



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

May 4, 2022

Danielle Boudreaux
Florida Department of Revenue
Building One, Room 2600
2450 Shumard Oak Blvd.
Tallahassee, FL 32399-0100

Attention: Janet Young

Dear Danielle Boudreaux:

Your adoption package for Rules 12B-5.150 and .600, F.A.C. was received, electronically, by the Florida Department of State, Administrative Code and Register at 3:00 p.m. on May 3, 2022. After review, it appears that the package meets statutory requirements and those of Rule 1-1.010, F.A.C. and is deemed filed for adoption at the time received, as indicated above. The effective date is May 23, 2022.

Sincerely,

Anya C. Owens
Program Administrator

ACO/mas

Swain, Margaret A.

From: Danielle Boudreaux <Danielle.Boudreaux@floridarevenue.com>
Sent: Tuesday, May 3, 2022 3:00 PM
To: RuleAdoptions
Cc: Owens, Anya C.; Janet Young; Jennifer Ensley; Tonya Fulford
Subject: RE: Department of Revenue Rule Certification Packets
Attachments: 12-13_Certification Packet_050322.pdf; 12-24_Certification Packet_050322.pdf; 12-29_Certification Packet_050322.pdf; 12A-16_Certification Packet_050322.pdf; 12A-19_Certification Packet_050322.pdf; 12B-4_Certification Packet_050322.pdf; 12B-5_Certification Packet_050322.pdf; 12B-7_Certification Packet_050322.pdf; 12B-8_Certification Packet_050322.pdf; 12C-1_Certification Packet_050322.pdf

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good afternoon,

Attached are the updated certification packets with the corrected agency certification form.

Thank you,



Danielle Boudreaux
*Revenue Program Administrator, Rulemaking and
Legislative Analysis*
Technical Assistance and Dispute Resolution
Florida Department of Revenue
(850) 717-7082
danielle.boudreaux@floridarevenue.com

From: RuleAdoptions <RuleAdoptions@Dos.myflorida.com>
Sent: Tuesday, May 3, 2022 11:43 AM
To: Danielle Boudreaux <Danielle.Boudreaux@floridarevenue.com>
Cc: Owens, Anya C. <Anya.Owens@dos.myflorida.com>
Subject: RE: Department of Revenue Rule Certification Packets

Good morning Danielle,

Our office is in receipt of your adoption filings for the 10 Department of Revenue Rule Chapters. Upon further review, however, it appears that the Agency Certification page for each adoption is not the current effective version found in 1-1.010. The updated version took effect May 16, 2021 and removes the line that reads, "Attached are the original and two copies of each rule covered by this certification."

Updated filing procedures:

<https://www.flrules.org/gateway/ruleNo.asp?id=1-1.010>

<https://www.flrules.org/gateway/ruleNo.asp?id=1-1.013>

Please update the adoptions with the current version of the Agency Certification and the re-submit your filings for processing.

Respectfully,

Margaret Swain
Government Operations Consultant III
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida
(850)245-6208

From: Danielle Boudreaux <Danielle.Boudreaux@floridarevenue.com>
Sent: Tuesday, May 3, 2022 11:02 AM
To: RuleAdoptions <RuleAdoptions@Dos.myflorida.com>
Cc: Janet Young <Janet.Young@floridarevenue.com>; Jennifer Ensley <Jennifer.Ensley@floridarevenue.com>; Tonya Fulford <Tonya.Fulford@floridarevenue.com>
Subject: Department of Revenue Rule Certification Packets

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good morning,

Please find attached the certification packets for 10 Department of Revenue Rule chapters.

Thank you,



Danielle Boudreaux
*Revenue Program Administrator, Rulemaking and
Legislative Analysis*
Technical Assistance and Dispute Resolution
Florida Department of Revenue
(850) 717-7082
danielle.boudreaux@floridarevenue.com

NOTIFICATION TO RECIPIENTS: The subject line of this email may indicate that this email has been sent unsecure. This is a default setting which in no way indicates that this communication is unsafe, but rather that the email has been sent unencrypted in clear text form. Revenue does provide secure email exchange. Please contact us if you need to exchange confidential information electronically.

If you have received this email in error, please notify us immediately by return email. If you receive a Florida Department of Revenue communication that contains personal or confidential information, and you are not the intended recipient, you are prohibited from using the information in any way. All record of any such communication (electronic or otherwise) should be destroyed in its entirety.

Cautions on corresponding with Revenue by email: Under Florida law, emails received by a state agency are public records. Both the message and the email address it was sent from (excepting any information that is exempt from disclosure under state law) may be released in response to a public records request.

