

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution. IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in any workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting: Andrena Knicely, (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-46.001 Definitions.

As used in this rule chapter:

(1) “Harvest” means the catching or taking of a horseshoe crab, by any means whatsoever, followed by a reduction of such crab to possession. Horseshoe crabs that are caught but immediately returned to the water free, alive, and unharmed are not harvested.

(2) “Horseshoe crab” means any arthropod of the species *Limulus polyphemus*, or any part thereof.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New

68B-46.002 Horseshoe Crabs Harvest Restrictions: License Requirements, Gear Specifications, Area Restrictions, Daily Bag and Possession Limit.

(1) No person shall harvest, possess, or sell any horseshoe crab unless that person possesses a valid saltwater products license.

(2) The harvest or attempted harvest of any horseshoe crab by or with the use of any means or gear other than by hand or gig is prohibited.

(3) Horseshoe crabs shall be harvested only from the water and not from any adjacent beach or shore.

(4) No person shall harvest in any day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 25 horseshoe crabs. The possession of more than 25 horseshoe crabs aboard any vessel in or on the waters of the state at any time is prohibited.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New

Section II  
Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE CHAPTER TITLE: Permitting and Inspection Requirements  
RULE CHAPTER NO.: 5F-8  
for Amusement Rides

RULE TITLE: Fees  
RULE NO.: 5F-8.012

PURPOSE AND EFFECT: Applicable law, Section 616.242(8), Florida Statutes, requires that the fees charged for inspection and permitting of amusement rides must cover the costs of the program that are not covered by general revenues appropriated by the legislature. The purpose of this rule revision is to implement a decrease in the fees charged for inspection and permitting of amusement rides because the legislature appropriated general revenues covering part of the operating costs for operation of the amusement ride inspection program during FY 99-00.

SUMMARY: Rule 5F-8.012, Florida Administrative Code, the department rule establishing the fees for inspecting and permitting amusement rides.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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.

SPECIFIC AUTHORITY: 616.241, 616.242 FS.

LAWS IMPLEMENTED: 616.241, 616.242 FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., Wednesday, February 2, 2000  
PLACE: Division of Standards Conference Room, 131 Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Isadore Rommes, Bureau Chief, Bureau of Fair Rides Inspection, 3125 Conner Boulevard, Suite N, Tallahassee, Florida 32399-1650, Phone (850)488-9790, Fax (850)488-9023

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-8.012 Fees.

(1) The following fees are adopted:

- (a) Annual permit for any amusement ride: ~~\$240.00~~ 250.00
- (b) Annual permit for any Bungy jump: \$500.00
- (c) Inspection fee for each inspection of a kiddie amusement ride: ~~\$31.00~~ 45.00
- (d) Inspection fee for each inspection of non-kiddie amusement ride: ~~\$70.00~~ 90.00
- (e) Inspection fee per go cart, in addition to the track inspection fee: \$5.00
- (f) Reinspection fee: \$300.00
- (g) Fee to replace a lost U.S. Amusement Identification (USAID) plate: \$100.00
- (h) Fee per amusement ride for late inspection request: \$100.00
- (i) Fee per amusement ride for failure to cancel inspection request: \$100.00
- (j) Fee per amusement ride for inspection on weekend or state holiday: \$25.00

Specific Authority 616.165, 616.242(7)(8)(13) FS. Law Implemented 616.242(8) FS. History--New 9-15-92, Amended 2-23-94, 5-27-96, 9-23-97, 2-15-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Isadore Rommes, Bureau Chief, Bureau of Fair Rides Inspection, 3125 Conner Boulevard, Suite N, Tallahassee, Florida 32399-1650, Phone (850)488-9790, Fax (850)488-9023

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards, 131 Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, Phone (850)488-0645, Fax (850)922-8971

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 1999, Vol. 25, No. 47

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE : Financial Records and Reports

RULE NO.: 6A-14.072

PURPOSE AND EFFECT: The purpose is to prescribe the data and procedures to be used to maintain financial records in a consistent manner at the 28 community colleges. The effect is to ensure the financial records at the 28 community colleges and data shown on financial reports will be comparable throughout the Community College System.

SUMMARY: The current rule requires each community college to keep financial records in accordance with the 1998 Accounting Manual for Florida's Public Community Colleges. The proposed rule amendment would require the records to be kept in accordance with the 1999 Manual.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.

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.

SPECIFIC AUTHORITY: 229.053(1), 240.325 FS.

LAW IMPLEMENTED: 240.325 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., January 25, 2000

PLACE: LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sydney H. McKenzie III, General Counsel, State Board of Community Colleges, Division of Community Colleges, 325 West Gaines St., Tallahassee, FL 32399-0400

**THE FULL TEXT OF THE PROPOSED RULE IS:**

6A-14.072 Financial Records and Reports.

(1) Each community college shall keep financial records according to the Department of Education publication, "Accounting Manual for Florida's Public Community Colleges, 1999 1998," incorporated herein by reference. Copies may be obtained from the Division of Community Colleges, Department of Education, Tallahassee, Florida 32399-0400.

(2) Enrollment related financial records shall be kept for all instruction so as to facilitate verification, confirmation, and comparison.

(3) If financial reports are not received from a community college when due, the State Board of Community Colleges may withhold apportionments of state funds to the college until the reports are received.

Specific Authority 229.053(1), 240.325 FS. Law Implemented 240.311, 240.325, 240.347, 240.349, 240.363 FS. History--Formerly 6A-8.11, Repromulgated 12-19-74, Amended 12-26-77, 7-2-79, 5-14-85, Formerly 6A-14.72, Amended 11-12-91, 7-7-92, 2-16-94, 12-18-94, 11-27-95, 11-13-96, 12-9-97, 5-18-98,\_\_\_\_\_. c.f. Accounting Manual for Florida's Public Community Colleges.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sydney H. McKenzie III, General Counsel, State Board of Community Colleges

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: J. David Armstrong Jr., Executive Director, Community College System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

**DEPARTMENT OF EDUCATION**

**Board of Regents**

RULE TITLE: Admissions  
 RULE NO.: 6C-6.001

PURPOSE AND EFFECT: The rule is amended to reflect the intent of the Board to increase diversity in admission to the universities.

SUMMARY: The rule is amended to reflect the intent of the Board to increase diversity in admission to the universities. In addition, language re-stating statute is deleted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared.

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.

SPECIFIC AUTHORITY: 240.209(1) FS.

LAW IMPLEMENTED: 240.209(1),(3)(s), 240.227(8), 240.233, 240.2097, 240.529, 240.271 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., January 21, 2000

PLACE: Tampa Airport Marriott Hotel, Ballroom, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary-Anne Bestebreurtje, Corporate Secretary, Florida Board of Regents, 1454 Florida Education Center, 325 West Gaines Street, Tallahassee, Florida 32399-1950

THE FULL TEXT OF THE PROPOSED RULE IS:

6C-6.001 Admissions.

(1) Based on minimum standards adopted by the Board, through rule, the ~~u~~niversities shall establish the criteria by rule for the admission of students.

(2) In the admission of students, the universities shall take into consideration the applicant's academic ability, and may also consider creativity, talent, and character. If determined not to be in the best interest of the university to admit an applicant because of past misconduct, the university may do so.

(3) The Board affirms its commitment to increasing student diversity in each of the state universities.

~~(4)(3)~~ Applicants denied admission shall be given notice of denial within a reasonable period of time following the decision. Upon the applicant's written request, the university shall provide the reasons for the rejection in writing.

~~(5)(4)~~ Each student accepted for admission shall, prior to registration, submit on a form, provided by the institution, a medical history signed by the student. Documentation of appropriate immunization for measles and rubella is required. Proof of immunization must be provided. This shall be a

minimum requirement, and institutions may require in addition such other evidence of examination as they may determine necessary. Where physician examinations or certificates are required, they must be signed by a doctor of medicine or a doctor of osteopathy. The universities reserve the right to refuse registration to any student whose health record or report of medical examination indicates the existence of a condition which may be harmful to members of the university community.

~~(6)(5)~~ The universities may return to the applicant without action any application and fees received after the closing date for applications designated by each institution in its official calendar.

~~(7)(6)~~ False or fraudulent statements – In addition to any other penalties which may be imposed an individual may be denied admission or further registration, and the universities may invalidate college credit for work done by a student at an SUS institution and invalidate the degree based upon such credit if it finds that the applicant has made false or fraudulent or incomplete statements in his application, residence affidavit, or accompanying documents or statements in connection with, or supplemental to, his application for admission to, or graduation from one of the SUS institutions.

~~(8)(7)~~ Students may be required to have immunizations and to have undergone diagnostic procedures prior to registration.

~~(9)(8)~~ Each university shall provide registration opportunities for admitted transfer students that allow these students access to high demand courses comparable to that provided to native students.

~~(10)(9)~~ Each university shall provide orientation programs for first-time-in-college and transfer students.

~~(11)(10)~~ Enrollment limitations – The Board shall establish a plan for the enrollment of the State University System, consistent with the Strategic Master Plan.

(a) The Board shall recommend each budget cycle to the Legislature an enrollment plan in which ~~each university's~~ future State University System FTE enrollment shall be specified by level.

(b) The Board will establish an assigned FTE enrollment plan limit for each university for each fiscal period. This assigned FTE enrollment plan limit will be based upon the enrollment plan described in (a) and upon the funding decisions of the Legislature. ~~This assigned FTE enrollment limit will constitute the maximum enrollment within five percent for that fiscal period. If actual student credit hour productivity exceeds funded enrollment, course enrollment in subsequent terms shall be controlled by the university and may be reduced by limiting admission of new students, limiting course loads of enrolled students and/or other measures as may be necessary to stay within funded enrollment levels.~~

(c) Each university shall establish, by rule, procedures and criteria to manage limit enrollments to meet to be within five percent (above and below) of planned enrollment, established pursuant to (b) above. These rules shall not be inconsistent with Board rules.

(e) Upper level programs registered as limited access programs with the Board and the Articulation Coordinating Committee (competitive admission due to limited space or other resources, or due to higher standards) and rules limiting enrollment as provided in (c) above shall observe the following guidelines in the selection of students for the spaces available in the program:

1. There will be a documented justification for the program to be classified as limited access. This documentation should be submitted by the university requesting limited access to the Board for review and approval at least 6 months prior to the start of limiting access to the program. Annually, each university will reevaluate the need to continue to classify the program as limited access. The university will report to the Board by October 1 of each year a list of all limited access programs, the minimum admissions standards for each program, the reasons the program is designated as limited access, and a copy of the most recent review demonstrating the need for retention of limited access status. ~~An annual report shall include for each limited access program the following categories, by race and gender: the number of applicants, the number of applicants granted admission, the number of applicants who are granted admission and enroll, the number of applicants denied admission, and the number of applicants neither granted admission nor denied admission (no action taken). Each category shall be reported by type of student, including the following subcategories: native students (students who started at the university as first-time-in-college students with less than 12 semester hours of transfer credit), community college Associate in Arts degree transfer students, and all other students. Each category and subcategory shall further be reported according to the number of students who meet the minimum eligibility requirements for admission to the program and the number of students who do not meet the minimum eligibility requirements for admission to the program.~~ Programs assigned limited access status will be reviewed by the Board in the course of its cyclical systemwide program review process.

5. Any criteria used shall be publicized in catalogues, counseling manuals, and other appropriate publications in accordance with Rule 6A-10.024(14)(13), FAC., with sufficient time for prospective students to adjust programs to meet criteria.

~~6. Where necessary to achieve established equal access enrollment goals, up to ten percent of the students may be admitted to a limited access program with different criteria.~~

~~6.7.~~ Each university shall advise students who meet the minimum requirements for admission to the upper division of a state university, but are denied admission to limited access programs, of the availability of similar programs at other State University System institutions and the admissions requirements of such programs.

~~7.8.~~ Associate in Arts degree graduates from Florida community colleges and university students who have successfully completed 60 or more credit hours of course work and met the requirements of Section 240.107, Florida Statutes, shall receive priority over out-of-state students for admission to limited access programs.

Specific Authority 240.209(1),~~(3)(e)~~ FS. Law Implemented 240.209(1),(3)(s), 240.227(8), 240.233, 240.2097, 240.529, 240.271 FS. History—Formerly 6C-2.41, 11-18-70, Amended and Renumbered 12-17-74, Amended 1-6-76, 7-13-77, 3-21-82, 12-13-83, 8-11-85, Formerly 6C-6.01, Amended 8-31-86, 4-9-87, 1-7-91, 9-15-91, 11-27-95, 8-12-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Judy Hample, Vice Chancellor, Planning, Budgeting and Policy Analysis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Adam W. Herbert, Chancellor, State University System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

**DEPARTMENT OF EDUCATION**

**Board of Regents**

RULE TITLE: Entering Freshmen

RULE NO.: 6C-6.002

PURPOSE AND EFFECT: Amendments to this rule describe the factors which will be considered in the admission of students to the universities, described as a student's profile assessment. The amendments also provide the guarantee of admission to the top 20 percent of a high school graduating class who meet the stated requirements.

SUMMARY: The rule describes the requirements a student must meet to be considered for admission to one of the state's ten public universities. The rule is amended by the description of an additional admissions route, defined as a profile assessment, and the factors included in this assessment. The rule is also amended by the addition of the requirements a student must meet to be guaranteed admission, by satisfying certain prescribed requirements of high school graduation and course requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared.

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.

SPECIFIC AUTHORITY: 240.209(1) FS.

LAW IMPLEMENTED: 240.209(1), 240.227(8), 240.115(4), 240.152, 240.233 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., January 21, 2000

PLACE: Tampa Airport Marriott Hotel, Ballroom, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary-Anne Bestebreurtje, Corporate Secretary, Florida Board of Regents, 1454 Florida Education Center, 325 West Gaines Street, Tallahassee, Florida 32399-1950

THE FULL TEXT OF THE PROPOSED RULE IS:

6C-6.002 Entering Freshmen.

(3) Students may be considered eligible for admission to any of the state universities in one each of the following three ~~alternative~~ ways, except as provided in subsection (4) below:

(c) A student applying for admission who does not meet these requirements may be eligible for admission through a student profile assessment which considers additional factors, including but not limited to, the following: family educational background, socioeconomic status, graduate of a low performing high school, international baccalaureate program graduate, geographic location, fine/performing arts talent and athletic talent. These additional factors shall not include preferences in the admissions process for applicants on the basis of race, national origin or sex. The student bring to a university other important attributes or special talents and may be admitted if, in the judgment of an appropriate faculty committee, it is determined from appropriate evidence that the student can be expected to do successful academic work as defined by the institution to which the student applies. The number of first time in college students admitted through profile assessment at each university is determined by the Board; the system is limited each year to ten percent of the total system first-time-in-college students. Changes in the portion of a university's entering freshmen admitted under this alternative, based upon a university validation study with a 50 percent probability of success in the first year, may be approved by the Board. However, the annual number of applicants enrolled at a university under profile assessment ~~this alternative~~ without the equivalent of two high school credits in foreign language must not exceed 5 percent of the total number of freshmen (students who had not completed their first year of college or university) who entered the university the prior year. Upon request by the president, the Board may approve a one year increase in a university's 5 percent limitation as long as

the State University System as a whole maintains the 5 percent limit. Any freshman student admitted without meeting the foreign language requirement must earn 8 to 10 semester hours in a foreign language or American sign language, or demonstrate equivalent competence in either a foreign language or American sign language as described in Rule 6C-6.004(1)(c) prior to completing 60 credit hours at the state university. The university will provide an individual learning plan for each student enrolled who does not meet the normal admissions requirements listed in Rules 6C-6.002(1) and 6C-6.002(3). ~~The Board will review and will submit annual follow-up reports of the success of those students admitted under the profile assessment process this alternative for Board review.~~

(5) A student applying for admission who is a graduate of a public Florida high school, has completed nineteen (19) required high school units as listed in Rule 6C-6.002(3)(a) and who ranks in the top 20% of his/her high school graduating class shall be admitted to a university in the State University System. The State University System will use class rank as determined by the Florida Department of Education. The Board reaffirms its Equal Educational Opportunity (EEO) commitments. Universities may utilize the above alternative admission methods to increase the enrollment of a diverse student body.

(6) The universities have the authority to adopt and promulgate rules which have the effect of increasing the standards for eligibility for admission, as listed in ~~alternatives~~ (3)(a) and (b) above, or to provide additional criteria in making admissions decisions. Changes to these institutional rules will be reviewed annually by the Board prior to September 1.

(7) Neither State University System nor individual university admissions criteria shall include preferences in the admissions process for applicants on the basis of race, national origin or sex.

Specific Authority 240.209(1), ~~(3)(c)~~ FS. Law Implemented 240.209(1), 240.227(8), 240.115(4), 240.152, 240.233, ~~232-246~~ FS. History—Formerly 6C-2.42, 11-18-70, Amended 5-27-74, Amended and Renumbered 12-17-74, Amended 6-25-80, 3-21-82, 4-16-84, Formerly 6C-6.02, Amended 4-14-86, 4-20-87, 10-19-88, 1-23-90, 1-7-91, 9-15-91, 8-4-92, 5-17-95, 11-27-95,

NAME OF PERSON ORIGINATING PROPOSED RULE: Judy Hample, Vice Chancellor, Planning, Budgeting and Policy Analysis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Adam W. Herbert, Chancellor, State University System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 1999

**DEPARTMENT OF EDUCATION**

**Board of Regents**

RULE TITLE: Entering or Transferring Graduate Students and Post-baccalaureate Professional Students  
 RULE NO.: 6C-6.003

PURPOSE AND EFFECT: The amendment specifies that for graduate admissions effective for Fall, 2001, the universities shall not include preferences in the admissions process for applicants on the basis of race, national origin or sex.

SUMMARY: The amendment specifies that for graduate admissions effective for Fall, 2001, the universities shall not include preferences in the admissions process for applicants on the basis of race, national origin or sex.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared.

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.

SPECIFIC AUTHORITY: 240.209(1), 240.233 FS.

LAW IMPLEMENTED: 240.209(1), 240.227(8), 240.233 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., January 21, 2000

PLACE: Tampa Airport Marriott Hotel, Ballroom, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary-Anne Bestebreurtje, Corporate Secretary, Florida Board of Regents, 1454 Florida Education Center, 325 West Gaines Street, Tallahassee, Florida 32399-1950

THE FULL TEXT OF THE PROPOSED RULE IS:

6C-6.003 Entering or Transferring Graduate Students and Post-baccalaureate Professional Students.

(5) The Board encourages each university to impose more restrictive admission requirements than the above established for post-baccalaureate programs. Effective for Fall, 2001 admissions, these requirements shall not include preferences in the admissions process for applicants on the basis of race, national origin or sex. These criteria shall be published, and the university catalog shall give notice where copies of such criteria may be obtained.

Specific Authority 240.209(1), ~~(3)(m)~~, 240.233 FS. Law Implemented 240.209(1), ~~(3)(m)~~, 240.227(8), 240.233 FS. History—Formerly 6C-2.43, 11-18-70, Amended 11-20-70, Amended and Renumbered 12-17-74, Amended 1-24-77, 2-28-78, 10-17-78, 8-11-85, Formerly 6C-6.03, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Judy Hample, Vice Chancellor, Planning, Budgeting and Policy Analysis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Adam W. Herbert, Chancellor, State University System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

**DEPARTMENT OF REVENUE**

RULE TITLES: Definitions  
 RULE NOS.: 12-3.0012

Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded 12-3.0015

PURPOSE AND EFFECT: A) The proposed creation of Rule 12-3.0012, FAC., implements ss. 1 and 8 of Chapter 99-239, L.O.F., which amended the statute of limitations provisions of s. 95.091(3), F.S.; and, created s. 213.345, F.S., regarding the tolling of periods during an audit or during the time a taxpayer may file a claim for refund. The effect of proposed Rule 12-3.0012, FAC., is to clarify when an audit commences, as stated in the second sentence of new s. 213.345, F.S.

B) The proposed creation of Rule 12-3.0015, FAC., implements ss. 7 and 9 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., imposing a “market interest rate” on unpaid tax liabilities, instead of the flat rate previously imposed; and, created s. 213.255, F.S., requiring the payment of interest on amounts not refunded to taxpayers on a timely basis. The effect of this proposed new rule is to tell taxpayers how the Department will implement this new market interest rate provision.

SUMMARY: A) Proposed new Rule 12-3.0012, FAC., defines the term “commence an audit,” to ensure that taxpayers understand how the new legislative requirement in s. 213.345, F.S., will be implemented. This new law suspends for one year the statute of limitations or the time in which the taxpayer must file a claim for a refund. The term “commence an audit” is a key provision of this new law, since the statute terminates the one-year suspension if the Department fails to commence an audit within 120 days of notifying a taxpayer of the intent to conduct such audit.

B) Proposed new Rule 12-3.0015, FAC., addresses several issues: 1. how to handle the existing corporate income tax and emergency excise tax “market interest rate” provisions; 2. when the Department should apply this new interest provision; 3. how to calculate the daily rate of interest; 4. how the agency will notify taxpayers about interest rate changes; and, 5. examples to help taxpayers understand how this interest provision applies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed new rules only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 213.235, 213.255, 213.345 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1-800-DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULES IS:

12-3.0012 Definitions.

The following terms apply to the Department's administration of the programs delegated to it by statute. These terms shall have the meaning given to them in this section, except where the context clearly indicates a different meaning.

(1)(a) The phrase "commence an audit" means when, subsequent to the issuance of a Notification of Intent to Conduct an Audit (DR-840) or similar notification, the Department performs an audit entrance interview.

(b) The phrase "audit entrance interview" means when any one of the following actions first occurs:

1. When the Department contacts the taxpayer to explain and discuss the specific audit plan or to discuss the nature of the taxpayer's business operations; or,

2. When the Department requests that specific books, records, documents, or other information be compiled, provided, or made available to the Department, other than the books, records, documents, or other information which were requested in the attachment to the DR-840; or,

3. When the Department begins reviewing the accounts, books, or records of the taxpayer.

(2) The term "department" or "agency" means the Florida Department of Revenue, as established by s. 20.21, F.S.

Specific Authority 213.06(1) FS. Law Implemented 213.345 FS. History--New \_\_\_\_\_.

12-3.0015 Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded.

(1) The provisions of s. 213.235, F.S., and this rule apply to all taxes listed in s. 213.05, F.S., except those taxes imposed by chapters 220 and 221, F.S. The interest rate provisions of Rule 12C-1.343, F.A.C., shall continue to apply to the taxes imposed by chapters 220 and 221, F.S.

(2)(a) The interest rate applicable to tax payment deficiencies that arise for taxes due before January 1, 2000, is one percent per month, prorated daily, as provided in the applicable rules. This interest rate will apply as long as the deficiency continues.

(b) The interest rate will be determined pursuant to s. 213.235, F.S., for tax payment deficiencies that arise for taxes due on or after January 1, 2000.

(c) The interest rate which applies to a specific tax payment deficiency may fluctuate while the deficiency continues, due to the redetermination of the interest rate every six months pursuant to s. 213.235, F.S.

(d) The interest imposed by s. 213.255, F.S., will be calculated pursuant to s. 213.235, F.S., except that the interest rate applied to a refund cannot exceed 11 percent annually. The provisions of s. 213.255, F.S., and Rule Chapters 12-6 and 12-26, F.A.C., govern the circumstances under which interest is due from and paid by the Department on refunds.

(3)(a) The daily rate of interest computed pursuant to s. 213.235, F.S., and this rule shall use a year based on 365 days, and 366 days in a leap year.

(b) This daily rate will be carried out to nine decimal places.

(4)(a) The interest rate determined pursuant to s. 213.235, F.S., is subject to change on January 1st and July 1st of each year.

(b) The applicable interest rate for any 6-month period can be obtained by any of the following methods:

1. Accessing the Department's web site at the address in brackets [<http://sun6.dms.state.fl.us/dor/>].

2. Calling Tax Information Services during regular business hours at (850)488-6800.

3. Calling the Department's Fax on Demand Retrieval System by dialing (850)922-3676 from the handset of the fax machine.

(5) The following examples are intended to help taxpayers understand how these interest rate provisions apply:

(a) The taxpayer owed \$1,000 with his November 1999 sales and use tax return due 12/20/1999. Interest for sales and use tax returns due through 12/31/1999 is at the rate of 1 percent per month (which equals a daily interest rate of .000328767), and for any portion less than a month, a daily interest factor of .000328767 is applied. Assuming the taxpayer filed the return and paid the tax on 8/10/2000, interest would be calculated as follows:

| PERIOD             | TAX DUE | CALENDAR |      | RATE               | TOTAL        |
|--------------------|---------|----------|------|--------------------|--------------|
|                    |         | PERIOD   | DAYS |                    | INTEREST DUE |
| 12/21/99-7/20/00   | \$1,000 | 7 months |      | 1% per mon.        | \$70.00      |
| 7/21/00-8/10/00    | \$1,000 | 21 days  |      | .000328767 per day | \$6.90       |
| Total Interest Due |         |          |      |                    | \$76.90      |

(b) The taxpayer owed \$1,000 with her February 2000 sales and use tax return due 3/20/2000. The taxpayer filed the return and paid the tax on 8/01/2000. Assuming an interest rate of 8 percent for the 1/01/2000 through 6/30/2000 period, and an interest rate of 9 percent for the 7/01/2000 through 12/31/2000 period, interest would be calculated as follows:

| PERIOD             | TAX DUE | NUMBER OF DAYS | DAYS IN YEAR | RATE        | TOTAL        |
|--------------------|---------|----------------|--------------|-------------|--------------|
|                    |         |                |              |             | INTEREST DUE |
| 3/21/00-6/30/00    | \$1,000 | 102            | 366          | 8% per year | \$22.29      |
| 7/01/00-8/01/00    | \$1,000 | 32             | 366          | 9% per year | \$7.87       |
| Total Interest Due |         |                |              |             | \$30.16      |

(c) The taxpayer underpaid intangible tax by \$500 on 6/30/2000. The taxpayer paid the additional tax due on 11/15/2000. Assuming an interest rate of 9 percent for the 7/01/2000 through 12/31/2000 period, interest would be calculated as follows:

| PERIOD           | TAX DUE | NUMBER OF DAYS | DAYS IN YEAR | RATE        | TOTAL        |
|------------------|---------|----------------|--------------|-------------|--------------|
|                  |         |                |              |             | INTEREST DUE |
| 7/01/00-11/15/00 | \$500   | 138            | 366          | 9% per year | \$16.97      |

Specific Authority 213.06(1) FS. Law Implemented 213.235, 213.255 FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed new rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4706-4707). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

RULE TITLE: Registration Information Sharing and Exchange Program  
 RULE NO.: 12-22.007

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-22.007, FAC., is to remove unnecessary language regarding the formatting of tax information diskettes and tape cartridges submitted to the Department that are not required to be provided in an administrative rule and language that is redundant of the statute, as mandated by s. 120.74(1), F.S. The effect of the proposed amendments will be to eliminate unnecessary statutory definitions and provisions and specifications for formatting tax information diskettes and tape cartridges submitted to the Department.

SUMMARY: The proposed amendments to Rule 12-22.007, FAC., remove: 1) all unnecessary definitions for terms used in the rule; 2) the recitation of statutory provisions regarding the participation in the Registration and Information Sharing and Exchange Program (“RISE”); 3) the unnecessary provisions regarding the execution of Information Sharing Agreements; 4) the recitation of statutory provisions regarding the Department’s authority to suspend the routine providing of tax information; and 5) the requirements for the formatting of tax information diskettes and tape cartridges submitted to the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 213.0535(4), 213.06(1) FS.

LAW IMPLEMENTED: 213.053, 213.0535 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407



NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331)

THE FULL TEXT OF THE PROPOSED RULE IS:

12-22.007 Registration Information Sharing and Exchange Program.

(1)(a) Scope of Rule. This rule section prescribes the data elements to be shared in the Registration Information Sharing and Exchange Program and the frequency of sharing those data elements sets forth guidelines and requirements to be used by the Department of Revenue in the implementation of ss. 213.053 and 213.0535, F.S., as amended and created by s. 32, Ch. 92-319 and ss. 31 and 36, Ch. 92-320, L.O.F., which creates the Registration Information Sharing and Exchange Program to be coordinated by the Department. This exchange of registration information between the Department, other state agencies, and units of local government is designed to improve the enforcement of specific state and local taxes, licenses, and permits.

(b) General information regarding the Registration Information Sharing and Exchange ("RISE") Program may be obtained by contracting the Director of Industry and Intergovernmental Relations, Florida Department of Revenue, 501 S. Calhoun Street, Room 104, Tallahassee, Florida 32399-0100 or by telephone, (850)921-4418.

(c) Specific questions regarding the status of any data supplied by the Department of Revenue should be directed to the Program Director, Information Services Program, Florida Department of Revenue, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100 or by telephone, (850)921-4444.

(2) Definitions. For purposes of this rule section, the terms and phrases used in these rules shall have the meanings prescribed in this section, unless a different meaning is clearly indicated by the context in which the term or phrase is used.

(a) "Department" means the Florida Department of Revenue.

(b) "Agency" means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or another unit of government.

(c) "Unit of Local Government" means a county, municipality, or consolidated City-County government.

(d) "County" means a political sub-division of the state established pursuant to s. 1, Article VIII of the State Constitution.

