

Notice of Proposed Rule

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.:RULE TITLES:

- 12B-5.030 Importers
- 12B-5.040 Carriers
- 12B-5.050 Terminal Suppliers
- 12B-5.060 Wholesalers
- 12B-5.070 Terminal Operators
- 12B-5.080 Exporters
- 12B-5.110 Blenders
- 12B-5.120 Resellers and Retail Dealers
- 12B-5.150 Public Use Forms
- 12B-5.300 Aviation Fuel Licensees
- 12B-5.400 Producers and Importers of Pollutants

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12B-5.030, 12B-5.040, 12B-5.050, 12B-5.060, 12B-5.070, 12B-5.080, 12B-5.110, 12B-5.300, and 12B-5.400, F.A.C., is to implement statutory changes made by Chapter 2017-36, L.O.F., which removed certain application and annual renewal license fees.

In addition, proposed amendments to Rules 12B-5.030, 12B-5.040, 12B-5.050, 12B-5.060, 12B-5.070, 12B-5.080, and 12B-5.110, update contact information for the Department.

Rules 12B-5.050 and 12B-5.070, F.A.C., require all terminal suppliers to submit the Terminal Supplier Fuel Tax Return electronically by electronic data interchange. The Department is implementing an extensible markup language (XML) system as a means to allow terminal suppliers to submit the report electronically. The purpose of the additional proposed amendments to Rules 12B-5.050 and 12B-5.070, F.A.C, is to incorporate the Department's XML remittance system.

The purpose of the proposed amendments to Rule 12B-5.120, F.A.C., is to incorporate statutory elimination of the \$5.00 registration fee required of persons that submit a Florida Business Tax Application (Form DR-1), as provided in Section 29 of Chapter 2017-36, L.O.F.

The purpose of the amendments to Rule 12B-5.150, F.A.C., is to adopt, by reference, changes to forms used by the Department in the administration of the tax on motor fuels, diesel fuels, aviation fuels, pollutants, and natural gas fuel. These changes include removal of references to the \$30 application and annual renewal motor fuel tax license fees, the removal of a \$2 motor fuel tax refund processing fee, and the removal of the \$5 application and annual renewal license fee required of applicants for a retailer of natural gas license, as eliminated by Chapter 2017-36, L.O.F.

SUMMARY: These changes to rules and forms used in the administration of Fuels, Pollutants, and Natural Gas Taxes remove references to repealed fees and incorporate a new method for terminal suppliers to remit electronic returns to the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences regarding rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 206.14(1), 206.485(1), 206.59(1), 206.87(1)(e)2., 206.97, 206.9915, 212.17(6), 212.18(2), 212.18(3), 213.06(1), 213.755(8), 376.70(6)(b) FS.

LAW IMPLEMENTED: 119.071(5), 206.01, 206.02, 206.021, 206.022, 206.026, 206.027, 206.028, 206.03, 206.04, 206.05, 206.051, 206.052, 206.054, 206.09, 206.095, 206.11, 206.199, 206.20, 206.204, 206.205, 206.404, 206.41, 206.413, 206.414, 206.416, 206.43, 206.44, 206.48, 206.485, 206.62, 206.63, 206.86, 206.87, 206.872, 206.873, 206.874, 206.8745, 206.90, 206.91, 206.92, 206.97, 206.9815, 206.9915, 206.9941, 206.9942, 206.9825, 206.9835, 206.9865, 206.9931, 206.9942, 206.9943, 212.0501, 213.255, and 213.755, FS.

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

DATE AND TIME: November 8, 2017, 9:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1220, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: Becky Avrett at (850)717-6799. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brinton Hevey at (850) 717-7082

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-5.030 Importers.

(1) No change.

(2) Licensing and Bonding

(a) Licensing.

1. through 3. No change.

4. Forms DR-600 and DR-654 may be obtained from the Department by: 1) calling the Department at (850)488-6800 ~~1(800)352-3674~~, Monday through Friday (excluding holidays), ~~8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

5. No change.

~~6. Each initial and renewal application must be accompanied by a \$30 license tax.~~

(b) through (c) No change.

