

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-24

Rule Title: Refund Policy Regarding Wholesale Oil/Import License Fee on Biodiesel Sold to a Licensed Supplier When Delivered to a Terminal

XX New; \_\_\_ Amend; \_\_\_ Repeal; \_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

\*\*\*\*\*  
Does the proposed rule have any economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

\*\*\*\*\*  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *M. D. ...*

Date 8/20/13

REC'D & FILED

AUG 21 2013

APA-6  
10/96

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-1-.24

Rule Title: Refund Policy Regarding Wholesale Oil/Import License fee on Biodiesel Sold to a Licensed Supplier When Delivered to a Terminal

X New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

- NO  
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:  
This rule provides the guidelines for licensed suppliers to apply for a refund for the Wholesale Oil/Import License fee when biodiesel is sold to the license supplier at the terminal.
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:  
This is the only way that the Department can establish the guidelines for issuing a refund when the tax was previously paid upon import by another entity.
3. EFFECT OF THIS RULE ON COMPETITION:  
N/A
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:  
N/A
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:  
N/A
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:  
N/A

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:  
The Department needs to establish the guidelines for issuing refunds to the licensed suppliers for biodiesel delivered to their terminals, so that they do not have to pay the tax twice.
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:  
N/A
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:  
N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:  
N/A
11. OTHER COMMENTS:  
N/A

APA-2  
11/96

**ALABAMA DEPARTMENT OF REVENUE  
Business & License Tax Division**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-8-1-.24                      Refund Policy Regarding Wholesale Oil/Import License Fee on Biodiesel Sold to a Licensed Supplier When Delivered to a Terminal

**INTENDED ACTION:**        Adopt a new rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to adopt the above rule to provide guidelines for licensed suppliers at the terminal to apply for a refund of the wholesale oil/import license fee on biodiesel.

**RULE NO. & TITLE**

810-8-1-.25                      Refund Policy Regarding Wholesale Oil License Fee on Diesel Fuel Diverted to Another State

**INTENDED ACTION:**        Adopt a new rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to adopt the above rule to provide guidelines for licensed suppliers at the terminal to apply for a refund of the wholesale oil/import license fee on biodiesel.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **2:00 p.m. on Wednesday, October 9, 2013, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at [www.revenue.alabama.gov/rulehear.html](http://www.revenue.alabama.gov/rulehear.html).

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**  
Wednesday, October 9, 2013

**CONTACT PERSON AT AGENCY:**

Patricia Toles  
Alabama Department of Revenue  
4131 Gordon Persons Building  
Montgomery, Alabama 36132  
(334) 242-1380



Michael D. Gamble, Secretary  
Alabama Department of Revenue

0908APC.INT

810-8-1-.24 Refund Policy Regarding Wholesale Oil/Import License Fee on Biodiesel Sold to a Licensed Supplier When Delivered to a Terminal. (NEW RULE)

(1) Section 40-17-174(e), Code of Alabama 1975, provides an exemption from the wholesale oil license fee for biodiesel sold to a licensed supplier when delivered to a terminal. The wholesale oil license fee is levied upon the selling of diesel fuel across the rack at the terminal and upon the import of the diesel fuel unless the permissive supplier, as defined in Section 40-17-322(37), collects the import fee. Since the import license fee is due on all diesel fuel imported into Alabama, the licensed supplier can apply for a refund of the wholesale oil/import license fee on an annual basis for biodiesel purchased by the licensed supplier at the terminal for purchases where the wholesale oil/import license fee is paid by the licensed supplier at the terminal. Payment for the wholesale oil/import license fee is due annually by October 14; therefore, the Department cannot issue a refund on taxes until they have been remitted to the State by the licensee responsible for paying the taxes.

(2) Request for refund shall be made on forms furnished by the Department of Revenue, properly attested to, along with a copy of the original purchase invoices and any other information that the Department may deem necessary. The purchase invoice must show the following:

- (a) Date of Sale,
- (b) Name and Address of entity from whom the biodiesel was purchased,
- (c) Type of fuel as "biodiesel",
- (d) Number of Gallons,
- (e) Invoice Number, and
- (f) Amount charged for the wholesale oil/import license fee.

(3) The statute of limitations for filing a refund for the wholesale oil/import license fee refund is within 2 years from the date of payment of the tax.

(4) The licensed importer can exclude the gallons of biodiesel sold directly to the licensed supplier when the biodiesel fuel is delivered to the terminal from the gallons listed on the Wholesale Oil/Import License Fee Annual Return as Gallons Imported into Alabama by the Importer.

Author: Bonita Calhoun

Authority: Sections 40-2A-7(a)(5) and 40-17-174, Code of Alabama 1975

History: