

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-.25

Rule Title: Refund Policy Regarding Wholesale Oil License Fee on Diesel Fuel Diverted to Another State

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. **REC'D & FILED**

Signature of certifying officer *Michael D. Smith*

Date 8/20/13

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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-.25

Rule Title: Refund policy Regarding Wholesale Oil License Fee on Diesel Fuel Diverted to Another State

New Amend Repeal Adopt by Reference

NO

This rule has no economic impact.

YES

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
This rule provides the guidelines for the purchaser of diesel fuel who has paid the wholesale oil license fee on legally diverted fuel to apply for a refund.
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
The only way for the Department to refund the wholesale oil license fee on diesel fuel that is diverted is to allow the purchaser to apply for a refund.
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 purchaser will ultimately benefit from this rule because the purchaser will be able to apply for a refund on the diesel fuel legally diverted to another state.

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:
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.

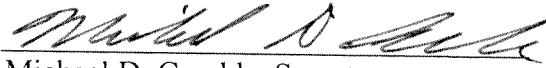
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, October 9, 2013, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

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

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

(1) Section 40-17-174(a), Code of Alabama 1975, levies a wholesale oil license fee upon the selling of diesel fuel across the rack at the terminal. If the wholesale oil license fee is charged on the initial sale of the diesel fuel at the terminal and the fuel is legally diverted, the purchaser can apply for a refund of the wholesale oil license fee on an annual basis. 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 the Purchaser,
- (c) Type of fuel,
- (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 license fee refund is within 2 years from the date of payment of the tax.

Author: Bonita Calhoun

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

History: