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**IDAPA 35
TITLE 01
CHAPTER 05**

35.01.05 - MOTOR FUELS TAXES

000. LEGAL AUTHORITY. (Rule 000.)

According to sections 63-513, 63-2427 and 41-4908, Idaho Code, the Tax Commission promulgates rules implementing the provisions of the Idaho Motor Fuels Tax Act and the provisions of the Idaho Clean Water Trust Fund Act relating to the Idaho Clean Water Trust Fund Transfer Fee. (6-23-94)

001. (RESERVED).

002. WRITTEN INTERPRETATIONS. (Rule 002.)

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, the Tax Commission has written statements that pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that these documents are not confidential under Sections 63-2434, 41-4908, 63-3076, 63-3077 or 9-340, Idaho Code, they are available for public inspection and copying at the main office of the State Tax Commission. (6-23-94)

003. ADMINISTRATIVE APPEALS (Rule 003.)

This chapter does allow administrative relief in the provisions outlined under Sections 63-2434, 41-4908, and 63-3045 through 63-3049, Idaho Code and pursuant to Rules promulgated by the Commission found in the Commission's administrative rules relating to income taxation, IDAPA 35, Title 01, Chapter 01. (6-23-94)

004. PUBLIC RECORDS (Rule 004.)

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 13, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-2434, 41-4908, 63-3076, 63-3077 or 9-340, Idaho Code. Non-confidential records are available for public inspection and copying at the main office of the State Tax Commission. (6-23-94)

005. -- 009. (RESERVED).

010. DEFINITIONS. (Rule 010.)

The definitions provided by statute, including the definitions in section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions shall apply. (6-23-94)

01. Bond. A person required to post a bond may, instead of posting a surety bond, deposit with the Commission any of the following amounts equivalent to the amount of the bond required: (6-23-94)

a. Investment Certificates. Investment certificates or share accounts, not exceeding the federally insured amount, issued by a savings and loan association doing business in Idaho and insured by the Federal Savings & Loan Insurance Corporation. Evidence of the insured account, either certificate or passbook, must be delivered to the Commission along with a properly executed assignment form by which the funds on deposit are assigned and made payable to the Idaho State Tax Commission. (6-23-94)

b. Lawful Money. Lawful money of the United States. Cash bonds must be submitted as a cashier's check, money order or other certified funds that are payable to the Commission. (6-23-94)

c. Letters of Credit. Irrevocable letters of credit, not exceeding the federally insured amount, issued by a bank doing business in Idaho, and insured by the Federal Deposit Insurance Corporation, made to the benefit of the Commission. The terms of the letter of credit must allow the Commission to make demand directly against the issuer of the letter of credit for any taxes, penalties, and interest due and unpaid, upon which the taxpayer's rights to appeal have expired, and for which the letter of credit was submitted to secure. (6-23-94)

d. Time Certificates. Automatically renewable time certificates of deposit, not exceeding the federally insured amount, issued by a bank doing business in Idaho and insured by the Federal Deposit Insurance Corporation, made in the name of the depositor, payable to the "Idaho State Tax Commission" and containing the provisions that

interest earned shall be payable to the depositor. (6-23-94)

02. Commercial Motor Boat. A commercial motor boat, as defined in Section 63-2401(4), Idaho Code, includes a motor boat used in a business that rents boats to others who use the boats for pleasure. (6-23-94)

03. IFTA. Means the International Fuel Tax Agreement referred to in the Intermodal Surface Transportation Act of 1991, Public Law 102-240 section 4008, 105 Stat. 1414 and in section 63-2442A, Idaho Code. (6-23-94)

04. 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 Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Commission of lawful money of the United States. As used herein, lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in money of the United States; provided however, acceptance by the Commission of any check that is subsequently dishonored by the bank upon which it is drawn shall not constitute payment. Additionally, nothing herein shall limit the authority of the Commission 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. (6-23-94)

05. These rules. The term "these rules" refers to this chapter, IDAPA 35.01.05, of rules relating to the Idaho Motor Fuels Tax and the Idaho Petroleum Transfer Fee. (6-23-94)

011. -- 099. (RESERVED).

100. USE TAX ON GASOLINE. (Rule 100.)

The tax imposed by Section 63-2402, Idaho Code, is a use tax complementary to the principal tax imposed by Section 63-2405, Idaho Code. It does not apply to any gasoline upon which the tax has already been paid by a licensed distributor. The tax shall be paid by the user filing with the Commission a report of the number of gallons used that are subject to this tax and by remitting the amount of tax due under this section. The report shall be filed no later than thirty (30) days after the end of the calendar quarter during which the use occurred. (6-23-94)

101. -- 109. (RESERVED).

110. RECEIPTS OF FUEL. (Rule 110.)

01. In General. Receipt of gasoline or aircraft engine fuel in Idaho occurs in the following situations: (6-23-94)

a. When gasoline or aircraft engine fuel is removed or withdrawn from a refinery or a pipeline terminal in this state and is delivered to a person other than a licensed distributor, the fuel is received by the person removing or withdrawing same except as provided in subsection 01.c. of this rule. (6-23-94)

b. When gasoline or aircraft engine fuel is removed or withdrawn from a refinery or pipeline terminal in this state and delivered to a licensed distributor, the fuel is received by the licensed distributor to whom the fuel is delivered. (6-23-94)

c. When gasoline or aircraft engine fuel is removed or withdrawn from a refinery or pipeline terminal in this state and delivered to a person not licensed as a distributor for the account of a licensed distributor, the fuel is received by the licensed distributor removing or withdrawing the fuel. (6-23-94)

d. When gasoline or aircraft engine fuel is imported into this state by a licensed distributor in this state and subsequently sold or distributed to another licensed distributor in this state, the fuel is received by the licensed distributor who imported the fuel unless the imported fuel is placed in storage at a refinery or pipeline terminal before it is delivered. (6-23-94)

e. When gasoline or aircraft engine fuel is imported into this state by a licensed distributor, which fuel is shipped or delivered directly to a person not licensed as a distributor, then the fuel is received by the licensed distributor who imported the fuel. (6-23-94)

f. There is no receipt of gasoline or aircraft engine fuel in this state when the fuel is shipped from one refinery or pipeline terminal to another refinery or pipeline terminal. (6-23-94)

02. Illustrative Examples. The foregoing examples are only illustrations, and are not inclusive. (6-23-94)

111. -- 114. (RESERVED).

115. HELICOPTER COMPANIES WHO IMPORT AIRCRAFT ENGINE FUEL INTO IDAHO FOR USE IN THEIR OWN AIRCRAFT. (Rule 115.)

01. In General. The state of Idaho imposes an excise tax and transfer fee on all aircraft engine fuel received in Idaho. Aircraft engine fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the aircraft engine fuel when the fuel arrives in Idaho. The excise tax and transfer fee due on the aircraft engine fuel received in Idaho during a month are normally reported on an Idaho Motor Fuels Distributor Return. (6-23-94)

02. Alternative Reporting for Qualified Helicopter Companies. As an option to obtaining an Idaho motor fuel distributor's license and the filing of monthly returns, a qualified helicopter company may file a Form 75 together with its Idaho income tax return to remit aircraft engine fuel tax due to the state of Idaho or to receive a refund of excess tax paid. (6-23-94)

03. Qualifications. To be a qualified helicopter company under this rule, a person must: (6-23-94)

a. Use the imported aircraft engine fuel only in its own aircraft; and (6-23-94)

b. Import less than one hundred thousand (100,000) gallons of aircraft engine fuel into Idaho for the company's taxable year; and (6-23-94)

c. Have in place a reliable and systematic method of reporting the number of gallons of aircraft engine fuel purchased in Idaho, and the number of gallons of aircraft engine fuel imported and exported, other than in the fuel supply tank of a helicopter. (6-23-94)

116. -- 119. (RESERVED).

120. MEASUREMENT OF GALLONS. (Rule 120.)

All reports requiring reporting the number of gallons of gasoline or aircraft engine fuel shall be stated in gross gallons. (6-23-94)

121. -- 139. (RESERVED).

140. DISTRIBUTORS' REPORTS. (Rule 140.)

01. In General. Every distributor shall file a monthly Gasoline Tax Report on the forms prescribed by the Commission on or before the last calendar day of the month following the end of the period to which the return relates. Supporting detail schedules required by the Commission are to accompany the report, together with all documentation and the payment to cover the amount of gasoline tax 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. (6-23-94)

02. Machine Tabulated Data. Machine tabulated data will be accepted instead of detailed schedules on 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 Commission with a copy of the format to be used. Authorization must be granted before the format may be used. (6-23-94)

03. Supplemental Reports. In addition to the monthly report, a supplemental report may be filed in those cases involving late shipments of gasoline to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be penalized if reported in the supplemental report. If a supplemental report is filed, the Commission will assess interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth (10th) day of the month following the month in which a report from which shipments were omitted was due. (6-23-94)

04. Timely Reporting. Any shipments that are not reported in a timely monthly report or timely supplemental report shall be subject to interest and may be subject to penalty. (6-23-94)

141. -- 149. (RESERVED).

150. DOCUMENTATION OF DEDUCTIONS. (Rule 150)

01. Fuel Presumed to Be Distributed. Unless the contrary is established, it shall be presumed that all gasoline or aircraft engine fuel imported into this state by a distributor, which is no longer in the possession of that distributor, has been distributed. If the licensed distributor has returned to the refinery or pipeline terminal gasoline on which the tax has been paid or has had an accidental loss, the licensed distributor has the burden of showing the returns so made or the accidental loss. (6-23-94)

02. Retail Dealer Allowance. The distributor shall certify on his report that the one percent (1%) credit allowance has been afforded the retail dealer to cover the dealer's shrink age, evaporation, spillage or handling losses. The Commission shall then allow the additional one percent (1%) deduction unless an aggrieved retail dealer claims that he did not receive the credit allowance. If such claim is made, the Commission shall require the licensed distributor to provide documentary proof that the one percent (1%) credit allowance has been afforded the retail dealer, and unless the distributor establishes that the credit has been afforded to the retail dealer, the deduction will be disallowed. (6-23-94)

03. Retail Sale Invoice. Any distributor who sells and delivers gasoline in this state must issue an original invoice to the purchaser; provided, however, that when sales are accounted for monthly, invoices may be issued to the purchaser at the time of billing. All invoices shall contain the following: (6-23-94)

- a. A pre-printed serial number, except when invoices are automatically assigned a consecutive serial number by a computer or similar machine when issued; (6-23-94)
- b. Name and address of the distributor; (6-23-94)
- c. Name and address of the purchaser; (6-23-94)
- d. Date of delivery; (6-23-94)
- e. Type of fuel; (6-23-94)
- f. Gallons invoiced reported as required in Rule 120 of these rules; (6-23-94)
- g. Origin; (6-23-94)
- h. Destination; (6-23-94)
- i. Price per gallon and total amount charged. At least one of the following to establish that tax has been charged: The amount of Idaho state fuels tax; the rate of Idaho state fuels tax; or a statement that the Idaho state fuels tax is included in the price. (6-23-94)

j. In the case of sales to retail dealers, to establish that the allowance of one percent (1%) of the tax has been passed to the purchaser, the invoice must show either: That the amount of the allowance has been passed on;

or a statement that the allowance has been deducted in determining the price. (6-23-94)

k. The invoice shall contain double-faced carbons on the original of the first copy, unless invoices are automatically prepared by a computer or similar machine when issued. (6-23-94)

04. **Correcting Invoice Errors.** When an original invoice is issued in error, it may be canceled by a credit invoice and cross-referenced to all copies of the invoice covering the transaction being corrected. If a second invoice is issued, it shall show the date and serial number of the original invoice and that the second invoice is in replacement or correction thereof. Where a licensed distributor makes delivery to another licensed distributor's account, the invoicing requirements as provided for above will be waived and the monthly reconciliation of exchange balances will be accepted instead of the invoice requirements. (6-23-94)

05. **Exported Fuel.** Gasoline or aircraft engine fuel claimed as exported from Idaho must be supported by records. Records required must include the following: (6-23-94)

a. Tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the state into which the fuel was claimed to have been exported and; (6-23-94)

b. Common carrier shipping documents, bills of lading, manifests, and cost billings or; (6-23-94)

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product or; (6-23-94)

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. (6-23-94)

e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other states, evidence such as product inventory and transfer records, must be verified to prove the transfer of product out of Idaho. (6-23-94)

06. **Bad Debt Write-off.** A tax credit may be taken on distributor returns for fuel taxes paid on sales made after July 1, 1995. The credit is claimed when the debt has been written off for income tax purposes in the business records of the distributor. The credit may be claimed on fuel tax returns each month or at the end of the distributor's tax year after a debt has been written off. (7-1-96)

07. **First-in First-out Method for Partial Payments.** When partial payments are received on accounts that have taxable fuel sales, non-taxable fuel sales, and other sales the distributor must apply the payments to the unpaid sales on a first-in first-out basis before claiming a bad debt credit. (7-1-96)

08. **Proration of Partial Payments.** Partial payments received before and/or after a bad debt credit is claimed on the distributor's fuel tax return must be prorated for taxable fuel sales, nontaxable fuel sales, and other sales which occur on the same day or on the same invoice. (7-1-96)

151. -- 159. (RESERVED).

160. AIRCRAFT ENGINE FUEL TAX. (Rule 160)

All provisions of Chapter 24, Title 63, Idaho Code, and of these rules relating to collection of the tax on gasoline shall be applicable to the collection of the aircraft engine fuel tax imposed by Section 63-2408, Idaho Code. (6-23-94)

161. -- 179. (RESERVED).

180. REFUND CLAIMS--DOCUMENTATION REQUIRED. (Rule 180.)

01. **Refunds to Consumers.** Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records, an original seller's invoice showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-faced carbon shall be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery.

In addition to the requirements outlined above, each invoice must contain or show the following: (6-23-94)

- a. A pre-printed serial number; (6-23-94)
- b. Name and address of seller; (6-23-94)
- c. Name of purchaser; (6-23-94)
- d. Date of delivery; (6-23-94)
- e. Type of motor fuel; (6-23-94)
- f. Gallons invoiced; (6-23-94)
- g. Price per gallon; (6-23-94)
- h. At least one of the following to establish that tax has been charged: The amount of Idaho state fuels tax; the rate of Idaho state fuels tax; or a statement that the Idaho state fuels tax is included in the price. (6-23-94)

02. Corrected Invoices. 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 and retained by the seller for at least three (3) years from the date issued. (6-23-94)

03. Invoice Retention. The original invoices required by Subsection 180.01 of 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 Commission or by voluntary action of the taxpayer. (6-23-94)

04. Monthly Refund Claims. Any taxpayer entitled to a refund of motor fuels tax may file a refund claim monthly. Any refund due will be first applied to any liability due under any law administered by the Commission, including liabilities 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 failed to file any tax return required to be filed with the Commission. (3-4-96)

05. Refund Applied to Taxes Due. Refunds of motor fuels taxes shall be claimed on the Idaho Income Tax Return filed by the person who was the final purchaser and consumer of motor fuels upon which the tax has been paid and for which a refund may be claimed. If any taxes are due under the Idaho Income Tax Act, including any Permanent Building Fund Tax, the refund will be first applied to the taxes due. Any balance of refund exceeding any taxes due shall be paid as a refund to the entity filing the return. In the case of all partnerships and any corporations filing Idaho Form 41S, relating to S Corporations, any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by the partnership or corporation. The refund may not be applied to the individual returns filed by partners or share holders. (6-23-94)

06. Refunds to Distributors. Refund claims filed under Section 63-2410(4), Idaho Code, by licensed distributors shall be filed in the manner provided in Rule 240 of these rules relating to refunds by special fuels dealers and such claims shall be subject to the provisions of that rule. (6-23-94)

07. Refund Documents. For refund claims under section 63-2410(5)(c), Idaho Code, 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 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. (6-23-94)

08. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the claim. Such records shall reflect all motor fuels receipts, the gallons of fuel used in each type of equipment, both refundable and nonrefundable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the 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. (6-23-94)

a. Use of Fuel from a Single Storage Tank. Fuel (other than fuel purchased by persons who are licensed under IFTA or permitted under Idaho Code §63-2438) purchased and delivered into bulk storage and withdrawn for both non-taxable and taxable uses, must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty-five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless another amount is requested by the taxpayer and authorized by the Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use. The Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the total fuel purchased on which tax was paid must be retained to support each refund claim. (3-14-96)L

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained for both exempt and taxable uses, the seller must mark the invoices at the time of delivery identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel is used by permitted motor vehicles that are subject to special fuels use tax reporting. Purchases must be reported and all invoices must be retained. Exempt fuel may not be used in motor vehicles licensed or required to be licensed. (6-23-94)

c. Use of Fuel for Other than Bulk Storage. Fuel dispensed into the supply tank, or small containers for use in, stationary engines, equipment, commercial motor boats, or vehicles, other than motor vehicles, must be identified on the purchase invoice. No other records will be required. (6-23-94)

d. Exempt Uses of Gasoline. The exempt uses are operating stationary engines, commercial motor boats, and propelling equipment or vehicles, other than motor vehicles. (6-23-94)

e. Exempt Uses of Special Fuels. In general, any use of special fuels is exempt, except propelling or operating a motor vehicle on a highway. (6-23-94)

181. -- 199. (RESERVED).

200. USE TAX ON SPECIAL FUELS. (Rule 200.)

The tax imposed by Section 63-2417, Idaho Code, is a use tax complementary to the principal tax imposed by Section 63-2416, Idaho Code. In the case of special fuels used to operate or propel vehicles, which do not display an Idaho special fuels tax permit decal, a ninety-six (96) hour trip permit issued by the Idaho Transportation Department, or are not registered under IFTA, and on which tax was not paid at the time of purchase, the tax must be paid in the manner provided in Section 63-2421, Idaho Code, and Rule 230 of these rules. Vehicles which do display an Idaho decal or ninety-six (96) hour trip permit shall pay the tax in the manner provided in Section 63-2439, Idaho Code, and Rule 400 of these rules. Vehicles registered under IFTA shall pay tax in the manner provided in that agreement. (6-23-94)

201. -- 219. (RESERVED).

220. DISTRIBUTORS' RETURNS--RECORDS REQUIRED FOR SPECIAL FUELS--APPLICATION OF SALES TAXES. (Rule 220.)

01. Monthly Returns. Each licensed distributor shall file with the Commission a monthly tax return on forms prescribed by the Commission. The return shall be due on or before the last day of the month following the month to which the return relates. Such returns shall contain a declaration by the person filing the return that the statements contained therein are true and are made under penalties of perjury. The return shall include the following information together with such other information as the Commission may require: (7-1-96)

- a. The beginning inventory of special fuels on the first day of the month; (7-1-96)
- b. The total quantity of special fuels received during the month; (7-1-96)
- c. The total quantity of special fuels disbursed to licensed distributors tax not collected, to state and

- local government, and exported during the month; (7-1-96)
- d. The total quantity of special fuels transferred or relabeled from one fuel type to another; (7-1-96)
 - e. Casualty loss only; (7-1-96)
 - f. The ending inventory of special fuels on the last day of the month; (7-1-96)
 - g. The gross taxable gallons of special fuels; (7-1-96)
 - h. Tax-paid purchases; (7-1-96)
 - i. Net taxable gallons; (7-1-96)
 - j. Gallons after deduction for two percent (2%) allowance; (7-1-96)
 - k. Tax computation; (7-1-96)
 - l. Bad debt amounts, refer to Rule 150 of these rules; (7-1-96)
 - m. Gaseous permit fee; (7-1-96)
 - n. Net tax due; (7-1-96)
 - o. With respect to the quantity of special fuels received during the month, the distributor shall include a listing of each person supplying special fuels to the distributor during the month and the number of gallons supplied by each supplier, on a load by load basis; (7-1-96)
 - p. All reports requiring reporting the number of gallons of special fuels shall be stated in gross gallons. (7-1-96)
02. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on Commission provided forms but only if the data is in the same format as shown on the required schedules. If any other format is to be used, the licensee must make his request in writing to the Commission with a copy of the format to be used before authorization will be granted. (7-1-96)
03. Inventory Records. The distributor shall keep detailed inventory records. (7-1-96)
04. Payment of Tax, Penalty, and Interest. Payment of any tax, penalty or interest due shall accompany the return. See Motor Fuels Tax Administrative Rule 10 relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-96)
05. Receipts of Special Fuels. All undyed diesel fuels received by a distributor shall be taxable. All receipts of dyed diesel fuel are not subject to the special fuels tax. The special fuels tax is not imposed on gaseous special fuels when the fuels are received. (7-1-96)
06. Undyed Diesel Fuel For Heating. The consumer must apply directly to the Tax Commission for a refund of the special fuels taxes paid on purchases of undyed diesel fuel which are used for heating a dwelling or building. The distributor may assist the consumer by: (7-1-96)
- a. Documenting information on the sale invoice to allow the consumer to submit the sale invoice as a refund claim to the Tax Commission; or (7-1-96)
 - b. Providing a Form 75 "Heating Oil Only" to allow the consumer to submit this form for refund claim to the Tax Commission. (7-1-96)
07. Sales of Gaseous Special Fuels. Gaseous special fuels delivered into the fuel supply tank of a

licensed or required to be licensed motor vehicle, are taxable except for: (7-1-96)

a. Government. Gaseous special fuels used by vehicles owned or leased and operated by the federal government, and vehicles over sixteen thousand (16,000) pounds gross vehicle weight owned or leased and operated by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the licensed distributor must record on the document of sale, the name of the governmental entity, the license or identification number, and the type of vehicle. (7-1-96)

b. Gaseous Special Fuels Permits. Special fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Special Fuels Decal are exempt from tax. For the exempt status to be valid, sales documentation must have the purchaser's name, address, vehicle license number and the words, "gaseous fuels decal." (7-1-96)

08. Gaseous Special Fuels. Propane or natural gas sold at retail will be presumed to be exempt unless delivered into the supply tank of a motor vehicle. (7-1-96)

09. Documentation is Required. Failure to include all the above documentation for exempt sales will result in a taxable sale. (7-1-96)

10. Documentation Requirements for Dyed diesel Fuel. The state is following the Internal Revenue Service requirements for sales of dyed diesel fuel. The Internal Revenue Code requires that a notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be: (7-1-96)

a. Provided by the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that operator, (7-1-96)

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 (7-1-96)

c. Posted by a seller on any retail pump where the dyed diesel fuel is sold for use by the buyer. (7-1-96)

d. The notice under Subsection 220.10.a. or 220.10.b. must be provided at the time of removal or sale and must appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the fuel. Any person who fails to provide or post the required notice is presumed to know that the fuel will be used for a taxable use and is subject to penalties imposed by the Internal Revenue Service. (7-1-96)

11. Red-dyed High-sulfur Fuel. It is illegal to use red-dyed high-sulfur fuel in the supply tank of a licensed or required to be licensed motor vehicle in this state. (7-1-96)

12. Red-dyed Low-sulfur Fuel. The Internal Revenue Code does allow certain types of users to purchase tax-exempt red-dyed low-sulfur diesel fuel for use in their motor vehicles. The untaxed diesel fuel used in these motor vehicles may be subject to Idaho's special fuels tax. The red-dyed low-sulfur diesel fuel may be used: (7-1-96)

a. By state and local governments (political subdivisions of the state) for their exclusive use; (7-1-96)

b. In the engine of a train; (7-1-96)

c. In a school bus while the bus is engaged in the transportation of students and school employees; (7-1-96)

d. By a qualified local bus while the bus is engaged in furnishing intracity passenger land transportation for compensation, if the bus: is available to the general public, operates along scheduled, regular routes, has a seating capacity of at least twenty (20) adults (not including the driver), and is under contract with, or receiving more than a nominal subsidy from, any state or local government to furnish such transportation; (7-1-96)

e. By an intercity bus to furnish (for compensation) passenger transportation that is available to the general public, and the transportation is scheduled and along regular routes, or the seating capacity of the bus is at least twenty (20) adults (not including the driver). (7-1-96)

f. NOTE: A bus is available to the general public if it is available for hire to more than a limited number of persons, groups, or organizations. (7-1-96)

13. Special Fuels Exemption from Sales Tax. Any sale of special fuels by a licensed distributor subject to special fuels tax is exempt from Idaho sales tax under Chapter 36, Title 63, Idaho Code. If fuel is sold without special fuels tax, the sale is subject to Idaho state sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of fuel to a bulk storage tank are exempt from Idaho sales tax only if the distributor has taken from the purchaser, a sales tax exemption certificate in the manner required by Sales Tax Administrative Rule 075. However, if the fuel delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not required. (7-1-96)

14. Retail Sale Invoice. Any distributor who sells special fuels in this state must issue an invoice to the purchaser; provided, however, that when sales are accounted for monthly, invoices may be issued to the purchaser at the time of billing. All invoices shall contain the following: (7-1-96)

a. A pre-printed serial number, except when invoices are automatically assigned a consecutive serial number by a computer or similar machine when issued; (7-1-96)

b. Name and address of the distributor; (7-1-96)

c. Name of the purchaser; (7-1-96)

d. Date of sale; (7-1-96)

e. Type of fuel; (7-1-96)

f. Gallons invoiced; (7-1-96)

g. Price per gallon and total amount charged. At least one of the following to establish that tax has been charged: The amount of Idaho state fuels tax; the rate of Idaho state fuels tax; or a statement that the Idaho state fuels tax is included in the price. (7-1-96)

221. -- 229. (RESERVED).

230. SPECIAL FUELS SUBJECT TO USE TAX--REPORTING. (Rule 230.)

01. In General. Any person who has purchased special fuels tax exempt and subsequently uses the special fuels in a licensed motor vehicle, not subject to Rule 400 of these rules, upon highways in Idaho, shall annually report to the Commission the amount of tax due. The report shall be made on forms prescribed by the Commission and must be made together with the claimant's Idaho income tax return, if such a return is required. The amount of tax due on special fuels may be off-set against any refund due on gasoline or income taxes. In the case of persons not required to file an income tax return, the amount of tax due or any refund claim shall be filed on forms provided by the Commission for that purpose. See Rule 250 of these rules. (6-23-94)

02. Records. In the event that the special fuels consumer fails to keep sufficiently detailed records to determine special fuels consumed, it shall be presumed that not less than one gallon of special fuels was consumed for every: (6-23-94)

a. Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight, or (6-23-94)

b. Five and one-half (5 1/2) miles traveled by vehicles from twenty-six thousand and one (26,001) to forty thousand (40,000) pounds gross registered vehicle weight, or (6-23-94)

c. Seven (7) miles traveled by vehicles from twelve thousand and one (12,001) to twenty-six thousand (26,000) pounds gross registered vehicle weight, or (6-23-94)

d. Ten (10) miles traveled by vehicles from six thousand and one (6,001) to twelve thousand (12,000) pounds gross registered vehicle weight, or (6-23-94)

e. Sixteen (16) miles traveled by vehicles six thousand (6,000) pounds or less gross registered vehicle weight. (6-23-94)

231. -- 239. (RESERVED).

240. REFUNDS TO LICENSED SPECIAL FUELS DEALERS. (Rule 240.)

01. Refund Claim. Any licensed special fuels dealer believing that he has paid special fuels taxes in any amount more than that properly imposed may file a written claim with the Commission for a refund of such excess taxes. The claim for refund must conform with the requirements of this rule. (6-23-94)

02. Refund Claim Documentation. No particular form for claiming a refund is prescribed, but the claim must be in writing. The claim must include the full name and address of the claimant and his special fuels dealer's license number. The claim must include a detailed statement of the reason the claimant believes a refund is due. The statement should include a description of the transactions, if any, to which the tax relates and must state the date on which the claimed excess taxes were paid. The claim for refund must include a statement that the amount refunded to the special fuels dealer has been or will be refunded by the dealer to the purchaser, or that such taxes have never been collected from the purchaser. (6-23-94)

03. Refund as a Credit. A claimant may claim a refund as a credit against special fuels taxes due. The credit may be claimed on a special fuels tax return but the return must be accompanied by a claim for refund substantially in the manner required by Subsection 240.02 of this rule. (6-23-94)

04. Statute of Limitation. No claim for refund will be allowed by the Commission if it is filed more than three (3) years from the time the payment of the claimed excess taxes was made. The time the payment was made is the date upon which the special fuels tax return relating to the payment was filed or was required to be filed, whichever occurred first. (6-23-94)

05. Appeal Procedures. No claim for refund may be filed relating to any special fuels taxes that have been asserted by a Notice of Deficiency Determination. A taxpayer contending that taxes have been erroneously or illegally collected by the Commission pursuant to a Notice of Deficiency Determination must seek a redetermination by using the appeal procedures required by law. (6-23-94)

06. Notice of Denial. All claims for refund or credit will be reviewed by the Commission's staff. In the event that the staff concludes that all or any part of the claim should not be allowed to the claimant, notice of denial of the claim shall be mailed to the claimant by certified mail. The notice shall include a statement of the reasons for the denial. For seeking an appeal or redetermination of a denial of a claimed refund or credit, the notice of denial shall be the equivalent of a Notice of Deficiency Determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must do so by filing a petition for redetermination in the manner prescribed in Idaho Income Tax Administrative Rule 108, as incorporated herein by Rule 330 of these rules. Such a petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served upon the claimant. (6-23-94)

241. -- 249. (RESERVED).

250. REFUNDS OF SPECIAL FUELS TAX TO CONSUMERS. (Rule 250.)

01. Refund Claim. Consumers claiming refunds of special fuels tax must file the claim together with their Idaho income tax return in the manner required for gasoline tax refunds, under Section 63-2410, Idaho Code, and Rule 180 of these rules, or in the case of claimants not required to file an income tax return, in the manner

required by Section 63-2410(5)(b), Idaho Code. See Rule 230 of these rules. (6-23-94)

02. Nonhighway Use of Special Fuels. Operation of a motor vehicle that uses special fuels on a road that is not a highway, as defined in Section 63-2401(9), Idaho Code, or on a construction site is not a use on the highways of this state. See Rule 220 of these rules regarding application of Idaho Sales and Use Taxes. (6-23-94)

03. Off-loading Allowance Refunds for IFTA Licensees. IFTA licensees claiming refunds of Idaho fuels tax resulting from Idaho off-loading allowances, must file the claim on an Idaho fuels use report, Form 75. (6-23-94)

a. To compute the Idaho taxable gallons, the IFTA licensee must recompute the total fuel consumed in all states, which is the net figure of gallons consumed, after deduction of the gallons allowed for the off-loading allowance. Using the new net gallons consumed, recompute the fleet miles per gallon. Apply the new fleet miles per gallon to calculate the corrected Idaho taxable gallons. To figure the Idaho nontaxable gallons, the licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (6-23-94)

b. Additionally, a copy of the IFTA tax return for the period subject to the refund claim, and a statement showing how the off-loading allowance was calculated, from the calculation chart in Rule 400 of these rules, must be included as an attachment to the Form 75, or by filling out the description area of the Form 75. All refund claims are subject to audit, therefore, adequate documentation must be retained by the licensee. (6-23-94)

251. -- 259. (RESERVED).

260. CALCULATION OF TAX ON GASEOUS FUELS. (Rule 260.)

01. In General. In all cases in which any tax under Chapter 24, Title 63, Idaho Code, must be calculated for any special fuel that is a gaseous fuel, the following equivalency formulas shall be used to calculate the amount of tax due. (6-23-94)

- a. One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid. (6-23-94)
- b. Four and one-fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid. (6-23-94)

02. Equivalent BTU's. Special fuels tax on gaseous fuels will be computed based upon the equivalent BTU's per gallon of gaseous fuels. The following values will be used in a formula establishing the rate:

Gasoline	127,000	BTU's per gallon
Propane	92,000	BTU's per gallon
Natural Gas	100,000	BTU's per gallon

(Natural gas 100,000 BTU x current tax rate) _____ = tax per therm
gasoline 127,000 BTU

(Propane 92,000 BTU x current tax rate) _____ = tax per 4 1/4 gasoline
127,000 BTU pounds (6-23-94)

03. Annual Fee. Vehicles powered by gaseous special fuels may pay an annual fee instead of the special fuel taxes on propane or natural gas for a gaseous fuels permit. Special fuels dealers who sell these permits must issue a decal to be displayed in a conspicuous spot visible on the outside of the permitted vehicle. The fees for a gaseous fuels permit are based on the gross vehicle weight of the vehicle and are set out in Section 63-2424, Idaho Code. The

annual fee for gaseous fuels permits, together with any penalty and interest due shall be remitted with the special fuels dealer report required in Section 63-2420, Idaho Code. (6-23-94)

04. Liability to the Commission. Any gaseous special fuels dealer required to collect the fee imposed by Section 63-2424(2), Idaho Code, who fails to collect such fee or any gaseous special fuels dealer required to remit the fee pursuant to this section who fails to make such remittance shall be liable to the commission for the amount of fee not collected or remitted plus any applicable penalty or interest. The commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (6-23-94)

261. -- 299. (RESERVED).

300. ADMINISTRATION, RULES AND DELEGATION OF AUTHORITY. (Rule 300.)

01. Rules Do Not Stand Alone. Where statutes appear to be clear and unambiguous without need for interpretation, expansion or construction, no rules have been promulgated. An effort has been made to prevent the rules from being merely repetitive of statutory provisions. Consequently, the rules do not stand alone as a statement of the motor fuels tax laws of this state. Instead, each rule must be read together with the statute to which it relates. The titles that introduce each rule are provided for the convenience of the reader and are not part of the rules. (6-23-94)

02. Transportation Department Personnel as Deputies of the Commission. Pursuant to the authority of Sections 63-2434 and 63-2442, Idaho Code, those individuals employed by the Idaho Transportation Department in the operation of stationary or mobile Ports of Entry are designated as deputies of the 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 400 of these rules. (6-23-94)

301. -- 309. (RESERVED).

310. EXEMPTION FROM REQUIREMENT FOR BONDS, DETERMINATION OF FINANCIAL RESPONSIBILITY. (Rule 310.)

01. Exemption to Bond Requirements for Licensed Distributors. Bonds, as referred to in Rule 010 of these rules are required of all licensed distributors unless the distributor is found financially responsible. A licensed distributor seeking exemption from the bonding requirement must apply for the exemption by filing a written petition with the Commission. The petition must contain information relating to the requirements of Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor must submit any information required in the following Subsections .01.a. through .01.e. (6-23-94)

a. If all or any part of the unencumbered property offered to show financial solvency is real property, the petition must include both 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 a copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (6-23-94)

b. If all or any part of the unencumbered property is licensed motor vehicles, the petition must include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (6-23-94)

c. If all or any part of the unencumbered property is personal property other than motor vehicles, the petition must 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 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 to establish that no security interests or other encumbrances exist. (6-23-94)

d. In all cases, the petitioner must arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the Commission a current and complete credit report about the licensed distributor. (6-23-94)

e. In all cases, the distributor must include with the petition financial statements certified by a certified public accountant, including a current income statement and balance sheet. (6-23-94)

f. The Commission may require the distributor to supplement its petition with such further information as the Commission, in its discretion, finds necessary to determine financial responsibility. (6-23-94)

02 Conditions for Termination of Exemption. If granted, the exemption from the bonding requirement shall terminate: (6-23-94)

a. One (1) year after the date on which it was granted. (6-23-94)

b. Upon the occurrence of any delinquency in motor fuels tax. (6-23-94)

c. Upon the occurrence of any encumbrance of any of the property upon which the finding of financial responsibility was based. (6-23-94)

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. (6-23-94)

e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (6-23-94)

03. Bond Requirement upon Termination of Exemption. Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-2408, Idaho Code. (6-23-94)

04. Pending Application Does Not Excuse the Bond Requirement. Having an application pending for exemption from the requirement for a bond does not excuse the bond. If a bond exemption is due to expire, the distributor must 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 meet all of the requirements of this rule. (6-23-94)

311. -- 319. (RESERVED).

320. RECORDS RETENTION REQUIREMENTS. (Rule 320.)

01. Records Required. Any person importing, manufacturing, refining, dealing in, transporting, storing or selling any motor fuels in this state shall keep such records, receipts and invoices as will show all purchases, sales, receipts, or deliveries of motor fuels in this state. Such records shall be maintained for at least three (3) years. (6-23-94)

02. Special Fuels Subject to Use Tax. Any person who has purchased special fuel, tax exempt, and subsequently uses the special fuel to operate or propel a licensed motor vehicle upon the public roads is liable for the special fuels tax upon the special fuel so used. Such persons shall maintain records sufficient to establish the quantity of special fuels subject to tax. (6-23-94)

03. Original Invoice Retention. The original invoices required by Rule 180 of these rules, relating to refunds of gasoline tax paid on certain fuel used off-road, 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 Commission or by voluntary action of the taxpayer. (6-23-94)

04. Additional Record Keeping. See also Rule 220 of these rules, relating to records required by special fuels dealers, and Rule 400 of these rules, relating to records required by holders of special fuels permits. (6-23-94)

321. -- 329. (RESERVED).

330. INCORPORATION BY REFERENCE OF RELEVANT INCOME TAX RULES (Rule 330.)

Section 63-2434, Idaho Code, incorporates by reference various provisions of the Idaho Income Tax Act to apply to administering and enforcing the taxes on motor fuels. For applying and construing those sections as they apply to taxes on motor fuels, the income tax rules previously promulgated or to be promulgated or amended by the Commission are hereby adopted as part of these rules as if set out in full. In addition, Income Tax Administrative Rule 131110 (IDAPA 35.01.131) is hereby adopted as part of these rules as if set out in full. (6-23-94)

331. -- 399. (RESERVED).

400. SPECIAL FUELS PERMITS FOR MOTOR VEHICLES OVER 26,000 POUNDS GROSS MAXIMUM WEIGHT. (Rule 400.)

The following rules relate to the special fuels tax permit system provided in Sections 63-2438 through 63-2440, Idaho Code, inclusive and, where expressly stated, supplements the requirements of IFTA. (6-23-94)

01. In General. After January 1, 1989, it is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight that uses special fuels as defined in Section 63-2401(16), Idaho Code, on the highways of this state without having obtained either: (6-23-94)

- a. A special fuels permit from the Commission. (6-23-94)
- b. A ninety-six (96) hour trip permit from the Idaho Transportation Department. (6-23-94)
- c. An IFTA license. (6-23-94)
- d. In the case of vehicles powered by gaseous fuels, a gaseous fuel decal as provided by Section 63-2424, Idaho Code. (6-23-94)
- e. Motor vehicles owned or leased and operated by the federal government or the state of Idaho or their instrumental ties or political subdivisions are exempt from these requirements. (6-23-94)

02. 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 under this rule if the state in which it is owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (6-23-94)

03. Application for Special Fuels Permits. All persons operating or intending to operate motor vehicles over twenty-six thousand (26,000) pounds maximum registered gross weight that use special fuels on the highways of this state and are not base registered in another IFTA jurisdiction may apply to the Commission for a special fuels permit. The application must be made upon the form prescribed by the Commission for that purpose and must include all information requested on the application form. The application must include a fee as specified on the application form. (6-23-94)

04. Special Fuels Permits, Decals. With each special fuels permit issued by the Commission, a unique decal number will be assigned. Two (2) decals bearing that decal number must be requested for each motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight to be operated in this state. The decal evidences issuance of a special fuels permit to the owner or operator to whom the number is assigned. The Commission will issue the number of decals requested by the applicant in the application. A decal shall be firmly affixed to each side of the cab or in the case of a tractor trailer, on the power unit of each motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight to be operated in Idaho in such a manner as to be clearly visible by a person observing the motor vehicle from either side. In the case of buses, only one decal is required for each bus. It shall be affixed to the left side of the bus near the front in such a manner as to be clearly visible to a person observing the bus from the left side. The owner or operator shall be responsible for ensuring that each decal is clearly visible at all times when the motor vehicle is operating in Idaho. A decal that is damaged or obscured to the point that it is illegible is invalid. Duplicate decals may be obtained from the Commission upon payment of the fee set by the Commission. The decal shall not be affixed to any plate, plaque or part that may be readily removed from the motor vehicle except in the case of motor vehicle dealers transporting vehicles for sale. (6-23-94)

05. Permits and Decals Not Transferable. Neither the permit nor the decal is transferable. If a motor vehicle displays a special fuels permit decal, the person to whom the related special fuels permit has been issued is responsible for reporting all mileage of the permitted motor vehicle and paying all special fuels tax resulting from the operation of the permitted motor vehicle in Idaho. Upon sale, lease or other transfer of a motor vehicle, the permit holder to whom a decal was issued remains responsible for the tax on fuel used by the permitted motor vehicle until the decal is destroyed or obliterated. (6-23-94)

06. Special Fuels Tax Returns. Holders of special fuels permits will be required to file monthly, quarterly, semi annually or annual special fuels tax returns with the Commission. The return is due on the last day of the month following the end of the period to which the return relates. The return form will require that the taxpayer report: (6-23-94)

a. Fleet Miles. The total miles traveled both within and without Idaho by permitted vehicles during the reporting period. As used in this rule, the term Idaho permitted vehicle means a motor vehicle which displays, or is required to display, a valid Idaho special fuels decal. (6-23-94)

b. Fleet Fuel. The total number of gallons of fuel delivered into the supply tanks of all Idaho permitted vehicles during the reporting period. (6-23-94)

c. The Fleet Miles per Gallon. The fleet miles per gallon shall be computed by dividing gallons reported according to Subsection 400.06.b. of this rule into the number of miles reported according to subsection 06.a. of this rule. Round the fleet miles per gallon to the nearest hundredth (0.00). 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 $4.515 = 4.52$. In the event that the permit holder fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that not less than one (1) gallon of special fuel was consumed for every: Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight, or 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. (6-23-94)

d. The Total Miles Traveled in Idaho. Only miles traveled on Idaho highways by Idaho permitted vehicles must be reported pursuant to this subsection. Miles traveled on the roadways described in this subsection may be excluded from total highway miles traveled in Idaho if, and only if, the operator of the specific vehicle is required to bear the cost of constructing or maintaining the roadway for the use of the roadway pursuant to a contract or permit. To claim the exclusion permitted by this subsection, the special fuels permit holder must maintain records documenting roadway miles traveled that are qualified for exclusion under this provision. The roadways referred to in this subsection are 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. (6-23-94)

e. The Number of Gallons of Special Fuels Consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the fleet miles per gallon determined according to Subsection 400.06.c. of this rule into the total Idaho miles reported according to Subsection 400.06.d. of this rule. (6-23-94)

f. Off-loading Allowance. When special fuel from the main supply tank of a motor vehicle subject to this rule is used for purposes other than to operate or propel the motor vehicle, such as fuel used to turn a vehicle mounted cement mixer or to off-load product, the number of gallons of fuel actually delivered into the fuel tank of the vehicle can be reduced by the following allowances: (6-23-94)

i. Gasoline/fuel oil: one and one half (1.5) gallons per ten thousand (10,000) gallons pumped; (6-23-94)

ii. Bulk cement: four (4) gallons per twenty two and one half (22.5) tons pumped; (6-23-94)

iii. Lime: three and fourteen one hundredths (3.14) gallons per hour; (6-23-94)

iv. Calcium crystals: four and thirteen one hundredths (4.13) gallons per hour; (6-23-94)

- v. Concrete: one (1) gallon per five (5) cubic yards; (6-23-94)
- vi. Refrigeration Unit (Reefer): seventy-five one-hundredths (.75) gallon per hour; (6-23-94)
- vii. Grain (dairy pellets): thirteen one hundredths (.13) gallon per ton; (6-23-94)
- viii. Grain meal (mash): two hundred twenty-five one thousandths (.225) gallon per ton; (6-23-94)
- ix. Pulp: fifty-three one hundredths (.53) gallon/cord; one and eighty-nine one hundredths (1.89) cords/gallon; four and seventy-three one hundredths (4.73) gallons/hour; (6-23-94)
- x. Tree length pulp: five hundred and three ten thousandths (.0503) gallon/ton; nineteen and eighty-eight one thousandths (19.088) tons/gallon; three and forty-six one thousandths (3.046) gallons/hour. (6-23-94)
- g. The amount of fuel reported shall be the net figure of gallons, as defined in subsection 400.06.b. of this rule, consumed after deduction of the gallons allowed for the off-loading allowance. (6-23-94)
- h. Off-loading allowances listed above may be granted for IFTA accounts but must be applied for separately from the IFTA quarterly reports. Allowances must be claimed according to the procedure found in Rule 250 of these rules. (6-23-94)
- i. An off-loading allowance, which is not listed in this rule shown above, must be submitted by the taxpayer to the Tax Commission for approval before being used. Taxpayers must request approval of the off-loading allowance in writing along with a copy of the calculations used to compute the allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY SPECIALIST
LEGAL SECTION
IDAHO TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722
(208) 334-7530

(6-23-94)

- j. The amount of tax due shall be computed by multiplying the gallons computed according to subsection 06.e. of this rule by the tax rate established by Section 63-2405, Idaho Code. (6-23-94)
- k. Additional amounts of penalty and interest as may be required by law. (6-23-94)
- l. Special rule for trucks used both on and off public highways. Operators of trucks permitted under Idaho Code section 63-2438 (but not under IFTA) may, in making the computations provided in Subsection 400.06.c. of this rule presume that when operating the following trucks on roads that are public highways, such trucks consume fuel at the following rate:

Logging trucks	4.3 MPG
Agriculture uses	4.5 MPG
Sand, gravel and rock hauling	4.0 MPG
Construction	4.4 MPG

(3-8-96)L

- m. If an operator has reason to believe the standard for on-road miles per gallon in Subsection 400.06.l. is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in paragraph 06.c of this rule. (3-8-96)L

07. Records Required for Idaho Permitted Special Fuels Users. For verifying the accuracy of any special fuels tax returns filed with the Commission or for determining tax when no return was filed, the taxpayer shall retain originals of all invoices or other documents relating to purchases of special fuels and all records relating to mileage of motor vehicles displaying, or required to display, an Idaho special fuels permit, an IFTA license, or a ninety-six (96) hour trip permit. (6-23-94)

08. Fuel Records. In order for the special fuels user to obtain credit for tax paid purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained by the special fuels user showing evidence of such purchases and tax having been paid. An acceptable receipt or invoice for tax paid purchases taken as credit must include, but not be limited to, the following: (6-23-94)

- a. The date of each receipt of fuel; (6-23-94)
- b. The name and address of the person from whom purchased or received; (6-23-94)
- c. The number of gallons received; (6-23-94)
- d. Both taxable and nontaxable usage of fuel; (6-23-94)
- e. The type of fuel; (6-23-94)
- f. The specific vehicle or equipment into which the fuel was placed; (6-23-94)
- g. 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; (6-23-94)
- h. Documents necessary to substantiate volume, time or weight for off-loading allowances described in Subsection 400.06.e. (6-23-94)

09. Mileage Records. All special fuels users shall maintain detailed mileage records, such as trip logs or trip sheets, on an individual-vehicle basis. Such records shall contain, but not be limited to: (6-23-94)

- a. Total trip miles, including vicinity miles; (6-23-94)
- b. Miles traveled for taxable and nontaxable use; (6-23-94)
- c. Mileage recaps for each vehicle for each state or jurisdiction in which the vehicle operated; (6-23-94)
- d. Starting and ending dates of trips; (6-23-94)
- e. Trip origin and destination; (6-23-94)
- f. Hubometer or odometer readings from the beginning and ending of each trip and at the crossing of each state border. Local delivery services that do not cross state borders need only record daily hubometer or odometer readings; (6-23-94)
- g. Complete routes of travel, including pick up and delivery locations; (6-23-94)
- h. Vehicle license number or unit number; (6-23-94)
- i. Driver's name. (6-23-94)

10. Additional Records Requirements. If necessary, other records may be required such as bills of lading or manifest documents; vehicle dispatch ledgers; accounts payable and receivable; lease agreements; quarterly mileage returns filed with the Idaho Transportation Department; driver pay records; driver logs; fuel use trip permits;

and other worksheets used in preparing fuel tax reports. (6-23-94)

11. Trip Summaries. Individual trips shall be accumulated into monthly and quarterly summaries. These summaries shall be used as the basis for the miles submitted on the monthly or quarterly reports. (6-23-94)

12. Computer Printout Support. Summary computer printouts must be supported by trip sheets or logs verifying mileage traveled. (6-23-94)

13. Mileage Information. Information recorded on trip sheets must be legible and reflect actual miles traveled. Mile age records must include all movement of the vehicle including loaded, empty, and tractor only, "bobtail," miles. (6-23-94)

14. Records Retention. The records shall be retained for at least three (3) years for Idaho permit holders and four (4) years for IFTA license holders. (6-23-94)

15. U.S./Metric Conversion. The following conversion factors must be used, when necessary, to convert fuel and mileage records to U.S. or metric measurement:

One (1) Liter = .2642 gallons

One (1) Gallon = 3.785 liters

One (1) Mile = 1.6093 kilometers

One (1) Kilometer = .62137 miles (6-23-94)

16. Failure of the Taxpayer to Maintain or Disclose Complete and Adequate Records. Upon failure by the taxpayer, without reasonable cause, to comply substantially with the requirements of this rule, the Commission may revoke or suspend a special fuels permit or IFTA license according to Idaho Code Chapter 24, Title 63. (6-23-94)

17. Cross-Reference. Revocation or Suspension of Special Fuels Permits. See Subsection 400.21, below. (6-23-94)

18. Mileage Disputes. Whenever a mileage dispute arises between the taxpayer and the Commission, the official mileage map distributed by the highway department in each state, will be used to resolve the point to point mileage differences. (6-23-94)

19. Trip Permits. Any motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight operating on the highways of this state that does not display special fuels decals required by this rule or that is not IFTA licensed, shall secure a ninety-six (96) hour temporary trip permit from the Idaho Transportation Department in the manner provided and required by that department. (6-23-94)

20. Failure to Obtain a Special Fuels Permit, IFTA License, or Temporary Trip Permit. Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight on the highways of this state without a special fuels permit, IFTA license, or an Idaho ninety-six (96) hour trip 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 Commission, including those designated as deputies in Rule 300 of these rules, may issue a jeopardy assessment under the authority of Sections 63-2434 and 63-3065, Idaho Code. Such deputy is authorized to institute immediate collection procedures including issuance of a tax war rant and distraint of the motor vehicle required to display but failing to display either special fuels decals, IFTA license, or a ninety-six (96) hour trip permit. (6-23-94)

21. Revocation or Suspension of Special Fuels Permits. A Special Fuels Permit or IFTA license may be either revoked or suspended by the Commission when the permit holder neglects or refuses to comply with the provisions of Chapter 24, Title 63, Idaho Code, or with these rules; or when, on investigation or after request for cancellation or suspension, the Commission finds the permit holder is no longer engaged in activities requiring a

permit. Unless the cancellation or suspension is at the request of the permit holder, the Commission shall before revocation or suspension give the permit holder at least thirty (30) days notice of such intended action and afford the permit holder the opportunity to show cause, in writing, why the permit should not be revoked or suspended. If a special fuels permit becomes canceled, suspended, or revoked by the Commission, operations of vehicles leased to the canceled, suspended or revoked permit holder will be limited to those for which a temporary trip permit has been purchased from the Idaho Transportation Department or its agents. The owner of a leased vehicle displaying the canceled, suspended or revoked permit may apply for his own special fuels permit issued by the Commission and become responsible for the tax. (6-23-94)

22. Annual Tax Reports. Permit holders who travel more than fifty percent (50%) of their miles in Idaho and whose annual tax liability, not including tax paid at the time of purchase, totals less than two hundred fifty dollars (\$250) in a calendar year may make application to the Commission for permission to report annually. Application must be made on forms provided by the Commission and must include all requested information. To qualify for annual filing, an applicant must provide evidence that its total tax liability, not including tax paid at the time of purchase, for the four (4) preceding calendar quarters was not more than two hundred fifty dollars (\$250). If a permit holder who has been granted permission to report annually, subsequently accrues a total tax liability, not including tax paid at the time of purchase, of more than two hundred fifty dollars (\$250), its annual reporting privilege may be revoked by the Commission. (6-23-94)

401. -- 409. (RESERVED).

410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT. (Rule 410.)

Under the authority of Sections 63-2434, 63-3039, 67-5203A, and 63-2442A, Idaho Code, the Commission and special fuels users licensed or required to be licensed pursuant to IFTA, are governed by the provisions of the International Fuel Tax Agreement, including the IFTA Procedures and Audit Manuals in effect on the effective date of this rule and as subsequently amended. Special fuels users who operate under the International Fuel Tax Agreement also must comply with all applicable Rules contained in these rules. (6-23-94)

411. -- 499. (RESERVED).

500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE. (Rule 500.)

01. Petroleum Transfer Fee. The fee imposed by Section 41-4908, Idaho Code, is The Idaho Clean Water Trust Fund Transfer Fee. For simplicity, it shall be called the Petroleum Transfer Fee in these rules. (6-23-94)

02. Petroleum Transfer Fee Described. The Petroleum Transfer Fee is not a tax on motor fuels. It is a fee directly related to the costs of services provided by the Idaho Petroleum Clean Water Trust Fund. The inclusion of these rules relating to the Petroleum Transfer Fee with these Motor Fuels Tax Rules and the incorporation of other tax rules in these rules is for administrative convenience only. The Tax Commission intends no implication that the Petroleum Transfer Fee is in any way a tax on motor fuels and no such inference should be drawn from these rules. (6-23-94)

501. -- 509. (RESERVED).

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE. (Rule 510.)

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the act of delivering or storing 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 delivered or stored. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid for the same petroleum or petroleum product. (6-23-94)

b. The legal incident of the fee is on the distributor required to report it to the State 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. (6-23-94)

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to Rule 110 of these rules. (6-23-94)
03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)
- a. Returned to the refinery or pipeline terminal. (6-23-94)
 - b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 150 of these rules. (6-23-94)
 - c. Transferred by a railroad or railroad corporation or any employee of them. Petroleum products sold by a licensed distributor, other than a licensed distributor that is a railroad or railroad company, to a railroad or railroad company or any employee of them is not subject to the Petroleum Transfer Fee. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad company. (6-23-94)
 - d. Received in retail containers of fifty-five (55) gallons or less or 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. (6-23-94)
04. Casualty Loss and Shrinkage Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. The deductions allowed to gasoline distributors for fuel lost by fire or similar casualty, see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for cost of collection and loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. (6-23-94)
05. Petroleum and Petroleum Products. The products subject to the Petroleum 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 refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as gasohol, including the alcohol content of blended fuel, diesel fuel, heating oil, aviation fuel, motor oil, brake fluid, and transmission fluids. (6-23-94)
06. Licensed Distributors and Limited Licenses. Any person holding a gasoline distributor's license issued by the Tax Commission under Section 63-2409, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who first receives any petroleum or petroleum product in this state, the delivery or storage of which is subject to the fee, but who is not a licensed distributor nor required to obtain a license under Section 63-2409, Idaho Code, shall apply to the Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (6-23-94)
07. Reporting Requirements. (6-23-94)
- a. Distributors licensed under Section 63-2409, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the gasoline tax imposed by Section 63-2405, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the gasoline tax on the same fuel. (6-23-94)
 - b. Persons holding a limited license shall file a monthly report with the Tax Commission on forms prescribed by the Commission on or before the last day of the month following the month to which the report relates. (6-23-94)
 - c. The provisions of Rule 140 of these rules, apply to reports of the Petroleum Transfer Fee. (6-23-94)
08. Payment. (6-23-94)

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. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4908, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Income Tax Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Income Tax Administrative Rule 131, (IDAPA 35.01.01.110.) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (6-23-94)

511. -- 999. (RESERVED).

APPENDIX A

**IDAHO DIESEL/PROPANE FUEL
TAX EXEMPTION CERTIFICATE**

Company Name: _____ Date: _____

Address: _____

The undersigned purchaser hereby certifies that diesel/propane fuel ordered by the purchaser will be delivered into stationary bulk storage tanks with a capacity of fifty five (55) gallons or more.

The purchaser certifies the diesel fuel's intended use is primarily (more than fifty percent (50%)) for purposes other than propelling a motor vehicle designed for operation or required to be licensed for operation upon public roadways maintained by any government entity. (See IDAPA 35.01.05.220.05.)

Describe the diesel fuels intended off-road use.

If any portion of the fuel purchased under this certificate is used on public roadways or used for a purpose other than as stated in this certificate, then the purchaser assumes all responsibility for payment of any tax due to the state of Idaho.

Purchaser agrees to notify in writing,

_____ (Special Fuel Dealer Name)
if at any time the primary use of the fuel becomes subject to fuels tax.

Purchaser will be prepared to verify by satisfactory evidence the purpose for which purchaser used the product bought under this certification.

Purchaser understands that any fraudulent use of this certificate to buy any fuel free to tax may subject purchaser to civil or criminal penalties.

Customer Account No. _____ Phone No. _____
Account Name (print): _____
Address: _____ City: _____
Signature: _____ Title: _____

APPENDIX B
KEYLOCK/CARDLOCK CUSTOMER AFFIDAVIT

Customer Name: Acct. No. _____

Business Name (dba): _____

Address: _____

City: _____ State: _____ Zip Code: _____

THIS FORM MAY BE USED TO PURCHASE EXEMPT DIESEL/PROPANE FUEL ONLY FOR THE USES SPECIFIED BELOW.

I certify, under penalty of perjury, that I purchase diesel fuel from the keylock/cardlock system of _____ in containers for a use that is not taxable by the state of Idaho under Idaho Code, Title 63 or in the fuel tank of equipment which is not required by Idaho law to be licensed. Specific equipment is as follows:

-- OR --

I certify, under penalty of perjury, that I purchase propane fuel from the keylock/cardlock system of _____ in cylinders or the fuel tank of equipment which is not required by Idaho law to be licensed or a licensed vehicle which displays a valid gaseous fuels decal. Specific equipment is as follows:

-- OR --

I certify, under penalty of perjury, that the diesel, propane, or natural gas that I purchase from the keylock/cardlock of _____ is for use in vehicles over sixteen thousand (16,000) pounds gross weight which are owned or leased and operated by the state of Idaho or other exempt state or local government.

-- OR --

I certify, under penalty of perjury, that the diesel, propane, or natural gas that I purchase from the keylock/cardlock of _____ is for use in vehicles owned or leased and operated by the federal government.

I, the undersigned, further agree that if any taxable use of such fuel should arise from my purchases, I will assume responsibility for payment of such taxes.

Signature _____

Date _____