

## Notice of Emergency Rule

### DEPARTMENT OF REVENUE

#### Sales and Use Tax

RULE NO.: RULE TITLE:

12AER19-03 Farming Materials Damaged by Hurricane Michael

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Sections 20 and 21, Chapter 2019-42, L.O.F., provide a refund of sales tax paid on fencing materials and building materials that have been used or will be used to repair or replace fences or nonresidential farm buildings damaged by Hurricane Michael. This requires the creation of a form to be used by taxpayers seeking a refund.

Sections 20 and 21, Chapter 2019-42, L.O.F., authorize the Department of Revenue, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of administering the refund provisions. Given the application period set out in the law, an emergency rule is the most appropriate and expedient means to provide taxpayers with the necessary refund application. This emergency rule incorporates, by reference, Form DR-26S-HAG, Application for Refund - Certain Farming Materials Damaged by Hurricane Michael, effective June 2019.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized in Sections 20 and 22, Chapter 2019-42, L.O.F., the promulgation of an emergency rule by the Department to provide forms and instructions to seek a refund of tax paid on qualifying purchases. The promulgation of this emergency rule, incorporating by reference the form used to apply for the refund, ensures that the public is notified by the most appropriate and expedient means regarding the process to elect to use this reporting method.

SUMMARY: Emergency Rule 12AER19-03 incorporates, by reference, Form DR-26S-HAG, Application for Refund - Certain Farming Materials Damaged by Hurricane Michael, to allow taxpayers to seek a refund of tax on qualifying purchases, as provided by law.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone: (850)717-7082.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER19-03 Farming Materials Damaged by Hurricane Michael.

(1) Definitions. For purpose of this rule, the following terms mean:

(a) "Building materials" means tangible personal property that becomes a component part of a nonresidential farm building.

(b) "Exemption period" means the period from October 10, 2018, through June 30, 2019.

(b) "Nonresidential farm building" has the same meaning as provided in s. 604.50, F.S.

(2) The purchase of fencing materials used to replace or repair farm fences on land classified as agricultural under s. 193.461, F.S., is exempt from the tax imposed under chapter 212, F.S., during the exemption period if the fencing materials will be or were used to replace or repair fences that were damaged as a direct result of the impact of Hurricane Michael.

(3) Building materials used to replace or repair a nonresidential farm building damaged as a direct result of the impact of Hurricane Michael and purchased during the exemption period are exempt from the tax imposed under chapter 212, F.S.

(4) Application for Refund.

(a) To receive a refund, the owner of the fencing materials or the real property into which the fencing materials were incorporated or the owner of the building materials or the real property into which the building materials will be or were incorporated must submit Form DR-26S-HAG, Application for Refund – Certain Farming Materials Damaged by Hurricane Michael, effective June 2019 (hereby incorporated by reference).

(b) Owners must apply for a refund by December 31, 2019.

(c) Form DR-26S-HAG is available, without cost, by one or more of the following methods: 1) downloading the

form from the Department's website at [www.floridarevenue.com/forms](http://www.floridarevenue.com/forms); or, 2) calling the Department at 850-488-6800 Monday through Friday (excluding holidays); or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 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).

This rule shall take effect upon filing.

Rulemaking Authority ss. 20 and 21, Ch. 2019-42, L.O.F.; Law Implemented ss. 20 and 21, Ch. 2019-42, L.O.F.; History—New 06-05-19.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 06/05/2019