

Dear Senators RICKS, Schroeder, Rabe, and
Representatives CANNON, Ehlers, Necochea:

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 (ZBR Chapter Rewrite) - Proposed
Rule (Docket No. 35-0105-2401).

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 10/11/2024. 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 11/08/2024.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee

FROM: Senior Legislative Drafting Attorney - Peter Cook

DATE: September 23, 2024

SUBJECT: State Tax Commission

IDAPA 35.01.05 - Idaho Motor Fuels Tax Administrative Rules (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 35-0105-2401)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking related to Idaho Motor Fuels Tax. The State Tax Commission states that the proposed rule change is a chapter re-write pursuant to the Governor's zero-based remaking initiative. The proposed rule primarily removes unnecessary language, revises language for readability, and combines the substance of certain sections when appropriate.

Negotiated Rulemaking / Fiscal Impact

The State Tax Commission states that negotiated rulemaking was conducted and notice was published in the April 3, 2024, Idaho Administrative Bulletin, Vol. 24-4, page 46. It also states that no new fees are reflected in the rulemaking and that no fiscal impact to the General Fund exceeding \$10,000 is anticipated.

Statutory Authority

The State Tax Commission appears to have the authority to promulgate its proposed rules pursuant to chapters 1 and 24 of title 63, and chapter 52 of title 67, Idaho Code.

cc: State Tax Commission
Kimberlee Stratton

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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Boise, Idaho 83720-0054

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IDAPA 35 – IDAHO STATE TAX COMMISSION
35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-2401 (ZBR CHAPTER REWRITE)
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, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, October 1, 2024 at 1:00 p.m. (MT)
<p>In Person: Idaho State Tax Commission 11321 W Chinden Blvd., Bldg. 2 Boise, ID 83714 (Meeting to be held in the Coral Conference Room)</p> <p>Teleconference via WebEx: Join from the meeting link: https://idahogov.webex.com/idahogov/j.php?MTID=md295b2a61bc9f17822c3d7340230286f</p> <p>Join by meeting number: Meeting number (access code) 2630 741 4170 Meeting password: 4UtWWTbCD87</p> <p>Join by phone: +1-415-655-0001 US Toll</p>

The hearing site 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:

The State Tax Commission performed a critical and comprehensive review of the statutes and existing rules chapter. This chapter rewrite was done under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero Based Rule Regulation](#).

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024 Idaho [Administrative Bulletin, 24-4, page 46](#).

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 Elena Gonzalez, (208) 334-7855.

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 October 2, 2024.

DATED this 4th of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36, Boise ID 83722-0036
(208) 334-7544

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-2401
(ZBR Chapter Rewrite)

35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY (RULE 000).

~~In accordance with Sections 63-105(2), 63-2427, 40-312 and 41-4909, Idaho Code, the State Tax Commission (Tax Commission) has promulgated rules implementing the Idaho Fuels Tax Act, provisions of the Motor Vehicle Registration Act, and the Transfer Fee provisions of the Idaho Clean Water Trust Fund Act.~~ (3-31-22)()

001. TITLE AND SCOPE (RULE 001).

01. Title. ~~These rules are titled IDAPA 35.01.05, "Idaho Motor Fuels Tax Administrative Rules."~~ (3-31-22)

02. Scope. ~~These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority for to impose:~~ (3-31-22)()

a. Motor Fuels Tax. ~~The imposition of a~~ A motor fuel tax on each gallon of motor fuel received and on the use of or other consumption of motor fuel in this state. This also includes the administration of the International Fuel Tax Agreement (IFTA). (3-31-22)()

b. Transfer Fee. ~~The imposition of a~~ A transfer fee upon each gallon of petroleum or petroleum products received and subject to the transfer fee as authorized by Title 41, Chapter 49, ~~Title 41~~, Idaho Code. (3-31-22)()

c. Registration Records. ~~The imposition of records~~ Record requirements for International Registration Plan (IRP) and Idaho Full Fee registration audits authorized by Title 49, Chapter 4, ~~Title 49~~, Idaho Code. (3-31-22)()

002. ADMINISTRATIVE APPEALS (RULE 002).

~~Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code. This chapter allows administrative relief as provided under Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code, and pursuant to rules adopted by the Tax Commission found in the Tax~~

~~Commission's administration and enforcement rules relating to income taxation, IDAPA 35.02.01-~~ (3-31-22)

0032. INCORPORATION BY REFERENCE (~~RULE 003~~).

Sections 63-2434, 63-2442A, 41-4909, 49-439, Idaho Code

~~01. Income Tax Administration and Enforcement Rules.~~ These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." (3-31-22)

021. IFTA. These rules incorporate the applicable IFTA governing documents: the IFTA Articles of Agreement (~~revised January 1, 2017~~), the IFTA Procedures Manual (~~revised January 1, 2017~~), and the IFTA Audit Manual (~~revised January 1, 2017~~). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees. Motor, including motor fuels users licensed or required obligated to be licensed to operate under an Idaho IFTA license must comply with all applicable rules contained in these rules. These documents can be found on the IFTA website at <http://www.iftach.org>. (3-31-22)()

032. IRP. These rules incorporate the applicable IRP governing documents: The IRP Plan (revised July 1, 2016) the Plan and IRP Audit Procedures Manual (~~revised January 1, 2016~~). IRP is an international registration reciprocity agreement. The documents are included to aid the Tax Commission in complying with IRP registration application audits authorized in Title 49, Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. (3-31-22)()

0043. -- 009. (RESERVED)

010. DEFINITIONS (~~RULE 010~~).

Section 63-2401, Idaho Code

~~The definitions provided by statute, including the definitions in Section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions apply.~~ (3-31-22)

01. Commercial Motor ~~B~~boat. A commercial motor-boat, ~~as defined in Section 63-2401, Idaho Code,~~ i includes a motor-boat used in a business that rents boats to others who use the boats for pleasure. (3-31-22)()

02. ~~Indian Tribal-Owned Retail Outlet.~~ An Indian A tribal-owned retail outlet is: (3-31-22)()

a. Located within the boundaries of a federally recognized American Indian reservation; and (3-31-22)()

b. Owned and operated by an enrolled member of, or an enterprise owned by: (3-31-22)()

i. The Coeur d'Alene, Kootenai, Nez Perce, Shoshone/Bannock, or Shoshone/Paiute tribe; ~~or~~ (3-31-22)

ii. An enterprise owned by one (1) of the tribes listed above; or (3-31-22)

iii. An enrolled member of one (1) of the listed tribes on whose reservation the retail outlet is located. (3-31-22)

03. ~~Pay, Paid, Payable or Payment.~~ When used in reference to any amount of tax, penalty, interest, fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. Lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in lawful money except any check not honored by the bank upon which it is drawn will not constitute payment. Additionally, the Tax Commission has the authority to refuse to accept any check drawn upon the account of a taxpayer who has previously tendered any check that was dishonored by the bank upon which it was drawn. All amounts due the state must be paid by electronic funds transfer whenever the total amount of tax due plus any related fee, interest, penalty or other additional amount is one hundred thousand dollars (\$100,000) or more, according to rules promulgated by the Idaho State Board of Examiners. (3-31-22)

011. -- 109. (RESERVED)

110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS ~~(RULE 110)~~.
 Section 63-2424, Idaho Code

~~**01. Gaseous Special Fuel.** A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven tenths (14.7) pounds per square inch absolute. (3-31-22)~~

~~**021. Selling Gaseous Special Fuel.** A gaseous special fuel may be sold at volumes or weights other than those listed in this section. Distributors and consumers paying tax or claiming refunds must use the volumes and weights required by the Tax Commission when reporting. It is mandatory for distributors and consumers, paying tax or claiming refunds, to use Tax Commission prescribed volumes and weights when reporting. (3-31-22)()~~

~~**032. Computing Gaseous Special Fuel Tax Equivalents.** Computation is made by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel.~~

Motor Fuel	BTUs per Gallon or Gallon Equivalent	Equivalent Volume or Weight/Mass	Percentage of Gasoline Gallon Energy Equivalent
Gasoline	127,000	1 gallon	100%
Propane	92,000	4.25 lbs. or 1 gallon	72.44%
Compressed Natural Gas (CNG)	127,000 per GGE	5.66 lbs.	100%
Liquefied Natural Gas (LNG)	138,400 per DGE	6.06 lbs.	108.98%
Hydrogen	127,000 per GGE	1 kg.	100%

