



**FLORIDA**

Executive  
Director

Leon M. Biegalski

November 17, 2017

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1400

Attn: Jamie Jackson, Senior Attorney

Re: Florida Department of Revenue Rules  
Rules 12B-5.030, .040, .050, .060, .070, .080, .110, .120, .150, .300, and .400, F.A.C.

Dear Ms. Jackson:

This is in response to your letter dated November 3, 2017, providing comments and requesting revisions to the above referenced rules.

**12B-5.150(2): Incorporated Material—Form DR-138, Application for Fuel Tax Refund— Agricultural, Aquacultural, Commercial Fishing or Commercial Aviation Purposes**

Comment: Page 2, #4: This provision provides that a filing date may be extended by one month only if a “justified” written excuse is submitted with the claim. Although authorized by statute, it is unclear how the Department determines what constitutes sufficient justification for the purposes of this extension. See § 120.52(8)(d), Fla. Stat. (2017). Please review and advise.

Response: As the statute does not define “justified,” the Department has applied this provision to require only (1) that a written excuse is submitted, and (2) the last preceding claim was filed on time. Because these are statutory requirements, the Department has not incorporated them into a rule.

**12B-5.150(10):** Incorporated Material—Form DR-160, Application for Fuel Tax Refund— Mass Transit System Users

Comment: Page 2, #4: Please see the comment above for form DR-138.

Response: As the statute does not define “justified,” the Department has applied this provision to require only (1) that a written excuse is submitted, and (2) the last preceding claim was filed on time. Because these are statutory requirements, the Department has not incorporated them into a rule.

**12B-5.150(14):** Incorporated Material—Form DR-189, Application for Fuel Tax Refund— Municipalities, Counties and School Districts

Comment: Page 2, #4: Please see the comment above for form DR-138.

Response: As the statute does not define “justified,” the Department has applied this provision to require only (1) that a written excuse is submitted, and (2) the last preceding claim was filed on time. Because these are statutory requirements, the Department has not incorporated them into a rule.

**12B-5.150(15):** Incorporated Material—Form DR-190, Application for Fuel Tax Refund— Non-Public Schools

Comment: Page 2, #4: Please see the comment above for form DR-138.

Response: As the statute does not define “justified,” the Department has applied this provision to require only (1) that a written excuse is submitted, and (2) the last preceding claim was filed on time. Because these are statutory requirements, the Department has not incorporated them into a rule.

**12B-5.150(36):** Incorporated Material—Form DR-309660, Application for Pollutants Tax Refund

Comment: Page 5, #2: Please see the comment above for form DR-138.

Response: As the statute does not define “justified,” the Department has applied this provision to require only (1) that a written excuse is submitted, and (2) the last preceding claim was filed on time. Because these are statutory requirements, the Department has not incorporated them into a rule.

**12B-5.150(38):** Incorporated Material—DR-309652, Motor and Other Fuel Taxes XML User Guide for e-File Developers and Transmitters

Comment: Page 12, #10: This provision provides that the Department will notify a suspended filer/developer as to the requirements for reinstatement into the program. Does this manual or other rule of the Department set forth these reinstatement requirements or

otherwise set forth the procedure for determination? See § 120.52(8)(d), Fla. Stat. (2017). Please review and advise.

Response: A filer/developer will be suspended only when they are unable to load a file with the correct mapping structure and return information. The requirements to be reinstated are merely to contact the Department and successfully load two test files with the correct information. As the procedures are the same as for new applicants, no additional rule or manual has been developed or adopted.

If you need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "K Berg". The signature is cursive and stylized.

Kimberly Berg  
Agency Rules Coordinator