**TITLE 3:** **TAXATION**
**CHAPTER 16: MOTOR VEHICLE FUEL TAXES**
**PART 14:** **GASOLINE TAX - CLAIM FOR REFUND OF GASOLINE TAX PAID ON GASOLINE USED OFF-HIGHWAY**

**3.16.14.1** **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; 3.16.14.1 NMAC - Rn, 3 NMAC 16.14.1, 6/14/01]

**3.16.14.2** **SCOPE:** This part applies to all distributors, wholesalers or retailers of gasoline and all persons wishing 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; 3.16.14.2 NMAC - Rn, 3 NMAC 16.14.2, 6/14/01]

**3.16.14.3** **STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.
[8/31/96; 3.16.14.3 NMAC - Rn, 3 NMAC 16.14.3, 6/14/01]

**3.16.14.4** **DURATION:** Permanent.
[8/31/96; 3.16.14.4 NMAC - Rn, 3 NMAC 16.14.4, 6/14/01]

**3.16.14.5** **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; 3.16.14.5 NMAC - Rn & A, 3 NMAC 16.14.5, 6/14/01]

**3.16.14.6** **OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Gasoline Tax Act.
[8/31/96; 3.16.14.6 NMAC - Rn, 3 NMAC 16.14.6, 6/14/01]

**3.16.14.7** **DEFINITIONS**: "**USE" DEFINED:** "Use" of gasoline occurs when it is consumed in the operation of an internal combustion engine or stove or when it becomes so adulterated in a dry cleaning process that it is no longer suitable for fuel.
[1/23/73, 8/31/96; 3.16.14.7 NMAC - Rn, 3 NMAC 16.14.7, 6/14/01]

**3.16.14.8** **MINIMUM GALLONAGE:**
         A.      In order to be eligible for a refund, individual purchases of non-aviation gasoline must be made in quantities of fifty (50) gallons or more. There is no minimum gallonage applicable to individual purchases of aviation gasoline.
         B.       Applications for refunds will be processed only for refunds of tax on one hundred (100) gallons of gasoline or more. Purchasers of gasoline may accumulate invoices to reach this one hundred (100) gallon minimum subject to the fifty (50) gallon minimum individual purchase requirement. The following example illustrates the effect of Section 3.16.14.8 NMAC.
         C.      Example:  Alpha purchased one twenty-five (25) gallon lot of tax refund non-aviation gasoline during each of the months of January, February, March and April of a year. In May of that same year, Alpha applied for a refund on one hundred (100) gallons of dyed gasoline purchased and used within six (6) months. The refund will not be granted because the purchases were not in fifty (50) gallon quantities.
[1/23/73, 8/31/96; 3.16.14.8 NMAC - Rn & A, 3 NMAC 16.14.8, 6/14/01]

**3.16.14.9** **DOCUMENTS REQUIRED TO SUPPORT A CLAIM FOR REFUND:** All claims for refund shall be submitted on the original copy of department form GTR-1. This form must be completed and 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 or limited liability company. All GTR-1 claims must also be completed and signed by the seller. A notarized affidavit on a form provided by the department may be submitted in lieu of a lost, original form GTR-1 if filed within the time limitation required by Subsection C of Section 7-1-26 NMSA 1978.
[5/10/78, 8/31/96; 3.16.14.9 NMAC - Rn & A, 3 NMAC 16.14.9, 6/14/01]

**3.16.14.10        PAYMENT REQUIRED:** No refund shall be made unless it appears to the satisfaction of the department that the entire price of the gasoline, including passed-on tax required by Subsection C of Section 7-13-3 NMSA 1978, has been paid.
[1/23/73, 8/31/96; 3.16.14.10 NMAC - Rn & A, 3 NMAC 16.14.10, 6/14/01]

**3.16.14.11        TIMELY CLAIM:**
          A.          A claim for refund of gasoline tax on tax refund gasoline must be filed within six (6) months of the date the gasoline was purchased and used. The department shall consider the postmark of the claim for refund as its date. The gasoline must have been used prior to the time the claim for refund is submitted. The following examples illustrate the effect of Section 7-13-17 NMSA 1978.
          B.          Example 1:  C purchased fifty (50) gallons of tax refund gasoline on January 1. On July 10 of that same year, C bought a second fifty (50) gallons of tax refund gasoline. On the following July 20, C filed an application for a refund on one hundred (100) gallons. This refund will not be allowed since the first purchase was not within six (6) months of the date of the application for refund as required by Section 3.16.14.11 NMAC and the second purchase by itself does not meet the one hundred (100) gallon minimum required by Section 3.16.14.8.
          C.          Example 2:  P purchased fifty (50) gallons of tax refund gasoline on January 1. On the following June 30, P purchased a second fifty (50) gallons of tax refund gasoline and on the same day filed an application for refund. The claim for refund will not be allowed unless P can show that all the gasoline was used before July 1 of that same year.
          D.          Example 3:  D purchased fifty (50) gallons of tax refund non-aviation gasoline in January. D purchased another fifty (50) gallons in the following March. D used the one hundred (100) gallons of gasoline and filed a claim for refund in April of that same year. The refund will be made because:
                    (1)     the individual purchases were of fifty (50) gallons each;
                    (2)     the refund applies to one hundred (100) gallons of gasoline; and
                    (3)     the one hundred (100) gallons of gasoline were used before the claim for refund was filed.
[6/13/84, 12/4/89, 8/31/96; 3.16.14.11 NMAC - Rn & A, 3 NMAC 16.14.11, 6/14/01]

**3.16.14.12        CONTAINERS:**
          A.          Tax refund gasoline shall be placed in containers which are labeled with the words "Tax Refund Gasoline" in letters at least two inches high and the label shall be permanently attached to the container and maintained so as to be clearly legible. If the container is underground, the required label must be displayed above ground at the point where gasoline is placed in the container and removed from the container, or if gasoline is placed in the container at one point and removed from the container at a different point, such a label must be placed at each point.
          B.          In addition to the above, aviation gasoline to be used for aviation purposes shall be placed only in containers labeled with the words <u>"For Aviation Use Only"</u> in letters at least two inches high, which label shall be permanently attached to the container and maintained so as to be clearly legible. If the container is underground, such a label must be displayed above ground in the same manner required of the "Tax Refund Gasoline" label.
          C.          Containers bearing these markings may not be used for any purpose other than the storage of aviation gasoline or properly dyed tax refund gasoline.
          D.          Any penalty imposed by the department for any violation of Section 3.16.14.12 NMAC will be presumed to apply both to the permittee and to the person filling the container.
[1/23/73, 8/31/96; 3.16.14.12 NMAC - Rn & A, 3 NMAC 16.14.12, 6/14/01]

**HISTORY OF 3.16.14 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 16.14, Gasoline Tax - Claim for Refund of Gasoline Tax Paid on Gasoline Used Off-Highway, filed 8/19/96.
3.16.14 NMAC, Gasoline Tax - Claim for Refund of Gasoline Tax Paid on Gasoline Used Off-Highway, filed 6/1/01.