

**Section I**

**Notices of Development of Proposed Rules and Negotiated Rulemaking**

**DEPARTMENT OF EDUCATION**

RULE TITLE: Transfer of Credit  
 RULE NO.: 6-1.099

PURPOSE AND EFFECT: The purpose of the development is to provide procedures relating to the acceptance of transfer work and credit for pupils.

SUBJECT AREA TO BE ADDRESSED: Compulsory School Attendance.

SPECIFIC AUTHORITY: 232.23(3) FS.

LAW IMPLEMENTED: 229.515 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Wiegman, Chief, Bureau of Curriculum, Instruction and Assessment, 532 Turlington Building, Tallahassee, FL, (850)488-5011

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6-1.099 Transfer of Credits.

(1) All evidence of work or credits earned at another school, community college, or university offered for acceptance shall be based on an official transcript authenticated by the proper school authority.

(2) Work or credits from state or regionally accredited schools or institutions shall be accepted at face value, subject to validation if deemed necessary.

(3) Work or credits from nonaccredited schools shall be validated on the basis of criteria established in school board policies.

(4) The graduation requirements shall not be retroactive for transfer students provided the student has met all requirements of the school district or state from which he or she is transferring.

Specific Authority 232.23(3) FS. Law Implemented 229.515 FS. History—New \_\_\_\_\_.

**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.

SUBJECT AREA TO BE ADDRESSED: Financial records and reports in the community colleges.

SPECIFIC AUTHORITY: 229.053(1), 240.325 FS.

LAW IMPLEMENTED: 240.311, 240.325, 240.347, 240.349, 240.363 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AS NOTICED IN A FUTURE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Criteria for Documentation of Disability  
 RULE NO.: 6A-20.111

PURPOSE AND EFFECT: The purpose of this rule is to fulfill the requirement of 240.4041, F.S., that the State Board of Education "establish the necessary criteria" to document a student's disability for purposes of receiving financial aid while attending post-secondary school on a part-time basis. The effect of the rule is to delineate those criteria.

SUBJECT AREA TO BE ADDRESSED: Financial Aid.

SPECIFIC AUTHORITY: 229.053(1), 240.4041 FS.  
 LAW IMPLEMENTED: 229.053(1), 240.4041 FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:  
 TIME AND DATE: 2:00 p.m. – 4:00 p.m., November 18, 1999  
 PLACE: 325 West Gaines Street, Room 1704, Tallahassee, Florida 32399

Requests for a rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, Room 1702, The Capitol, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Shan Goff, Chief, Bureau of Instructional Support and Community Services, Division Public Schools and Community Services, Room 614, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)488-1570

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-20.111 Criteria for Documentation of Disability.

(1) The professional who prepares documentation must be a licensed physician who has expertise in the area related to the disability in question; a licensed psychologist with a specialization in the professional area of the disability in question, a licensed audiologist; a licensed speech pathologist; or, a certified school psychologist.

(2) The documentation must be sufficiently recent, as determined by the educational institution, so as to allow for a valid and reasonable assessment of the student’s needs.

(3) The documentation must be specific and conclusive, demonstrating that the student has physical, emotional or mental impairment(s) which substantially limit(s) one or more major life activities, as well as showing how the disability will substantially limit the student’s ability to meet the minimum full-time load requirements.

Specific Authority 229.053(1) FS. Law Implemented 240.4041 FS. History–New \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

RULE TITLES:	RULE NOS.:
Definitions	12-3.0012
Interest Applicable to Unpaid Tax Liabilities	
or Amounts Not Timely Refunded	12-3.0015

PURPOSE AND EFFECT: 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. The effect of proposed new Rule 12-3.0012, FAC, is to clarify when an audit commences, as stated in the second sentence of s. 213.345, F.S., as created

by s. 8 of Ch. 99-239, L.O.F. This proposed new rule defines the term, since the term “must commence an audit” may be subject to various interpretations by taxpayers. The proposed creation of Rule 12-3.0015, FAC, implements ss. 7 and 9 of Chapter 99-239, L.O.F., which enacted 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 address several issues through rulemaking: a) how to handle the existing corporate income tax and emergency excise tax “market interest rate” provisions; b) when the Department should apply these new interest provisions; c) how to calculate the daily rate of interest; d) how the agency will notify taxpayers about interest rate changes; and, e) examples to help taxpayers understand how this interest provision applies.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed definition of the term “commence an audit,” and to consider suggested revisions that the public may offered.

SPECIFIC AUTHORITY: 213.06(1) FS.  
 LAW IMPLEMENTED: 213.235, 213.255, 213.345 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:  
 TIME AND DATE: 9:00 a.m., November 3, 1999

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

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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 PERIOD	RATE	TOTAL 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
<b>Total Interest Due</b>				<b>\$ 76.90</b>

(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
<b>Total Interest Due</b>					<b>\$ 30.16</b>

(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

**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:

A) The purpose of the proposed amendments to Rule 12-26.001, FAC, is to conform the rules contained in Chapter 12-26, FAC, to the new statutory provisions which require the payment of interest on specific refund requests. The effect of this proposed amendment is to ensure that all rules in the refund rule chapter reflect the new statutory refund provisions.

B) The purpose of the proposed amendments to Rule 12-26.002, FAC, is to 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. The effect of these proposed amendments is to 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 purpose of the proposed amendments to Rule 12-26.003, FAC, is to clarify the time period during which the statute authorizes the Department to accept refund applications, to designate the forms which must be used to request a refund and how to obtain these forms, and, to specify the information which the taxpayer must provide to the Department on the refund application. The effect of these proposed amendments is to explain the revised procedures a taxpayer must follow to apply for a refund.

D) The purpose of the proposed amendments to Rule 12-26.004, FAC, is to: 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. The effect of these proposed amendments is to ensure taxpayers understand how the Department will process their refund applications and how the requirement to pay interest will be implemented.

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

amendments is to ensure taxpayers have an opportunity to review the forms the Department will use to implement the revised refund procedures.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to discuss the proposed changes to the Department’s refund procedures, which are based on the amendments to ss. 95.091(3), 213.235, 213.255, and 215.26, F.S.

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

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

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., November 3, 1999

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

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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 1(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 1(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.

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

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.

**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, F.A.C., 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.

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, F.A.C., 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.

Additionally, the Administrative Law Judge in Associated Marine Institutes, Inc. held that paragraph (3)(q) of Rule 12A-1.001, F.A.C., 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.

Additionally, the Department seeks to amend paragraph (3)(q) of Rule 12A-1.001, F.A.C. to 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.

The effect of the proposed amendments will be to codify into this rule paragraph the findings of the administrative law judge with regard to such organizations and to provide a definition for the undefined statutory term “primary purpose.”

**SUBJECT AREA TO BE ADDRESSED:** The proposed amendments to paragraphs (b) and (q) of subsection (3) of Rule 12A-1.001, F.A.C., are in response to the decision rendered in Associated Marine Institutes, Inc. regarding the sales and use tax exemption provided in s. 212.08(7)(n), F.S., for organizations providing special educational, cultural, recreational, and social benefits to minors.

**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 RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 10:00 a.m., November 1, 1999  
**PLACE:** Conference Room, Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100  
 Copies of the agenda for the rule development workshop may be obtained from Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (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 Jamies 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.001 Specific Exemptions.

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

(b) With the exceptions noted below, 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,\_\_\_\_\_.

**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, F.A.C., Sales and Use Tax, is to: 1) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent sales tax; 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.

The purpose of the proposed amendments to the following rules is to 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, F.A.C. (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).

The purpose of the proposed repeal of Rule 12A-1.019, FAC, is to remove 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.

The amendments to Rule 12A-1.029, F.A.C. (Labels and other Printed Matter Sold to Manufacturers), will 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.

In addition to removing the unnecessary recitation of statutorily imposed penalties, the proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), provide a definition for the term "legal holiday" as it relates to the due date of sales tax returns and remove 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. Further, the purpose of the proposed amendments is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a "market interest rate" on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent tax. The effect of this change 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).

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

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), will remove obsolete provisions regarding the statute of limitations provided in s. 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, and time limitations for filing refund claims that are clearly provided in the statutes. This rule repeal also removes the unnecessary incorporation by reference to Rule 12A-1.097, FAC. (Public Use Forms), of Forms DR-54 and DR-840.

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

The purpose of the proposed amendments to Rule 12A-1.105, FAC, Service Warranties, is to 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.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this rule development workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision, the elimination of obsolete provisions regarding penalties, estimated tax payments, and statute of limitations, and the removal of obsolete or unnecessary provisions that are redundant of the statutes, as mandated by s. 120.74(1), F.S. This rule development workshop will also give members of the public an opportunity to discuss the removal of forms that are not required to be adopted as a rule.

**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 RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., November 3, 1999

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

Copies of the agenda for the rule development workshop may be obtained by contacting either of the persons listed below.

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 PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT ARE: Janet L. Young, Tax Law Specialist, and Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-0717

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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.

~~(1) The sale of water delivered to the purchaser through pipes or conduits or delivered for irrigation purposes is exempt. The sale of drinking water, including waters that contain minerals or carbonation in their natural state, is exempt.~~

~~(2) Waters to which carbonation or minerals have been added are taxable.~~

~~Cross Reference Rule 12A-1.011(1)(a).~~

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) Renumbered (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 212, F.S. Florida States, 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

Sec. 7503 of the Internal Revenue code 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 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).~~

3. ~~Interest accrues on ½ 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: ½~~

1. ~~One ½ 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.~~

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

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g)(+), 125.0108(2)(a), 212.03(2), 212.0305(3)(c),(h),(+), 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.

~~(1) The sale, the rental, the use, consumption or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining or quarrying personal property for sale or to be used in furnishing communications, transportation or public utility services are taxable.~~

~~Cross Reference Rule 12A-1.011(12)(b):~~

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.

~~(1) The Department of Revenue has the power to prescribe the records to be kept by all persons subject to the taxes imposed by Chapter 212, F.S.~~

~~(2) Each dealer defined in Chapter 212, F.S., each licensed wholesaler, and any other person subject to the tax imposed by Chapter 212, F.S., shall keep and preserve a complete record of all transactions, together with invoices, bills of lading, gross receipts from sales, RESALE CERTIFICATES, CONSUMER EXEMPTION CERTIFICATES and other pertinent records and papers as may be required by the Department of Revenue~~

for the reasonable administration of Chapter 212, F.S., and such books of account as may be necessary to determine the amount of tax due thereunder.

(3) All such books, invoices, and other records shall be open for inspection by the Department of Revenue at all reasonable hours at the dealer's store, sales office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state shall make such books and records available for inspection by the Department of Revenue where the general records are regularly kept.

(4) For transactions for which a return was required and tax paid before July 1, 1985, books and records required to be kept shall be retained for three years from the first day of the month following the date on which the tax on the transaction became due and payable, or until the end of June 30, 1988, whichever is earlier.

(5) For transactions for which a return was required and tax paid on or after July 1, 1985, books and records shall be retained until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(6) The consequences of failure or refusal to keep and retain books and records, or to make them accessible, can be any or all of the following:

(a) Conviction of a misdemeanor under s. 212.13(2), F.S.;

(b) Assessment of tax based on an estimate by the department, based upon the best information or evidence available, of the maximum amount of tax that should have been reported and remitted by the dealer; or

(c) Loss of collection allowance, as authorized by s. 212.12(1), F.S.

(d) The Department prescribes Form DR-54, Formal Notice of Demand to Produce Certain Records (incorporated by reference in Rule 12A-1.097, F.A.C.), to be utilized in the formal demand for records.

(7)(a) Unless a Notification of Intent to Audit Books and Records is issued, the amount of any tax imposed under Chapter 212, F.S., may be determined and assessed for any of the following periods of time:

1. For a transaction on which a return was required and tax paid before July 1, 1985, a period of three years after the first day of the month following the date on which the tax on the transaction became due and payable.

2. For a transaction on which a return was required and tax paid on or after July 1, 1985:

a. Within 5 years after the date the tax is due, any return with respect to the tax is due, or the return is filed, whichever occurs later;

b. Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

e. At any time while the right to a refund or credit of the tax is available to the taxpayer;

d. At any time after the taxpayer has failed to make any required payment of the tax or has failed to file a required return, whether or not such failure was fraudulent;

e. At any time after the taxpayer has filed a grossly false or fraudulent return; or

f. Within five years after a refund of tax has been erroneously made for any reason, or at any time after making a refund of tax if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

3. Any date later than the date specified in subparagraphs 1. and 2., which is agreed upon by the Department and the taxpayer under Rule 12-16, F.A.C.

(b) For the purpose of this subsection, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day, and payments made prior to the last day prescribed by law shall be deemed to have been paid on such last day.

(c) Any person who, before January 1, 1988, was required by s. 212.13, F.S., to keep records relating to the sale or use of services which first became taxable effective July 1, 1986 (laundry, dry cleaning, valet, carpet and upholstery cleaning); and other services which first became taxable effective July 1, 1987, is subject to the same record keeping, time for making assessment, and other requirements as stated above, even though the tax was repealed effective January 1, 1988.

(d) For purposes of s. 95.091(3)(a)2., F.S., sub-subparagraph (7)(a)2.b. a payment of tax will be considered a substantial underpayment if the taxpayer has omitted from a return an amount properly includable which is in excess of 25 percent of the tax due as shown by the return; and a return will be considered substantially incorrect if it contains errors, misstatements, or inaccuracies that result in payment of a tax that is less than 75 percent of the amount due.

(8)(a) The dealer shall have 60 days from the date of the "Notification of Intent to Audit Books and Records" to have available for inspection all such books and records, including ~~RESALE AND EXEMPTION CERTIFICATES~~. The Department is not required to issue a Notification of Intent to Audit Books and Records in situations involving emergency audits requested by taxpayers, or in distress or jeopardy situations referred to in s. 212.14 or s. 212.15, F.S.

(b) When a "Notification of Intent to Audit Books and Records" (Form DR-840, incorporated by reference in Rule 12A-1.097, F.A.C.) is issued within the period of limitations specified in subsection (7), the limitation on assessment is tolled for two years. In this event, the period during which tax may be determined and assessed expires on the latest of:

1. Two years from the date of the Notification of Intent to Audit Books and Records;

2. The date the limitation would have expired had that notice not been issued; or

3. A date agreed upon by the Department and the taxpayer under Rule 12-16, F.A.C.

~~(9)(a) Valid resale and exemption certificates executed by dealers or exempt entities which were registered with the department at the time of sale are accepted by the Disposition Section of the Department, when submitted during the protest period, but shall not be accepted thereafter.~~

~~(b) For purposes of this subsection, the protest period is the 60 day period established by the "Notice of Proposed Assessment," or until a "Notice of Decision," or a "Notice of Decision on Reconsideration" has been issued, whichever is later.~~

~~(10) Time limitations for filing refund claims based on resale or exemption certificates:~~

~~(a) If a taxpayer has presented resale or exemption certificates as provided in subsection (8), it may pay the tax within 30 days of the date the "Notice of Intent to Make Audit Changes" has been issued or within the 60 days established by the "Notice of Proposed Assessment."~~

~~(b) If a taxpayer has presented a resale or exemption certificate as provided in subsection (8), and pays the tax as provided in paragraph (a), a refund claim based on valid certificates must be filed within 36 months from the date of payment of the tax to the state, as provided in Rule 12A-1.014(4)(a), F.A.C.~~

~~(11) Once an audit assessment has been referred to General Tax Administration for billing purposes, the Department shall not accept valid certificates, nor may the taxpayer initiate proceedings under Chapter 120, F.S., or a circuit court action under Chapter 72, F.S., for relief.~~

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
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(2) through (16) No change.

<del>(17) DR-54</del>	<del>Formal Notice of Demand to Produce Certain Records (r. 04/90)</del>	<del>08/92</del>
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(18) through (26) renumbered (17) through (25) No change.

<del>(27) *DR-840</del>	<del>Notification of Intent to Audit Books and Records (r. 02/90)</del>	<del>08/92</del>
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(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,\_\_\_\_\_.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
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 12A-12.0011, FAC. (Battery Fee), is to 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.

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

The purpose of the proposed amendments to Rule 12A-12.004, FAC, is to 1) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a "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.

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



The purpose of the proposed repeal of Rule 12A-12.006, FAC. (Statute of Limitations), is to remove obsolete provisions regarding the statute of limitations provided in s. 95.091(3), F.S., as amended by s. 1, Chapter 99-239, L.O.F. Section 95.091(3), F.S., clearly provides guidelines regarding the statute of limitations.

The purpose of the proposed repeal of Rule 12A-12.007, FAC. (General Administrative Procedures), is to remove the 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.

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, F.A.C.), and remove provisions that are obsolete or redundant of the statutes as mandated by s. 120.74(1), F.S.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision, the elimination of the obsolete statute of limitations provisions, and the removal of unnecessary provisions that are redundant of the statutes.

**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, LOF.

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., November 3, 1999

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

Copies of the agenda for the rule development workshop may be obtained by contacting any of the persons listed below.

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 PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP ARE:** Janet L. Young, Tax Law Specialist, Larry Green, Tax Law Specialist, and Horace Royals, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-0717

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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.

~~(c) 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.

(1) The Department has the power to prescribe the records to be kept by all persons responsible, as described in this chapter, for collecting solid waste fees and for filing returns and remitting the fees.

(2) All persons having such responsibilities regarding fees shall keep and preserve a complete record of all sales of new tires, lead-acid batteries, or consumption of newsprint, together with invoices, bills of lading, gross receipts from such sales, resale certificates, and other pertinent records and papers as may be required by the Department for the reasonable administration of ss. 403.718, 403.7185, and 403.7195, F.S., and such books of account as may be necessary to determine the amount of fees due thereunder.

(3) All such books, invoices, and other records shall be open for inspection by the Department at all reasonable hours at the responsible person's place of business. Any such person who maintains such books and records at a point outside this state shall make such books and records available for inspection by the Department where the general records are kept.

(4) Books and records required by subsection (2) to be kept shall be retained until expiration of the time within which the Department may make an assessment of fees, as stated in Rule 12A-12.006, F.A.C., with respect to any transaction or activity subject to a fee described in this chapter to which such books and records relate.

(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) The levy of a penalty under authority of s. 213.29, F.S., or

(b) The necessity for the Department to estimate, based upon the best information or evidence available, the maximum amount of tax that should have been reported and remitted by the dealer, and assessment of tax based on that estimate.

(c) Prosecution for a misdemeanor of the first degree under s. 212.13(2), F.S.

(6) The person responsible for remitting fees shall have 60 days from the date of the Notice of Intent to audit books and records to have available for inspection all such books and records, including resale certificates; but the Department is not required to issue a Notice of Intent to audit in situations involving emergency audits requested by taxpayers, or in distress or jeopardy situations referred to in s. 212.14 or s. 212.15, F.S.

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.

The amount of any fee may be determined and assessed:

(1) Within 5 years after the date the fee is due, any return with respect to the fee is due, or such return is filed, whichever occurs later;

(2) Within 6 years after the date the person who remits it either makes a substantial underpayment of the fee or files a substantially incorrect return;

(3) At any time while the right to a refund or credit of the fee is available;

(4) At any time after the person responsible for paying it has failed to make any payment of the fee or has failed to file a required return, whether or not such failure was fraudulent;

(5) At any time after the responsible person has filed a grossly false or fraudulent return;

(6) In any case in which there has been a refund of a fee erroneously made for any reason, within 5 years after making such refund, if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact; or

(7) At any other time permissible under s. 95.091(3), F.S.

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.

In addition to administrative procedures and requirements described in Rules 12A-12.003 through 12A-12.006, F.A.C., the Department of Revenue shall administer, audit, collect, and enforce the fees described in Rules 12A-12.001, 12A-12.0011, and 12A-12.002, F.A.C., pursuant to the same procedures used in the administration, auditing, collection, and enforcement of the sales tax imposed under Chapter 212, Florida Statutes, except as provided to the contrary in Rules 12A-12.003 through 12A-12.006, F.A.C.

