

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 17. TRANSPORTATION**  
**CHAPTER 8. DEPARTMENT OF TRANSPORTATION**  
**FUEL TAXES**  
**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R17-8-601	Amend
R17-8-602	Amend
R17-8-603	Amend
R17-8-604	Amend
R17-8-605	Amend
R17-8-606	Amend
R17-8-607	Amend
R17-8-608	Amend
R17-8-609	Amend
R17-8-610	Amend
R17-8-611	Amend

**2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-373, 28-401, 28-5602, 28-5605, 28-5606, 28-5610, 28-5611, 28-5612, 28-5613, 28-5614, 28-5615, 28-5616, 28-5617, 28-5618, 28-5619, 28-5620, 28-5621, 28-5622, 28-5623, 28-5625, 28-5626, 28-5924, and 28-5925

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rules:**

Notice of Rulemaking Docket Opening: 24 A.A.R. (*Register* Editor to complete), September 21, 2018

**4. The agency’s contact person who can answer questions about the rulemaking:**

Name: Candace Olson, Rules Analyst  
Address: Government Relations and Policy Development Office  
Department of Transportation  
206 S. 17th Ave., Mail Drop 140A  
Phoenix, AZ 85007  
Telephone: (602) 712-4534  
E-mail: COlson2@azdot.gov  
Web site: <http://www.azdot.gov/about/GovernmentRelations>

**5. An agency's explanation why the proposed expedited rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), and why expedited proceedings are justified under A.R.S. § 41-1001(16)(c):**

Pursuant to A.R.S. § 41-1027(A)(7), the Department is engaged in this expedited rulemaking to incorporate the changes proposed in the Department's recent five-year review report on 17 A.A.C. Chapter 8, Article 6, Motor Fuel Refunds, approved by the Governor's Regulatory Review Council on April 3, 2018. The Department determined that these rules should be updated and improved to better detail how one can apply for an applicable motor fuel or use fuel tax refund from the Department. These changes include: eliminating outdated, inconsistent, and incorrect text; amending and adding language to clarify information for better understandability and accuracy; allowing applicants to submit one request for multiple whole month periods versus one application per month; allowing applicants to submit documentation electronically; and expanding the types of use fuel vendors by providing the refund requirements for mobile fueling vendors. In addition, the wording of R17-8-603(B) is confusing and can be read as allowing for unlicensed entities to apply for a refund which is inconsistent with A.R.S. § 28-5626, which requires use fuel sellers to be licensed as a vendor, and thus the Department does not enforce this subsection as written so it will be removed.

Additional changes include making minor technical changes to ensure conformity to the rulemaking format and style requirements of the Arizona Administrative Procedure Act and the Office of the Secretary of State.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review or rely on any study relevant to the rules.

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Department is exempt from the requirements under A.R.S. § 41-1055(G) to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

**9. The agency's contact person who can answer questions about the preliminary summary of the economic, small business and consumer impact of the proposed expedited rule:**

Name: Candace Olson, Rules Analyst  
Address: Government Relations and Policy Development Office  
Department of Transportation  
206 S. 17th Ave., Mail Drop 140A  
Phoenix, AZ 85007

Telephone: (602) 712-4534  
E-mail: COlson2@azdot.gov  
Web site: <http://www.azdot.gov/about/GovernmentRelations>

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(E):**

Written comments on the proposed rulemaking should be directed to the person listed in item 4. All comments must be received by the close of public record at 5:00 p.m. on October 4, 2018. The Department has scheduled the following oral proceeding for public comments:

Date: October 4, 2018  
Time: 1:30 p.m.  
Location: 206 S. 17<sup>th</sup> Ave., Rm. 107  
Phoenix, AZ 85007  
Nature: Oral Proceeding/Public Hearing

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), the Department does not discriminate on the basis of race, color, national origin, age, gender, disability, or limited English proficient. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or [civilrightsoffice@azdot.gov](mailto:civilrightsoffice@azdot.gov). Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 o [civilrightsoffice@azdot.gov](mailto:civilrightsoffice@azdot.gov). Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

**a. Whether the rules require a permit, license, or agency authorization under A.R.S. § 41-1037(A), and whether a general permit is used and if not, the reasons why a general permit is not used:**

While these rules detail the requirements for the issuance of a type of fuel tax refund and do not directly require the issuance of a permit or license, per statutory requirements some of the refunds require eligible claimants to be licensed; this includes: a supplier, an interstate user, a restricted distributor, and a use fuel vendor. The license for these entities would be considered a general permit

since for each license type the facilities, activities, or practices in the class are substantially similar in nature.

**b. Whether a federal law is applicable to the subject of the rules, whether the rules are more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

There are federal fuel taxes, but these rules are for the requirements to make a claim for a refund of the state fuel taxes and are separate from the federal fuel taxes and the federal fuel tax laws.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted to the Department.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

This rulemaking incorporates no materials by reference.

