

TITLE 3: TAXATION
CHAPTER 16: MOTOR VEHICLE FUEL TAXES
PART 7: GASOLINE TAX - REGISTRATION AS DISTRIBUTOR, WHOLESALER OR RETAILER

3.16.7.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[8/31/96; 3.16.7.1 NMAC - Rn, 3 NMAC 16.7.1, 6/14/01]

3.16.7.2 SCOPE: This part applies to all distributors, wholesalers or retailers of gasoline.
[8/31/96; 3.16.7.2 NMAC - Rn, 3 NMAC 16.7.2, 6/14/01]

3.16.7.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[8/31/96; 3.16.7.3 NMAC - Rn, 3 NMAC 16.7.3, 6/14/01]

3.16.7.4 DURATION: Permanent.
[8/31/96; 3.16.7.4 NMAC - Rn, 3 NMAC 16.7.4, 6/14/01]

3.16.7.5 EFFECTIVE DATE: 8/31/96, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[8/31/96; 3.16.7.5 NMAC - Rn & A, 3 NMAC 16.7.5, 6/14/01]

3.16.7.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Gasoline Tax Act.
[8/31/96; 3.16.7.6 NMAC - Rn, 3 NMAC 16.7.6, 6/14/01]

3.16.7.7 DEFINITIONS: [Reserved.]
[8/31/96; 3.16.7.7 NMAC - Rn, 3 NMAC 16.7.7, 6/14/01]

3.16.7.8 REGISTRATION - LIST OF REGISTERED DISTRIBUTORS:

A. Each person engaged in selling gasoline as a distributor, wholesaler or retailer shall register with the department by filing an application for registration for combined reporting of gross receipts, compensating and withholding tax.

B. The department will prepare and make available to refineries, pipeline terminals, importers and distributors a list of all persons currently registered as distributors under the Gasoline Tax Act. The department will answer all inquiries as to whether a person is included in this list.
[1/23/73, 8/31/96; 3.16.7.8 NMAC - Rn, 3 NMAC 16.7.8, 6/14/01]

3.16.7.9 ETHANOL MANUFACTURERS REGISTER AS GASOLINE DISTRIBUTORS: Ethanol manufacturers receiving gasoline for use as denaturant in ethanol shall register as gasoline distributors pursuant to Section 7-13-7 NMSA 1978 to obtain that gasoline prior to the payment of tax.
[12/4/89, 8/31/96; 3.16.7.9 NMAC - Rn & A, 3 NMAC 16.7.9, 6/14/01]

3.16.7.10 [Reserved.]
[2/21/86, 8/31/96; R 7/30/99; 3.16.7.10 NMAC - Rn, 3 NMAC 16.7.10, 6/14/01]

3.16.7.11 DEPARTMENT MAY REMOVE NONCOMPLYING DISTRIBUTORS FROM LIST:

A. In accordance with Section 3.16.7.11 NMAC, the department may cancel the registration of a distributor as a distributor of gasoline and remove its name from the list of distributors registered under the Gasoline Tax Act if the distributor does not substantially comply with the requirements to file gasoline tax returns in the form and manner prescribed by the secretary or to file petroleum products loading fee reports in the form and manner prescribed by the secretary with respect to gasoline loaded or imported by the distributor.

B. The department shall notify the distributor of its intent to cancel the distributor's registration as a distributor of gasoline and to remove its name from the list. The notice shall provide for a hearing at least ten days after the date of the date notice is provided. At the hearing the distributor will be given an opportunity to

demonstrate substantial compliance. If, in the judgment of the hearing officer, substantial compliance is not demonstrated, the hearing officer shall order the immediate cancellation of registration as a distributor and removal from the list of distributors.

[8/31/96; 3.16.7.11 NMAC - Rn & A, 3 NMAC 16.7.11, 6/14/01; A, 10/15/02]

3.16.7.12 LISTING OF REGISTERED INDIAN TRIBAL DISTRIBUTORS:

A. A person registered with the taxation and revenue department as a distributor under the Gasoline Tax Act and who is an Indian nation, tribe or pueblo or an agency or instrumentality thereof, or a corporation or other enterprise wholly owned by an Indian nation, tribe or pueblo or by one or more members thereof, may be designated only by the person's own Indian nation, tribe or pueblo to be a "registered Indian tribal distributor". For purposes of the deduction provided by Subsection E of Section 7-13-4 NMSA 1978, the person shall not be considered a "registered Indian tribal distributor" until the department is notified of the designation in writing on official letterhead, signed by the appropriate tribal official. Once the department has been notified that a person has been designated as a "registered Indian tribal distributor", the designation shall remain in effect until the person is no longer a distributor or the designation is withdrawn by the Indian nation, tribe or pueblo.

B. The department will maintain a list of registered Indian tribal distributors and of certified distributors. The list will be made available to the public. Additions to and deletions from the list will be made promptly and the department shall answer all inquiries as to whether a particular person is a registered Indian tribal distributor.

[9/30/99; 3.16.7.12 NMAC - Rn & A, 3 NMAC 16.7.12, 6/14/01]

HISTORY OF 3.16.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: BOR 73-1, Regulations in Effect and Pertaining to the New Mexico Gasoline Tax Act, 1/1/73, filed 1/23/73.

R.D. 7-13-1, Regulations Pertaining to the Gasoline Tax Act, Sections 7-13-1 to 7-13-9, 7-13-11 to 7-13-16 NMSA 1978, 12/8/80, filed 1/5/81.

R.D. Rule No. 7-13-1, Regulation Pertaining to the Gasoline Tax Act, Chapter 7, Article 13 NMSA 1978, Laws of 1983, Chapter 204, filed 6/13/84.

TRD Rule 13-89, Regulations Pertaining to the Gasoline Tax Act, Chapter 7, Article 13 NMSA 1978, filed 12/4/89.

TRD Rule GAS-93, Regulations Pertaining to the Gasoline Tax Act, Chapter 7, Article 13 NMSA 1978, filed 12/13/93.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 16.7, Gasoline Tax - Registration as Distributor, Wholesaler or Retailer, filed 8/19/96.

3.16.7 NMAC, Gasoline Tax - Registration as Distributor, Wholesaler or Retailer, filed 6/1/01.