

Notice of Emergency Rule

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: RULE TITLE:

12BER19-02 Fuel Used for Agricultural Shipment or Hurricane Debris Removal

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 22, Chapter 2019-42, L.O.F., provides an exemption from tax on fuel purchased in this state between October 10, 2018 and June 30, 2019, which is used in this state for agricultural shipment or hurricane debris removal. The exemption is only available through a refund of tax paid. This requires the creation of a form to be used by taxpayers seeking a refund.

Section 22, Chapter 2019-42, L.O.F., authorizes 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-26HF, Application for Refund – Fuel Used for Agricultural Shipments or Hurricane Debris Removal, effective June 2019.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized in Section 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 12BER19-02 incorporates, by reference, Form DR-26HF, Application for Refund – Fuel Used for Agricultural Shipments or Hurricane Debris Removal, 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:

12BER19-02 Fuel Used for Agricultural Shipment or Hurricane Debris Removal

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

(a) “Agricultural processing or storage facility” means property used or useful in separating, cleaning, processing, converting, packaging, handling, storing, and other activities necessary to prepare crops, livestock, related products, and other products of agriculture, and includes nonfarm facilities that produce agricultural products, in whole or in part, through natural processes, animal husbandry, and apiaries.

(b) “Agricultural product” means the natural products of a farm, nursery, forest, grove, orchard, vineyard, garden, or apiary, including livestock as defined in s. 585.01(13), F.S.

(c) “Agricultural shipment” means the transport of any agricultural product from a farm, nursery, forest, grove, orchard, vineyard, garden, or apiary located in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, or Wakulla County to an agricultural processing or storage facility.

(d) “Fuel” means motor fuel or diesel fuel, as those terms are defined in ss. 206.01 and 206.86, F.S., respectively.

(e) “Fuel tax” means all state and county taxes authorized or imposed on fuel under chapter 206, F.S.

(f) “Hurricane debris removal” means the transport of Hurricane Michael debris from a farm, nursery, forest, grove, orchard, vineyard, or apiary located in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon or Wakulla County.

(g) “Motor vehicle” and “public highways” have the same meanings as provided in s. 206.01, F.S.

(2)(a) Fuel purchased and used in this state during the period from October 10, 2018, through June 30, 2019, which is or was used in any motor vehicle driven or operated upon the public highways of this state for agricultural shipment or hurricane debris removal, is exempt from all state and county taxes authorized or imposed under parts I and II of chapter 206, F.S., excluding the taxes imposed under s. 206.41(1)(a) and (h), F.S.

(b) The exemption provided by this section is available to the fuel purchaser in an amount equal to the fuel tax imposed on fuel that was purchased for agricultural shipment or hurricane debris removal during the period from

October 10, 2018, through June 30, 2019. The exemption provided by this section is only available through a refund from the Department of Revenue.

(3) Application for Refund.

(a) To receive a refund, the fuel purchaser must submit Form DR-26HF, Application for Refund - Fuel Used for Agricultural Shipments or Hurricane Debris Removal, effective June 2019 (hereby incorporated by reference).

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

(c) Form DR-26HF 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; 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 s. 22, Ch. 2019-42, L.O.F.; Law Implemented s. 22, Ch. 2019-42, L.O.F.; History—New 06-04-19.

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: 06/04/2019