**13. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**  
**CHAPTER 8. DEPARTMENT OF TRANSPORTATION**  
**FUEL TAXES**

**ARTICLE 6. MOTOR FUEL REFUNDS**

Section

- R17-8-601. Definitions and General Provisions
- R17-8-602. Exports
- R17-8-603. Use Fuel Vendors
- R17-8-604. Off-Highway
- R17-8-605. Idle Time
- R17-8-606. Tribal Government
- R17-8-607. Tribal Member
- R17-8-608. Transport of Forest Products; Healthy Forest Initiative
- R17-8-609. Motor Vehicle Fuel Used in Aircraft
- R17-8-610. Motor Fuel Losses Caused by Fire, Theft, Accident, or Contamination
- R17-8-611. Bulk Purchase of ~~Motor~~ Use Fuel

## ARTICLE 6. MOTOR FUEL REFUNDS

### R17-8-601. Definitions and General Provisions

A. Definitions. The following definitions apply to this Article unless otherwise specified:

“Application” means a request for refund of motor fuel taxes, made on a form provided by the ~~Division~~ Department.

~~“Authorized representative” means a person who has authority to file an application on behalf of the Claimant, as authorized by a notarized power of attorney.~~

~~“Card lock Cardlock use fuel facility” has the same meaning as a vendor as prescribed under A.R.S. § 28-5601(40) 28-5601, and satisfies requirements under A.R.S. § 28-5605.~~

~~“Claimant” means the taxpayer or an authorized representative~~ a person who has authority to file an application on behalf of the taxpayer, as authorized by a notarized power of attorney, also referred to as applicant.

“Complete application” means an application that includes all supporting documentation and schedules for the period of the refund claim, ~~Claimant~~ claimant signature, and provides all information required on the application.

“Contaminated Fuel” means motor fuel, as prescribed under A.R.S. § ~~28-5601(18) 28-5601~~, which is accidentally tainted, and which is unsalable for highway use.

“Daily log” means notations made by a driver of a commercial motor vehicle which records a daily record of duty status as specified under 49 CFR 395.8.

“Declaration of Status” means a statement on a form provided by the ~~Division~~ Department that a light class or exempt use class vehicle qualifies for use fuel tax differential under A.R.S. § 28-5606(B)(2).

~~“Daily log” means notations made by a driver of a commercial motor vehicle which records a daily record of duty status as specified under 49 CFR 395.5.~~

“Destination state” means a state in the United States, other than the state of Arizona.

“Diversion” means delivery of motor fuel to a destination state other than the intended destination as signified on a carrier bill of lading.

“Exempt use class motor vehicle” means a vehicle exempt from gross weight fees under A.R.S. § 28-5432.

“GPS” means a the Global Positioning System, a navigation system of satellites and receiving devices used to compute vehicle position and time information.

“Highway” has the same meaning as prescribed under A.R.S. § ~~28-5601(11) 28-5601~~, and also includes a:

- Port of entry,
- Weigh station, or
- Public rest area.

“Idle status” means a vehicle that is stationary, its engine continues to operate, and it is located in Arizona, but off-highway.

“Licensee” has the same meaning as prescribed under A.R.S. § 28-5613.

~~“Light class motor vehicle” has the same meaning as prescribed under A.R.S. § 28-5601(17) 28-5601.~~

~~“Licensee” has the same meaning as prescribed under A.R.S. § 28-5613.~~

“Mexican Pedimento” means an authorizing permit document issued by ~~Mexico’s state-owned, nationalized petroleum company~~ Mexico.

“Motor fuel” has the same meaning as prescribed under A.R.S. § ~~28-5601(18)~~ 28-5601.

“Motor fuel tax” means any tax on motor fuel imposed under A.R.S. Title 28, Chapter 16, Article 1.

“Notification date” means the date on a notice sent by the ~~Division~~ Department.

“Off-highway” means any location that is not on a highway in this state.

“Person” has the same meaning as prescribed under A.R.S. § ~~28-5601(21)~~ 28-5601.

~~Power take-off~~ Power take-off” means the operation of vehicle-mounted, auxiliary equipment that is powered by energy supplied by the same engine that propels the motor vehicle, but does not include equipment related to the operation of a vehicle and powered by the vehicle’s engine, including air conditioning, alternator, automatic transmission, and power steering.

“Tribal agreement” means an agreement between the ~~Division~~ Department and a Native American tribe for the administration of motor fuel taxes.

“Trip” means travel within or through Arizona’s state borders with a designated beginning and ending location.

“Use class motor vehicle” has the same meaning as prescribed under A.R.S. § ~~28-5601(37)~~ 28-5601.

“Use fuel” has the same meaning as prescribed under A.R.S. § ~~28-5601(38)~~ 28-5601.

“Use fuel tax differential” means the difference between the use fuel tax rate applicable to light class motor vehicles or exempt use class motor vehicles, and the use fuel tax rate applicable to use class motor vehicles.

“Vendor” has the same meaning as prescribed under A.R.S. § ~~28-5601(40)~~ 28-5601.

“VIN” means Vehicle Identification Number.

## **B. General Provisions.**

1. Scope. For purposes of administering A.R.S. § 28-5612 this Article applies to a person or licensee under A.R.S. §§ 28-5612 and 28-5613.

