

TITLE 45 DEPARTMENT OF STATE REVENUE**Proposed Rule**
LSA Document #14-518**DIGEST**

Amends 45 IAC 10-1-1 to delete superfluous language. Amends 45 IAC 10-1-3 to delete superfluous language. Amends 45 IAC 10-1-6 to clarify the definition of motor vehicle. Amends 45 IAC 10-1-7 to clarify the definition of person. Amends 45 IAC 10-1-9 to clarify the definition of special fuel. Amends 45 IAC 10-1-12 to delete superfluous language. Amends 45 IAC 10-1-18 to delete superfluous language. Adds 45 IAC 10-2-8 to clarify the collection of tax on the sale of biodiesel. Amends 45 IAC 10-3-1 to clarify the exemption for exported fuel. Amends 45 IAC 10-3-2 to clarify the treatment for special fuel sold to or used by the U.S. government. Amends 45 IAC 10-3-3 to clarify the exemption for special fuel sold to or used by post exchanges and federal reservations. Amends 45 IAC 10-3-5 to clarify the exemption from special fuel tax for sales to a public transportation corporation. Amends 45 IAC 10-3-6 to clarify the meaning of service area. Amends 45 IAC 10-3-7 to clarify the exemption for special fuel sold to a common carrier. Amends 45 IAC 10-3-10 to clarify the presumption of taxability. Amends 45 IAC 10-3-11 to clarify the proportional exemptions for special fuel used in motor vehicles with common fuel reservoirs. Amends 45 IAC 10-4-7 to delete superfluous language. Amends 45 IAC 10-4-8 to delete superfluous language. Amends 45 IAC 10-4-10 to delete superfluous language. Amends 45 IAC 10-4-11 to delete superfluous language. Amends 45 IAC 10-4-12 to delete superfluous language. Amends 45 IAC 10-4-13 to delete superfluous language. Amends 45 IAC 10-4-14 to clarify the reasons for cancellation or denial of a license. Amends 45 IAC 10-4-16 to delete superfluous language. Amends 45 IAC 10-4-18 to delete superfluous language. Amends 45 IAC 10-4-19 to delete superfluous language. Amends 45 IAC 10-5-7 to delete superfluous language. Amends 45 IAC 10-5-19 to delete superfluous language. Amends 45 IAC 10-6-5 to delete superfluous language. Amends 45 IAC 10-7-2 to clarify the department's sealing of a pump. Amends 45 IAC 10-7-3 to replace dealer with seller. Amends 45 IAC 10-9-2 to delete superfluous language. Amends 45 IAC 10-9-3 to delete superfluous language. Amends 45 IAC 10-9-4 to clarify violations and offenses. Amends 45 IAC 10-9-6 to clarify the display of the tax rate. Amends 45 IAC 10-10-1 to delete superfluous language. Repeals 45 IAC 10-2-1, 45 IAC 10-3-8, 45 IAC 10-3-9, 45 IAC 10-4-9, 45 IAC 10-6-3, 45 IAC 10-6-4, 45 IAC 10-8, 45 IAC 10-9-1, 45 IAC 10-10-2, 45 IAC 10-10-3, and 45 IAC 10-10-4. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

45 IAC 10-1-1; 45 IAC 10-1-3; 45 IAC 10-1-6; 45 IAC 10-1-7; 45 IAC 10-1-9; 45 IAC 10-1-12; 45 IAC 10-1-18; 45 IAC 10-2-1; 45 IAC 10-2-8; 45 IAC 10-3-1; 45 IAC 10-3-2; 45 IAC 10-3-3; 45 IAC 10-3-5; 45 IAC 10-3-6; 45 IAC 10-3-7; 45 IAC 10-3-8; 45 IAC 10-3-9; 45 IAC 10-3-10; 45 IAC 10-3-11; 45 IAC 10-4-7; 45 IAC 10-4-8; 45 IAC 10-4-9; 45 IAC 10-4-10; 45 IAC 10-4-11; 45 IAC 10-4-12; 45 IAC 10-4-13; 45 IAC 10-4-14; 45 IAC 10-4-16; 45 IAC 10-4-18; 45 IAC 10-4-19; 45 IAC 10-5-7; 45 IAC 10-5-19; 45 IAC 10-6-3; 45 IAC 10-6-4; 45 IAC 10-6-5; 45 IAC 10-7-2; 45 IAC 10-7-3; 45 IAC 10-8; 45 IAC 10-9-1; 45 IAC 10-9-2; 45 IAC 10-9-3; 45 IAC 10-9-4; 45 IAC 10-9-6; 45 IAC 10-10-1; 45 IAC 10-10-2; 45 IAC 10-10-3; 45 IAC 10-10-4

SECTION 1. 45 IAC 10-1-1 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-1 "Administrator" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 1. The term "Administrator" shall mean means the administrative head of the Indiana department of state revenue or an authorized agent thereof.

(Department of State Revenue; Reg 6-6-2.1-103(a)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 291)

SECTION 2. 45 IAC 10-1-3 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-3 "Sale" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 3. For purposes of this chapter the term **this article**, "sale" shall ~~mean~~ **means** the transfer of title for compensation.

(Department of State Revenue; Reg 6-6-2.1-103(b)(020); filed Jan 3, 1983, 2:29 p.m.: 6 IR 291)

SECTION 3. 45 IAC 10-1-6 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-6 "Motor vehicle" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-16; IC 9-18

Sec. 6. (a) A "Motor vehicle" is **means** a vehicle ~~which that~~ is propelled by an internal combustion engine or motor and is designed for highway use.

(b) Vehicles "designed for highway use" are ~~those vehicles which are~~ primarily adapted for and engaged in highway transportation. All vehicles plated for general highway transportation or capable of being plated pursuant to Indiana law are presumed to be primarily adapted for and engaged in highway transportation.

~~(c) Fire trucks, fire protection apparatus, and ambulances owned by a municipality or by a person, police vehicles, and street equipment, as well as other vehicles publicly or privately owned which are primarily adapted for, and engaged in highway transportation are motor vehicles.~~

~~(d)~~ (c) The term "motor vehicle" ~~shall does not be construed to include~~ **vehicles not required to be registered under IC 9-18, including the following vehicles when used entirely on private roadways:**

(1) Road construction or maintenance machinery.

(2) Vehicles not capable of being plated pursuant to Indiana law.

(3) A well-boring or well-drilling apparatus, ditch-digging apparatus, or other similar equipment ~~which that~~ is occasionally operated or moved over public highways.

~~(e)~~ (4) Vehicles ~~which that~~ operate **exclusively** on rails. ~~are not motor vehicles.~~

~~(f)~~ (5) Vehicles designed and operated primarily as farm implements for drawing farm machinery. ~~are not motor vehicles.~~

~~(g)~~ (6) Tractors, plows, mowing machines, harvesters, Big A's, and other agricultural implements, including farm machinery when mounted and transported upon a trailer, ~~are not motor vehicles~~ when operated on a farm or when traveling upon public highways from one (1) field to another, or to or from places of repair, or supply.

~~(h)~~ (7) Vehicles exclusively operated on private property and not engaged in highway transportation. ~~are not motor vehicles.~~

~~—EXAMPLES—~~

~~(1) An automobile manufacturer tests cars on a test track located on the manufacturer's property. During such testing, the cars are neither fully equipped nor assembled. Although the automobiles' design may be for highway use, such cars are neither adapted for nor engaged in highway transportation, and therefore, would not be considered motor vehicles.~~

~~(2) In a mining operation, haulage trucks not capable of being plated are employed to transport coal from a pit to a crusher, and then to a processing plant. The roadway between the pit and the crusher is a private roadway, wholly owned by the mining company. The roadway between the crusher and the processing plant is a public highway. Since the haulage trucks are not capable of being plated pursuant to Indiana law, such vehicles presumably would not be motor vehicles even though they do occasionally travel upon Indiana highways.~~

~~(3) Same facts as in example (2) except that the haulage trucks are either plated or capable of being plated pursuant to Indiana law. Haulage trucks which operate exclusively from the pit to the crusher would not be considered motor vehicles since they would not be engaged in highway transportation. Haulage trucks which travel from the crusher to the plant or which occasionally travel upon public highways would be considered motor vehicles since they would be engaged in highway transportation.~~

~~(i) Certain classes of motor vehicles which have a common fuel reservoir for the purpose of locomotion along the highway and for operation of equipment with another commercial purpose, while motor vehicles for purposes of this chapter, may upon determination by the administrator be declared exempt in part from taxation under this Act.~~

(d) The term "motor vehicle" includes vehicles with a common fuel reservoir for both locomotion along the highway and the operation of equipment with another commercial purpose. For purposes of IC 6-6-2.5, "commercial purpose":

- (1) means the exchange of goods and services in contemplation of profit; and
- (2) includes nonproprietary functions of governmental agencies and not-for-profit organizations.

(Department of State Revenue; Reg 6-6-2.1-103(e)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 291; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2178)

SECTION 4. 45 IAC 10-1-7 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-7 "Person" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-17

Sec. 7. (a) The term "Person" shall mean **means** any natural person, partnership, corporation, **corporate subsidiary**, joint venture, firm, association, a representative appointed by a court, or the state, or its political subdivision, or other legal entity. **However, a corporate division shall not be considered a "person".**

(b) For purposes of this chapter, ~~a corporate subsidiary shall be considered a "person".~~

(c) ~~For purposes of this chapter, a corporate division shall not be considered a person.~~

(Department of State Revenue; Reg 6-6-2.1-103(f)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 291)

SECTION 5. 45 IAC 10-1-9 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-9 "Special fuel" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103; IC 6-6-2.5-22

Sec. 9. (a) "Special fuel" ~~is~~ **means** all combustible gases and liquids except gasoline (as defined in ~~IC 6-6-1.1~~, IC 6-6-1.1-103), **including biodiesel, blended biodiesel, and natural gas products**, that are:

- (1) suitable for generation of power in an internal combustion engine; or
- (2) used exclusively for heating, industrial, and farm purposes other than for the operation of motor vehicles.

(b) For purposes of this chapter, ~~IC 6-6-2.5~~, "special fuel" **does not include:**

- (1) **gasoline (as defined in IC 6-6-1.1-103);**
- (2) ~~gasohol; is not considered special fuel.~~
- (3) **ethanol produced, stored, or sold for the manufacture of or compounding or blending with gasoline;**
- (4) **alternative fuels;**
- (5) **kerosene; and**
- (6) **jet fuel (if the purchaser of the jet fuel has provided to the seller proof of the purchaser's federal jet fuel registration at or before the time of sale).**

(c) ~~For purposes of this chapter, each 120 cubic feet of compressed natural gas (CNG) adjusted to a base temperature of 60 degrees Fahrenheit and a pressure of 14.73 pounds per square inch will be considered as one (1) gallon of special fuel.~~

(Department of State Revenue; Reg 6-6-2.1-103(h)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 292; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2179)

SECTION 6. 45 IAC 10-1-12 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-12 "Use" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 12. ~~The term "Use" shall mean the delivery or placing of special fuel into the fuel supply tank of a motor vehicle. "Use" shall not be construed to mean consumption of special fuel.~~ **has the meaning set forth in 45 IAC 12-1-17.**

(Department of State Revenue; Reg 6-6-2.1-103(j)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 293)

SECTION 7. 45 IAC 10-1-18 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-1-18 "Metered pump" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 18. For purposes of ~~these regulations the term~~ **this article**, "metered pump" ~~shall mean~~ **means** a stationary pump ~~which that~~ is capable of metering the amount of special fuel dispensed from it.

(Department of State Revenue; Reg 6-6-2.1-103(o)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 295)

SECTION 8. 45 IAC 10-2-8 IS ADDED TO READ AS FOLLOWS:

45 IAC 10-2-8 Collection of special fuel tax on the sale of biodiesel

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-20; IC 6-6-2.5-23

Sec. 8. (a) For the purposes of this rule, a "biodiesel manufacturing plant" is a facility that is located in Indiana and is for the production of biodiesel.

(b) For the purposes of IC 6-6-2.5-20, biodiesel is considered received when it is removed from a biodiesel manufacturing plant.

(c) For the purposes of IC 6-6-2.5-23, a person that produces biodiesel or both biodiesel and blended biodiesel at a biodiesel manufacturing plant is considered a supplier.

(d) For the purposes of IC 6-6-2.5, a person that produces biodiesel or both biodiesel and blended biodiesel at a biodiesel manufacturing plant must register with the department as a licensed supplier and collect special fuel tax in the manner outlined in IC 6-6-2.5.

