

## IRS LEVIES HEFTY FINES FOR FAILURE TO DISPLAY DISPENSER TAX LABELS

NEFI is continuing to receive calls about IRS enforcement of dispenser labeling requirements. IRS fines for incorrect or missing labels are significant. The IRS requires all dyed diesel and dyed kerosene dispensers to have a specific label indicating that the fuel is for nontaxable use only. The labeling requirement has been in place for diesel dyed diesel dispensers since 1993 and for dyed and clear kerosene dispensers since 1998. The IRS has recently stepped up enforcement of the dispenser label requirements nationwide. Please note that the EPA's LSD and ULSD dispenser labels - which also provide notice on nontaxable uses of these fuels - are NOT a replacement for the IRS labels. Both the IRS and EPA labels are required despite their apparent redundancy.

The following IRS labels must be posted on any retail dispenser or other delivery facility (skid tank, consumer dispensers at bulk plants or card locks) where dyed diesel fuel and/or dyed kerosene are dispensed for use by a purchaser/consumer:

**"DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" or**

**"DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE".**

In addition, the following label must be posted on all blocked pumps that sell clear, untaxed kerosene:

**"UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY".**

The labels must be affixed to the dispenser in a conspicuous place within easy sight of the person dispensing the fuel either on the face of the dispenser (on both sides) or on the side of the dispenser just above the nozzle housing.

**Heating Oil Dispensers:** Some heating oil dealers provide heating oil dispensers at their bulk plant for residential customers who wish to buy smaller quantities of fuel for heating. The IRS regulations do not address heating oil dispensers specifically. However, since heating oil is a dyed fuel and capable of being dispensed in the fuel tank of an off-road vehicle, it is recommended that these dispensers be labeled with an IRS diesel label as well. Any seller that fails to post the required labels on any applicable dispenser is presumed to know that the fuel will not be used for a nontaxable use and may be responsible for paying the 24.4 cpg federal excise tax on the fuel (the back-up tax) and assessed a \$10 for every gallon of fuel in the tank at the time of the violation. Heating oil dealers and petroleum marketers should check dyed diesel fuel, dyed kerosene and clear, untaxed kerosene dispensers for the proper IRS labels.