

APPENDIX B:

DYED DIESEL FUEL USED IN MOTOR VEHICLES IN THE FARM INDUSTRY

- Dyed diesel fuel has red dye added to indicate that motor fuel excise tax has not been paid on the fuel.
- Dyed diesel fuel must be used for tax exempt purposes.
- Vehicles that are not licensed or required to be licensed for highway use with the Wisconsin Department of Transportation, Division of Motor Vehicles (DMV) can have dyed diesel fuel put into the fuel tanks as the primary use of these vehicles is off-road.
- Vehicles that are licensed for highway use (i.e., have a license plate) **cannot** have dyed diesel fuel put into the fuel tanks. See *Off-Road Usage of Motor Vehicle Fuel* below about how to obtain a claim for refund on undyed diesel fuel used for off-road purposes.

Note: Untaxed gasoline and untaxed alternate fuels must be used in the same manner as dyed diesel fuel. The only difference is untaxed gasoline and untaxed alternate fuels do not have a red dye to indicate that no motor fuel excise tax has been paid.

Diesel Fuel Used in Ag-CMV's

A vehicle that is classified as an agricultural commercial motor vehicle (**Ag-CMV**) and is not licensed or required to be licensed with DMV, may use dyed diesel fuel. If the vehicle is licensed or required to be licensed with DMV, dyed diesel fuel may not be used.

An agricultural commercial motor vehicle (**Ag-CMV**) is a commercial motor vehicle to which all of the following apply:

- The vehicle is substantially designed or equipped, or materially altered from its original construction, for the purpose of agricultural use
- The vehicle was designed and manufactured primarily for highway use
- Unless the vehicle was manufactured prior to 1970, the vehicle was manufactured to meet federal motor vehicle safety standard certification label requirements as specified in 49 CFR 567
- The vehicle is used exclusively in the conduct of agricultural operations
- The vehicle is directly engaged in harvesting farm products, directly applies fertilizer, spray, or seeds to a farm field, or distributes feed to livestock

Diesel Fuel Used in Implements of Husbandry

A vehicle that is classified as an implement of husbandry and is not licensed or required to be licensed with DMV can use dyed diesel fuel. If the vehicle is licensed or required to be licensed with DMV, dyed diesel fuel may not be used.

An **implement of husbandry** is a self-propelled or towed vehicle that is manufactured, designed, or reconstructed to be used and that is exclusively used in the conduct of agricultural operations. An “implement of husbandry” may include any of the following:

- A farm tractor
- A self-propelled combine; a self-propelled forage harvester; self-propelled fertilizer or pesticide application equipment but not including manure application equipment; towed tillage, planting, and cultivation equipment and its towing power unit; or another self-propelled vehicle that directly engages in harvesting farm products, directly applies fertilizer, spray, or seeds but not manure, or distributes feed to livestock
- A farm wagon, farm trailer, manure trailer, or trailer adapted to be towed by, or to tow or pull, another implement of husbandry
- A combination of vehicles in which each vehicle in the vehicle combination is an implement of husbandry

Off-Road Usage of Motor Vehicle Fuel

Wisconsin law provides that persons who use motor vehicle fuel (undyed diesel fuel, gasoline, or alternate fuels) for off-road purposes in mobile machinery and equipment may file a claim for refund of the Wisconsin motor vehicle fuel tax paid when purchasing the fuel. Farmers, construction companies, and logging operations are examples of business with considerable off-road use of motor vehicle fuel in unlicensed mobile machinery and equipment. Persons must file Form MF-001, Fuel Tax Refund Claim to request a refund.

Licensed motor vehicles with power take-off (PTO) units that share the same fuel supply tank used to power the vehicle (i.e., waste management, ready-mix, bulk feed, and liquid waste companies and companies with boom trucks or derrick/digger trucks) may be eligible to receive a partial refund of the motor vehicle fuel tax paid on fuel placed into the vehicle.

Penalties for Misuse of Dyed Diesel Fuel

The following penalties apply to the misuse of dyed diesel fuel:

- A minimum \$1,000 penalty is imposed on any person who sells dyed diesel fuel to a buyer that the person knows (or has reason to know) will use the dyed fuel in a taxable manner
- A minimum \$1,000 penalty is imposed on any person who uses dyed diesel fuel in a taxable manner. For example, a person found using dyed diesel fuel in a licensed motor vehicle.
- A \$1,000 penalty is imposed on any retailer who does not conspicuously label fuel pumps, or other delivery facilities, that dispense dyed diesel fuel.

The U.S. Government may also impose a penalty in addition to the Wisconsin penalty.

Additional Information

Please read the remainder of this publication for additional information: Publication 307, *Motor Vehicle Fuel Tax Information*. If you have any questions, you may contact the department at (608) 266-6701 or DORExciseTaxpayerAssistance@revenue.wi.gov.