(e) "Municipality" means a municipality created pursuant to s. 2 or s. 16, Article VIII of the State Constitution.

(f) "Eligible Participant" means any state agency or unit of local government which collects and administers taxes enumerated under subsection (5) of this rule.

(g) "Due Date" means 20 days after the close of the reporting period. For example, the monthly exchange of sales tax registration information shared between Level one participants for the month of December, 1992, will be due on January 20, 1993. For Level two participants, the quarterly report for January through March of 1993 will be due on April 20, 1993. For the purpose of these rules, either Departmental receipt or postmark on the 20th day after the close of the reporting period shall constitute a timely filing.

(h) "Reporting Period" means calendar month or calendar quarter.

(i) "RISE" means Registration Information Sharing and Exchange Program.

(3) Program Participants:

(a) The Florida Department of Revenue. Section 213.0535, F.S., designates the Department as the coordinator of the RISE Program. In addition to participating in the RISE program as a Level two participant, the Department is authorized to prescribe the following elements of the program:

1. Format in which tax information will be shared by RISE participants;

2. Methods by which information may be shared;

3. Tax registration information as authorized under s. 213.0535(2), F.S., which is subject to sharing; and

4. The data elements to be shared and the frequency of sharing required of Level two participants.

(b) Level one Participants. Participants in this category include units of state and local government which are responsible for administering and enforcing sales and use tax imposed under Ch. 212, F.S.; tourist development tax imposed under s. 125.0104, F.S.; tourist impact tax imposed under s. 125.0108, F.S.; local occupational license taxes imposed under Ch. 205, F.S.; convention development taxes imposed under s. 212.0305, F.S.; public lodging and food service establishment licenses imposed under Ch. 509, F.S.; and beverage law licenses imposed under Ch. 561, F.S.

(c) Level two Participants. Participants in this category include the Department of Revenue and local officials who are responsible for collecting the tourist development tax imposed under s. 125.0104, F.S.; the tourist impact tax imposed under s. 125.0108, F.S., or a convention development tax imposed under s. 212.0305, F.S. In addition to the data shared by Level one participants, Level two participants are also responsible for sharing and exchanging tax payment history; audit assessments; and registration cancellations of dealers engaging in transient rentals. Such data exchange shall be limited to sales and use tax, tourist development taxes, and convention development taxes.

~~(4) Execution of Information Sharing Agreements.~~

~~(a) Prior to the exchange of any information authorized pursuant to s. 213.0535, F.S., the Department will provide all eligible Level one and Level two participants with an Agreement for Sharing Information. This information sharing agreement, entered into between the Executive Director of the Department and the specified participant in the RISE program, will set forth requirements with regard to confidentiality and penalties for the unauthorized disclosure of state tax information; establish minimum procedures prior to the receipt of state tax information; establish the data elements to be exchanged and time frames for this exchange; provide for the confidentiality of federal tax information; and provide a clause for further modifications or terminations.~~

~~(b) Upon receipt of the Agreement for Sharing Information, the eligible unit of state or local government or local official as described in subsection (3) shall execute the document and return it to the Intergovernmental Relations Administrator, Florida Department of Revenue, P. O. Box 37372, Tallahassee, Florida 32315-9998. Failure to properly complete and return the Agreement for Sharing Information will prevent the unit of state or local government from obtaining confidential state tax information authorized under the RISE program.~~

~~(c) For the purpose of these rules, the Department adopts by reference the Agreement for Sharing Information For Level one Participants, and the Agreement for Sharing Information For Level two Participants, dated 3/93, for purposes of entering into information sharing agreements under the RISE program. These forms may be obtained by written request to the Intergovernmental Relations Administrator, Florida Department of Revenue, P. O. Box 37372, Tallahassee, Florida 32315-9998.~~

~~(2)(5) Information Subject to Sharing.~~

(a) Level-one Participants. With regard to the taxes, licenses, and permits enumerated in s. 213.0535(4)(a), F.S. paragraph (b) of subsection (3) of this rule, participants in this category shall exchange and share data, on a monthly basis, regarding new registrants, new filers, or initial reporters, permittees, or licensees. The information subject to such exchange shall include:

1. Registrant's, licensee's, or taxpayer's name (name of business and owner);
2. Business mailing address, including zip code;
3. Business location address, including zip code;
4. Federal employer identification number or Social Security number (where authorized under the Federal Privacy and Confidentiality Act);
5. Business kind code;
6. County code;
7. Applicable state or local license or registration number;
8. Business opening date; and
9. Telephone number, if available.

(b) Level-two Participants. With regard to the taxes enumerated in s. 213.0535(4)(b), F.S. paragraph (c) of subsection (3), participants in this category shall share and exchange data as specified in paragraph (a). In addition to the data shared by Level-one participants, Level-two participants shall exchange data relating to tax payment history, audit assessments, and registration cancellations of dealers engaging in transient rentals. Such data shall be related only to sales and use taxes, tourist development taxes, and convention development taxes.

~~(c) Information shared pursuant to the RISE program shall be used only to administer and enforce the taxes, licenses, and permits enumerated in paragraphs (b) and (c) of subsection (3) of this rule.~~

~~(3)(6) Methods for Transmitting Data. The Department shall provide three methods for the transmission of data between eligible participants of the RISE program. They include magnetic tape, floppy disk, cartridge, or, upon prior approval by the Information Services Program Director Department, manually generated reports.~~

(a) Eligible participants are required to share information to the fullest extent practicable on a computer-processable medium. Manually generated reports or other non-machine readable data may be used as a method of data transmission only if prior approval is granted by the Information Services Program Director Department.

(b) Eligible participants in the RISE program are required to ~~shall~~ indicate their proposed method of data transmission on an attachment to the Agreement for Sharing Information. Subsequent to review and approval by the ~~Program Director~~, Information Services Program Director, the participant will be notified of the approved method of transmission, when the first information exchange will be due, and a current list of all approved participants.

~~(c) The method of transmitting information does not change the prescribed due dates for receipt of shared information. In the event that the participant fails to fulfill its obligations for participating in the RISE program in accordance with s. 213.0535, F.S., the Department of Revenue is authorized to suspend the routine providing of tax information to the participant and, in its role as coordinator of the RISE program, is also authorized to recommend that other participants in the RISE program suspend any information exchange activity with the participant.~~

~~(c)(d)~~ Eligible participants who are required to transmit information under the RISE program and who are unable to make a timely exchange, because of system failure, incomplete data, or other reasons that which are beyond the participant's participants control, should shall contact the Program Director, Information Services Program, at (850)921-4444 or FAX (850)922-2448.

(e) The Department of Revenue may suspend the routine providing of tax information to the participant and, in its role as coordinator of the RISE program, may recommend that other participants in the RISE program suspend any information exchange activity with the participant in instances where the participant does not consistently transmit timely information or repeatedly fails to share information with other participants.

(7) Format Requirements. The following describes the format of files to be sent to Florida Department of Revenue, Sales Tax License Registration, G-3 Carlton Building, Tape Library, Tallahassee, Florida 32399-0100, for Sales Tax License Registration information. The file is to be submitted on tape (this is preferred) or diskette by the 20th of each month for the previous month's new registrations.

(a) Tape Requirements:

- 1. Type of tape — 1/2 inch mylar base, oxide coated
- 2. Recording density — 1600 or 6250 bytes per inch
- 3. Character set — EBCDIC, UPPERCASE LETTERS ONLY

4. Number of tracks — 9

5. Parity — Odd

6. Recording mode — fixed length

7. Labeling Internal Requirements:

a. Unlabeled

b. Only 1 tape mark at the beginning of tape reel

c. 2 tape marks at the end of tape reel

8. Blocking Factor:

a. Depending on record length, not to exceed 1792 characters per block.

(b) Diskette Requirements:

1. 5 1/4" Diskette:

a. Recording density

I. High density, 1.2M or

H. Double density, 360K

b. IBM PC Compatible format

e. ASCII text format — no embedded decimals or signs.

2. 3 1/2" Diskette:

a. Recording density

I. High density, 1.44M or

H. Double density, 720K

b. IBM PC Compatible Format

e. ASCII text format — no embedded decimals or signs.

3. The DOS command backup may be used when file will take multiple diskettes. If used, the providing agency will physically indicate on the diskettes.

(c) Cartridge Requirements:

1. Standard 3480 cartridge

2. Densities up to 38K

3. Number of tracks — 18

(d)1. Labeling

2. External Requirements:

a. Name and address of sender

b. Recording industry

e. Number of reel, series beginning with No. 1 and showing total number of reels

Example: Reel 1 of 2, Reel 2 of 2

d. Registration applicable period

(e)1. Data Record Explanation:

2. Registration Record — information related to new registrations. Fixed length of 512 bytes.

(f) General Information:

1. All numeric fields are in unpacked format, preceded with zeroes, right justified and zero filled when not used.

2. All alpha-numeric fields are to be left justified and space filled when not used.

3. The attached Magnetic Media Transmittal should be completed and returned with the tape or diskette.

4. It will be the policy of the Florida Department of Revenue to erase all data from the magnetic media prior to returning, unless otherwise requested in writing.

(g) Magnetic Tape/Diskette File Description of Registration Record:

| Position | Field   | Length |
|----------|---|--------|
| 1-40     | Registrant Name   | A40    |
| 41-80    | Registrant Address  | A40    |
| 81-107   | Registrant City   | A26    |
| 108-108  | Filler  | A1     |
| 109-110  | Registrant State  | A2     |
| 111-112  | Filler  | A2     |
| 113-121  | Registrant Zip Code                                       | N9     |
| 122-131  | Registrant Phone Number                                   | N10    |
| 132-171  | Business Location Name                                    | A40    |
| 172-211  | Business Location Address                                 | A40    |
| 212-238  | Business Location City                                    | A26    |
| 239-239  | Filler  | A1     |
| 240-241  | Business Location State                                   | A2     |
| 242-243  | Filler  | A2     |
| 244-252  | Business Location Zip Code                                | N9     |
| 253-262  | Location Phone Number                                     | N10    |
| 263-271  | Federal Employer Identification or Social Security Number | N9     |
| 272-272  | FEI — SS Indicator  | N1     |
|          | 1 — Social Security Number                                |        |
|          | 3 — Federal Employer Id.                                  |        |
| 273-276  | SIC code  | N4     |
| 277-278  | County Code   | N2     |
|          | (by Department Standard)                                  |        |
| 279-280  | City Code   | N2     |
|          | (by Department Standard)                                  |        |

|         |   |      |
|---------|---|------|
| 281-282 | Kind Code<br>(by Department Standard)   | A22  |
| 283-294 | Sales Tax Registration<br>Number  | N12  |
| 295-300 | Business Open Date<br>(YYMMDD Format)   | N6   |
| 30-301  | New or Re-issue<br>N—New Registration<br>R—Re-issue Registration<br>A—Address Change  | A1   |
| 302-401 | Local Registration Numbers<br>Registration number and<br>individual business<br>codes separated by commas<br>with format provided by the<br>local government) | A100 |
| 402-512 | Filler  | A111 |

(4)(8) Frequency of Exchange.

(a) Units of state and local government ~~that which~~ are Level-one participants are required to shall exchange, on a monthly basis, the data enumerated in paragraph ~~(2)(5)(a)~~ of this rule for each new registrant, new filer, or initial reporter, permittee, or licensee with respect to the taxes, licenses, or permits specified in s. 213.0535(4), F.S. Each RISE participant is required to select either a monthly or quarterly reporting period, and to notify the Department of its selection paragraph (3)(b) of this rule.

(b) The Department of Revenue and local officials who are Level-two participants are required to shall comply with the monthly or quarterly exchange requirements imposed on Level-one participants. Additionally, Level-two participants are required to shall exchange, on a quarterly basis, information as provided in paragraph ~~(2)(5)(b)~~ of this rule. Audit assessments and registration cancellation information will be exchanged shall be provided on a quarterly basis. Tax while tax payment history information will shall be exchanged only upon a written request provided on a request only basis.

(c) Any requests for tax information outside of the monthly or quarterly exchange provided in this rule should shall be addressed made to the Program Director, Information Services Program, Florida Department of Revenue, Carlton Building, 501 S. Calhoun, Tallahassee, Florida 32399-0100.

~~(9) Due Dates; General Provisions. Eligible participants who share the tax administration information specified in this section shall transmit such data within 20 days after the close of the reporting period.~~

~~(a) General information concerning the Registration Information Sharing and Exchange Program should be obtained by written request to the Intergovernmental Relations Administrator, Florida Department of Revenue, P. O. Box 37372, Tallahassee, Florida 32315-9998 or telephone (850)921-4418.~~

~~(b) All specific questions regarding the status of any data supplied by the Department of Revenue should be directed to the Intergovernmental Relations Administrator, Florida Department of Revenue, Carlton Building, Tallahassee, Florida 32399-0100.~~

~~(10) Confidentiality of Information. Under the provisions of s. 213.0535, F.S., the Department is authorized to share specified state tax information with Level one and Level two participants of the RISE program. Each state agency or local government and its employees who receive state tax information as provided in s. 213.0535, F.S., shall be bound by the same requirements of confidentiality as the Department of Revenue, pursuant to s. 213.053, F.S., and Rule Chapter 12-22, F.A.C., and are subject to the same penalties and exemptions provided in the Open Government Sunset Review Act in accordance with s. 119.14, F.S.~~

Specific Authority 213.0535(4), 213.06(1) FS. Law Implemented 213.053, 213.0535 FS. History—New 3-17-93, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 8, 1999 (Vol. 25, No. 40, pp. 4611-4615). The workshop was held on November 1, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

|                         |                   |
|-------------------------|-------------------|
| <b>RULE TITLES:</b>     | <b>RULE NOS.:</b> |
| Scope of Rules          | 12-26.001         |
| Application of Rules    | 12-26.002         |
| Application for Refund  | 12-26.003         |
| Refund Approval Process | 12-26.004         |
| Public Use Forms        | 12-26.008         |

PURPOSE AND EFFECT: The proposed amendments to Rules 12-26.001, 12-26.002, 12-26.003, 12-26.004, and 12-26.008, FAC., implement ss. 1, 8, 9, and 10 of Chapter 99-239, L.O.F. In general, the refund changes contained in ss. 95.091(3), 213.235, 213.255 and 215.26 F.S., can be implemented without promulgating rules. However, several issues need to be clarified through rulemaking. The effect of these proposed amendments is to: ensure that all rules in the

refund rule chapter reflect the new statutory refund provisions; explain the revised procedures a taxpayer must follow to apply for a refund; explain to taxpayers how the Department will process their refund applications and how the requirement to pay interest will be implemented; and, give taxpayers an opportunity to review the forms the Department will use to implement the revised refund procedures.

**SUMMARY:** A) The proposed amendments to Rule 12-26.001, FAC., acknowledge that all rules contained in Chapter 12-26, FAC., are being conformed to the new statutory provisions which require the payment of interest on specific refund requests.

B) The proposed amendments to Rule 12-26.002, FAC., revise incorrect statute and rule citations, change the Department's procedures for accepting applications for refund, and require that a taxpayer must file a completed refund application to qualify for the new payment of interest granted by s. 213.255, F.S. These changes ensure that taxpayers understand that a refund request will not be subject to the new interest provision until the taxpayer submits a completed application to the Department.

C) The proposed amendments to Rule 12-26.003, FAC., clarify the time period during which the statute authorizes the Department to accept refund applications, designate the forms which must be used to request a refund and how to obtain these forms, and specify the information which the taxpayer must provide to the Department on the refund application.

D) The proposed amendments to Rule 12-26.004, FAC.: 1) revise the procedures the Department will use to review a taxpayer's request for refund; 2) implement the 90-day refund review process established by the new statute; and, 3) provide an example of how interest will be calculated on amounts not refunded within the 90-day period.

E) The proposed amendments to Rule 12-26.008, FAC., add a form the Department will use to obtain the consent of an applicant to extend the time for reviewing a refund application.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed rules only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

**SPECIFIC AUTHORITY:** 213.06(1) FS.

**LAW IMPLEMENTED:** 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 2:00 p.m., January 20, 2000

**PLACE:** Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

**THE FULL TEXT OF THE PROPOSED RULES IS:**

#### 12-26.001 Scope of Rules.

The rules set forth in this chapter shall be used by the Department of Revenue in the exercise of authority to accept and approve or deny applications for refund of moneys paid into the State Treasury as provided by s. 215.26, F.S., for taxes enumerated in s. 72.011, F.S., or any refunds specifically authorized by the provisions of the tax statutes enumerated in s. 72.011, F.S., and shall not apply to refunds of ad valorem taxes. These rules also govern the payment of interest required pursuant to s. 213.255, F.S., for which a completed application for refund has been filed but the requested amount has not been refunded or credited as provided by statute.

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F. History--New 11-14-91, Amended.

#### 12-26.002 Application of Rules.

(1) Subsection 215.26(1), F.S., authorizes the Comptroller, under certain conditions, to refund moneys paid into the State Treasury which constitute:

- (a) An overpayment of any tax, license, or account due;
  - (b) A payment where no tax, license, or account is due;
- and

(c) Any payment made into the State Treasury in error.

(2) Under the provisions of s. 215.26(2), F.S., and Rule 3A-44.020, F.A.C., the Comptroller has delegated delegates to the Department of Revenue the authority to accept an application for refund of any tax, fee, surcharge, permit, license, or account due collected by the Department under the revenue laws of this state. Upon receipt of an application for refund, the Department shall make a determination of the refund amount due. If an application for refund is approved, in whole or in part, the Department will furnish the Comptroller with a properly executed voucher authorizing payment. If an application for refund is denied, in whole or in part, the Department will notify the applicant of the basis for the action and state the reasons for denial in clear language.

(3)(a) When a taxpayer has pursued administrative review under the provisions of Rule 12-6.003, F.A.C. (Protest of Notices of Proposed Assessments Issued by the Department Which Result From an Audit Procedures), or Rule 12-6.0033, F.A.C. (Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings Division of Collection and Enforcement), and has failed to comply with the time limitations and conditions provided in s. 72.011 and ss. 120.569, 120.57, and 120.80(14), s. 120.575, F.S., the taxpayer shall not have the right to a refund or to pursue an administrative review under these rules.

(b) However, the Department will accept ~~is authorized~~, pursuant to s. 215.26(5), F.S., and Rule 3A-44.020, F.A.C., ~~to entertain~~ claims for refund when the taxpayer demonstrates that his failure to pursue remedies under Chapter 72, F.S., was not due to neglect or for the purpose of delaying payment of lawfully imposed taxes and can demonstrate reasonable cause for such failure. For the purposes of this rule, reasonable cause means that the facts and circumstances of the specific case reflect that the taxpayer exercised ordinary care and prudence, despite the lack of compliance with the time limitations prescribed in s. 72.011, F.S.

(c) To receive interest pursuant to s. 213.255, F.S., on payments made under protest, the taxpayer must file a completed refund application.

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS., ~~ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F. History—New 11-14-91, Amended 4-18-93, \_\_\_\_\_.~~

#### 12-26.003 Application for Refund.

##### (1)(a) Taxes Paid Prior to October 1, 1994:

~~Except as otherwise provided, the application for refund as required by s. 215.26, F.S., shall be filed with the Department, within three years after the right to the refund accrues, or the right to the refund shall be barred.~~

##### (b) Taxes Paid On or After October 1, 1994, and Before July 1, 1999:

Except as otherwise provided by s. 213.345, F.S., the application for refund ~~as~~ required by s. 215.26, F.S., shall be filed with the Department within five years after the date the tax was paid, or the right to the refund is barred.

##### (b) Taxes Paid On or After July 1, 1999:

Except as otherwise provided by s. 213.345, F.S., the application for refund required by s. 215.26, F.S., must be filed with the Department within three years after the date the tax was paid, or the right to the refund is barred.

(2) Applications for tax refund under those revenue laws enumerated in s. 72.011(1), F.S., shall be deemed complete ~~as filed~~ upon the Department's receipt of a properly executed application for refund form which contains the information required by ss. 213.255(2) and 215.26, F.S., and this rule. Applications for refunds shall be filed with the Refund Section,

Florida Department of Revenue, Refund Subprocess, P. O. Box 6490, Building E, 5050 West Tennessee Street, Tallahassee, Florida 32314-6490 32399-0100.

(3) For purposes of this rule, Form DR-26, Application for Refund from the State of Florida Department of Revenue, incorporated by reference in Rule 12-26.008, F.A.C., is the approved refund application for all taxes collected by the Department, except as otherwise specified in subsection (4).

(4) Tax refunds requiring a refund application other than Form DR-26 are listed below.

(a) Corporate Income Tax. Except as provided in subsection (5), all refunds claimed under Chapters 220 or 221, F.S., shall be made by the filing of either:

1. Form F-1120, Florida Corporate Income/Franchise and Emergency Excise Tax Return (incorporated by reference in Rule 12C-1.051, F.A.C.) or

2. Form F-1120X, Amended Florida ~~Corporation~~ Income Tax Return (incorporated by reference in Rule 12C-1.051, F.A.C.).

(b) Sales and Use Tax – Form DR-29, Refund of Cash Bond (incorporated by reference in Rule 12A-1.097, F.A.C.), is required where a bonded contractor or dealer applies for a refund of a cash bond held by the Department.

~~(c) Motor Fuel. Form DR-135, Retail Gasoline/Gasohol Evaporation and Shrinkage Allowance Refund Application (incorporated by reference in Rule 12B-5.015, F.A.C.), is required where a licensed retail dealer in a non-local option county applies for a quarterly evaporation and shrinkage allowance.~~

~~(d) Motor Fuel and Diesel Special Fuel. (Forms incorporated by reference in Rule 12B-5.150 12B-5.015, F.A.C.)~~

1. Form DR-138, Application for Fuel Tax Refund – Agriculture, Agricultural, Aquacultural, and Commercial Fishing Purposes, is required where motor fuel is used for agricultural, aquacultural, or commercial fishing purposes, and the taxpayer is entitled to a refund of the taxes specified in s. 206.41(4)(c), F.S. that portion of the tax previously paid pursuant to Part II of Chapter 212, F.S.

2. Form DR-160, Application for Mass Transit System Users Fuel Tax Refund, is required where motor fuel or diesel special fuel is used in the operation of a mass public transportation system, and the taxes specified in s. 206.41(4)(b), F.S. that portion of the tax previously paid pursuant to ss. 206.41 and 206.87, F.S., Part II of Chapter 212, F.S., is refundable.

3. Form DR-189, Application for Fuel Tax Refund – Municipalities, Counties and School Districts, is required where a county or municipality operating motor vehicles using motor fuel or diesel special fuel is entitled to a refund of the taxes specified in s. 206.41(4)(d), F.S., county tax and that portion of the tax previously paid pursuant to ss. 206.41 and 206.87, F.S. Part II of Chapter 212, F.S. This form is also

required in those instances where a school district, or a private contractor operating school buses for the school district, purchases motor fuel or diesel special fuel for use in motor vehicles operated by these entities, which is subject to a refund of taxes specified in s. 206.41(4)(e), F.S., previously paid county tax and that portion of the tax paid and paid pursuant to ss. 206.41 and 206.87, F.S. Part II of Chapter 212, F.S.

4. Form DR-190, Application for Fuel Tax Refund, Non-Public Schools, is required where a nonpublic school operating school buses or other motor vehicles using motor fuel or diesel special fuel is entitled to a refund of taxes specified in s. 206.41(4)(e), F.S., paid pursuant to ss. 206.41 and 206.87, F.S. Part II of Chapter 212, F.S.

5. Form DR-309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off-road or Other Exempt Purposes, is required where undyed diesel fuel is used to propel off-road equipment, or used in stationary equipment. The taxes previously paid pursuant to s. 206.87, F.S., are refundable.

(e) Aviation Fuel. Form DR-191, Application for Aviation Fuel Tax Refund – Air Carriers (incorporated by reference in Rule 12B-5.150, 12B-5.211, F.A.C.), is required for those air carriers entitled to receive a refund of taxes imposed on aviation fuel purchased by such carriers.

(f) An amended Insurance Premium Tax. Form DR-908, Insurance Premium Taxes and Fees Tax Return (incorporated by reference in Rule 12B-8.003(1), F.A.C.), is required in all instances where insurance companies wish to file for a refund, amend previously filed returns except as provided in subsection (5).

(5) Notwithstanding the provisions of subsection (3), Form DR-26 may be used to apply for those refunds of corporate income tax or insurance premium tax which constitute:

- (a) A check deposited by the Department in error; or
- (b) A duplicate payment of the final return.

(6) ~~All requests for refund must be on approved forms which are properly executed and accompanied by supporting evidence which allows the Department to verify the accuracy of the claim.~~ Refund applications may be obtained ~~without cost~~, by:

(a) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or,

(b) faxing the Forms Distribution Center at (850)922-2208; or,

(c) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or,

(d) visiting any local Department of Revenue Service Center to personally obtain a copy; or,

(e) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or,

(f) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>).

Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331. ~~written request to the Department of Revenue, Refund Section, Building E, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100, FAX (904)922-2906, with the exception of Form DR-908 (Insurance Premium Tax), Form F-1120 and Form F-1120X (Corporate Income Tax). Requests for these forms should be directed, in writing, to the Department of Revenue, Division of Taxpayer Assistance, Bureau of Tax Information and Media Services, P. O. Box 7443, Tallahassee, Florida 32314-7443.~~

(7) Applications for refund as described herein which are not properly ~~completed~~ executed will not be considered filed for the purpose of tolling the statutory provisions of s. 215.26, F.S., or for the purpose of the payment of interest under the conditions prescribed in ss. 213.235 and 213.255, F.S. The Department shall notify the applicant of the incomplete ~~improperly executed~~ application and the necessary actions, corrections, or information needed to complete it within 30 consecutive calendar days of receiving the incomplete application to correct such. For the purposes of this rule, a completed ~~an improperly executed~~ application is defined as an application which contains all of the following information:

(a) The taxpayer's current name, mailing address, and physical location of business, if different from the mailing address;

(b) The taxpayer's federal taxpayer identification number, and/or Florida tax registration number, and/or audit number, if available;

(c) The tax years or tax periods to which the refund applies;

(d) The type of tax and the specific refund amount requested;

(e) Information which will enable the Department to verify the amount of the refund requested. This information must include all data which was required to be submitted on the original or original-amended tax return associated with the refund application.

(f) An explanation of the basis for requesting the refund; Does not specify a sum certain for the amount of refund requested;

(g)(b) The name and business mailing address of ~~Does not specify~~ the correct payee;

(h)(e) The signature of ~~Is not signed by~~ either the payee, or ~~an officer of the firm or corporation listed as payee,~~ or

(d) ~~Does not list either an account number, a federal employee identification number, or social security number.~~

(8)(a) The Department is empowered, pursuant to s. 213.255, F.S., to require that the applicant provide a cash bond or surety bond to protect the state's financial position in cases when the Department pays a refund claim before completing an audit of the claim.

(b) Section 213.255, F.S., also authorizes the Department to accept the following alternative security arrangements to the cash bond or surety bond discussed in paragraph (a):

1. An assigned time deposit; or
2. An irrevocable letter of credit.

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F. History--New 11-14-91, Amended 4-18-93, 4-18-95, \_\_\_\_\_.

12-26.004 Refund Approval Process.

(1) The Department shall review the completed application for refund, and, as provided by ss. 213.255 and 215.26(2), F.S., determine the amount due, if any, under the applicable laws and in accordance with rules governing the particular tax.

(2)(a) If the completed refund application is approved and the refund paid or credited to the taxpayer's account within 90 consecutive calendar days of receipt of the completed application, except as provided by paragraph (c) of this subsection, in whole or in part, the Department will notify the taxpayer and:

1. shall voucher a request for warrant for submission to the Comptroller with appropriate supporting documentation as required, or necessary, for proper audit and payment, or;
2. apply the amount as a credit against a tax, penalty, or interest liability of the taxpayer.

(b) If a refund is not paid or credited to the taxpayer's account within 90 consecutive calendar days of receipt of the completed application, except as provided by paragraph (c) of this subsection, the Department must pay interest pursuant to ss. 213.235 and 213.255, F.S., starting with the 91st day through the day that the voucher requesting a warrant for the refund amount is submitted to the Comptroller.

(c) The 90 consecutive calendar day period and the requirement to pay interest on refund amounts not timely paid or credited to a taxpayer, as discussed in paragraphs (a) and (b) above, will be tolled if:

1. both the taxpayer and the Department agree that an audit or other verification process is necessary to validate the taxpayer's refund request, and;
2. both parties complete and sign Department Form DR-872 (Consent to Extend the Time to Issue an Assessment or to File a Claim for Refund).

(3)(a) For the purpose of implementing the 90 consecutive calendar day interest provision required pursuant to s. 213.255, F.S., and this rule, an application will be considered complete when all information or corrections requested from the

applicant are received by the Department, based on the postmark date, fax date, or date of hand-delivery of such requested information.

(b) The 90 consecutive calendar day period will not expire on a Saturday, Sunday, or legal holiday. The term "legal holiday" shall mean a holiday observed by federal or state agencies as a legal holiday pursuant to Chapter 683, F.S., and Section 7503 of the Internal Revenue Code of 1986, as amended. If the 90 consecutive calendar day period ends on a Saturday, Sunday, or legal holiday, such period will not expire until the next successive day that is not a Saturday, Sunday, or legal holiday.

