

To: All Value Adjustment Board Members, Special Magistrates, Board Clerks,
Board Legal Counsel, and Other Interested Parties
From: James McAdams, Director
Property Tax Oversight
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Bulletin: PTO 11-12

**FLORIDA DEPARTMENT OF REVENUE
PROPERTY TAX INFORMATIONAL BULLETIN**

September 26, 2011 Amendment to Rule 12D-9.019, F.A.C.

On August 16, 2011, the Governor and Cabinet adopted an amendment to Rule 12D-9.019, F.A.C. (Scheduling and Notice of a Hearing). The purpose of this bulletin is to clarify the purpose of this amendment and provide guidance regarding reasonable wait times and VAB hearings.

As amended (language underlined), Rule 12D-9.019(7)(b), F.A.C. reads:

In no event shall a petitioner be required to wait more than a reasonable time from the scheduled time to be heard. A reasonable time shall not exceed four hours. The board clerk is authorized to find that a reasonable time has elapsed based on other commitments, appointments or hearings of the petitioner, lateness in the day, and other hearings waiting to be heard earlier than the petitioner's hearing with the board or special magistrate. If his or her petition has not been heard within a reasonable time, the petitioner may request to be heard immediately. If the board clerk finds a reasonable time has elapsed and petitioner is not heard, the board clerk shall find good cause is present and shall reschedule the petitioner's hearing.

The four hour provision is not authorization for clerks to make petitioners taxpayers wait four hours. It is a maximum limit and only if the circumstances support it. The Department believes that rarely if ever, would circumstances make it reasonable to expect a petitioner to wait for a period of time approaching four hours.

The requirement of the rule is still that if a reasonable time is exceeded the clerk must reschedule at the request of the petitioner. This could be as little as a half an hour, for example, if the circumstances support such a finding.

The purpose of this change is to reflect the provisions of Section 194.032(2), F.S. which provides that no petitioner can be required to wait more than four hours. That is, a wait of four hours or more is recognized as unreasonable by both the statute and the rule. Waiting less than four hours may still be considered unreasonable depending on the circumstances and a petitioner does not have to wait four hours before the clerk may reschedule their hearing due to the delay.

The four hour statutory provision was based on and related to an exhaustion of remedies provision, obsolete since 1974, in section 194.032, F.S., that was changed in 1974 to provide a taxpayer could proceed to circuit court without prior resort to the value adjustment board administrative remedy. For further information see the history files relating to rule 12D-9.019 preceding this rule amendment.

All hearings should be held as close to the time they are scheduled as possible. As soon as the VAB clerk is aware of delays in the schedule, the VAB clerk should inform the petitioner of the delay and its anticipated length. If hearings are not being held within a reasonable time of their scheduled start, the VAB should offer to reschedule petitioners as soon as possible.

This rule amendment became effective September 26, 2011.