority 440.38(1), (2), (3), 440.385(6), 440.525(2), 440.591 FS.

Law Implemented 440.38(1), (2), (3), 440.385(1), (3), (6), 440.525 FS. History—
New 3-9-10, Amended _____.

69L-5.217 Civil Penalties and Fines.

(1) Civil Penalties for Delinquent Reports – Failure to timely file legible and complete forms, reports or documents as required by Section 440.38(2)(b), F.S., or these rules, shall subject the party required to file such form, report, or document to assessment by the Department of a civil penalty. For purposes of this rule, a

form, report or document is considered timely filed if postmarked on or before the due date prescribed in this rule. Reports submitted by a Qualified Servicing Entity on behalf of the self-insurer shall be treated as if they were submitted by the self-insurer directly.

(a) Late filed forms, reports, and documents required pursuant to this rule shall be penalized as follows:

1. \$100 for filings 1 to 14 days late.
2. \$500 ~~2,500~~ for filings 15 to 30 days late.
3. \$1,000 ~~5,000~~ for filings 31 to 60 days late.

4. For periods greater than sixty (60) days, \$200 per day from the required filing date. Total penalties assessed under this section for a single late filed form, report, or document shall not exceed \$10,000 ~~25,000~~.

(b) These civil penalties are to be applied per occurrence, per form, report, or document. Payment shall be made within fifteen (15) days after receipt of the notification and submitted along with the form, report, or document. Failure to submit the required forms, reports and documents constitutes good cause for revocation of the self-insurance authorization in addition to civil penalties specified in this rule.

(c) Any self-insurer that has been assessed penalties in excess of the amounts specified in paragraph (a) herein since March 9, 2010 until the effective date of this amended rule will have its penalty amount recalculated pursuant to paragraph (a). If the self-insurer has already paid penalties to the Department, the Department shall refund the difference between the penalties paid and those recalculated under paragraph (a) to the self-insurer, unless the self-insurer owes any outstanding.

unpaid penalties to the Department. Any outstanding, unpaid penalties must be paid in full prior to any refund being issued by the Department.

(2) through (6) No change.

Rulemaking Authority 440.38(1), (2), (3), 440.385(6), 440.525(2), 440.591 FS.
Law Implemented 440.38(1), (2), (3), 440.385(1), (3), (6), 440.525 FS. History–
New 3-9-10, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Macon, Chief, Bureau of
Monitoring and Audit, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief
Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 31, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 15,
2011