(4) The following example is intended to help taxpayers understand how this interest rate provision applies. The Department receives a completed application for refund on 2/05/2000. The Department pays the refund on 8/01/2000. Assuming an interest rate of 8 percent for the 1/01/2000 through 6/30/2000 period, and an interest rate of 9 percent for the 7/01/2000 through 12/31/2000 period, interest would be calculated as follows [NOTE: Interest does not start to accrue until the 91st day after the Department receives the complete application for refund, which is 5/06/2000]:

| PERIOD             | TAX DUE | NUMBER OF DAYS | DAYS IN YEAR | RATE        | TOTAL INTEREST DUE |
|--------------------|---------|----------------|--------------|-------------|--------------------|
| 5/06/00-6/30/00    | \$1,000 | 56             | 366          | 8% per year | \$12.24            |
| 7/01/00-8/01/00    | \$1,000 | 32             | 366          | 9% per year | \$7.87             |
| Total Interest Due |         |                |              |             | \$20.11            |

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F. History--New 11-14-91, Amended \_\_\_\_\_.

12-26.008 Public Use Forms.

(1) The following public use forms are used by the Department in the processing of refunds and refund denials and are hereby incorporated by reference. These forms are available, upon written request directed to the Florida Department of Revenue, Refund Subprocess, Section, P. O. Box 6470, Building E, 5050 West Tennessee Street, Tallahassee, Florida 32314-6470 32399-0100. Refund forms may also be obtained by:

- (a) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or,
- (b) faxing the Forms Distribution Center at (850)922-2208; or,
- (c) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or,
- (d) visiting any local Department of Revenue Service Center to personally obtain a copy; or,
- (e) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or,



(f) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/do/>).  
Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

| Form Number                 | Title  | Effective Date |
|-----------------------------|--|----------------|
| <del>(2)</del> (4) DR-26    | Application for Refund from the State of Florida Department of Revenue (r. 04/92)      | 04/93          |
| <del>(3)</del> (2) DR-832R  | Notice of Proposed Refund Denial (r. 01/93)  | 04/93          |
| <del>(4)</del> (3) DR-1200R | Notice of Intent to Make Refund Claim Changes (r. 07/92)                               | 04/93          |
| <u>(6) DR-872</u>           | <u>Consent to Extend the Time to Issue an Assessment or to File a Claim for Refund</u> | <u>07/97</u>   |

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F. History—New 11-14-91, Amended 4-18-93.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were notice for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4708-4712). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE: Specific Exemptions  
 RULE NO.: 12A-1.001  
 PURPOSE AND EFFECT: The purpose of the proposed amendments is to revise paragraphs (3)(b) and (3)(q) of Rule 12A-1.001, FAC., pursuant to the findings of an administrative law judge, and additionally, to provide a definition for the term "primary purpose," as that term is used in s. 212.08(7)(n), F.S. The effect of the proposed amendments will be to codify into

these rule paragraphs the findings of the administrative law judge and to provide a definition for the undefined statutory term "primary purpose."

SUMMARY: A) In Associated Marine Institutes, Inc. v. Department of Revenue, D.O.A.H. Case No. 99-1679RX (September 13, 1999), the Administrative Law Judge held that paragraph (3) (b) of Rule 12A-1.001, FAC., is invalid to the extent that it denies an exemption on sales by certain entities which, by statute, are "exempt from the taxes imposed by this chapter [Chapter 212]." The proposed amendments to this paragraph will clarify that, pursuant to these findings, sales or leases by the following entities are not taxable: 1) Nonprofit corporations that are homes for the aged, nursing homes, or hospices pursuant to s. 212.08(7)(m), F.S.; 2) Organizations providing special educational, cultural, recreational, and social benefits to minors, pursuant s. 212.08(7)(n), F.S.; 3) State theater contract organizations, pursuant to s. 212.08(7)(r), F.S.; 4) Coast Guard auxiliaries, pursuant to s. 212.08(7)(cc), F.S.; 5) Citizen support organizations, pursuant to s. 212.08(7)(kk), F.S.; and 6) Nonprofit cooperative hospital laundries, pursuant to s. 212.08(7)(nn), F.S.

B) Additionally, the Administrative Law Judge in Associated Marine Institutes, Inc. held that paragraph (3)(q) of Rule 12A-1.001, FAC., is invalid to the extent that it requires an organization providing special educational, cultural, recreational, and social benefits to minors (s. 212.08(7)(n), F.S.) to hold a consumer's certificate of exemption to exempt its sales. The proposed amendments to this paragraph will clarify that such organizations must only hold a consumer's certificate of exemption for purposes of making exempt purchases.

C) Additionally, the amendments to paragraph (3)(q) of Rule 12A-1.001, FAC. define the term "primary purpose," as used in s. 212.08(7)(n), F.S. "Primary purpose" is defined to mean that the organization expends more than 50 percent of its total expenditure on those activities specified in the statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 92.525, 212.02(10),(12),(16),(20), (21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2),(9), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d),(f),(g), (h),(i),(k),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd), (kk),(nn),(8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.001 Specific Exemptions.

(1) through (3)(a) No change.

(b) With the exceptions noted below, sales Sales or rentals of tangible personal property, rentals or leases of transient rental accommodations, rentals or leases of real property, rentals or leases of parking, docking, or tie down spaces, admissions, or other transactions subject to the tax imposed by Chapter 212, F.S., made by exempt entities, ~~with the exception of sales or leases of tangible personal property by churches,~~ are taxable. Such entities are required to register in the same manner as other dealers and collect and remit tax on transactions which are subject to the tax imposed by Chapter 212, F.S. For admission charges imposed by not-for-profit sponsoring organizations qualifying under the provisions of s. 501(c)(3) of the U.S. Internal Revenue Code, see Rule 12A-1.005(3)(g), F.A.C. Sales or leases of tangible personal property by churches are exempt. Sales or leases by the following organizations are exempt from the tax imposed pursuant to Chapter 212, F.S.:

1. Homes for the aged, nursing homes, or hospices, pursuant to s. 212.08(7)(m), F.S.;

2. Organizations providing special educational, cultural, recreational, and social benefits to minors, pursuant to s. 212.08(7)(n), F.S.;

3. State theater contract organizations, pursuant to 212.08(7)(r), F.S.;

4. Coast Guard auxiliaries, pursuant to s. 212.08(7)(cc), F.S.;

5. Citizen support organizations, pursuant to s. 212.08(7)(kk), F.S.;

6. Nonprofit cooperative hospital laundries, pursuant to s. 212.08(7)(nn), F.S.

(c) through (p) No change.

(q) Nonprofit organizations providing special educational, cultural, recreational, and social benefits to minors which are incorporated pursuant to Chapter 617, F.S., or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the United States Internal Revenue Code whose primary purpose is providing activities which contribute to the development of good character, good sportsmanship, or to the educational or cultural development of minors are exempt from the tax imposed by Chapter 212, F.S., ~~providing such organizations hold a consumer's certificate of exemption.~~ "Primary purpose" means that the applicant for this exemption must establish and support its function by expending in excess of 50% of the organization's total expenditures towards the referenced activities within the organization's most recent fiscal year. For purposes of making exempt purchases, such organizations must hold a consumer's certificate of exemption. (See Rules 12A-1.038 and 12A-1.039, F.A.C.) This exemption is extended only to that level of the organization that has a salaried executive officer or an elected non-salaried executive officer.

(r) through (21) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525, 212.02(10), (12), (16), (20), (21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2), (9), 212.08(4), (5)(a), (e), (6), (7)(a), (b), (c), (d), (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (r), (s), (u), (v), (x), (bb), (cc), (dd), ~~(kk), (nn)~~, (8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS. History—Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4712-4713). The workshop was held on November 1, 1999. No one appeared at the workshop to testify and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

| RULE TITLES:  | RULE NOS.: |
|---|------------|
| Aircraft, Boats, Mobile Homes, and Motor Vehicles   | 12A-1.007  |
| Receipts from Services Rendered by Insect or Pest Exterminators   | 12A-1.009  |
| Cleaning Services   | 12A-1.0091 |
| Sales and Use Tax on Services; Sale for Resale  | 12A-1.0161 |
| Receipts from Sale of Water   | 12A-1.019  |
| Labels and Other Printed Matter Sold to Manufacturers   | 12A-1.029  |
| Tax Due at Time of Sale; Tax Returns and Regulations  | 12A-1.056  |
| Registration  | 12A-1.060  |
| Machines and Equipment Used in Manufacturing, Mining, Etc.  | 12A-1.088  |
| Preservation of Records and Statute of Limitation; Acceptance of Resale and Exemption Certificates During Audit; Time Limitations | 12A-1.093  |
| Public Use Forms  | 12A-1.097  |
| Service Warranties  | 12A-1.105  |

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule Chapter 12A-1, FAC., Sales and Use Tax, is to: 1) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.; 2) incorporate revisions provided in ss. 13-17, Chapter 99-208, L.O.F., regarding penalties imposed on persons who file false or fraudulent returns and persons who evade the payment of sales tax through willful intent; 3) incorporate revisions provided in s. 5, Chapter 99-239, L.O.F., regarding estimated tax payments under s. 212.11(1)(a), F.S.; 4) incorporate revisions provided in s. 1, Chapter 99-239, L.O.F., regarding statute of limitations in s. 95.091(3), F.S.; 5) remove the incorporation by reference of forms that are not "rules," as defined by s. 120.52(15), F.S., and are not required to be adopted; and 6) remove obsolete or unnecessary provisions that are redundant of the statutes, as mandated by s. 120.74(1), F.S.

**SUMMARY:** A) The proposed amendments to the following rules remove provisions regarding the imposition of penalties that are clearly provided in ss. 212.05(1) and 212.085, F.S., and ss. 212.11(4), 212.12(2), 212.13(1)-(2), F.S., as amended: Rule 12A-1.007, FAC. (Aircraft, Boats, Mobile Homes, and Motor Vehicles); Rule 12A-1.009, FAC. (Receipts from Services Rendered by Insect or Pest Exterminators); Rule 12A-1.0091, FAC. (Cleaning Services); Rule 12A-1.0161, FAC. (Sales and Use Tax on Services; Sales for Resale); Rule 12A-1.056, FAC. (Tax Due at Time of Sale; Tax Returns and Regulations); and Rule 12A-1.060, FAC. (Registration).

B) The proposed repeal of Rule 12A-1.019, FAC., removes an unnecessary rule, as mandated by s. 120.74(1), F.S., regarding the taxability of water that is clearly provided in s. 212.08(4)(a), F.S., as amended by the 1998 Legislature.

C) The proposed amendments to Rule 12A-1.029, FAC. (Labels and other Printed Matter Sold to Manufacturers), remove provisions regarding the exemption for paint color cards that is clearly provided in s. 212.08(5)(k), F.S., as amended by the 1998 Legislature.

D) In addition to removing the unnecessary recitation of statutorily imposed penalties, the proposed amendments to Rule 12A-1.056, FAC. (Tax Due at Time of Sale; Tax Returns and Regulations), remove the unnecessary recitation of s. 212.11(1)(c), F.S., regarding when quarterly, semiannual, or annual returns may be authorized by the Department and s. 212.11(1)(a), F.S., as amended, regarding estimated tax payments. The amendments provide a definition for the term "legal holiday" as it relates to the due date of sales tax returns. Further, the amendments remove the specific references to the flat interest rate, and add references to the "market interest rate" on unpaid tax liabilities as provided in the new statute (s. 213.235, F.S.) and the Department's proposed new rule on interest (Rule 12-3.0015, FAC.).

E) The proposed repeal of Rule 12A-1.088, FAC. (Machines and Equipment Used in Manufacturing, Mining, Etc.), removes an unnecessary rule that does not provide clarity to the statutorily imposed tax on machines and equipment.

F) The proposed repeal of Rule 12A-1.093, FAC. (Preservation of Records and Statute of Limitation; Acceptance of Resale and Exemption Certificates During Audit; Time Limitations), removes obsolete provisions regarding the statute of limitations. Section 95.091(3), F.S., amended by s. 1, Chapter 99-239, L.O.F. Section 95.091(3), F.S., clearly provides guidelines regarding the statute of limitations. This rule repeal removes unnecessary provisions regarding dealers' record keeping requirements; when the Department may accept resale and exemption certificates during protest; time limitations for filing refund claims that are clearly provided in the statutes; and the unnecessary incorporation by reference to Rule 12A-1.097, FAC. (Public Use Forms), of Forms DR-54 and DR-840.

G) The proposed amendments to Rule 12A-1.097, FAC. (Public Use Forms), remove Form DR-54, Formal Notice of Demand to Produce Certain Records, and Form DR-840, Notification of Intent to Audit Books and Records, which are not "rules," as defined by s. 120.52(15), F.S., and are not required to be adopted.

H) The proposed amendments to Rule 12A-1.105, FAC., Service Warranties, remove paragraph (2)(h), which unnecessarily repeats the provisions of subsection (6) regarding the imposition of discretionary sales surtax on taxable service warranties. The amendments to this rule also clarify that every person who enters into a service warranty is exercising a taxable privilege.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rules only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 212.05(1),(5)(b), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 95.091(3), 125.0104(3)(g), 125.0108(2)(a), 212.02(2),(4),(10),(14),(15),(16),(19),(20), 212.03, 212.0305(3)(c),(h), 212.031(3), 212.04(4),(5),(14)(a),(16), 212.05, 212.0506, 212.054, 212.055, 212.0596(7), 212.06, 212.0601, 212.0606, 212.07(1)(b),(2),(7),(8), 212.08(4)(a)1., (5)(i),(7)(t),(v),(aa),(ff),(10),(11), 212.11, 212.12, 212.13, 212.14(2), 212.15(1), 212.16(1),(2), 212.17, 212.18(2),(3),(5), 213.235, 213.29, 213.35, 213.755, 215.01, 215.26, 376.11, 403.718, 403.7185, 634.011, 634.131, 634.401, 634.415 FS., s.14, ch. 99-208, L.O.F.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.

(1) through (8)(i) No change.

(j)1. The occasional or isolated sale of a motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is taxable based upon the total selling price of the motor vehicle. The Department prescribes Form DR-41, Ownership Declaration and Motor Vehicle Sales and Use Tax Report (incorporated by reference in Rule 12A-1.097, F.A.C.), to be completed by the purchaser for reporting individual

transactions. Any party to an occasional or isolated sale of a motor vehicle who reports a sales price less than the actual sales price of such motor vehicle is guilty of a misdemeanor of the second degree. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the additional tax owed.

2. through (9)(a)3. No change.

~~4. A nonresident who purchases a boat in Florida for removal will become liable for use tax on the purchase price of the boat plus a mandatory penalty equal to the tax payable, which is not subject to waiver, if any of the following occurs:~~

~~a. The nonresident purchaser fails to remove the boat from Florida within 10 days after purchase; or~~

~~b. The nonresident purchaser, if the boat is immediately placed in a registered repair facility following its purchase for repairs, alterations, refitting, or modifications, fails to remove the boat from Florida within 20 days following completion of such work; or~~

~~e. The nonresident purchaser permits the boat to return to Florida within 6 months of departure except for repairs, alterations, refitting, or modifications by a registered repair facility under the exempt circumstances of the statute specified in section 212.08(7)(t), F.S. See Rule 12A-1.0071, F.A.C.~~

~~5. If the purchaser of a boat issues the selling dealer a fraudulent removal affidavit for the purpose of evading the payment of sales tax, the purchaser is subject to the payment of the tax plus a mandatory penalty of 200 percent of the tax. Further, the purchaser is subject to a fine of up to \$5,000 and imprisonment of up to 5 years for the commission of a third degree felony, as provided in s. 212.085, F.S., if convicted in court.~~

6. through 8. renumbered 4. through 6. No change.

(b) through (10)(b)3. No change.

~~4. A nonresident who purchases an aircraft in Florida for removal will become liable for use tax on the purchase price of the aircraft plus a mandatory penalty equal to the tax payable, which is not subject to waiver, if any of the following occurs:~~

~~a. The nonresident purchaser fails to remove the aircraft from Florida within 10 days after purchase; or~~

~~b. The nonresident purchaser, if the aircraft is immediately placed in a registered repair facility following its purchase for repairs, alterations, refitting, or modifications, fails to remove the aircraft from Florida within 20 days following completion of such work; or~~

~~e. The nonresident purchaser permits the aircraft to return to Florida within 6 months of departure.~~

~~5. If the purchaser of an aircraft issues the selling dealer a fraudulent removal affidavit for the purpose of evading the payment of sales tax, the purchaser is subject to the payment of the tax plus a mandatory penalty of 200 percent of the tax. Further, the purchaser is subject to a fine of up to \$5,000 and~~

imprisonment of up to 5 years for the commission of a third degree felony, as provided in s. 212.085, F.S., if convicted in court.

6. through 8. renumbered 4. through 6. No change.

(c)1. through 2. No change.

~~3.a. Any purchaser who claims exemption from payment of tax under this paragraph and fails to remove the aircraft from this state or permits the aircraft to return to this state within 6 months from the date of sale shall be liable for payment of the full amount of tax, plus a mandatory penalty. The mandatory penalty shall be 10 percent of any unpaid tax computed from the date of purchase, if the failure of removal or use is not more than 30 days, with an additional 10 percent of any unpaid tax for each additional 30 days, or fraction thereof, not to exceed, however, a total penalty of 50 percent (in aggregate) of any unpaid tax. Additionally, in the case of wilful intent to evade payment of the tax, the purchaser shall be liable for an additional mandatory penalty of 100 percent of the unpaid tax, and may be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.~~

~~b. If the purchaser of a flyable aircraft issues the selling dealer a fraudulent removal affidavit for the purpose of evading the payment of sales tax, the purchaser is subject to the payment of the tax plus a mandatory penalty of 200 percent of the tax. Further, the purchaser is subject to a fine of up to \$5,000 and imprisonment of up to 5 years for the commission of a third degree felony, as provided in s. 212.085, F.S., if convicted in court.~~

4. through 5. renumbered 3. through 4. No change.

(d) through (29) No change.

Specific Authority 212.05(1),(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(4),(10),(14),(15),(16),(19),(20), 212.03, 212.05(1), 212.06(1),(2),(4),(5),(7),(8),(10),(12), 212.0601, 212.07(2),(7), 212.08(5)(i),(7)(t),(aa),(ff),(10),(11), ~~212.085~~; 212.12(2),(12) FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96,\_\_\_\_\_.

12A-1.009 Receipts from Services Rendered by Insect or Pest Exterminators.

(1) through (10)(a)2. No change.

~~3. Any person who fraudulently issues to any pest control service provider a statement in writing, as provided in subparagraph (1)(b)2., for the purpose of evading payment of the sales tax is liable for payment of the sales tax, a mandatory penalty of 200% of the tax, and a fine and punishment as provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.~~

(b) through (11) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(k), 212.07(2)-~~212.085~~ FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.09, Amended 5-13-93, 3-20-96,\_\_\_\_\_.

12A-1.0091 Cleaning Services.

(1) through (5)(a)2. No change.

~~3. Any person who fraudulently issues to any cleaning service provider a statement in writing, as provided in subparagraph (1)(b)2., for the purpose of evading payment of the sales tax is liable for payment of the sales tax, a mandatory penalty of 200% of the tax, and a fine and punishment as provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.~~

(b) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j), 212.07(2)-~~212.085~~ FS. History-New 5-13-93, Amended 3-20-96, 7-1-99,\_\_\_\_\_.

12A-1.0161 Sales and Use Tax on Services; Sale for Resale.

(1) through (5)(c) No change.

~~(d) Any person who fraudulently issues to any dealer or agent of the State a certification or statement in writing for the purpose of evading payment of the sales tax is liable for payment of the sales tax, a mandatory penalty of 200% of the tax, and a fine and punishment as provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.~~

(6) through (13) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j),(k), 212.054, 212.055, 212.0596(7), 212.06(1)(a), (2)(k), 212.07(1)(b), (8), (9); 212.08(7)(v) FS. History-New 5-13-93, Amended 1-4-94, 10-17-94, 3-20-96,\_\_\_\_\_.

12A-1.019 Receipts from Sale of Water.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(4)(a)1. FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.19, Repealed.

12A-1.029 Labels and Other Printed Matter Sold to Manufacturers.

(1) through (3) No change.

~~(4) Paint color cards are in the same category as direction sheets, instruction books or manuals and are exempt.~~

~~(5)(4) No change.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), 212.05(1) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.29, Amended.

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1)(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., and this rule as otherwise provided for herein, all taxes required to be collected in any month by Chapter 12, F.S. Florida Statutes, are shall be due the Department of Revenue on the first day of the month following the date of sale or transaction. The payment and return must either reach the office of the

Department of Revenue or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. When the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns ~~will~~ shall be accepted as timely if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For ~~purposes of this rule~~ purpose, a legal holiday ~~means~~ shall mean a holiday ~~that which~~ is observed by federal or state agencies as a legal holiday as this term is defined in Ch. 683, F.S., and Sec. 7503 of the Internal Revenue Code. A "legal holiday" pursuant to Section. 7503 of the 1986 Internal Revenue Code, as amended, means a legal holiday in the District of Columbia or a Statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

~~(b) When~~ Also, where the tax is required to be remitted by electronic funds transfer and the tax due date falls on a Saturday, a Sunday, a legal holiday as defined in s. 655.89, F.S., or on a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic funds transfer is required on or before the first banking day thereafter. For the purposes of ~~this rule~~ these rules, "banking day" has the meaning prescribed in s. 655.89, F.S.

(c) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to s. 212.11(1)(c), F.S., the tax is due the first day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

~~(2) Beginning with the December 1991 sales and use tax return, which was required to be filed on or before January 20, 1992, each dealer who operated one place of business, or who operated two or more places of business and maintained records for these businesses in a central office or place, or who filed a consolidated return or was eligible to file a consolidated return, and paid state sales and use taxes for the preceding state fiscal year of \$100,000 or more shall calculate his estimated tax liability for any month by one of the following methods provided in paragraphs (a) through (c):~~

~~(a) Sixty-six percent (66%) of the current month's gross tax liability on the tax return or consolidated tax return; (For example, when filing a December 1991 tax return required to be remitted by January 20, 1992, the current month's gross tax liability is the actual gross tax due on taxable transactions occurring in January 1992.)~~

~~(b) Sixty-six percent (66%) of the gross tax reported on the tax return or consolidated tax return for taxable transactions occurring during the corresponding month of the previous year; (For example, when filing a December 1991 tax return required to be remitted by January 20, 1992, the corresponding~~

~~month's gross tax liability for the preceding calendar year is the gross tax liability reported on taxable transactions in January 1991.) or~~

~~(c) Sixty-six percent (66%) of the average gross tax liability reported on the tax return or consolidated tax return for months during the preceding calendar year in which there were reported taxable transactions. (For example, when filing a December 1991 tax return required to be remitted by January 20, 1992, the average gross tax liability for the preceding calendar year is the average monthly gross tax liability reported on taxable transactions occurring in all months of 1991 in which the dealer reported taxable transactions.) Any month in which the dealer did not report taxable transactions is excluded from the calculation of the average monthly gross tax liability. (For example, if a dealer reported taxable transactions for only 6 months of 1991, the average monthly gross tax liability would be computed on one-sixth of the total gross tax liability reported on taxable transactions that occurred in those 6 months.)~~

~~(3) The amount of any estimated tax, required to be calculated pursuant to this section, shall be due, payable, and remitted by electronic funds transfer, as provided in Rule 12-24, F.A.C., by the 20th day of the month for which it is estimated. The difference between the estimated tax liability paid and the actual taxes due shall for each month be due on the first day of the month following the date of sale or transaction and shall be remitted by electronic funds transfer, as provided in Rule 12-24, F.A.C., by the 20th day thereof.~~

~~(4) When any dealer required by this section to pay any estimated tax fails to remit the payment of the estimated tax due by electronic funds transfer, or underpays the estimated tax due, on or before the 20th day of the current month, a penalty of 10 percent of any unpaid estimated tax will be added. In addition to this penalty, all other penalties and interest shall apply for failure to file a return or failure to pay the tax due.~~

~~(5) through (7) renumbered (2) through (4) No change.~~

~~(8)(a) Instead of 12 monthly reporting periods, the Executive Director of the Executive Director's designee in Return Reconciliation is authorized to permit a quarterly return and payment for the quarters ending in February, May, August and November when the tax remitted by the dealer for the preceding four quarters did not exceed \$1000. Also, the Executive Director or the Executive Director's designee in Return Reconciliation is authorized to permit a semiannual return and payment for the 6-month periods ending in May and November when the tax remitted by the dealer for the preceding four quarters did not exceed \$500.~~

~~(b) When quarterly or semiannual reporting is authorized, taxes become due the first day of the month following the authorized reporting period and shall be delinquent on the twenty-first day thereof.~~

(9) through (12) renumbered (5) through (8) No change.

~~(9)(13)(a)~~ No change.

~~(b) Any person who is required to collect, truthfully account for, and pay over any tax and who willfully fails to collect, truthfully account for, and pay over such tax, or willfully attempts to evade or defeat such tax, or any officer or director of a corporation who has administered control over the collection and payment of such tax and who willfully directs any employee of the corporation to fail to collect, truthfully account for, and pay over such tax, shall, in addition to other penalties provided by law, be liable for a penalty equal to twice the total amount of the tax evaded or not accounted for or paid over.~~

~~(10)(14)(a)~~ Interest shall accrue on any delinquent sales or use tax at the following rate; ~~of~~

~~1. One + percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.~~

~~2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily.)~~

~~3. Interest accrues on of the amount due from the date of delinquency until the date on which the tax is paid.~~

~~(b) Interest shall accrue for the failure to timely remit the proper estimated tax liability at the following rate; of~~

~~1. One + percent per month (prorated daily using the daily factor of .000328767) for estimated tax due prior to January 1, 2000.~~

~~2. For estimated tax due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C., (prorated daily).~~

~~3. Interest accrues on the amount of the unpaid estimated tax due.~~

~~(c) The decimal equivalent of the daily interest rate (.000328767) shall be applied to any delinquent period which is less than a month.~~

~~(15)(a) When any dealer or other person required to do so, fails to make a return or pay the tax or fee due within the time required, a delinquent penalty shall be added to the unpaid tax or fee. The amount added as a delinquent penalty shall be 10 percent of any unpaid tax or fee if the failure is for not more than 30 days, with an additional 10 percent delinquent penalty of any unpaid tax or fee for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total delinquent penalty of 50 percent in the aggregate. However, the Executive Director or the Executive Director's designee in the responsible program is authorized to compromise delinquent penalties on delinquent returns and audit assessments after the taxpayer has shown that the delinquency was due to reasonable cause as provided in Rule 12-13, F.A.C., but interest shall be collected.~~

~~(b) Any delinquent return subjects the person required to make the return and pay the tax or fee to a mandatory minimum delinquent penalty of \$10.~~

~~(c) In addition to the other penalties provided herein, when any dealer or other person makes a false or fraudulent return or willfully attempts to evade the payment of any tax or fee, he shall be liable for a specific penalty of 100 percent of the tax or fee due and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.~~

~~(d) renumbered (11) No change.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g)(a), 125.0108(2)(a), 212.03(2), 212.0305(3)(c),(h),(i), 212.031(3), 212.04(4),(5), 212.0506(4),(10), 212.054(4), 212.055, 212.06(1)(a), 212.0606, ~~212.085~~, 212.11, 212.12(1),(2),(3),(4),(5), 212.14(2), 212.15(1), 213.235, 213.29, 213.755, 215.01, 376.11, 403.718, 403.7185 FS. History-Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, \_\_\_\_\_.

12A-1.060 Registration.

~~(1) through (5)(d) No change.~~

~~(e) Penalties for failure to file a return or to pay a fee, as required by this subsection are:~~

~~1. A penalty of 10 percent of any unpaid fee, if the failure is for not more than 30 days;~~

~~2. An additional penalty of 10 percent of the unpaid fee for each 30 days or fraction thereof in addition to the first 30 days, referred to in subparagraph 1., during which the failure continued, not to exceed, however, a total penalty of 50 percent of any unpaid fee;~~

~~3. A penalty of 100 percent of the fee, in addition to the penalties provided in subparagraphs 1. and 2. and any other penalties provided by law if the certificate holder filed a false or fraudulent return or willfully intended to evade payment of the fee.~~

~~4. In addition to the penalties described in subparagraphs 1., 2., and 3., fine and punishment as provided by law for conviction of a misdemeanor of the first degree for a certificate holder who filed a false or fraudulent return or willfully intended to evade payment of the fee.~~

~~(f) renumbered (e) No change.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(2), 212.04(4), 212.06(2), 212.12(2),(5),(6), 212.16(1),(2), 212.18(3),(5) FS., s. 14, Ch. 99-208, L.O.F. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, \_\_\_\_\_.

12A-1.088 Machines and Equipment Used in Manufacturing, Mining, Etc.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(f) FS. History-Revised 10-7-68, 6-16-72, Amended 7-20-82, Formerly 12A-1.88, Repealed.

12A-1.093 Preservation of Records and Statute of Limitation; Acceptance of Resale and Exemption Certificates During Audit; Time Limitations.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.04(4), 212.05, 212.07(1)(b), 212.12, 212.13, 213.35, 215.26 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-20-82, Formerly 12A-1.93, Amended 12-16-91, 8-10-92, Repealed.

12A-1.097 Public Use Forms.

