



NCDOR

**NORTH
CAROLINA
DEPARTMENT
OF REVENUE**

**North Carolina Department of Revenue
Excise Tax and Examination Divisions**

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Important Notice:
Guide for Dyed Diesel Use

What is Dyed Diesel?

NC §105.449.60.(15)

North Carolina introduced dyed diesel fuel in 1995 and dyed kerosene in 1998. Dyed diesel is sometimes referred to as “red diesel” or “off-road diesel”. Dyed diesel fuel is regular diesel fuel that has red dye added to it. This is done to readily recognize the fuel as non-tax-paid by both providers and users as well as to help enforcement officials easily identify it. Dyed diesel is for off-road use (non-highway use) only.

Dyed Diesel is for Off-road Use Only

When you fill your vehicle with undyed fuel at the pump, state and federal taxes are included in the cost. These taxes are used to help fund construction and maintenance of North Carolina's public roads.

Dyed diesel fuel has not been taxed for NC nor Federal Excise Tax and is intended for off-road use only. Dyed diesel can be used in **anything that isn't on-road**. This means it can be used for farming equipment, construction equipment, power generators, aviation and marine vehicles like planes and boats, and even carnival rides that need diesel to operate. Dyed diesel may be cheaper to purchase than regular diesel because the price does not include federal or state excise taxes, however, the price paid at the retail location will include the North Carolina inspection tax (0.0025 cents per gallon). Additionally, dyed diesel sales are subject to NC sales tax.

Using untaxed fuel (dyed diesel) in a licensed vehicle violates North Carolina's law and reduces the revenue available to build and maintain North Carolina state highways.

Penalties for Misuse

NC §105.449.117, §105.449.118, and §105.449.118A

It is unlawful to use dyed diesel fuel in a vehicle that is licensed (or required to be licensed) for highway use. A person who violates this law is guilty of a Class 1 Misdemeanor and liable for a civil penalty of the greater of \$1,000 or five times the amount of motor fuel tax payable on the fuel in the supply tank. The penalty is in addition to any motor fuel tax assessed.

A person who dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle or who allows the non-tax-paid motor fuel to be dispensed into a supply tank of a highway vehicle is subject to a civil penalty of \$250 per occurrence. This penalty is in addition to any motor fuel tax assessed.

Failure to pay the penalty is grounds to withhold or revoke the registration plate of the motor vehicle into which the non-tax paid motor fuel was dispensed.

A person who refuses to allow the taking of a motor fuel sample is subject to a civil penalty of \$1,000.

Retailer Must Mark the Storage Facility for Off Road Use

NC §105.449.123

A retailer of dyed diesel fuel or dyed kerosene must mark the storage facility for the dyed motor fuel. The storage facility must be clearly marked, “Dyed Diesel, Non Taxable Use Only, Penalty for Taxable Use” or “Dyed Kerosene, Non Taxable Use Only, Penalty for Taxable Use”, or a similar phrase that clearly indicates that the diesel fuel is not to be used to operate a highway vehicle:

- (1) The storage tank of the storage facility must be marked if the storage tank is visible.
- (2) The fill cap or spill containment box of the storage facility must be marked.
- (3) The dispensing device that served the storage facility must be marked.
- (4) The retail pump or any dispensing device at any level of the distribution system must comply with the marking requirements.

Record-keeping Requirements:

NC §105.449.115 and §105.449.121

All records must be maintained for three years.

The North Carolina Administrative Code establishes the following record keeping requirements:

Users: those persons with licensed highway vehicles in excess of 10,000 pounds having no bulk storage must maintain the following records:

- All fuel receipts and invoices including fuel purchased for highway and off-highway use, both tax-paid and non-tax-paid fuel.
- Quarterly odometer readings

- Purchase and disposition dates of vehicle; with beginning and ending odometer readings.
- List of current vehicles by registered gross weight
- A list of motor carrier decals received and applied to vehicles.

Retailers of motor fuel must keep the following records:

- All fuel receipts, invoices, bills of lading including highway and non-highway use, both tax paid and non-tax-paid;
- Monthly totalizer meter readings
- Fuel availability schedules
- Monthly beginning and ending inventory of highway and off-highway fuel
- Fuel sales records and/or withdrawal records. For dyed diesel the sales record must include date of sale, type of fuel, equipment number fueled, number of gallons dispensed.
- A copy of all shipping documents at the place where motor fuel was delivered for 90 days (may be maintained off site for the remainder of the retention period).

The retailer shall not accept deliveries of motor fuel with a destination state other than NC.

All fuel sold at retail must be dispensed from metered pumps that indicate the amount and type of motor fuel dispensed.

If a retailer or bulk-end user is determined to have sold or used dyed diesel fuel to operate a highway vehicle when the storage facility or meter was clearly marked as dyed diesel, all fuel delivered into that storage facility is presumed to have been used to operate a highway vehicle. NC excise tax will be assessed on total gallons delivered to that storage facility.

The presumption under **NC §105.449.87(b)** that all fuel delivered into that storage facility was used to operate a highway vehicle may be overcome by maintaining complete and accurate withdrawal records.

Bulk End Users: Those persons with bulk fuel storage must keep the following records:

- All fuel receipts, invoices and bills of lading, both tax-paid and non-tax-paid fuel
- Detailed withdrawal records of highway and non-highway fuel from bulk storage facilities; to include date, type of fuel, equipment number of vehicle fueled, number of gallons per specific vehicle.
- Quarterly odometer readings, regardless of weight classifications;
- Purchase and disposition dates of fleet vehicles; with beginning and ending odometer readings.
- List of current vehicles by registered gross weight;
- Monthly beginning and ending inventory of both highway and off-highway fuel.
- A list of motor carrier decals received and affixed.
- Monthly totalizer meter readings.

For more information you may call the NC DOR Excise Tax Division at 919-707-7500 or toll free at 877-08-9092. Customer assistance is available Monday through Friday between 8:00am and 4:30pm EST, excluding holidays.

Anyone with any information concerning the use of dyed diesel on the highway should contact the NC Excise Tax Division. You may also report this to the closest IRS office.