(Department of State Revenue; 45 IAC 10-2-8)

SECTION 9. 45 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-1 Special fuel sold for export

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-30

Sec. 1. ~~(a) Special fuel sold for export or exported from Indiana is a nontaxable transaction.~~

~~(b) Special~~ **For the purposes of the exemption for exported fuel found in IC 6-6-2.5-30(a)(1), fuel purchased and placed into the fuel supply tank of a motor vehicle in Indiana and consumed outside the state shall not be considered "exported".** ~~special fuel.~~

(Department of State Revenue; Reg 6-6-2.1-301(1)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 296)

SECTION 10. 45 IAC 10-3-2 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-2 Special fuel sold to or used by the U.S. government

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-30

Sec. 2. Special fuel sold to the United States or an agency or instrumentality thereof, or placed into the fuel supply tank of a governmental motor vehicle, is exempt from **the special fuel tax**.

(Department of State Revenue; Reg 6-6-2.1-301(2)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 296)

SECTION 11. 45 IAC 10-3-3 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-3 Special fuel sold to or used by post exchanges and federal reservations

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-30

Sec. 3. Special fuel sold to a post exchange or other concessionaire located on a federal reservation within Indiana or placed into the fuel supply tank of a governmental motor vehicle is exempt from **the special fuel tax**.

(Department of State Revenue; Reg 6-6-2.1-301(3)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 296)

SECTION 12. 45 IAC 10-3-5 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-5 Sales to a public transportation corporation

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-30; IC 36-9-4

Sec. 5. (a) Special fuel sold to ~~or used by~~ a public transportation corporation **established under IC 36-9-4** is exempt **from the special fuel tax** so long as the special fuel is placed into the fuel supply tank of a motor vehicle operated by a public transportation corporation for the sole purpose of transporting persons for compensation within the Indiana territory of that corporation.

- (b) A "public transportation corporation" is a municipally owned public transportation system that:
- (1) operates buses or other motor vehicles designed to carry more than six **(6)** passengers, ~~exclusive of not including~~ the driver; and
 - (2) operates over designated and definite routes within one **(1)** municipality and its suburban territory, or within and between two **(2)** or more municipalities located not more than ten **(10)** miles apart, and within their suburban territories.

~~(A)~~ (c) For purposes of this section, the "suburban territory of a municipality" consists of the areas within one **(1)** mile outside its corporate boundaries and one **(1)** additional mile for each fifty thousand **(50,000)** people in **the municipality's** population, or major fraction thereof. ~~in the municipality.~~

~~(e)~~ (d) ~~To be afforded~~ **qualify for this exemption**, ~~qualifying~~ carriers must embark, transport, and disembark passengers within the Indiana territory of the public transportation corporation. Special fuel sold and delivered into the fuel supply tank of a motor vehicle operated by a public transportation corporation for the purpose of transporting persons over indefinite routes, or over definite and designated routes of which any portion of the routes are outside the corporation's Indiana territory, is subject to tax.

~~EXAMPLE~~

~~A qualifying public transportation corporation's carrier loads passengers within its Indiana territory.~~

~~Subsequently, the carrier travels outside the boundaries prescribed by this section, and then returns to disembark passengers. Special fuel sold to or used by the carrier along this entire route is subject to tax.~~

(Department of State Revenue; Reg 6-6-2.1-301(4)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 296; errata, 6 IR 1250)

SECTION 13. 45 IAC 10-3-6 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-6 Sales to public transit department

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-30

Sec. 6. (a) Special fuel sold to ~~or used by~~ a public transit department of a municipality is exempt **from the special fuel tax** provided that the special fuel is placed into the fuel supply tank of a motor vehicle operated by a public transit department for the sole purpose of transporting persons for compensation within a service area. ~~no part of which~~

(b) The "service area" of a public transit department of a municipality is no more than five (5) miles outside the corporate limits of the municipality, and no part of which is outside Indiana.

~~(b) To be afforded~~ **(c) In order to qualify for this exemption, qualifying** carriers must embark, transport, and disembark passengers within the service area of the municipality. Special fuel sold and delivered into the fuel supply tank of a motor vehicle operated by a public transit department for the purpose of transporting persons over routes of which any portion of the routes are more than five (5) miles outside the corporate limits of the municipality or outside Indiana, is subject to tax.

~~—EXAMPLE—~~

~~A qualifying public transit department's carrier loads passengers within its Indiana territory. Subsequently, the carrier travels six (6) miles outside the corporate limits of the municipality and disembarks its passengers. Special fuel sold to or used by the carrier along this entire route is subject to tax.~~

(Department of State Revenue; Reg 6-6-2.1-301(5)(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 297)

SECTION 14. 45 IAC 10-3-7 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-7 Sales to common carriers

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-30

Sec. 7. (a) Special fuel sold to ~~or used by~~ a common carrier is exempt **from the special fuel tax**, provided that the special fuel is placed into the fuel supply tank of a common carrier for the sole purpose of transporting passengers within a service area ~~which~~ **that** is not larger than one (1) county and counties contiguous to that county, all of which are located in Indiana.

(b) For purposes of this section, the term "common carrier" ~~shall mean~~ **means** any person that holds itself out to the general public to engage in the transportation by motor vehicle of passengers for compensation, whether over regular or irregular routes.

~~(c) For purposes of this section, the term "common carrier"~~ **However, it shall not be construed to mean** motor vehicles that are operated by public transportation corporations or public transit departments.

~~(d) To be afforded~~ **(c) In order to qualify for this exemption, common carriers** must embark, transport, and disembark passengers within the service area of the common carrier. Special fuel sold and delivered into the fuel supply tank of a motor vehicle operated by a common carrier for the purpose of transporting persons over routes that are outside the service area of the common carrier is subject to tax.

~~—EXAMPLE—~~

- ~~(1) A taxicab company operates in Marion and Hamilton counties. The company's taxicab embarks a passenger in Marion county and travels directly over an irregular route to Hamilton county, where the passenger is disembarked. Special fuel sold to or used by the taxicab along the entire route is exempt.~~
- ~~(2) A church bus transports parishioners for compensation within the boundaries of one county. Special fuel sold to or used by the bus would be subject to tax since the service is held out to the parishioners rather than to the general public.~~

SECTION 15. 45 IAC 10-3-10 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-10 Presumption of taxability; recordkeeping; exemption certificates

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-28; IC 6-6-2.5-30; IC 6-6-2.5-30.5

Sec. 10. (a) ~~As a general rule, it is a rebuttable presumption that all undyed or unmarked special fuel, acquired by a nonlicensed person or both, received in Indiana is presumed to be acquired for the operation of a motor vehicle.~~

(b) ~~Every licensed and nonlicensed person who has a special fuel storage facility and acquires purchases special fuel and claims an exempt use for that fuel must keep adequate books and records so that the administrator may determine the amount of the person's special fuel tax liability and exempt use.~~

(c) A licensed special fuel ~~dealer~~ **supplier** is not required to produce further evidence of exemption or nontaxability if the purchaser provides an exemption certificate ~~which~~ **that** certifies, in a form prescribed by the administrator, that the acquisition of special fuel is exempt from the tax.

(d) A person must retain the books and records for a period of at least three (3) years after the date the final payment of the particular tax liability was due, ~~unless after an audit, the administrator consents to earlier destruction following an audit.~~ In addition, if the limitation on assessments is extended beyond three (3) years for a particular tax liability, the person must retain the books and records until the assessment period is over. A person must allow inspection of the books, records, and returns by the administrator or authorized agents at all reasonable times.

(Department of State Revenue; Reg 6-6-2.1-301(020); filed Jan 3, 1983, 2:29 p.m.: 6 IR 298; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2180)

SECTION 16. 45 IAC 10-3-11 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-3-11 Proportional exemptions for special fuel used in motor vehicles with common fuel reservoirs

Authority: IC 6-8.1-3-3

Affected: IC 6-4.1; IC 6-6-2.5-30

Sec. 11. (a) A special fuel taxpayer is entitled to a proportional use exemption for tax paid on **the** use of special fuel for a commercial purpose when:

- (1) the special fuel is placed into the fuel supply tank of the taxpayer's motor vehicle, which has a common fuel supply reservoir for both locomotion on a public highway and a commercial purpose; ~~which~~
- (2) **the commercial purpose** is exempt from the special fuel tax; and if
- (3) the person is the purchaser of the special fuel, and has paid the special fuel tax thereon.

For purposes of the exemption, the special fuel used for the commercial purpose other than locomotion of the motor vehicle must be used in Indiana.

(b) For purposes of subsection (a), proportional use exemptions shall be presumed to be ~~as follows in the following amounts for special fuel placed into the common fuel supply tank of the following vehicles and consumed on Indiana highways:~~

- (1) For tank trucks, twenty-four percent (24%) of the special fuel ~~placed into the fuel supply tank of a tank truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of pumping equipment and the engine propelling the motor vehicle.~~
- (2) For sanitation trucks, forty-one percent (41%) of the special fuel ~~placed into the fuel supply tank of a sanitation truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of refuse collection equipment and the engine propelling the motor vehicle.~~
- (3) For refrigeration trucks, fifteen percent (15%) of the special fuel ~~placed into the fuel supply tank of a~~

~~refrigeration truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the refrigeration equipment and the engine propelling the motor vehicle.~~

(4) For mobile cranes, forty-two percent (42%) of the special fuel placed into the fuel supply tank of a mobile crane which has a common fuel reservoir for both locomotion on the highway and used in the operation of the crane **and the engine propelling the motor vehicle.**

(5) For bulk feed trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a bulk feed truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of pumping equipment **and the engine propelling the motor vehicle.**

(6) For milk tank trucks, thirty percent (30%) of the special fuel placed into the fuel supply tank of a milk tank truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of pumping equipment **and the engine propelling the motor vehicle.**

(7) For lime spreader trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a lime spreader truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of spreading equipment **and the engine propelling the motor vehicle.**

(8) For spray trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a spray truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of spraying equipment **and the engine propelling the motor vehicle.**

(9) For seeder trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a seeder truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of seeding equipment **and the engine propelling the motor vehicle.**

(10) For leaf trucks, twenty percent (20%) of the special fuel placed into the fuel supply tank of a leaf truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of shredding equipment **and the engine propelling the motor vehicle.**

(11) For boom trucks or block booms, twenty percent (20%) of the special fuel placed into the fuel supply tank of a boom truck or block boom which has a common fuel reservoir for both locomotion on the highway and used in the operation of the boom equipment **and the engine propelling the motor vehicle.**

(12) For service trucks with a jackhammer or pneumatic drill, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a service truck with a jackhammer or pneumatic drill which has a common fuel reservoir for both locomotion on the highway and used in the operation of the jackhammer or pneumatic drill **and the engine propelling the motor vehicle.**

(13) For trucks with a power take-off hydraulic winch, twenty percent (20%) of the special fuel placed into the fuel supply tank of a truck with a power take-off hydraulic winch which has a common fuel reservoir for both locomotion on the highway and used in the operation of the hydraulic winch **and the engine propelling the motor vehicle.**

(14) For wreckers, ten percent (10%) of the special fuel placed into the fuel supply tank of a wrecker which has a common fuel reservoir for both locomotion on the highway and used in the operation of the hoist **and the engine propelling the motor vehicle.**

(15) For semitractor wreckers, thirty-five percent (35%) of special fuel placed into the fuel supply tank of a semitractor wrecker which has a common fuel reservoir for both locomotion on the highway and used in the operation of the hoist **and the engine propelling the motor vehicle.**

(16) For car carriers with a hydraulic winch, ten percent (10%) of special fuel placed into the fuel supply tank of a car carrier with a hydraulic winch which has a common fuel reservoir for both locomotion on the highway and used in the operation of the hydraulic winch **and the engine propelling the motor vehicle.**

(17) For dump trucks, twenty-three percent (23%) of special fuel placed into the fuel supply tank of a dump truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the dump mechanism **and the engine propelling the motor vehicle.**

(18) For semitractor and dump trailer combinations (commonly referred to as dump trailers), fifteen percent (15%) of special fuel placed into the fuel supply tank of a semitractor and dump trailer combination which has a common fuel reservoir for both locomotion on the highway and used in the operation of the dump mechanism **and the engine propelling the motor vehicle.**

(19) For semitractor and trailer combinations (commonly referred to as tank transports), fifteen percent (15%) of special fuel placed into the fuel supply tank of a semitractor and tank trailer combination which has a common fuel reservoir for both locomotion on the highway and used in the operation of the pumping equipment **and the engine propelling the motor vehicle.**

(20) For pneumatic tank trucks, fifteen percent (15%) of special fuel placed into the fuel supply tank of a pneumatic tank truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the pumping equipment **and the engine propelling the motor vehicle.**

(21) For sanitation receptacle carriers (commonly referred to as sanitation dump trailers), fifteen percent (15%) of special fuel placed into the fuel supply tank of a sanitation receptacle carrier which has a common fuel reservoir for both locomotion on the highway and used in the operation of the winching or dumping mechanism **and the engine propelling the motor vehicle.**