Internet email is not secure and may be viewed by someone other than the person you send it to. Please do not include your social security number, federal employer identification number, or other sensitive information in an email to us.

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Senator Ben Albritton, Chair
 Representative Rick Roth, Vice Chair
 Senator Lorraine Ausley
 Senator Jason Brodeur
 Senator Danny Burgess
 Senator Shevrin D. "Shev" Jones
 Representative Wyman Duggan
 Representative Yvonne Hayes Hinson
 Representative Thomas Patterson "Patt" Maney
 Representative Angela "Angie" Nixon
 Representative Anthony Sabatini

JOINT ADMINISTRATIVE PROCEDURES COMMITTEE



KENNETH J. PLANTE
 COORDINATOR
 Room 680, Pepper Building
 111 W. Madison Street
 Tallahassee, Florida 32399-1400
 Telephone (850) 488-9110
 Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

CERTIFICATION

Department: Department of Revenue
Agency: Miscellaneous Tax
Rule No(s): 12B-5.150, .600
File Control No: 186509

As required by subparagraph 120.54(3)(e)4 F.S., the Joint Administrative Procedures Committee hereby certifies that:

- ☒ There were no material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rule; or
- ☐ The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rules; or
- ☐ The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.

Certification Date: 5/2/2022

This certification expires after: 5/9/2022

Certifying Attorney: Jamie Jackson

NOTE:

- ☒ *The above certified rules include materials incorporated by reference.*
- ☐ *The above certified rules do not include materials incorporated by reference.*



Florida Department of Revenue
Office of the Executive Director

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

May 3, 2022

Ms. Anya Owens, Chief
Florida Department of State
R.A. Gray Building, Mail Station 22
500 S. Bronough Street
Tallahassee, Florida 32399-0250

Re: Certification of Department of Revenue Rules

Dear Ms. Owens:

The following Department of Revenue Rules are presented for certification:

12B-5.150	Public Use Forms
12B-5.600	Tracking System Reporting Requirements

The following persons may be contacted regarding these rule certifications:

Danielle Boudreaux	717-7082	danielle.boudreaux@floridarevenue.com
Jennifer Ensley	717-7659	jennifer.ensley@floridarevenue.com

Florida Department of Revenue
Building One, Room 2600
2450 Shumard Oak Blvd.
Tallahassee, Florida 32399-0100

Sincerely,

Janet Young
Agency Rules Coordinator

Attachments

CERTIFICATION OF DEPARTMENT OF REVENUE
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

☒ (1) That all statutory rulemaking requirements of chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

☒ (2) That there is no administrative determination under section 120.56(2), F.S., pending on any rule covered by this certification; and

☒ (3) All rules covered by this certification are filed within the prescribed time limitations of section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by section 120.54(3)(a), F.S.; and

☒ (a) Are filed not more than 90 days after the notice; or

☐ (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

☐ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

☐ (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

☐ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

☐ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

☐ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

☐ (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

☐ (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor.

The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

12B-5.150

12B-5.600

Under the provision of section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date:

(month) (day) (year)



Signature, Person Authorized to Certify Rules

Deputy Executive Director
Title

4
Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF STATE

DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

☒ All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

☐ The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

Rules covered by this certification:

Rule No(s).

12B-5.150

12B-5.600



Signature of Agency Head

Executive Director

Title

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATION CODE
TAX ON MOTOR FUELS, DIESEL FUELS, AVIATION FUELS, POLLUTANTS, AND NATURAL GAS
AMENDING RULE 12B-5.150
CREATING RULE 12B-5.600

SUMMARY OF PROPOSED RULES

The proposed revisions to Rule 12B-5.150 incorporate revisions to six forms, which conform with the new proposed rule, as well as correct the title of Form DR-309652, Motor Fuel Taxes XML User Guide for eFile Developers and Transmitters. The proposed new rule outlines the requirements for the submission of data used by the Department to track the movement of any product defined as motor, diesel, or aviation fuel that has been received, disbursed, delivered, imported, exported, or moved in any manner within Florida by a licensed fuel dealer, and outlines the penalty for failure to meet submission requirements.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

This rulemaking addresses requirements for the submission of data used by the Department to track the movement of any product defined as motor, diesel, or aviation fuel that has been received, disbursed, delivered, imported, exported, or moved in any manner within Florida by a licensed fuel dealer. The proposed rule includes procedures for applying the penalty set forth in Section 206.485, Florida Statutes, for a continuing failure to comply with specified requirements after receiving notice of identified errors and an opportunity to correct the errors. Rule 12B-5.150 is amended to incorporate revisions to six forms related to the creation of Rule 12B-5.600.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