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 \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
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 12A-14.002, F.A.C., is to 1) implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “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 from the rule unnecessary recitation of the delinquency penalties imposed under s. 212.12(2)(a), F.S.; 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, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-14.003, F.A.C. (Records and Auditing Requirements), is to 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.

The purpose of the proposed repeal of Rule 12A-14.004, F.A.C. (Statute of Limitations), is to remove obsolete provisions regarding the statute of limitations provided in s. 95.091(3), F.S., as amended by s. 1, Chapter 99-239, L.O.F. Section 95.091(3), F.S., clearly provides guidelines regarding the statute of limitations.

The purpose of the proposed repeal of Rule 12A-14.005, F.A.C. (General Administrative Procedures), is to remove 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.

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, F.A.C.), and remove provisions that are obsolete or redundant of the statutes as mandated by s. 120.74(1), F.S.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision, the elimination of the obsolete statute of limitations provisions, and the removal of unnecessary provisions that are redundant of the statutes.

**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)(c),(g) FS., s. 16, ch. 99-208, LOF.

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., November 3, 1999

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

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**THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP ARE:** Janet L. Young, Tax Law Specialist, and Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-0717

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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 1/4 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.

The amount of any surcharge may be determined and assessed:

~~(1) Within 5 years after the date the surcharge is due, any return with respect to the surcharge is due, or such return is filed, whichever occurs later;~~

~~(2) Within 6 years after the date the person who remits it either makes a substantial underpayment of the surcharge or files a substantially incorrect return;~~

~~(3) At any time while the right to a refund or credit of the surcharge is available;~~

~~(4) At any time after the person responsible for paying it has failed to make any payment of the surcharge or has failed to file a required return, whether or not such failure was fraudulent;~~

~~(5) At any time after the responsible person has filed a grossly false or fraudulent return;~~

~~(6) In any case in which there has been a refund of a surcharge erroneously made for any reason, within 5 years after making such refund, if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact; or~~

~~(7) At any other time permissible under s. 95.091(3), F.S.~~

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.

~~In addition to administrative procedures and requirements described in Rules 12A-14.002 through 12A-14.004, F.A.C., the Department of Revenue shall administer, audit, collect, and enforce the surcharge described in Rule 12A-14.001, F.A.C., pursuant to the same procedures used in the administration, auditing, collection, and enforcement of the sales tax imposed under Part I, Chapter 212, Florida Statutes, except as provided to the contrary in Rule 12A-14.002, F.A.C.~~

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 \_\_\_\_\_.

**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, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a "market interest rate" on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent rental car surcharge. 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, F.A.C.).

The purpose of the proposed amendments is to remove from the rule unnecessary recitation of the delinquency penalties imposed under s. 212.12(2)(a), F.S., as mandated by s. 120.74(1), F.S.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule and the elimination of the recitation of statutorily imposed penalties from this rule.

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 RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

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

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THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP ARE: Janet L. Young, Tax Law Specialist, and Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-0717

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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 (1) 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, \_\_\_\_\_.

**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, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed.

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 (12-3.0015, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule.

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.  
 LAW IMPLEMENTED: 201.11, 201.12, 201.17, 201.20, 213.21, 213.235 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., November 3, 1999  
 PLACE: Room B-12, Conference Room, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 12B-4.005 Penalties and Interest.
  - (1) No change.
  - (2)(a) Payment of interest shall be 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, pro-rated~~

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	x 5
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, \_\_\_\_\_.

**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, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent gross receipts tax.

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 (12-3.0015, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule.

SPECIFIC AUTHORITY: 213.06(1) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLES: Payment of Tax; Interest and Penalties  
Penalties and Interest

RULE NOS.: 12B-7.009  
12B-7.023

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12B-7.009 and 12B-7.023, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities, instead of the flat rate of 12 percent per year which was previously imposed on delinquent severance taxes.

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 (12-3.0015, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in these rules.

SPECIFIC AUTHORITY: 211.125(1), 211.33(6), 213.06(1) FS.

LAW IMPLEMENTED: 211.075, 211.076, 211.33, 213.235 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-7.009 Payment of Tax; Interest and Penalties.

(1) through (3) No change.

(4)(a) Interest. Any tax not paid by the due date is subject to interest at the following rate: ~~øf~~

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 12 percent per year from the due date until the date of payment.~~

~~(b) Interest will be computed using the following factors:~~

~~1. annual factor —.12~~

~~2. monthly factor —.01~~

~~3. daily factor —.00033~~

Specific Authority 211.125(1), 213.06(1) FS. Law Implemented 211.075, 211.076, 213.235 FS. History—New 12-28-78, Formerly 12B-7.09, Amended 12-18-94, \_\_\_\_\_.

12B-7.023 Penalties and Interest.

(1) No change.

(2)(a) Interest. Any tax not paid by the due date is subject to interest at the following rate: ~~øf~~

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 12 percent per year from the due date until the date of payment.~~

~~(b) Interest will be computed using the following factors:~~

~~1. annual factor —.12~~

~~2. monthly factor —.01~~

~~3. daily factor —.00033~~

Specific Authority 211.33(6), 213.06(1) FS. Law Implemented 211.33, 213.235 FS. History—New 12-18-94, Amended \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE:

RULE NO.:

Premium Tax; Rate and Computation

12B-8.001

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.001, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent insurance premium tax.

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 (12-3.0015, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule.

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.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: Returns, Regulations, and Filing Requirements 12B-12.006

RULE NO.:

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-12.006, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent perchloroethylene tax.

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 (12-3.0015, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule.

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.

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

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THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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 ~~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 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,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE TITLE: Penalties and Interest 12C-2.007

RULE NO.:

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-2.007, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a “market interest rate” on unpaid tax liabilities,

instead of the flat rate of 12 percent per year which was previously imposed on delinquent intangible personal property tax.

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 (12-3.0015, F.A.C.).

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule.

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

**LAW IMPLEMENTED:** 199.052, 199.282, 213.235 FS.

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., November 3, 1999

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

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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, \_\_\_\_\_.

**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, F.A.C., is to implement s. 7 of Chapter 99-239, L.O.F., which created s. 213.235, F.S., and imposed a "market interest rate" on unpaid tax liabilities, instead of the flat rate of 1 percent per month which was previously imposed on delinquent estate tax.

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 (12-3.0015, F.A.C.).

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to give members of the public an opportunity to discuss the proposed elimination of the flat rate interest provision contained in this rule.

**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 RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., November 3, 1999

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

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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, \_\_\_\_\_.

**DEPARTMENT OF CORRECTION**

RULE TITLE: Use of Tobacco Products

RULE NO.: 33-401.401

PURPOSE AND EFFECT: The proposed rule is needed in order to implement s. 944.115, Florida Statutes, which provides for the prohibition of tobacco products use in offices and buildings within state correctional facilities and other areas designated by the department as prohibited areas. The effect of the proposed rule is to prohibit use of tobacco products in all indoor areas of all buildings leased, owned or occupied by the Department of Corrections.

SUBJECT AREA TO BE ADDRESSED: Use of tobacco products.

SPECIFIC AUTHORITY: 944.09, 944.115 FS.

LAW IMPLEMENTED: 386.201, 386.202, 386.203, 386.204, 386.205, 386.206, 944.09, 944.115 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., November 3, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-401.401 Use of Tobacco Products Smoking Rules.

(1) This rule establishes the tobacco products use smoking policy for ~~the all~~ Department of Corrections ~~buildings or areas of buildings owned or leased by the department.~~ For the purposes of this rule, "tobacco products" means items such as cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant, which are prepared or used for smoking, chewing, dipping, sniffing, or other personal use.

(2) Use of any tobacco products Smoking shall be prohibited in all indoor areas of any building owned, leased or wholly occupied by the Department of Corrections except for employee housing on department grounds and inmate maximum security (death row) housing areas.

(3) Should Department of Corrections' offices be located in buildings not totally in the control of the department, use of tobacco products smoking shall be prohibited in all indoor areas occupied or controlled by the department. Employees may use tobacco products smoke in those indoor areas which have been legally designated as smoking areas by other occupants of the building. Employees may not smoke in areas which do not fully meet the requirements of the Florida Indoor Clean Air Act, sections 386.201-209, F.S.

~~(4) Smoking shall be prohibited in all indoor areas at institutions or facilities except that smoking areas may be designated in areas in which inmates are housed or inmate activities are held. At least one dormitory or housing area at each institution or facility shall be designated as entirely non-smoking. Smoking and non-smoking designations for such areas shall be made by the warden or officer in charge at the institution or facility.~~

~~(4)(5) Outdoor areas owned or leased by the Department of Corrections may be designated by the secretary or the secretary's designee as smoking areas where tobacco products may be used by inmates, staff, or visitors. If Tobacco waste receptacles shall be provided in all areas where tobacco products use is permitted are present. This designation shall be made by the secretary or the secretary's designee. While on department premises, department employees may only smoke in the designated areas and must use the waste receptacles provided.~~

~~(5)(6) Use of tobacco products Smoking~~ shall be prohibited in all vehicles owned or leased by the department.

(6) Tobacco cessation assistance shall be available to inmates to assist them in making a successful tobacco-free transition.

(7) Violation of this rule shall be grounds for disciplinary action against employees and inmates. Visitors found in violation of this rule shall be subject to having their approval for access to the department facility withdrawn.

Specific Authority 944.09, 944.115 FS. Law Implemented 386.201, 386.202, 386.203, 386.204, 386.205, 386.206, 944.09, 944.115 FS. History—New 12-31-80, Formerly 33-20.01, Amended 3-12-86, 2-24-92, 1-4-94, Formerly 33-20.001, Amended \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLES:	RULE NOS.:
Substance Abuse Program Services – General Policy	33-507.001
Operation of Substance Abuse Programs	33-507.002
Substance Abuse Program Services – Determination of Need	33-507.201
Substance Abuse Program – Inmate Procedures Confidentiality of Substance Abuse Services Files	33-507.202  33-507.401

PURPOSE AND EFFECT: The purpose of the proposed rules is to provide for mandatory substance abuse services, and to correct titles of personnel and offices associated with substance abuse programs. The effect of the proposed rules is to establish criteria for placement in mandatory substance abuse programs and to establish restrictions to be applied to those inmates refusing mandatory services.

SUBJECT AREA TO BE ADDRESSED: Substance abuse programs.

SPECIFIC AUTHORITY: 397.754 FS.

LAW IMPLEMENTED: 397.745 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 10, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-507.001 Substance Abuse ~~Treatment~~ Program Services – General Policy.

The department shall provide substance abuse ~~service~~ ~~treatment~~ programs at institutions and facilities to the extent that is permitted by available resources. Inmates who meet criteria established by the department shall be mandated to participate in substance abuse services when such services are available. The assignment of inmates to such programs is a classification function as authorized in chapter 33-601, Florida Administrative Code, and No right to substance abuse program services ~~treatment~~ is stated, intended, or otherwise implied by this chapter.

Specific Authority 397.754 FS. Law Implemented 397.754 FS. History—New 1-18-95, Formerly 33-37.001, Amended \_\_\_\_\_.

33-507.002 Operation of Substance Abuse Programs.

Inmate substance abuse programs shall be operated under the direction of the program manager within whose administrative area the program exists ~~regional director, warden, or employee in charge of each region, institution or facility~~. In order to ensure the provision of quality services, the bureau of substance abuse programs services office shall have responsibility for administering the overall program, for the development and issuance of performance standards for each program entity with regard to program operation, staffing ratio, hours of service delivery ~~counseling~~, and other such areas as deemed necessary for the administration of the programs, and for oversight review. Each program manager ~~region~~ shall provide for periodic monitoring activities for programs at institutions and facilities in his or her administrative area ~~the region~~ to ensure that performance standards and contract compliance are maintained.

Specific Authority 397.754 FS. Law Implemented 397.754 FS. History—New 1-18-95, Formerly 33-37.002, Amended \_\_\_\_\_.

33-507.201 Substance Abuse ~~Treatment~~ Program Services – Determination of Need.

(1) Upon arrival at a Department of Corrections' reception center for initial processing, each inmate shall be screened and assessed ~~through review of his or her record~~ to determine if the inmate meets the department's criteria ~~his or her need for mandated substance abuse services~~.

(2) Criteria for mandated substance abuse program services shall be based upon:

(a) The presence of a diagnosed psychoactive substance dependence or use disorder;

(b) The severity of the addiction;

(c) A history of criminal behavior related to substance abuse;

(d) A sentencing authority recommendation for substance abuse program services;

(e) Unsuccessful participation in community- based substance abuse services.

(3)(2) When, in accordance with criteria established in (2), it is determined that an inmate is in need of substance abuse program services ~~treatment~~, he or she shall be assigned a priority ranking for services based upon these criteria and shall be placed into available programs or referred for further assessment, placed on a waiting list for future assignment to a program, or assigned to a substance abuse treatment program.

(4)(3) Priority ranking for assignment shall be maintained for all inmates and updated at least monthly, based upon space available in substance abuse treatment programs; Prioritization ranking shall also be based upon length of sentence remaining to be served, and readiness for program services ~~treatment~~.

(5) Inmates who refuse to participate in mandated substance abuse services shall be subject to the restrictions or privileges including any combination of the following:

- (a) Reduction of incentive gain time award;
- (b) Restriction of telephone use;
- (c) Restriction of visitation;
- (d) Restriction of other privileges such as access to canteen or recreational facilities.

(6) Inmates discharged from substance abuse programs due to program rule violations, violation of institutional rules, or behavioral management problems shall be subject to the restrictions in (5) above.

(7) Inmates who refuse to participate in mandated services shall be removed from the priority listing until such time as the inmate agrees to participate in the mandated program.

- (8) Inmates shall only be subject to restrictions:
  - (a) When mandated services are available, and
  - (b) Only for the duration during which the inmate refuses the program.

(9) If an inmate recants an earlier refusal for mandated services, he or she will be returned to the priority listing and the priority ranking shall be recalculated. When a program slot becomes available, the inmate shall be placed into the substance abuse program and any restrictions resulting from the earlier refusal removed at the time of program entry.

(10)(4) Inmates shall not be denied access to substance abuse program ~~treatment~~ services on the basis of race, gender, ethnicity, age, sexual preference, human immunodeficiency virus status, prior treatment departures against professional ~~medical~~ advice, disability or number of relapse episodes.

Specific Authority 397.754 FS. Law Implemented 397.754 FS. History—New 1-18-95, Formerly 33-37.003, Amended.

**33-507.202 Substance Abuse ~~Treatment~~ Program – Inmate Procedures.**

(1) Consideration for individual dignity shall be accorded to inmates in the provision of substance abuse services ~~treatment~~. No employee of the department or of any agency or individual under contract with the department to provide substance abuse program services ~~treatment~~ shall use or authorize deliberate acts of humiliation as part of any substance abuse ~~the treatment~~ program.

(2) Substance abuse services shall be designed to suit each inmate's individual needs.

(3) Inmates who are assigned to a substance abuse services ~~treatment~~ program shall have an individualized services ~~treatment~~ plan developed by the individual designated as their primary counselor by the department or the contract services ~~treatment~~ provider which shall include service ~~treatment~~ goals and shall specify the types of activities necessary to meet those goals.

(4) Inmate participants in substance abuse services ~~treatment~~ programs shall be subject to the same communication restrictions that apply to inmates in the general population at the institution or facility. Any additional limitations imposed as a part of the substance abuse program ~~treatment regimen~~ shall be agreed to in writing by the inmate participant.

(5) Within one month prior to final release from the facility, inmates participating in substance abuse programs shall be provided with information by their primary counselor or transitional assistance officer regarding options for continuing substance abuse services in the community and with referrals for such services if requested.

Specific Authority 397.754 FS. Law Implemented 397.754 FS. History—New 1-18-95, Formerly 33-37.004, Amended.

**33-507.401 Confidentiality of Substance Abuse Services ~~Treatment~~ Files.**

Files of the department or of service providers which pertain to the identity, diagnosis, and prognosis of substance abuse services ~~treatment~~ to any inmate are confidential in accordance with the provisions of Section 397.754(8), Florida Statutes, and 42 USCS 290, ee-3, and shall be disclosed only in accordance with these provisions.

Specific Authority 397.501(7), 397.752, 397.754(8), 42 USCS 290 ee-3. Law Implemented 397.501(7), 397.752, 397.754(8), 42 USCS 290 ee-3. History—New 1-18-95, Formerly 33-37.005, Amended.

**LAND AND WATER ADJUDICATORY COMMISSION  
Cypress Grove Community Development District**

RULE CHAPTER TITLE: Cypress Grove Community  
Development District

RULE CHAPTER NO.:

RULE TITLE: Creation

420-1

RULE NO.:

420-1.001

PURPOSE AND EFFECT: The purpose of this proposed rule amendment is to delete language of the rule for which specific statutory authority does not exist.

SUBJECT AREA TO BE ADDRESSED: Delete portions of the above referenced Florida Land and Water Adjudicatory Commission rule.

SPECIFIC AUTHORITY: 120.53(1), 190.005 FS.

LAW IMPLEMENTED: 190.005 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 Noon, Tuesday, November 2, 1999

PLACE: Room 2106, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)488-7793, at least 3 business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Barbara Leighty, Senior Governmental Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 2105, Tallahassee, Florida 32399-0001, telephone (850)488-7793

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

42O-1.001 Creation.

Cypress Grove Community Development District is hereby created. ~~This district is established for the purpose of operating and maintaining existing infrastructure for an existing citrus grove, and will remain predominately agricultural in character. However, if at a future date the purpose of the community development district is changed, approval by the Florida Land and Water Adjudicatory Commission will be required by amendment to this rule.~~

Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.005 FS. History—New 12-14-93, Amended \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Certificate of Need**

RULE TITLE: Open Heart Surgery Program

RULE NO.: 59C-1.033

PURPOSE AND EFFECT: Rule 59C-1.033 is the agency’s Certificate of Need (CON) rule regulating open heart surgery programs. Paragraph (7)(c) of the rule contains a methodology which can override the calculated net need for an additional open heart surgery program in specified circumstances. A DOAH Final Order has invalidated the last two sentences of that paragraph. The agency is deleting those sentences and also the remaining language, since the remainder of the paragraph could not be implemented if it stood alone. There is no proposed replacement for the provisions of paragraph (7)(c).

SUBJECT AREA TO BE ADDRESSED: Elimination of an invalidated portion of the CON rule regulating Open Heart Surgery Programs.

SPECIFIC AUTHORITY: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.036(1)(g)(k) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 2, 1999

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Davis, Certificate of Need Office, 2727 Mahan Drive, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.033 Open Heart Surgery Program.

(1) through (6) No change.

(7) Adult Open Heart Surgery Program Need Determination.

(a) A new adult open heart surgery program shall not normally be approved in the district if any of the following conditions exist:

1. There is an approved adult open heart surgery program in the district;

2. One or more of the operational adult open heart surgery programs in the district that were operational for at least 12 months as of 3 months prior to the beginning date of the quarter of the publication of the fixed need pool performed less than 350 adult open heart surgery operations during the 12 months ending 3 months prior to the beginning date of the quarter of the publication of the fixed need pool; or,

3. One or more of the adult open heart surgery programs in the district that were operational for less than 12 months during the 12 months ending 3 months prior to the beginning date of the quarter of the publication of the fixed need pool performed less than an average of 29 adult open heart surgery operations per month.

(b) Provided that the provisions of paragraphs (7)(a) and ~~(7)(e)~~ do not apply, the agency shall determine the net need for one additional adult open heart surgery program in the district based on the following formula:

$$NN = ((Uc \times Px) / 350) - OP \geq 0.5$$

where:

1. NN = The need for one additional adult open heart surgery program in the district projected for the applicable planning horizon. The additional adult open heart surgery program may be approved when NN is 0.5 or greater.

2. Uc = Actual use rate, which is the number of adult open heart surgery operations performed in the district during the 12 months ending 3 months prior to the beginning date of the quarter of the publication of the fixed need pool, divided by the population age 15 years and over. For applications submitted between January 1 and June 30, the population estimate used in calculating Uc shall be for January of the preceding year; for applications submitted between July 1 and December 31, the population estimate used in calculating Uc shall be for July of the preceding year. The population estimates shall be the most recent population estimates of the Executive Office of the Governor that are available to the agency 3 weeks prior to publication of the fixed need pool.

3. Px = Projected population age 15 and over in the district for the applicable planning horizon. The population projections shall be the most recent population projections of the Executive Office of the Governor that are available to the agency 3 weeks prior to publication of the fixed need pool.

4. OP = the number of operational adult open heart surgery programs in the district.

(c) Regardless of whether need for a new adult open heart surgery program is shown in paragraph (b) above, a new adult open heart surgery program will not normally be approved for an district if the approval would reduce the 12 month total at an existing adult open heart surgery program in the district below 350 open heart surgery operations. In determining whether this condition applies, the agency will calculate  $(Uc \times Px)/(OP + 1)$ . If the result is less than 350 no additional open heart surgery program shall normally be approved.

(8) No change.

Specific Authority 408.15(8), 408.034(3)(5) FS. Law Implemented 408.036(1)(g)(k)(e)(h) FS. History—New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5-11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 6-11-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(f), Amended 1-26-92, Formerly 10-5.033, Amended 6-17-93, 8-24-93, \_\_\_\_\_.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Florida Commission on Human Relations**

RULE TITLE: Complaints

RULE NO.: 60Y-5.001

PURPOSE AND EFFECT: The goal of the proposed rule amendments is to simplify and clarify the requirements of a complaint filed with the Florida Commission on Human Relations. The effect of the proposed rule amendments is that rule requirements will comport with the statutory requirements.

SUBJECT AREA TO BE ADDRESSED: Complaints of unlawful employment practices filed with the Florida Commission on Human Relations.

SPECIFIC AUTHORITY: 760.06(12), 760.11(14) FS.

LAW IMPLEMENTED: 760.06, 760.10, 760.11(1) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 2, 1999

PLACE: Florida Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, Florida 32303-4149

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Dana Baird, General Counsel, Florida Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, Florida 32303-4149, whose telephone number is (850)488-7082

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

60Y-5.001 Complaints.

(1) No change.

(2) Time for Filing. A complaint may be filed at any time within ~~365~~ 180 days of the occurrence of the alleged unlawful employment practice. If the alleged unlawful employment practice is of a continuing nature, the date of the occurrence may be any date subsequent to the commencement of the unlawful employment practice up to and including the date on which it shall have ceased.

(3) through (6)(a) No change.

(6)(b) Notwithstanding the provision of paragraph (a) of this subsection, a complaint is sufficient if it is in writing, signed by the Complainant, verified, under oath or affirmation and is sufficiently precise to identify the parties and to describe generally the action or practice complained of.

(7) through (8) No change.

(9) Notice to Respondent. When it is determined that a complaint has been timely filed, the Commission, Executive Director ~~within 5 days of the complaint being filed,~~ shall send by registered mail ~~cause~~ notice of the filing and a copy of the complaint to ~~be served upon~~ the respondent. An amendment likewise shall be sent by registered mail to the ~~served upon a~~ respondent. ~~Notice should be served within 15 days of the date of filing.~~

(10) No change.

Specific Authority 760.06(12), 760.11(14) FS. Law Implemented 760.06, 760.10, 760.11(1) FS. History—New 11-2-78, Amended 10-4-82, Formerly 22T-9.01, 22T-9.001, Amended 1-28-99, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE TITLES: Fees

RULE NOS.: 61-20.504

Continuing Education 61-20.508

Continuing Education Courses 61-20.5081

Continuing Education Course Approval 61-20.5082

Renewal Requirements for Continuing Education 61-20.5083

Reactivation Continuing Education 61-20.509

PURPOSE AND EFFECT: The Regulatory Council proposes to amend Rule 61-20.504 to expand the fees to be adopted by the Council. The Board will discuss Rule 61-20.508 to determine if a substantial rewording is necessary to clarify continuing education for provider approval. The Board proposes to discuss Rule 61-20.5081 to determine if the rule should be reworded to clarify continuing education for provider approval. The Board will discuss the possibility of creating a new rule, numbered 61-20.5082, which will address continuing education course approval. The Board proposes to repeal Rule 61-20.5083 because the substance of the rule text is contained in Rule 61-20.508, thus making this rule

unnecessary. The Board will discuss Rule 61-20.509 to determine if the words “or delinquent” should be omitted from this rule.

**SUBJECT AREA TO BE ADDRESSED:** Fees; continuing education; continuing education; continuing education courses; renewal requirements for continuing education; and reactivation continuing education.

**SPECIFIC AUTHORITY:** 468.4315, 468.433, 468.4337 FS.

**LAW IMPLEMENTED:** 455.217, 455.2171, 455.219(6), 468.433, 468.4337, 468.4338 FS.

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 10:00 a.m., or shortly thereafter on December 13, 1999

**PLACE:** The Department of Business and Professional Regulation, 1940 North Monroe Street, Northwood Centre, Secretary’s Conference Room, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Ed Broyles, Executive Director, Regulatory Council of Community Association Managers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENTS IS NOT AVAILABLE.**

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

**RULE TITLE:** Standards of Practice – Drug Therapy Management

**RULE NO.:** 64B16-27.830

**PURPOSE AND EFFECT:** The Board proposes to promulgate a new rule which will provide language for the standards of practice for drug therapy management.

**SUBJECT AREA TO BE ADDRESSED:** Standards of practice – drug therapy management.

**SPECIFIC AUTHORITY:** 465.005, 465.0155 FS.

**LAW IMPLEMENTED:** 465.003(5),(7),(9),(12),(13), 465.0155, 465.0276, 465.186 FS.

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 10:00 a.m., or shortly thereafter on December 7, 1999

**PLACE:** The Embassy Suites, 3974 N. W. South River Drive, Miami, Florida 33142

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** John

Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

64B16-27.830 Standards of Practice – Drug Therapy Management.

(1) “Drug Therapy Management” means any act or service by a pharmacist in compliance with orders in a Prescriber Care Plan issued by a practitioner authorized by the laws of the state to prescribe medicinal drugs, in which the practitioner has prescribed the conditions under which a pharmacist shall interpret laboratory values ordered for a patient, or modify drug therapy ordered for a patient, or implement drug therapy ordered for a patient.

(2) “Prescriber Care Plan” means an individualized assessment of a patient and orders for drugs intended to be dispensed by a pharmacist, written or transmitted by any means of communication by a practitioner authorized by the laws of the state to prescribe medicinal drugs.

(3) A pharmacist may provide Drug Therapy Management services for a patient, incidental to the dispensing of medicinal drugs or as a part of consulting concerning therapeutic values of medicinal drugs. A pharmacist who provides Drug Therapy Management services for a patient shall comply with orders on a Prescriber Care Plan, issued by a duly licensed practitioner authorized by the laws of the state to prescribe medicinal drugs. The pharmacist shall comply with such orders insofar as they specify:

(a) drug therapy to be initially dispensed to the patient by the pharmacist; or

(b) laboratory values to be monitored and interpreted by the pharmacist; or

(c) the conditions under which the duly licensed practitioner authorizes modification by the pharmacist of drug therapy for the patient; or

(d) the conditions under which the duly licensed practitioner authorizes implementation by the pharmacist of drug therapy for the patient.

(4) A pharmacist who provides Drug Therapy Management services for a patient must be professionally qualified as competent to provide such services.

(5) A pharmacist who provides Drug Therapy Management services shall do so only under the auspices of a pharmacy permit that provides the following:

(a) a transferrable patient care record that includes:

1. a referral from a duly licensed practitioner for each patient for whom a pharmacist provides Drug Therapy Management services; and



2. a Prescriber Care Plan that includes a section noted as "orders" from a duly licensed practitioner for each patient for whom a pharmacist provides Drug Therapy Management services; and

3. progress notes; and

(b) a pharmaceutical care area that is private, distinct, and partitioned from any area in which activities other than patient care activities occur, and in which the pharmacist and patient may sit down during the provision of Drug Therapy Management services; and

(c) a continuous quality improvement program that includes standards and procedures to identify, evaluate, and constantly improve Drug Therapy Management services provided by a pharmacist.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003(13), 465.0155 FS. History--New

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: RULE NO.:

Special Parenteral/Enteral Compounding 64B16-28.820

PURPOSE AND EFFECT: The rule amendments will delete certain rule text from Subsection (3)(d) that is no longer needed and new language will be added to clarify the Quality Assurance Program in compliance with recommended standards published by the American Society of Health-System Pharmacies and the United States Pharmacopeial Convention.

SUBJECT AREA TO BE ADDRESSED: Special parenteral/enteral compounding.

SPECIFIC AUTHORITY: 465.005, 465.007 FS.

LAW IMPLEMENTED: 465.007, 465.018 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., or shortly thereafter on December 7, 1999

PLACE: The Embassy Suites, 3974 N. W. South River Drive, Miami, Florida 33142

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64B16-28.820 Special Parenteral/Enteral Compounding.
(1) through (2) No change.
(3) General Requirements
(a) through (c) No change.

(d) A Policy and Procedure Manual shall be prepared and maintained at each special parenteral/enteral compounding pharmacy, and be available for inspection by authorized agents of the Board of Pharmacy and the Agency. The Policy and Procedure Manual shall set forth in detail the objectives and operational guidelines of the permittee. The Policy and Procedure Manual shall include a Quality Assurance Program which monitors personnel qualifications, training and performance, equipment facilities, and process validation in compliance with recommended standards published by the American Society of Health-System Pharmacies and the United States Pharmacopeial Convention. random production sampling consistent with recommended standards for compounding and dispensing intravenous admixtures as set forth by the Joint Commission on Accreditation of Health Organizations, the National Coordinating Committee and Large Volume Parenteral, and as provided by the Florida Board of Pharmacy.

(e) through (h) No change.

(4) through (6) No change.