(1) No change.

|             |       |                |
|-------------|-------|----------------|
| Form Number | Title | Effective Date |
|-------------|-------|----------------|

(2) through (16) No change.

|                       |   |                      |
|-----------------------|---|----------------------|
| <del>(17) DR-54</del> | <del>Formal Notice of Demand to Produce Certain Records</del> | <del>(1-04-90)</del> |
|                       |   | 08/92                |

(18) through (26) renumbered (17) through (25) No change.

|                         |  |                      |
|-------------------------|--|----------------------|
| <del>(27) *DR-840</del> | <del>Notification of Intent to Audit Books and Records Records</del> | <del>(1-02-90)</del> |
|                         |  | 08/92                |

(28) through (31) renumbered (26) through (29) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2), ~~(3)~~ FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, \_\_\_\_\_.

12A-1.105 Service Warranties.

(1)(a) Every person who solicits, offers, provides, enters into, issues, or delivers any service warranty, or who receives, on behalf of another person, any consideration from a service warranty holder is exercising a taxable privilege and shall register as a dealer with the Department of Revenue before such person may engage in or conduct business in this state. See Rule 12A-1.060, F.A.C.

(b) through (2)(g) No change.

~~(h) The total consideration received or to be received for any service warranty issued or renewed on or after July 6, 1989, is subject to any Discretionary Sales Surtax authorized by s. 212.055, F.S., and administered under s. 212.054, F.S., in any county which levies a surtax.~~

(3) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (14)(a), (16), 212.0506, 212.054, 212.055, 212.06, 212.08(7)(v), 212.17, 212.18(3), 634.011, 634.131, 634.401, 634.415 FS. History—New 1-2-89, Amended 12-11-89, 8-10-92, 1-4-94, 3-20-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4713-4720). The workshop was held on November 3, 1999. No one appeared at the workshop to testify and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

|   |           |
|---|-----------|
| RULE TITLE:   | RULE NO.: |
| Telephone, Telegraph and Other Telecommunication Services | 12A-1.046 |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.046(4)(b), FAC., is to remove the exemption provided for charges for the privilege of attaching wires and other equipment to transmission poles. Section 212.031(1)(a)5., F.S., as amended by s. 1 of Chapter 99-363, L.O.F., clearly provides an exemption for certain property used by cable and utility companies; and an administrative rule regarding this exemption is unnecessary.

SUMMARY: The proposed amendments to Rule 12A-1.046, FAC., remove the exemption provided for charges for the privilege of attaching wires and other equipment to transmission poles.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.02(14), (15), 212.031(1), 212.05(1)(e), (f), (h), 212.054(2), (3), 212.08(7)(j), 212.12(12), 212.15(1), (4), 212.21(2) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance



and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

**THE FULL TEXT OF THE PROPOSED RULE IS:**

12A-1.046 Telephone, Telegraph and Other Telecommunication Services.

(1) through (3) No change.

(4)(a) No change.

~~(b) The charge by the owner of utility or transmission poles to others for the privilege of attaching wires and other equipment thereto is exempt as a service transaction.~~

(5) through (13) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (15), 212.031(1), 212.05(1)(e), (f), (h), 212.054(2), (3), 212.08(7)(j), 212.12(12), 212.15(1), (4), 212.21(2) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, 12-11-74, Amended 4-1-79, 7-20-82, Formerly 12A-1.46, Amended 1-8-90, \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 13, 1999

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, p. 6916). The workshop was held on May 25, 1999. No one submitted written comments. Comments were received at the workshop to confirm that, with the elimination of the exemption from the rule and the amendments to s. 212.031(1)(a)5., F.S., provided in s. 1, Chapter 99-363, L.O.F., the Department would implement the statutory exemption provided for charges for the privilege of attaching wires and equipment to transmission poles.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

|                              |                   |
|------------------------------|-------------------|
| <b>RULE TITLES:</b>          | <b>RULE NOS.:</b> |
| Battery Fee                  | 12A-12.0011       |
| Registration                 | 12A-12.003        |
| Reporting and Remitting Fees | 12A-12.004        |

|                                   |            |
|-----------------------------------|------------|
| Records and Auditing Requirements | 12A-12.005 |
| Statute of Limitations            | 12A-12.006 |
| General Administrative Procedures | 12A-12.007 |

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule Chapter 12A-12, FAC., is to: 1) implement the provisions of ss. 1-2, Chapter 99-281, L.O.F., removing the requirement to collect and remit the battery fee on those batteries that are not new or remanufactured; 2) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.; 3) incorporate revisions provided in s. 1, Chapter 99-239, L.O.F., regarding statute of limitations in s. 95.091(3), F.S.; 4) remove unnecessary recitation of the statutes from the rule chapter, as mandated by s. 120.74(1), F.S.; and 5) provide technical changes to remove obsolete references and provide current references.

The effect of these proposed rule amendments and rule repeals is to remove the specific references to the flat interest rate, add references to the interest rate provisions contained in the new statute (s. 213.235, F.S.) and the Department’s proposed new rule on interest (Rule 12-3.0015, FAC.), and remove provisions that are obsolete or redundant of the statutes as mandated by s. 120.74(1), F.S.

**SUMMARY:** A) The proposed amendments to Rule 12A-12.0011, FAC. (Battery Fee), remove the requirement to collect and remit the battery fee on those batteries that are not new or remanufactured.

B) The proposed amendments to Rule 12A-12.003, FAC. (Registration), remove an obsolete reference to Rule 12A-12.002, FAC., a rule that has been repealed.

C) The proposed amendments to Rule 12A-12.004, FAC.: 1) implement the “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent fees; 2) remove from the rule unnecessary recitation of s. 212.11(1)(c), F.S., regarding when quarterly or semiannual returns may be authorized by the Department; and 3) provide technical changes to properly reference provisions in Rule 12A-1.056, FAC., as amended.

D) The proposed repeal of Rule 12A-12.005, FAC. (Records and Auditing Requirements), removes unnecessary provisions regarding dealers’ record keeping requirements and the Department’s authority to audit that are clearly provided in the statutes.

E) The proposed repeal of Rule 12A-12.006, FAC. (Statute of Limitations), removes obsolete provisions regarding the statute of limitations that are clearly provided in s. 95.091(3), F.S., as amended by s. 1, Chapter 99-239, L.O.F.

F) The proposed repeal of Rule 12A-12.007, FAC. (General Administrative Procedures), removes the unnecessary recitation of statutory provisions regarding the Department’s authority to administer the battery fee and the new tire fee under the provisions of Chapter 212, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rules only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS.

LAW IMPLEMENTED: 95.091(3)(a), 212.13, 212.18(3), 403.717(1)(b),(h), 403.718, 403.7185, 403.7195 FS., ss. 1-2, ch. 99-281, L.O.F.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Horace Royals, Tax Law Specialist; Janet L. Young, Tax Law Specialist; and Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-12.0011 Battery Fee.

(1)(a) For the privilege of engaging in business, a fee at the rate of \$1.50 for each new or remanufactured lead-acid battery sold at retail in this state is imposed on each person engaging in the business of making retail sales of lead-acid batteries within this state.

(b) The fee is payable one time only on the ~~such a~~ sale ~~whether the battery is of a new, used, or remanufactured battery.~~

(c) The fee is payable if the new or remanufactured battery is sold as a component part of a motor vehicle, vessel, or aircraft or other property.

(d) No change.

(2) The fee is imposed upon the dealer selling the new or remanufactured battery and not upon the purchaser.

(3) While the fee is payable on the retail sale of a new or remanufactured battery only if the battery, as defined in paragraph (a) of subsection (6), is designed for use in motor vehicles, vessels, and aircraft, the fee is payable even if a battery so designed is purchased for use on other machinery or equipment or when sold at retail as a component part of other machinery or equipment.

(4) through (6)(c) No change.

(d) The term "sold at retail" includes the sale of a new or remanufactured lead-acid battery as a separate item or as a component part of a ~~new or used motor~~ vehicle, vessel, aircraft, or other machinery or equipment that contains a battery designed for use in a motor vehicle, vessel, or aircraft. The term "sold at retail" does not include the sale of a lead-acid battery to a person solely for the purpose of resale, as provided in subsection (7), or the sale of a lead-acid battery for the purpose of recycling its component parts.

1. through 2. No change.

~~3. Example: A motor vehicle dealer sells a used motor vehicle with its original battery, which has been used in the vehicle. The fee will be due on the sale of the used vehicle of which the used battery is a component part.~~

4. through 5. renumbered 3. through 4. No change.

~~5.6. Example: A new or remanufactured lead-acid battery that is designed for use in an automobile is sold to a farmer to put into a farm tractor or other machinery that is not a "motor vehicle." The fee is payable by the retailer, since the battery is designed for use in a "motor vehicle," even though it was purchased for use in machinery that is not within that definition.~~

(e) A retail sale of a new or remanufactured lead-acid battery is "in this state" and, thus, is subject to the fee, if the sale is "in this state" for sales tax purposes, including a sale that is a "mail order sale," as defined in section 212.0596(1), Florida Statutes.

(7)(a) The sale of a new or remanufactured lead-acid battery to a person solely for the purpose of resale is not a "sale at retail," as defined in paragraph (6)(d), provided the seller shall have taken from the purchaser a sales tax resale certificate to the effect that the battery was purchased for resale. A resale certificate was given to the seller for sales tax purposes will also be sufficient evidence that the sale was not a retail sale for purposes of the fee.

(b)1. If a dealer purchases a new or remanufactured battery for resale, and later withdraws the battery from inventory to use in the dealer's own motor vehicle, vessel, aircraft, machinery, or other equipment; to give away; or for any purpose other than for resale, that dealer will owe the fee at the time the battery is withdrawn from inventory.

2. Example: Motor vehicle Dealer A purchases a new or remanufactured lead-acid battery to install in a used vehicle to be sold. No fee is payable by the battery seller if the seller takes from Dealer A a sales tax resale certificate. When Dealer

A takes the battery out of inventory to put into the vehicle that is to be sold, that dealer will not owe the fee at that time, but the dealer will owe the fee, when the vehicle is sold at retail. However, if Dealer A sells the vehicle, in which the battery has been installed, to motor vehicle Dealer B to sell it at retail, the fee will not be payable by Dealer A, if he takes from Dealer B a resale certificate, but the fee will be payable by Dealer B, if he subsequently sells it at retail.

(c) A sales to a leasing company of a new or remanufactured lead-acid battery or vehicle or machinery of which the lead-acid battery is a component part is not a retail sale for purposes of the fee, if the purchaser gives the seller a sales tax resale certificate. Instead, the fee is payable by the leasing company when it first puts the vehicle into use in this state. (8)(a) When a sale of a new or remanufactured battery upon which the fee has been paid is canceled or the battery is returned to the seller, and the sales price is refunded in full to the purchaser, the dealer is not required to report the sale and remit the fee, or, if previously remitted, may take a credit for the fee previously paid.

(b) If, instead of refunding the purchase price of the new or remanufactured battery, the customer is given a new battery in exchange for the battery that was returned, the dealer cannot take credit for the fee that was paid on the sale of the returned battery, but no fee is due on the battery that was given in exchange.

(c) If the purchaser of a new or remanufactured battery in a sale on which the fee is payable, returns it to the dealer and is given a partial refund, the fee is payable on this retail sale, and if it has already been remitted when the partial refund is given the dealer cannot take credit for the fee previously paid.

(d) If the purchaser of a new or remanufactured battery returns it and is not given another battery in exchange but, instead, is given a credit or partial payment on another lead-acid battery, the fee is payable on the original retail sale, and if it has already been remitted when the credit or partial payment is given the dealer is not allowed a credit for the fee previously paid and must pay a fee on the sale of a lead-acid battery for which a partial credit was given.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.7185(3)(b) FS. Law Implemented 403.717(1)(b), (h), 403.7185 FS., ss. 1-2, ch. 99-281, L.O.F. History—New 10-16-89, Amended 12-16-91, 3-20-96, \_\_\_\_\_.

12A-12.003 Registration.

(1) Every person engaged in or conducting business in this ~~State state~~ of selling new tires at retail, as described in Rule 12A-12.001, F.A.C., or selling lead-acid batteries, as described in Rule 12A-12.0011, F.A.C., ~~or who consumes newsprint in this state, as described in Rule 12A-12.002, F.A.C.,~~ must be registered in order to do so. However, such person's registration for sales tax purposes is sufficient registration for purposes of the fees described in those rules.

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b), 403.7195(2)(b) FS. Law Implemented 212.18(3), 403.718, 403.7185, 403.7195 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, \_\_\_\_\_.

12A-12.004 Reporting and Remitting Fees.

(1) through (2)(b) No change.

~~(e) Instead of 12 monthly reporting periods, the Executive Director or the Executive Director's designee in Return Reconciliation will permit a quarterly return and payment for the quarters ending in February, May, August and November when the fee remitted by the dealer for the preceding four quarters did not exceed \$1000. Also, the Executive Director or the Executive Director's designee in Return Reconciliation will permit a semiannual return and payment for the 6-month periods ending in May and November when the fee remitted by the dealer for the preceding four quarters did not exceed \$500.~~

~~(d) When quarterly or semiannual reporting is authorized, the fee becomes due the first day of the month following the authorized reporting period and shall be delinquent on the twenty-first day thereof.~~

~~(c)(e) When a dealer is required to file the new tire fee and the lead-acid battery fee under a single account number on the same return, the dealer must not exceed the limitations, as provided in s. 212.11(1)(c), F.S., specified above for the applicable time periods on either fee in order to be eligible to file on a quarterly or semiannual basis.~~

(3) No change.

(4) The fees are shall not to be included in the computation of estimated taxes, as provided in s. 212.12(1)(a), F.S. No is required for taxes by Rule 12A-1.056(2), F.A.C., and no estimate of these fees is required to shall be filed.

(5) No change.

(6) As stated in Rule 12A-1.056(9)(12), F.A.C., with reference to taxes, the department is not authorized to extend the time to make any return or to pay the fees; and the consequences described in that subsection are applicable to the fees.

(7)(a) Interest on delinquent fees shall be at the following rate: accrues as described in Rule 12A-1.056(14), F.A.C.

1. One percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C., prorated daily.

(b) Interest accrues based upon the amount of the fee not paid from the date the fee is due until the fee is paid.

(8) Delinquency penalties pursuant to s. 212.12(2)(a), F.S. described in Rule 12A-1.056(15), F.A.C., are applicable to the fees, except that penalties for failure to file estimates are not applicable.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS. Law Implemented 403.718, 403.7185 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 4-12-94, 3-21-95, 3-20-96, \_\_\_\_\_.

12A-12.005 Records and Auditing Requirements.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b), 403.7195(2)(b) FS. Law Implemented 212.13, 403.718, 403.7185, 403.7195 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, Repealed.

12A-12.006 Statute of Limitations.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b), 403.7195(2)(b) FS. Law Implemented 95.091(3)(a), 403.718, 403.7185, 403.7195 FS. History—New 1-2-89, Repealed.

12A-12.007 General Administrative Procedures.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b), 403.7195(2)(b) FS. Law Implemented 403.718(3)(a), 403.7185(3)(a), 403.7195(2)(a) FS. History—New 1-2-89, Amended 10-16-89, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Horace Royals, Tax Law Specialist; Larry Green, Tax Law Specialist; and Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4720-4724). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

|                                       |                   |
|---------------------------------------|-------------------|
| <b>RULE TITLES:</b>                   | <b>RULE NOS.:</b> |
| Reporting and Remitting the Surcharge | 12A-14.002        |
| Records and Auditing Requirements     | 12A-14.003        |
| Statute of Limitations                | 12A-14.004        |
| General Administrative Procedures     | 12A-14.005        |

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule Chapter 12A-14, FAC., is to: 1) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.; 2) remove obsolete provisions regarding statute of limitations provided in s. 95.091(3), F.S., as amended by s. 1 of Chapter 99-239, L.O.F; 3) remove unnecessary recitation of the statutes from the rule chapter, as mandated by s. 120.74(1), F.S.; and 4) provide technical change to provide current references.

The effect of these proposed rule amendments and rule repeals is to remove the specific references to the flat interest rate, add references to the interest rate provisions contained in the new statute (s. 213.235, F.S.) and the Department’s proposed new rule on interest (Rule 12-3.0015, FAC.), and remove provisions that are obsolete or redundant of the statutes as mandated by s. 120.74(1), F.S.

**SUMMARY:** A) The proposed amendments to Rule 12A-14.002, FAC. (Reporting and Remitting the Surcharge): 1) implement the “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent surcharge; 2) remove the unnecessary recitation of the delinquency penalties imposed under s. 212.12(2)(a), FAC.; 3) remove from the rule unnecessary recitation of s. 212.11(1)(c), F.S., regarding when quarterly or semiannual returns may be authorized by the Department; and 4) provide a technical change to properly reference Rule 12A-1.056, as amended.

B) The proposed amendments to Rule 12A-14.003, FAC. (Records and Auditing Requirements), incorporate revisions to s. 212.13(2), F.S., providing that the failure or refusal to retain books and records may result in the prosecution for a felony of the third degree.

C) The proposed repeal of Rule 12A-14.004, FAC. (Statute of Limitations), removes obsolete provisions regarding the statute of limitations that are clearly provided in s. 95.091(3), F.S., as amended by s. 1 of Chapter 99-239, L.O.F.

D) The proposed repeal of Rule 12A-14.005, FAC. (General Administrative Procedures), removes the recitation of s. 370.07(3), F.S., regarding the Department’s authority to administer the Apalachicola Bay Oyster Surcharge under the provisions of Chapter 212, F.S.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed rules only implement statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1), 370.07(3) FS.

**LAW IMPLEMENTED:** 95.091(3), 212.12(2), 212.13(2), (5), 212.14, 212.15, 213.235, 213.29, 370.07(3) FS., s. 16, ch. 99-208, LOF.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 2:00 p.m., January 20, 2000

**PLACE:** Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1-800-DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-14.002 Reporting and Remitting the Surcharge.

(1) through (2)(b) No change.

~~(c) Instead of 12 monthly reporting periods, the Executive Director or the Executive Director's designee will permit a quarterly return and payment for the quarters ending in February, May, August, and November when the surcharge remitted by the dealer for the preceding four quarters did not exceed \$1000. Also, the Executive Director or the Executive Director's designee will permit a semiannual return and payment for the 6 month periods ending in May and November when the surcharge remitted by the dealer for the preceding four quarters did not exceed \$500.~~

~~(d) When quarterly or semiannual reporting is authorized, the surcharge becomes due the first day of the month following the authorized reporting period and shall be delinquent on the twenty-first day thereof.~~

(3) through (4) No change.

(5) As stated in Rule 12A-1.056(9)(12), F.A.C., with reference to taxes, the department is not authorized to extend the time to make any return or to pay the surcharge; ~~and the consequences described in that subsection are applicable to the surcharge.~~

(6)(a) Interest shall accrue on any delinquent return at the following rate: ~~of~~

1. One 4 percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C., (prorated daily).

(b) Interest accrues ~~on~~ of the amount due from the date of delinquency until the date on which the surcharge is paid.

~~(7) When any dealer or other person required to do so, fails to make a return or pay the surcharges due within the time required, a delinquent penalty shall be added to the unpaid surcharge. The amount added as a delinquent penalty shall be 10 percent of any unpaid surcharge, if the failure is for not~~

~~more than 30 days, with an additional 10 percent delinquent penalty of any unpaid surcharge for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total delinquent penalty be less than \$10. However, the Executive Director or the Executive Director's designee in the responsible division is authorized to compromise delinquent returns and audit assessments after the taxpayer has shown that the assessments after the taxpayer has shown that the delinquency was due to reasonable cause as provided in Rule 12-13, F.A.C., but interest shall be collected.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1), 370.07(3) FS. Law Implemented 212.12(2), 213.235, 370.07(3) FS. History-New 10-16-89, Amended 3-21-95, 3-20-96, \_\_\_\_\_.

12A-14.003 Records and Auditing Requirements.

(1) through (4) No change.

(5) The consequence of failure or refusal to keep and retain books and records or to make them accessible, as required by subsections (2), (3), and (4), can be any or all of the following:

(a) through (b) No change.

(c) Prosecution for a misdemeanor of the first degree or a felony of the third degree as provided under s. 212.13(2), F.S.

(6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 370.07(3)(c) FS. Law Implemented 95.091(3), 212.13(2), (5), 212.14, 212.15, 213.29, 370.07(3)(c), (g) FS. s. 16, ch. 99-208, L.O.F. History-New 10-16-89, Amended \_\_\_\_\_.

12A-14.004 Statute of Limitations.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 370.07(3) FS. Law Implemented 95.091(3), 370.07(3) FS. History-New 10-16-89, Repealed \_\_\_\_\_.

12A-14.005 General Administrative Procedures.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 370.07(3) FS. Law Implemented 370.07(3) FS. History-New 10-16-89, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4724-4725). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE: Surcharge Returns and Regulations  
 RULE NO.: 12A-16.006

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-16.006, FAC., is to 1) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.; and 2) remove from the rule the unnecessary recitation of the statute, as mandated by s. 120.74(1), F.S.

The effect of these proposed rule amendments is to remove the specific references to the flat interest rate, and add references to the interest rate provisions contained in the new statute (s. 213.235, F.S.) and the Department's proposed new rule on interest (Rule 12-3.0015, FAC.).

SUMMARY: The proposed amendments to Rule 12A-16.006, FAC. (Surcharge Returns and Regulations), implement the "market interest rate" on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent surcharge, and remove from the rule the unnecessary recitation of the delinquency penalties imposed under s. 212.12(2)(a), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.0606, 212.11, 212.12(2),(3),(4),(5), 213.235, 213.29 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000  
 PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-16.006 Surcharge Returns and Regulations.

(1) through (3) No change.

(4)(a) Interest shall accrue on any delinquent surcharge at the following rate: ~~of~~

1. One ~~4~~ percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

(b) Interest accrues on ~~of~~ the amount due from the date of delinquency until the surcharge is paid.

~~(5)(a) When any person required to do so, fails to make a return or pay the surcharge due within the time required, a delinquent penalty shall be added to the unpaid surcharge, in the amount of ten (10) percent of any unpaid surcharge if the failure is for not more than thirty (30) days, with an additional ten (10) percent delinquent penalty of any unpaid surcharge for each additional thirty (30) days, or fraction thereof, during the time that the failure continues. However, the total delinquent penalty shall not exceed fifty (50) percent in the aggregate.~~

~~(b) Any delinquent return subjects the person required to make the return and pay the surcharge to a mandatory minimum delinquent penalty of \$10.~~

(5)(e) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.11, 212.12(2), (3), (4), (5), ~~213.235~~, 213.29 FS. History--New 11-14-89, Amended 7-7-91, 8-10-92, 5-19-93, 3-20-95, 3-20-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4725-4726). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: Penalties and Interest  
 RULE NO.: 12B-4.005

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-4.005, FAC., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.

SUMMARY: This proposed amendment imposes a "market interest rate" on unpaid tax liabilities, and deletes the text regarding the flat interest rate of 1 percent per month which was previously imposed. The amendment references the specific market interest rate provisions contained in the new law (s. 213.235, F.S.) and the new rule which implements this law (Rule 12-3.0015, FAC.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 201.11, 201.12, 201.17, 201.20, 213.21, 213.235 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000  
 PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

- 12B-4.005 Penalties and Interest.
- (1) No change.
- (2)(a) Payment of interest shall be at the following rate: ~~of~~ 1. One + percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000. ~~prorated~~

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C., prorated daily, ~~(.000328767)~~,

(b) Interest accrues based upon the amount of the tax not paid from the date the tax is due until the tax is paid.

(b) Example:

|                       |                         |
|-----------------------|-------------------------|
| Amount of Tax Due     | \$ 1,000.00             |
| Daily Interest Factor | <del>x .000328767</del> |
| Number of Days Late   | <del>x 5</del>          |
| Interest Due          | \$1.64                  |

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.11, 201.12, 201.17, 201.20, 213.21, 213.235 FS. History-Revised 8-18-73, Formerly 12A-4.05, Amended 2-21-77, 4-2-78, 10-18-78, 12-30-82, Formerly 12B-4.05, Amended 12-5-89, 2-16-93, 10-20-93, 12-30-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4726-4727). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: Penalties, Interest  
 RULE NO.: 12B-6.008

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-6.008, FAC., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.

SUMMARY: This proposed amendment imposes a "market interest rate" on unpaid tax liabilities, and deletes the text regarding the flat interest rate of 1 percent per month which was previously imposed. The amendment references the specific market interest rate provisions contained in the new law (s. 213.235, F.S.) and the new rule which implements this law (Rule 12-3.0015, FAC.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 203.01, 203.03, 203.06, 203.07, 213.235 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-6.008 Penalties, Interest.

(1) No change.

(2) Interest.

(a) Interest shall accrue at the following rate: of

1. One ~~one~~ percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

(b) Interest accrues from the date of the delinquency until paid.

(3) No change.

Specific Authority 213.06(1) FS. Law Implemented 203.01, 203.03, 203.06, 203.07, 213.235 FS. History--New 11-13-78, Amended 6-5-85, Formerly 12B-6.08, Amended 10-4-89,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, p. 4727). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: Premium Tax; Rate and Computation

RULE NO.: 12B-8.001

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.001, FAC., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.

SUMMARY: This proposed amendment imposes a "market interest rate" on unpaid tax liabilities, and deletes the text regarding the flat interest rate of 12 percent annually which was previously imposed. The amendment references the specific market interest rate provisions contained in the new law (s. 213.235, F.S.) and the new rule which implements this law (Rule 12-3.0015, FAC.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 213.06(1), 220.183(6), 624.5105(6) FS.

LAW IMPLEMENTED: 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 220.183(3), 624.4621, 624.475, 624.509, 624.5092, 624.510, 624.5105, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100



THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2)(a) No change.

(b) When any taxpayer fails to pay any amount due or any portion thereof, on or before the due date when the tax or installment of tax shall be required by law to be paid, interest shall be added to the amount due at the following a rate: ~~of~~

1. One percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

~~(c) Interest accrues 12 percent per annum~~ from the date due until paid.

(3) through (9) No change.

Specific Authority 213.06(1), 220.183(6), 624.5105(6) FS. Law Implemented 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 220.183(3), 624.4621, 624.475, 624.509, 624.5092, 624.510, 624.5105, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History--New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4728-4729).

The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: Returns, Regulations, and Filing Requirements RULE NO.: 12B-12.006

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-12.006, FAC., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.

SUMMARY: This proposed amendment imposes a "market interest rate" on unpaid tax liabilities, and deletes the text regarding the flat interest rate of 1 percent per month which was previously imposed. The amendment references the specific market interest rate provisions contained in the new law (s. 213.235, F.S.) and the new rule which implements this law (Rule 12-3.0015, FAC.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS.

LAW IMPLEMENTED: 212.11(1)(b),(d), 212.12(2)(a), (3),(4), 213.235, 376.75 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-12.006 Returns, Regulations, and Filing Requirements.

(1) through (2) No change.

(3)(a) When any person fails to remit the tax, or any portion thereof, on or before the day when such tax is required to be paid, interest will be added to the amount of unpaid tax at the following rate: ~~of~~

1. One ½ percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

(b) Interest accrues on ~~of~~ the amount due from the date of delinquency until the date on which the tax is paid.

(c)(~~b~~) The decimal equivalent of the daily interest rate established pursuant to paragraph (a) above (~~.000328767~~) will be applied to any delinquent period that is less than one month.

(4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 212.11(1)(b), (d), 212.12(2)(a), (3), (4), 213.235, 376.75 FS. History—New 2-19-95, Amended 3-18-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, p. 4729). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE TITLE: Penalties and Interest

RULE NO.: 12C-2.007

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-2.007, FAC., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.

SUMMARY: This proposed amendment imposes a “market interest rate” on unpaid tax liabilities, and deletes the text regarding the flat interest rate which was previously imposed. The amendment references the specific market interest rate provisions contained in the new law (s. 213.235, F.S.) and the new rule which implements this law (Rule 12-3.0015, FAC.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 199.202, 213.06(1), 213.21 FS.

LAW IMPLEMENTED: 199.052, 199.282, 213.235 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-2.007 Penalties and Interest.

(1) through (5) No change.

(6)(a) Interest. All taxpayers shall pay interest at the following rate: ~~of~~

1. One percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

(b) Interest is due based ~~12 percent per year~~ on the amount of tax paid after June 30 of the tax year regardless of any extension of time granted by the Department for paying the tax or filing a return. Interest accrues on the unpaid tax beginning

July 1 of the tax year and is calculated through and including the date of payment. ~~Interest will be computed using the following factors:~~

- ~~1. annual factor —.12~~
- ~~2. monthly factor —.01~~
- ~~3. daily factor —.00033~~
- (7) No change.

Specific Authority 199.202, 213.06(1), 213.21 FS. Law Implemented 199.052, 199.282, 213.235 FS. History—New 4-17-72, Revised 12-20-73, Amended 9-27-76, 4-2-78, Formerly 12C-2.07, Amended 11-21-91, 5-18-93, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4729-4730). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**  
**Corporate, Estate and Intangible Tax**

RULE TITLE: Penalties and Interest

RULE NO.: 12C-3.009

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-3.009, FAC., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S.

SUMMARY: This proposed amendment imposes a “market interest rate” on unpaid tax liabilities, and deletes the text regarding the flat interest rate of one percent per month which was previously imposed. The amendment references the specific market interest rate provisions contained in the new law (s. 213.235, F.S.) and the new rule which implements this law (Rule 12-3.0015, FAC.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since this proposed rule only implements statutory provisions, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 198.08, 213.06(1) FS.

LAW IMPLEMENTED: 198.15, 198.16, 198.18, 198.37, 198.38, 198.39, 198.40, 213.235 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m, January 20, 2000

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-3.009 Penalties and Interest.

(1) through (2) No change.

(3) Interest.

(a) Interest shall be calculated at the following rate: ~~of~~

1. One ~~one~~ percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to s. 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

(b) Interest accrues on the amount due from the original due date of the estate tax to the date the tax is paid. Interest is not imposed on penalties.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.15, 198.16, 198.18, 198.37, 198.38, 198.39, 198.40, 213.235 FS. History—New 4-2-78, Formerly 12C-3.09, Amended 1-11-93, 8-25-94, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: This proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on October 15, 1999 (Vol. 25, No. 41, pp. 4730-4731). The workshop was held on November 3, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Employee Grooming, Uniform and Clothing Requirements

RULE NO.: 33-208.101

PURPOSE AND EFFECT: The proposed rule is needed in order to clarify the department’s policy regarding cleaning of employee clothing items. The proposed rule prohibits the cleaning of employee uniforms and clothing at department institutions and provides for the special handling of items contaminated by blood or other body fluids.

SUMMARY: The proposed rule prohibits the cleaning of employee uniforms and clothing at department institutions and provides for the special handling of items contaminated by blood or other body fluids.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

TIME AND DATE: 9:00 a.m., January 26, 2000

PLACE: Law Library, Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.101 Employee Grooming, Uniform and Clothing Requirements.

(1) through (2) No change.

(3) The following are conditions and requirements for wearing department uniforms:

(a) through (c) No change.

(d) Employees are solely responsible for alterations to and the care of uniforms and clothing issued by the department. Instructions for care which are attached to each item of clothing should be followed. The laundering and cleaning of correctional officer class A and B uniforms is the responsibility of the employee; however, the laundering and cleaning of clothing items issued to other employees is the responsibility of the department. The department shall be responsible for the cleaning of the class C or battle dress utility uniforms issued to correctional emergency response teams, confrontation control force, shotgun and chemical agent teams, and for the cleaning of other required items of clothing furnished by the department. but the cleaning shall not be performed at the institution. Any items of clothing, including correctional officer uniforms, which have been contaminated by blood or other body fluids shall be left at the institution to be laundered at an outside facility to prevent contamination outside the work area. All contaminated items shall be kept together apart from non-contaminated laundry and shall be clearly marked as contaminated for transmission to a professional laundering service. Contaminated items shall be placed in a water soluble bag and then placed in a yellow plastic bag labeled “Contaminated Linen” and sealed shut. Personnel handling the yellow bag during transport to the commercial laundry shall wear disposable latex gloves and shall inform personnel at the commercial laundry that the items in the bag are contaminated. Employees shall bear the cost of replacements of items lost or damaged due to improper use, care or maintenance of the item. Instructions for care which are attached to each item of clothing should be followed. Restitution is to be in the amount equal to the cost of the articles of clothing lost or damaged, or equal to the cost of replacement, whichever is less.

(e) No change.

(4) through (13) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 2-27-85, Amended 6-19-85, Formerly 33-4.07, Amended 3-6-88, 8-15-89, 2-12-91, 10-13-91, 4-19-98, 12-7-98, Formerly 33-4.007, Amended 10-5-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Stan Czerniak  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Michael W. Moore  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: December 7, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: October 8, 1999

**LAND AND WATER ADJUDICATORY COMMISSION**

**Capital Region Community Development District**

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Capital Region Community                      42CC-1  
Development District

RULE TITLES:                                      RULE NOS.:

Establishment                                      42CC-1.001

Boundary    42CC-1.002

Supervisors    42CC-1.003

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (CDD), the Capital Region Community Development District ("District"), pursuant to Chapter 190, F.S. The petition to establish the District, filed by The St. Joe Company, (Petitioner), requests that the Florida Land and Water Adjudicatory Commission establish by rule the Capital Region CDD. (The petition was originally filed to establish the proposed CDD under the name of Southwood CDD. A Notice of Receipt of Petition for the Southwood CDD was published in the November 5, 1999, edition of the Florida Administrative Weekly. However, the petitioner has requested amendment to change the name to Capital Region CDD.) The land area proposed to be served by the District will consist of approximately 3,241 acres. All proposed lands in the District are within the City of Tallahassee and unincorporated Leon County, generally located south of Apalachee Parkway, on both sides of Capital Circle Southeast, to a point south of Tram Road. There are four out-parcels located within the external boundaries of the parcels of land to be included within the District. The out-parcels include two parcels of land comprising the Capital Circle Office Center, an existing cemetery site, and an existing residence. The future general distribution, location and extent of the public and private land uses under the Mixed Use B designation (Tallahassee-Leon County Comprehensive Plan) currently include residential, recreation, office, community service, commercial, and light industrial. The proposed land uses within the District are subject to the approved Southwood Development of Regional Impact. The District, if established, intends to participate in the construction of certain road and entranceway improvements and to provide certain stormwater and recreation improvements for the lands within the District.

SPECIFIC AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Petitioner has prepared a Statement of Estimated Regulatory Costs (SERC). The complete text of the SERC is contained as Exhibit 9 to the petition to establish the District. The Capital Region Uniform Community Development District is seeking authority to participate in the construction of certain road and entranceway improvements as contemplated in the Southwood Development of Regional Impact (DRI). The District is also expected to provide certain stormwater and recreation improvements for the lands within the District. The District intends to finance these infrastructure improvements through special or non-ad valorem assessment revenue bonds. Repayment of these bonds will be through special non-ad valorem assessments levied against all benefited properties within the District. On-going operation and maintenance for District owned facilities is expected to be funded through maintenance assessments levied against all benefited properties within the District. The current and future property owner will be responsible for payment of these assessments on the basis of the amount of benefited property owned. In exchange for the payment of these special assessments, there are substantial potential benefits to be derived by the future property owners. The cost of implementing this rule to unincorporated Leon County and the City of Tallahassee, its residents and to all applicable state agencies for processing the documents is nominal. Leon County and the City of Tallahassee were each paid a \$15,000.00 processing fee to offset the cost of review of the petition to establish the District. Administrative costs will be incurred by the Florida Land and Water Adjudicatory Commission, the Division of Administrative Hearings, the Bureau of Local Government Finance/Office of the Comptroller, and the Florida Department of Community Affairs. Other than administrative costs, no costs will be incurred by the State of Florida or the general citizenry from the establishment or operations of the District. The impact of District establishment and function on competition and employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the rule, is as economically viable as establishing the District. Creation of the District should not have a negative impact on small cities or counties, because the City of Tallahassee and Leon County are not a "small city" or "small county" as defined in Section 120.52, F.S. Analysis provided in the SERC is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Developer's Engineer and other professionals associated with the Developer.

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.

IF REQUESTED WITHIN TWENTY-ONE (21) DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 Noon, Tuesday, January 18, 2000

PLACE: Room 2106, The Capitol, Tallahassee, Florida

COPIES OF THE PROPOSED RULE AND ESTIMATED REGULATORY COSTS STATEMENT MAY BE OBTAINED BY CONTACTING: Jonathan T. Johnson, Hopping Green Sams & Smith, Post Office Box 6526, Tallahassee, Florida 32314, telephone (850)222-7500 or Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 2105, Tallahassee, Florida 32399-0001, telephone (850)488-7793

THE FULL TEXT OF THE PROPOSED RULES IS:

CAPITAL REGION COMMUNITY  
DEVELOPMENT DISTRICT

42CC-1.001 Establishment.

The Capital Region Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New.

42CC-1.002 Boundary.

The boundaries of the district are as follows:

The following descriptions include all or part of Sections 2, 3, 9, 10, 11, 14, 15, 16, 20, 21, 22, 23, 26, 27, 28 and 29, Township 1 South, Range 1 East, Leon County, Florida. Portions of Sections 2, 11, 14, 23 and 26, Township 1 South, Range 1 East, more particularly described as follows:

BEGIN at the Northwest corner of Section 26, Township 1 South, Range 1 East; thence run South along the West line of said Section 26 for 451.73 feet more or less to the Northerly right-of-way line of State Road 261-A (Tram Road); thence run South 77 degrees 00 minutes 41 seconds East 191.64 feet; thence run North 495.02 feet more or less to the North line of said Section 26; thence continue North 2829.68 feet more or less to the beginning of a curve concave to the East; thence Northeasterly along said curve having a radius of 3444.00 feet through a central angle of 20 degrees 02 minutes 36 seconds for an arc distance of 1204.80 feet to the end of the curve; thence run North 20 degrees 02 minutes 37 seconds East for 635.00 feet to the beginning of a compound curve concave to the West; thence Northeasterly along said curve having a radius of 1956.02 feet, through a central angle of 19 degrees 57 minutes 51 seconds for an arc distance of 681.56 feet to the point of compound curvature; thence continue Northerly and

Northwesterly along said curve having a radius of 1956.02 feet; through a central angle of 23 degrees 44 minutes 04 seconds for an arc distance of 810.27 feet to a point of reverse curve concave to the East; thence Northerly along said curve having a radius of 3144.08 feet, through a central angle of 21 degrees 38 minutes 15 seconds for an arc distance of 1187.35 feet to the beginning of a curve concave to the East; thence Northerly along said curve having a radius of 4983.90 feet through a central angle of 12 degrees 57 minutes 37 seconds for an arc distance of 1127.35 feet; thence run North 00 degrees 09 minutes 48 seconds East for 610.30 feet to the beginning of a curve concave to the West; thence Northerly along said curve having a radius of 10852.98 feet through a central angle of 04 degrees 30 minutes 46 seconds for an arc distance of 854.79 feet, thence run North 12 degrees 23 minutes 29 seconds West 425.58 feet to the beginning of a curve concave to the Southwest, thence Northwesterly along said curve having a radius of 3342.64 feet through a central angle of 07 degrees 08 minutes 57 seconds for an arc distance of 417.09 feet to the beginning of a curve concave to the Southwest, thence Northwesterly along said curve having a radius of 3342.64 feet through a central angle of 01 degrees 25 minutes 18 seconds for an arc distance of 82.93 feet; thence run North 06 degrees 51 minutes 48 seconds East for 945.08 feet to the beginning of a curve concave to the West, thence along said curve having a radius of 2700.04 feet through a central angle of 03 degrees 50 minutes 52 seconds for an arc distance of 181.33 feet; thence run North 03 degrees 00 minutes 57 seconds East for 4071.36 feet; thence continue North 03 degrees 00 minutes 57 seconds East for 1320.00 feet, more or less, to the North line of the South Half of the South Half of Section 2, Township 1 South, Range 1 East; thence run West along said North line of the South Half of the South Half of Section 2 to its intersection with the West line of said Section 2; thence run South along the West section lines of Sections 2, 11, 14 and 23, Township 1 South, Range 1 East to the Northwest corner of Section 26, Township 1 South, Range 1 East and the POINT OF BEGINNING.

LESS AND EXCEPT:

The rights of way for Southwood Plantation Road and Old St. Augustine Road.

ALSO, LESS AND EXCEPT:

That portion of the following description lying within Section 11, Township 1 South, Range 1 East.

COMMENCE at the intersection of the South right-of-way line of State Road No. 364 (Old St. Augustine Road) and the West boundary of the East Half of the Northeast Quarter of Section 10, Township 1 South, Range 1 Est, Leon County, Florida; thence run South 76 degrees 57 minutes East along the South right-of-way line of said State Road No. 364 a distance of 670.59 feet to the POINT OF BEGINNING; thence run South 00 degrees 34 minutes 40 seconds East 1399.27 feet to a concrete monument; thence run South 89 degrees 13 minutes

20 seconds East 648.44 feet to a St. Joe Paper Company concrete monument on the West right-of-way line of Southwood Plantation Road; thence run North 03 degrees 33 minutes 20 seconds East along said West right of way line of Southwood Plantation Road a distance of 1251.37 feet, more or less, to a concrete monument marking the intersection of the West right-of-way line of Southwood Plantation Road with the South right-of-way line of Old St. Augustine Road; thence run North 76 degrees 57 minutes West along said South right-of-way line of Old St. Augustine Road a distance of 758 feet, more or less, to the POINT OF BEGINNING.

#### SECTION 3

Commence at the Southwest corner of Section 3, Township 1 South, Range 1 East, and run thence North along the Section line 1336.6 feet, thence East 880.0 feet to a point which is the POINT OF BEGINNING. From said POINT OF BEGINNING run thence East 1250.0 feet more or less to a point 500 feet West of a point 1336.6 North of the Southeast corner of the Southwest Quarter of said Section 3, thence South 1336.6 feet more or less to the South line of said Section 3, thence West along said South line of Section 3 to a point due South of the point of beginning, thence North 1336.6 feet more or less to the POINT OF BEGINNING.

#### AND ALSO:

Begin at the Southwest corner of Section 3, Township 1 South, Range 1 East, thence run North 162.4 feet along the Section line to the South boundary of Old St. Augustine Road, thence southeasterly 845.19 along the South boundary of said road to its intersection with the South Line of said Section 3, thence West along said South line to the POINT OF BEGINNING.

#### AND ALSO:

Commence at the Northwest corner of the Northwest quarter of the Southeast quarter of Section 3, Township 1 South, Range 1 East, and run thence South 00 degrees 30 minutes West 1266.8 feet along the quarter-section line, thence South 89 degrees 30 minutes East 647.3 feet, thence South 00 degrees 30 minutes West 13.6 feet, thence South 89 degrees 30 minutes East 336.35 feet to a point which is the POINT OF BEGINNING. From said POINT OF BEGINNING, run thence South 89 degrees 30 minutes East 336.35 feet, thence North 00 degrees 30 minutes East 1081.3 feet along the East boundary of the Northwest quarter of the Southeast quarter of said Section 3, to a point 207.7 feet South 00 degrees 30 minutes West of the Northeast corner of the Northwest quarter of the Southeast quarter of said Section 3, thence North 89 degrees 30 minutes West 336.35 feet, thence South 00 degrees 30 minutes West 1081.3 feet to the POINT OF BEGINNING.

#### AND ALSO:

Begin at the Southeast corner of Section 3, Township 1 South, Range 1 East, and thence run North 1495.0 feet along the East boundary of said Section 3, thence West 701.0 feet, thence North 1158.0 feet to a point on the North boundary of the Southeast Quarter of said Section 3, thence West 639.3 feet to

the Northwest corner of the East ? of the Southeast quarter of said Section 3, thence South 1289.0 feet, thence West 672.7 feet, thence North 13.6 feet, thence West 323.15 feet, thence South 537.53 feet, thence West 324.15 feet to a point on the West boundary of the Southeast quarter of said Section 3, which said point is 1804.33 feet South of the Northwest corner of the Southeast quarter of said Section 3, thence run South 867.4 feet more or less to the South line of said Section 3, thence East along said South line 2640.0 feet more or less to the POINT OF BEGINNING.

#### AND ALSO:

Commence at the Southwest corner of the East half of the Northeast quarter of Section 3, Township 1 South, Range 1 East, Leon County, Florida, marked by a one inch iron pipe and run thence South 89 degrees 17 minutes 39 seconds East 429.17 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run thence South 89 degrees 17 minutes 38 seconds East 142.0 feet to the West boundary of that property described in Official Records Book 1410, Page 1913 of the Public Records of Leon County, Florida, thence North 00 degrees 49 minutes 21 seconds East along said boundary 322.92 feet to the southerly right of way boundary of State Road No.20 (Apalachee Parkway), thence South 85 degrees 40 minutes 30 seconds West along said boundary 200.81 feet, thence leaving said boundary South 00 degrees 58 minutes 17 seconds West 218.30 feet, thence South 32 degrees 54 minutes 08 seconds East 104.47 feet to the POINT OF BEGINNING.

#### LESS AND EXCEPT:

Begin at the Southwest corner of the East half of the Northeast quarter of Section 3, Township 1 South, Range 1 East, Leon County, Florida, marked by a one inch iron pipe and run thence North 00 degrees 36 minutes 43 seconds East along the West boundary of that property described in Official Records Book 1306, Page 2238 of the Public Records of Leon County, Florida 272.53 feet to the Southern right of way boundary of State Road 20 ( Apalachee Parkway), thence along said right of way boundary North 83 degrees 40 minutes 30 seconds East 292.77 feet, thence leaving said right of way boundary run South 03 degrees 41 minutes 54 seconds East along the East boundary of said property in Official Records Book 1306, Page 2238 for a distance of 299.09 feet, thence South 89 degrees 17 minutes 38 seconds East 115.01 feet, thence South 32 degrees 53 minutes 35 seconds East 17.31 feet, thence South 00 degrees 35 minutes 30 seconds West 1171.25 feet, thence South 87 degrees 54 minutes 45 seconds West 777.95 feet to the East boundary of that property described in Official Records Book 610, Page 165 of the Public Records of Leon County, Florida, thence North 00 degrees 41 minutes 14 seconds East along said boundary 1012.36 feet to the South boundary of that property described in Official Records Book 1257, Page 614 of the Public Records of Leon County, Florida, thence South 89 degrees 11 minutes 08 seconds East along said

boundary 336.62 feet, thence North 00 degrees 36 minutes 43 seconds East along the East boundary of said property 211.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

The rights of way for Southwood Plantation Road, Old St. Augustine Road and the 100 foot power line right of way conveyed to the City of Tallahassee.

SECTION 9

The Southeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 9, Township 1 South, Range 1 East, less the right-of-way of State Road No. 363 (Capital Circle).

AND ALSO:

That part of the West Half of the Northeast Quarter lying South and East of State Road No. 363 (Capital Circle).

AND ALSO:

The Southeast Quarter of the Northeast Quarter less the North 66 feet thereof.

AND ALSO:

BEGIN at a point 66 feet South of the Southwest corner of the Northeast Quarter of the Northeast Quarter, thence run North 210 feet; thence East 210 feet; thence run South 210 feet; thence run West 210 feet to the POINT OF BEGINNING.

LESS AND EXCEPT:

The 100 foot Power Line right-of-way conveyed to the City of Tallahassee and the right-of-way for State Road No. 363 (Capital Circle).

SECTION 10

All of Section 10, Township 1 South, Range 1 East.

LESS AND EXCEPT:

COMMENCE at the intersection of the South right-of-way line of State Road No. 364 (Old St. Augustine Road) and the West boundary of the East Half of the Northeast Quarter of Section 10, Township 1 South, Range 1 East, Leon County, Florida; thence run South 76 degrees 57 minutes East along the South right-of-way line of said State Road No. 364 a distance of 670.59 feet to the POINT OF BEGINNING; thence run South 00 degrees 34 minutes 40 seconds East 1399.27 feet to a concrete monument; thence run South 89 degrees 13 minutes 20 seconds East 648.44 feet to a St. Joe Paper Company concrete monument on the West right-of-way line of Southwood Plantation Road; thence run North 03 degrees 33 minutes 20 seconds East along said West right of way line of Southwood Plantation Road a distance of 1251.37 feet, more or less, to a concrete monument marking the intersection of the West right-of-way line of Southwood Plantation Road with the South right-of-way line of Old St. Augustine Road; thence run North 76 degrees 57 minutes West along said South right-of-way line of Old St. Augustine Road a distance of 758 feet, more or less, to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

BEGIN at the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 10, Township 1 South, Range 1 East, and run thence North 200 feet, thence East 500 feet, thence South 185 feet, thence East 820 feet to the East line of said Section 10, thence South 15 feet to the South line of said Section 10, thence West 1320 feet, more or less, to the POINT OF BEGINNING, containing 2.57 acres, more or less.

ALSO, LESS AND EXCEPT:

BEGIN at the Southwest corner of the Northwest Quarter of the Northeast Quarter of Section 10, Township 1 South, Range 1 East, thence run East 362 feet, thence run North 385 feet to a point in the center of the St. Augustine Road, thence run in a Northwesterly direction 398 feet to a point on the West boundary of the Northeast Quarter of said Section 10, said point being 579 feet North of the POINT OF BEGINNING, thence run South 579 feet to the POINT OF BEGINNING, except the portion thereof included in the right-of-way of the Old St. Augustine Road.

ALSO, LESS AND EXCEPT:

COMMENCE at the Southeast corner of Section 10, Township 1 South, Range 1 East, Leon County, Florida, and run thence West along the section line a distance of 20 feet, or to the West boundary of Southwood Road, thence North along the West boundary of said Southwood Road, a distance of 40 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING continue thence North along said West boundary 100 feet, thence West parallel to the South line of said Section 10 a distance of 435.6 feet, thence South 100 feet, thence East 435.6 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

BEGIN at the Northeast corner of the Northeast Quarter of the Northwest Quarter of Section 10, Township 1 South, Range 1 East and run West along the North line of said Section 10 for 500 feet; thence run south 456 feet, more or less, to the Northerly right-of-way line of Old St. Augustine Road; thence Southeasterly along the North right-of-way line of Old St. Augustine Road 589 feet, more or less, to the East boundary of the Northwest Quarter of said Section 10; thence North 678.6 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

The rights of way for Old St. Augustine Road, Southwood Plantation Road and the 100 foot power line right of way are conveyed to the City of Tallahassee.

SECTION 15

All of Section 15, Township 1 South, Range 1 East, Leon County, Florida.

LESS AND EXCEPT:

That part of the following described parcel lying in Section 15, Township 1 South, Range 1 East, Leon County, Florida, Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the



centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47

feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING.

#### SECTION 16

All of Section 16, Township 1 South, Range 1 East lying East of State Road 261 (Capital Circle).

#### AND ALSO:

The North 34.99 chains of the East half of the Northwest quarter of Section 16, Township 1 South, Range 1 East, Leon County, Florida, lying West of State Road 261 (Capital Circle).

#### AND ALSO:

The West half of the Southwest quarter of Section 16, Township 1 South, Range 1 East, Leon County, Florida.

#### AND ALSO:

All that part of the South 26.66 chains of the East half of the Southwest quarter of Section 16, Township 1 South, Range 1 East, Leon County, Florida, lying West of State Road 261 (Capital Circle).

#### LESS AND EXCEPT:

The right of way for State Road 261 (Capital Circle), the 100 foot power line right of way conveyed to the City of Tallahassee and the right of way conveyed as the Blair Stone Road Extension recorded in Leon County Official Records Book 2080, Page 1542.

#### ALSO, LESS AND EXCEPT:

That part of the following described property lying in Section 16, Township 1 South, Range 1 East,

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1469.04 feet to a point of

curve to the right, thence along said curve with a radius of 3205.07 feet through a central angle of 17 degrees 06 minutes 44 seconds for an arc length of 957.24 feet (chord of 953.69 feet bears North 68 degrees 25 minutes 19 seconds West), thence North 59 degrees 51 minutes 57 seconds West 846.38 feet to the intersection of the centerline of Tram Road with the centerline of Capital Circle Southeast ( State Road No. 261), thence North 12 degrees 00 minutes 01 seconds East along said centerline 1.97 feet, thence North 12 degrees 00 minutes 27 seconds East along said centerline 1844.79 feet to a point of curve to the left, thence along said curve with a radius of 3819.66 feet through a central angle of 05 degrees 31 minutes 26 seconds for an arc length of 368.25 feet (chord of 368.10 feet bears North 09 degrees 14 minutes 44 seconds East), thence leaving said centerline run North 82 degrees 45 minutes 59 seconds West 125.01 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 82 degrees 45 minutes 59 seconds West along the northerly right of way of a proposed road (100 foot right of way) a distance of 407.94 feet to set iron rebar and cap marking a point of curve to the left, thence along said curve with a radius of 4425.00 feet through a central angle of 06 degrees 47 minutes 31 seconds for an arc length of 524.55 feet (chord of 524.25 feet bears North 86 degrees 09 minutes 44 seconds West) to a set iron rebar and cap, thence North 89 degrees 33 minutes 30 seconds West 254.27 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 00 seconds for an arc length of 47.12 feet (chord of 42.43 feet bears North 44 degrees 33 minutes 30 seconds West) to a set iron rebar and cap on the easterly right of way of a proposed roadway (100 foot right of way), thence North 00 degrees 26 minutes 30 seconds East along said right of way 992.45 feet to a set iron rebar and cap marking a point of curve to the right, thence along said right of way curve with a radius of 750.00 feet through a central angle of 92 degrees 45 minutes 19 seconds for an arc length of 1214.16 feet (chord of 1085.85 feet bears North 46 degrees 49 minutes 10 seconds East) to a set iron rebar and cap thence South 86 degrees 48 minutes 11 seconds East along said right of way 444.13 feet to a set iron rebar and cap, thence leaving said right of way run South 00 degrees 18 minutes 28 seconds West 1433.65 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 3694.66 feet through a central angle of 06 degrees 09 minutes 02 seconds for an arc length of 396.61 feet (chord of 396.42 feet bears South 03 degrees 22 minutes 59 seconds West) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described property lying in Section 16, Township 1 South, Range 1 East.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37

seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument,

thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1469.04 feet to a point of curve to the right, thence along said curve with a radius of 3205.07 feet through a central angle of 17 degrees 06 minutes 44 seconds for an arc length of 957.24 feet (chord of 953.69 feet bears North 68 degrees 25 minutes 19 seconds West), thence North 59 degrees 51 minutes 57 seconds West 846.38 feet to the intersection of the centerline of Tram Road with the centerline of Capital Circle Southeast ( State Road No. 261), thence North 12 degrees 00 minutes 01 seconds East along said centerline 1.96 feet, thence North 12 degrees 00 minutes 27 seconds East along said centerline 1844.79 feet to a point of curve to the left, thence along said curve with a radius of 3819.66 feet through a central angle of 11 degrees 41 minutes 59 seconds for an arc length of 779.97 feet (chord of 778.61 feet bears North 06 degrees 09 minutes 27 seconds East), thence North 00 degrees 18 minutes 28 seconds East 2903.59 feet, thence leaving said centerline run South 89 degrees 57 minutes 06 seconds East 125.00 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 18 minutes 28 seconds East 812.00 feet to a set iron rebar and cap, thence South 89 degrees 41 minutes 32 seconds East 778.83 feet to a set iron rebar and cap on the westerly right of way of a proposed roadway ( 65 foot right of way), thence South along said westerly right of way 176.04 feet to a

set iron rebar and cap marking a point of curve to the left, thence along said right of way curve with a radius of 2550.10 feet through a central angle of 13 degrees 38 minutes 55 seconds for an arc length of 607.47 feet (chord of 606.03 feet bears South 06 degrees 49 minutes 28 seconds East) to a set iron rebar and cap, thence South 13 degrees 38 minutes 58 seconds East 31.65 feet to a set iron rebar and cap, thence leaving said proposed right of way run North 89 degrees 57 minutes 06 seconds West 867.59 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described property lying in Section 16, Township 1 South, Range 1 East.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 east, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly

right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

#### SECTION 20

The East Half of Section 20, Township 1 South, Range 1 East LESS AND EXCEPT:

That part of the North Half of the North Half of said Section 20 lying North of State Road 261-A (Tram Road).

The right of way for State Road 261-A (Tram Road) and the 100 foot power line right of way conveyed to the City of Tallahassee.

#### SECTION 21

All of Section 21, Township 1 South, Range 1 East, lying North of State Road 261-A (Tram Road) and the following portion of said Section 21 lying South of Tram Road and West of Capital Circle:

BEGIN at the Southwest corner of Section 21, Township 1 South, Range 1 East, thence run North along the West line of said Section 21 to its intersection with the Southerly right-of-way line of State Road 261-A (Tram Road); thence run Southeasterly along said right-of-way line to the West boundary of that property described as Parcel No. Three in Official Records Book 2006, Page 2252 of the Public Records of Leon County, Florida; thence run South along said boundary and continuation thereof for 1002.3, more or less, to the North boundary of that property described in Official Records Book 1225, Page 2379 of the Public Records of Leon County, Florida; thence run South along the West boundary of said property described in Official Records Book 1225, Page 2379 and a continuation thereof to the South line of said Section 21; thence run West for 660 feet, more or less, to the Southwest corner of said Section 21 and the POINT OF BEGINNING.