2. Application.

a. A complete application for refund of motor fuel tax shall be submitted to the ~~Division~~ Department.

i. A claimant may combine several months’ totals and submit to the Department one application for refund.

ii. A complete application shall be for the whole calendar month and not for a partial month.

iii. Supplemental applications for refunds covering the same period already paid are not permitted.

b. An application for refund for an amount of \$10 or less: ~~i. Shall shall~~ shall be accepted only once within a consecutive six-month period, ~~and ii. If the aggregate monthly total of a request for refund is less than \$10 the applicant may combine several month’s totals on one request for refund.~~

~~c. A claimant shall submit to the Division a separate application for refund for each calendar month.~~

~~d. c.~~ When the ~~Division~~ Department determines that an application is incomplete under these rules and A.R.S. Title 28, Chapter 16, Article 1, the ~~Division~~ Department shall suspend processing of the application for refund and

i. Notify the ~~Claimant~~ claimant of the deficiencies, and

- ii. Return the application to the ~~Claimant~~ claimant.
  - e.d. A ~~Claimant~~ claimant whose application is returned as incomplete under A.R.S. Title 28, Chapter 16, Article 1 and these rules shall have 60 days from the notification date to remedy the deficiencies.
  - f.e. If the ~~Claimant~~ claimant fails to remedy the deficiencies under subsection ~~(B)(2)(d)~~ (B)(2)(c) within 60 days of the notification date and return a complete application, the ~~Division~~ Department shall deny the application for refund.
  - g.f. If the ~~Division~~ Department denies an application because the ~~Claimant~~ claimant failed to remedy a deficiency, the deadline to submit a new application shall be governed by the time-frames established in subsection (B)(3).
3. Application filing. A complete application for refund shall be submitted to the ~~Division~~ Department as provided within the following table:

Refund Type	Claimant Status	
	Licensee	Non-Licensee
Sections	Licensee	Non-Licensee
R17-8-602. Exports	3 years from date of export	3 months from date of export
R17-8-603. Use Fuel <del>Vendor</del> <u>Vendors</u>	3 years from date of sale	6 months from date of sale
R17-8-604. Off-Highway	3 years from date of purchase	6 months from date of purchase
R17-8-606. <del>Indian</del> Tribal Government	If no Tribal Agreement with the <del>Division</del> <u>Department</u> , 6 months from date of purchase	
R17-8-607. <del>Indian</del> Tribal Member		
R17-8-608. Transport of Forest Products; Healthy Forest Initiative	March 1st of the year following calendar year consumed	
R17-8-609. Motor Vehicle Fuel Used in Aircraft	6 months from date of purchase	
R17-8-610. Motor <del>Vehicle</del> Fuel Losses Caused by Fire, Theft, Accident, or Contamination	3 years from date of event	6 months from date of event
R17-8-611. Bulk Purchase of <del>Motor</del> <u>Use</u> Fuel	3 years	6 months

4. Filing location and timely filing. A ~~Claimant~~ claimant shall submit an application under this Article to the ~~Division~~ Department as provided under A.R.S. § 1-218, and this subsection:
- a. Hand delivered, ~~certified or registered mail~~ or other delivery service requiring a street address:
    - i. Arizona Department of Transportation, ~~Motor Vehicle Division~~ Financial Management Services  
Fuel, Licensing, & Tax Refund Compliance Unit  
1801 W. Jefferson St., Rm. 201  
Phoenix, AZ 85007;
    - ii. Hand delivered: the ~~Division~~ Department time and date stamp will be used to determine whether a complete application was received within the required time-frames established under subsection (B)(3).

- iii. ~~Certified or registered mail~~ Other delivery service: the date of receipt by the designated delivery service shall be used to determine whether an application was received by the ~~Division~~ Department within the required time-frame established under subsection (B)(3).
    - b. United States Postal Service, including certified or registered mail:
      - i. Arizona Department of Transportation, ~~Motor Vehicle Division~~ Financial Management Services Fuel, Licensing, & Tax Refund Compliance Unit, Mail Drop 521M  
P.O. Box 2100, Mail Drop 521M  
Phoenix, AZ 85001.
      - ii. ~~The Regular mail~~: the postmark date will be used to determine whether an application was received by the ~~Division~~ Department within the required time-frames established under subsection (3) ~~(B)(3)~~.
      - iii. Certified or registered mail: the date of receipt by the designated delivery service shall be used to determine whether an application was received by the Department within the required time-frame established under subsection (B)(3).
    - c. Other method as indicated on the Department's website at www.azdot.gov.
5. Supporting documentation.
  - a. The ~~Division~~ Department shall accept any of the following forms of documentation to support a claim for refund, which may be admissible to the same extent as an original:
    - i. Photocopies;
    - ii. Duplicates, ~~or (reprints)~~;
    - iii. Document image; or
    - iv. Electronic copy, as indicated on the Department's website at www.azdot.gov.
  - b. The ~~Division~~ Department shall not return documentation submitted to support an application for refund once an application for refund has been accepted as complete.
  - c. If the ~~Division~~ Department determines that the supporting documentation required under these rules does not provide sufficient evidence of motor fuel tax paid, the ~~Division~~ Department may require the ~~Claimant~~ claimant to produce additional information.
  - d. Failure to produce additional documentation as requested by the ~~Division~~ Department, within the time prescribed under ~~R17-8-601(B)(2)(e)~~ subsection (B)(2)(d), shall result in a denial of refund request being issued by the ~~Division~~ Department.
6. Record retention and review.
  - a. A licensee shall maintain the records relied upon to support the application for refund as specified under A.R.S. Title 28, Chapter 16, Article 1 and these rules, and produce those records to the ~~Division~~ Department when requested.
  - b. Unless required by A.R.S. Title 28, Chapter 16 to maintain records relied upon to substantiate an application for refund for a shorter or longer period of time, a licensee shall retain the records required to support an application for refund for three years from the issuance date of refund by the ~~Division~~ Department.

- c. The ~~Division~~ Department reserves the right to review a ~~Claimant's~~ claimant's records used to substantiate an application for refund under these rules.
7. If at any time, the ~~Division~~ Department discovers an overpayment of motor fuel tax refunded to a ~~Claimant~~ claimant under these rules, the ~~Division~~ Department shall recover payment under A.R.S. § 28-5612.
  8. Notification; violation; suspension; administrative hearing.
    - a. Denial of request for refund. If the ~~Division~~ Department denies an applicant's request for refund the ~~Division~~ Department shall send notification of denial to the ~~Claimant~~ claimant.
    - b. Administrative Hearings. Hearings, rehearings, and appeals shall be noticed and conducted in accordance with A.R.S. § 28-5924 and A.A.C Title 17, Chapter 1, Article 5.
    - c. Suspension due to violation of A.R.S. § 28-5612.
      - i. If the ~~Division~~ Department finds that a ~~Claimant~~ claimant is in violation of A.R.S. § 28-5612, the ~~Division~~ Department shall send notification to the ~~Claimant~~ claimant identifying the violation.
      - ii. A ~~Claimant~~ claimant determined by the ~~Division~~ Department to be in violation of state laws and regulations under A.R.S. § 28-5612 and these rules, may be suspended from filing motor tax fuel refunds for six consecutive months from the notification date of the ~~Division~~ Department for motor fuel tax paid during the suspension period.
      - iii. If a suspension is set aside under A.R.S. § 28-5612, a ~~Claimant~~ claimant may again apply to the ~~Division~~ Department for refund.
      - iv. The time-frame requirements under subsection (B)(3) shall not toll while pursuit of remedy by the ~~Claimant~~ claimant or the ~~Division~~ Department under this subsection.

**R17-8-602. Exports**

- A. To qualify under this Article for a refund of Arizona use fuel tax paid on motor fuel exported, a ~~Claimant~~ claimant shall provide the following documents to support a ~~request~~ complete application for refund:
  1. Export to another state within the United States:
    - a. Terminal, carrier, or bulk plant bill of lading or delivery ticket showing the point of origin and destination of the motor fuel;
    - b. Invoice or monthly supplier report schedule indicating that the Arizona tax was paid;
    - c. Motor fuel invoice or shipping document reflecting final destination and gallons exported;
    - d. Tax report establishing that the destination state's tax was reported;
    - e. Name and license number issued by the destination state of the licensee responsible for payment of motor fuel tax and tax reporting to the destination state; and
    - f. If the export of motor fuel is a diversion, the ~~Claimant~~ claimant shall provide the following documents to the ~~Division~~ Department:
      - i. A carrier bill of lading; and
      - ii. Other documentation which supports the delivery of motor fuel to a specific location, other than its intended destination, ~~and~~

2. Exports to Mexico:
    - a. Documentation under subsection (A)(1),
    - ~~b. Documentation that Petróleos Mexicanos authorized the motor fuel import,~~
    - ~~e-b.~~ U.S. Department of Commerce export documentation, and
    - ~~d-c.~~ Copy of Mexican Pedimento indicating authorization for import and verification of the motor fuel import.
  3. Exports to Navajo Nation:
    - a. Documentation under subsection (A)(1),
    - b. Name and license number of the Navajo Nation distributor,
    - c. Copy of Navajo Nation manifest or copy of the Navajo Nation monthly motor fuel ~~distribution~~ distributor tax return, and
    - d. Invoice showing the Navajo Nation tax was included in total amount due.
- B.** The description of the motor fuel exported shall be identical on all documentation submitted in support of a request for refund of motor fuel tax paid on export.

**R17-8-603. Use Fuel Vendors**

- A.** To qualify for refund of the use fuel tax differential, a use fuel vendor shall submit to the ~~Division~~ Department:
1. A complete application as prescribed under R17-8-601;
  2. Supplier or restricted distributor invoice, documenting the use fuel taxes that the vendor paid for the fuel; and
  3. Supporting documentation:
    - a. For sales of use fuel dispensed from a pump which is labeled for use class ~~and~~ into a light class vehicles or exempt use class vehicle, a fuel log of use fuel tax differential sales, submitted on a format approved by the ~~Division~~ Department that includes the following vendor information:
      - i. Vendor name;
      - ii. ~~Vendor address~~ Department-issued retail branch number;
      - iii. Retail branch ~~location~~ physical address;
      - iv. ~~Division-issued~~ Department-issued vendor license number;
      - v. Date of sale to consumer;
      - vi. License plate number and name of jurisdiction that issued the license plate of the motor vehicle into which the fuel was dispensed;
      - vii. Number of gallons of use fuel that were purchased and dispensed into the fuel tank of a qualifying vehicle ~~under subsection (D)(2)~~;
      - viii. Amount of fuel tax refunded to purchaser; and
      - ix. Purchaser's name and signature indicating receipt of the refund made by a vendor of use fuel, submitted on a vendor use fuel refund log, provided by the ~~Division~~ Department.

- b. ~~For sales of use fuel dispensed from a pump that is labeled for light class or exempt use class only, items under subsection (A)(1) and (2)~~ For use fuel vendors who have sales of use fuel dispensed from both a pump labeled for use class and from a pump labeled for light class or exempt use class, a report of the total pump sales for each type.

**B.** ~~The Division shall not accept an application for a period that a vendor of use fuel was not licensed under A.R.S. § 28-5605, except as provided under this subsection.~~

1. ~~An application for a period that a vendor was not licensed under A.R.S. § 28-5605 will be accepted by the Division if the Claimant submits an application to the Division for a vendor license at the time initial application for refund is submitted.~~
2. ~~The unlicensed use fuel vendor shall demonstrate compliance with A.R.S. § 28-5605(B), at the time of the applicable use fuel sale to the satisfaction of the Division by the following means:~~
  - a. ~~Photographs,~~
  - b. ~~Diagrams,~~
  - c. ~~Statements, and~~
  - d. ~~Any other documentation approved by the Division which demonstrates compliance.~~

**C.B.** A licensed use fuel vendor shall maintain the following records under R17-8-601(B)(6):

1. Records of daily sales to light class or exempt use class motor vehicles which provides details for each use fuel sale to include the following:
  - a. Gallonage,
  - b. Transaction date,
  - c. Price per gallon, and
  - d. Product description;
2. ~~Acquisition~~ Purchase invoices of use fuel;
3. Inventory records of use fuel; and
4. Vendor use fuel refund log under subsection (A)(3)(a).

**D.C.** ~~Card lock~~ Cardlock use fuel facility.

1. Applicability. For purposes of receiving a refund from the ~~Division~~ Department for use fuel sold to a light class or exempt use class vehicle at a ~~card lock~~ cardlock use fuel facility, the vendor shall:
  - a. Submit documentation ~~to the Division~~ under subsection (A)(3), except subsection (A)(3)(a)(ix) to the Department;
  - b. Have controlled access to the ~~card lock~~ cardlock use fuel facility in compliance with A.R.S. § 28-5605;
  - c. Restrict use of a ~~card lock~~ cardlock use fuel facility to those approved purchasers that have completed a Declaration of Status; and
  - d. Shall maintain records under subsection ~~(C)(B)~~.

2. Declaration of Status.
  - a. A vendor shall require that a purchaser of use fuel for use in light class or exempt use class vehicles complete and submit to the vendor a Declaration of Status for each vehicle that will have the ability to obtain fuel at a ~~card-lock~~ cardlock use fuel facility ~~labeled for light class or exempt use class vehicles~~.
  - b. A Declaration of Status must be completed for each additional vehicle prior to purchase of motor fuel at a ~~card-lock~~ cardlock use fuel facility.
  - c. A Declaration of Status shall be made on a form provided by the ~~Division~~ Department and may be obtained at [www.azdot.gov](http://www.azdot.gov).
  - d. The original signature of the purchaser shall be included on the Declaration of Status.
  - e. A vendor who operates a ~~card-lock~~ cardlock use fuel facility must retain all original Declarations of Status received from a purchaser in the vendor's files under R17-8-601(B)(6), and shall make the Declarations of Status available for review by the ~~Division~~ Department.
3. Labeling. A ~~card-lock~~ cardlock vendor shall comply with state law by placing a label with verbiage and specifications as required under A.R.S. § 28-5605.
  - a. ~~Card-lock~~ Cardlock use fuel facilities shall post a use fuel tax rate label provided by ~~Division~~ Department.
  - b. Vendors found in violation of labeling regulations shall be subject to penalties under A.R.S. § 28-5605.

**D. Mobile fueling vendor.**

1. Applicability. For purposes of receiving a refund from the Department for use fuel sold and delivered directly from a mobile vehicle into a light class or exempt use class vehicle fuel tank for other than the dispenser's own consumption, the vendor shall:
  - a. Submit documentation under subsection (A)(3), except subsection (A)(3)(a)(ix), to the Department;  
and
  - b. Shall maintain records under subsection (B).
2. Declaration of Status.
  - a. A vendor shall require that a purchaser of dispensed use fuel complete and submit to the vendor a Declaration of Status for each light class or exempt use class vehicle that will have the ability to obtain fuel with a mobile fueling vendor.
  - b. A Declaration of Status must be completed for each additional vehicle prior to delivery of motor fuel by a mobile fueling vendor.
  - c. A Declaration of Status shall be made on a form provided by the Department and may be obtained at [www.azdot.gov](http://www.azdot.gov).
  - d. The original signature of the purchaser shall be included on the Declaration of Status.
  - e. A vendor who operates a mobile fueling operation must retain all original Declarations of Status received from a purchaser in the vendor's files under R17-8-601(B)(6), and shall make the Declarations of Status available for review by the Department.

3. Labeling. A mobile fueling vendor shall comply with state law by placing a label with verbiage and specifications as required under A.R.S. § 28-5605.
  - a. Mobile fueling vendors shall post on their fueling dispenser a use fuel tax rate label provided by the Department.
  - b. Vendors found in violation of labeling regulations shall be subject to penalties under A.R.S. § 28-5605.

**R17-8-604. Off-Highway**

- A. The ~~Division~~ Department shall refund under this Article the Arizona motor fuel tax paid on the motor fuel consumed in Arizona while the vehicle is off-highway.
- B. ~~A~~ A complete application for refund, as prescribed under R17-8-601, shall include the following supporting documentation:
  1. System or manual motor fuel log summary by VIN which includes the following:
    - a. Items under subsection (C)(1)(a), and
    - b. Mileage consumed off-highway- when applicable;
  2. Equipment and vehicle listing which includes year, make, ~~model, gallon capacity, equipment type, VIN or~~ equipment serial number, and gross vehicle weight; and
  3. Proof of fuel purchase which may include:
    - a. Motor fuel invoices,
    - b. Motor fuel purchase receipts, and
    - c. Computerized fuel purchase statement, ~~and,~~
    - d. ~~International Fuel Tax Agreement reports.~~
- C. A ~~Claimant~~ claimant shall provide the following documentation to the ~~Division~~ Department for the identified refund types:
  1. Refrigeration unit:
    - a. Fuel log summary consisting of, at a minimum, the following information:
      - i. Fuel type,
      - ii. Date fuel dispensed,
      - iii. Number of gallons dispensed, and
      - iv. Identification number of equipment or vehicle into which the fuel was dispensed.
    - b. Equipment or vehicle ~~identification number~~ listing which includes year, make, equipment type, VIN or equipment serial number, and gross vehicle weight.
  2. Power take-off: A motor fuel consumption study under this Section shall be conducted at the ~~Claimant's~~ claimant's expense, and shall be approved by the ~~Division~~ Department prior to the initial application for refund, and shall include the following information:
    - a. A description of the methodology used to determine the percentage of exempt motor fuel consumed by the ~~power take off~~ power take-off;
    - b. A list of all equipment using motor fuel;

- c. All operations where motor fuel is consumed;
  - d. Testing and study components shall be a true representation of the operation of business as follows:
    - i. Vehicles shall be grouped into similar categories based on similar ~~power take-off~~ power take-off units and similar gross vehicle weight.
    - ii. Vehicles selected shall be representative of the category as to age, make, model, and engine size.
    - iii. Each vehicle category shall be tested individually to determine the amount of motor fuel consumed by the ~~power take-off~~ power take-off unit.
    - iv. If a vehicle category contains:
      - (1) Less than four vehicles, all vehicles must be included in the test study.
      - (2) Thirty or fewer vehicles, then at least three vehicles must be included in the test sample.
      - (3) More than 30 and fewer than 151 vehicles, then at least 10 percent of the vehicles must be included in the test sample.
      - (4) More than ~~151~~ 150 vehicles, then at least 15 vehicles must be included in the test sample.
  - e. Explanation of the measuring method used to determine fuel consumption by vehicles, equipment, and machinery, which shall include manufacturer specifications;
  - f. Results of a period of a study which shall include a period covering cyclical or seasonal impacts which includes low and high points of fuel usage for exempt or non-exempt purposes;
  - g. Results from a test or study shall be a duration of at least two weeks; and
  - h. The approved ~~power take-off~~ power take-off percentage may then be used for three years or shall be updated as requested by the ~~Division~~ Department.
3. Idle time as prescribed under R17-8-605.

**R17-8-605. Idle Time**

- A. Under the provisions of this Article, the ~~Division~~ Department shall refund the Arizona motor fuel tax imposed on the motor fuel consumed by a ~~Claimant's~~ claimant's vehicle while in idle status.
- B. ~~In addition to the A complete~~ application for refund, as prescribed under R17-8-601, a ~~Claimant~~ shall ~~provide~~ include the following documentation ~~to the Division~~ to verify the quantity of motor fuel consumed by a vehicle while in idle status:
  - 1. Documentation that proves the total quantity of motor fuel purchased by the ~~Claimant~~ claimant in Arizona during refund period;
    - a. An invoice that contains the following information:
      - i. Date of purchase,
      - ii. Seller's name,
      - iii. Physical address where motor fuel was purchased,
      - iv. Number of gallons of motor fuel purchased,
      - v. Type of motor fuel purchased, and
      - vi. Price per gallon of motor fuel.

- b. A fuel log shall be maintained that contains the following information:
    - i. The date that the motor fuel was placed in the fuel tank of a motor vehicle;
    - ii. The ~~vehicle make, model, year, and VIN~~ number of the equipment or vehicle in which the motor fuel was placed; and
    - iii. The number of gallons of motor fuel placed in ~~a~~ the fuel tank.
  - c. In lieu of subsections (B)(1)(a) and (b), a licensee may submit a summary of the fuel purchases made by the ~~Claimant~~ claimant for the vehicle during the refund period. The summary shall contain the same information required to be on a fuel invoice under subsection (B)(1)(a).
2. Documentation that proves that the ~~Claimant's~~ claimant's vehicle was located in Arizona, off-highway, at the time it was in idle status, and the length of time the vehicle was in idle status, using one or more of the following methods:
- a. Nonscheduled route:
    - i. A logbook, approved by the ~~Division~~ Department, maintained for each vehicle that identifies the date and time when the idle status started, the date and time when the idle status ended, and a physical description of the location of the vehicle during the idle status that establishes that the vehicle was in Arizona, but located off-highway.
    - ii. The driver shall make an affirmative statement in the driver's daily log that the engine was operating during the idle status and shall prepare the logbook entries simultaneously with the idle status.
    - iii. The ~~Claimant~~ claimant shall retain trip schedules or bills of lading to support the logbook entries.
  - b. Scheduled route:
    - i. Published schedule which includes arrival at and departure from fixed locations at prescribed times; or
    - ii. A record of average wait times recorded in a daily log consisting of arrival at and departure from fixed locations at prescribed times, approved by the ~~Division. Department; and~~
    - iii. The ~~Claimant~~ claimant shall document that the engine remained running during the scheduled stops.
  - c. Global Positioning System:
    - i. A report from a GPS, approved pursuant to subsection (C).
    - ii. The ~~Claimant~~ claimant shall maintain trip schedules or bills of lading to support GPS reports.
3. Documentation that proves the quantity of motor fuel consumed by the ~~Claimant's~~ claimant's vehicle while in idle status;
- a. The ~~Claimant~~ claimant shall document the number of the gallons of motor fuel consumed per hour to maintain idle status by one or more of the following methods:
    - i. Engine manufacturer's standard specifications that establish the quantity of motor fuel consumed per hour while the vehicle is in idle status.

- ii. Computerized system that computes the quantity of motor fuel consumed per hour while in idle status.
    - iii. A study or test that determines motor fuel consumption per hour while in idle status, prior to the period covered by the refund claim.
  - b. A study under this Section shall meet the following specifications:
    - i. The study shall be conducted at the ~~Claimant's~~ claimant's expense,
    - ii. The methodology shall be approved by the ~~Division~~ Department prior to conducting the study under subsection (C),
    - iii. The fuel consumption characteristics of the vehicles and their operation during the period of the refund shall not vary significantly from the conditions that existed during the study, and
    - iv. The results of the study shall be approved by the ~~Division~~ Department prior to the time period covered under the refund claim.
- C. The ~~Division~~ Department shall review and approve the method used and the data captured by a GPS or manual report prior to the initial claim for refund and the report shall include the following components:
  - 1. A description of the methodology used to determine the percentage of exempt use fuel consumption;
  - 2. A list of all equipment consuming use fuel;
  - 3. A description of all of the vehicle operations where use fuel is consumed;
  - 4. Whether vehicles are traveling scheduled routes, and whether seasonal or cyclical events affect use fuel;
  - 5. Testing and study components shall be a true representation of operation of business as follows:
    - a. Vehicles shall be grouped into similar categories based on similar units and similar gross vehicle weight.
    - b. Each vehicle category must be tested individually to determine the idle time fuel consumption.
    - c. Vehicles selected for testing shall be representative of the category as to age, make, model, and engine size.
  - 6. Study components under R17-8-604(C)(2)(d)(iv);
  - 7. Explanation of the measuring method used to determine fuel consumption by vehicles, equipment, and machinery, which shall include manufacturer specifications;
  - 8. Study results under this subsection shall include ~~a period~~ periods covering cyclical or seasonal impacts which ~~includes~~ captures low and high points of fuel usage for exempt or non-exempt purposes;
  - 9. Results from a test or study shall be of duration of at least two weeks; and
  - 10. The approved idle time study may then be used for three years or shall be updated as requested by the ~~Division~~ Department.
- D. A ~~Claimant~~ claimant shall submit technical documentation that details the operating system of any system or manual study used including, but not limited to, the following:
  - 1. Identification of the computer system, including the name of the manufacturer, name of the software, and software version number;

2. Identification of vehicle engines on which the software will be used by the ~~Claimant~~ claimant, including makes, models, years, and fuel types;
  3. Description of the methodology used by computer system to determine idle status;
  4. Description of the methodology used to determine fuel consumption while in idle status;
  5. Description of the methodology used to determine the location of the vehicle during idle status; and
  6. Operating policies and procedures for the systems that are used in the ~~Claimant's~~ claimant's business operations.
- E. The ~~Claimant~~ claimant shall provide additional supporting documentation if there is any update to the system study for which documentation was initially submitted and approved.
1. A ~~Claimant~~ claimant shall submit to the ~~Division~~ Department an updated study under this Section three years from the date of ~~Division~~ Department approval or at the ~~Division's~~ Department's request.
  2. A study under this Section shall be conducted at the ~~Claimant's~~ claimant's expense.
  3. The methodology used in support of a study under these rules shall be approved by the ~~Division~~ Department prior to conducting the study under subsection (C).
  4. If the ~~Division~~ Department rejects the results of a study, a ~~Claimant~~ claimant may request a hearing under A.R.S. § 28-5924.

**R17-8-606. Tribal Government**

- A. The ~~Division~~ Department shall refund the Arizona motor fuel tax imposed on the motor fuel consumed by a vehicle owned or leased to a tribal government under this Article.
- B. ~~An~~ A complete application for refund, as prescribed under R17-8-601, shall include all of the following supporting documentation for each vehicle:
1. Detailed fuel receipt statement which includes the following purchase information:
    - a. Date of fuel purchase,
    - b. Gallonage,
    - c. Location,
    - d. Fuel type, and
    - e. ~~Purchaser's~~ Seller's name and address;
  2. Fuel purchase summary by vehicle which includes documentation under subsection (B)(1); ~~or~~
  3. Bulk motor fuel purchase invoice; which includes:
    - a. Gallonage,
    - b. Delivery location,
    - c. Fuel type, and
    - d. Tax rate paid; and
  4. If vehicle is leased, a copy of the lease agreement.
- C. A vehicle and equipment listing shall be maintained by the tribal government to include year, make, ~~model,~~ gallon capacity, and equipment type, VIN or equipment serial number, and gross vehicle weight.

