

RULE 2014-2

Alternative Fuels Tax/Liquefied Natural Gas (LNG) Rule

List of Persons Commenting on the Rule

The comment period for Rule 2014-2 ended on Sunday, May 18, 2014. During the public comment period, a total of four comments were received on Rule 2014-2. On the following page, a list of the comments and the agency responses to the comments are provided.

Proposed DFA Rule 2014-2 Public Comment and Agency Response

- Public Comment #1: Request that the Agency include a provision in the rule linking the definition of diesel gallon equivalent to future guidance from the National Conference of Weights and Measures.
- Agency Response #1: The Agency agrees that guidance from the National Conference of Weights and Measures is helpful in determining the diesel gallon equivalent and the Agency will strongly consider any future guidance from that organization for inclusion in the rule. However, the Agency is reluctant to automatically link any future guidance from the National Conference of Weights and Measures without first reviewing state law to ensure that guidance is not in conflict with provisions of current state law.
- Public Comment #2: The proposed rule applies the gasoline gallon equivalent rate for purposes of determining the alternative fuels tax due on liquefied National gas consumed in motor vehicles. Liquefied National Gas typically displaces diesel fuel as a fuel source for motor vehicles. Consequently, the rule should be amended to use a diesel gallon equivalent rather than a gasoline gallon equivalent for purposes of determining the tax on liquefied National gas.
- Agency Response #2: The Agency agrees that liquefied National gas typically displaces diesel fuel and is subject to fuel tax in most other states based on a diesel gallon equivalent. However, current Arkansas law provides that all alternative fuels are to be taxed based on a gasoline gallon equivalent rate. Use of a diesel gallon equivalent rate for the purposes of taxing liquefied National gas would require a change in state law.
- Public Comment #3: The current tiered tax structure contained in state law is unnecessarily complex. This law should be amended to base the tax on something other than the number of vehicles registered with the agency to use a specific type of alternative fuel. In addition, state law should be amended to provide an adequate period of time for the liquefied National gas industry to implement changes in the tax rate.
- Agency Response #3: The Agency recognizes the unusual nature of the current tiered tax structure as outlined in current state law. However, an amendment to state law would be needed to modify that tax structure. In addition, current state law provides for the agency to determine the number of vehicles registered to consume a specific type of alternative fuel as of December 31st of each year, determine whether any adjustment in the tax rate is necessary, and notify industry members of that tax rate with the new tax rate being effective the following April 1st. Any change to this notification process would require a change to state law.
- Public Comment #4: The proposed rule should establish an initial tax rate of 5¢ per gallon equivalent.
- Agency Response#4: It is unnecessary to include an initial tax rate in the rule. State law already establishes this initial tax rate of 5¢ per gallon equivalent.