Specific Authority 465.005, 465.007 FS. Law Implemented 465.007, 465.018 FS. History--New 4-26-84, Formerly 21S-1.40, Amended 7-27-86, Formerly 21S-1.040, Amended 7-31-91, 10-14-91, Formerly 21S-28.820, 61F10-28.820, Amended 3-10-96, 6-4-97, Formerly 59X-28.820, Amended

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLES: RULE NOS.:

Disciplinary Guidelines; Range of Penalties;

Aggravating and Mitigating Circumstances 64B16-30.001

Citations 64B16-30.003

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address the range of penalties in the disciplinary guidelines and in citation violations.

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines and citations.

SPECIFIC AUTHORITY: 455.617, 455.621, 455.624, 455.627, 465.005 FS.

LAW IMPLEMENTED: 455.617, 455.624, 455.627 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., or shortly thereafter, December 7, 1999

PLACE: The Embassy Suites, 3974 N. W. South River Drive, Miami, Florida 33142

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of Chapter 465 or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) Obtaining a license or permit by misrepresentation fraud or error (465.016(1)(a), F.S.) (465.023(1)(a), F.S.)	Revocation	
(b) Procuring a license or permit through false representation (465.016(1)(b), F.S.) (465.023(1)(b), F.S.)	Revocation	
(c) Permitting unlicensed persons to practice pharmacy (465.016(1)(c), F.S.)	<u>\$2,500</u> <del>\$1,000</del> fine	<u>\$5,000 and One (1) year suspension</u>
(d) No change.		
(e) Violating laws governing the practice of pharmacy (465.016(1)(e), F.S.) (465.023(1)(c), F.S.)		
1. Chapter 465:		
a. Failure to supervise pharmacy technician (465.014, F.S.)	<u>\$1,500</u> <del>\$500</del> fine and one (1) year probation	<u>\$5,000 and One (1) year suspension</u>
b. Operating a pharmacy without a permit (465.015(1)(a), F.S.)	<u>\$500</u> <del>\$300</del> per month to maximum of <u>\$5,000</u> <del>\$1,000</del> (penalty will require permittee to renew permit or cease practice)	Revocation (if no permit exists, refer to State's Attorney)

c. Operating a pharmacy where an unlicensed and unsupervised person practices pharmacy (465.015(1)(b), F.S.)	<u>\$5,000</u> <del>\$1,000</del> fine and one (1) year probation	<u>\$5,000 and One (1) year suspension</u>
d. No change.		
e. Practicing pharmacy as an inactive licensee (465.015(2)(b), F.S.)		Fine based on length of time in practice while inactive; <u>\$200</u> <del>\$100</del> /month or <u>\$5,000</u> <del>\$1,000</del> maximum (penalty will require licensee to renew license or cease practice)
f. Selling or dispensing drugs without a prescription (465.015(2)(c), F.S.)		
(i) Non-scheduled legend drugs	<u>\$1,500</u> <del>\$500</del> fine	<u>\$5,000 and One (1) year suspension</u>
(ii) Scheduled (controlled substances) legend drugs	<u>\$5,000</u> <del>\$1,000</del> fine and one (1) year probation	Revocation
g. No change.		
h. Failure to notify the board of or not to have a prescription department manager or consultant pharmacist (465.022(4), F.S.)		
(i) Failure to notify		Fine based on length of time prior to notifying board. <u>\$200</u> <del>\$100</del> a month to <u>\$5,000</u> <del>\$1,000</del> maximum (penalty requires notification or ceasing practice)
(ii) Failure to have prescription department manager or consultant pharmacist	<u>\$2,500 fine and one (1) year probation</u>	Revocation of permit
i. Failure to comply with required substitution of legend drug requirements (465.025, F.S.)	<u>\$1,000 fine</u> <del>Letter of guidance</del>	<u>\$2,500</u> <del>\$1,000</del> fine
j. Failure to follow negative formulary requirements (465.025(6), F.S.) 64B16-27.500, F.A.C.	Reprimand	<u>\$2,500</u> <del>\$1,000</del> fine and one (1) year probation
k. No change.		
l. Engage in prohibited rebate scheme (465.185, F.S.)	<u>\$1,500</u> <del>\$500</del> fine	<u>\$5,000</u> <del>\$1,000</del> fine and one (1) year probation
m. No change.		
2. Chapter 499		
a. Adulteration of a drug (499.005(2)(3), F.S.) (499.006, F.S.)	<u>\$2,000 fine and One (1) year probation</u>	Revocation suspension
b. Misbranding a drug (499.005(2), (3), F.S.) (499.007, F.S.)		

(i) Incomplete or inaccurate labeling (499.007, F.S.) 64B16-28.108, F.A.C.	<del>\$1,000</del> <del>\$500</del> fine	<del>\$2,500</del> <del>\$1,000</del> fine and one (1) year probation	1. Inappropriate selling of Schedule V controlled substance (893.08(3)(c), F.S.)	<del>\$1,500</del> <del>\$1,000</del> fine and one (1) year probation	One (1) year suspension
(ii) Fraudulent misbranding of legend drugs (499.007, F.S.) 3. Chapter 893 (Controlled substances)	One (1) year suspension	Revocation	m. Unlawful possession of controlled substance (893.13, F.S.)	<del>\$2,500</del> <del>\$1,000</del> fine and one (1) year probation	Revocation
a. Filling a year prescription not appropriately signed (893.04(1)(b), F.S.)	<del>\$1,500</del> <del>\$500</del> fine	<del>\$5,000</del> fine and One (1) suspension	4. Violation of Federal Drug Abuse Act 21 U.S.C. 821 et seq.	<del>\$1,000</del> fine and <del>one (1) year probation</del> <del>Reprimand</del>	<del>\$5,000</del> fine and One (1) year suspension <del>probation</del>
b. Filling an improper prescription (other 64B16-30.001(2)(e)3. above)	<del>\$1,500</del> <del>\$500</del> fine	<del>\$5,000</del> <del>\$1,000</del> fine and one (1) year probation	(f) Criminal conviction related to pharmacy (465.016(1)(f), F.S.) (465.023(1)(d), F.S.)	Misdemeanor: \$1,000 fine	<del>\$5,000</del> <del>\$1,000</del> fine, one (1) year suspension and two (2) year probation
c. Failing to retain prescription records for two (2) years (893.04(1)(d), F.S.)	<del>\$1,000</del> <del>\$500</del> fine	<del>\$2,500</del> <del>\$1,000</del> fine and one (1) year probation	(g) No change.	Felony: One (1) year suspension two (2) year probation & <del>\$5,000</del> <del>\$1,000</del> fine	Revocation and <del>\$1,000</del> fine
d. Failing to appropriately label (893.04(1)(e), F.S.)	<del>\$500</del> <del>\$250</del> fine	\$1,000 fine and one (1) year probation	(h) Filing a false report or failing to file a report required by law		
e. Dispensing a Schedule II drug inappropriately with a non-written prescription (893.04(1)(f), F.S.)	<del>\$2,500</del> <del>\$1,000</del> fine	<del>\$5,000</del> <del>\$1,000</del> fine and one (1) year probation (for dispensing without a prescription see Rule 64B16-30.001 (2)(e)1.f.above)	1. Knowing violation	<del>\$2,000</del> <del>\$1,000</del> fine and one (1) year probation	Revocation
f. Inappropriate refilling of Schedule III, IV, or V drugs (893.04(1)(g), F.S.)	<del>\$1,750</del> <del>\$750</del> fine and one (1) year probation	One (1) year suspension	2. Negligent violation	Reprimand	One (1) year probation and \$1,000 fine
g. Receiving controlled substances without an appropriate order form (893.06(1), F.S.)	<del>\$1,500</del> <del>\$500</del> fine	<del>\$5,000</del> <del>\$1,000</del> fine and one (1) year probation	(i) No change.		
h. Unlawful possession of controlled substances (893.06(2), F.S.)	<del>\$2,500</del> <del>\$1,000</del> fine and one (1) year probation	Revocation	(j) Improperly placing returned drugs into the stock of a pharmacy (465.016(1)(l), F.S.)	<del>\$1,500</del> <del>\$500</del> fine	<del>\$3,000</del> <del>\$1,000</del> fine and one (1) year probation
i. Failure to take a biennial inventory (893.07(1)(a), (2), (3), (4), (5), F.S.)	<del>\$1,000</del> <del>\$250</del> fine	<del>\$2,500</del> <del>\$1,000</del> fine and one (1) year probation	(k) Violating a rule or order of the board or Department (465.016(1)(n), F.S.)		
j. No change.			1. Rules of Board of Pharmacy		
k. Dispensing controlled substances in other than good faith (893.08(3)(b), F.S.)	<del>\$2,500</del> <del>\$1,000</del> fine and one (1) year probation	Revocation	a. 64B16-28.101 to 64B16-28.104 64B16-27.100 64B16-28.106 64B16-28.107 64B16-28.109 64B16-27.103 64B16-28.111 64B16-27.104 64B16-26.400 64B16-26.401 64B16-28.404 64B16-26.301 64B16-28.114 64B16-27.105	<del>\$1,000</del> <del>\$500</del> fine	One (1) year probation and <del>\$2,000</del> <del>\$1,000</del> fine
			b. through c. No change.		

