

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the State Tax Commission Fuel Tax Rules:
IDAPA 35.01.05 - Idaho Motor Fuels Tax - Proposed Rule (Docket No. 35-0105-1502).

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 09/23/2015. 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 10/21/2015.

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: Division Manager - Mike Nugent

DATE: September 03, 2015

SUBJECT: State Tax Commission Fuel Tax Rules

IDAPA 35.01.05 - Idaho Motor Fuels Tax - Proposed Rule (Docket No. 35-0105-1502)

The Idaho State Tax Commission is proposing to amend its fuel tax rules relating to the International Fuel Tax Agreement. Statutory language regarding the International Fuels Tax Agreement is contained in sections 63-2438 through 63-2442A, Idaho Code. The Commission is proposing to delete its rule 280 which provides for refunds to consumers for nontaxable use of motor fuels and states that International Fuel Tax Agreement licensees must use the form 75, Idaho Fuels Use Report, to claim refunds of the motor fuels tax when using taxed special fuels on nontaxable Idaho roads. The Commission is also proposing to amend its Rule 422 relating to documentation for Idaho full fee registrants. The proposed rule change will delete the requirement for two sources and provides that an International Fuel Tax Agreement licensee with full fee registration must maintain records required by the International Fuel Tax Agreement.

It appears that the proposed rules have been promulgated within the scope of the statutory authority granted to the State Tax Commission.

cc: State Tax Commission
Sherry Briscoe

IDAPA 35 - IDAHO STATE TAX COMMISSION
35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1502
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.

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 16, 2015.

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 Fuels Tax Rule 280, Refund to Consumers for Nontaxable Uses of Motor Fuels. This rule will be deleted. The State Tax Commission will require that International Fuel Tax Agreement (IFTA) licensees must use the Form 75, Idaho Fuels Use Report, to claim refunds of the motor fuel tax when using tax-paid special fuels on nontaxable Idaho roads.

Motor Fuels Tax Rule 422, Documentation for Idaho Full-Fee Registrants. This rule outlines the records an Idaho Full Fee registrant and requires records to be from two sources. The requirement for two sources is being removed in addition to other changes to clarify who is required to follow the record requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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: NA

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 July 1, 2015, Idaho Administrative Bulletin, [Vol. 15-7, page 96](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams at (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 September 23, 2015.

DATED this 2nd Day of September 2015.

Don W. Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone (208) 334-7855
Fax (208) 334-7844
Don.williams@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1502
(Only Those Sections With Amendments Are Shown.)

271. -- ~~278~~9. (RESERVED)

~~280. REFUND TO CONSUMERS FOR NONTAXABLE USES OF MOTOR FUELS (RULE 280).
The Idaho Form 75 must be used to claim a fuels tax refund for all nontaxable uses of Idaho tax paid motor fuels,
except for refunds claimed by IFTA licensees for nontaxable miles which must be claimed on the licensee's IFTA
return. (5-3-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

422. DOCUMENTATION FOR IDAHO FULL FEE REGISTRANTS (RULE 422).
Section 49-439, Idaho Code

01. Records Required For Idaho Full Fee Registrations. Registrants must keep records to verify the accuracy of any Idaho Full Fee registration application submitted to the Idaho Transportation Department. ~~These No~~ records ~~must include all summaries and source documents for all registered vehicles, except~~ are required for full fee vehicles registered at less than sixty-two thousand (62,000) lbs. gvw or those registered at the maximum tier, ~~which is more than~~ of over fifty thousand (50,000) miles per year reporting period. ~~To provide primary and secondary source verification of the distance reported on the application,~~ Registrants must keep records by individual vehicle for each reporting period of July 1st through June 30th. ~~using two (2) of the following recordkeeping options~~ Examples of records include, but are not limited to: (3-29-10)()

a. Distance Measuring Devices. Odometer, hubometer, GPS or perpetual life-to-date readings ~~must be supported by a second source of documentation such as fuel purchases, trip logs, or daily logs.~~ Records must include the date the reading was recorded and the reading. When changing devices, the change must be properly documented. (3-29-10)()

b. Daily Trip Logs. ~~Daily trip logs should show~~ Logs include the date of travel, origin and destination of the trip, and number of miles traveled. ~~Daily trip sheets should be~~ Logs may be supported by load tickets, billing invoices, or other original source documents that can ~~be used as verification of~~ verify miles traveled. (3-29-10)()

c. Number of Trip/Round Trip Miles. ~~This method is used by registrants~~ When making numerous short trips from the same origin to the same destination, records include the origin, destination, and round trip miles. Computations ~~should~~ must be supported by scale tickets, load tickets, a route map, or a Commission approved trip analysis. (3-29-10)()

d. Fuel Purchases. ~~Records of~~ Retail fuel purchases ~~must be supported by~~ are fuel invoices ~~that show with the~~ date, location, quantity, and type of fuel purchased. Bulk fuel records must be sufficient to prove the accuracy of the fuel use. Fuel purchase records ~~should include~~ must show the usage per unit. ~~If fuel purchases are used to determine miles,~~ The records ~~should contain~~ must documentation of how the average miles-per-gallon (MPG) was calculated. (3-29-10)()

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 Subsection 292.03 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 be documented by using odometer readings, maps, contracts, GPS readings, or a Commission approved trip analysis. (3-29-10)

03. IFTA Licensees with Full Fee Registration. An International Fuel Tax Agreement (IFTA) licensee with full fee registration must maintain records required by IFTA. ()