

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-25.02

Rule Title: Permit Issued to Pay Lubricating Oil Tax Directly to the Department of Revenue

 New; XX 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 

Date 6/20/14

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-1-.25.02

Rule Title: Permit Issued to Pay Lubricating Oil Tax directly to the Department of Revenue

 New X 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:**

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-8-1-.25.02 Permit Issued to Pay Lubricating Oil Tax Directly to the
Department of Revenue

INTENDED ACTION: Adopt new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to correct code section references.

RULE NO. & TITLE

810-8-1-.02 Application of Excise Tax on Blendstocks

INTENDED ACTION: Adopt new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to clarify the point at which the excise tax will apply for blendstocks.

RULE NO. & TITLE

810-8-5-.19 Suspension of Iron Ore Severance Tax.

INTENDED ACTION: Adopt new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to comply with the provisions of Act 2014-331.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 3:30 p.m. on Wednesday, August 6, 2014, 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.

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-.25.02 Permit Issued to Pay Lubricating Oil Tax Directly to the Department of Revenue.

~~(1) Whereas, Section 40-17-220, Code of Alabama 1975, levies an additional \$.04 per gallon tax on lubricating oil and expressly exempts from this additional levy certain designated users of lubricating oil, and~~

~~Whereas, it is impossible in many instances to determine at the time of sale/purchase of such lubricating oil the applicable rate of tax, and~~

~~Whereas, it being the opinion of the Commissioner of Revenue that certain clarifying, reasonable rules and regulations need to be adopted, and~~

~~Whereas, The Commissioner of Revenue is empowered by Section 40-2-11, Code of Alabama 1975, to supervise and control the administration of the various tax laws of the State of Alabama.~~

~~IT IS THEREFORE ORDERED that the following be adopted.~~

(21) Any person, distributor, storer, retail dealer, user, or user who sells to others, unable to ~~ascertain~~ determine at the time of purchase, transport, delivery, storage, or sale of lubricating oil the applicability of the additional ~~\$.04 per gallon tax~~ excise tax levied in Section 40-17-220 may apply for a permit. This permit will allow the holder to purchase lubricating oil free of all lubricating tax and pay such taxes directly to the Department of Revenue.

(32) Application for a lubricating oil permit will be made upon forms prepared by the Department. Upon receipt and approval of the application by the Department, a lubricating oil numbered permit will be issued to the applicant, ~~with a supply of monthly lubricating tax returns.~~

(43) The lubricating permit holder shall purchase all lubricating products tax free and is not required to remit to the seller the ~~\$.02 per gallon excise tax~~ levied in Section 40-17-171 or the additional ~~\$.04 per gallon excise tax~~ levied in Section 40-17-220. The Ppermit holder must furnish to each vendor from whom lubricating oil is purchased the assigned permit number.

(54) The lubricating permit holder is required to file a lubricating tax return for each month on a form prescribed by the Department. A return must be filed with the Department even though no lubricating oil is purchased, distributed, sold, used, or tax is due. The return is due on or before the twentieth (20th) day of each calendar month being a true and correct statement of the information required on the return for the next preceding calendar month.

(65) The monthly lubricating tax return shall be prepared in duplicate. The original accompanied by a remittance payable to "State of Alabama" for the amount of tax shown to be due shall be filed with the Department and the duplicate shall be retained by the permit holder.

Failure to receive a return form does not relieve the permit holder from the obligation of making a return on or before the due date.

(76) As respects the lubricating permit holder's tax reporting, the tax is deemed to have been collected at the time of the sale irrespective of when payment for the amount of the invoice including the tax is received by the permit holder. Failure to collect the tax from the purchaser does not relieve the permit holder from this liability to pay the Department the amount of the tax to be collected.

(87) The lubricating permit holder must keep records to substantiate any item appearing on the monthly lubricating tax return. Records must be maintained in a form satisfactory to the Department and shall be made available for inspection or audit by the Department. Records must be retained by the permit holder for a period not less than three years.

(98) The lubricating permit holder conducting business at different locations requires only one permit, if monthly lubricating tax returns are prepared at one central location.

(109) A lubricating permit holder claiming sales or use of lubricating oil exempt from the additional ~~\$.04 per gallon excise tax~~ as enumerated in Section 40-17-220(~~dc~~), **(31)** through **(68)** must exercise reasonable care to assure that lubricating oil will be so used. Each exempt sale of lubricating oil must be supported by a copy of the original invoice showing invoice number, date, number of gallons, and the correct name and address of the purchaser. A user of lubricating oil must keep records substantiating the exempt use.

(110) The lubricating permit is a personal privilege and is not transferable. The permit may be cancelled by the Department upon notice by registered mail to the holder thereof.

(121) Vendors of lubricating oil must maintain a file of permit holders names and numbers to substantiate tax free sales of lubricating oil to permit holders. Vendors selling tax free lubricating oil to non-permit holders could incur liability for the tax due.

(132) Violations of these regulations carry the same penalties as are prescribed for violations of the law itself.

Author: Bonita Calhoun
Authority: Sections 40-2A-7(a)(5), 40-17-171, and 40-17-220, Code of Alabama 1975
History: Adopted through APA effective October 17, 1985.
Amended: Filed December 14, 1987.