

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rulemaking related to sales and use tax refund for biodiesel production
and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 277, “Sales and Use Tax Refund for Biodiesel Production,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14, 422.68 and 423.4(9).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 423.4(9).

Purpose and Summary

The purpose of this proposed rulemaking is to readopt Chapter 277, which consists solely of rule 701—277.1(423), which provides and describes the process for taxpayers to obtain a refund of sales or use tax paid by biodiesel producers. The Department proposes revisions to this chapter to remove portions of the rule that the Department determined were unnecessary and duplicative of statutory language.

A Regulatory Analysis, including the proposed rule text, was published on October 4, 2023. A public hearing was held on October 25, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 9, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 2, 2024. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 3, 2024 9 to 11 a.m.	Via video/conference call
January 3, 2024 1 to 3 p.m.	Via video/conference call

Persons who wish to participate in a video/conference call should contact Nick Behlke before 4:30 p.m. on January 2, 2024, to facilitate an orderly hearing. A video link will be provided to participants prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 277 and adopt the following **new** chapter in lieu thereof:

CHAPTER 277 SALES AND USE TAX REFUND FOR BIODIESEL PRODUCTION

701—277.1(423) Biodiesel production refund. A refund of sales or use tax is available for certain producers of biodiesel for calendar year 2012 to the ending year specified in Iowa Code section 423.4(9)“e.”

277.1(1) Qualifications for the refund. To be eligible for the refund, a biodiesel producer that produces biodiesel in Iowa must meet the criteria listed in Iowa Code section 423.4(9)“a.”

277.1(2) Calculation of the refund. The amount of refund is calculated as described in Iowa Code section 423.4(9)“b” and up to the number of gallons identified in Iowa Code section 423.4(9)“c.” No refund will be allowed for gallons produced at a facility on or after the date identified in Iowa Code section 423.4(9)“e.”

277.1(3) Claiming the refund. In order to claim a refund for each calendar quarter, a biodiesel producer must file Form IA 843, Refund Return, on which the biodiesel producer will include the number of biodiesel gallons produced during the quarter, the calculation of the biodiesel production refund, and the amount of biodiesel production refund claimed. The biodiesel producer must also timely file all sales and use tax returns due and timely pay all sales and use taxes owed on the biodiesel producer's purchases, even when the amount of the biodiesel production refund due exceeds the amount

of sales and use taxes owed for the quarter. The department will reduce the amount of the refund issued by the amount of any sales and use taxes owed by the biodiesel producer.

EXAMPLE: A biodiesel producer produced 5 million gallons during the first quarter of 2023. The producer also owes \$10,000 of Iowa use tax based on purchases made during the first quarter of 2023. In order to claim a refund, the producer must timely file an Iowa sales and use tax return and pay \$10,000 of use tax with the return and file Form IA 843, Refund Return, to request a refund of \$200,000 (5 million gallons multiplied by 4 cents per gallon) for the first quarter of 2023.

This rule is intended to implement Iowa Code section 423.4(9).