(22) For line trucks or aerial lift trucks, twenty percent (20%) of special fuel placed into the fuel supply tank of a line truck or aerial lift truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the lift equipment **and the engine propelling the motor vehicle.**

(23) For digger-derrick trucks, twenty percent (20%) of special fuel placed into the fuel supply tank of a digger-derrick truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the other commercial equipment **and the engine propelling the motor vehicle.**

(24) For sewer cleaning trucks, sewer jets, or sewer vacuators, thirty-five percent (35%) of special fuel placed into the fuel supply tank of a sewer cleaning truck, a sewer jet, or a sewer vacuum which has a common fuel reservoir for both locomotion on the highway and used in the operation of the cleaning equipment **and the engine propelling the motor vehicle.**

(25) For hot asphalt distribution trucks, ten percent (10%) of special fuel placed into the fuel supply tank of a hot asphalt distribution truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the distribution equipment **and the engine propelling the motor vehicle.**

(26) For snow plow trucks, ten percent (10%) of special fuel placed into the fuel supply tank of a snow plow truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the plow **and the engine propelling the motor vehicle.**

(27) For carpet cleaning vans, fifteen percent (15%) of special fuel placed into the fuel supply tank of a carpet cleaning van which has a common fuel reservoir for both locomotion on the highway and used in the operation of the cleaning equipment **and the engine propelling the motor vehicle.**

(28) For salt spreaders or dump trucks with spreaders, fifteen percent (15%) of special fuel placed into the fuel supply tank of a salt spreader or a dump truck with a spreader which has a common fuel reservoir for both locomotion on the highway and used in the operation of the spreading equipment **and the engine propelling the motor vehicle.**

(29) For sweeper trucks, twenty percent (20%) of special fuel placed into the fuel supply tank of a sweeper truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of the sweeping equipment **and the engine propelling the motor vehicle.**

(30) For bookmobiles, twenty-five percent (25%) of special fuel placed into the fuel supply tank of a bookmobile which has a common fuel reservoir for both locomotion on the highway and used in the operation of other commercial equipment **and the engine propelling the motor vehicle.**

(31) For buses, ten percent (10%) of special fuel placed into the fuel supply tank of a bus which has a common fuel reservoir for both locomotion on the highway and used in the operation of other commercial equipment **and the engine propelling the motor vehicle.**

(32) For fire trucks, forty-eight percent (48%) of special fuel placed into the fuel supply tank of a fire truck which has a common fuel reservoir for both locomotion on the highway and used in the operation of other commercial equipment **and the engine propelling the motor vehicle.**

(33) For super suckers, ninety percent (90%) of special fuel placed into the fuel supply tank of a super sucker which has a common fuel reservoir for both locomotion on the highway and used in the operation of other commercial equipment **and the engine propelling the motor vehicle.**

(34) For ready mix concrete trucks, thirty percent (30%) of special fuel used in the operation of the concrete mixing equipment **and the engine propelling the motor vehicle.**

(c) Notwithstanding the provisions of subsection (b), ~~(1-33) special fuel taxpayers operating listed motor vehicles which consume greater portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway than provided in subsection (b) (1-33) are eligible for the administrator may grant a greater exemption to be determined by the administrator a taxpayer whose motor vehicles consume greater portions of fuel from a common fuel reservoir for a commercial purpose after:~~

- (1) a showing by the licensed special fuel user or dealer taxpayer of the portion greater portions of special fuel used for the operation of equipment other than for locomotion on the public highway; and
- (2) presentation of documents and information as requested by the administrator.

~~(d) The exemptions in this section are not afforded to the following:~~

- ~~(1) Authorized unlicensed users.~~
- ~~(2) Authorized unlicensed dealers.~~
- ~~(3) Persons not licensed as special fuel users or special fuel dealers.~~

(e) ~~(d) Notwithstanding the provisions of subsection (b), (1-33) special fuel taxpayers operating motor vehicles not listed in subsection (b) (1-33) which consume portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway are eligible for the administrator may grant a proportional use exemption to be determined by the administrator a taxpayer whose vehicle is not listed in subsection (b) after:~~

- (1) a showing by the licensed special fuel user or dealer of the portion of special fuel used for the operation of equipment other than for locomotion on the public highway; and
- (2) presentation of documents and information as requested by the administrator.

(f) ~~The exemptions in this section are afforded only to licensed special fuel dealers and licensed special fuel users. However, any person may obtain a refund of special fuel tax for a proportion of the special fuel purchased and placed directly into the fuel supply tank of a motor vehicle from a metered pump at a retail outlet.~~

(e) A vehicle mentioned in subsection (b), or that meets the requirements of subsection (c) or (d), may apply for a refund under this section as long as it meets one (1) of the following conditions:

- (1) The vehicle has a declared gross weight twenty-six thousand (26,000) pounds or less.
- (2) The vehicle is used in combination and the gross weight or the declared gross weight of the combination twenty-six thousand (26,000) pounds or less.
- (3) The vehicle has a declared gross weight greater than twenty-six thousand (26,000) pounds, but it is not required to be licensed under IC 6-4.1.

(Department of State Revenue; Reg 6-6-2.1-301(030); filed Jan 3, 1983, 2:29 p.m.: 6 IR 298; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2181; filed Mar 6, 1991, 2:20 p.m.: 14 IR 1370)

SECTION 17. 45 IAC 10-4-7 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-7 Licenses; canceled bond

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-46

Sec. 7. (a) If a ~~licensed special fuel dealer's or licensed special fuel user's~~ **licensee's** bond on file becomes ~~cancelled~~ **canceled** or otherwise invalid, the licensee must furnish the administrator with a bond satisfying the requirements provided by this ~~chapter~~ **article**.

(b) The bond ~~so furnished by the licensee shall~~ **must** be dated so that no lapse in time occurs between the effective date of the new bond and the date on which the previous bond became ~~cancelled~~ **canceled** or otherwise invalid.

(c) If the ~~licensed special fuel dealer or licensed special fuel user~~ **licensee** fails to furnish ~~such a~~ bond within the time period prescribed by the administrator, the licensee shall be subject to immediate license cancellation.

(Department of State Revenue; Reg 6-6-2.1-408(020); filed Jan 3, 1983, 2:29 p.m.: 6 IR 300)

SECTION 18. 45 IAC 10-4-8 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-8 Bond increases; financial statement

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-45; IC 6-6-2.5-46

Sec. 8. (a) Periodically, the administrator may review a ~~licensed special fuel user's or licensed special fuel dealer's~~ **licensee's** account to determine whether the licensee's bond on file is in an amount large enough to adequately cover the licensee's tax liability.

(b) If the administrator determines that the licensee's financial condition warrants the bond on file to be in a larger amount, the administrator may require the licensee to furnish such bond provided that such bond satisfies the requirements of ~~section 408 of this chapter~~ **section 7 of this rule**.

(c) If the licensee fails to provide ~~such a~~ bond within the time period prescribed by the administrator, the licensee may be subject to license cancellation in the same manner as prescribed by ~~section 415 of this chapter~~ **section 14 of this rule**.

(d) The administrator may require an audited financial statement.

(Department of State Revenue; Reg 6-6-2.1-409(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 300; errata, 6 IR 1250; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2182)

SECTION 19. 45 IAC 10-4-10 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-10 Investigation of application

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-42

Sec. 10. (a) Prior ~~to and subsequent to~~ **after the administrator's issuing of administrator issues** a license, ~~or approval of Special Fuel Tax Collection Agreement, the administrator may~~ **shall** make any investigation considered necessary for the enforcement of ~~this Act.~~ IC 6-6-2.5.

(b) The administrator may contact a supplier of special fuel to determine a person's tax liability.

(Department of State Revenue; Reg 6-6-2.1-412(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 300)

SECTION 20. 45 IAC 10-4-11 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-11 Issuance of license

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-50; IC 6-6-2.5-52

Sec. 11. Upon determining that the licensing requirements have been met, the ~~administrator~~ **department** may issue the applicant a license to remain effective unless ~~cancelled~~ **canceled** under ~~this chapter.~~ IC 6-6-2.5.

(Department of State Revenue; Reg 6-6-2.1-412(020); filed Jan 3, 1983, 2:29 p.m.: 6 IR 300)

SECTION 21. 45 IAC 10-4-12 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-12 Licenses nonassignable

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-52

Sec. 12. A license issued under ~~this chapter~~ IC 6-6-2.5 is not assignable and ~~and~~ is valid only for the person in whose name it is issued.

~~—EXAMPLE—~~

~~Taxpayer A is a licensed special fuel dealer who owns and operates a filling station at which special fuel is sold. Taxpayer A retires. Taxpayer B, assumes ownership and continues to operate under the prior license. Since the special fuel dealer's license was issued to Taxpayer A, Taxpayer B is operating without a license, and therefore, is operating illegally.~~

(Department of State Revenue; Reg 6-6-2.1-413(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 300)

SECTION 22. 45 IAC 10-4-13 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-13 Display of license

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-53

Sec. 13. A license or a ~~reasonable facsimile~~ **copy** thereof issued to the licensee by the ~~administrator~~ **department** shall be prominently displayed ~~by a licensed special fuel dealer~~ at each place in Indiana where the licensee is engaged in business.

(Department of State Revenue; Reg 6-6-2.1-414(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 301; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2182)

SECTION 23. 45 IAC 10-4-14 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-14 Cancellation of license

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-406; IC 6-6-2.5; IC 6-8.1-3-12; IC 6-8.1-5-4

Sec. 14. Except as otherwise provided, the administrator may, after a hearing, cancel or deny a license issued to a special fuel user or special fuel dealer if either: **the licensee does any of the following:**

(1) Files a false monthly report of the information required by ~~this chapter~~; or IC 6-6-2.5.

(2) Fails or refuses to file a monthly report, required by ~~this chapter~~; or IC 6-6-2.5.

(3) Is determined to be operating illegally. or

(4) Fails or refuses to pay the full amount of the tax imposed by ~~this chapter~~ IC 6-6-2.5 on or before the due date established by ~~IC 6-6-2.1-501 and IC 6-6-2.1-503~~; or IC 6-6-2.5-35.

(5) Fails to file a surety bond, letter of credit, or cash deposit as required by IC 6-6-1.1-406.

(6) Fails to honor a subpoena issued by the department under IC 6-8.1-3-12.

~~(5) (7) Fails or refuses to comply with the record keeping requirements or fails or refuses to allow inspection of his records or fails or refuses to furnish copies of any federal returns that he has filed as provided by IC 6-8.1-5-4.~~ or

~~(6) (8) Knowingly breaks the seal on a pump sealed as ordered by the administrator pursuant to IC 6-6-2.1-1007 and IC 6-6-2.1-1011.~~ IC 6-6-2.5-71.

(Department of State Revenue; Reg 6-6-2.1-415(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 301; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2182)

SECTION 24. 45 IAC 10-4-16 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-16 Cancellation of license on licensee's request; requisites

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-48

Sec. 16. (a) Upon written request to the administrator by the licensee, the administrator may cancel a license effective sixty (60) days from the date of receipt of the written request.

(b) ~~The administrator may,~~ Prior to or subsequent to cancelling **after canceling** a license, **the administrator may** make any necessary investigation to determine the amount of tax, penalty, and interest which has not been paid by the licensee to the administrator.

(c) A person whose license has been ~~cancelled~~ **cancelled** must retain books and records for a period of at least three (3) years plus the current year after the effective date of cancellation. A person must allow inspection of the books, records, and returns by the administrator or its authorized agents at all reasonable times during this period.

(Department of State Revenue; Reg 6-6-2.1-416(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 301)

SECTION 25. 45 IAC 10-4-18 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-18 Notice of license cancellation

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-49

Sec. 18. (a) For purposes of ~~IC 6-6-2.1-415~~, IC 6-6-2.5-49, the licensee shall be given at least ~~fifteen~~ **five (5)** days notice of the hearing and proposed cancellation ~~by~~ **or denial:**

(1) **by** registered mail;

(2) at his ~~the licensee's~~ last known address.

(b) The licensee may appear at the time and place given in the notice to show cause why his ~~the~~ license should not be ~~cancelled~~: **canceled**.

(Department of State Revenue; Reg 6-6-2.1-415(030); filed Apr 30, 1986, 3:34 p.m.: 9 IR 2183)

SECTION 26. 45 IAC 10-4-19 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-4-19 Cancellation of bond; release of surety

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-48

Sec. 19. (a) The surety of a ~~licensed special fuel user or a licensed special fuel dealer licensee~~ may cancel a bond issued to a ~~licensed special fuel user or a licensed special fuel dealer licensee~~ upon notifying the administrator.

(b) The cancellation shall be effective sixty (60) days after written notice is received by the administrator.

(c) The release does not affect any liability accruing before expiration of the sixty (60) day period.

