

Dear Senators BRACKETT, Nonini, Buckner-Webb, and
Representatives PALMER, Shepherd, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the State Tax Commission:

IDAPA 35.01.05 - Idaho Motor Fuels Tax Administrative Rules - Proposed Rule (Docket No.
35-0105-1702).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/10/2017. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/07/2017.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

FROM: Senior Legislative Research Analyst - Kristin Ford

DATE: September 20, 2017

SUBJECT: State Tax Commission

IDAPA 35.01.05 - Idaho Motor Fuels Tax Administrative Rules - Proposed Rule (Docket No. 35-0105-1702)

The State Tax Commission submits notice of proposed rulemaking relating to the Idaho Motor Fuels Tax Administrative Rules. The proposed rule amends Rule 420 to remove reference to Special Fuels Users Claiming Nontaxable Use of Special Fuels in a Motor Vehicle and sets forth documentation and recordkeeping requirements for International Fuel Tax Agreement licensees. The Commission states that negotiated rulemaking was not conducted because the rule change is authorized under Idaho Code 63-2442A(9). The Commission's proposed rule change appears to be within their statutory authority set forth in Sections 63-105, 63-2427, and 63-2442A, Idaho Code.

cc: State Tax Commission
Sherry Briscoe

IDAPA 35 – STATE TAX COMMISSION

35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1702

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code, and Section 63-2442A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Motor Fuel Tax Rule 420, Documentation for IFTA Licensee Reporting and Special Fuels Users Claiming Nontaxable Use of Special Fuels in a Motor Vehicle. This rule gives records requirements for International Fuel Tax Agreement (IFTA) licensees and other taxpayers claiming nontaxable fuel use. Changes will be made to IFTA requirements so the rule conforms to IFTA. All other records requirements will be removed so only IFTA requirements remain.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule was amended to comply with Subsection 63-2442A(9), Idaho Code.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned using the contact information below.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 6th day of September, 2017.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7846
Don.williams@tax.idaho.gov

FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 35-0105-1702

420. DOCUMENTATION FOR IFTA LICENSEE REPORTING ~~AND SPECIAL FUELS USERS CLAIMING NONTAXABLE USE OF SPECIAL FUELS IN A MOTOR VEHICLE~~ (RULE 420).

Sections 63-2439, Idaho Code

01. **Records Required for Idaho IFTA Licensee ~~and Special Fuels Users Claiming Nontaxable Use of Special Fuels in a Motor Vehicle~~.** Records are required to verify the accuracy of any tax report or worksheet filed with the State Tax Commission. The taxpayer displaying, or required to display, an IFTA decal or a temporary permit; ~~or a special fuels user claiming nontaxable use of tax paid special fuels in a motor vehicle using a Form 75, shall~~ **must** retain originals of all invoices or other documents relating to purchases of special fuels and all records relating to the mileage of the motor vehicles. (3-15-02)()

02. **Fuel Records.** In order for the IFTA licensee ~~or other special fuels user seeking a refund for the nontaxable use of special fuels in its motor vehicle~~ to obtain credit for tax-paid purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained ~~by the special fuels user~~ showing evidence of such purchases and tax having been paid. An acceptable receipt or invoice for tax-paid purchases taken as credit must include, but **is** not **be** limited to, the following: (3-15-02)()

a. The date of each receipt of fuel; (7-1-98)

b. The name and address of the person from whom purchased or received; (7-1-98)

c. The number of gallons received; (7-1-98)

~~d. Both taxable and nontaxable usage of fuel;~~ (7-1-98)

~~ed.~~ The type of fuel; (7-1-98)

~~fe.~~ The specific vehicle ~~or equipment~~ into which the fuel was placed; **and** (7-1-98)()

~~gf.~~ Detailed records of all withdrawals from bulk storage tanks, including the date of withdrawal, the number of gallons withdrawn, the fuel type, the unit number, the equipment type, and inventory records; **and** (4-6-05)()

~~h. Documents necessary to substantiate volume, time or weight for power take off and auxiliary engine allowances described in Rule 292 of these rules.~~ (3-30-01)

