

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-.21.01

Rule Title: Refund of Diesel Fuel Excise Tax for Off-Road Use

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?

No

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 Michael E. Mason

Date 3/19/2012

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-.21.01

Rule Title: Refund of Diesel Fuel Excise Tax for Off -Road Use

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:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
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:
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND

BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE
BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC
HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH
IF THE RULE IS NOT IMPLEMENTED:

11. OTHER COMMENTS:

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-8-1-.04	Sales of Motor Fuel in the Bulk Transfer/Terminal System
810-8-1-.13	Miscellaneous Refund Provisions
810-8-1-.14	Loss of Taxable Fuel Petition for Refund for Losses and Contamination of Motor Fuel
810-8-1-.21.01	Refund of Diesel Fuel Excise Tax for Off-Road Use
810-8-1-.23	Exempt Entity Petition for Refund for Tax-Paid Gasoline & Undyed Diesel Fuel
810-8-1-.26	Licensed Distributor Refund for Sales to Licensed Exempt Entities
810-8-1-.27	Licensed Exporter Refunds
810-8-1-.54	Electronic Filing of Returns and Payments
810-8-1-.57	Net Gallons
810-8-1-.58	Motor Fuel Floor-Stocks Tax Return
810-8-1-.59	Motor Fuel Back Up Tax Report
810-8-1-.63	Supplier Twenty Day Notification

INTENDED ACTION: Adopt the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rules to comply with the provisions of Act 2011-565 known as the Alabama Terminal Excise Tax Act which becomes effective October 1, 2012.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **10:00 a.m. on Wednesday, May 16, 2012, in the Office of the Legal Division, Room 3114,** 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.

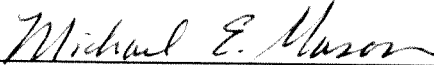
All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, May 16, 2012

CONTACT PERSON AT AGENCY:

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



Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

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810-8-1-.21.01 Refund of Diesel Fuel Excise Tax for Off-Road Use. **(NEW RULE)**

(1) With respect to diesel fuel tax which is required to be added to the price of undyed diesel fuel, those taxpayers who use undyed diesel fuel off-road in designated off-road equipment shall pay the appropriate tax at time of purchase and the amount of the tax shall be refunded to the taxpayers on a quarterly basis.

(2) Off-road equipment includes but is not limited to self-propelled equipment such as tractors, mobile cranes, fork lifts and stationary equipment such as generators, boilers, and reefer units.

(3) Request for refund shall be made on forms prescribed by the Department of Revenue, properly attested to along with a copy of purchase invoices, withdrawal log, list of off-road equipment including equipment identification number, and any other documentation required by department.

(4) The purchase invoice must show the following:

(a) Date of Sale,

(b) Name and Address of Vendor,

(c) Type of Fuel,

(d) Number of Gallons,

(e) Invoice Number, and

(f) Tax as Separate Line Item or a Statement on the purchase invoice that the State Excise Tax has been included in the price per gallon.

(5) The claimant shall maintain a daily withdrawal log of all undyed motor fuel for off-road use. This log should include:

(a) The date of withdrawal,

(b) The type of equipment,

(c) The equipment identification number, and

(d) The number of gallons placed in the off-road vehicle or equipment.

(6) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was purchased.

Author: Steve DuBose

Authority: Sections 40-2A-7(a)(5), 40-17-323, 40-17-329, and 40-17-330, Code of Alabama 1975

History: