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IRS offers fuel penalty relief; hurricane-related shortages of ultra low sulfur diesel fuel

The IRS today issued a release announcing that it will not impose a penalty on certain uses of "adulterated fuels" that do not comply with applicable Environmental Protection Agency (EPA) regulations, in response to shortages of ultra low sulfur diesel (ULSD) fuel caused by Hurricane Irma.

Today's IRS release—**IR-2017-157**—notes that the EPA on September 13 issued a "no action assurance" letter when non-ultra low sulfur diesel is used in limited diesel-powered highway and non-road vehicles and equipment in Florida. According to that letter, the EPA will not pursue action for the use of certain diesel reserves of approximately 4 million gallons of dyed diesel fuel that has a sulfur content that is over 15 but no greater than 20 parts per million (ppm). The "no action assurance" letter imposes several conditions on the use of this fuel.

In response to requests from the EPA and the state government of Florida, the IRS has stated that it will waive penalties for the use of non-ULSD fuel that has a sulfur content of 20 ppm or less under these circumstances. The IRS will not impose the adulterated-fuel penalty on any uses that fully comply with the EPA's "no action assurance."

This relief is effective from September 13 through September 22, 2017, or until such dyed diesel reserves are exhausted, whichever is earlier. Because the reserves to which this relief applies consist of dyed diesel fuel, the penalty relief previously provided by the IRS and announced in **IR-2017-149** is also available, provided that the operator or the person selling the fuel pays the tax of 24.4 cents per gallon for any such fuel used on the highway.

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