(5) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.01(3), 206.02, 206.026, 206.027, 206.028, 206.03, 206.05, 206.051, 206.054, 206.43, 206.48(2), 206.485, 206.9835, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, _____.

12B-5.040 Carriers.

(1) Licensing.

(a) No change.

(b) 1. through 3. No change.

4. Form DR-654 may be obtained from the Department by: 1) calling the at Department at (850)488-6800 ~~1(800)352-3674~~, Monday through Friday (excluding holidays), ~~8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(c) No change.

~~(d) Each initial or renewal application must be accompanied by a \$30 license tax.~~

(2) through (3) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.97, 206.9915, 213.06(1), 213.755(8) FS. Law Implemented 206.021, 206.09, 206.199, 206.20, 206.204, 206.205, 206.485, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 5-1-06, 6-1-09, 1-25-12, 7-28-15, _____.

12B-5.050 Terminal Suppliers.

(1) No change.

(2) Licensing and Bonding.

(a) Licensing.

1. through 4. No change.

5. Forms DR-600 and DR-654 may be obtained from the Department by: 1) calling the Department at (850)488-6800 ~~(800)352-3671~~, Monday through Friday (excluding holidays), ~~8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

6. No change.

~~7. Each initial or renewal application must be accompanied by a \$30 license tax.~~

8. through 9., renumbered 7. through 8. No change.

(b) No change.

(3) through (4) No change.

(5) Returns and Payments.

(a) Returns. All terminal suppliers that sell gasoline, gasohol, diesel, or aviation fuel are required to report all taxes imposed by Chapter 206, F.S., on a Terminal Supplier Fuel Tax Return (Form DR-309631, incorporated by reference in Rule 12B-5.150, F.A.C.) , electronically with the Department, as provided in Rule Chapter 12-24, F.A.C. The electronic return must be submitted by electronic data interchange, as provided in the Florida Department of Revenue Motor and Other Fuel Fuels Taxes EDI Technical Implementation Guide ~~—ANSI ASC X12 V.4030~~ (Form DR-309650, incorporated by reference in Rule 12B-5.150, F.A.C.), or by Extensible Markup Language, as provided in the Motor and Other Fuel Taxes XML User Guide for e-file Developers and Transmitters (Form DR-309652, incorporated by reference in Rule 12B-5.150, F.A.C.). The electronic return must be filed on or before the 20th day of each month for transactions occurring during the previous month. To be timely, the electronic return must be received by the Department or its agent before 5:00 p.m. (Eastern Time), on or before the 20th day of each month. For terminal suppliers who are authorized to submit Form DR-309631 by hard copy, the return will be accepted as timely if postmarked or delivered to the Department on or before the 20th day of each month. If the 20th day falls on a Saturday, Sunday, or legal holiday, returns will be accepted as timely if an electronic return is received by the Department or its agent on or before 5:00 p.m. (Eastern Time), or a hard-copy return, when permitted, is postmarked or delivered to the Department on the next succeeding day that is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday which is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A “legal holiday” pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (c) No change.

(6) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.01, 206.02, 206.05, 206.41, 206.413, 206.414, 206.43, 206.48, 206.485, 206.62, 206.63, 206.86, 206.87, 206.872, 206.873, 206.874, 206.8745, 206.90, 206.91, 206.97, 206.9815, 206.9941, 206.9942, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, 7-28-15, _____.

12B-5.060 Wholesalers.

(1) No change.

(2) Licensing and Bonding.

(a) 1. through 3. No change.

4. Forms DR-600 and DR-654 may be obtained from the Department by: 1) calling the Department at (850)488-6800 ~~1(800)352-3671~~, Monday through Friday (excluding holidays), ~~8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

5. No change.

~~6. Each initial and renewal application must be accompanied by a \$30 license tax.~~

(b) through (c) No change.

(3) through (6) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.97, 213.06(1), 213.755(8) FS. Law Implemented 206.01(4), 206.02, 206.05, 206.404, 206.43, 206.48, 206.485, 206.86, 206.90, 206.91, 206.9825, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, 1-20-14, 7-28-15,_____.

12B-5.070 Terminal Operators.

(1) Licensing.

(a) No change.

(b)1. through 3. No change.