~~(3-31-22)()~~

111. -- 129. (RESERVED)

130. DISTRIBUTOR'S FUEL TAX REPORTS ~~(RULE 130)~~.
 Sections 63-2406, 63-2407, 63-2408, 41-4909, Idaho Code

~~**01. Monthly Reports.** Every licensed distributor will file with the Tax Commission a monthly tax report, in gross gallons, with supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. The distributor must keep detailed inventory records. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor will include a listing of each person from inside and outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report will include such information as the Tax Commission may require. (3-31-22)~~

~~**02. Exemption from Licensing and Monthly Reporting.** See Rule 135 for exemptions from obtaining a motor fuels distributor license and filing monthly reports. (3-31-22)~~

~~**03. Machine Tabulated Data.** Machine tabulated data is accepted in lieu of detailed schedules on Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the Tax Commission with a copy of the format and must be granted written authorization to use that format. (3-31-22)~~

041. Timely Reporting. Any motor fuel and other petroleum product shipments that are: (3-31-22)

a. Reported on a timely supplemental report ~~is are~~ subject to interest but ~~are~~ not subject to penalty. (3-31-22)()

b. Not reported on a timely monthly or supplemental report ~~is are~~ subject to interest and may be subject to penalty. (3-31-22)()

052. Motor Fuels Receipts. All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, ~~and~~ undyed diesel fuel, or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to ~~Rule Sections~~ 132 ~~and 137~~ of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (3-31-22)()

063. Motor Fuels and Other Petroleum Products Presumed to be Distributed. Unless the contrary is established, it is presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee is allowed for accidental losses of motor fuels or other petroleum products. (3-31-22)

074. Exported Fuel. Motor fuels or other petroleum products claimed as exported from Idaho ~~must be supported by are obligated to have supporting~~ records. ~~Records must that~~ include the following: (3-31-22)()

a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (3-31-22)

b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or (3-31-22)

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (3-31-22)

d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (3-31-22)

e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records ~~must will~~ be retained to prove the transfer of product out of Idaho. (3-31-22)()

131. ~~REQUIREMENT TO FILE~~FILING MOTOR FUELS DISTRIBUTOR REPORTS ELECTRONICALLY (RULE 131).

Section 63-2406, Idaho Code

01. Electronic Filing ~~Requirement~~. A motor fuels distributor who reports twenty-five (25) or more ~~total~~ receipts ~~or and~~ disbursements of motor fuels on its monthly distributor report ~~is required to will~~ file the distributor report electronically. (3-31-22)()

02. Not Reporting Electronically ~~as Required~~. A motor fuels distributor who is ~~required~~ ~~mandated~~ to file its distributor report electronically, but does not, ~~file the report electronically~~ is treated as if ~~the distributor they~~ did not file the monthly report. (3-31-22)()

03. Waiver ~~from Requirement to File Report Electronically~~ of Mandatory Electronic Reporting. A motor fuels distributor can request a waiver ~~from the requirement to file motor fuel distributor reports~~

~~electronically. The distributor making the request for waiver must show~~ of the mandatory electronic reporting by showing that the cost to comply with this rule is unreasonable. The Tax Commission will review each request for waiver and issue a determination. (3-31-22)()

132. LICENSED GASEOUS SPECIAL FUELS DISTRIBUTOR'S REPORTS (RULE 132).
Section 63-2424, Idaho Code

~~**01. Monthly Reports.** Every licensed gaseous special fuels distributor (distributor) will file with the Tax Commission a monthly tax report, using equivalents from Rule 110 of these rules, with supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report includes such information as the Tax Commission may require.~~ (3-31-22)

~~**02. Report Due and Payment Required.** The report is due on or before the last day of the month following the month to which the report relates together with the payment of any tax, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more.~~ (3-31-22)

~~**03. Not Paying Tax.** Any distributor required to pay the tax imposed by Section 63-2424, Idaho Code, who does not pay such tax is liable to the Tax Commission for the amount of tax not paid plus any applicable penalty or interest. The Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code.~~ (3-31-22)

041. Receipt of Gaseous Fuels. The motor fuels tax is not imposed on gaseous special fuels when the fuels are received, as defined in Section 63-2403, Idaho Code. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a licensed, or required to be licensed, motor vehicle. (3-31-22)

052. Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles. Gaseous special fuels delivered into the fuel supply tank of a licensed, or required to be licensed, motor vehicle are taxable except for: (3-31-22)

a. Government. Gaseous special fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all ~~of~~ its political subdivisions, are exempt from the motor fuels tax on gaseous special fuels. ~~In this case, the distributor must~~ The distributor will record the name of the governmental entity, the license or identification number of the vehicle, and the type of vehicle on the sales document. (3-31-22)()

b. Manned and Unmanned Stations. A manned station ~~must~~ will have a representative at the point of sale to visually inspect the vehicle in order to make exempt sales of gaseous special fuels. Exempt sales of gaseous special fuels from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it ~~must~~ will request approval from the Tax Commission before making exempt sales of gaseous special fuels. (3-31-22)()

133. -- 134~~6~~. (RESERVED)

135. QUALIFIED CONSUMERS (RULE 135).
Section 63-2427A, Idaho Code

~~**01. Point of Taxation and Receipt Defined.** The state of Idaho imposes an excise tax on all motor fuel, except dyed diesel, and the transfer fee on all petroleum and petroleum products received in Idaho. See Rule 510 of these rules for the definition of petroleum and petroleum products. Motor fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the motor fuel when the fuel arrives in Idaho. Motor fuel produced in Idaho is received when it is placed into any tank or other container from which sales or deliveries not involving transportation are made. Motor fuels are also received by a qualified consumer who produces motor fuels when the motor fuels are placed into storage tanks. For example: fifty five (55) gallon barrels, above ground tanks, still tanks, underground tanks, tank wagons, old delivery trucks, old tanker trucks, slip tanks in pickups,~~

~~and any other storage tank used to store the motor fuel. The excise tax and transfer fee due on the motor fuel received in Idaho during a month are normally reported on a monthly Idaho Motor Fuels Distributor Report. (3-31-22)~~

~~**02. Alternative to Monthly Reporting for Qualified Consumers.** As an alternative to obtaining an Idaho motor fuel distributor license and filing monthly reports, a qualified consumer may file an annual report to remit the motor fuel tax and transfer fee due to the state of Idaho or to receive a refund of excess tax or transfer fee paid. (3-31-22)~~

~~**a.** A qualified consumer is not required to pay the transfer fee on the biodiesel they produce. (3-31-22)~~

~~**03. Qualifications.** To be a qualified consumer under this rule, a person must: (3-31-22)~~

~~**a.** Use the produced biodiesel or imported motor fuel only in its own aircraft, motor vehicles, or equipment; and (3-31-22)~~

~~**b.** Import into Idaho one hundred thousand (100,000) gallons or less of motor fuel in a calendar year; or (3-31-22)~~

~~**e.** Produce in Idaho five thousand (5,000) gallons or less of biodiesel in a calendar year. (3-31-22)~~

~~**04. Documentation of Export.** To claim an export of motor fuel or other petroleum products a qualified consumer must have tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the jurisdiction into which the fuel was claimed to have been exported. (3-31-22)~~

~~**05. Limitations.** (3-31-22)~~

~~**a.** A qualified consumer may not claim an export from Idaho for fuel in the supply tank of a motor vehicle or aircraft. (3-31-22)~~

~~**b.** A licensed Idaho fuel distributor may not file this report. (3-31-22)~~

~~**136. (RESERVED)**~~

~~**137. INSTATE PIPELINE TERMINAL, PRODUCTION TERMINAL, AND STORAGE TAX REPORTS (RULE 137).**~~

~~Sections [63-2406](#), [63-2407](#), [63-2408](#), [63-2424](#), 63-2437, [41-4909](#), Idaho Code~~

~~**01. Monthly Reports.** Every licensed distributor (motor fuels and gaseous), instate pipeline terminal operator, and production terminal operator will file with the Tax Commission a monthly tax report, in using gross gallons, with or equivalents from Section 110 of these rules. The report will have such information, on the forms and in the manner prescribed by the Tax Commission, including supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. The pipeline terminal operator and production. All distributors and terminal operators must will keep detailed inventory records. The pipeline terminal operator and production terminal operator will report Along with the quantity of motor fuels and other petroleum products received during the month including the motor fuels distributors and terminal operators will include a listing of each person from inside or outside Idaho supplying motor fuels and other petroleum products to the distributor, pipeline terminal, or production terminal. Such reports must Tax reports will contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report will include such information as the Tax Commission may require. (3-31-22)()~~

~~**02. Machine Tabulated Data.** Machine tabulated data is accepted in lieu of detailed schedules on Tax Commission provided forms, but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor or terminal operator must will make a written request to the Tax Commission with a copy of the format and must be granted receive written authorization to use that format from the Tax Commission. (3-31-22)()~~

03. Report and Payment Due. The report is due on or before the last day of the month following the month to which the report relates, together with the payment of any tax, penalty, or interest due. ()

04. Failure to Pay Tax. Any distributor responsible for paying the tax imposed by Section 63-2424, Idaho Code, who does not pay such tax is liable to the Tax Commission for the amount not paid plus any applicable penalty, interest, or both. The Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. ()

138. -- 140. (RESERVED)

141. FUEL DISTRIBUTOR CREDIT AND REFUND CLAIMS (RULE 141).
Sections 63-2410, 63-2423, Idaho Code

01. Fuel Distributor Credit and Refund Claims. Fuel credit and refund claims ~~must are to~~ be made on a distributor's original or amended fuel tax report unless ~~authorized~~ otherwise authorized by statute or this chapter. ~~A licensed distributor can claim credits or refunds by filing original or amended returns. Any distributor may use the Line Flush Allowance.~~ All claims must need to establish both of the following: (3-31-22)()

- a. The basis for the credit or refund claim, and (3-31-22)
- b. The amount of the credit or refund. (3-31-22)

02. Line Flush Allowance. Undyed, tax-paid diesel is contaminated with red dye when a distributor delivers dyed diesel then flushes the line with undyed diesel. The contaminated undyed diesel will be put into the delivery truck's dyed diesel fuel tank and sold as untaxed, dyed diesel. The distributor can claim a refund based on the actual gallons used to flush the line or standard allowance. A distributor will claim a fuel tax refund using the Form 75, Idaho Fuels Use Report, and Line Flush Allowance worksheet applicable forms. (3-31-22)()

~~**03. Methods to Determine the Line Flush Allowance.** The distributor can claim a refund based on the actual gallons used to flush the line or a standard allowance. Check the box on the worksheet to indicate the method used to calculate nontaxable gallons. Use the following procedure for method chosen:~~ (3-31-22)

- ~~a. Standard allowance. Multiply by five (5) gallons by the number of flushes using logs prepared by the delivery truck driver including the truck number, date, and number of flushes; or (3-31-22)~~
- ~~b. Actual gallons. The actual gallons used to flush the lines. Delivery tickets or totalizer log readings for each flush including the truck number, date, and gallons used to flush the line. (3-31-22)~~

142. -- 149. (RESERVED)

150. FUEL SALE DOCUMENTATION REQUIRED (RULE 150).
Section 63-2429, Idaho Code

01. Retail Sales Invoices for Delivered, Bulk Plant, and Station Sales. Any distributor who sells motor fuels and other petroleum products ~~in this state must in Idaho will~~ issue an original invoice to the purchaser; ~~provided, however, that except~~ when sales are accounted for ~~on a~~ monthly ~~basis.~~ ~~†~~The invoices may be issued to the purchaser at the time of billing. All sales invoices (including a credit card receipt used as a sales invoice) for motor fuels and other petroleum products sold at retail stations, bulk plants, or delivered to the customer's location must will contain the following: (3-31-22)()

- a. A preprinted identification number, except when invoices are automatically assigned a unique identification number by a computer or similar machine when issued; (3-31-22)
- b. Name and address of the distributor; (3-31-22)
- c. Name of the purchaser; (3-31-22)

- d. Date of sale or delivery; (3-31-22)
- e. Type of fuel; (3-31-22)
- f. Gallons invoiced - reported as ~~required~~ found in Section ~~130~~ 137 of these rules; ~~(3-31-22)~~ ()
- g. Price per gallon and total amount charged. When taxable motor fuels products are sold, at least one (1) of the following ~~must be is~~ used to establish ~~that t~~ the Idaho ~~State~~ fuels tax ~~has been~~ and transfer fee was charged: ~~(3-31-22)~~ ()
 - i. The amount of Idaho ~~State~~ fuels tax; ~~(3-31-22)~~ ()
 - ii. The rate of Idaho ~~State~~ fuels tax; ~~or~~ and ~~(3-31-22)~~ ()
 - iii. The amount of Idaho transfer fee; or ()
 - iv. A statement that the Idaho ~~State~~ fuels tax and transfer fee are ~~is~~ included in the price. ~~(3-31-22)~~ ()
- h. Delivered sales invoices ~~must also will~~ contain the purchaser's address along with the origin and destination of the motor fuels and other petroleum products. ~~(3-31-22)~~ ()
- i. The sales invoice will contain double-faced carbons on the original of the first copy, unless invoices are automatically prepared by a computer or similar machine when issued. (3-31-22)

02. Correcting Sales Invoice Errors. ~~When an original invoice is issued containing incorrect information, it may~~ An incorrect invoice should be canceled by a credit invoice and cross-referenced to all copies of the invoice covering the transaction being corrected. If a second sales invoice is issued, it will show the date and serial number of the original invoice and that the second invoice is in replacement or correction. ~~(3-31-22)~~ ()

03. Disallowing Tax-Paid Credit. Not including all the above documentation will result in an invalid sales invoice for a tax-paid fuel claim by the distributor's customer. (3-31-22)

04. Documentation ~~Requirements~~ Necessary for Dyed Diesel Fuel. The state of Idaho ~~is~~ following ~~ts~~ the Internal Revenue Service ~~requirements for~~ standards regarding sales of dyed diesel fuel. The Internal Revenue Code ~~requires that~~ calls for a notice stating "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use" ~~must to~~ be: ~~(3-31-22)~~ ()

- a. Provided by the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that operator; and (3-31-22)
- b. Provided by any seller of dyed diesel fuel to the buyer if the fuel is located outside the bulk transfer/terminal system and is not sold from a posted retail pump; and (3-31-22)
- c. Posted by a seller on any retail pump where the dyed diesel fuel is sold for use by the buyer. (3-31-22)
- d. The documentation notice found in this rule ~~must be provided at the time of removal or sale and must appear~~ is necessary on shipping papers, bills of lading, and sales invoices accompanying the sale or removal of the fuel. Any person who does not provide or post the ~~required~~ necessary notice is presumed to know that the fuel is used for a taxable ~~use~~ purpose and is subject to penalties imposed by the Internal Revenue Service. ~~(3-31-22)~~ ()

151. -- 169. (RESERVED)

170. INFORMATION ON DYED & UNDYED DIESEL FUEL ~~(RULE 170)~~.
Sections 63-2423, 63-2425, Idaho Code

01. Undyed Diesel Fuel Used for Heating Purposes. The consumer ~~must will~~ apply directly to the Tax Commission for a refund of the special fuels taxes included in the purchase price of undyed diesel used for heating a dwelling or building. The distributor may assist the consumer claiming a refund of the special fuels tax ~~from the Tax Commission~~ by: (3-31-22)(____)

- a. Properly documenting information on the sales invoice; and (3-31-22)
- b. Providing the customer with ~~a Form 75~~ the appropriate forms. (3-31-22)(____)

02. Red-Dyed Diesel. It is illegal to use red-dyed diesel in the main supply tank of a licensed, or required to be licensed, motor vehicle in ~~this state~~ Idaho unless the type of user is listed below. Penalties for illegal use of red-dyed diesel in a motor vehicle are found in Section 63-2460, Idaho Code. The Internal Revenue Code ~~does allow certain types of users to purchase tax-exempt~~ allows the use of red-dyed diesel ~~for use in their vehicles. Red-dyed diesel may be used by:~~ (3-31-22)(____)

- a. ~~By~~ SState and local governments (political subdivisions of the state) for their exclusive use; (3-31-22)(____)
- b. ~~In t~~ The engine of a train; (3-31-22)(____)
- c. ~~In a~~ A school bus, owned or leased and operated by a political subdivision of the state of Idaho, while the bus is engaged in the transportation of students and school employees; (3-31-22)(____)
- d. ~~In a~~ A vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; (3-31-22)(____)
- e. ~~In a~~ A highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; (3-31-22)(____)
- f. ~~In a~~ A highway vehicle owned by the United States that is not used on a highway; (3-31-22)(____)
- g. ~~Exclusively by a~~ A nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5) for their exclusive use. (3-31-22)(____)

171. MOTOR FUELS EXEMPTION FROM SALES TAX ~~(RULE 171)~~.

Sections 63-2431, 63-3622C, Idaho Code

Any sale of motor fuels ~~by any fuel distributor~~ that is subject to motor fuels tax is exempt from Idaho sales tax under Title 63, Chapter 36, ~~Title 63~~, Idaho Code. If such purchases are later included in credits or refunds for motor fuels tax paid and not subject to taxes imposed by Title 63, Chapter 24, Idaho Code, and no other exemption applies, sales and use taxes is applicable. ~~If dyed fuel products are sold without the motor fuels tax, the sale is~~ Sales of dyed fuel are subject to ~~the~~ Idaho sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of dyed fuel ~~that do not include the motor fuels tax~~ are exempt from Idaho sales tax only if the seller has taken from the purchaser a sales tax exemption certificate in the manner ~~required by~~ outlined in IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules;" ~~Rule 128~~. However, if the dyed fuel product delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not ~~required~~ necessary. (3-31-22)(____)

172. -- 184. (RESERVED)

185. ~~AUTHORITY TO GIVE THE~~ CONSENT TO THE JURISDICTION OF IDAHO COURTS ~~(RULE 185)~~.

Section 63-2427A, Idaho Code

01. Authorized Signature on Application. All Idaho ~~Fuel Distributor License Applications~~ fuel distributor license applications ~~must~~ have to be signed by an individual with the authority to give ~~the~~ consent to the jurisdiction of Idaho courts on behalf of the applicant. (3-31-22)(____)

02. Authority to Waive Sovereign Immunity. If the applicant is a state, local or tribal governmental entity, the application ~~must~~ has to be accompanied by a separate authorization by the governing authority of the entity waiving sovereign immunity that the entity may otherwise assert against any action to enforce Idaho motor fuels tax laws in Idaho state court and setting forth the authority of the individual who signs the application to bind the applicant. (3-31-22)()

03. Irrevocable Submission and Waiver of Sovereign Immunity. The application constitutes an irrevocable submission to the jurisdiction of Idaho state courts, and the waiver of any sovereign immunity that may otherwise be asserted, as to all disputes related to the enforcement of Title 63, Chapter 24, ~~of the~~ Idaho Code. (3-31-22)()

186. -- 229. (RESERVED)

230. MOTOR FUELS SUBJECT TO USE TAX -- ~~RECORDS REPORTING (RULE 230).~~

Section 63-2421, Idaho Code

~~Any person using tax exempt motor fuels in a licensed motor vehicle, not subject to Rule 400 of these rules, upon highways in Idaho, will annually report to the Tax Commission the amount of motor fuels tax due.~~ (3-31-22)

~~**01. Reporting.** A person who wishes to pay their fuel taxes due more frequently may file on forms prescribed by the Tax Commission for any time period that is not less than one (1) month, but not more than one (1) year. The report may be made together with the claimant's Idaho income tax return, if it is required. The amount of fuels tax due on motor fuels may be off-set against any refund due from other motor fuels taxes or income taxes.~~ (3-31-22)

021. Lack of Records to Compute Fuel Consumption Rate. When a motor fuels consumer does not keep sufficiently detailed records to determine motor fuels consumed by its motor vehicles, the consumption rates found in Subsection 290.05 of these rules are presumed to be correct. (3-31-22)

032. Fuel Records. If the motor fuels consumer does not keep sufficiently detailed records to determine taxable gallons, all tax-exempt motor fuels purchased is subject to the fuels tax unless the number of gallons placed into the supply tank of the licensed or required to be licensed motor vehicle can be determined. (3-31-22)

231. -- 249. (RESERVED)

250. REFUND CLAIMS -- ~~REPORTING (RULE 250).~~

Sections 63-2410, 63-2423, Idaho Code

01. ~~Requirements of a~~ Valid Refund Claim. Before the Tax Commission can credit or refund motor fuels taxes, the taxpayer making the claim must establish both of the following: (3-31-22)()

a. The basis for the credit or refund claim, and (3-31-22)

b. The amount of the credit or refund. (3-31-22)

02. ~~Refund May Be Claimed Only by~~ Final Consumer May Claim Refunds. Refunds of motor fuels taxes may be claimed on ~~forms prescribed by the~~ Tax Commission prescribed forms by the person who purchased and used the motor fuels upon which the tax has been paid ~~and for which a refund may be claimed~~. In the case of all partnerships and any corporations filing ~~Idaho Form 41S, relating to S Corporations~~ income tax returns, ~~any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by~~ the partnership or corporation has to be the claimant for refunds of motor fuels taxes they paid. The refund may not be applied to the individual returns filed by partners or shareholders. (3-31-22)()

03. Refund Applied to Taxes Due. Any refund due to a consumer is applied first to any liability due under any law administered by the Tax Commission, including any liability under IFTA, which is due and unpaid at the time the claim is filed. In addition, no refund will be paid if the claimant has not filed any tax return required to be filed with the Tax Commission. Any balance of the refund exceeding taxes due will be paid as a refund to the entity filing the return. (3-31-22)

251. -- 269. (RESERVED)

270. REFUND CLAIMS – GENERAL AND BULK DOCUMENTATION ~~(RULE 270).~~

Sections 63-2410, 63-2421, 63-2423, Idaho Code

01. **Refunds to Consumers.** ~~Tax paid fuel used in a nontaxable manner according to Sections 63-2410 and 63-2423, Idaho Code, qualifies for a fuel tax refund. Refund claims and required worksheets must be made on forms provided or approved by the~~ Fuels tax refunds claims will be on Tax Commission prescribed forms.
(3-31-22)(____)

02. **Records Retention** ~~Requirements.~~ All claimants ~~must~~ will keep records for the greater of either:
(3-31-22)(____)

a. Three (3) years from the due date, including extensions, of the income tax return; (3-31-22)

b. The time during which the taxpayer's income tax return is subject to adjustment by either the Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return; or
(3-31-22)(____)

c. Four (4) years, if an IFTA licensee. (3-31-22)

03. **Mandatory Records** ~~Required~~ – **Generally.** A claimant ~~must have~~ will maintain fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment ~~using the fuel for use~~ in a nontaxable manner. Fuel purchase records ~~must have to~~ contain the information ~~required stipulated~~ by Rule Section 150 of these rules. Fuel purchase records ~~must need to~~ be reissued if altered or corrected.
(3-31-22)(____)

04. **Mandatory Records** ~~Required~~ – **Retail Fuel Purchases.** When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is ~~required~~ mandatory. The vehicles ~~or~~ piece of equipment, or commercial motorboat using the fuel ~~must has to~~ be recorded on the receipt. ~~If claiming refunds for fuel used in more than one vehicle or piece of equipment, make sure all the vehicles and equipment are identified on each receipt. When placing fuel into containers for use in vehicles, pieces of equipment, or commercial motorboats, identify into which the fuel is placed on the receipt. No other records are required if the fuel from the container isn't used in licensed or required to be licensed motor vehicles. For fuel placed into containers, identify the vehicle, piece of equipment, or commercial motorboat the fuel was used in on the receipt.~~
(3-31-22)(____)

05. **Mandatory Records** ~~Required~~ – **Bulk Fuel Purchases.** When claiming a fuel tax refund on fuel delivered in bulk, the claimant ~~must provide~~ will maintain the following documentation: (3-31-22)(____)

a. Seller Invoices. (3-31-22)

b. Withdrawal Logs. (3-31-22)

i. Complete ~~It is mandatory that~~ withdrawal logs ~~must give~~ identify the date, the vehicle or piece of equipment, and the amount of fuel withdrawn. (3-31-22)(____)

ii. Withdrawal logs aren't ~~required for claimants with two (2) or more bulk storage tanks at the same location with Idaho tax paid fuel of the same type for taxable and nontaxable uses. Claimants must identify each storage tank for taxable or nontaxable use~~ necessary when separate, identified, and dedicated bulk storage tanks are used for taxable and nontaxable uses at the same location. The seller ~~must has to~~ mark the invoices at the time of delivery and identify the storage tanks ~~in~~ to which the fuel was delivered. (3-31-22)(____)

c. Bulk ~~Fuel Inventory Reconciliations.~~ Reconciliations must fuel inventory reconciliations include beginning inventory, purchases, withdrawals, calculated ending inventory, and actual ending inventory determined by a physical reading. (3-31-22)(____)

06. **Alternate Method for Bulk Tanks – Authorized Percentage.** ~~A claimant can request an~~

~~authorized percentage. If the claimant using Idaho tax-paid fuel from one (1) a single bulk tank in both a taxable and nontaxable manner. IFTA licensees and owners of multiple bulk storage tanks containing tax paid and tax exempt fuels of the same type at the same location can't use an authorized percentage. The claimant must submit a completed authorized percentage request form before using any percentage to claim a refund. the claimant may submit a request to use an authorized percentage on a Tax Commission prescribed form. A claimant needs approval from the Tax Commission before using an authorized percentage. The request must itemize Itemization of all taxable and nontaxable uses by vehicle and piece of equipment based on previous experience or anticipated use will be included on the request form. Records to support an authorized percentage must be kept and presented upon request. Equipment lists must be provided and supported by Requests will be denied if the claimant:~~ (3-31-22)()

- a. ~~Equipment purchase records~~Fails to fully complete the authorized percentage request form; (3-31-22)()
- b. ~~Sales or rental receipts; and~~Fails to provide equipment lists supported equipment purchase records, sales or rent receipts, and depreciation schedules; (3-31-22)()
- c. ~~Depreciation schedules.~~Fails to keep and provide records to support an authorized percentage upon request of the Tax Commission; (3-31-22)()
- d. ~~Is an IFTA licensee; or~~ ()
- e. ~~Is an owner of multiple bulk storage tanks containing tax-paid and tax-exempt fuels of the same type at the same location.~~ ()

07. Untaxed Motor Fuel Audits. ~~Untaxed motor fuel cannot be used in licensed or required to be licensed motor vehicles unless authorized in the Fuels Tax Act or these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, a~~ All fuel tax refund claims are subject to audit by the Tax Commission and no part of these rules may be construed to imply that an audit ~~may not~~ cannot be performed. ~~Tax-paid motor fuel is not exempt from taxes imposed by the Idaho Sales Tax Act when the motor fuel tax is refunded.~~ (3-31-22)()

08. Tribal Indian-Owned Retail Outlet. Motor fuels purchased ~~after December 1, 2007, from an Indian a tribal~~-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, ~~Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules.~~ (3-31-22)()

271. -- 289. (RESERVED)

290. MOTOR VEHICLES REFUND CLAIMS – NONTAXABLE MILES (RULE 290).
Sections ~~63-2410,~~ 63-2423, Idaho Code

01. Refunds to Consumers – Nontaxable Miles. ~~Tax paid special fuels used as described in Section 63-2423, Idaho Code, qualifies for a fuels tax refund. Refund claims and required worksheets must will~~ be made on forms ~~provided or approved by the~~ Tax Commission prescribed forms. The records retention and fuel record requirements mandates in Subsections 270.02 through 270.05 of these rules also apply to this section. (3-31-22)()

- 02. Nontaxable Miles Defined.** Nontaxable miles are miles driven on roads: (3-31-22)
- a. Not open to the public; ~~or~~ (3-31-22)()
- b. Not maintained by a governmental entity; ~~or~~ (3-31-22)()
- c. Located on private property maintained by the property owner; ~~or~~ (3-31-22)()
- d. Under construction and not open to the public; or (3-31-22)

e. Constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Title 38, Chapter 1, Title 38, Idaho Code. Miles traveled on these roads are nontaxable when the contractor or subcontractor is ~~required~~ mandated to pay the cost of maintaining these roads by contract or permit. (3-31-22)()

03. **Mandatory Records Required – Mileage Records.** Mileage records are ~~required~~ needed to claim a refund of tax when using special fuels on nontaxable roads. ~~Claimants~~ It is mandatory for claimants operating under the authority of ~~the~~ IFTA or IRP ~~are required~~ to follow the recordkeeping ~~requirements~~ mandates of IFTA and IRP in addition to ~~the requirements~~ those of this section. Idaho Full Fee registrants ~~must follow the requirements of Rule will also comply with Section~~ 422 of these rules ~~and this section~~. (3-31-22)()

04. **Records Required – Actual Nontaxable Miles.** ~~Nontaxable miles must be documented for each trip using~~ Unless otherwise allowed by these rules, use of odometer, hubometer, or GPS readings for each trip is mandatory to document actual nontaxable miles. (3-31-22)()

05. **Alternate Methods.** A claimant, who is not an IFTA licensee or IRP registrant, may use an alternate method to determine nontaxable miles or use a presumed miles per gallon (MPG) to determine fuel use ~~unless they are an IFTA licensee or IRP registrant in any participating jurisdiction. Claimants may estimate using one of the methods below.~~ (3-31-22)()

a. Estimating Nontaxable Miles. Nontaxable miles may be estimated by using maps, contracts, or a Tax Commission approved trip analysis. ~~Upon request, t~~ The claimant ~~must is obligated to~~ provide the documents supporting the estimation upon request by the Tax Commission. Maps other than the Official Idaho Highway map miles are estimates. (3-31-22)()

b. Estimating Nontaxable Gallons. Nontaxable gallons may be estimated using presumed MPG~~s~~. Upon request, the claimant ~~must is obligated to~~ provide the tax-paid fuel purchase records supporting the total gallons claimed. (3-31-22)()

i. Presumed MPG~~s~~ by Weight. The following are presumed MPG~~s~~ by gross vehicle weight (GVW) or registered GVW:

Over 40,000 GVW	4.0 MPG
Over 26,000 GVW to 40,000 GVW	5.5 MPG
Over 12,000 GVW to 26,000 GVW	7.0 MPG
12,000 GVW or less	10.0 MPG

(3-31-22)()

ii. Presumed MPG~~s~~ by Operation. The following are presumed MPG~~s~~ for vehicles over 40,000 GVW or registered GVW used in certain industries:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel & <u>and</u> rock hauling	4.0 MPG
Construction	4.4 MPG

(3-31-22)()

291. (RESERVED)

292. REFUND CLAIMS – POWER TAKE-OFF (PTO) AND AUXILIARY ENGINES (RULE 292).
 Sections 63-2410, 63-2423, Idaho Code

01. Refund to Consumers — PTO and Auxiliary Engines. ~~Tax paid fuel used in PTO and auxiliary engines qualifies for a fuels tax refund under Sections 63-2410 and 63-2423, Idaho Code.~~ PTO refunds are only allowed for special fuels. Auxiliary engine refunds are allowed for gasoline or special fuels. Refund claims ~~and required worksheets must will~~ be made on ~~forms provided or approved by the~~ Tax Commission prescribed forms. The records retention and fuel record ~~requirements mandates~~ in Subsections 270.02 through 270.05 of these rules also apply to this section. (3-31-22)()

02. PTO and Auxiliary Engines Defined. A PTO uses fuel from the main supply tank to operate the main engine for a purpose other than operating or propelling the vehicle on the road. An auxiliary engine uses fuel from the vehicle’s main supply tank to operate an engine other than the vehicle’s main engine. (3-31-22)

03. Mandated Records Required – Actual Consumption Refunds. Actual fuel consumption for PTO and auxiliary engines may be claimed when the PTO or auxiliary engines are equipped with an electronic monitoring device. ~~The It is mandatory for the~~ monitoring device ~~must provide to identify~~ the date, time of use, and gallons metered. The Tax Commission may request verification that the electronic monitoring device is reporting consumption correctly. (3-31-22)()

04. Alternate Methods – Standard Allowances. ~~The following are An IFTA licensee is not allowed to use alternate methods to determine nontaxable fuel use. The Tax Commission has adopted the following~~ standard allowances; ~~adopted by the Tax Commission. An IFTA licensee isn’t allowed to use alternate methods to determine nontaxable fuel use. Claimants may estimate using unit quantities, percentages, or the nonstandard allowance method.~~ (3-31-22)()

a. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(3-31-22)

b. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage trucks	25%	x	Gallons consumed

(3-31-22)

05. Nonstandard Allowances. A claimant ~~must request a nonstandard allowance from the Tax~~

~~Commission if they want to use~~ will submit a written request to the Tax Commission for authorization to use an allowance different from those listed in this section. ~~A claimant must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance.~~ The Tax Commission may request additional information or documentation ~~as needed in order~~ to make a determination on the request. (3-31-22)()

293. -- 299. (RESERVED)

300. ADMINISTRATION, RULES AND DELEGATION OF AUTHORITY ~~(RULE 300).~~

Sections ~~63-2434~~, 63-2442, Idaho Code

~~Personnel of the Idaho~~ Transportation Department ~~Personnel as Deputies of the Tax Commission.~~ Pursuant to the authority of Sections ~~63-2434 and 63-2442, Idaho Code,~~ those individuals employed by the Idaho Transportation Department ~~employed~~ in the operation of stationary or mobile Ports of Entry are designated as deputies of the Tax Commission for exercising the powers necessary to enforce the provisions of the special fuels tax laws. Such authority includes exercise of the powers described in ~~Rule Section~~ Section 400 of these rules. (3-31-22)()

301. -- 309. (RESERVED)

310. EXEMPTION FROM ~~REQUIREMENT FOR TAX BONDS (RULE 310).~~

Section 63-2428, Idaho Code

01. ~~Exemption to Bond Requirements~~ Exemption for Licensed Distributors. Bonds are ~~required of~~ mandatory for all licensed distributors unless the distributor is found to be financially responsible. A licensed distributor seeking exemption from ~~the bonding requirement must~~ may apply for the exemption by filing a written petition with the Tax Commission. The petition ~~must will~~ contain information ~~relating to the requirements of defined in~~ Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor ~~must will~~ submit ~~any~~ information ~~required in the following Subsections 310.01.a. through 310.01.e. detailed as follows:~~ (3-31-22)()

a. If all or any part of the unencumbered property offered to show financial solvency is real property, the petition ~~must will~~ include both: ()

i. ~~a~~ A title report from an independent title company reporting on the state of the title of the real property as of a time not more than fifteen (15) days before the filing of the petition, and ()

ii. ~~a~~ A copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (3-31-22)()

b. If all or any part of the unencumbered property is licensed motor vehicles, the petition ~~must will~~ include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (3-31-22)()

c. If all or any part of the unencumbered property is personal property other than motor vehicles, the petition ~~must will~~ include a description of the property, evidence of ownership of the property, an independent appraisal of the property, and evidence that the property is unencumbered. Copies of all documents relating to all ~~of t~~ the distributor's current and long-term liabilities, including contingent liabilities, lawsuits or potential lawsuits to which the distributor is or may become a party, are ~~required~~ needed to establish that no security interests or other encumbrances exist. (3-31-22)()

d. The petitioner ~~must will~~ arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the Tax Commission a current and complete credit report about the licensed distributor; ~~or;~~ the distributor ~~must will~~ include with the petition its most recent financial statements, including a current income statement, balance sheet, and statement of cash flows. If the petitioner is a publicly held company, the financial statements ~~must are to~~ be accompanied by an opinion issued by an independent certified public accountant ~~and a~~ A responsible company officer ~~must will~~ also certify that the financial statements provided present fairly the financial position of the company. If the petitioner is a privately held company, the financial statements ~~must will~~ be reviewed by a certified public accountant, ~~or licensed public accountant~~ and a

responsible company officer ~~must also~~ will certify that the financial statements provided present fairly the financial position of the company. (3-31-22)()

e. The Tax Commission may ~~require request~~ the distributor ~~to~~ supplement its petition with ~~such f~~ further information ~~as the Tax Commission, in its discretion, finds necessary~~ to determine financial responsibility. If ~~incomplete or substitute submissions are received by~~ the Tax Commission ~~receives incomplete or substitute information~~, the ~~information submitted is~~ ~~submissions are~~ reviewed on a case-by-case basis to determine whether ~~an exemption from the bonding requirement~~ ~~a bond exemption~~ is granted. (3-31-22)()

02. Conditions for Termination of Exemption. If granted, the exemption from ~~the~~ bonding requirement will terminate: (3-31-22)()

a. One (1) year after the date on which it was granted. (3-31-22)

b. Ninety (90) days after the occurrence of any delinquency in motor fuels tax unless the delinquency has been paid within that time period. (3-31-22)

c. Upon the occurrence of any encumbrance ~~of any of~~ to the property upon which the finding of financial responsibility was based. (3-31-22)()

d. Upon the occurrence of any change in the business activity of the distributor that would cause the amount of bond ~~required~~ to be increased to an amount greater than the value of the distributor's unencumbered assets. (3-31-22)()

e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (3-31-22)

03. ~~Bond Requirement~~ Upon Termination of a Bond Exemption. Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-2428, Idaho Code. (3-31-22)()

04. Pending Bond Exemption Application ~~Does Not Excuse the Bond Requirement~~. Having an application pending for a bond exemption ~~from the requirement for a bond~~ does not excuse the bond. If a bond exemption is due to expire, the distributor ~~must is obligated to~~ submit a new petition applying for a continuation of the exemption no later than ninety (90) days before the day the exemption is due to expire to prevent a lapse in the exemption. The petition ~~must has to~~ meet all ~~of the requirements~~ ~~the conditions~~ of this rule. (3-31-22)()

05. Conditions for Renewal of Bond Exemption. The following ~~must be submitted~~ ~~is necessary~~ to renew a bond exemption: (3-31-22)()

a. A written request for renewal of waiver; ~~and~~ (3-31-22)()

b. The information required in Subsections 310.01.a. through 310.01.e. of this rule. (3-31-22)

311. IFTA LICENSE BOND ~~(RULE 311)~~.
Sections 63-2442A, 63-2470, Idaho Code

01. General. The Tax Commission may ~~require compel~~ an IFTA licensee to post a bond following the ~~requirements of the IFTA Agreement in order~~ ~~IFTA provisions~~ to maintain their license. A bond may be ~~required when he files returns or remits taxes, separately or in combination, necessary when returns are filed or tax payments are remitted~~ after the due date at least three times within a three-year period. When a bond is ~~required obligated~~, the licensee ~~must will~~ post the bond within thirty (30) days from the date of the request. ~~When If~~ no bond is posted within the thirty (30) days, the license is automatically revoked ~~and it must be surrendered to the Tax Commission. An assessment may be made for any unreported tax liability based on actual records or an estimate. Tax may be assessed for any unreported liability~~. (3-31-22)()

02. Reinstating Revoked Licenses. An applicant may be ~~required obligated~~ to post a bond ~~when he~~

~~has if they have~~ previously had ~~his their~~ IFTA license revoked or is related to a person who has previously had their IFTA license revoked. An applicant is related to a person who has previously had ~~his their~~ IFTA license revoked when: (3-31-22)()

a. ~~The applicant is owned at least twenty five percent (25%) by a person or persons who has previously had their IFTA license revoked.~~ The person or persons owns at least twenty-five percent (25%) interest in the applicant, or (3-31-22)()

b. ~~The applicant is operated or controlled by a person or persons who has previously had their IFTA license revoked~~ operates or controls the applicant. Operation and control includes, but ~~is are~~ not limited to, an officer or director or other person authorized ~~by the applicant~~ to engage in the business or commercial activity of the applicant. (3-31-22)()

03. ~~Amount and Type of Bond.~~ ~~The amount of the bond is one thousand dollars (\$1,000) or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax paid credits.~~ Any type of bond allowed by ~~the IFTA Agreement~~ or these rules may be secured. The bond amount is reviewed annually, but may be reviewed at any time, thereafter. The licensee's returns and records may be reviewed to determine if the bond amount is raised, lowered, or remains unchanged. (3-31-22)()

04. ~~Bond Waiver Request.~~ The licensee may request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee ~~must has to~~ be a quarterly filer. The licensee ~~must needs to~~ have submitted the quarterly returns and paid the tax due by the due date for one calendar year. ~~An annual filer may not request a bond waiver.~~ (3-31-22)()

05. ~~Denial of Bond Waiver Request and Appeal of Denial.~~ The Tax Commission may deny a bond waiver request when it determines that waiving the bond ~~requirement~~ puts the financial interests of IFTA jurisdictions in jeopardy. The licensee ~~must needs to~~ follow the appeal procedure in Section 63-2470, Idaho Code, to appeal the denial of a bond waiver request. (3-31-22)()

312. -- 319. (RESERVED)

320. RECORDS RETENTION ~~REQUIREMENTS (RULE 320).~~
Section 63-2429, Idaho Code

01. ~~Mandatory Records Required.~~ Any person importing, manufacturing, refining, dealing in, transporting, storing or selling any motor fuels in ~~this state~~ Idaho will keep such records, receipts, and invoices ~~as will s showing~~ all purchases, sales, receipts, or deliveries of motor fuels ~~in this state.~~ Such records ~~is are~~ maintained for at least three (3) years. (3-31-22)()