d. 64B16-28.110 (outdated pharmaceuticals)	\$500 fine	One (1) year probation and <del>\$2,000 \$1,000</del> fine (if drugs dispensed, One (1) year suspension)	4. through 5. No change. 6. Having been found liable <del>\$3,000 \$1,000</del> fine civil proceeding for knowingly filing a false report or complaint with the Department against another licensee. 7. Aiding, assisting, <del>\$2,000 \$1,000</del> fine year procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the Department or the Board. 10. Failing to perform any statutory or legal obligation placed upon a licensee. 11. Making or filing a report which the licensee know to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee. 12. Making deceptive, <del>\$3,000 \$1,000</del> fine and untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. 13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 fine and</del> Six (6) month suspension
e. No change. f. 64B16-26.300(1) (Serving as consultant pharmacist without being licensed as a consultant pharmacist)	<del>\$500 per month</del> <u>\$500</u> up to a <u>\$5,000</u> <u>maximum</u>	One (1) year suspension of pharmacist license	9. Aiding, assisting, <del>\$2,000 \$1,000</del> fine year procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the Department or the Board. 10. Failing to perform any statutory or legal obligation placed upon a licensee. 11. Making or filing a report which the licensee know to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee. 12. Making deceptive, <del>\$3,000 \$1,000</del> fine and untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. 13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 fine and</del> One (1) suspension
g. <del>64B16-28.140 and</del> <del>64B16-28.150</del> <del>64B16-28.119</del> (Data processing systems)	<del>\$1,000 \$500 fine and</del> <del>one (1) year</del> <del>probation</del>	<del>\$5,000 fine and</del> <del>two (2) years</del> <del>probation</del> <del>Revocation</del>	10. Failing to perform any statutory or legal obligation placed upon a licensee. 11. Making or filing a report which the licensee know to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee. 12. Making deceptive, <del>\$3,000 \$1,000</del> fine and untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. 13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 \$1,000</del> fine and one (1) year probation
h. 64B16-28.120 (Location of legend drugs)	<del>\$1,000 \$500</del> fine	<del>\$5,000 fine and</del> <del>two (2) years probation</del> <del>One (1) year suspension</del>	11. Making or filing a report which the licensee know to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee. 12. Making deceptive, <del>\$3,000 \$1,000</del> fine and untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. 13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 fine and</del> One (1) year suspension
i. No change. j. 64B16-28.202 and 64B16-28.203 (transfer of prescription files and drugs)	<del>\$1,500 fine</del>	Revocation of permit	11. Making or filing a report which the licensee know to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee. 12. Making deceptive, <del>\$3,000 \$1,000</del> fine and untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. 13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	
2. Violation of orders of Board or Department (l) No change. (m) Failure to comply with Board's rule on patient counseling. (64B16-27.800, 64B16-27.810, 64B16-27.820, FAC.)	<del>\$2,500 fine and</del> One (1) year <del>probation suspension</del>	Revocation	12. Making deceptive, <del>\$3,000 \$1,000</del> fine and untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. 13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 fine and</del> One (1) year suspension
(n) No change. (o) Violating 455.624, F.S.	<del>\$750 fine</del> <del>Letter of</del> <del>Guidance</del>	<del>\$2,500 \$1,000</del> fine <del>and one year</del> <del>suspension</del> , one year probation.	13. Exercising influence on the patient or client fo the purpose of financial gain of the licensee or a third party. 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 fine and</del> One (1) year suspension
1. Making misleading, year deceptive, or fraudulent representations in or related to the practice of the licensee's profession.	<del>\$2,500 \$1,000</del> fine and one (1) year probation	<del>\$5,000 fine and</del> One (1) suspension	14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.	<del>\$5,000 fine and</del> One (1) year suspension
2. Intentionally violating any rule adopted by the Board or the Department, as appropriate.	<del>\$1,500 \$500</del> fine	<del>\$2,500 \$1,000</del> fine and one (1) year probation		<del>\$5,000 fine and</del> One (1) year suspension
3. Being convicted or found year guilty of, or entering a plea of nolo contendere to, regardless of adjudication a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.	Misdemeanor: \$1,000 fine  Felony: <del>\$3,000 fine and</del> One (1) year <del>probation suspension</del>	<del>\$5,000 fine and</del> One (1) suspension  Revocation		<del>\$5,000 fine and</del> One (1) year suspension

15. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them. \$2,000 ~~\$1,000~~ fine and \$5,000 fine and two (2) years probation One (1) year suspension

16. Violating any provision of this part, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department. \$1,000 fine \$5,000 ~~\$1,000~~ fine and two (2) years probation

17. Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. \$2,500 ~~\$1,000~~ fine and \$5,000 fine and two (2) years probation One (1) year suspension

(3) through (4) No change.

Specific Authority 455.624, 455.627, 465.005 FS. Law Implemented 455.624, 455.627 FS. History—New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96., Formerly 59X-30.001, Amended 12-3-97, 11-15-98,\_\_\_\_\_.

64B16-30.003 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) Practicing pharmacy as an inactive licensee (465.015(2)(b), FS.) Fine based on length of time in practice while inactive; \$200 ~~\$100~~/month or \$5,000 ~~\$1,000~~ maximum (penalty will require licensee to renew license or cease practice).

(b) Operating a pharmacy with an inactive without a permit (465.015(1)(a), FS.) \$500 ~~\$150~~ per month to a maximum of \$5,000 ~~\$1,000~~ (penalty will require permittee to renew permit or cease practice).

(4) through (5) No change.

Specific Authority 455.617, 455.621, 465.005 FS. Law Implemented 455.617 FS. History—New 12-22-91, Formerly 21S-30.003, 61F10-30.003, 59X-30.003, Amended\_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

RULE CHAPTER TITLE: Alternate Service Procurement Method Procedures  
 RULE CHAPTER NO.: 65-28

PURPOSE AND EFFECT: The purpose of this rule is to implement the provisions of Section 20.19(17)(c), Florida Statutes, to provide procedures for a methodology for the competitive procurement of contracted client services, which represents an alternative to the request-for-proposal or the invitation-to-bid process.

SUBJECT AREA TO BE ADDRESSED: Contracted client services procurement.

SPECIFIC AUTHORITY: 20.19(17)(c) FS.

LAW IMPLEMENTED: 20.19(17) (c) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE FLORIDA ADMINISTRATIVE WEEKLY, NOT LESS THAN 14 DAYS PRIOR TO THE DATE WORKSHOP(S) ARE TO BE HELD.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Joy Neves, 413-7464, (SC) 293-7464

THE PRELIMINARY TEXT OF THE PROPOSED RULE MAY BE OBTAINED, IN HARD COPY OR ELECTRONIC FORMAT, WITHOUT COST, UPON REQUEST TO THE CONTACT PERSON ABOVE.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE TITLE: Relocation Assistance  
 RULE NO.: 65A-4.100

PURPOSE AND EFFECT: This proposed rule amendment implements the requirements of Ch. 414.155, F.S., Relocation Assistance Program, as amended by the 1999 legislature.

SUBJECT AREA TO BE ADDRESSED: This proposed rule amendment implements four changes in relocation assistance policy. These changes are: clarifying that receiving relocation assistance will preclude application for temporary cash assistance for a period of six months in accordance with policy established by the WAGES State Board; establishing procedures for calculating the amount of relocation assistance; establishing procedures for calculating amounts of relocation assistance that must be repaid; and, clarifying that relocation assistance will not be paid to relocate outside the State of Florida. Forms associated with relocation assistance will be amended to reflect these changed policies. Additionally, a statement limiting the number of times an individual may apply for relocation assistance is removed.

SPECIFIC AUTHORITY: 414.45, 414.155 FS.

LAW IMPLEMENTED: 414.155 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 1, 1999

PLACE: Building 3, Room 414, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, Building 3, Room 412-D, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, Telephone (850)488-3090

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**NAVIGATION DISTRICTS**

**Florida Inland Navigation District**

RULE TITLES:	RULE NOS:
Policy	66B-1.004
Application Process	66B-1.006
Project Eligibility	66B-1.008

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: modify the property control requirements for project sites that are leased; clarify the amount of pre-agreement expenses that are eligible for program funding; modify the Attorney's Certificate of Title for clarity; revise the project priority list; and, revise the date when permits are required for construction projects. The effect of the rule development is to implement changes in the administration of the District's Cooperative Assistance Program that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUBJECT AREA TO BE ADDRESSED: Cooperative Assistance Program rule sections; Definitions, Policy, Application Process and Project Eligibility.

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 10, 1999

PLACE: The District office, 1314 Marcinski Road, Jupiter, Florida

THE PERSON TO BE CONTACTED REGARDING THE THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: David K. Roach, Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number (561)627-3386

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

66B-1.004 Policy.

The following constitutes the policy of the District regarding the administration of the program:

(1) through (6) No change.

(7) The site of a new proposed land-based development project shall be dedicated for the public use for which the project was intended for a minimum period of 25 years after project completion. Such dedication shall be in the form of a deed, lease, management agreement or other legally binding document and shall be recorded in the public property records of the county in which the property is located. This property control requirement also applies to a project site owned by another governmental entity. The governmental entity that owns the project site may be joined as a co-applicant to meet this property control requirement. Existing land based development projects that are being repaired, replaced or modified must demonstrate that the project site has been dedicated for public use for at least 25 years with at least 10 years remaining on the dedication document.

(8) No change.

(9) The project sponsor shall not commence work on an approved project prior to the execution of the project agreement unless authorized by the Board during the review and funding approval process. Pre-agreement expenses will be authorized if they are less than fifty (50) percent of the project's total cost and if the expenses are eligible project expenses in accordance with this rule. Only fifty (50) percent of the pre-agreement expenses will be eligible for reimbursement funding from the District.

(10) through (11) No change.

(12) All project costs must be incurred and work performed within the project period as stipulated in the project agreement unless pre-agreement costs are approved by the Board. Pre-agreement expenses will be authorized if they are less than fifty (50) percent of the project's total cost and if the expenses are eligible project expenses in accordance with this rule. Only fifty (50) percent of the pre-agreement expenses will be eligible for reimbursement funding from the District.

(13) through (19) No change.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1),(2) FS. History—New 12-17-90, Amended 2-6-97, Formerly 16T-1.004, Amended 5-17-98, 3-31-99.

66B-1.006 Application Process.

(1) through (2) No change.

(3) A pre-application meeting will be held with District staff prior to formal submission of the application. Upon receipt in the District office, staff will review the applications for completeness of the informational requirements identified in the Application Checklist, FIND Form Number 90-16 (effective date 2-6-97), hereby incorporated by reference and

available from the District office, and for compliance with the eligibility requirements of this rule. If the application is for a project that is a land based development project the applicant shall submit an Attorney's Certification of Title, FIND Form Number 94-26 (effective date \_\_\_\_\_ ~~2-6-97~~), hereby incorporated by reference and available from the District office. When an application is determined by staff to be incomplete or ineligible, Staff will immediately inform the applicant by mail. The applicant will then have until the date established by the Board in the application package to bring the application into compliance. If the applicant fails to provide a complete application in compliance with these rules, the application will not be considered for funding.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Amended 2-6-97, Formerly 16T-1.006, Amended \_\_\_\_\_.