4. Form DR-654 may be obtained from the Department by: 1) calling the Department at (850)488-6800 ~~1(800)352-3674~~, Monday through Friday(excluding holidays), ~~8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(c) No change.

~~(d) Each initial or renewal application must be accompanied by a \$30 license tax for each terminal location operated.~~

(2) Information Returns.

All terminal operators who operate terminals in this state are required to file a Terminal Operator Information Return (Form DR-309636, incorporated by reference in Rule 12B-5.150, F.A.C.), electronically with the Department, as provided in Rule Chapter 12-24, F.A.C. The electronic return must be submitted by electronic data interchange, as provided in the Florida Department of Revenue Motor and Other Fuel Fuels Taxes EDI Technical Implementation Guide —ANSI ASC X12 V.4030 (Form DR-309650, incorporated by reference in Rule 12B-5.150, F.A.C.), or by Extensible Markup Language, as provided in the Motor and Other Fuel Taxes XML User Guide for e-file Developers and Transmitters (Form DR-309652, incorporated by reference in Rule 12B-5.150, F.A.C.). The electronic return must be filed on or before the 20th day of each month for transactions occurring during the previous month. A separate return is required for each terminal location. To be timely, the electronic return must be received by the Department or its agent before 5:00 p.m. (Eastern Time), on or before the 20th day of each month. For terminal operators who are authorized to submit Form DR-309636 by hard copy, the return will be accepted as timely if postmarked or delivered to the Department on or before the 20th day of each month. If the 20th day falls on a Saturday, Sunday, or legal holiday, returns will be accepted as timely if an electronic return is received by the Department or its agent on or before 5:00 p.m. (Eastern Time), or a hard-copy return, when permitted, is postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday will mean a holiday that is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A “legal holiday” pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.97, 213.06(1), 213.755(8) FS. Law Implemented 206.01(19), 206.022, 206.095, 206.485, 206.872, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 5-1-06, 6-1-09, 1-25-12, 7-28-15,_____.

12B-5.080 Exporters.

(1) No change.

(2) Licensing and Bonding.

(a) No change.

(b)1. through 3. No change.

4. Forms DR-600 and DR-654 may be obtained from the Department by: 1) calling the Department at (850)488-6800 ~~1(800)352-3674~~, Monday through Friday(excluding holidays), ~~8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2)

visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

5. No change.

~~6. Each initial or renewal application must be accompanied by a \$30 license tax.~~

(c) No change.

(3) through (6) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.01(21), 206.02, 206.03, 206.04, 206.05, 206.051, 206.052, 206.41, 206.416, 206.43, 206.48, 206.485, 206.62, 206.87, 206.90, 206.91, 206.97, 206.9915, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, 1-20-14, 7-28-15, _____.

12B-5.110 Blenders.

(1) No change

(2) Licensing

(a)1. through 3. No change.

4. Forms DR-600 and DR-654 may be obtained from the Department by: 1) calling the Department at ~~(850)488-6800~~ ~~4(800)352-3674~~, Monday through Friday ~~(excluding holidays), 8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 2) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

~~5. Each initial or renewal application must be accompanied by a \$30 license tax.~~

(b) No change.

(3) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.02(3), 206.48(1), 206.485, 206.86(5), 206.87(2)(e), 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, 7-28-15, _____.

12B-5.120 Resellers and Retail Dealers.

(1) No change.

(2)(a) Registration with the Department for purposes of sales and use tax is available by using one of the following methods:

1. Registering through the Department's website ~~Internet site at the address shown in the parentheses (~~ www.floridarevenue.com ~~http://www.myflorida.com/dor)~~ using the Department's "e-Services" ~~without payment of a registration fee~~; or

2. Filing a Florida Business Tax Application (Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the form, ~~and the required \$5 registration fee.~~

(b) No change.

Rulemaking Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.404, 206.41(5), 206.414, 206.43, 206.44, 206.86, 212.18(3) FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, _____.

12B-5.150 Public Use Forms.

