

# Chapter 308-72 WAC

## MOTOR VEHICLE FUEL TAX

### WAC

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308-72-508 Requirements to qualify for a motor vehicle fuel distributor license. [Statutory Authority: RCW 82.36.435. WSR 88-07-095 (Order PFT 88-003), § 308-72-508, filed 3/22/88.] Repealed by WSR 98-24-011, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435 and 82.38.260.

308-72-509 Bonding requirements. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-509, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435. WSR 90-13-037 (Order PFT 90-03), § 308-72-509, filed 6/14/90, effective 7/15/90.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-510 Property statement in lieu of a bond. [Statutory Authority: RCW 82.36.060. WSR 92-21-010, § 308-72-510, filed 10/12/92, effective 11/12/92; Order 107MV, § 308-72-510, filed 9/10/71.] Repealed by WSR 97-17-062, filed 8/18/97, effective 9/18/97. Statutory Authority: RCW 34.05.354.

308-72-512 Cancellation of license. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-512, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435. WSR 88-07-095 (Order PFT 88-003), § 308-72-512, filed 3/22/88.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-520 Reports. [Statutory Authority: RCW 82.36.435. WSR 90-13-037 (Order PFT 90-03), § 308-72-520, filed 6/14/90, effective 7/15/90; Order 474-DOL, § 308-72-520, filed 12/30/77; Order 107MV, § 308-72-520, filed 9/10/71.] Repealed by WSR 98-24-011, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435 and 82.38.260.

308-72-530 Import deliveries. [Order 107MV, § 308-72-530, filed 9/10/71.] Repealed by WSR 98-24-011, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435 and 82.38.260.

308-72-540 Tax exempt transactions. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-540, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435. WSR 90-13-037 (Order PFT 90-03), § 308-72-540, filed 6/14/90, effective 7/15/90; WSR 88-07-095 (Order PFT 88-003), § 308-72-540, filed 3/22/88; Order 107MV, § 308-72-540, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-542 Tax exempt sales to qualified personnel of foreign governments. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-542, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435. WSR 90-13-037 (Order PFT 90-03), § 308-72-542, filed 6/14/90, effective 7/15/90.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-543 Alcohol exemption. [Statutory Authority: RCW 82.36.435. WSR 94-11-055, § 308-72-543, filed 5/10/94, effective 6/10/94.] Repealed by WSR 97-17-062, filed 8/18/97, effective 9/18/97. Statutory Authority: RCW 34.05.354.

308-72-550 Tax exempt losses. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-550, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-550, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-555 Delinquent account notification process. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-555, filed 11/19/98, effective 1/1/99.]

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-72-010, 308-72-020, 308-72-030, 308-72-040, 308-72-050, 308-72-060, 308-72-070, 308-72-080, 308-72-090, 308-72-100, 308-72-110, 308-72-120, 308-72-130, 308-72-140, 308-72-150, 308-72-160, 308-72-170, 308-72-180, 308-72-190, 308-72-200, 308-72-210, 308-72-220, 308-72-230, 308-72-240, 308-72-250, 308-72-260, 308-72-270, 308-72-280, 308-72-290, 308-72-300, 308-72-310, 308-72-320, 308-72-350, 308-72-355, 308-72-360, 308-72-365, 308-72-370, 308-72-375, 308-72-380, 308-72-385, 308-72-390. [Regulation I through XI, § 308-72-010 through 308-72-320 and 308-72-350 through 308-72-390, filed 3/23/60.] Repealed by Order 107MV, filed 9/10/71.

308-72-500 Motor vehicle fuel. [Order 107MV, § 308-72-500, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-501 Exports. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-501, filed 11/19/98, effective 1/1/99.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-502 Sale or distribution at wholesale. [Statutory Authority: RCW 82.36.435. WSR 88-23-015 (Order PFT 88-004), § 308-72-502, filed 11/7/88; WSR 88-07-095 (Order PFT 88-003), § 308-72-502, filed 3/22/88.] Repealed by WSR 98-24-011, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435 and 82.38.260.

308-72-503 Motor vehicle fuel supplier. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-503, filed 11/19/98, effective 1/1/99.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

308-72-504 Bona fide wholesale merchant. [Statutory Authority: RCW 82.36.435. WSR 88-07-095 (Order PFT 88-003), § 308-72-504, filed 3/22/88.] Repealed by WSR 98-24-011, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435 and 82.38.260.

308-72-505 Electronic fund transfers. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-505, filed 11/19/98, effective 1/1/99.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.

- 308-72-557 Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.  
Refund for bad debt loss (other than a motor fuel supplier). [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-557, filed 11/19/98, effective 1/1/99.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-560 Records. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-560, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-560, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-570 Invoices. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-570, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435. WSR 90-13-037 (Order PFT 90-03), § 308-72-570, filed 6/14/90, effective 7/15/90; Order 107MV, § 308-72-570, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-600 Tax refund. [Order 107MV, § 308-72-600, filed 9/10/71.] Repealed by WSR 98-24-011, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435 and 82.38.260.
- 308-72-610 Refund claim number. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-610, filed 11/19/98, effective 1/1/99; Order 470-DOL, § 308-72-610, filed 12/30/77; Order MV 175, § 308-72-610, filed 10/24/73; Order 107MV, § 308-72-610, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-615 Interest assessment on refund claims. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-615, filed 11/19/98, effective 1/1/99.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-620 Filing of claim. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-620, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-620, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-630 Invoice requirements, seller responsibility. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-630, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-630, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-640 Records. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-640, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-640, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-650 Refunds to dealer delivering fuel exclusively for marine use. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-650, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-650, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-660 Power take-off use. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-660, filed 11/19/98, effective 1/1/99. Statutory Authority: RCW 82.36.435. WSR 94-11-055, § 308-72-660, filed 5/10/94, effective 6/10/94; Order 107MV, § 308-72-660, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-665 On board computers or recording devices. [Statutory Authority: RCW 82.36.435. WSR 94-11-055, § 308-72-665, filed 5/10/94, effective 6/10/94.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-670 Auxiliary engines. [Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 98-24-011, § 308-72-670, filed 11/19/98, effective 1/1/99; Order 107MV, § 308-72-670, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-680 Gasoline lost or destroyed. [Order 107MV, § 308-72-680, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-690 Special rules and requirements for fuel tax refunds. [Statutory Authority: RCW 82.36.435. WSR 94-11-055, § 308-72-690, filed 5/10/94, effective 6/10/94; WSR 90-13-037 (Order PFT 90-03), § 308-72-690, filed 6/14/90, effective 7/15/90; Order 107MV, § 308-72-690, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-700 Use tax. [Order 107MV, § 308-72-700, filed 9/10/71.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-710 Mitigation of penalties and interest. [Statutory Authority: RCW 82.36.435. WSR 92-01-016, § 308-72-710, filed 12/6/91, effective 1/6/92.] Repealed by WSR 01-22-072, filed 11/1/01, effective 12/2/01. Statutory Authority: RCW 82.36.435.
- 308-72-830 Tax exempt sales. [Statutory Authority: RCW 82.36.435. WSR 01-22-072, § 308-72-830, filed 11/1/01, effective 12/2/01.] Repealed by WSR 09-07-076, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.36.435.
- 308-72-845 Refund for bad debt loss (other than a motor fuel supplier). [Statutory Authority: RCW 82.36.435. WSR 01-22-072, § 308-72-845, filed 11/1/01, effective 12/2/01.] Repealed by WSR 09-07-076, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.36.435.
- 308-72-855 IFTA records. [Statutory Authority: RCW 82.36.435. WSR 01-22-072, § 308-72-855, filed 11/1/01, effective 12/2/01.] Repealed by WSR 09-07-076, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.36.435.
- 308-72-885 Interest assessment on refund claims. [Statutory Authority: RCW 82.36.435. WSR 01-22-072, § 308-72-885, filed 11/1/01, effective 12/2/01.] Repealed by WSR 09-07-076, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.36.435.
- 308-72-900 Refunds to dealer delivering fuel exclusively for marine use. [Statutory Authority: RCW 82.36.435. WSR 01-22-072, § 308-72-900, filed 11/1/01, effective 12/2/01.] Repealed by WSR 09-07-076, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.36.435.

### WAC 308-72-50901 Waiving of bond requirement.

- (1) **Can the department waive the requirement to maintain a fuel tax bond?** Yes, if the department determines that the licensed distributor has sufficient financial assets to cover any Washington state fuel tax liability, including penalties and interest.
- (2) **What is considered a financial asset?**
- (a) A line of credit with a financial institution or supplier covering the cost of product and fuel tax liability; or
- (b) United States dollars, bonds, or other obligations of the United States, the state, or any county of the state, deposited with the state treasurer.
- (3) **How can I qualify to have my bonding requirement waived?**
- (a) By filing a notarized statement with the department stating that your lines of credit with your financial institutions and your fuel suppliers is at a sufficient amount to include product cost and state fuel taxes. You must list the name of the financial institutions, the account numbers and dollar value of your lines of credit, and the names of your fuel suppliers. You must authorize the department to access this information with your financial institutions and suppliers; or
- (b) Depositing in a financial institution an amount equal to the estimated monthly fuel tax payments and assigning this deposit to the department as security for performance under chapter 82.36 RCW; and
- (c) Providing the department with satisfactory documentation indicating that the suppliers will not allow the licensed distributor to incur a liability, including fuel tax, in excess of the lines of credit.