02. ~~Motor Fuels Subject to Use Tax.~~ Any person who has purchased tax-exempt motor fuel and subsequently uses the fuel in a taxable manner, ~~must will~~ maintain ~~enough~~ records to establish the tax due. (3-31-22)()

03. ~~Original Invoice Retention.~~ The original invoices, ~~required mandated~~ by ~~Rule Section~~ 270 of these rules, relating to refunds of motor fuels tax paid on certain fuel used off-road, ~~must will~~ be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the Tax Commission or by voluntary action of the taxpayer. (3-31-22)()

321. -- 399. (RESERVED)

400. IFTA LICENSING AND SPECIAL FUELS PERMITTING ~~(RULE 400).~~
Sections 49-432, 49-434, 63-2401, 63-2434, 63-2438 through 63-2440, 63-2442A, 63-2455, Idaho Code

01. ~~In General.~~ ~~It is unlawful for any person to operate a motor vehicle over twenty six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels as defined in Section 63 2401, Idaho Code, on the highways of this state without having obtained one (1) of the following:~~ (3-31-22)

- Code: ~~a.~~ A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (3-31-22)
- ~~b.~~ A temporary fuel tax permit from the Idaho Transportation Department. (3-31-22)
- ~~c.~~ An IFTA license. (3-31-22)

021. Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the federal government or the state of Idaho, ~~or their instrumentalities, or political subdivisions are exempt from these requirements~~ licensing requisites. (3-31-22)()

~~03. Out-of-State Governmental Vehicles.~~ Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (3-31-22)

042. Temporary Fuel Tax Permits. Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, must without an IFTA license will secure a temporary fuel tax permit from the Idaho Transportation Department in the manner ~~provided and required~~ prescribed by that department, if operating a motor vehicle:- (3-31-22)()

- a. Over twenty-six thousand (26,000) pounds maximum registered gross weight or ()
- b. With three (3) or more axles regardless of weight, and ()
- c. Using special fuels on the highways of this state, and ()
- d. Not registered to operate the motor vehicle solely within Idaho under Section 49-434, Idaho Code. ()

053. Penalty for Not Obtaining an IFTA License, or Temporary Fuel Tax Permit. Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state ~~without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, as described in Subsection 400.02. of these rules, without~~ an IFTA license, or an Idaho temporary fuel tax permit is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Tax Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Section 63-2434, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle ~~required to display, but not displaying, without~~ either an IFTA license or a temporary fuel tax permit. (3-31-22)()

401. -- 419. (RESERVED)

420. DOCUMENTATION FOR IFTA LICENSEE REPORTING ~~(RULE 420).~~
Sections 63-2439, Idaho Code

01. Records Required for Idaho IFTA Licensees. ~~Records are required to verify the accuracy of any tax report or worksheet filed with the Tax Commission. The taxpayer displaying, or required to display, an IFTA decal or a temporary permit 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. The licensee displaying, or obligated to display, an IFTA decal will retain all records relating to the accrued distance of the motor vehicles and all invoices or other documents relating to purchases of special fuels. The licensee will provide these records upon request by the Tax Commission.~~ Records are required to verify the accuracy of any tax report or worksheet filed with the Tax Commission. The taxpayer displaying, or required to display, an IFTA decal or a temporary permit 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. The licensee displaying, or obligated to display, an IFTA decal will retain all records relating to the accrued distance of the motor vehicles and all invoices or other documents relating to purchases of special fuels. The licensee will provide these records upon request by the Tax Commission. (3-31-22)()

~~02. **Fuel Records.** In order for the IFTA licensee 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 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 limited to, the following: (3-31-22)~~

- ~~a. The date of each receipt of fuel; (3-31-22)~~
- ~~b. The name and address of the person from whom purchased or received; (3-31-22)~~
- ~~c. The number of gallons received; (3-31-22)~~
- ~~d. The type of fuel; (3-31-22)~~
- ~~e. The specific vehicle into which the fuel was placed; and (3-31-22)~~
- ~~f. 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. (3-31-22)~~

~~02. **Distance Records.** It is mandatory for all IFTA licensees to maintain detailed distance records, on an individual-vehicle basis, according to IFTA Procedures Manual Section P540. ()~~

~~03. **Mileage Records.** All IFTA licensees must maintain detailed mileage records, such as trip logs or trip sheets, on an individual-vehicle basis. Such records must contain, but not be limited to: (3-31-22)~~

- ~~a. Total trip miles, including vicinity miles; (3-31-22)~~
- ~~b. Miles traveled for taxable and nontaxable use; (3-31-22)~~
- ~~c. Mileage totaled by jurisdiction in which the IFTA vehicle operated; (3-31-22)~~
- ~~d. Starting and ending dates of trips; (3-31-22)~~
- ~~e. Trip origin and destination; (3-31-22)~~
- ~~f. Hubometer or odometer readings from the beginning and ending of each trip; (3-31-22)~~
- ~~g. Complete routes of travel, that includes interim stops such as pick-up and delivery locations; and (3-31-22)~~
- ~~h. Vehicle license number or unit number. (3-31-22)~~

~~03. **Fuel Records.** It is mandatory for all IFTA licensees to maintain detailed fuel records, on an individual-vehicle basis, according to IFTA Procedures Manual Section P550. ()~~

- ~~04. **Additional Records-Requirements.** Other records may be requested, such as: (3-31-22)()~~
- ~~a. Bills of lading or manifest documents; (3-31-22)~~
 - ~~b. Vehicle dispatch ledgers; (3-31-22)~~
 - ~~c. Accounts payable and receivable; (3-31-22)~~
 - ~~d. Lease agreements; (3-31-22)~~
 - ~~e. Driver pay records; (3-31-22)~~

- f. Driver logs; (3-31-22)
- g. Fuel use trip permits; ~~and~~ (3-31-22)()
- ~~h.~~ Registration trip permits; ()
- ~~i.~~ Other commercial vehicle permits; and ()
- ~~hj.~~ Other documents used in preparing fuel tax reports. (3-31-22)
- ~~05.~~ Summaries. ~~Individual trips must~~ In addition to the information outlined in the IFTA Procedures Manual Section P560, individual trips for each vehicle have to be accumulated into monthly summaries in total and by jurisdiction. These summaries ~~must have to~~ be used as the basis for the miles submitted on the IFTA quarterly or annual reports. (3-31-22)()
- ~~06.~~ Computer Support. ~~Computer summaries must be supported by trip sheets or logs verifying mileage traveled.~~ (3-31-22)
- ~~07.~~ Mileage Distance Information. Information recorded on trip sheets ~~must is to~~ be legible and reflect actual ~~miles distance~~ traveled. Mileage Distance records ~~must will~~ include all movement of the vehicle including loaded, empty, and tractor-only (bobtail) ~~miles distance traveled.~~ (3-31-22)()
- ~~08.~~ Records Retention and Availability of Records. IFTA licensees ~~must retain records at least four (4) years~~ need to retain and make available records according to IFTA Procedures Manual Section P510. (3-31-22)()
- ~~09.~~ Distance Mileage Disputes. Whenever a ~~mileage distance~~ dispute arises between the taxpayer and the Tax Commission, the official ~~mileage distance~~ map distributed by the appropriate authority in each jurisdiction is used to resolve the point-to-point ~~mileage distance~~ differences. (3-31-22)()
- 421. DOCUMENTATION FOR IDAHO IRP REGISTRANTS ~~(RULE 421).~~**
Section 49-439, Idaho Code
- ~~01.~~ Records Required For IRP Registrants. ~~must~~ Registrants are obligated to keep records, by individual vehicle per registered fleet, ~~to~~ verify the accuracy of any IRP application submitted to the Idaho Transportation Department for each application reporting period of July 1st through June 30th. Registrants ~~must keep the records required by Rule~~ are held to the standards established by Section 420 of these rules for all IRP registered vehicles. ~~Also, registrants must keep individual vehicle records by registered fleet for each application reporting period of July 1st through June 30th.~~ (3-31-22)()
- 422. DOCUMENTATION FOR IDAHO FULL FEE REGISTRANTS ~~(RULE 422).~~**
Section 49-439, Idaho Code
- ~~01.~~ Records Required For Idaho Full Fee Registrations. Registrants ~~must~~ are obligated to keep records, by individual vehicle, ~~to~~ verify the accuracy of any Idaho Full Fee registration application submitted to the Idaho Transportation Department for each reporting period of July 1st through June 30th, unless exempted pursuant to Section 49-439, Idaho Code. ~~No records are required for full fee vehicles registered at less than sixty two thousand (62,000) lbs. gvw or those registered at the maximum tier, of over fifty thousand (50,000) miles per reporting period. Registrants must keep records by individual vehicle for each reporting period of July 1st through June 30th. Examples of records~~ Mandatory records include, but are not limited to: (3-31-22)()
- a. Distance Measuring Devices. ~~Odometer~~ Distance is measured using an odometer, hubometer, GPS or perpetual life-to-date readings. Records ~~must include~~ identify the date the reading was recorded and the reading. When changing devices, the change ~~must needs to~~ be properly documented. (3-31-22)()
- b. Daily Trip Logs. Logs include the date of travel, origin and destination of the trip, and number of miles traveled. Logs may be supported by load tickets, billing invoices, or other original source documents that can

