

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-1-.97

Rule Title: Materials Used on Road and Bridge Projects

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.

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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 9/23/13

APA-6  
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-1-.97

Rule Title: Materials Used on Road and Bridge Projects

           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:

APA-2  
11/96

**ALABAMA DEPARTMENT OF REVENUE  
Sales & Use Tax Division**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-6-3-.77	Exemption for Certain Purchases by Contractors and Subcontractors in Conjunction with Construction Contracts with Certain Governmental Entities Public Corporations, and Educational Institutions
810-6-1-.45	Contractors Furnishing and Erecting Building Materials Under Contract With the United States
810-6-1-.46	Contractor's Liability
810-6-1-.46.01	Bleacher Systems, Lockers, Backstops, and Other Fixtures Installed in Gymnasiums
810-6-1-.97	Materials Used on Road and Bridge Projects

**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rules to comply with the provisions of Act 2013-205 which exempts the sale to, or the storage, use or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded on or after January 1, 2014 with certain qualifying governmental entities who are exempt from all state, county, and municipal sales and use taxes. In addition, the department proposes to amend the title of Rule 810-6-3-.77.

**RULE NO. & TITLE**

810-6-1-.133	Pump Installed for a County or Municipality by a Contractor
810-6-3-.32	Historical Preservation Authorities

**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to delete references to earlier laws passed in 2000 which are no longer in effect.

**RULE NO. & TITLE**

810-6-5-.36	Prepaid Wireless 9-1-1 Charge
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**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule due to the fact that the CMRS Board set a statewide emergency 9-1-1 charge of \$1.60. This new rate is effective 10/1/2013 and will include prepaid wireless transactions changing the rate per transaction from \$.70 to \$1.60.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **10:00 a.m. on Thursday, November 7, 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:**  
Thursday, November 7, 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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810-6-1-.97 Materials Used on Road and Bridge Projects.

(1) Sales of sand, gravel, or other building materials by landowners or other suppliers who regularly sell or offer to sell these materials are subject to sales tax when made to contractors for the State of Alabama or the counties or municipalities of the State for use by the contractors in building roads or bridges. This rule applies in all instances where the contractor is obligated by the terms of the contract to furnish, to pay for, and to lay down the materials, including sales of materials which have been selected by and on which an option has been taken by the state or the counties or municipalities of the State. The supplier shall collect the tax from the contractor and remit the amount due to the Department of Revenue. (Sections 40-23-1(a)(10) and 40-23-60(5))

(2) ~~(b)~~ Where an isolated sale of sand, gravel, or similar material is made to a contractor by a landowner who is not engaged in the business of selling such material, the isolated sale will not be required to be reported to the Department and neither sales tax nor use tax will be due from the landowner or from the contractor on the transaction.

~~(c) On and after October 1, 2000, the sale of sand, gravel, or other building materials by landowners or other suppliers to, or the storage, use, or consumption of these materials by, any contractor or subcontractor to be incorporated into realty pursuant to a road or bridge construction contract with the State of Alabama or any county or incorporated municipality of the State of Alabama pursuant to a contract awarded prior to July 1, 2004, is exempt from state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with Rule 810-6-3-.77 entitled Exemption of Certain Purchases by Contractors and Subcontractors in conjunction with Construction Contracts with Certain Governmental Entities, Public Corporations, and Educational Institutions. (Section 40-9-33, Code of Alabama 1975)~~

Author: Ginger L. Buchanan  
Authority: Sections 40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-60(5), and 40-23-83, Code of Alabama 1975  
History: Readopted through APA effective October 1, 1982.  
Amended: Filed February 20, 2001, effective March 27, 2001. ●  
Amended: Filed May 6, 2005, effective June 10, 2005.