#### AND ALSO:

The following described parcel lying in Sections 21 and 22, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road;

thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet; thence leaving said centerline run North 76 degrees 58 minutes 38 seconds West 60.00 feet to a concrete monument on the westerly right-of-way boundary of said Tram Road Connector, thence run South 13 degrees 01 minutes 22 seconds West along said westerly right-of-way 53.22 feet to a concrete monument marking the north right-of-way boundary of said Tram Road; thence run North 76 degrees 58 minutes 41 seconds West along said northerly right-of-way of Tram Road 766.36 feet to a set iron rod and cap marking a point of curve to the right, thence run northwesterly along said right of way curve with a radius of 3172.07 feet through a central angle of 06 degrees 02 minutes 20 seconds for an arc distance of 334.34 feet (chord bears North 73 degrees 57 minutes 31 seconds West 334.18 feet) to a concrete monument marking the easterly boundary of the existing Capital Circle Office Center; thence leaving said northerly right-of-way run North 35 degrees 42 minutes 40 seconds East 1562.71 feet to a concrete monument; thence run North 27 degrees 52 minutes 52 seconds East 214.31 feet to a concrete monument; thence run North 21 degrees 57 minutes 48 seconds East 22.24 feet to an iron rod and cap to the POINT OF BEGINNING. From said POINT OF BEGINNING thence continue North 21 degrees 57 minutes 48 seconds East 95.89 feet to a concrete monument, thence run North 10 degrees 53 minutes 34 seconds East 219.79 feet to a concrete monument, thence run North 02 degrees 57 minutes 51 seconds East 603.14 feet to a concrete monument, thence run North 07 degrees 58 minutes 29 seconds East 112.07 feet to a point on the southerly right of way boundary of Shumard Oak Boulevard and a curve concave southwesterly, thence run southeasterly along said right of way curve with a radius of 666.67 feet through a central angle of 24 degrees 05 minutes 36 seconds for an arc distance of 280.34 feet (chord of 278.28 feet bears South 76 degrees 41 minutes 39 seconds East) to a point of reverse curve to the left, thence run southeasterly along said curve with a radius of 1293.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc distance of 528.55 feet (chord of 524.87 feet bears South 76 degrees 21 minutes 29 seconds East), thence run South 88 degrees 04 minutes 07 seconds East 297.07 feet to a point of curve to the right, thence run southeasterly along said curve with a radius of 30.00 feet through a central angle of 90 degrees 54 minutes 41 seconds for an arc distance of 47.60 feet (chord of 42.76 feet bears South 42 degrees 36 minutes 47 seconds East) to a point of curve to the right and the westerly right of way boundary of Tram Road Connector, thence run southwesterly along said right of way curve with a radius of 1168.00 feet through a central angle of 17 degrees 26 minutes 30 seconds for an arc distance of 355.56 feet (chord of 354.19 feet bears South 11 degrees 33 minutes 49 seconds West), thence run South 20 degrees 17 minutes 04 seconds West 816.47 feet, thence

leaving said westerly right of way boundary run North 69 degrees 42 minutes 56 seconds West 934.79 feet to the POINT OF BEGINNING.

AND ALSO:

The existing St Joe Corp. property lying in the Southeast Quarter of Section 21, Township 1 South, Range 1 East, Leon County, Florida lying south of Tram Road (know as Tax ID parcel 31-21-20-002-000.0).

LESS AND EXCEPT:

The right-of-way of State Road No. 263 (Capital Circle), the right-of-way of State Road No. 261-A (Tram Road), and the 100 foot Power Line right-of-way deeded to the City of Tallahassee.

ALSO, LESS AND EXCEPT:

BEGIN at a point on the West line of Section 21, Township 1 South, Range 1 East, said point being 1326.2 feet North of the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 21, and run thence East 100 feet, thence North 01 degrees 58 minutes West for 390.25 feet to a point on the South boundary of the right-of-way of the public road, thence Northwesterly along said right-of-way boundary for 100 feet to a point on the West line of said Section 21, thence South along the Section line for 440 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying in Section 21, Township 1 South, Range 1 East, Leon County, Florida. Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85

feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard( a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1469.04 feet to a point of curve to the right, thence along said curve with a radius of 3205.07 feet through a central angle of 17 degrees 06 minutes 44 seconds for an arc length of 957.24 feet (chord of 953.69 feet bears North 68 degrees 25 minutes 19 seconds West), thence North 59 degrees 51 minutes 57 seconds West 846.38 feet to the intersection of the centerline of Tram Road with the centerline of Capital Circle Southeast ( State Road No. 261), thence North 12 degrees 00 minutes 01 seconds East along said centerline 1.97 feet, thence North 12 degrees 00 minutes 27 seconds East along said centerline 1844.79 feet to a point of curve to the left, thence along said curve with a radius of 3819.66 feet through a central angle of 05 degrees 31 minutes 26 seconds for an arc length of 368.25 feet (chord of 368.10 feet bears North 09 degrees 14 minutes 44 seconds East), thence leaving said centerline run North 82 degrees 45 minutes 59 seconds West 125.01 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 82 degrees 45 minutes 59 seconds West along the northerly right of way of a proposed road (100 foot right of way) a distance of 407.94 feet to set iron rebar and cap marking a point of curve to the left, thence along said curve with a radius of 4425.00 feet through a central angle of 06 degrees 47 minutes 31 seconds for an arc length of 524.55 feet (chord of 524.25 feet bears North 86 degrees 09 minutes 44 seconds West) to a set iron rebar and cap, thence North 89 degrees 33 minutes 30 seconds West 254.27 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 00 seconds for an arc length of 47.12 feet (chord of 42.43 feet bears North 44 degrees 33 minutes 30 seconds West) to a set iron rebar and cap on the easterly right of way of a proposed roadway (100 foot right of way), thence North 00 degrees 26 minutes 30 seconds East along said right of way 992.45 feet to a set iron rebar and cap marking a point of curve to the right, thence along said right of way curve with a radius of 750.00 feet through a central angle of 92 degrees 45 minutes 19 seconds for an arc length of 1214.16 feet ( chord of 1085.85 feet bears North 46 degrees 49 minutes 10 seconds East) to a set iron rebar and cap thence South 86 degrees 48 minutes 11 seconds East along said right of way 444.13 feet to a set iron rebar and cap, thence leaving said right of way run South 00 degrees 18 minutes 28 seconds West 1433.65 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 3694.66 feet through a central angle of

06 degrees 09 minutes 02 seconds for an arc length of 396.61 feet (chord of 396.42 feet bears South 03 degrees 22 minutes 59 seconds West) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet; thence leaving said centerline run North 76 degrees 58 minutes 38 seconds West 60.00 feet to a concrete monument on the westerly right-of-way boundary of said Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING thence run South 13 degrees 01 minutes 22 seconds West along said westerly right-of-way 53.22 feet to a concrete monument marking the north right-of-way boundary of said Tram Road; thence run North 76 degrees 58 minutes 41 seconds West along said northerly right-of-way of Tram Road 766.36 feet to a set iron rod and cap marking a point of curve to the right, thence run northwesterly along said right of way curve with a radius of 3172.07 feet through a central angle of 06 degrees 02 minutes 20 seconds for an arc distance of 334.34 feet (chord bears North 73 degrees 57 minutes 31 seconds West 334.18 feet) to a concrete monument marking the easterly boundary of the existing Capital Circle Office Center; thence leaving said northerly right-of-way run North 35 degrees 42 minutes 40 seconds East 1562.71 feet to a concrete monument; thence run North 27 degrees 52 minutes 52 seconds East 214.31 feet to a concrete monument; thence run North 21 degrees 57 minutes 48 seconds East 22.24 feet to an iron rod and cap; thence leaving said easterly boundary of the existing Capital Circle Office Center run South 69 degrees 42 minutes 56 seconds East 739.36 feet; thence run southwesterly along a non-tangent curve to the right with a radius of 140.00 feet through a central angle of 40 degrees 16 minutes 49 seconds for an arc distance 98.42 feet (chord bears South 14 degrees 04 minutes 23 seconds West 96.41 feet) to a point of reverse curve to the left; thence run southeasterly along said curve with a radius of 110.00 feet through a central angle of 101 degrees 55 minutes 47 seconds for an arc distance of 195.69 feet (chord bears South 16 degrees 42 minutes 26 seconds East 170.89 feet); thence run South 67 degrees 43 minutes 00 seconds East 81.70 feet to the westerly right-of-way boundary of said Tram Road Connector; thence run southwesterly along said westerly right-of-way along a

curve to the right with a radius of 690.00 feet through a central angle of 14 degrees 01 minutes 10 seconds for an arc distance of 168.83 feet (chord bears South 29 degrees 17 minutes 35 seconds West 168.41 feet) to a concrete monument; thence run South 36 degrees 18 minutes 10 seconds West along said westerly right of way 873.23 feet to a concrete monument marking a point of curve to the right, thence run southwesterly along said right of way curve with a radius of 810.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc distance of 329.11 feet (chord bears South 24 degrees 39 minutes 46 seconds West 326.85 feet) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 east, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48

seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described right of way of Satellite Boulevard, Shumard Oak Boulevard, and Tram Road Connector lying in Sections 21 and 22, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 east, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a

point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259-66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 575.14 feet to the easterly right-of-way boundary of Tram Connector (proposed 120' Right-of-way); thence along said easterly right-of-way boundary as follows: North 13 degrees 04 minutes 02 seconds East a distance of 53.58 feet to a point of curve to the right; thence Northeasterly, along said curve, on a radius of 690.00 feet, through a central angle of 23 degrees 16 minutes 48 seconds, an arc distance of 280.36 feet (chord of 278.43 feet bears North 24 degrees 42 minutes 26 seconds East) to a point of tangency; thence North 36 degrees 20 minutes 50 seconds East a distance of 182.52 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING, continue North 36 degrees 20 minutes 50 seconds East, along said easterly right-of-way boundary, a distance of 341.40 feet; thence South 53 degrees 39 minutes 10 seconds East, leaving said easterly right-of-way boundary, a distance of 80.41 feet; thence South 24 degrees 32 minutes 39 seconds East a distance of 102.95 feet; South 22 degrees 38 minutes 05 seconds West a distance of 140.69 feet to a point of curve to the right; thence Southwesterly, along said curve, on a radius of 125.00 feet, through a central angle of 103 degrees 42 minutes 45 seconds, an arc distance of 226.27 feet (chord of 196.62 feet bears South 74 degrees 29 minutes 27 seconds West) to a point of tangency; thence North 53 degrees 39 minutes 10 seconds West a distance of 82.27 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259 - 66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 695.14 feet to the westerly right-of-way boundary of Tram Connector (proposed 120' Right-of-way); thence along said westerly right-of-way boundary as follows: North 13 degrees 04 minutes 02 seconds East a distance of 53.58 feet to a point of curve to the right; thence Northeasterly, along said curve, on a radius of 810.00 feet, through a central angle of 23 degrees 16 minutes 48 seconds, an arc distance of 329.11 feet (chord of 326.86 feet bears North 24 degrees 42 minutes 26 seconds East) to a point of tangency; thence North 36 degrees 20 minutes 50 seconds East a distance of 908.41 feet to a point of curve to left; thence Northeasterly, along said curve, on a radius of 690.00, through a central angle of 14 degrees 01 minutes 10 seconds, an arc distance of 168.83 feet (chord of 168.41 feet bears North 29 degrees 20 minutes 15 seconds East) to the POINT OF BEGINNING. From said POINT OF BEGINNING, thence North 67 degrees 40 minutes 20 seconds West a distance of 81.70 feet to a point of curve to the right; thence Northwesterly, along said curve, on a radius of 110.00 feet, an arc distance of 195.69 feet (chord of 170.89 feet bears North 16 degrees 42 minutes 26 seconds West) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 140.00 feet; through a central angle of 41 degrees 09 minutes 41 seconds, an arc distance of 100.58 feet (chord of 98.43 feet bears North 13 degrees 40 minutes 37 seconds East) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 150.00 feet, through a central angle of 65 degrees 22 minutes 28 seconds, an arc distance of 171.15 feet (chord of 162.02 feet bears North 25 degrees 47 minutes 01 seconds East) to a point of tangency; thence North 58 degrees 28 minutes 15 seconds East a distance of 108.90 feet; thence South 69 degrees 40 minutes 16 seconds East a distance of 113.74 feet to the westerly right-of-way boundary of said Tram Connector; thence South 20 degrees 19 minutes 44 seconds West a distance of 459.89 feet to a point of curve to the right; thence Southwesterly, along said curve, on a radius of 690.00 feet, through a central angle of 01 degrees 59 minutes 56 seconds, an arc distance of 24.07 feet (chord of 24.07 feet bears South 21 degrees 19 minutes 42 seconds West) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.



COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida; thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259-66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 1461.36 feet to a point of curve to the right; thence Northwesterly, along said northerly right-of-way curve, on a radius of 3173.42 feet, through a central angle of 06 degrees 02 minutes 35 seconds, an arc distance of 334.71 feet (chord of 334.55 feet bears North 73 degrees 54 minutes 41 seconds West) to the easterly boundary of the Capital Circle Office Center; thence along said easterly boundary as follows: North 35 degrees 45 minutes 00 seconds East a distance of 1562.75 feet; thence North 27 degrees 54 minutes 38 seconds East a distance of 214.56 feet; thence North 22 degrees 00 minutes 33 seconds East a distance of 117.90 feet; thence North 10 degrees 57 minutes 24 seconds East a distance of 219.90 feet; thence North 03 degrees 00 minutes 34 seconds East a distance of 403.26 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING, thence continue North 03 degrees 00 minutes 34 seconds East, along said easterly right-of-way boundary of Capital Circle Office Center, a distance of 200.00 feet; thence North 07 degrees 59 minutes 51 seconds East a distance of 111.96 feet to a point on a curve concave to the south for the southerly right-of-way boundary of Shumard Oak Boulevard (proposed 140' Right-of-way extension); thence Easterly, leaving said easterly boundary of Capital Circle Office Center, along said curve, on a radius of 666.68 feet, through a central angle of 24 degrees 07 minutes 25 seconds, an arc distance of 280.70 feet (chord of 278.63 feet bears South 75 degrees 39 minutes 54 seconds East); thence South 23 degrees 59 minutes 03 seconds West, leaving said southern right-of-way boundary of Shumard Oak Boulevard, a distance of 48.29 feet to a point of curve to the left; thence Southwesterly, along said curve, on a radius of 140.00 feet, through a central angle of 52 degrees 35 minutes 41 seconds, an arc distance of 128.51 feet (chord of 124.05 feet bears South 02 degrees 18 minutes 47 seconds West) to a point of reverse curve; thence Southeasterly, along said curve, on a radius of 140.00 feet, through a central angle of 42 degrees 21 minutes 34 seconds, an arc distance of 103.50 feet (chord of 101.16 feet bears South 07 degrees 25 minutes 51 seconds East); thence South 13 degrees 44 minutes 56 seconds West a distance of 101.60 feet; thence South 76 degrees 08 minutes 21 seconds West a distance of 73.52 feet to a point on a curve concave to the northeast; thence Northwesterly, along said curve, on a radius of 320.00 feet, through a central angle of 33 degrees 52 minutes 27 seconds, an arc distance of 189.19 feet (chord of 186.45 feet bears North 43 degrees 46 minutes 53 seconds West) to a point on a line; thence North 86 degrees 59 minutes 26 seconds West a distance of 71.22 feet to the POINT OF BEGINNING.

#### SECTION 22

All of Section 22, Township 1 South, Range 1 East, Leon County, lying North of State Road 261-A (Tram Road).

#### LESS AND EXCEPT:

That part of the following described parcel lying Section 22, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard( a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet

through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING, containing 45.938 acres more or less.

ALSO, LESS AND EXCEPT:

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet; thence leaving said centerline run North 76 degrees 58 minutes 38 seconds West 60.00 feet to a concrete monument on the westerly right-of-way boundary of said Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING thence run South 13 degrees 01 minutes 22

seconds West along said westerly right-of-way 53.22 feet to a concrete monument marking the north right-of-way boundary of said Tram Road; thence run North 76 degrees 58 minutes 41 seconds West along said northerly right-of-way of Tram Road 766.36 feet to a set iron rod and cap marking a point of curve to the right, thence run northwesterly along said right of way curve with a radius of 3172.07 feet through a central angle of 06 degrees 02 minutes 20 seconds for an arc distance of 334.34 feet (chord bears North 73 degrees 57 minutes 31 seconds West 334.18 feet) to a concrete monument marking the easterly boundary of the existing Capital Circle Office Center; thence leaving said northerly right-of-way run North 35 degrees 42 minutes 40 seconds East 1562.71 feet to a concrete monument; thence run North 27 degrees 52 minutes 52 seconds East 214.31 feet to a concrete monument; thence run North 21 degrees 57 minutes 48 seconds East 22.24 feet to an iron rod and cap; thence leaving said easterly boundary of the existing Capital Circle Office Center run South 69 degrees 42 minutes 56 seconds East 739.36 feet; thence run southwesterly along a non-tangent curve to the right with a radius of 140.00 feet through a central angle of 40 degrees 16 minutes 49 seconds for an arc distance 98.42 feet (chord bears South 14 degrees 04 minutes 23 seconds West 96.41 feet) to a point of reverse curve to the left; thence run southeasterly along said curve with a radius of 110.00 feet through a central angle of 101 degrees 55 minutes 47 seconds for an arc distance of 195.69 feet (chord bears South 16 degrees 42 minutes 26 seconds East 170.89 feet); thence run South 67 degrees 43 minutes 00 seconds East 81.70 feet to the westerly right-of-way boundary of said Tram Road Connector; thence run southwesterly along said westerly right-of-way along a curve to the right with a radius of 690.00 feet through a central angle of 14 degrees 01 minutes 10 seconds for an arc distance of 168.83 feet (chord bears South 29 degrees 17 minutes 35 seconds West 168.41 feet) to a concrete monument; thence run South 36 degrees 18 minutes 10 seconds West along said westerly right of way 873.23 feet to a concrete monument marking a point of curve to the right, thence run southwesterly along said right of way curve with a radius of 810.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc distance of 329.11 feet (chord bears South 24 degrees 39 minutes 46 seconds West 326.85 feet) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT:

That part of the following described right of way of Satellite Boulevard, Shumard Oak Boulevard, and Tram Road Connector lying in Sections 21 and 22, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 east, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West

2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 22, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16

minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259-66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 695.14 feet to the westerly right-of-way boundary of Tram Connector (proposed 120' Right-of-way); thence along said westerly right-of-way boundary as follows: North 13 degrees 04 minutes 02 seconds East a distance of 53.58 feet to a point of curve to the right; thence Northeasterly, along said curve, on a radius of 810.00 feet, through a central angle of 23 degrees 16 minutes 48 seconds, an arc distance of 329.11 feet (chord of 326.86 feet bears North 24 degrees 42 minutes 26 seconds East) to a point of tangency; thence North 36 degrees 20 minutes 50 seconds East a distance of 908.41 feet to a point of curve to left; thence Northeasterly, along said curve, on a radius of 690.00, through a central angle of 14 degrees 01 minutes 10 seconds, an arc distance of 168.83 feet (chord of 168.41 feet bears North 29 degrees 20 minutes 15 seconds East) to the POINT OF BEGINNING. From said POINT OF BEGINNING, thence North 67 degrees 40 minutes 20 seconds West a distance of 81.70 feet to a point of curve to the right; thence Northwesterly, along said curve, on a radius of 110.00 feet, an arc distance of 195.69 feet (chord of 170.89 feet bears North 16 degrees 42 minutes 26 seconds West) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 140.00 feet; through a central angle of 41 degrees 09 minutes 41 seconds, an arc distance of 100.58 feet (chord of 98.43 feet bears North 13 degrees 40 minutes 37 seconds East) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 150.00 feet, through a central angle of 65 degrees 22 minutes 28 seconds, an arc distance of 171.15 feet (chord of 162.02 feet bears North 25 degrees 47 minutes 01 seconds East) to a point of tangency; thence North 58 degrees 28 minutes 15 seconds East a distance of 108.90 feet; thence South 69 degrees 40 minutes 16 seconds East a distance of 113.74 feet to the westerly right-of-way boundary of said Tram Connector; thence South 20 degrees 19 minutes 44 seconds West a distance of 459.89 feet to a point of curve to the right; thence Southwesterly, along said curve, on a radius of 690.00 feet, through a central angle of 01 degrees 59 minutes 56 seconds, an arc distance of 24.07 feet (chord of 24.07 feet bears South 21 degrees 19 minutes 42 seconds West) to the POINT OF BEGINNING.

SECTION 27

That portion of Section 27, Township 1 South, Range 1 East, lying North of the right of way of State road 261-A (Tram Road).

SECTIONS 28 and 29

Any portions of the North Half of Sections 28 and 29, Township 1 South, range 1 East, which may be found to lie North of State Road 261 (Capital Circle).

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History-New

42CC-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Ed Hill, Joseph Kelley, J. Everitt Drew, David G. Tillis, and Trey Patton.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 2105, The Capitol, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 1999

**DEPARTMENT OF MANAGEMENT SERVICES**

**Florida Commission on Human Relations**

RULE TITLE: RULE NO.:

Notice of Meetings; Agenda; and 60Y-1.001  
Emergency Meetings

PURPOSE AND EFFECT: The goal and effect of the proposed rule amendment is to annunciate and identify the rule requirements for the notice of meetings, agenda, and emergency meetings, of the Florida Commission on Human Relations.

SUMMARY: The proposed rule amendment identifies Chapter 28-102, instead of Chapter 28-2, Florida Administrative Code, as the governing chapter with respect to the Commission's meeting notices, schedules, and convening of emergency meetings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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.

SPECIFIC AUTHORITY: 760.06(12) FS.

LAW IMPLEMENTED: 120.525 FS.

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

TIME AND DATE: 10:00 a.m., January 18, 2000

PLACE: Florida Commission on Human Relations, Suite 240, Building F, 325 John Knox Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stan Gorsica, Attorney, Florida Commission on Human Relations, Suite 240, Building F, 325 John Knox Road, Tallahassee, Florida 32303-4149, (850)668-7283

THE FULL TEXT OF THE PROPOSED RULE IS:

60Y-1.001 Notice of Meetings; Agenda; and Emergency Meetings.

The Commission shall follow and conform to Chapter 28-102 28-2, Florida Administrative Code, with respect to meeting notices, schedules and convening of emergency meetings.

Specific Authority 760.06(12) ~~120.53, 13.251~~ FS. Law Implemented 120.525 ~~120.53(1)(4)~~ FS. History--New 2-19-76, Formerly 22T-2.01, 22T-2.001, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dana Baird, General Counsel, Florida Commission on Human Relations

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ronald McElrath, Executive Director, Florida Commission on Human Relations

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 19, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Pilot Commissioners**

RULE TITLE: RULE NO.:

Unexcused Absences 61G14-10.0015

PURPOSE AND EFFECT: The Board proposes to define unexcused absences for scheduled Board meetings.

SUMMARY: Unexcused Absences.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 310.185, 455.207(3) FS.

LAW IMPLEMENTED: 455.207(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: E. Madeline Smith, Executive Director, Board of Pilot Commissioners, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-10.0015 Unexcused Absences.

(1) As used in this rule: "Immediate family" consists of a spouse, child, child-in-law, parent, parent-in-law, sibling, grandchild, or grandparent.

"Family" consists of immediate family, nieces, nephews, cousins, and in-laws.

(2) As contemplated by section 455.207(3), Florida Statutes, an unexcused absence is any absence from a regularly scheduled Board meeting which absence does not result from a court order, subpoena, business with a court which has the sole prerogative of setting the date of such business, conflict with other scheduled business of the Board, conflicting business previously authorized by the Board or the Board Chair, death of a member of the member's family, illness of the Board member, hospitalization of a member of the member's immediate family, or absence due to unavoidable travel delays or cancellations.

(3) Three consecutive unexcused absences or absences from 50 percent or more of the Board's meetings within a twelve month period shall cause that member's position on the Board to become vacant. An otherwise excused absence shall be unexcused if the Board member fails to notify the Board office of the impending absence prior to the regularly scheduled Board meeting at which the absence will occur unless the failure to notify the Board office is the result of circumstances surrounding the reason for the absence.

Specific Authority 310.185, 455.207(3) FS. Law Implemented 455.207(3) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pilot Commissioners

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pilot Commissioners

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 1999

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 99-05R

RULE CHAPTER TITLE: Permits  
RULE CHAPTER NO.: 62-4

RULE TITLE: Mixing Zones; Surface Waters  
RULE NO.: 62-4.244

PURPOSE AND EFFECT: The purpose of the proposed rule revisions is to modify the mixing zone rule to incorporate the results from two open ocean research projects [Southeast Florida Outfall Experiments I and II, (SEFLOE I and II)] to address specific issues related to open ocean dischargers of wastewater. The proposed rule revisions provide limited regulatory relief to open ocean dischargers. Open Ocean waters

are defined in Rule 62-600.200(56), FAC., as all surface waters extending seaward from the most seaward natural 90-foot (15-fathom) isobath.

SUMMARY: The City of Hollywood, Miami-Dade Water and Sewer District, and Broward County, working with the U.S. EPA, National Oceanic and Atmospheric Administration, and the Department over the last ten years, have conducted extensive data collection and analysis on the mixing, dispersion, and nearfield dilution of wastewater at the respective utilities' open ocean outfalls. These studies are known as the Southeast Florida Outfall Experiment (SEFLOE). The results have been presented in two sets of documents, SEFLOE I (1987-1990) and SEFLOE II (1990-1994). SEFLOE I collected some new data, but primarily focused on summarizing existing research and a general characterization of the ocean dispersal system. SEFLOE II was designed to collect site-specific data to fully characterize the receiving water condition at each of the participating open ocean outfalls and to provide data that could be used for permitting decisions and rulemaking. The results from SEFLOE II are contained in three volumes and can be used to characterize the initial size and shape of each effluent plume as it rises through the water column, the time it takes the plumes to surface, and the amount of dilution present at each outfall included in the study.

These studies demonstrate that a minimum of 20 to 1 dilution is present under critical conditions at each outfall before the plume reaches the surface and that each discharge rises quickly away from the bottom, minimizing toxicity impacts on adjacent benthic communities. The studies also establish that sufficient dilution exists such that the minimum criterion for dissolved oxygen (1.5 mg/L) will be met within 20 feet of each outfall. Additionally, the Department's evaluation of the data indicate a minimum current speed of 12.3 cm/sec is present at each participating outfall during critical conditions.

On November 17, 1997, the Department received a petition to initiate rulemaking from the City of Hollywood, requesting that the Department revise Rules 62-4.244, 62-302.530, 62-600.420, 62-600.440 and 62-600.520, FAC., to implement the scientific findings of the SEFLOE studies and to address specific permitting problems for open ocean dischargers of domestic wastewater. Based on several meetings between the City of Hollywood and the Department, on December 1, 1998, the City of Hollywood filed an amended petition to revise only Rules 62-4.244 and 62-620.100, FAC. On May 5, 1999, a public workshop was held in the City of Hollywood to obtain public comment on the proposed revisions to the two rules.

There are three changes proposed within Rule 62-4.244(3)(a), FAC. The first two changes are updates to rule references. The third change is language, specific to open ocean dischargers, to relocate the point of compliance with the 1.5 mg/L minimum dissolved oxygen criterion from the outfall terminus to a distance not to exceed 20 feet from the outfall. Due to the long distance required to pipe effluent from each facility to the final

point of discharge in the open ocean environment, the dissolved oxygen concentrations of the effluent frequently falls below the established minimum criterion. Results from the SEFLOE II studies and modeling conducted by the Department indicate that the rapid initial dilution in combination with the speed with which the effluent rises away from the bottom, minimizes the exposure of indigenous benthic biota to low levels of oxygen.

The major portions of the proposed rule revisions, specific to open ocean discharges, are contained within Rule 62-4.244(3)(c), FAC. First, within Rule 62-4.244(3)(c)(1), it is specified that makeup water for toxicity testing must be with water having salinity representative of the receiving water's salinity. This is consistent with current Department procedures. Second, within Rule 62-4.244(3)(c)(2), a clarification is added, that "appropriate" models from the incorporated reference be used. Third, language is added within the same subsection that SEFLOE II participants (Miami-Dade North, Miami-Dade Central, Broward County, and the City of Hollywood) may use a default current speed of 12.3 cm/sec. Language is added establishing the need for a site-specific study for all other open ocean dischargers not using stagnant ambient conditions (0.0 cm/sec current speed). Fourth, within Rule 62-4.244(3)(c)(3), language is added specific to open ocean dischargers (based on the SEFLOE II studies and Department analysis) that negates the need for a mixing zone if certain demonstrations detailed in the rule are met. These demonstrations include 30% effluent not exceeding the 96-hr LC50, at least 20 to 1 dilution within the rise of plume, and that 20 to 1 or less dilution is required to meet the specific criterion. The new language will establish methods for determining worst case effluent and background concentrations, required dilution, appropriate effluent limitations, facility performance checks, applicability of relief, and compliance with limitations. Additionally, the revisions would make clear that this relief is not applicable for bacterial criteria or silver in marine waters.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 403.051, 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 403.021, 403.051, 403.061, 403.087, 403.088, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708 FS.

A HEARING WILL BE HELD BEFORE THE FLORIDA ENVIRONMENTAL REGULATION COMMISSION AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., January 26, 2000

PLACE: Bunnell City Hall, 200 S. Church Street, Bunnell, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Gilbert, Division of Water Resource Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)921-9475, Suncom 291-9475, Fax (850)921-5655

THE FULL TEXT OF THE PROPOSED RULE IS:

62-4.244 Mixing Zones; Surface Waters.

(1) through (2) No change.

(3)(a) Waters within mixing zones shall not be degraded below the minimum standards prescribed for all waters at all times in Rule 62-302.500 ~~Section 62-3.051~~, F.A.C. In determining compliance with the provisions of Rule 62-302.500(1) ~~62-3.051(1)~~, F.A.C., the average concentration of the wastes in the mixing zone shall be measured or computed using scientific techniques approved by the Department; provided that, the maximum concentration of wastes in the mixing zone shall not exceed the amount lethal to 50% of the test organisms in 96 hours (96 hr LC50) for a species significant to the indigenous aquatic community, except as provided in paragraphs (b) or (c) below. The dissolved oxygen value within any mixing zone shall not be less than 1.5 milligrams per liter at any time or place, except for an open ocean discharge which must be above 1.5 milligrams per liter within 20 feet of the outfall structure.