verify miles traveled. (3-31-22)

c. Number of Trip/Round Trip Miles. When making numerous short trips from the same origin to the same destination, records include the origin, destination, and round-trip miles. Computations ~~must need to~~ be supported by scale tickets, load tickets, a route map, or a Tax Commission approved trip analysis. (3-31-22)()

d. Fuel Purchases. ~~Retail fuel purchases~~ Valid retail fuel purchase records are fuel invoices with the date, location, quantity, and type of fuel purchased. Bulk fuel records must need to be sufficient to prove the accuracy of the fuel use. Fuel purchase records must need to show the usage per unit. The records must need to document how the average ~~miles per gallon (MPG)~~ was calculated. (3-31-22)()

02. Credit for Off-Road Miles and Documentation ~~Required~~. Credit for off-road miles may be given for roads not maintained by a government entity or roads built or maintained by the registrant pursuant to a contract, according to Section 290 of these rules. These include roads on private property, roads under construction but not open to the public, and may include designated Forest Service roads. Off-road miles must need to be documented by using odometer readings, maps, contracts, GPS readings, or a Tax Commission approved trip analysis. (3-31-22)()

03. IFTA Licensees with Full Fee Registration. An IFTA licensee with full fee registration must will maintain records ~~required~~ mandated by IFTA. (3-31-22)()

~~423. — 499. (RESERVED)~~

~~**500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE (RULE 500).**~~

~~Section 41-4909, Idaho Code~~

~~The Transfer Fee. The fee imposed by Section 41-4909, Idaho Code, is The Idaho Clean Water Trust Fund is called the Transfer Fee. (3-31-22)~~

~~**501. TRANSFER FEE REINSTATED (RULE 501).**~~

~~Section 41-4909, Idaho Code~~

~~The Transfer Fee was suspended as of October 1, 1999. The Transfer Fee was reinstated on September 1, 2007.~~

~~(3-31-22)~~

~~**502** ~~423.~~ -- 509. (RESERVED)~~

510. APPLICATION AND REPORTING OF THE TRANSFER FEE (RULE 510).

Sections ~~41-4902, 41-4903,~~ 41-4909, ~~63-2401, 63-2403, 63-2406,~~ Idaho Code

01. Application. (3-31-22)

a. ~~The Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee is paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180. (3-31-22)~~

b. The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required mandated to report and pay the transfer fee to the Tax Commission. ~~The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits have to be claimed in the distributor report.~~ (3-31-22)()

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products ~~is determined according to Section 63-2403, Idaho Code. Receipt~~ is determined by the movement of petroleum or petroleum products ~~from a~~ from permanent storage facility (terminal) or crossing the Idaho border ~~of this state~~. Storage of petroleum or petroleum products is incidental to ~~the its~~ its movement ~~of the petroleum or petroleum products~~.

(3-31-22)()

03. Exemption to Application of the Transfer Fee. ~~The Transfer Fee does not apply to petroleum or petroleum products that are:~~ (3-31-22)

~~a. Returned to the refinery or pipeline terminal. (3-31-22)~~

~~b. Exported from this state. No fuel is considered exported, unless the distributor can prove the export by documentation required by Rule 130 of these rules. (3-31-22)~~

~~c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (3-31-22)~~

~~d. Received in retail containers of fifty five (55) gallons or less of petroleum products to be packaged or repackaged into retail containers of fifty five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. Exemptions are according to Sections 41-4909 and 41-4943, Idaho Code. (3-31-22)()~~

04. Casualty Loss and Two Percent (2%) Allowance Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion ~~listed in this rule~~ provided by law are subject to the fee, without further deductions or discounts despite the product's use. Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for casualty loss and the two percent (2%) allowance are not deductions applicable to the ~~T~~ransfer ~~F~~ee. (3-31-22)()

05. Petroleum and Petroleum Products. ~~The products subject to the Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products~~ Products refined from crude oil ~~including~~ include, but are not limited to:

a. motor gasoline, ()

b. alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, ()

c. diesel fuel (#1 - #6), ()

d. biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, ()

e. heating oil, ()

f. aviation fuel, ()

g. naphtha, ()

h. naphtha-type jet fuel, ()

i. kerosene-type jet fuel (JP#1 - #8), ()

j. motor oil, ()

k. brake fluid, ()

l. tractor fuel, ()

m. distillate fuel oil, ()

<u>n.</u>	stove fuel,	()
<u>o.</u>	unfinished oils,	()
<u>p.</u>	turpentine substitutes,	()
<u>q.</u>	lamp fuel,	()
<u>r.</u>	diesel oils (#1 - #6),	()
<u>s.</u>	engine oils,	()
<u>t.</u>	railroad oils,	()
<u>u.</u>	kerosene,	()
<u>v.</u>	commercial solvents,	()
<u>w.</u>	lubricating oils,	()
<u>x.</u>	fuel oil,	()
<u>y.</u>	boiler fuel,	()
<u>z.</u>	refinery fuel,	()
<u>aa.</u>	industrial fuel,	()
<u>bb.</u>	bunker fuel,	()
<u>cc.</u>	residual fuel oil,	()
<u>dd.</u>	road oils, and	()
<u>ee.</u>	transmission fluids.	()
<u>ff.</u>	<u>The following are treated as petroleum or petroleum products that are subject to the transfer fee:</u>	()
<u>i.</u>	Ethanol (E00),	()
<u>ii.</u>	natural gasoline, and	()
<u>iii.</u>	biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the	()

~~Transfer Fee.~~ (3-31-22)

06. Exclusion of Petroleum and Petroleum Products on Which the Fee Has Previously Been Paid.
Used oil ~~as defined by 40 CFR Part 279 (July 1, 2000)~~ is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor will not report used oil generated in Idaho on the distributor report nor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor ~~must~~ has to report and pay the transfer fee unless an exemption or exclusion applies. (3-31-22)()

07. Motor Fuel Distributor License and Limited Distributor License. Any person holding a motor fuel distributor license issued by the Tax Commission under Title 63, Chapter 24, ~~Title 63~~, Idaho Code, is also

licensed for the ~~T~~ransfer ~~F~~ee. No additional license is ~~required necessary~~. Any person who receives any petroleum or petroleum products ~~in this state, but Idaho, and~~ who is not a licensed distributor ~~or required obligated~~ to obtain a motor fuel distributor license ~~applies to the Commission, needs to apply~~ for a limited distributor license ~~with the Tax Commission~~. The limited distributor license is only for reporting the ~~T~~ransfer ~~F~~ee. (3-31-22)()

08. Mandatory Reporting Requirements. (3-31-22)()

a. A motor fuel distributor will report and pay the ~~T~~ransfer ~~F~~ee with the distributor's report ~~required by in accordance with~~ Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the ~~T~~ransfer ~~F~~ee is included in the ~~report in which the distributor is required to report the tax on the distributor report for the~~ same fuel. (3-31-22)()

b. Persons holding a limited distributor license will file a monthly report ~~with the Commission on forms prescribed by the Commission using Tax Commission prescribed forms~~ on or before the last day of the month following the month to which the report relates. (3-31-22)()

c. The ~~T~~ransfer ~~F~~ee ~~must has to~~ be reported according to ~~Rule Section~~ 130 of these rules. (3-31-22)()

09. Payment. (3-31-22)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (3-31-22)()

b. Any partial payment or collection of amounts shown due or ~~required obligated~~ to be shown due on a distributor's report, plus any additional amount of penalty or interest due, is allocated between the motor fuels tax and the ~~T~~ransfer ~~F~~ee in the same proportion that the liability for the tax and the fee bear to the total liability. (3-31-22)()

511. -- 999. (RESERVED)