66B-1.008 Project Eligibility.

(1) Financial assistance and support through this program shall be used to plan or carry out public navigation, public recreation, environmental education, boating safety, and inlet management directly related to the waterways.

(a) Program funds may be used for projects such as acquisition planning, development, construction, reconstruction, extension improvement, operation or maintenance of the following for public use on land and water:

1. Public navigation channel dredging ~~Public boat ramps and launching facilities.~~
2. Public navigation aids and markers ~~Public navigation channel dredging.~~
3. Inlet management projects that are a benefit to public navigation in the District ~~Public navigation channel lights and markers.~~
4. Public shoreline stabilization ~~Waterway signs and buoys for safety, regulation or information.~~
5. Public spoil disposal site development ~~Public boat docking and mooring facilities.~~
6. Waterway signs and buoys for safety, regulation or information ~~Public shoreline stabilization.~~
7. Public boat ramps and launching facilities ~~Public spoil disposal site development, acquisition or management.~~
8. Public boat docking and mooring facilities ~~Public fishing and viewing piers.~~
9. Waterways related environmental education programs and facilities ~~Public waterfront boardwalks.~~
10. Public fishing and viewing piers ~~Waterways related environmental education programs and facilities.~~
11. Public waterfront boardwalks ~~Waterways boating safety programs and equipment.~~
12. Waterways boating safety programs and equipment ~~Inlet management projects related to waterway navigation improvement.~~

13. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project ~~Derelict vessel removal.~~

14. Other waterway related projects.

(b) through (c) No change.

(d) Applications for eligible waterway projects which include construction elements below mean high water will be submitted as a phased project where Phase I will include the design, engineering and permitting elements and Phase II will include the construction of the project. A description and cost estimate of the Phase II work will be submitted along with the Phase I application for Board review. Applicants for Phase II funding will demonstrate that the environmental permitting element of Phase I will be completed by the District's final TRIM hearing prior to the tentative approval date of funding for Phase II. Should the environmental permitting element of Phase I of an application for a construction project not be completed by the District's final TRIM hearing meeting where tentative funding decisions for this program will be made, the Phase II project will not be considered for funding. ~~An applicant may file a petition pursuant to the rule waiver procedures of s. 120.542, F.S. and Chapter 28-104, F.A.C. to extend the date for receipt of the required environmental permits. Petitions filed pursuant to this rule section should be submitted to the District no later than July 1st to facilitate the orderly process of this program and the preparation of the District's fiscal year budget in which the assistance funds will be included.~~ The District will not deviate from the funding schedule, whereby funding decisions are completed at the final TRIM hearing, to accommodate any application deficiency applicant filing a petition after that date.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History--New 12-17-90, Amended 2-6-97, Formerly 16T-1.008, Amended 5-17-98, 3-31-99, \_\_\_\_\_.

**NAVIGATION DISTRICTS**

**Florida Inland Navigation District**

RULE TITLES:	RULE NOS.:
Policy	66B-2.004
Application Process	66B-2.006
Project Eligibility	66B-2.008

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: modify the property control requirements for project sites that are leased; clarify the amount of pre-agreement expenses that are eligible for program funding; modify the Attorney's Certificate of Title for clarity; revise the project priority list; and, revise the date when permits are required for construction projects. The effect of the rule development is to implement changes in the administration of the District's Waterways Assistance Program that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUBJECT AREA TO BE ADDRESSED: Waterways Assistance Program rule sections; Definitions, Policy, Application Process and Project Eligibility.

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3),(5) FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., November 10, 1999

PLACE: The District office, 1314 Marcinski Road, Jupiter, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: David K. Roach, Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number (561)627-3386

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

66B-2.004 Policy.

The following constitutes the policy of the District regarding the administration of the program:

(1) through (6) No change.

(7) The site of a new proposed land-based development project shall be dedicated for the public use for which the project was intended for a minimum period of 25 years after project completion. Such dedication shall be in the form of a deed, lease, management agreement or other legally binding document and shall be recorded in the public property records of the county in which the property is located. This property control requirement also applies to a project site owned by another governmental entity. The governmental entity that owns the project site may be joined as a co-applicant to meet this property control requirement. Existing land based development projects that are being repaired, replaced or modified must demonstrate that the project site has been dedicated for public use for at least 25 years with at least 10 years remaining on the dedication document.

(8) No change.

(9) The project sponsor shall not commence work on an approved project prior to the execution of the project agreement unless authorized by the Board during the review and funding approval process. Pre-agreement expenses will be authorized if they are less than fifty (50) percent of the project's total cost and if the expenses are eligible project expenses in accordance with this rule. Only fifty (50) percent of the pre-agreement expenses will be eligible for reimbursement funding from the District.

(10) through (11) No change.

(12) All project costs must be incurred and work performed within the project period as stipulated in the project agreement unless pre-agreement costs are approved by the Board. Pre-agreement expenses will be authorized if they are less than fifty (50) percent of the project's total cost and if the expenses are eligible project expenses in accordance with this rule. Only fifty (50) percent of the pre-agreement expenses will be eligible for reimbursement funding from the District.

(13) through (18) No change.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1), (2) FS. History--New 12-17-90, Amended 2-3-94, 2-6-97, Formerly 16T-2.004, Amended 5-18-98, 3-31-99.

66B-2.006 Application Process.

(1) No change.

(2) Applications will be reviewed by the local FIND Commissioner before being submitted to the District Office. Upon receipt in the District office, staff will review the applications for completeness of the informational requirements identified in the Application Checklist, FIND Form Number 90-26 (effective date 4-12-95) and for compliance with the eligibility requirements of this rule. If the application is for a project that is a land based development project the applicant shall submit an Attorney's Certification of Title, FIND Form Number 94-26 (effective date 4-12-95). When an application is determined by staff to be incomplete or ineligible, staff will immediately inform the applicant by mail. The applicant will then have until the date established by the Board in the application package to bring the application into compliance. If the applicant fails to provide a complete application in compliance with these rules, the application will not be considered for funding.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Amended 9-2-92, 6-24-93, 4-12-95, Formerly 16T-2.006, Amended \_\_\_\_\_.

66B-2.008 Project Eligibility.

(1) Financial assistance and support through this program shall be used to plan or carry out public navigation, public recreation, environmental education, boating safety, spoil site acquisition directly related to the waterways, inlet management, environmental mitigation and beach renourishment.

(a) Program funds may be used for projects such as acquisition, planning, development, construction, reconstruction, extension, improvement, operation or maintenance of the following types of projects for public use on land and water. These project types will be arranged into a priority list each year by vote of the Board. The priority list will be distributed to applicants with the project application.

1. Public navigation channel dredging.

2. Public navigation aids and markers.

3. Inlet management projects that are a benefit to public navigation in the District ~~Public boat ramps and launching facilities.~~



4. Public shoreline stabilization ~~Public boat docking and mooring facilities.~~

5. Public spoil disposal site development ~~Public shoreline stabilization.~~

6. Waterway signs and buoys for safety, regulation or information ~~Inlet management projects that are a benefit to public navigation in the District.~~

7. Public boat ramps and launching facilities ~~Waterway signs and buoys for safety, regulation or information.~~

8. Public boat docking and mooring facilities ~~Public spoil disposal site development.~~

9. Waterways related environmental education programs and facilities.

10. Public fishing and viewing piers.

11. Public waterfront boardwalks.

12. Waterways boating safety programs and equipment.

13. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project.

14. Other waterway related projects.

(b) through (c) No change.

(d) Applications for eligible waterway projects which include construction elements below mean high water will be submitted as a phased project where Phase I will include the design, engineering and permitting elements and Phase II will include the construction of the project. A description and cost estimate of the Phase II work will be submitted along with the Phase I application for Board review. Applicants for Phase II funding will demonstrate that the environmental permitting element of Phase I will be completed by the District's final TRIM hearing prior to the tentative approval date of funding for Phase II. Should the environmental permitting element of Phase I of an application for a construction project not be completed by the District's final TRIM hearing meeting where tentative funding decisions for this program will be made, the Phase II project will not be considered for funding. ~~An applicant may file a petition pursuant to the rule waiver procedures of s. 120.542, F.S. and Chapter 28-104, F.A.C. to extend the date for receipt of the required environmental permits. Petitions filed pursuant to this rule section should be submitted to the District no later than July 1st to facilitate the orderly process of this program and the preparation of the District's fiscal year budget in which the assistance funds will be included. The District will not deviate from the funding schedule, whereby funding decisions are completed at the final TRIM hearing, to accommodate any application deficiency applicant filing a petition after that date.~~

Specific Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History—New 12-17-90, Amended 9-2-92, 6-24-93, 2-3-94, 4-12-95, 9-5-96, 2-6-97, Formerly 16T-2.008, Amended 5-17-98, 3-31-99,\_\_\_\_\_.

## Section II Proposed Rules

### PUBLIC SERVICE COMMISSION

DOCKET NO. 991427-WS

RULE TITLE:

RULE NO.:

Records and Reports; Annual Reports

25-30.110

PURPOSE AND EFFECT: The Class A, B, and C water and wastewater utility annual report forms are being revised to incorporate a more recent version of the NARUC Uniform System of Accounts; combine the three forms into one; eliminate numerous unnecessary and obsolete requirements; clarify other requirements; and add some requirements.

SUMMARY: Rule 25-30.110 is being amended to revise the annual report forms for Class A, B, and C water and wastewater utilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Revision of the annual report forms will result in a one-time cost to the utilities to convert to the new forms. In addition, there may be an additional cost for Class A and B utilities to calculate or estimate the non-used and useful facilities, and to calculate working capital. The costs to Class C utilities should be minimal because their reporting form was substantially revised in 1996, and there are relatively minor changes being recommended in this revision.

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: 350.127(2), 367.121 FS.

LAW IMPLEMENTED: 367.121(1)(c), 367.121(1)(g), 367.121(1)(i), 367.121(1)(k), 367.156(1), 367.161 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.110 Records and Reports; Annual Reports.

(1) through (3) No change.

(4) ANNUAL REPORTS; CONTENTS. The appropriate annual report form required from each utility shall be determined by using the same three classes of utilities used by