(4) **What if the department denies my request for a waiver of the bond requirement?** You can appeal this decision as provided in chapters 82.36 RCW and 308-72 WAC.

(5) **What if I no longer maintain a line of credit or financial asset?** You must provide a surety bond to the department in the amount required by chapter 82.36 RCW, with a coverage beginning on or before the date the line of credit or financial asset became insufficient.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-50901, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.36.435 and 82.38.260. WSR 02-02-010, § 308-72-50901, filed 12/20/01, effective 1/20/02.]

**WAC 308-72-720 Dishonored checks.** (1) **What will happen if my check is dishonored?** The department will take collection action to recover any amounts owing and require all subsequent payments to be made in guaranteed funds, such as cash, cashier's check, or money order.

(2) **Are there any additional fees charged for a dishonored check?** Yes, a handling fee will be charged by the department for each dishonored check.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-720, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 46.01.110, 82.36.435, 82.38.260, 82.42.040, 46.87.010(2). WSR 00-08-032, § 308-72-720, filed 3/28/00, effective 4/28/00.]

**WAC 308-72-800 Definitions.** (1) "Gasoline" means finished gasoline and gasoline blendstocks as defined in Code of Federal Regulations (C.F.R.) 48.481. Finished gasoline means all products (including gasohol) that are commonly or commercially known or sold as gasoline and are suitable for use as motor fuel. The product must have an octane rating of 75 or more.

(2) "Export" means to obtain motor vehicle fuel in this state for sale or distribution outside this state. To be considered an "export" and qualify for exemption from the motor vehicle fuel tax, motor vehicle fuel obtained outside the bulk transfer terminal system must be physically off-loaded in the destination state, province, or foreign country. The exporter must be licensed or registered, if required, in that state, province, or country of destination.

(3) "Motor vehicle fuel" means any product sold as gasoline and fuel ethanol. The blending of any products or chemicals with gasoline or any other inflammable liquid and the resultant product is sold or used for the propulsion of motor vehicles will be considered a motor vehicle fuel subject to the provisions of chapter 82.36 RCW.

(4) "Invoice" means any document, paper or electronic, evidencing the transfer of ownership of motor vehicle fuel.

(5) "Net gallons" a standard gallon unit of petroleum of 231 cubic inches at 60 degrees Fahrenheit (U.S. petroleum gallon).

(6) "Ethanol" means an anhydrous denatured aliphatic alcohol intended for gasoline blending.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-800, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-800, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-805 Payment due dates for motor vehicle fuel taxes not paid by electronic funds. What if my payment due date falls on a Saturday, Sunday or state**

(3/16/09)

**legal holiday?** Payment is due on the next state business day. For example, if the payment due date falls on Saturday, the payment must be postmarked by Monday.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-805, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-805, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-810 Collateral requirements in lieu of surety bonds.** (1) **What other forms of collateral will the department accept in lieu of a surety bond?** The department will accept certificates of deposit in United States dollars in any of the following forms:

(a) Automatically renewable certificates of deposit insured by the federal deposit insurance corporation, made in the name of the licensee or applicant for the license, payable to or assigned to the Washington state treasurer; or

(b) Certificates of deposit or share account issued by a savings and loan association insured by the federal savings and loan insurance corporation. Evidence of the insured account, in the form of either a certificate of deposit or passbook, must be filed with the department along with a properly executed assignment form whereby the fund on deposit is assigned to the Washington state treasurer; or

(c) Certificates of deposit or share account, issued by a credit union doing business in the state of Washington and insured by the Washington credit union share guaranty association. Evidence of the insured account, in the form of either a certificate of deposit or passbook, must be filed with the department along with a properly executed assignment form whereby the fund on deposit is assigned to the Washington state treasurer; or

(d) Cash deposits, however interest will not accrue.

(2) **Do I earn interest on my certificates of deposit?** Yes, the assignment forms will contain the provision that interest earned will be payable to the depositor.