(b) No change.

(c) For open ocean discharges:-

1. The effluent, when diluted to 30% full strength with water having a salinity representative of the average receiving-water's salinity, shall not cause more than 50% mortality in 96 hours (96-hr. LC50) in a species significant to the indigenous aquatic community.

2. Rapid dilution shall be ensured by use of multiport diffusers, or a single port outfall designed (by a professional engineer registered in Florida) to achieve a minimum of 20:1 dilution of the effluent prior to reaching the surface. This dilution shall be determined using the appropriate plume model described in the EPA document, "Initial Mixing Characteristics of Municipal Ocean Discharges: Volume 1. Procedures and Applications," using the "Single plume, stagnant ambient" procedures; or current speeds as established by field measurements; or an equivalent method previously approved by the Department. Miami-Dade Central District, Miami-Dade North District, City of Hollywood, and Broward County may use 12.3 cm/sec as a default value for ambient current speed at the present location of their respective outfalls. Alternatively, dilution studies for facilities not using the "Single plume, stagnant ambient" procedures or the 12.3 cm/sec default

ambient current speed (as appropriate) shall be conducted in accordance with a site-specific Department approved Plan of Study. The Plan of Study shall be approved upon a demonstration by the applicant that the plan will produce data to characterize the daily, seasonal, and annual fluctuations in current speed and direction. The discharge shall otherwise comply with federal law.

3. For open ocean dischargers that comply with the requirements of Rule 62-4.244(3)(c)1. and 2., F.A.C., compliance with applicable water quality criteria specified in Rule 62-302.530, F.A.C. (criteria), must be achieved by the point the discharge attains 20:1 dilution rather than at the point of discharge. Mixing zones shall not be necessary for any parameter that requires 20:1 dilution or less to attain criteria. However, effluent limitations will be set by permit, and dilutions will be granted up to 20:1 in these limitations, for parameters that exceed criteria at the end-of-pipe.

a. The demonstration of required dilution shall be determined by the ratio of the worst case effluent concentration (WCEC) minus the worst case background concentration to the criterion minus the worst case background concentration, i.e.:

(Worst case effluent concentration – Worst case background concentration)

(Criterion – Worst case background concentration)

b. The WCEC for parameters that exceed criteria in the effluent shall be the 95th percentile effluent concentration (of DMR or other data collected in accordance with the sampling requirements of the permit measured for the most recent 3-year monitoring period, at the time of permit renewal) for each such parameter and not based on the maximum amount of dilution available. The WCEC used to demonstrate the required dilution for a parameter shall also be used as a facility performance check for each such parameter. Any exceedance of the WCEC shall provide sufficient cause for the Department to re-evaluate the applicability of this section and revise the permit. Additionally, any measured value(s) of sufficient concentration to require greater than 20:1 dilution to attain criteria shall be considered as a violation of the permit.

4. Rule 62-4.244(3)(c)3. does not apply to bacterial criteria or silver in marine waters.

(4) through (7) No change.

Specific Authority 403.051, 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708 FS. History—Formerly part of 17-3.05, Revised and Renumbered 3-1-79, Amended 10-2-80, 1-1-83, 2-1-83, 12-19-84, 4-26-87, 8-31-88, 10-17-90, Formerly 17-4.244, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
DOCKET NO.: 99-06R

RULE CHAPTER TITLE: Wastewater Facility Permitting                    RULE CHAPTER NO.: 62-620

RULE TITLE: Scope\Applicability\References                    RULE NO.: 62-620.100

PURPOSE AND EFFECT: The purpose of the proposed rule revisions is to modify Rule 62-620.100, FAC., to incorporate the results from two open ocean research projects [Southeast Florida Outfall Experiments I and II, (SEFLOE I and II)] to address specific issues related to open ocean dischargers of wastewater. The proposed rule revisions provide limited regulatory relief to open ocean dischargers. Open Ocean waters are defined in Rule 62-600.200(56), FAC., as all surface waters extending seaward from the most seaward natural 90-foot (15-fathom) isobath. In addition, proposed changes to Rule 62-620.100(1)(g), FAC., would incorporate by reference 40 C.F.R. 133.102 (a)(4) (ii-iii), which addresses effluent quality with respect to Carbonaceous Biochemical Oxygen Demand and would be generally applicable to all dischargers.

SUMMARY: The City of Hollywood, Miami-Dade Water and Sewer District, and Broward County, working with the U.S. EPA, National Oceanic and Atmospheric Administration, and the Department over the last ten years, have conducted extensive data collection and analysis on the mixing, dispersion, and nearfield dilution of wastewater at the respective utilities' open ocean outfalls. These studies are known as the Southeast Florida Outfall Experiment (SEFLOE). The results have been presented in two sets of documents, SEFLOE I (1987-1990) and SEFLOE II (1990-1994). SEFLOE I collected some new data, but primarily focused on summarizing existing research and a general characterization of the ocean dispersal system. SEFLOE II was designed to collect site-specific data to fully characterize the receiving water condition at each of the participating open ocean outfalls and to provide data that could be used for permitting decisions and rulemaking. The results from SEFLOE II are contained in three volumes and can be used to characterize the initial size and shape of each effluent plume as it rises through the water column, the time it takes the plumes to surface, and the amount of dilution present at each outfall included in the study.

These studies demonstrate that a minimum of 20 to 1 dilution is present under critical conditions at each outfall before the plume reaches the surface and that each discharge rises quickly away from the bottom, minimizing toxicity impacts on adjacent benthic communities. The studies also establish that sufficient dilution exists such that the minimum criterion for dissolved oxygen (1.5 mg/L) will be met within 20 feet of each

outfall. Additionally, the Department's evaluation of the data indicate a minimum current speed of 12.3 cm/sec is present at each participating outfall during critical conditions.

On November 17, 1997, the Department received a petition to initiate rulemaking from the City of Hollywood, requesting that the Department revise Rules 62-4.244, 62-302.530, 62-600.420, 62-600.440 and 62-600.520, FAC., to implement the scientific findings of the SEFLOE studies and to address specific permitting problems for open ocean dischargers of domestic wastewater. Based on several meetings between the City of Hollywood and the Department, on December 1, 1998, the City of Hollywood filed an amended petition to revise only Rules 62-4.244 and 62-620.100, FAC. On May 5, 1999, a public workshop was held in the City of Hollywood to obtain public comment on the proposed revisions to the two rules.

The proposed changes to Rule 62-620.100(1)(g), FAC., would incorporate by reference 40 C.F.R. 133.102 (a)(4) (ii-iii). This is in keeping with the original intent of the rule to specify effluent quality with respect to Carbonaceous Biochemical Oxygen Demand and would be generally applicable to all dischargers.

Changes to Rule 62-620.100(1)(q), FAC., would allow open ocean dischargers to request waivers of the percent removal requirements for BOD and TSS limitations. The permittee would be required to demonstrate that the inability to meet the percent removal requirements was not due to excessive inflow/infiltration and that the treatment works would have to otherwise achieve significantly more stringent limitations than would be required by the concentration-based standards. These proposed rule changes are not intended to allow any facility that discharges domestic wastewater to provide less than secondary treatment as prescribed in Section 403.085, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 403.051, 403.061, 403.087, 403.088, 403.0885, 403.08851 FS.

LAW IMPLEMENTED: 403.051, 403.061, 403.087, 403.088, 403.0885 FS.

A HEARING WILL BE HELD BEFORE THE FLORIDA ENVIRONMENTAL REGULATION COMMISSION AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., January 26, 2000

PLACE: Bunnell City Hall, 200 S. Church Street, Bunnell, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel, (850)488-2996 or 1(800)-955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Gilbert, Division of Water Resource Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)921-9475, Suncom 291-9475, Fax (850)921-5655

THE FULL TEXT OF THE PROPOSED RULE IS:

62-620.100 Scope\Applicability\References.

(1) through (3)(f) No change.

(g) 40 CFR 133.102(a)(4)(i)-(iii), which contains the level of effluent quality required for Carbonaceous Biochemical Oxygen Demand (CBOD5).

(h) through (p) No change.

(q) For the special case of open ocean dischargers, 40 C.F.R. 133.103(d), which contains the authorization to substitute a lower percent removal requirement or mass loading limit for BOD and TSS limitations for otherwise applicable requirements.

(4) No change.

Specific Authority 403.051, 403.061, 403.087, 403.088, 403.0885, 403.08851 FS. Law Implemented 403.051, 403.061, 403.087, 403.088, 403.0885 FS. History--New 11-29-94, Amended 12-24-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 99-49R

RULE CHAPTER TITLE: Generic Permits  
 RULE CHAPTER NO.: 62-621

RULE TITLES: General Conditions  
 Rule NOS.: 62-621.250  
 Permits 62-621.300  
 Best Management Practices (BMP) Plan 62-621.700

PURPOSE AND EFFECT: The Department of Environmental Protection (Department) intends to reissue the Generic Permit for Discharges From Petroleum Contaminated Sites and the Generic Permit for Discharge of Produced Ground Water From Any Non-Contaminated Site Activity which are incorporated by reference in this Rule Chapter. The Department's generic permit program is one element of the federally delegated National Pollutant Discharge Elimination System (NPDES) program. The aforementioned generic permits are scheduled to expire on August 22, 2000. The Department intends to reissue



and revise the generic permits to provide for a coverage period of up to five years for each covered activity, consistent with NPDES program requirements and the Department's implementation of the generic permit program. The proposed rule change will allow the Department to continue to address discharges from petroleum contaminated sites and discharges of produced ground water from uncontaminated site activities through the generic permit program.

SUMMARY: The proposed rulemaking is to reissue and revise the Generic Permit for Discharges From Petroleum Contaminated Sites and the Generic Permit for Discharge of Produced Ground Water From Any Non-Contaminated Site Activity to provide for a coverage period of up to five years for each covered activity and to update references to incorporated documents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding a 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.

SPECIFIC AUTHORITY: 373.043, 373.1131, 373.413, 373.414, 373.416, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.08851 FS.

LAW IMPLEMENTED: 373.043, 373.1131, 373.413, 373.414, 373.416, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.08851 FS.

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

TIME AND DATE: 2:00 p.m., January 14, 2000

PLACE: Conference Room A, Douglas Building, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Fred Noble, Division of Water Resource Management, Bureau of Water Facilities Regulation, Mail Station 3545, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)488-4522

THE FULL TEXT OF THE PROPOSED RULE IS:

62-621.250 General Conditions.

Notwithstanding Rule 62-620.610, F.A.C., and unless stated otherwise in this Chapter, the following conditions apply to all permits listed in this Chapter:

- (1) through (18) No change.

(19) The use of generic permits issued under this Chapter is limited to a term not to exceed five years ~~the expiration date of the generic permit~~. Terms and conditions of the permit are automatically continued in accordance with 40 CFR 122.6, which is hereby incorporated by reference, only where the permittee has submitted a timely and complete Notice of Intent 180 days prior to expiration of ~~this~~ permit coverage. The requirements for submittal of Notice of Intent are located in each specific generic permit.

- (20) No change.

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 FS. Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 FS. History—New 8-22-95, Amended 5-1-97, \_\_\_\_\_.

62-621.300 Permits.

(1) Generic Permit for Discharges From Petroleum Contaminated Sites.

(a) The document "Generic Permit for Discharges From Petroleum Contaminated Sites," document number 62-621.300(1), issued by the Department and effective [effective date], ~~dated March 10, 1997~~ is hereby incorporated by reference and made part of this Chapter. This document may be obtained by contacting either the local Department District Office or by writing the Department of Environmental Protection, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(b) The document referenced in rule 62-621.300(1)(a) ~~item (1) of this section~~ contains the specific discharge limits, operating requirements, and application requirements for discharges from petroleum contaminated sites.

~~(c) Coverage under this generic permit expires on August 22, 2000.~~

(2) Generic Permit for Discharge of Produced Ground Water From any Non-contaminated Site Activity.

(a) The document "Generic Permit for the Discharge of Produced Ground Water From Any Non-Contaminated Site Activity," document number 62-621.300(2), issued by the Department and effective [effective date], ~~dated March 10, 1997~~, is hereby incorporated by reference and made part of this Chapter. This document may be obtained by contacting either the local Department District Office or by writing the Department of Environmental Protection, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(b) The document referenced in rule 62-621.300(2)(a) ~~item (1) of this section~~ contains the specific discharge limits and operating requirements for discharges of produced ground water from any site activity.

~~(c) Coverage under this generic permit expires on August 22, 2000.~~

- (3) No change.

Specific Authority 373.043, 373.1131, 373.413, 373.414, 373.416, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.08851 FS. Law Implemented 373.043, 373.1131, 373.413, 373.414, 373.416, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.08851 FS. History—New 12-24-96, Amended 5-1-97, \_\_\_\_\_.

62-621.700 Best Management Practices (BMP) Plan.

When a BMP plan is required by a generic permit listed in this Chapter, the permittee shall prepare the plan in accordance with the following procedures:

(1) through (2) No change.

(3) The publication “Guidance Manual for Developing Best Management Practices (BMP).” document number EPA 833-B-93-004, ~~“NPDES Guidance Document”~~ can be used as a reference which contains technical information on BMPs and the elements of the BMP program. Copies of this publication ~~The “NPDES Guidance Document” can~~ may be obtained by submitting written requests to: Department of Environmental Protection, Bureau of Water Facilities ~~Planning and~~ Regulation, Industrial Wastewater Section, Mail Station #3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or Director, Water Management Division, U.S. EPA Region IV, 61 Forsyth Street, 345 Courtland St., N. E., Atlanta, Georgia 30303 30365.

Specific Authority 403.061, 403.087, 403.088, 403.0885, 403.08851 FS. Law Implemented 403.061, 403.087, 403.088, 403.0885, 403.08851 FS. History—New 8-22-95, Amended 7-1-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 1999

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-32R

RULE CHAPTER TITLE: WASTE TIRE Rule

RULE CHAPTER NO.: 62-711

RULE TITLES: Waste Tire Permit Requirements

RULE NOS: 62-711.300

Waste Tire Prohibitions

62-711.400

Waste Tire Site Notification and Requirements

62-711.500

Waste Tire Collector Requirements

62-711.520

Waste Tire Processing Facility Requirements

62-711.530

Storage Requirements

62-711.540

Waste Tire Collection Center Requirements

62-711.550

Closing of Waste Tire Sites

62-711.700

General Permits

62-711.801

PURPOSE AND EFFECT: Chapter 99-215, Laws of Florida., amended Section 403.717, Florida Statutes, to raise the minimum number of waste tires in a waste tire site from 1,000 to 1,500, and to make other corresponding changes to reflect this new number. This will require a number of conforming changes to the Waste Tire Rule. In addition, the Department is proposing to add criteria to determine when a processed tire is considered a product. There are also a number of clerical or technical changes which need to be made.

SUMMARY: All references in the rule chapter to 1,000 tires have been changed to 1,500 tires. A subsection is being added to Rule 62-711.300 which will provide that a facility which receives certain size tire chips (a nominal one-inch chip) or crumb rubber (less than .5 inches) and consumes these processed tires as a fuel or raw material will not need to obtain a waste tire processing facility permit. A number of clerical changes are also being made, mainly updating cross-references to forms and other rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 403.704, 403.709, 403.717, 403.814 FS.

LAW IMPLEMENTED: 403.707, 403.709, 403.717, 403.814 FS.

A HEARING WILL BE HELD BEFORE THE ENVIRONMENTAL REGULATION COMMISSION AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., Wednesday, January 26, 2000

PLACE: Bunnell City Hall, 200 South Church Street, Bunnell, Florida 32110

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel Services, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jan Rae Clark, Solid Waste Section, Mail Station 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)488-0300

THE FULL TEXT OF THE PROPOSED RULES IS:

62-711.300 Waste Tire Permit Requirements.

(1) through (2) No change.

(3) Waste tire collection centers which are not exempt from permitting under Rule ~~62-711.300(9)~~ ~~62-711.310~~, F.A.C., shall obtain a permit and shall meet the requirements for waste tire collection centers in Rule 62-711.550, F.A.C.

(4) through (8) No change.

(9) A permit is not required under this chapter for tire storage at:

(a) A tire retreading business, unless 1,500 ~~4,000~~ or more waste tires are stored on the business premises;

(b) A single facility that, in the ordinary course of business, removes tires from motor vehicles, unless 1,500 ~~4,000~~ or more waste tires are stored on the business premises; or

(c) A retail tire-selling business which is serving as a waste tire collection center, unless 1,500 ~~4,000~~ or more waste tires are stored on the business premises.

(10) Facilities which receive and consume processed tires for use as a fuel source or raw material shall not be required to obtain a waste tire processing facility permit for storage of this material, provided the following specifications and conditions are met:

(a) The processed tires conform to specifications for nominal one-inch chips, as specified in Table I, or conform to specifications for crumb rubber, as specified in Table II.

| <u>TABLE I</u><br><u>Nominal 1-inch Processed Tire Chip</u> |  |   |
|---|--|---|
| <u>Characteristic</u>                                       | <u>Specification</u>   | <u>Testing Procedure</u>  |
| <u>Particle Size</u>  | <10% by weight retained on a 2" square sieve<br><5% total by weight passing through a # 4 sieve. | <u>Sieve Analysis Procedure:</u><br><u>ASTM D 422-63 (Reapproved 1990)</u>  |
| <u>Wire Content</u>   | <1% by weight free wire<br><br><3% of the particles contain bead wire.                           | <u>No established procedure.</u><br><u>Magnetically or physically separate and weigh free wire as a % of a sample weighing 15-25 pounds</u><br><u>No established procedure.</u><br><u>Physically separate and count particles containing bead wire as a % of a sample of at least 100 particles</u> |

| <u>TABLE II</u><br><u>Crumb Rubber</u> |  |  |
|--|--|--|
| <u>Characteristic</u>                  | <u>Specification</u>                         | <u>Testing Procedure</u>   |
| <u>Particle Size</u>                   | 0% by weight retained on a .05" square sieve | <u>Sieve Analysis Procedure:</u><br><u>ASTM D 422-63 (Reapproved 1990)</u>   |
| <u>Wire Content</u>                    | <1% by weight free wire                      | <u>No established procedure.</u><br><br><u>Magnetically or physically separate and weight free wire as a % of total sample weighing 15-25 pounds</u> |
| <u>Fabric Content</u>                  | <10% by weight                               | <u>No established procedure.</u><br><br><u>Physically separate and weigh fabric as % of a total sample weighting 15-25 pounds</u>                    |

(b) Storage of either nominal one-inch chips or crumb rubber shall conform to Rules 62-711.540(1)(b), (g) and (h); (2); and (3) , except that maximum pile height shall be limited to 10 feet.

(c) For facilities consuming nominal one-inch chips, the maximum processed tire inventory shall be limited to the following:

1. For facilities which have been in operation less than six months, one month's projected usage based on design capacity; or

2. For other facilities, two times the average actual monthly usage during the preceding six months.

3. For single project applications, the entire stockpile shall be consumed within 120 days of its initial formation.

(d) Processed tires, including those meeting the above specifications for nominal one-inch chips or crumb rubber, shall be transported only by a registered waste tire collector.

(e) Facilities which cut, shred, or otherwise alter whole waste tires, or accept processed tires for further processing, are considered waste tire processing facilities, and the processed tires produced will be considered waste tires, even if the resulting processed tire material meets the above specifications for nominal one-inch chips or crumb rubber. Facilities that receive, consume, or process whole waste tires or processed tires other than these specified types and sizes will continue to be regulated as waste tire processing facilities.

(f) Specific references to the following document is made in this rule: ASTM Method D 422-63 (Reapproved 1990), Standard Test Method for Particle-Size Analysis of Soils, Reapproved and editorial changes made September 1990. This document is adopted as a standard and is incorporated into this rule by reference. The reference document is available for inspection at any of the Department's district offices.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.707, 403.717 FS. History--New 2-19-89, Amended 11-7-90, 2-28-94, Formerly 17-711.300, Amended 12-17-96,\_\_\_\_\_.

62-711.400 Waste Tire Prohibitions.

(1) No person may maintain a waste tire site unless such site is an integral part of a permitted waste tire processing facility, except as provided in Rule 62-711.500 62-711.510(4), F.A.C. For the purpose of this rule, "an integral part of a waste tire processing facility" means the waste tire site is on the same property as the processing facility.

(2) No change.

(3) Whole waste tires may not be disposed of in a landfill. Waste tires that have been cut into sufficiently small parts may be disposed of or used as initial cover at a permitted landfill.

(a) No change.

(b) For purposes of disposal, a sufficiently small part means that the tire has been cut into at least eight substantially equal pieces. Any processed tire which is disposed of in a

landfill and which does not meet the size requirement of subsection (a) above must receive initial cover, as defined in Rule 62-701.200(~~53~~)(~~37~~), F.A.C., once every week.

(4) No person shall store waste tires unless the waste tires are:

(a) through (c) No change.

(d) Collected and stored at a facility exempted under Rule 62-711.300 62-711.340, F.A.C.

(5) No change.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.717 FS. History--New 2-19-89, Amended 11-7-90, 9-8-92, 2-28-94, Formerly 17-711.400, Amended\_\_\_\_\_.

62-711.500 Waste Tire Site Notification and Requirements.

(1) The owner or operator of any waste tire site shall provide the Department with information concerning the site's size, location, and the quantity of waste tires accumulated at the site. Form 62-701.900(20)(47) shall be used for such information, and shall include the following:

(a) through (e) No change.

(2) through (5) No change.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.717 FS. History--New 2-19-89, Amended 2-28-94, Formerly 17-711.500, Amended 12-17-96,\_\_\_\_\_.

62-711.520 Waste Tire Collector Requirements.

(1) through (3) No change.

(4) To obtain or renew a waste tire collector registration number and approval to transport waste tires, a collector shall submit an application on Form 62-701.900(18) 62-711.900(+) to the Department. All waste tire collector registrations expire on April 1 each year, unless renewed. Renewal applications shall be submitted annually by March 1. For a new collector, the application shall be submitted at least 30 days before the collector intends to begin transporting waste tires. The application shall contain at least the following information:

(a) through (f) No change.

(5) through (6) No change.

(7) Waste tire collectors shall submit to the Department an annual report that summarizes the information collected under subsection (6) above. The information shall be submitted to the Department on Form 62-701.900(22) 62-711.900(5), provided by the Department. This report shall be submitted to the Department annually by March 1 with the annual registration fee and renewal application as a condition of renewing and maintaining a registration.

(8) through (12) No change.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.717 FS. History--New 2-19-89, Amended 11-7-90, 2-28-94, Formerly 17-711.520, Amended\_\_\_\_\_.

62-711.530 Waste Tire Processing Facility Requirements.

(1) All waste tires shall be stored in accordance with the waste tire site requirements in Rule ~~62-711.500~~ ~~62-711.510~~, F.A.C.

(2) through (4) No change.

(5) Owners and operators of waste tire processing facilities shall submit quarterly reports to the Department that summarize the information collected under subsection (4) above. These reports shall be submitted by the 20th of the month following the close of each calendar quarter. The report shall be submitted to the Department on Form ~~62-701.900(21)~~ ~~62-711.900(4)~~. In addition to the information required in subsection (4) above, the following information shall be included:

(a) through (g) No change.

(6) Applications for processing facility permits shall be submitted to the Department on Form ~~62-701.900(23)~~ ~~62-711.900(6)~~.

(7) Processing facilities that will process less than ~~1,500~~ ~~1,000~~ tires during any 30 days and store less than ~~1,500~~ ~~1,000~~ waste tires on any day may be permitted as "Small processing facilities." The owner or operator of such a facility shall submit a permit application to the Department on Form ~~62-701.900(24)~~ ~~62-711.900(7)~~. The application fee for a "Small processing facility" is \$500. A small processing facility is subject to the same requirements as a waste tire processing facility, but is exempt from the specific requirements of Rules 62-711.530(1), (2) and (6), F.A.C., and Rule 62-711.540(3), F.A.C.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.087, 403.717 FS. History—New 2-19-89, Amended 11-7-90, 2-28-94, Formerly 17-711.530, Amended.

62-711.540 Storage Requirements.

(1) through (3) No change.

(4) For all waste tire sites, collection centers, processing facilities, and disposal facilities which store processed waste tires, the temperature of any above-ground piles of compacted, processed tires over ~~ten~~ ~~eight~~ feet high shall be monitored and may not exceed 300 degrees Fahrenheit. Temperature control measures shall be instituted so that pile temperatures do not exceed 300 degrees Fahrenheit. Temperature monitoring and controls are not required for processed tires disposed of in permitted landfills.

(5) through (6) No change.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.717 FS. History—New 2-19-89, Amended 11-7-90, 2-28-94, Formerly 17-711.540, Amended.

62-711.550 Waste Tire Collection Center Requirements.

(1) The owner or operator of a waste tire collection center shall meet the following requirements:

(a) Store no more than ~~1,500~~ ~~1,000~~ waste tires at the collection center at any one time;

(b) through (c) No change.

(2) Applications for collection center permits shall be submitted to the Department on Form ~~62-701.900(25)~~ ~~62-711.900(8)~~. The application shall contain the following information:

(a) The name, address, FEID number, and telephone number of the owner and operator of the facility, and the name, address, and telephone number of the facility;

(b) through (e) No change.

(3) through (4) No change.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.717 FS. History—New 2-28-94, Formerly 17-711.550, Amended.

62-711.700 Closing of Waste Tire Sites.

(1) through (2) No change.

(3) All permits issued under this rule shall include an approved closing plan. The closing plan shall include:

(a) through (c) No change.

(d) Proof of financial assurance pursuant to Rules ~~62-711.500(3)~~ ~~62-711.510(2)~~ ~~(4)~~, F.A.C.

(4) No change.

Specific Authority 403.704, 403.717 FS. Law Implemented 403.717 FS. History—New 2-19-89, Amended 11-7-90, 2-28-94, Formerly 17-711.700, Amended.

62-711.801 General Permits.

(1) No change.

(2) To obtain a general permit the owners and operators of the mobile equipment shall notify the Department on Form ~~62-701.900(19)~~ ~~62-711.900(2)~~. The notification shall be submitted at least 30 days before the operation begins or the existing general permit expires. The notification shall contain the following information:

(a) The name, address, FEID number, and telephone number of the owner and operator of the mobile equipment; and

(b) through (c) No change.

(3) Owners or operators of mobile processing equipment shall report to the Department every three months, describing each site at which the mobile equipment has operated. The owner or operator shall use Form Number ~~62-701.900(19)~~ ~~62-711.900(2)~~ for such reports.

(4) through (5) No change.

Specific Authority 403.704, 403.717, 403.814 FS. Law Implemented 403.717, 403.814 FS. History—New 2-19-89, Amended 2-28-94, Formerly 17-711.801, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bill Hinkley, Chief, Bureau of Solid and Hazardous Waste  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Ruddell, Director, Division of Waste Management

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: September 3, 1999

**DEPARTMENT OF HEALTH**

**Division of Environmental Health and Statewide Programs**

| RULE TITLES:   | RULE NOS.: |
|--|------------|
| Definitions  | 64E-1.001  |
| Laboratory Certification Standards   | 64E-1.0015 |
| Certification – Application, Inspection,<br>and Renewal  | 64E-1.002  |
| Personnel, Sample Collection and Handling,<br>Methodology, Proficiency Testing and<br>Quality Assurance Requirements | 64E-1.003  |
| Certification of Out-of-State Laboratories   | 64E-1.004  |
| Records, Reports, and Contractual Agreements   | 64E-1.005  |
| Denial or Decertification  | 64E-1.006  |
| Fees and Certification Categories  | 64E-1.007  |
| Scope of Accreditation   | 64E-1.008  |
| Laboratory Certification Criteria  | 64E-1.009  |
| Definitions  | 64E-1.100  |
| Categories of Certification  | 64E-1.101  |
| Certification Requirements   | 64E-1.102  |
| Methodology  | 64E-1.103  |
| On-Site Evaluations  | 64E-1.104  |
| Display of Certificate and Use of Certification  | 64E-1.105  |
| Proficiency Testing Requirements   | 64E-1.106  |
| Renewal of Annual Certification  | 64E-1.107  |
| Contractual Agreements, Records, and Reports   | 64E-1.108  |
| Denial or Revocation   | 64E-1.109  |
| Fees   | 64E-1.110  |

**PURPOSE AND EFFECT:** The proposed rule amendments will change the criteria for laboratory certification to conform to the consensus standards adopted at the National Environmental Laboratory Accreditation Conference (NELAC). The existing Safe Drinking Water and Environmental Water testing laboratory certifications will be combined into one program. The scope of this program will be expanded to offer new test methods for certification, plus allow flexibility of approval of alternate or performance-based environmental measurement protocols. The certification fee structure will be changed to accommodate the reorganized categories of certification and allow the Department to recover the costs of operating the certification program.