(1)(a) No change.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's website ~~Internet site~~ at www.floridarevenue.com/forms ~~www.myflorida.com/dor/forms/~~; or, 2) calling the Department at ~~(850)488-6800~~ ~~4(800)352-3674~~, Monday through Friday ~~(excluding holidays), 8:00 a.m. to 7:00 p.m., Eastern Time~~; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

Form Number Title Effective Date

(2) DR-138 Application for Fuel Tax Refund – Agricultural, 01/18 ~~04/13~~
Aquacultural, Commercial Fishing or Commercial
Aviation Purposes (R. 01/18 ~~04/13~~)

- (3) DR-156 Florida Fuel or Pollutants Tax Application 01/18 01/17
(R. 01/18 01/17)
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 02124](http://www.flrules.org/Gateway/reference.asp?No=Ref-02124))
- (4) DR-156R Renewal Application for Florida Fuel/Pollutant License (R. 01/18 01/13) 01/18 01/14
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 07760](http://www.flrules.org/Gateway/reference.asp?No=Ref-07760))
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 03579](http://www.flrules.org/Gateway/reference.asp?No=Ref-03579))
- (5) through (9) No change .
- (10) DR-160 Application for Fuel Tax Refund – Mass Transit System Users (R. 01/18 01/13) 01/18 01/13
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 02122](http://www.flrules.org/Gateway/reference.asp?No=Ref-02122))
- (11) DR-176 Application for Air Carrier Fuel Tax License (R. 01/18 01/16) 01/18 01/16
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 06334](http://www.flrules.org/Gateway/reference.asp?No=Ref-06334))
- (12) through (13) No change.
- (14) DR-189 Application for Fuel Tax Refund – Municipalities, Counties and School Districts (R. 01/18 01/13) 01/18 01/13
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 02124](http://www.flrules.org/Gateway/reference.asp?No=Ref-02124))
- (15) DR-190 Application for Fuel Tax Refund – Non-Public Schools (R. 01/18 01/13) 01/18 01/13
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 02125](http://www.flrules.org/Gateway/reference.asp?No=Ref-02125))
- (16) through (35) No change.
- (36) DR-309660 Application for Pollutants Tax Refund (R. 01/18 01/13) 01/18 01/13
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 02148](http://www.flrules.org/Gateway/reference.asp?No=Ref-02148))
- (37) DR-309650 Motor and Other Fuel Taxes Fuels EDI Technical Implementation Guide (ANSI ASC X12 V.4030) 01/18 07/15
(R. 01/18 July 2015)
([http://www.flrules.org/Gateway/reference.asp?No=Ref- 05602](http://www.flrules.org/Gateway/reference.asp?No=Ref-05602))
- (38) DR-309652 Motor and Other Fuel Taxes XML User Guide For e-file Developers and Transmitters 01/18
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 213.06(1), 213.755(8) FS. Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.416, 206.43, 206.44, 206.485, 206.86, 206.874, 206.8745, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931, 206.9942, 206.9943, 212.0501, 213.255, 213.755 FS. History–New 11-21-96, Amended 10-27-98, 5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10, 7-28-10, 1-12-11, 7-20-11, 1-25-12, 1-17-13, 5-9-13, 1-20-14, 1-19-15, 7-28-15, 1-11-16, 1-10-17,_____.

12B-5.300 Aviation Fuel Licensees.

(1) through (8) No change.

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

~~4. Each initial or renewal application must be accompanied by a \$30 license fee.~~

(9)(b) through (c) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.97, 213.06(1) FS. Law Implemented 206.02, 206.03, 206.05, 206.43, 206.48, 206.485, 206.90, 206.91, 206.9825, 206.9835, 206.9865, 206.9875, 213.37 FS. History–New 11-21-96, Amended 10-27-98, 5-1-06, 1-20-14, 1-11-16, 1-10-17,_____.

12B-5.400 Producers and Importers of Pollutants.

(1) through (2) No change.

(3) Licensing and Bonding.

(b)1. through 2. No change.

~~3. Each initial or renewal application submitted by a person who is not currently licensed under Part I, II, or III of Chapter 206, F.S., must be accompanied by a \$30 registration fee.~~

(c) through (e) No change.

(4) through (7) No change.

Specific Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.9915, 206.9925, 206.9931, 206.9935, 206.9941, 206.9942, 206.9943, 213.755 FS. History—New 11-21-96, Amended 10-27-98, 5-1-06, 6-1-09, 1-25-12, ____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Brinton Hevey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 5, 2017