(3) **How is an assignment canceled?** Assignments may only be canceled upon written authorization of the department.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-810, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-810, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-815 Cancellation, suspension, or revocation of motor vehicle fuel licenses. What happens when my license is canceled, suspended, or revoked?** The department will notify all motor vehicle fuel licensees of the change in license status.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-815, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-815, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-820 Sales to qualified foreign diplomatic and consular missions. Are cash sales to qualified foreign diplomatic and consular missions tax exempt?** No, only credit card purchases are exempt.

[Statutory Authority: RCW 82.36.435. WSR 09-07-076, § 308-72-820, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-820, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-835 Tax exempt losses. (1) What is acceptable proof of loss for a credit or refund of fuel tax paid?**

(a) A notarized affidavit by a person having actual knowledge of the circumstances of the loss, explaining the origin and destination of the shipment, the circumstances surrounding the quantity of fuel lost, fuel salvaged, disposition of the salvaged fuel, and procedures used in the determination of the quantity of fuel lost; or

(b) A signed statement by a federal, state, local or provincial official who has authority to investigate fuel losses; and

(c) A bill of lading or other shipping documents; and

(d) A statement by the licensee establishing ownership of the fuel at time of loss.

**(2) Are deductions for losses from bulk storage allowed?** Yes, motor vehicle fuel that has been proven lost or destroyed, prior to distribution from a licensee's bulk storage facility outside of the bulk transfer terminal system may be considered a tax exempt loss.

**(3) How long do I retain my evidence substantiating my loss?** Five years from date of claim.

**(4) May I claim a deduction for stolen fuel?** No.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-835, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-835, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-840 Delinquent account notification process. (1) What happens when a licensed distributor does not pay fuel taxes to the licensed supplier on time?** The supplier must notify the department in writing no later than twenty calendar days from the date the fuel tax was due. If the twentieth day falls on a Saturday, Sunday, or legal holiday, the supplier must notify the department on the next business day.

**(2) What will the department do when notified of the distributor's failure to pay?** Suspend the distributor's license and notify all suppliers.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-840, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-840, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-850 Records. What motor vehicle fuel records must be kept?** Every person licensed or required to be licensed must maintain a complete monthly stock summary of the gallons of motor vehicle fuel reflecting inventories, receipts, sales, use, other distribution, and loss or gain. The stock summary must be supported by:

(1) Physical inventories of bulk storage plants taken at the close of each calendar month.

(2) Meter readings taken at the close of each calendar month for pumps through which fuel is dispensed.

(3) A record of fuel receipts, invoices, bills of lading, transfer documents, yield reports and other documents relative to the acquisition of fuel.

(4) A record of fuel disbursements, invoices, bills of lading and other documents relative to the disbursements of fuel.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-850, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-850, filed 11/1/01, effective 12/2/01.]

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**WAC 308-72-860 Investigatory power. What power does the department have for investigations?** For the purpose of any investigation or proceeding under this chapter, the director or any designated officer may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry to be produced for inspection and copying.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-860, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-860, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-865 Invoices issued by licensees. (1) When is an invoice issued?** Every licensee must issue an invoice at the time of sale. If an electronic invoice is issued, a paper copy of the invoice is required to support a refund claim.

**(2) What information is required on an invoice?**

(a) The name and address of the seller;

(b) The name, address, and motor vehicle fuel tax license number, if applicable, of the purchaser;

(c) The date of delivery, month, day, and year;

(d) The location of the point of shipment. Alphanumeric codes are allowed if the definition keys are provided to the department;

(e) The physical address of the fuel delivery or exchange if different than the purchaser address, including the name of the state, Canadian Province, or foreign country. Alphanumeric codes are allowed if the definition keys are provided to the department;

(f) In the case of a delivery into a federally recognized Indian reservation or onto Indian country, the invoice must identify the state, U.S. possession, or Canadian Province in which the delivery took place;

(g) Name of carrier transporting fuel;

(h) Name of product sold;

(i) The number of U.S. gallons of product sold in net or gross gallons;

(j) The price per gallon and total amount charged; and

(k) A statement on the invoice indicating if the fuel has been sold without the Washington state fuel tax.

**(3) What happens if a purchaser's invoice is lost or destroyed?** The seller can issue a duplicate or copy containing all information on the original invoice, if requested by the purchaser. The copies must be plainly marked "copy" or "duplicate."

**(4) What happens if an incorrect invoice is issued to the purchaser?** The seller must issue a corrected invoice to the purchaser. The invoice must clearly indicate that it is a corrected invoice and reference the original invoice.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-865, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-865, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-870 Minimum payment or refund. (1) What is the minimum payment or refund for licensed accounts?** Ten dollars or less will not be owed or refunded.

**(2) What is the minimum refund for unlicensed refund claims?** Claims for less than twenty dollars will not be refunded.

(3/16/09)

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-870, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-870, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-880 Filing of refund claims for non-licensees.** (1) **How do I apply for a refund?** Contact the department for a refund permit application and instructions.

(2) **What time period can I file for a refund?** You must file within thirteen months of the fuel purchase date. The department will use the postmark date to determine the thirteen-month time frame. We will not accept multiple refund claims for the same month. For example, if you have made a claim for purchases in June you cannot claim additional purchases for June on another claim form.

(3) **What do I need to send with my refund claim?** You must send in your fuel purchase invoices, schedules, and other documents listed on the refund claim form. If electronic invoices were issued, you must provide paper copies.

(4) **How do I account for my inventory?** Any fuel on hand, by physical measurement, at the end of the claim period should be reported as ending inventory. This figure should be reported as the beginning inventory on your next claim form.

(5) **What does a licensed distributor send with their refund claim?** Summary schedules must be provided and the department may request invoices.

(6) **The following can sign a refund claim form:**

- (a) Individuals - Permit holder;
- (b) Partnership - Any one of the partners;
- (c) Business firm or corporation - Owner, corporate officer or other authorized agent.

(7) **Can invoices have a different name than what is on the claim form?** No.

(8) **Can I request that my refund be assigned to another person?** Yes, if we receive a letter stating whom you would like the claim assigned to.

(9) **How long will it take until I receive my refund?** Within thirty business days after we receive a properly completed claim.

(10) **How long do I maintain my refund records?** Keep them for five years after submitting your claim.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-880, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-880, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-890 Invoice requirements for refunds to nonlicensees.** (1) **What is a valid invoice?** A separate invoice must be issued for each fuel purchase. A single invoice may list multiple deliveries of fuel purchases made during a calendar month.

(2) **The following information must be included on the invoice:**

- (a) The name and address of the seller;
- (b) The type of fuel and number of gallons purchased;
- (c) Complete date of sale including month, day, and year;
- (d) Price per gallon; and
- (e) Total amount of sale.

(3) **The department will not accept invoices with altered, corrected or erased information.**

(3/16/09)

(4) **What happens if the seller issues an electronic invoice?** A paper copy must be submitted with your refund claim.

(5) **What happens if I get an incorrect invoice?** The seller must issue a new invoice marked "correction" and reference the original.

(6) **What happens if I lose or destroy my invoice?** The seller may issue a copy. The copies must be plainly marked "copy" or "duplicate."

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-890, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-890, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-895 Refund records. What records do I need to keep to claim a refund of fuel taxes?**

- All fuel receipts;
- The gallons of fuel used in each piece of equipment, both refundable and nonrefundable;
- Fuel inventory in bulk storage;
- Detailed fuel records for all withdrawals from bulk storage;
- Fuel purchased in small containers (ten gallon or less) for nonhighway use must show the type of equipment being used; i.e., boats, tractors, power saws, etc.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-895, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-895, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-905 Power take-off (PTO) use.** (1) **What is PTO use?** It is fuel used in a motor vehicle engine to operate auxiliary equipment. The fuel must be supplied from the propulsion tank of the motor vehicle.

(2) **What is not considered auxiliary equipment?** Equipment such as air conditioning, power steering, generator, etc., that is considered an integral part of the operation of the vehicle.

(3) **What formula does the department use in determining PTO usage?** The tax exemption is calculated as a percentage of the total Washington taxable fuel:

Cement mixer	25%
Fire trucks (private)	25%
Mobile cranes	25%
Garbage trucks (with load compactor)	25%
Sewer cleaning truck/jet vactor	25%
Super suckers	25%
Line truck with digger/derrick or aerial lift	20%
Log truck with self loader	20%
Refrigeration trucks	20%
Sweeper trucks (must be motor vehicle)	20%
Boom truck/block boom	15%
Bulk feed truck	15%
Dump trailers	15%
Dump trucks	15%
Hot asphalt distribution truck	15%
Leaf truck	15%

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Lime spreader	15%
Pneumatic tank truck	15%
Salt spreader on dump truck	15%
Seeder truck	15%
Semiwrecker	15%
Service truck with jack hammer/drill	15%
Snow plow	15%
Spray truck	15%
Tank transport	15%
Tank trucks	15%
Truck with PTO hydraulic winch	15%
Wrecker	15%
Car carrier with hydraulic winch	10%
Carpet cleaning van	10%
Others	7.5%

(4) **What if my fuel consumption is greater than the percentages indicated above?** If you can provide satisfactory documentation and records to show that the fuel consumed by the PTO is greater than the percentages indicated, the department may grant the higher percentage on a case-by-case basis.

(5) **What documents must accompany the refund claims?** All claims must be accompanied by valid purchase invoices to cover the total gallons of gasoline purchased, except that invoices for gasoline used in fuel oil delivery trucks or when measured by a metering device need only be equal to or greater than the gallons claimed as refundable. A support schedule for Washington PTO and power pumping credits must accompany each claim for refund.

(6) **What records do I need to keep?** All individual vehicle mileage and fuel records that reflect total mileage, total fuel, Washington taxable mileage, and Washington taxable fuel by vehicle.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-905, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-905, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-910 On-board computers or recording devices. Can I use on-board computers or recording devices to record mileage?** Yes, with prior approval by the department.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-910, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-910, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-915 Special rules and requirements for fuel tax refunds. Can I claim a refund for motor vehicle fuel used in my unlicensed off road vehicles, all terrain vehicles and snowmobiles?** Yes, only if the motor vehicle fuel is used for nonrecreational purposes such as farming, logging, and construction. Off-road vehicles, all terrain vehicles and snowmobiles are defined in RCW 46.09.020, 46.10.010 (3) and (2).

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-915, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-915, filed 11/1/01, effective 12/2/01.]

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**WAC 308-72-920 Use tax for refunds. (1) Is use tax deducted from my refund claim?** Yes, unless you are exempt from the use tax in chapter 82.12 RCW.

(2) **How is use tax computed?** You can choose to:

- Calculate the use tax amount using the actual use tax rates and actual cost per gallon; or
- Have the department calculate the use tax amount using an average use tax rate and price per gallon.

Either method chosen must be used for each refund claim submitted during the calendar year, unless there has been a change in the department's estimated average fuel cost during that period.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-920, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-920, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-925 Mitigation of penalties and interest. (1) What fee, penalty or interest may be mitigated or reduced?** The department may mitigate fees, penalties or interest from:

- Late or missing fuel tax returns;
- Unpaid or underpaid taxes;
- Incomplete records to support reported fuel usage; or
- Assessments.

(2) **How will the department make the decision?** The department may review records, account history, or other information.

[Statutory Authority: RCW 82.36.435, WSR 09-07-076, § 308-72-925, filed 3/16/09, effective 4/16/09; WSR 01-22-072, § 308-72-925, filed 11/1/01, effective 12/2/01.]

**WAC 308-72-930 Appeals. (1) What are the appeal procedures?** Any person having been issued a notice of assessment for taxes, penalties, and/or interest who wishes to contest such notice may petition the department for an informal hearing in lieu of proceeding directly to a formal hearing. A petition for a hearing must be in writing and must be received by the department within thirty days after the receipt of the notice of assessment. A petition shall set forth the specific reasons why reassessment is sought and the amount of tax, penalties and/or interest that you believe to be due.

(2) **What happens after the department receives the petition for an informal hearing?** Upon receipt of a petition for an informal hearing, the department will establish the time and place for the hearing and notify you by mail at least ten days prior to the scheduled date. If you are unable to attend the hearing on the date or time scheduled, you may request the department to reschedule the hearing.

(3) **What happens if I fail to appear for my informal hearing without prior notification?** Failure to appear may result in the loss of your informal administrative appeal rights.

(4) **What happens following my informal hearing?** The department will make determination in accordance with the Revised Code of Washington, administrative rules, and policies established by the department.

(5) **What if I do not agree with the department's informal hearing determination?** You may, within thirty days after the date of mailing of the determination, appeal in writing and request a formal hearing by an administrative law judge. The appeal shall indicate the portions of the determi-

nation you feel are in error and set forth the reasons for believing the decision should be amended. The department will establish a time and place for a formal hearing and give you at least ten days' notice.

(6) **When does my reassessment become final?** The decision of the department upon a petition for reassessment shall become final, due and payable thirty days after service upon you unless you appeal further.

[Statutory Authority: RCW 82.36.435. WSR 01-22-072, § 308-72-930, filed 11/1/01, effective 12/2/01.]