

TITLE 3: TAXATION
CHAPTER 16: MOTOR VEHICLE FUEL TAXES
PART 13: GASOLINE TAX - PERMIT TO PURCHASE DYED GASOLINE AND APPLY FOR REFUND OF TAX ON GASOLINE USED OFF-HIGHWAY

3.16.13.1 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; 3.16.13.1 NMAC - Rn, 3 NMAC 16.13.1, 6/14/01]

3.16.13.2 SCOPE: This part applies to all distributors, wholesalers or retailers of gasoline and all persons wishing to dye gasoline to mark its off-highway use and to claim refunds of gasoline tax paid for gasoline not used in a motor boat or in a vehicle licensed to operate on the highways of this state.
[8/31/96; 3.16.13.2 NMAC - Rn, 3 NMAC 16.13.2, 6/14/01]

3.16.13.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[8/31/96; 3.16.13.3 NMAC - Rn, 3 NMAC 16.13.3, 6/14/01]

3.16.13.4 DURATION: Permanent.
[8/31/96; 3.16.13.4 NMAC - Rn, 3 NMAC 16.13.4, 6/14/01]

3.16.13.5 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; 3.16.13.5 NMAC - Rn & A, 3 NMAC 16.13.5, 6/14/01]

3.16.13.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Gasoline Tax Act.
[8/31/96; 3.16.13.6 NMAC - Rn, 3 NMAC 16.13.6, 6/14/01]

3.16.13.7 DEFINITIONS: [Reserved.]
[8/31/96; 3.16.13.7 NMAC - Rn, 3 NMAC 16.13.7, 6/14/01]

3.16.13.8 PERMIT TO PURCHASE DYED GASOLINE:

A. Any person who desires to purchase gasoline dyed in accordance with Section 7-13-18 NMSA 1978 and obtain a refund of gasoline tax paid on the gasoline shall apply for and obtain a permit from the department. An application for such a permit shall be on a form provided by the department and shall contain the information and statements required by Section 3.16.13.10 NMAC. No claim for refund shall be honored until the applicant possesses a permit issued by the department.

B. All applications for issuance of a refund permit shall be signed by the permittee in the case of an individual, a partner in the case of a partnership or an officer or authorized agent in the case of a corporation.
[1/23/73, 8/31/96; 3.16.13.8 NMAC - Rn & A, 3 NMAC 16.13.8, 6/14/01]

3.16.13.9 SUSPENSION OF PERMIT TO PURCHASE DYED GASOLINE:

A. Whenever the department has reason to believe that any person has made a false statement on an application for a permit under Section 3.16.13.8 NMAC or on a claim for refund under Section 3.16.14.8 NMAC, has used tax refund gasoline in a motor boat or in a vehicle licensed to operate on the highways of New Mexico or has violated any other provision of the Gasoline Tax Act or the regulations promulgated thereunder, the department shall schedule a formal hearing pursuant to the provisions of Section 7-1-24 NMSA 1978 of the Tax Administration Act to determine whether or not the person's permit to purchase tax refund gasoline should be suspended.

B. The person shall be notified of the hearing. Notification shall inform the permittee of suspected violations of particular provisions of the Gasoline Tax Act and shall briefly advise the permittee of the procedures employed in formal hearings and of remedies subsequent to the formal hearing if the permit is suspended. At the end of the hearing, or within thirty (30) days thereafter, the department shall enter a written decision and order.

C. The department may schedule an informal conference with the person before holding the formal hearing.

[1/23/73, 8/31/96; 3.16.13.9 NMAC - Rn & A, 3 NMAC 16.13.9, 6/14/01]

3.16.13.10 EQUIPMENT LIST REQUIRED:

A. As part of the application for a gasoline tax refund permit, each person is required to submit to the department a written list of the machinery or equipment which will consume tax refund fuel. The description, year, make, model and motor number or serial number of each item of machinery or equipment shall be included in the list.

B. Each person holding a refund permit must file annually, within thirty (30) days of the end of the calendar year, a list of changes on the equipment list, stating the description, year, make, model and motor number or serial number of each item of equipment added or deleted and the place of purchase or lease or bailment, as the case may be, of each of the items of machinery or equipment added.

C. Upon notice and after a hearing as described in Section 3.16.13.9 NMAC, the department may suspend the gasoline tax refund permit of any person who fails to file an updated equipment list.

[1/23/73, 8/31/96; 3.16.13.10 NMAC - Rn & A, 3 NMAC 16.13.10, 6/14/01]

HISTORY OF 3.16.13 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 16.12, Gasoline Tax - Permit to Purchase Dyed Gasoline and Apply for Refund of Tax on Gasoline Use Off-Highway, filed 8/19/96.

3.16.12 NMAC, Gasoline Tax - Permit to Purchase Dyed Gasoline and Apply for Refund of Tax on Gasoline Use Off-Highway, filed 6/1/01.