September 23, 2021

A Notice of Development was published in the *Florida Administrative Register* on September 9, 2021 (Vol. 47, No. 175, p. 4125), to advise the public of the proposed changes to Rule 12B-5.150, F.A.C., the creation of Rule 12B-5.600, F.A.C., and to provide that, if requested in writing, a rule development workshop would be held. A rule development workshop was requested and held on September 23, 2021. Questions of a technical nature were received during the workshop and were answered during the workshop. Comments were also made regarding typographical changes in two forms, which were followed up in writing. The Department reviewed the changes and determined typographical errors were inadvertently made when the forms were revised. These errors have been corrected.

SUMMARY OF PUBLIC MEETING

March 29, 2022

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 29, 2022, and approved the publication of the Notice of Proposed Rule for changes to Rule 12B-5.150, F.A.C., the creation of Rule 12B-5.600, F.A.C., as well as approval to file and certify the rule with the Secretary of State pursuant to s. 120.54(3)(e)1., F.S., if the substance of the proposed rules remain unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(e)2., F.S. A notice for the public meeting was published in the *Florida Administrative Register* on March 18, 2022 (Vol. 48, No. 54, pp. 1048-1049).

SUMMARY OF RULE HEARING

April 21, 2022

A Notice of Proposed Rule was published in the *Florida Administrative Register* on March 31, 2022 (Vol. 48, No. 63, pp. 1237-1240), to advise the public of the proposed changes to Rule 12B-5.150, F.A.C., the creation of Rule 12B-5.600, and to provide that, if requested in writing, a rule hearing would be held on April 21, 2022. No request was received, and no hearing was held. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATION CODE
TAX ON MOTOR FUELS, DIESEL FUELS, AVIATION FUELS, POLLUTANTS, AND NATURAL GAS
AMENDING RULE 12B-5.150
CREATING RULE 12B-5.600

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 at floridarevenue.com; 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).

Form Number	Title	Effective Date
(2) through (18)	No change	
(19) DR-309631N	Instructions for Filing Terminal Supplier Fuel Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-14238 11866)	<u>01/22</u> 04/20
(20)	No change	
(21) DR-309632N	Instructions for Filing Wholesaler/Importer Fuel Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-14239 04865)	<u>01/22</u> 01/15
(22) through (26)	No change	
(27) DR-309635N	Instructions for Filing Blender Fuel Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-14240 04868)	<u>01/22</u> 01/15
(28)	No change	
(29) DR-309636N	Instructions for Filing Terminal Operator Information Return	<u>01/22</u> 04/20

	(http://www.flrules.org/Gateway/reference.asp?No=Ref-14241 41867)	
(30)	No change	
(31) DR-309637N	Instructions for Filing Petroleum Carrier Information Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-14242 40177)	<u>01/22</u> 01/19
(32)	No change	
(33) DR-309638N	Instructions for Filing Exporter Fuel Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-14243 04871)	<u>01/22</u> 01/15
(34) through (36)	No change	
(37) DR-309652	Motor and Other Fuel Taxes XML User Guide for eFile For e-file Developers and Transmitters (http://www.flrules.org/Gateway/reference.asp?No=Ref-10801)	07/19

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, 1-17-18, 9-17-18, 1-8-19, 7-8-19, 12-12-19, 4-16-20, 1-1-21, 05-23-22.

12B-5.600 Tracking System Reporting Requirements.

(1) Scope. This rule addresses requirements for the electronic submission of information used by the Department to track the movement of any product defined as a motor, diesel, or aviation fuel that has been received, disbursed, delivered, imported, exported, or moved in any manner within Florida by a licensed fuel dealer. This rule applies to licensed terminal suppliers, terminal operators, wholesalers, importers, petroleum carriers, exporters, and blenders.

(2) Electronic filing and data format. Returns must be filed electronically in the correct format, include all reportable transactions, and contain accurate information from source records such as bills of lading, delivery

tickets, or invoices. The filing method and format for returns are dependent on the type of fuel license issued by the Department.