**R17-8-607. Tribal Member**

- A. Enrolled members of a tribe may make application to the ~~Division~~ Department, as prescribed under R17-8-601, for a refund of the Arizona motor fuel taxes on fuel purchased on the reservation of the tribe in which the member is enrolled, provided the motor fuel was not used off the reservation for a commercial purpose.
- B. ~~A~~ A complete application for refund, as prescribed under R17-8-601, shall include the following supporting documentation:
1. Copy of the vehicle registration,
  2. Copy of the Tribal member identification card,
  3. Receipt of motor fuel purchased on the reservation, and
  4. Signed statement certifying motor fuel was used for non-commercial purposes under A.R.S. § 28-5610(A).

**R17-8-608. Transport of Forest Products; Healthy Forest Initiative**

- A. A claim for refund, pursuant to A.R.S. § 28-5614(B), of the tax on motor fuel used to transport forest products on Arizona highways shall comply with the requirements of R17-8-601.
- B. ~~A~~ A complete application for refund, as prescribed under R17-8-601, shall include the following supporting documentation ~~obtained from the Arizona Department of Commerce~~:
1. ~~A completed Healthy Forest Enterprise Use Fuel Vehicle Schedule;~~ An equipment and vehicle listing which includes year, make, equipment type, VIN or equipment serial number, and gross vehicle weight;
  2. Certification letter issued by the Arizona ~~Department of Commerce~~ Authority pursuant to A.R.S. § 41-1516 for the same period of time as the refund claim;
  3. Memorandum of Understanding between the Arizona ~~Department of Commerce~~ Authority and the ~~Claimant~~ claimant pursuant to A.R.S. § 41-1516;
  4. Individual ~~Vehicle Project Mileage and Fuel Report Summaries~~ Reports for each ~~vehicle, and project;~~
  5. Purchase invoices of use fuel; and
  - ~~5-6.~~ Changes to the Arizona ~~Department of Commerce~~ Authority Certification when applicable.

**R17-8-609. Motor Vehicle Fuel Used in Aircraft**

- A. A claim for the refund of the tax, pursuant to A.R.S. § 28-5611(A)(2) or non-agricultural purposes under A.R.S. § 28-5611(B), on motor vehicle fuel used to power aircraft shall comply with the requirements of R17-8-601 and subsections (B) and (C) of this Section.
- B. ~~A~~ A complete application for refund, as prescribed under R17-8-601, shall include the following supporting documentation:
1. Motor fuel log summary by aircraft which includes:
    - a. Purchase date,
    - b. Name and location of vendor of fuel to show that Arizona motor fuel tax was included in the purchase price,

- c. Gallons dispensed,
  - d. Fuel type, and
  - e. Manner consumed;
2. List of aircraft to include, year, make model, and N-number assigned by the Federal Aviation Administration; and
  3. Purchase invoice indicating items under subsection (B)(1) and amount of tax paid ~~amount~~.
- C. Motor vehicle fuel used to power aircraft for agricultural purposes shall, in addition to subsection (B), include a flight log detailing the purpose of use.

**R17-8-610. Motor Fuel Losses Caused by Fire, Theft, Accident, or Contamination**

- A. A ~~Claimant~~ claimant may apply to the ~~Division~~ Department for a refund of the tax on motor fuel lost due to fire, theft, accident, or contamination.
- B. A request for refund pursuant to A.R.S. §§ 28-5610 or 28-5611 of the tax on motor fuel that is lost due to fire, theft, accident, or contamination shall comply with the requirements of R17-8-601.
- C. ~~An~~ A complete application for refund, as prescribed under R17-8-601, shall include the following supporting documentation:
  1. Signed statements from persons with personal knowledge regarding the facts and circumstances of the loss, including:
    - a. Date of loss or contamination,
    - b. Location where the loss or contamination occurred,
    - c. Detailed explanation regarding the nature of the loss or contamination,
    - d. Name and contact information of persons who witnessed loss or contamination,
    - e. Quantity of fuel lost or contaminated, and
    - f. Disposition of the contaminated ~~motor~~ fuel.
  2. Copies of records that substantiate the date of acquisition and quantity acquired of the fuel lost as well as the fact the Arizona motor fuel tax was paid by the ~~Claimant~~ claimant when the fuel was acquired.

**R17-8-611. Bulk Purchase of ~~Motor~~ Use Fuel**

- A. A request for refund of taxes paid on the bulk purchase of ~~motor~~ use fuel dispensed into a light class, or exempt use class vehicle, shall be submitted to the ~~Division~~ Department, as prescribed under R17-8-601(B), on an application provided by the ~~Division~~ Department.
- B. Bulk ~~motor~~ use fuel shall be purchased and consumed in Arizona to qualify for refund.
- C. ~~An~~ A complete application for refund, as prescribed under R17-8-601, shall include the following supporting documentation:
  1. Invoice that contains the following information:
    - a. Name and address of vendor,
    - b. Tax rate,

- c. Product type,
  - d. Delivery date,
  - e. Quantity of fuel,
  - f. Invoiced amount, and
  - g. A statement from the seller of the ~~motor~~ use fuel that the ~~motor~~ use fuel is non-dyed use fuel.
2. Fuel usage log which includes the following information:
    - a. Date fuel dispensed,
    - b. VIN of vehicle into which fuel was dispensed,
    - c. Gallons dispensed, and
    - d. Fuel type.
3. Annual vehicle listing to include make, model, year, ~~and~~ VIN, and gross vehicle weight.