Request for Comments for *Minnesota Rules*, Part 8125.1301 – Refunds for Power Take-Off Units or Auxiliary Engines

Summary of Proposed Changes

I. Background

Minnesota Rules, Part 8125.1301 (the "Rule"), addresses a specific kind of refund of state petroleum tax paid under *Minnesota Statutes*, Chapter 296A. Specifically, it addresses refunds of tax paid on gasoline or special fuel purchased and used in power take-off units ("PTOs") or auxiliary engines.

A PTO is attached to a motor vehicle, like a truck, and exists not to power the vehicle down the road, but to power a separate machine, like a concrete mixer or wood-chipper. The fuel tank powering the PTO is the same fuel tank that powers the vehicle. The fuel at issue is not used for a purpose that triggers the imposition of petroleum tax, *e.g.*, is not used in producing and generating power for propelling a motor vehicle used on the public highways of Minnesota. See *Minnesota Statutes*, section 296A.07, subdivision 1. Instead, the gasoline or special fuel at issue powers the PTO itself, and therefore the fuel is exempt from Chapter 296A petroleum tax if certain requirements are satisfied (*e.g.*, if certain records are maintained). If a consumer pays Minnesota petroleum tax on gasoline or special fuel used to power a PTO, submits a claim for refund, and the refund claim meets the requirements in statute and in the Rule, the petroleum tax paid is refunded to the consumer.

The statute allowing for these refunds, which is now found at *Minnesota Statutes*, was enacted in 1997 through *Minnesota Laws*, 1997 Regular Session, chapter 231, article 7, section 3. This same session law required the Department of Revenue ("Department") to adopt rules to administer the refunds, which the Department did in 1998. Because the Rule has not been updated since 1998, the Department is proposing changes to align the rule with current terminology and current industry and Department practices.

II. Explanation of Proposed Changes

Subpart 2. Claim for refund

The current rule allows for refund claims to be made monthly or annually. The Department proposes changing the rule so it allows only monthly returns. While this is a significant textual change, it will have no practical effect. The reason – for more than a decade, only monthly returns have been possible due to limitations in the petroleum tax refund processing system. Specifically, the relevant software is not able to process a refund claim with more than one tax rate. Therefore, taxpayers are already submitting only monthly returns. This subpart is also amended to make a number of minor clarifications regarding monthly claim filings, including: 1) when measuring whether a claim is filed within one year from the fuel purchase date, the postmark date is the filing

date; 2) eliminating the requirement that the sales ticket be an "original" or be accompanied by a "signed dealer affidavit" given technology now provides other verification tools; 3) clarifying that an amended refund claim must be filed for claim corrections; and 4) clarifying that only one refund claim per each month period is allowed.

Subpart 3. Records to be maintained

In this subpart, the Rule Amendment makes minor clarifications and minor terminology updates regarding what information must be on each sales ticket or invoice, and how some of that information must be printed or numbered. The Rule Amendment also proposes presenting the required information in a list to improve readability.

Subpart 5. Optional means of calculating refund; information needed for refund claim

The Department proposes updating this subpart's terminology in three ways. First, we propose replacing the outdated term "onboard computer" with the more general term "technology" so that taxpayers with the ability to accurately record the amount of fuel used to propel the PTO, regardless of the specific technology, meet the requirement. Second, we propose replacing "printouts" with "statements" so that digital and hard-copy printouts clearly meet the requirement. Third, we propose replacing "computer information" with "technology-generated information" so that taxpayers qualify based on the quality of the information, and not the specific technology that produced it.