(Department of State Revenue; Reg 6-6-2.1-419(a)(010); filed Apr 30, 1986, 3:34 p.m.: 9 IR 2183)

SECTION 27. 45 IAC 10-5-7 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-5-7 Monthly payment by suppliers; collection allowances

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 7. (a) ~~Upon filing each monthly report, a licensed special fuel dealer is required to remit to the administrator an amount equal to the special fuel tax liability accrued during the preceding calendar month.~~

(b) In order to compensate a licensed special fuel dealer **supplier or permissive supplier** for collecting, reporting, and remitting the special fuel tax, a licensed special fuel dealer **supplier or permissive supplier** is entitled to deduct ~~if the tax is timely remitted~~; a collection allowance **if the tax is timely remitted**.

(c) ~~The collection allowance equals one and six tenths percent (1.6%) of the licensed special fuel dealer's special fuel tax liability accrued during the preceding calendar month for:~~

(1) ~~selling and delivering, or selling and causing to be delivered, special fuel into the fuel supply tank of motor vehicles other than motor vehicles owned by the licensed special fuel dealer;~~

(2) ~~selling and delivering, or selling and causing to be delivered, special fuel into the taxable storage facility of an authorized unlicensed user;~~

(3) ~~selling and delivering, or selling and causing to be delivered, special fuel into the taxable storage facility of an authorized unlicensed dealer;~~

(d) ~~A licensed special fuel dealer is not entitled to the one and six tenths percent (1.6%) collection allowance for placing special fuel into motor vehicles owned by the licensed special fuel dealer, and therefore the licensed special fuel dealer must remit one hundred percent (100%) of the special fuel tax imposed upon placing special fuel into such motor vehicles.~~

~~—EXAMPLE—~~

~~During March, Company A, a licensed special fuel dealer, placed 50 gallons of special fuel into a company owned diesel powered truck, sold 300 gallons of special fuel to various customers through a metered pump into the fuel supply tank of motor vehicles, and sold 100 gallons of special fuel into a taxable storage facility of an authorized unlicensed dealer. In April, the licensed special fuel dealer is entitled to retain one and six tenths percent (1.6%) of the tax collected on the 400 gallons of special fuel sold to others, if timely remitted, but must remit one hundred percent (100%) of the special fuel tax imposed upon placing the special~~

fuel into the fuel supply tank of the company's motor vehicle.

(Department of State Revenue; Reg 6-6-2.1-504(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 302; errata, 6 IR 1250; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2184)

SECTION 28. 45 IAC 10-5-19 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-5-19 Discontinuance of licensee's business

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-54; IC 6-6-2.5-55

Sec. 19. (a) If a licensee ceases to do business in Indiana, the licensee must give written notice to the administrator at least fifteen (15) days before discontinuance.

(b) Any tax, penalty, and interest ~~which that~~ was accrued under ~~this chapter~~ IC 6-6-2.5 is due and payable at the time of discontinuance.

(c) A licensee who fails to notify the administrator ~~as provided by this chapter~~ is presumed to be operating in the business for which the license was issued, and therefore is subject to the reporting and remitting requirements of ~~this chapter~~. IC 6-6-2.5.

(d) **Upon discontinuance of the business**, the licensee shall **immediately** surrender ~~his the~~ license certificate to the administrator and destroy all identification issued by the department under ~~IC 6-6-2.1-414~~. IC 6-6-2.5-55.

(Department of State Revenue; Reg 6-6-2.1-518(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 306; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2186)

SECTION 29. 45 IAC 10-6-5 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-6-5 Refund of tax paid by mistake

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-32

Sec. 5. ~~An authorized unlicensed user or authorized unlicensed dealer~~ **A person** is entitled to a refund without interest for the amount of any special fuel tax, which:

- (1) due to a clerical error, was erroneously paid; ~~to the authorized unlicensed user's or authorized unlicensed dealer's supplier;~~ and
- (2) has been remitted to the ~~administrator by the supplier.~~ **department.**

(Department of State Revenue; Reg 6-6-2.1-804(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 307; errata, 6 IR 1250)

SECTION 30. 45 IAC 10-7-2 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-7-2 Sealing of pump; impoundment of vehicle or tank

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-71

Sec. 2. (a) The ~~administrator~~ **department** may seal a special fuel ~~or kerosene~~ tank or pump, or impound any vehicle or tank that does not have a sealable pump, if:

- (1) ~~a licensed special fuel user or licensed special fuel dealer~~ **person** becomes delinquent in payment of any amount due under ~~this chapter~~; IC 6-6-2.5;
- (2) there is evidence that the revenue of a ~~licensed special fuel user or licensed special fuel dealer~~ **seller** is in jeopardy;
- (3) a ~~special fuel dealer or special fuel user~~ **person** is operating without the license required by ~~this chapter~~; IC 6-6-2.5; or

(4) ~~an authorized unlicensed user or an authorized unlicensed dealer~~ **a person** is operating outside the authority granted by the administrator.

(b) Upon the ~~administrator's~~ **department's** sealing of a special fuel tank, a person is prohibited from withdrawing special fuel from the sealed tank. Furthermore, a person is prohibited from subsequently purchasing special fuel for bulk storage without the written consent of the ~~administrator.~~ **department.**

(c) The pumps may be sealed until all reports are filed, and the fees, interest, tax, and penalties imposed by ~~this chapter~~ **IC 6-6-2.5** are paid.

(d) Seals may only be removed by an authorized employee of the ~~motor fuel~~ **special fuel** tax division or by a person receiving written approval from the ~~administrator.~~ **department.**

(Department of State Revenue; Reg 6-6-2.1-1007(010); filed Jan 3, 1983, 2:29 p.m.; 6 IR 307; filed Apr 30, 1986, 3:34 p.m.; 9 IR 2186)

SECTION 31. ~~45 IAC 10-7-3~~ IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-7-3 Gallonage totalizers

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-71

Sec. 3. (a) Special fuel ~~dealers~~ **sellers** shall allow the administrator to seal gallonage totalizers of metered pumps operated by or on behalf of the ~~person selling special fuel dealer.~~ **or kerosene.**

(b) If the ~~administrator~~ **department** determines that a metered pump operated by or on behalf of a special fuel ~~dealer~~ **seller** is without an effectively sealable gallonage totalizer, the special fuel ~~dealer~~ **seller** shall, at the ~~administrator's~~ **department's** request:

- (1) adapt the pump to the ~~administrator's~~ **department's** specifications so that it may be effectively sealed; or
- (2) replace, in whole or in part, the pump, with a pump ~~which~~ **that** employs an effectively sealable gallonage totalizer, as determined by the ~~administrator.~~ **department.**

(c) A special fuel ~~dealer's~~ **seller's** failure to comply with the ~~administrator's~~ **department's** request made under ~~IC 6-6-2.1-1011~~ **IC 6-6-2.5-71** shall be considered evidence that the revenue of the special fuel ~~dealer~~ **seller** is in jeopardy, upon which the ~~administrator~~ **department** may seal the pumps of the special fuel ~~dealer~~ **seller** pursuant to ~~IC 6-6-2.1-1007.~~ **IC 6-6-2.5-71.**

(d) No person shall replace or change the totalizer on a metered special fuel pump without an authorized employee of the ~~motor fuel tax division~~ **department** present, except:

- (1) upon malfunction or breakage of the totalizer; and
- (2) written affidavit executed by the person who made the change or replacement and stating therein:
 - (A) the date and time of the change or replacement; and
 - (B) the reason for the change or replacement; and
 - (C) the old and new readings on the totalizer; and
 - (D) any other information ~~which~~ **that** the ~~administrator~~ **department** may reasonably request;
- (3) by a person or company who is registered or registers with the ~~administrator~~ **department** on a form prescribed by the ~~administrator;~~ **department;** or
- (4) by the owner or operator of the metered pump.

(Department of State Revenue; Reg 6-6-2.1-1011(010); filed Apr 30, 1986, 3:34 p.m.; 9 IR 2187)

SECTION 32. ~~45 IAC 10-9-2~~ IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-9-2 Intentional breakage of seal

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-71

Sec. 2. A person not authorized by ~~IC 6-6-2-1~~ **IC 6-6-2.5** who knowingly:

- (1) breaks a seal on a special fuel pump or tank; ~~or~~
- (2) withdraws or removes special fuel from a sealed special fuel pump or tank; or
- (3) fails or refuses to report meter readings on a special fuel pump or tank sealed under ~~IC 6-6-2-1-1007 or IC 6-6-2-1-1011~~, **IC 6-6-2.5-71**;

commits a ~~Class-D~~ **Level 6** felony.

(Department of State Revenue; Reg 6-6-2.1-1207(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 308; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2187)

SECTION 33. 45 IAC 10-9-3 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-9-3 Reckless or intentional violation; offense

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 3. (a) A person commits a Class B misdemeanor if a person:

- (1) recklessly fails to file a report, return, or statement required by ~~this chapter~~; **IC 6-6-2.5**;
- (2) knowingly makes a false statement in a return or report to the administrator, or in connection with an application for the refund of any tax claimed to have been erroneously paid under ~~this chapter~~; **IC 6-6-2.5**;
- (3) knowingly collects a refund or pays a refund of tax on fuel actually placed into the fuel supply tank of a motor vehicle; or
- (4) knowingly acts as a special fuel user, ~~a special fuel dealer, fuel oil distributor, authorized unlicensed user, or authorized unlicensed dealer licensee~~ without a license or authorization.

(b) A person who commits one (1) of the aforementioned offenses with the intent to evade the tax imposed by ~~this chapter~~ **IC 6-6-2.5** or to defraud this state commits a ~~Class-D~~ **Level 6** felony.

(c) Each day during which a person acts as a special fuel user, ~~a special fuel dealer, or a fuel oil distributor licensee~~ without a license constitutes a separate offense.

(Department of State Revenue; Reg 6-6-2.1-1208(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 308)

SECTION 34. 45 IAC 10-9-4 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-9-4 Violation; offenses

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5

Sec. 4. (a) ~~Except as provided in section 1208 of this chapter~~ A person who **recklessly** violates a provision of ~~this chapter~~ **IC 6-6-2.5** for which no specific penalty is provided commits a Class C infraction.

(b) A person who commits such offenses with the intent to evade the tax imposed by ~~this chapter~~ **IC 6-6-2.5** and to defraud the state commits a ~~Class-D~~ **Level 6** felony.

(Department of State Revenue; Reg 6-6-2.1-1212(010); filed Jan 3, 1983, 2:29 p.m.: 6 IR 308)

SECTION 35. 45 IAC 10-9-6 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-9-6 Display of tax rate

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-35

Sec. 6. A Special fuel ~~dealer suppliers, permissive suppliers, and all persons selling special fuel~~ shall state the rate of tax separately from the price of the special fuel on all sales or delivery slips, bills, invoices, and statements that indicate the price of special fuel except when the special fuel is sold through a metered pump.

SECTION 36. 45 IAC 10-10-1 IS AMENDED TO READ AS FOLLOWS:

45 IAC 10-10-1 Report of deliveries

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.5-60

Sec. 1. (a) Reports of all special fuel deliveries in Indiana shall be made ~~under oath~~, to the administrator by:

- (1) common, contract, or private carriers transporting special fuel in interstate or intrastate commerce;
- (2) persons transporting special fuel in any manner from outside Indiana to a point in Indiana other than a refinery or terminal; **and**
- (3) persons engaged in transporting special fuel in Indiana for others.

(b) The reports of all deliveries of special fuel in Indiana shall be made under oath.

(c) The reports of all deliveries of special fuel in Indiana shall be made monthly on forms prescribed by the ~~administrator.~~ **administrator.**

(d) The reports of all deliveries of special fuel in Indiana shall disclose:

- (1) the name and address of the person to whom deliveries of special fuel have actually been made; and
- (2) the name and address of the originally named consignee, if special fuel has been delivered to a person other than the original consignee; and
- (3) the point of origin, point of delivery, date of delivery, number and initials of each tank car, and number of gallons contained in each car, if the special fuel has been shipped by rail; and
- (4) the name of the product and number of gallons contained in the boat, barge, or vessel, if the special fuel has been shipped by water; and
- (5) the license plate number and number of gallons contained in each tank truck, if the special fuel has been shipped by motor truck; or
- (6) the manner in which the special fuel has been delivered if the delivery was other than described in this section; and
- (7) such additional information relating to special fuel shipments as the administrator may reasonably require.

(Department of State Revenue; Reg 6-6-2.1-604(010); filed Apr 30, 1986, 3:34 p.m.: 9 IR 2188)

SECTION 37. THE FOLLOWING ARE REPEALED: 45 IAC 10-2-1; 45 IAC 10-3-8; 45 IAC 10-3-9; 45 IAC 10-4-9; 45 IAC 10-6-3; 45 IAC 10-6-4; 45 IAC 10-8; 45 IAC 10-9-1; 45 IAC 10-10-2; 45 IAC 10-10-3; 45 IAC 10-10-4.

Notice of Public Hearing

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