03. **Mileage Records.** ~~Non-IFTA special fuels users who qualify to use one (1) of the "Standard MPG's" found in Rule 290 of these rules need only record and report Idaho taxable miles.~~ All IFTA licensees ~~and all other special fuels users seeking a fuels tax refund for nontaxable special fuels used in a motor vehicle shall~~ **must** maintain detailed mileage records, such as trip logs or trip sheets, on an individual-vehicle basis. Such records ~~shall~~ **must** contain, but not be limited to: (3-15-02)()

a. Total trip miles, including vicinity miles; ~~except for non-IFTA motor vehicle(s) using one (1) of the "standard miles per gallon" (MPG) found in Rule 290 of these rules;~~ (3-30-01)()

b. Miles traveled for taxable and nontaxable use. ~~Only taxable miles traveled are required for non-IFTA motor vehicles using one (1) of the "standard miles per gallon" found in Rule 290 of these rules;~~ (3-30-01)()

c. Mileage ~~recaps for each vehicle. IFTA licensees are required to keep mileage recaps for each~~ **totaled by** jurisdiction in which the IFTA vehicle operated; (3-15-02)()

- d. Starting and ending dates of trips; (7-1-98)
- e. Trip origin, ~~interim stops~~ and destination; (7-1-98)()
- f. Hubometer or odometer readings from the beginning and ending of each trip ~~and at the crossing of each jurisdiction's border. Interstate motor vehicles that, for certain time periods, do not cross jurisdiction borders need only record daily hubometer or odometer readings for those time periods;~~ (7-1-98)()
- g. Complete routes of travel, ~~that~~ ~~includes~~ ~~interim stops such as~~ pick up and delivery locations; ~~and~~ (7-1-98)()
- h. Vehicle license number or unit number; ~~and~~; (4-6-05)()
- ~~i. Driver's name. (7-1-98)~~
04. **Additional Records Requirements.** Other records may be ~~required~~ ~~requested~~, such as: (7-1-98)()
- a. Bills of lading or manifest documents; (7-1-98)
- b. Vehicle dispatch ledgers; (7-1-98)
- c. Accounts payable and receivable; (7-1-98)
- d. Lease agreements; (7-1-98)
- e. Driver pay records; (7-1-98)
- f. Driver logs; (7-1-98)
- g. Fuel use trip permits; and (7-1-98)
- h. Other documents used in preparing fuel tax reports. (7-1-98)
05. **Trip Summaries.** Individual trips ~~shall~~ ~~must~~ be accumulated into monthly, ~~quarterly, or annual~~ summaries ~~in total and by jurisdiction~~. These summaries ~~shall~~ ~~must~~ be used as the basis for the miles submitted on the IFTA quarterly or annual reports, ~~and on the worksheet submitted with the Form 75.~~ (7-1-98)()
06. **Computer ~~Printout~~ Support.** ~~Hard copies of summary~~ ~~c~~Computer ~~printouts~~ summaries must be supported by trip sheets or logs verifying mileage traveled. (7-1-98)()
07. **Mileage Information.** Information recorded on trip sheets must be legible and reflect actual miles traveled. Mileage records must include all movement of the vehicle including loaded, empty, and tractor-only (bobtail) miles. ~~Non-IFTA special fuels users who qualify to use a "Standard MPG" need only record and report taxable miles in Idaho.~~ (3-15-02)()
08. **Records Retention.** ~~The records required in this rule shall be retained for the greater of three (3) years for Idaho special fuels users or the time during which the taxpayer's income tax return is subject to adjustment by either the State Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return.~~ Records ~~shall~~ ~~must~~ be retained for four (4) years for IFTA license holders. (7-1-98)()
09. **U.S./Metric Conversion.** The following conversion factors must be used, when necessary, to convert fuel and mileage records to U.S. or metric measurement:

One (1) Liter = .2642 gallons

One (1) Gallon = 3.785 liters
One (1) Mile = 1.6093 kilometers
One (1) Kilometer = .62137 miles

(7-1-98)

10. Mileage Disputes. Whenever a mileage dispute arises between the taxpayer and the State Tax Commission, the official mileage map distributed by the appropriate authority in each jurisdiction will be used to resolve the point-to-point mileage differences. (4-6-05)