**SUMMARY:** The scope of certification offered will be organized into category groups based on regulatory program (e.g., SDWA, RCRA, CWA) and scientific discipline. The certification requirements will conform to the applicable NELAC Standards adopted herein by reference. The certification fees are revised to reflect the cost of certifying laboratories more accurately and equitably.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** The certification fees for basic environmental and full service testing laboratories will

increase; however, the fees for intermediate-size laboratories may decrease as certification categories are consolidated. The Department considered the cost of proficiency test samples that laboratories will have to purchase from commercial suppliers to comply with these rules, in determining the certification fees. The rule amendments should have no effect on competition and the open market. However, because laboratory testing according to the NELAC Standards can assist in the production of environmental data with a known, usable, defensible validity, regulatory agencies will increasingly accept data from certified laboratories, and the competition from unqualified laboratories that underbid certified laboratories for contracts will be eliminated.

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.

**SPECIFIC AUTHORITY:** 381.00591, 403.0625(3), 403.863(1), 403.863(2) FS.

**LAW IMPLEMENTED:** 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.863(1), 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2), 403.8635(3) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., January 25, 2000

**PLACE:** Florida Department of Health, Bureau of Laboratories, Porter Auditorium, 1217 N. Pearl Street, Jacksonville, FL 32202

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Stephen A. Arms, Program Administrator, Bureau of Laboratories, P. O. Box 210, Jacksonville, FL 32231

**THE FULL TEXT OF THE PROPOSED RULES IS:**

**64E-1.001 Definitions.**

Specific Authority 381.00591, 403.0625(3), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4) 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2) FS. History—New 4-22-79, Amended 3-7-85, Formerly 10D-41.51, Amended 12-12-89, 11-15-90, 8-5-93, 4-19-95, 4-25-96, Formerly 10D-41.051, Repealed \_\_\_\_\_.

**64E-1.0015 Laboratory Certification Standards.**

Any environmental testing laboratory certified or seeking certification pursuant to this rule shall comply with Section 1.8.1; Appendix A to Chapter 1 (Program Policy and Structure); Sections 2.1.3, 2.2.3, 2.4, 2.5, 2.7.2, 2.7.3, 2.7.4, 2.7.6, 3.4.5, 3.5, 4.1, 4.2, 4.3, 4.4, and 4.6; Chapter 5 (Quality Systems) and its Appendices; and Sections 6.2.2 and 6.8 of the standards adopted at the National Environmental Laboratory Accreditation Conference (NELAC) on July 1, 1999, which are adopted herein by reference.

Specific Authority 381.00591, 403.0625(3), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2) FS. History—New

64E-1.002 Certification – Application, Inspection and Renewal.

Specific Authority 403.863 FS. Law Implemented 403.863, 403.8635 FS. History—New 4-22-79, Amended 3-7-85, Formerly 10D-41.52, Amended 12-12-89, 8-5-93, 4-19-95, 4-25-96, Formerly 10D-41.052, Repealed

64E-1.003 Personnel, Sample Collection and Handling, Methodology, Proficiency Testing and Quality Assurance Requirements.

Specific Authority 403.863 FS. Law Implemented 403.863, 403.8635 FS. History—New 4-22-79, Amended 3-7-85, Formerly 10D-41.53, Amended 12-12-89, 11-15-90, 8-5-93, 4-19-95, 4-25-96, 12-11-96, Formerly 10D-41.053, Repealed

64E-1.004 Certification of Out-of-State Laboratories.

Specific Authority 403.863 FS. Law Implemented 403.863, 403.8635 FS. History—New 4-22-79, Amended 3-7-85, Formerly 10D-41.54, Amended 12-12-89, 8-5-93, 4-25-96, Formerly 10D-41.054, Repealed

64E-1.005 Records, Reports, and Contractual Agreements.

(1) Laboratories shall maintain analytical performance according to Chapter 5 of the NELAC Standards, referenced in Rule 64E-1.0015, for those analytes and test methods with which they have been certified or are seeking certification. Each certified laboratory shall maintain the documentation required in Chapter 5 of the NELAC Standards and comply with the laboratory report format and content requirements in Section 5.13 of the NELAC Standards.

(2) For compliance with the Florida Safe Drinking Water Act, (The laboratory will report the information described in Rule 62-550.730(2)(a), revised on 12-9-96, in the appropriate format approved by the Department of Environmental Protection.

(2) Results of analysis-

(a) The laboratory may report presumptive positive microbiological results immediately without waiting for total coliform confirmation. The laboratory shall report confirmed positive total coliform results to the supplier of water no later than the end of the next business day after confirmed positive total coliform results are determined. The laboratory shall report positive fecal coliform or E. coli results to the supplier of water by the end of the day when the results are determined, unless the results are determined after the water supplier's office is closed, in which case the laboratory shall report the results to the water supplier before the end of the next business day. If a laboratory invalidates a sample due to heterotrophic interference as described in Rule 62-550.518(10)(b), which is adopted by reference herein, the replacement sample must be analyzed by a Department of Health certified laboratory using a method less susceptible to heterotrophic interference (e.g. MMO-MUG).

(b) Whenever a sample result, or the average of the results from an initial sample and a confirmation sample, exceeds the maximum contaminant level for nitrate, nitrite, or total nitrate-nitrite, the laboratory shall report the result to the supplier of water by the end of the day when the result was determined, unless the result was determined after the water supplier's office is closed, in which case the laboratory shall report the result to the water supplier before the end of the next business day.

(c) Whenever a sample result exceeds the maximum contaminant level for any other contaminant listed in Rules 62-550.310 or 62-550.320, the laboratory shall report the result to the supplier of water no later than the end of the next business day after the result was determined.

(d) Whenever an unregulated contaminant listed in Rules 62-550.405, 62-550.410, or 62-550.415 is detected in a sample, the laboratory shall report the result to the supplier of water no later than four business days after the result was determined.

(e) For the purposes of this chapter, a result is considered determined when the laboratory director or his/her designee signs or authenticates the report with the results. The results shall be reported in such a manner that the supplier of water receives the results within the indicated timeframes in paragraphs (2)(a) through (2)(d) of this section.

~~(3) For reporting of chemistry and radiochemistry results, the laboratory shall include with its final report a copy of the laboratory's Safe Drinking Water Analyte Sheet, HRS-H Form 1041, and the Safe Drinking Water Analyte Sheet—Radiological, HRS-H Form 1903, if radiochemical parameters are included in the report. These forms are issued by the Department of Health to indicate that the laboratory is certified to perform the test(s) on the analyte(s) reported. Both Safe Drinking Water Analyte Sheets are herein adopted by reference.~~

~~(4) The laboratory shall maintain a copy of each chemical or microbiological sample report form for not less than five years and shall maintain all raw data, calculations, extraction records, standard preparation records, other sample preparation records, proficiency test data and quality control data pertaining to each sample report form for not less than five years.~~

~~(5) A local laboratory may subcontract analytical work for those analytes, categories, and subcategories which the local laboratory is not certified to perform. The local laboratory is responsible for determining that the contract laboratory is certified under these rules for the categories, methods, and analytes for which it is being contracted to perform. Local laboratory records shall indicate the person who performed the analysis and the name of the contract laboratory. When a data report submitted in compliance with the act contains results reported by one or more contract laboratories, the local laboratory shall include the contract laboratory name,~~



certification number, and Safe Drinking Water Analyte Sheet, HRS-H Form 1041 and/or HRS-H Form 1903, for each contract laboratory in that report.

Specific Authority 381.00591, 403.0625(3), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2) FS. History—New 4-22-79, Amended 3-7-85, Formerly 10D-41.59, Amended 12-12-89, 11-15-90, 8-5-93, 4-19-95, 4-25-96, Formerly 10D-41.059, Amended \_\_\_\_\_.

64E-1.006 Denial or Decertification.

Specific Authority 403.863 FS. Law Implemented 403.863, 403.8635 FS. History—New 4-22-79, Amended 3-7-85, Formerly 10D-41.60, Amended 12-12-89, 8-5-93, 4-19-95, 4-25-96, Formerly 10D-41.060, Repealed \_\_\_\_\_.

64E-1.007 Fees and Certification Categories.

(1) Application Fee – An applicant for certification must submit to the Department of Health a non-refundable fee of \$200 ~~\$100~~ for the evaluation and processing of each application. The Department of Health shall assess an additional fee of \$200 ~~\$100~~ for each subsequent application for additional Fields of Testing, as defined in Appendix A to Chapter 1 of the NELAC Standards, referenced in Rule 64E-1.0015 analytes.

(2) Certification Fee – In addition to the application processing fee, ~~each applicant for certification shall pay to the Department of Health shall charge nonrefundable the following~~ fees for the initial certification and on application for annual renewal for each category of certification in each category group in Rules 64E-1.007(6) through 64E-1.007(9) below as follows:

(a) Chemistry, Whole Effluent Toxicology, Microscopy, and Microbiology

- 1. One category ..... \$500 ~~\$400~~
- 2. Two categories ..... \$1000 ~~\$800~~
- 3. Three categories ..... \$1500 ~~\$1200~~
- 4. Four or more categories..... \$2000 ~~\$1500~~

(b) Radiochemistry ..... \$500 ~~\$400~~

(3) Laboratories approved after July 1 shall have the certification fees prorated on a quarterly basis beginning with the quarter in which the ~~d~~Department issues certification.

(4) The Department of Health shall assess the travel expenses it incurs as a result of on-site inspection to the out-of-state laboratories, in addition to the application and certification fees in this section. An in-state laboratory shall reimburse the department for on-site inspection travel expenses if the department conducts an inspection, in addition to the inspection conducted pursuant to Rule 64E-1.104(1), at the laboratory's written request. If the department does not conduct the requested inspection within 60 days of the request, the department shall not charge these expenses to the laboratory.

(5) The laboratory shall pay all fees required by Subsections (2) through (4) of this section within 90 days of the date of invoice. For annual renewal of certification, the laboratory shall pay the fees required by Subsection (2) of this section by July 1 of each calendar year.

(6) For the Safe Drinking Water Act (SDWA) category group, certification is available in the following categories:

- (a) Microbiology,
- (b) Primary Inorganic Contaminants,
- (c) Secondary Inorganic Contaminants,
- (d) Radiochemistry,
- (e) Synthetic Organic Contaminants,
- (f) Dioxin,
- (g) Other Regulated Contaminants (e.g., Volatile Organic Contaminants),
- (h) Group I Unregulated Contaminants,
- (i) Group II Unregulated Contaminants, and
- (j) Group III Unregulated Contaminants.

(7) For the Clean Water Act (CWA) category group, including ambient monitoring of surface water and groundwater, certification is available in the following categories:

- (a) Microbiology,
- (b) Whole Effluent Toxicity (Bioassay),
- (c) Radiochemistry,
- (d) Metals,
- (e) General Chemistry,
- (f) Volatile Organics,
- (g) Extractable Organics, and
- (h) Pesticides-Herbicides-PCB's.

(8) For the Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) category group, and all programs under the purview of the Florida Department of Environmental Protection's Waste Management Division, certification is available in the following categories:

- (a) Microbiology,
- (b) Whole Effluent Toxicity (Bioassay),
- (c) Radiochemistry,
- (d) Metals,
- (e) General Chemistry,
- (f) Volatile Organics,
- (g) Extractable Organics, and
- (h) Pesticides-Herbicides-PCB's.

(9) For the Clean Air Act (CAA) category group, the categories of certification available are:

- (a) General Chemistry,
- (b) Volatile Organics,
- (c) Extractable Organics, and
- (d) Pesticides and PCB's.

Specific Authority 381.00591, 403.0625(3), 403.863(2) ~~403.8635~~ FS. Law Implemented ~~381.00591, 403.0625(1), 403.0625(4), 403.863(4), 403.8635(3)~~ FS. History—New 3-7-85, Formerly 10D-41.62, Amended 12-12-89, 8-5-93, 4-19-95, 4-25-96, Formerly 10D-41.062, Amended.

**PART H**  
**CERTIFICATION OF ENVIRONMENTAL WATER-**  
**TESTING LABORATORIES**

64E-1.100 Definitions.

Specific Authority 403.0625, 403.863 FS. Law Implemented 403.0625 FS. History—New 8-27-86, Amended 10-10-89, 6-29-94, 2-13-96, 4-25-96, Formerly 10D-41.101, Repealed.

64E-1.101 Categories of Certification.

Specific Authority 403.0625, 403.863 FS. Law Implemented 403.0625 FS. History—New 8-27-86, Amended 10-10-89, 6-29-94, 2-13-96, 4-25-96, 12-11-96, Formerly 10D-41.102, Repealed.

64E-1.102 Certification Requirements.

(1) An application for certification shall be made in writing to the Department of Health on Form DH 1762, accompanied by the application fee, and the laboratory's Quality Manual. If the laboratory is requesting reciprocal certification pursuant to Subsection (5) of this section, the laboratory shall also submit the most recent on-site inspection report from its primary NELAP recognized accrediting authority. The report shall address all the requested analytes and test methods for which the laboratory is seeking reciprocal certification. If proficiency testing is available for the requested Fields of Testing, the laboratory must arrange for these results from the latest three testing round attempts to be submitted directly to the Department of Health by the approved proficiency test provider. DH HRS Form 1762, "Application for Certification of Environmental Water Testing Laboratories," July 1999 March 1995 is herein adopted by reference.

(2) Separate application and certification shall be required for all laboratories maintained on separate premises even though operated under the same management; however, separate certification is not required for separate buildings on the same or adjoining grounds.

~~(3)(a) The laboratory shall report in writing to the Department of Health within 30 days all changes in laboratory name, ownership, location, personnel, methodology or any other factor significantly affecting the performance of analyses for which the laboratory was originally certified.~~

~~(b) An advertisement which refers to certification of a laboratory's location and methodology for which it is not certified shall be considered false advertisement.~~

~~(3)(4)(a) An application is not completed until the laboratory has fulfilled all of the following requirements:~~

~~(a) The application reviewed by the Department of Health was found to contain all the information required in Section 4.1.7 of the NELAC Standards, referenced in Rule 64E-1.0015 have approved methodology as required in rule 64E-1.103.~~

~~(b) The submitted 2- A Quality Manual contains all the information required in Section 5.5.2 of the NELAC Standards, referenced in Rule 64E-1.0015 Assurance Plan has been approved by the Department of Health or the Department of Environmental Protection (DEP) as required in rule 64E-1.102(6).~~

~~(c) 3- Proficiency samples are successfully analyzed in two of the most recent three testing rounds, if available from an in the United States Environmental Protection Agency (EPA) or Department of Health approved proficiency testing provider program, as required in Rule 64E-1.106.~~

~~(d) 4- An on-site laboratory inspection has been conducted for the Fields of Testing categories for which the laboratory is seeking certification, as required in Rule 64E-1.104.~~

~~(e) All applicable 5- Certification fees are paid as required in Rule 64E-1.007 64E-1.110.~~

~~(4) If an incomplete application is submitted, the Department of Health will retain (b) Failure to complete the application for up to one year at the laboratory's request process within 2 years from the date received by the Department of Health shall result in denial of certification.~~

~~(5) After completion of all prerequisites specified in rules 64E-1.102(4)(a)1-3., the Department of Health shall conduct an on-site survey to determine compliance with all the requirements in this Part.~~

~~(6) The laboratory shall prepare and follow a written quality assurance plan reviewed by the Department of Health for laboratories analyzing domestic wastewater only, or by DEP for laboratories analyzing anything in addition to domestic wastewater.~~

~~(a) All Quality Assurance Plans prepared for the Department of Health shall comply with the specifications in HRS-QA-8/93, January 12, 1994, which is incorporated by reference herein, and shall be approved before the certification process can be continued.~~

~~(b) All Quality Assurance Plans prepared for DEP shall comply with the specifications in DEP-QA-001/90, September 30, 1992 or DEP-QA-001/92, September 30, 1992, both of which are incorporated by reference herein, and shall be approved before the certification process can be continued.~~

~~(c) A copy of the written Quality Assurance Plan, analytical methods, quality control data, proficiency test data, and other records documenting compliance with these rules shall be available for the on-site laboratory inspection.~~

~~(5)(7)(a) The Department of Health shall certify an out-of-state laboratory to perform environmental water analysis provided that laboratory complies with all the requirements in this Part.~~

~~(b) An out-of-state laboratory shall be eligible considered for reciprocal certification to perform environmental water analyses provided:~~

~~(a)1-~~ The laboratory is certified by a National Environmental Laboratory Accreditation Program (NELAP) recognized accrediting authority for those Fields of Testing the state in which the laboratory is requesting certification pursuant to this rule, it is located if that state's certification criteria are acceptable to EPA and are at least as stringent as the requirements of this Part.

~~(b)2-~~ The laboratory submits to the Department of Health the an application, fee, and documents required in Rule 64E-1.102(1) copies of the laboratory's most recent proficiency test results, and the fees required by rule 64E-1.110.

~~(c)3-~~ The laboratory complies with the requirements of rules 64E-1.102(1) through (4) and 64E-1.102(6), and

~~4-~~ The laboratory submits to the Department of Health a copy of its most recent inspection audit report from the certifying agency in the state where the laboratory operates, together with a current copy of the laboratory's certification from the NELAP accrediting authority and the certifying agency's analyte sheet showing those Fields of Testing for which the laboratory is certified state's rules and regulations regarding laboratory certification.

~~(6)(e)~~ If upon review of the documents listed in Rule 64E-1.102(5)(7)(b) above the Department of Health determines that the application process is complete and that the laboratory is already certified by its NELAP-recognized primary accrediting authority for the same Fields of Testing requested on its application out-of-state certification program is equivalent to the requirements of this Part, the Department of Health will not require an on-site survey by its inspectors and certification will be granted after the laboratory pays the certification fees required in Rule 64E-1.007.

~~(7)(d)~~ If upon review of the documents listed in Rule 64E-1.102(5)(7)(b) above the Department of Health is unable to determine that the out-of-state certification program is equivalent to the requirements of this rule Part, then, in addition to the requirements in rules 64E-1.102(7)(b)2. through 3. above, an on-site inspection survey will be performed by the Department of Health. The laboratory will be responsible for the travel expenses incurred for cost of the on-site inspection survey.

1. The Department of Health will grant certification if the results of the survey verify compliance with this Part.

2. If the results of the on-site survey do not indicate the laboratory's compliance with the requirements of this Part, the laboratory's application for certification will be denied.

~~(e)~~ The HRS Policy Memorandum, dated March 23, 1993, regarding out-of-state laboratory certification is adopted by reference herein.

Specific Authority 381.00591, 403.0625(3), 403.863(1), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2) FS. History--New 8-27-86, Amended 10-10-89, 6-29-94 2-13-96, 4-25-96, Formerly 10D-41.103, Amended \_\_\_\_\_.

64E-1.103 Methodology.

Specific Authority 403.0625, 403.863 FS. Law Implemented 403.0625 FS. History--New 8-27-86, Amended 10-10-89, 6-29-94, 4-25-96, Formerly 10D-41.104, Repealed \_\_\_\_\_.

64E-1.104 On-Site Inspections Evaluations.

(1) The Department of Health shall inspect the premises and operations of laboratories certified or seeking certification, except as provided in Rule 64E-1.102(6) and Section 4.6.2 of the NELAC Standards, referenced in Rule 64E-1.0015 to perform environmental water analyses. Such inspections shall occur at least once every 2 calendar years and at such other times as the Department of Health deems necessary to determine continued compliance with this rule Part. Inspections may be unannounced and may include the on-site analysis of proficiency test samples as well as the photographing, filming, or videotaping of any portion of the laboratory, equipment, activity, samples taken, records, test results or other information related to certification under this rule Part.

(2) Inspections will be unannounced only in those cases in which the Department of Health determines this approach necessary to establish compliance. Factors such as past record, proficiency test performance, personnel and overall laboratory performance will be considered in making this determination.

(3) The laboratory shall ensure that its Quality Manual, analytical methods, quality control data, proficiency test data, laboratory standard operating procedures, and all records needed to verify compliance with the NELAC Standards, referenced in Rule 64E-1.0015, and this rule are available for review during the on-site laboratory inspection. The laboratory shall allow the department's authorized personnel to examine records; observe the laboratory's facilities, procedures, and equipment; and interview staff during the on-site inspection Inspections will include the review of quality control data. The laboratory shall analyze at least one quality control check sample annually for each certified analyte and methodology.

(4) Inspections will include on-site proficiency test samples when the Department of Health is unable to determine compliance using more conventional methods.

(5) The laboratory shall submit to the Department of Health a Plan of Correction for each deficiency noted during the on-site evaluation. Proposed corrective-action plans must be completed on or attached to the "Statement of Deficiencies and Plan of Correction" form, DH 1137, 3/97, adopted by reference herein.

(6) The Department of Health may conduct on-site inspections of the laboratory at any time.

Specific Authority 381.00591, 403.0625(3), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2) FS. History--New 8-27-86, Amended 10-10-89, 6-29-94, 4-25-96, Formerly 10D-41.105, Amended \_\_\_\_\_.

64E-1.105 Display of Certificate and Use of Certification.

A current certification document shall be displayed at all times in a prominent place in each certified laboratory. DH 1629, 3/98 and DH HRS Form 1697, 3/98, both entitled "Environmental Water Testing Laboratory Certificate," are is adopted by reference herein. The laboratory must also comply with Sections 6.8 (a)(1), (2), (3), and (4) and 6.8 (b)(1) and (2) of the NELAC Standards, referenced in Rule 64E-1.0015.

Specific Authority 381.00591, 403.0625(3), 403.863(1), 403.863(2) FS. Law Implemented 381.00591, 403.0625(2), 403.0625(4), 403.863(4), 403.863(7), 403.8635(1) FS. History—New 8-27-86, Amended 6-29-94, Repromulgated 4-25-96, Formerly 10D-41.106, Amended.

64E-1.106 Proficiency Testing Requirements.

(1) Applicant and certified laboratories shall participate in a the EPA proficiency testing program from a provider, when available, or in a program by the Department of Health or approved by the Department of Health as being compliant with Chapter 2 (Proficiency Testing) of the NELAC Standards, referenced in Rule 64E-1.0015 equivalent or better than the EPA program. Participation means that the laboratory will analyze and report to the approved provider Department of Health the results of all proficiency test samples required by the approved program for which the laboratory desires and maintains certification.

(2) Laboratories shall bear the cost of any subscription to a proficiency testing program required by the Department of Health for compliance purposes. The Department of Health shall not be charged a fee for the analysis of any performance evaluation samples.

(3) Unless associated with the submittal of an application form as provided in Rule 64E-1.102(1), the laboratory must authorize the approved provider, on or prior to the testing round closing date, to submit the proficiency testing results to the department concurrently with the submittal of these results to the laboratory.

(4) Laboratories shall satisfactorily analyze at least one high and one low proficiency testing sample per year, when available, for each analyte certified. All analytes within each category group for which a laboratory is certified or is pending certification must be satisfactorily analyzed, if available, on two of at both high and low concentration levels during the most recent three EPA Water Pollution proficiency testing rounds attempted. For the Safe Drinking Water Act category group, satisfactory analysis of a proficiency test sample at least once per year is also required for each test method with which the laboratory reports test results under Rule 64E-1.005(2) program. Proficiency test sample results shall be considered satisfactory when they are within the acceptable limits established by the EPA for each analysis as published in the "EPA Performance Evaluation Report," or within the acceptance limits established by the approved equivalent proficiency test sample provider.

(5) A laboratory that meets the requirements of Subsection (4) of this section for a particular regulatory program and analyte is eligible for obtaining and maintaining certification for all test methods associated with that program and analyte. Otherwise, certification shall be denied, suspended, or revoked for all test methods associated with that program and analyte.

(6) A laboratory shall participate in at least two testing rounds from an approved proficiency test sample provider per fiscal (July 1-June 30) year, with no more than seven months between consecutive testing rounds, for each available pending or certified analyte and regulatory program.

(7) The laboratory shall comply with all requirements in Section 2.5 of the NELAC Standards, referenced in Rule 64E-1.0015, in analyzing proficiency test samples. Pursuant to Section 2.5.1(c) of the NELAC Standards, the laboratory shall not submit proficiency test sample results generated by another laboratory facility as its own.

(8) Proficiency test sample providers shall report laboratory results for proficiency test samples in a format approved by the Florida Department of Health testing program. Results of the analyses on analytes failed on two consecutive proficiency tests at the same concentration level are not acceptable under this Part, and certification shall be revoked until the laboratory has demonstrated to the Department of Health that it analyzed one follow-up proficiency test sample approved by the Department of Health in a satisfactory manner and has produced results within the limits established by EPA or the alternate approved program.

Specific Authority 381.00591, 403.0625(3), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2) FS. History—New 8-27-86, Amended 10-10-89, 6-29-94 2-13-96, 4-25-96, Formerly 10D-41.107, Amended.

64E-1.107 Renewal of Annual Certification.

The Department of Health will renew certifications after receipt of a renewal invoice and fee, provided the laboratory is maintaining compliance with this rule Part, attests to such compliance, and has reported acceptable proficiency test values for the categories certified within the previous year. Laboratories meeting renewal certification criteria will be renewed annually on July 1. The Renewal Attestation of Compliance (ENV), DH HRS Form 1907, 3/98 and Environmental Testing Laboratory Renewal Invoice, DH HRS Form 1906, 3/98 are both herein adopted by reference.

(1) The Department of Health will mail renewal notices at least 30 days prior to July 1. Failure to receive a renewal notice does not exempt laboratories from meeting the renewal date requirement of July 1 of each year.

(2) All laboratory certifications shall expire on July 1 of each calendar year.

(3) The certification of any laboratory which fails to pay the required renewal fee and to return the completed attestation form to the department by July 1 shall automatically expire

without notice or further proceeding. A laboratory whose certification has expired may reapply for certification in accordance with Rule 64E-1.102(1).

Specific Authority 381.00591, 403.0625(3), 403.863(1), 403.863(2) FS. Law Implemented 381.00591, 403.0625(1), 403.0625(2), 403.0625(4), 403.851, 403.863(3), 403.863(4), 403.863(7), 403.8635(1), 403.8635(2), 403.8635(3) FS. History—New 8-27-86, Amended 6-29-94, 4-25-96, Formerly 10D-41.108, Amended \_\_\_\_\_.

64E-1.108 Contractual Agreements, Records, and Reports.

Specific Authority 403.0625, 403.863 FS. Law Implemented 403.0625 FS. History—New 8-27-86, Amended 10-10-89, 6-29-94, 4-25-96, Formerly 10D-41.109, Repealed.

64E-1.109 Denial or Revocation.

Specific Authority 403.0625, 403.863 FS. Law Implemented 403.0625 FS. History—New 8-27-86, Amended 6-29-94, 4-25-96, 12-11-96, Formerly 10D-41.110, Repealed.

64E-1.110 Fees.

Specific Authority 403.0625, 403.863 FS. Law Implemented 403.0625 FS. History—New 8-27-86, Amended 6-29-94, 4-25-96, Formerly 10D-41.112, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Carl C. Kircher

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

Stephen A. Arms

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

November 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

August 20, 1999

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:

6A-1.09981

RULE TITLE:

Implementation of Florida's System of School Improvement and Accountability

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 45, November 12, 1999, issue of the Florida Administrative Weekly:

The amendments contained herein are a result of a review of the proposed rule by the Joint Administrative Procedures Committee (JAPC), additional considerations by the Department of Education, and concerns expressed by the Pinellas District School Board, Florida School Boards Association (FSBA), Florida Association of District School Superintendents (FADSS), Florida Parent Teacher Association (PTA), and other interested parties. Please note that language

shown as struck through in the notice of proposed rulemaking as published on November 12, 1999, does not appear in the following text. Language shown as underlined in the initial notice appears in the following text without the underlining. The changes being hereby noticed are indicated by striking through deleted language and underlining added language.

Subparagraph (1)(a)2.

2. Data including attendance, discipline data, ~~cohort graduation rate~~, and dropout rate as specified in subparagraphs ~~(5)(b)3., (c)4., (d)6., and (e)6.~~, of this rule shall be used in designating school performance grades. The Commissioner of Education (Commissioner) shall establish criteria for using student readiness for college as a requirement in designating school performance grades when the process of calibrating FCAT performance data with college placement test data has been completed.

Subparagraph (1)(b)2.

2. Data including attendance, discipline data, ~~cohort graduation rate~~, and dropout rate as specified in subparagraphs ~~(5)(b)3., (c)4., (d)6., and (e)6.~~, of this rule shall be used in designating school performance grades. The Commissioner shall establish criteria for using student readiness for college as a requirement in designating school performance grades when the process of calibrating FCAT performance data with college placement test data has been completed.

Sub-subparagraph (1)(c)1.d.

d. Data including attendance, school discipline data, cohort graduation rate, and dropout rate. The Commissioner shall establish criteria for using student readiness for college as a requirement in designating school performance grades when the process of calibrating FCAT performance data with college placement test data has been completed.

Paragraph (3)(a)

(a) For the purpose of calculating state and district results, the scores of all students enrolled in standard curriculum courses shall be included. This includes the scores of students who are ~~language-impaired~~, speech impaired, gifted, hospital homebound, and Limited English Proficient (LEP) students who have been in an English for Speakers of Other Languages (ESOL) program for more than two (2) years.

Subsection (4)

(4) School Performance Grades. The measure of school accountability shall be the school performance grade. The Commissioner ~~of Education (Commissioner)~~ is authorized to designate a school performance grade for each school that has at least thirty (30) eligible students in membership in each of the grade levels assessed for state accountability purposes as specified in subsection (3) of this rule. (Remainder of subsection (4) remained as advertised.)

Paragraph (5)(b)

(b) School Performance Grade D. A school is designated School Performance Grade D, making less than satisfactory progress, if it meets the following criteria: