

810-8-1-.17 Dyed Diesel Fuel for a Motor Vehicle used Exclusively "Off the Highway".

(1) The excise tax does not apply with respect to dyed diesel fuel which the user establishes to the satisfaction of the Department is used in the exclusive operation of a motor vehicle "off the highway".

(2) "Off the highway" includes private property, a way or place permanently or temporarily closed to public use for the purpose of vehicular travel.

(3) "Off the highway" motor vehicle is any vehicle which presently does not have to be registered for highway use.

(4) A motor vehicle displaying a license plate from this state or any other state is presumed to use diesel fuel exclusively for use on the highways of this state and the excise tax will apply. When a vehicle licensed by this state is permanently withdrawn from highway use for exclusive "off the highway" use, license plates must be removed from the vehicle or the excise tax will apply.

(5) A public highway or highway consists of every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle located either within a municipality or in unincorporated territory, and laid out or erected as such by the public or dedicated or abandoned to the public or intended for use by or for the public. The term "Public Highway" shall apply to and include driveways upon the grounds of universities, colleges, schools and institutions.

(6) A motor vehicle is operated upon the highway if it moves any distance upon the paved or unpaved portion of the highway. A vehicle is not considered operating on the highway when the vehicle merely crosses the highway from private property on one side to private property directly on the other, and the vehicle is not operated for any distance in the general direction of the highway in making the crossing.

(7) Examples of "off the highway" use are:

(a) Motor vehicles operating exclusively in a coal pit.

(b) Motor vehicles operating exclusively on a highway construction site closed to public use.

(c) Motor vehicles operating exclusively on private property within the confines of a plant.

(8) A motor vehicle cannot be designated for both "highway" and "off the highway" use. The exemption from tax applies to motor vehicles used exclusively "off the highway."

(9) Any user claiming exemption from excise tax for "off the highway" use shall accurately maintain adequate records to show the operations claimed to be exempt.

(10) Adequate records substantiating exclusive "off the highway" use shall contain the following documentation:

(a) Make, model, number designation of the vehicle, e.g., Ford Dump Truck, Number 102.

(b) Specific area of motor vehicle operation, e.g., plant area only.

(c) Daily log showing distance travelled and amount of fuel used by the motor vehicle.

(11) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

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Authority: Sections 40-2A-7(a)(5), 40-17-323 and 40-17-221(b), Code of Alabama 1975

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