

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

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

IDAPA 35.01.05 - Idaho Motor Fuels Tax Administrative Rules - Proposed Rule (Docket No.  
35-0105-1701).

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 11/15/2017. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/14/2017.

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

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



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Senior Legislative Research Analyst - Kristin Ford

**DATE:** October 26, 2017 (corrected)

**SUBJECT:** State Tax Commission

IDAPA 35.01.05 - Idaho Motor Fuels Tax Administrative Rules - Proposed Rule (Docket No. 35-0105-1701)

The State Tax Commission submits notice of proposed rulemaking relating to the Idaho Motor Fuels Tax. The proposed rule rewrites Rules 270, 290 and 292 to revise the documentation and record retention requirements for those claiming motor fuels tax refunds. The Commission states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 edition of the Idaho Administrative Bulletin, Vol. 17-7, page 93. The proposed rule changes appear to be within the State Tax Commission's authority, pursuant to sections 63-105, 63-2427, 63-21402410 and 63-2423, Idaho Code.

cc: State Tax Commission  
Sherry Briscoe

## IDAPA 35 – STATE TAX COMMISSION

### 35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1701

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code, and Sections 63-2410 and 63-2423, 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 October 18, 2017.

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

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

Motor Fuel Tax Rule 270 - Refund Claims – Documentation. This rule outlines the documentation the taxpayer is required to maintain to support refund claims. The intent of amending the rule is to clarify the requirements.

Motor Fuel Tax Rule 290 - Records Required For Intrastate Special Fuels Users Claiming Refunds For Nontaxable Special Fuels Used In Motor Vehicles. This rule outlines the procedure taxpayers are required to use when calculating refund claims of motor fuel tax when using tax-paid special fuel in intrastate motor vehicles to accrue nontaxable miles. The intent of amending the rule is to include the nontaxable mileage refund claims by International Fuel Tax Agreement (IFTA) licensees and clarify the procedure.

Motor Fuel Tax Rule 292 - Calculations Of Refunds For Nontaxable Uses Of Motor Fuels In Motor Vehicles. This rule outlines the documentation taxpayers are required to maintain to support refund claims when using tax-paid motor fuel in auxiliary equipment and special fuel in power-take-off (PTO) equipment. The intent of amending the rule is to clarify the requirements.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, page 93](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 30th day of August, 2017.

Don Williams, Tax Policy Specialist  
Phone (208) 334-7855 / Fax (208) 334-7846  
[Don.williams@tax.idaho.gov](mailto:Don.williams@tax.idaho.gov)

State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1701  
(Only Those Sections With Amendments Are Shown.)

270. REFUND CLAIMS — **GENERAL AND BULK** DOCUMENTATION (RULE 270).  
Sections 63-2410, 63-2421, and 63-2423, Idaho Code

01. Refunds to Consumers. ~~Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above: Tax-paid fuel used in a nontaxable manner according to Sections 63-2410 and 63-2423, Idaho Code, qualifies for a fuel tax refund. To claim a refund, use Form 75, Idaho Fuels Use Report, with the relevant supplemental worksheets.~~

~~(4-11-06)~~( )

- ~~a. A preprinted identification number;~~ (4-11-06)
- ~~b. Name and address of seller;~~ (7-1-98)
- ~~c. Name of purchaser;~~ (7-1-98)
- ~~d. Date of delivery;~~ (7-1-98)
- ~~e. Type of motor fuel;~~ (7-1-98)
- ~~f. Gallons invoiced;~~ (7-1-98)
- ~~g. Price per gallon;~~ (7-1-98)
- ~~h. At least one (1) of the following to establish that tax has been charged:~~ (7-1-98)
  - ~~i. The amount of Idaho state fuels tax;~~ (7-1-98)
  - ~~ii. The rate of Idaho state fuels tax; or~~ (7-1-98)
  - ~~iii. A statement that the Idaho state fuels tax is included in the price.~~ (7-1-98)

02. ~~Indian Owned Retail Outlet~~ **Records Retention Requirements.** ~~Motor fuels purchased after December 1, 2007, from an Indian 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. All claimants must keep records for the greater of either:~~ (4-2-08)( )

- ~~a. Three (3) years from the due date, including extensions, of the income tax return;~~ ( )
- ~~b. The time during which the taxpayer's income tax return is subject to adjustment by either the State Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return;~~ ( )
- ~~c. Four (4) years, if an International Fuel Tax Agreement (IFTA) licensee.~~ ( )

03. ~~Corrected Invoices~~ **Records Required – Generally.** ~~No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided~~ **A claimant**

must have fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment using the fuel in a nontaxable manner. Fuel purchase records must contain the information required by Rule 150 of these rules. Fuel purchase records must be reissued if altered or corrected. (3-20-14)( )

**04. ~~Invoice Retention~~ Records Required – Retail Fuel Purchases. ~~Original, altered, or corrected invoices required by this rule shall 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 State Tax Commission or by voluntary action of the taxpayer. When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is required. The vehicles or piece of equipment using the fuel must 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.~~ (3-20-14)( )**

**05. ~~Refund Documents~~ Records Required – Bulk Fuel Purchases. ~~An original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. When claiming a refund tax on fuel delivered in bulk, the claimant must prove the following documentation:~~ (3-20-14)( )**

- a. Seller Invoices. ( )**
- b. Withdrawal Logs. ( )**
  - i. Complete withdrawal logs must give the date, the vehicle or piece of equipment, and the amount of fuel withdrawn. ( )**
  - 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. The seller must mark the invoices at the time of delivery and identify the storage tanks into which the fuel was delivered. ( )**
- c. Bulk Fuel Inventory Reconciliations. Reconciliations must include beginning inventory, purchases, withdrawals, calculated ending inventory, and actual ending inventory determined by a physical reading. ( )**

**06. ~~Records Required for Motor Fuels Tax Refunds~~ Alternate Method for Bulk Tanks – Authorized Percentage. ~~Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. A claimant can request an authorized percentage if using Idaho tax-paid fuel from one (1) bulk tank in both a taxable and nontaxable manner. International Fuel Tax Agreement (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 request must itemize all taxable and nontaxable uses by vehicle and piece of equipment based on previous experience or anticipated use. Records to support an authorized percentage must be kept and presented upon request. Equipment lists must be provided and supported by:~~ (4-11-06)( )**

- a. Use of Fuel from a Single Storage Tank. ~~Idaho tax-paid fuel purchased and delivered into a single bulk storage tank and withdrawn for both taxable and nontaxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. No refund is allowed under this paragraph for fuel purchased for use in: motor vehicles licensed under the authority of the International Fuel Tax Agreement (IFTA); non-IFTA motor vehicles for which a refund for nontaxable use is granted using either Rule 290 or 292 of these rules; or, for diesel when the claimant has both undyed (tax paid) and dyed~~**

~~(untaxed) diesel tanks. Taxpayers may claim a refund using a proration percentage instead of claiming actual use. The State Tax Commission must authorize a taxpayer's proration percentage before he may receive a refund using any percentage when filing a refund claim. The authorization request shall itemize all taxable and nontaxable uses by vehicle and type of equipment based on previous experience or anticipated use. The State Tax Commission will refund fuel taxes included on Idaho tax paid fuel for nontaxable use based on an authorized percentage which represents the claimant's reasonable nontaxable use. When using an authorized percentage, certain records must be maintained and made available upon request. Acceptable records of refunds based on an authorized percentage include, but are not limited to: fuel purchase invoices and equipment lists. Equipment lists must be supported by documentation. Acceptable equipment list documentation includes, but is not limited to: Equipment purchase records;~~ (3-20-14)( )

- ~~i. Equipment purchase;~~ (3-20-14)
- ~~ii. Sales or rental receipts; and~~ (3-20-14)
- ~~iii. Depreciation schedules.~~ (3-20-14)

~~b. Use of Fuel from Multiple Storage Tanks. When a claimant maintains separate bulk storage tanks of Idaho tax paid fuel for taxable and nontaxable uses, the claimant must identify which storage tank is for taxable and which is for nontaxable use. The seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Only Idaho tax paid fuel placed in the nontaxable tank is refundable. Detailed withdrawal records will only be required if fuel from these tanks are used in motor vehicles that are licensed under IFTA or in non-IFTA motor vehicles for which refunds are granted for nontaxable uses of motor fuels in motor vehicles granted using either Rule 290 or Rule 292 of these rules. No refund may be claimed under this paragraph for diesel when the claimant has both undyed (tax-paid) and dyed (untaxed) diesel tanks. All fuel invoices must be retained as required by this rule. Sales or rental receipts; and~~ (3-20-14)( )

~~c. Use of Fuel for Other Than Bulk Storage. Idaho tax paid fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than registered motor vehicles, must be identified on the purchase invoice. No other records will be required. Depreciation schedules.~~ (3-20-14)( )

~~07. **Untaxed Motor Fuel.** Under the provisions of Section 63-2421, Idaho Code, untaxed motor fuel ~~may not can't~~ be used in licensed or required to be licensed motor vehicles ~~registered or required to be registered~~ unless authorized ~~elsewhere~~ in the Fuels Tax Act or these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, all fuel tax refund claims are subject to audit by the State Tax Commission and no part of these rules may be construed to imply that an audit may not be performed. Tax-paid motor fuel is ~~no longer not~~ exempt from taxes imposed by Chapter 36, Title 63, the Idaho Sales Tax Act when the motor fuel tax is refunded ~~to the consumer according to Rule 171.~~ (3-20-14)( )~~

~~08. **Indian-Owned Retail Outlet.** Motor fuels purchased after December 1, 2007, from an Indian-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.~~ ( )

271. -- 289. (RESERVED)

~~290. **RECORDS REQUIRED FOR INTRASTATE SPECIAL FUELS USERS CLAIMING REFUNDS FOR NONTAXABLE SPECIAL FUELS USED IN MOTOR VEHICLES REFUND CLAIMS – NONTAXABLE MILES (RULE 290).**~~  
Section 63-2423, Idaho Code

~~01. **Refund Claims, Required Records Refunds to Consumers – Nontaxable Miles.** Special fuel users, except IFTA licensees, must file a Form 75 with the relevant supplemental worksheet to claim a fuels tax refund. The following information is required to qualify for a refund except for claims based only on the power take-off allowances provided for in Rule 292 of these rules Tax-paid special fuels used as described in Section 63-2423, Idaho Code, qualifies for a fuels tax refund. To claim a refund, use Form 75, Idaho Fuels Use Report, with the~~

relevant supplemental worksheets. The records retention and fuel record requirements in Subsections 270.02 through 270.05 of these rules also apply to this section. (4-5-00)(    )

~~a. Total miles. The total miles traveled should be included for motor vehicles which have nontaxable uses of special fuels. Special fuel users who qualify to use one of the "Standard MPGs" found in Subsection 290.02 need only record and report Idaho taxable miles. (4-5-00)~~

~~b. Total fuel. The total number of gallons of fuel delivered into the supply tanks of the motor vehicles should be included for motor vehicles which have nontaxable uses of special fuels. The total miles figure and the total fuel figure must be for the same vehicles. (7-1-98)~~

~~c. Actual miles per gallon. The miles per gallon shall be computed by dividing gallons determined according to Subsection 290.01.b. into the number of miles determined according to Subsection 290.01.a. The computation of fleet miles per gallon should be carried to three (3) decimal places and rounded to two (2) decimal places. Example:  $4.514 = 4.51$  and  $4.515 = 4.52$ . (4-5-00)~~

~~d. Presumed miles per gallon. In the event that the claimant fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that one (1) gallon of special fuel was consumed for every: (3-30-07)~~

~~i. Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)~~

~~ii. Five and one half (5 1/2) miles traveled by vehicles from twenty-six thousand one (26,001) to forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)~~

~~iii. Seven (7) miles traveled by vehicles from twelve thousand one (12,001) to twenty-six thousand (26,000) pounds gross registered vehicle weight; or (7-1-98)~~

~~iv. Ten (10) miles traveled by vehicles twelve thousand (12,000) pounds or less gross registered vehicle weight. (3-30-07)~~

~~e. The total taxable miles traveled in Idaho. Only taxable miles traveled in Idaho by the motor vehicles which have nontaxable uses of special fuels should be included. Taxable miles are miles driven on any road that is open to the use of the public and maintained by a governmental entity. Such roads may be constructed using concrete, asphalt, gravel, composition, dirt, or other surfaces. (7-1-98)~~

~~f. The number of gallons of special fuels consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the miles per gallon determined according to Subsection 290.01.e. and 290.01.d. into the total taxable miles in Idaho according to Subsection 290.01.e. (4-5-00)~~

**02. Alternative Refund Calculation for Special Fuels Users Engaged in Certain Industries Nontaxable Miles Defined.** A special rule may be applied for motor vehicles, except IFTA licensees, that use special fuels and accrue both taxable and nontaxable miles. Operators of motor vehicles that use special fuels, except those licensed under IFTA, may, instead of using the computations provided in Subsections 290.01.e. and 290.01.d., presume that when engaged in operations in the following industries and accruing taxable miles in Idaho, that such motor vehicles consume fuel at the following rates Nontaxable miles are miles driven on roads:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

(4-5-00)(    )

- a. Not open to the public; or ( )
- b. Not maintained by a governmental entity; or ( )
- c. Located on private property maintained by the property owner; or ( )
- d. Under construction and not open to the public; or ( )
- 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 Chapter 1, Title 38, Idaho Code. Miles traveled on these roads are nontaxable when the contractor or subcontractor is required to pay the cost of maintaining these roads by contract or permit. ( )

**03. ~~Actual MPG Calculation~~ Records Required – Mileage Records.** *If an operator has reason to believe the standard on-road miles per gallon (MPG) in Subsection 290.02 is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in Subsection 290.01.e. or presumed MPG provided in Subsection 290.01.d* Mileage records are required to claim a refund of tax when using special fuels on nontaxable roads. Claimants operating under the authority of the International Fuel Tax Agreement (IFTA) or International Registration Plan (IRP) are required to follow the recordkeeping requirements of IFTA and IRP in addition to the requirements of this section. Idaho Full Fee registrants must follow the requirements of Rule 422 of these rules and this section. (3-30-07)( )

**04. ~~Claims Subject to Review or Audit~~ Records Required – Actual Nontaxable Miles.** *All fuels tax refund claims are subject to review or audit by the State Tax Commission* Nontaxable miles must be documented for each trip using odometer, hubometer, or GPS readings. (4-5-00)( )

**05. Alternate Methods.** A claimant may use an alternate method to determine nontaxable miles or use a presumed 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. ( )

a. Estimating Nontaxable Miles. Nontaxable miles may be estimated by using maps, contracts, or a State Tax Commission approved trip analysis. Upon request, the claimant must provide the documents supporting the estimation. Maps other than the Official Idaho Highway map miles are estimates. ( )

b. Estimating Nontaxable Gallons. Nontaxable gallons may be estimated using presumed MPGs. Upon request, the claimant must provide the tax-paid fuel purchase records supporting the total gallons claimed. ( )

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

<u>Over 40,000 GVW</u>	<u>4.0 MPG</u>
<u>Over 26,000 GVW to 40,000 GVW</u>	<u>5.5 MPG</u>
<u>Over 12,000 GVW to 26,000 GVW</u>	<u>7.0 MPG</u>
<u>12,000 GVW or less</u>	<u>10.0 MPG</u>

( )

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

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

( )

291. (RESERVED)

292. ~~CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES~~ **REFUND CLAIMS – POWER TAKE-OFF (PTO) AND AUXILIARY ENGINES** (RULE 292).

01. **Fuel Records Required for Refund Claims Refund to Consumers — PTO and Auxiliary Engines.** ~~Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules~~ 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. To claim a refund, use Form 75, Idaho Fuels Use Report, with the relevant supplemental worksheets. The records retention and fuel record requirements in Subsections 270.02 through 270.05 of these rules also apply to this section. (4-5-00)( )

02. ~~Nontaxable Miles Defined~~ **PTO and Auxiliary Engines Defined.** ~~Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 171 of these rules regarding application of Idaho Sales and Use Taxes~~ 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. (4-6-05)( )

03. ~~Additional Nontaxable Roadways~~ **Records Required – Actual Consumption Refunds.** ~~Roadways defined in Section 63-2401, Idaho Code, include those 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 Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard miles per gallon (MPG)” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway~~ 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 monitoring device must provide the date, time of use, and gallons metered. The State Tax Commission may request verification that the electronic monitoring device is reporting consumption correctly. (3-20-14)( )

04. **Calculation Alternate Methods – Standard Allowances.** ~~Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased after December 1, 2007, from an Indian-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~~ The following are standard allowances adopted by the State Tax Commission. An International Fuel Tax Agreement (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. (4-2-08)( )

**a.** Allowances based on unit quantities:

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

( )

**b.** Allowances based on percentages:

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

( )

**05.** ~~*Power Take Off (PTO) and Auxiliary Engine Allowances*~~ **Nonstandard Allowances.** PTO allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline powered vehicles. A claimant must request a nonstandard allowance from the State Tax Commission if they want 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 State Tax Commission may request additional information or documentation as needed in order to make a determination on he request. (3-20-14)( )

**a.** ~~*Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle mounted cement mixer or off loading product.*~~ (4-6-05)

**b.** ~~*Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the registered motor vehicle. No claim for gasoline is allowed when gasoline is used by the registered motor vehicle's main engine even to operate the motor vehicle's PTO unit.*~~ (3-30-07)

**e.** ~~*Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances:*~~ (4-5-00)

**i.** Allowances based on unit quantities:

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

(4-11-06)

ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	×	Gallons Consumed
Concrete mixing	30%	×	Gallons consumed
Garbage compaction	25%	×	Gallons consumed

(3-15-02)

~~06. **Nonstandard Allowances.** A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. The State Tax Commission may request additional information or documentation as needed in order to make a determination on the request.~~ (3-20-14)

~~07. **Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees.** The nontaxable gallons of fuel claimed by non-International Fuel Tax Agreement (IFTA) licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to MPG information.~~ (3-20-14)

~~08. **IFTA Licensees.** An IFTA licensee may qualify for standard or nonstandard PTO and auxiliary engine allowances listed in this rule or authorized by request, by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet.~~ (3-20-14)

~~a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, the IFTA licensee will recompute the new fleet MPG. The new fleet MPG is applied to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the IFTA licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75.~~ (3-20-14)

~~b. A copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how the allowance was calculated must be included as an attachment to the Form 75. All refund~~

~~claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (3-20-14)~~

~~e. IFTA licensees must use an actual MPG when preparing their original IFTA return to claim any refund. (3-20-14)~~