(a) Terminal suppliers and terminal operators must file returns using Extensible Markup Language (XML), as provided in Form DR-309652, Motor Fuel Taxes XML User Guide for eFile Developers and Transmitters, incorporated by reference in Rule 12B-5.150, F.A.C. Instructions for how to electronically file returns can be found in the following forms, incorporated by reference in Rule 12B-5.150:

1. Form DR-309631N - Instructions for Filing Terminal Supplier Fuel Tax Return
2. Form DR-309636N - Instructions for Filing Terminal Operator Information Return

(b) Wholesalers, importers, petroleum carriers, exporters, and blenders must file returns through the Department's eServices website by manually entering data or importing comma-delimited (CSV) or fixed-length text (flat) files. Instructions for how to electronically file returns can be found in the following forms, incorporated by reference in Rule 12B-5.150:

1. Form DR-309632N - Instructions for Filing Wholesaler/Importer Fuel Tax Return
2. Form DR-309635N - Instructions for Filing Blender Fuel Tax Return
3. Form DR-309637N - Instructions for Filing Petroleum Carrier Information Return
4. Form DR-309638N - Instructions for Filing Exporter Fuel Tax Return

(3) Data elements required on fuel tax returns

(a) Fuel tax returns filed with the Department must be complete and include all information within a data element. This information is provided on a schedule and is used to validate the correct amount of taxes are collected and distributed to the appropriate jurisdiction.

(b) The data elements on fuel tax return schedules must be correct and adhere to the submission requirements provided in the filing instructions for each type of fuel tax return. The information required within each data element may be found on a bill of lading, invoice, or delivery ticket.

(c) The following is a list of data elements that are included on a fuel tax return.

1. Federal employer identification number (FEIN) of the carrier transporting the product
2. FEIN of the person hiring the carrier
3. Mode of transportation
4. Point of origin or destination of the fuel

5. Delivered to address

6. Purchaser/seller/terminal supplier FEIN

7. Date shipped, received, or delivered

8. Document number

9. Net gallons

(4) Penalties for failure to meet submission requirements.

(a) Any person who fails to file electronically, fails to file a return in the proper format or who submits erroneous information within a data element will be notified by the Department in writing. Erroneous information may be identified using statistical sampling, nonstatistical sampling, or by a detailed audit.

1. Written notification for invalid federal employer identification numbers (FEINs), modes of transportation, points of origin, or points of destination will include a detailed description of the error and a separate listing of the information within each data element that was incorrect.

2. Written notification for invalid document numbers, dates, or net gallons will include an explanation of why the data is not correct and include examples.

3. The written notification for omitted transactions will include a generic statement that certain transactions were not included on the Florida tax return. A list of the missing transactions or a copy of the inventory reconciliation calculation, identifying gains or losses over tolerance, will be attached to the written notification.

(b) Each person will have three months from the date of notification to correct identified errors. After the three-month period ends, a penalty of \$5,000 will be imposed each month the identified errors remain uncorrected.

Rulemaking Authority 206.485(1), 213.06(1) FS. Law Implemented 206.08, 206.09, 206.095, 206.48, 206.485 FS.

History—New 05-23-22.

CERTIFICATION OF MATERIALS INCORPORATED
BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code, that materials incorporated by reference in Rule 12B-5.150 have been:

☒ (1) Filed through the Department of State's e-rulemaking website at www.flrules.org.

☐ (2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials as described in option (1) above, a true and complete copy of the incorporated materials has been provided to the Department of State as outlined in paragraph 1-1.013(5)(c), F.A.C. Copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

<u>Form Number</u>	<u>Form Title</u>
DR-309631N	Instructions for Filing Terminal Supplier Fuel Tax Return
DR-309632N	Instructions for Filing Wholesaler/Importer Fuel Tax Return
DR-309635N	Instructions for Filing Blender Fuel Tax Return
DR-309636N	Instructions for Filing Terminal Operator Information Return
DR-309637N	Instructions for Filing Petroleum Carrier Information Return
DR-309638N	Instructions for Filing Exporter Fuel Tax Return

Under the provisions of Section 120.54(3)(e)6., F.S., the attached material(s) take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.


Signature, Person Authorized to Certify Rules

Deputy Executive Director
Title

Danielle Boudreaux

From: FL-Rules@dos.state.fl.us
Sent: Monday, May 2, 2022 7:46 AM
To: Danielle Boudreaux
Cc: flrules@dos.state.fl.us
Subject: 12B-5.150 Reference Material for Rule Adoption Approved

Dear dboudreaux:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 12B-5.150

Reference Number: Ref-14238; Reference Name: DR-309631N R. 01/22

Reference Number: Ref-14239; Reference Name: DR-309632N R. 01/22

Reference Number: Ref-14240; Reference Name: DR-309635N R. 01/22

Reference Number: Ref-14241; Reference Name: DR-309636N R. 01/22

Reference Number: Ref-14242; Reference Name: DR-309637N R. 01/22

Reference Number: Ref-14243; Reference Name: DR-309638N R. 01/22

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State