

NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to adopt the following rules:

Special Fuels Supplier Tax Act, Section 7-16A-19.1 NMSA 1978

3.12.99 NMAC - Special Fuel User Permits

The proposals were placed on file in the Office of the Secretary on September 12, 2018. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about December 11, 2018.

A public hearing will be held on the proposals on Monday, October 29, 2018, at 10:00 a.m. in the in Secretary's Conference Room on the third floor of the Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Alicia Romero at alicia.romero@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing. Accessible copies of the proposals are available upon request; contact the Tax Policy Office at policy.office@state.nm.us. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or by email to policy.office@state.nm.us on or before October 29, 2018 at 9:00 a.m.. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

TITLE 3: TAXATION
CHAPTER 12: HIGHWAY USE TAXES AND FEES
PART 99: SPECIAL FUEL USER PERMITS

3.12.99.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P. O. Box 630, Santa Fe, NM 87504-0630.
[3.12.99.1 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.2 SCOPE: This part applies to commercial motor carriers using special fuel and having a gross vehicle weight in excess of twenty-six thousand pounds operating in the state of New Mexico.
[3.12.99.2 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.3 STATUTORY AUTHORITY: Sections 9-5-1, 9-11-6.2, 7-16A-2.1, 7-16A-19 and 7-16A-19.1 NMSA 1978.
[3.12.99.3 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.4 DURATION: Permanent.
[3.12.99.4 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.5 EFFECTIVE DATE: xx/xx/xxxx, unless a later date is cited at the end of a section.
[3.12.99.5 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the Special Fuel Use Permits provisions of Chapter 7, Article 16A of NMSA 1978.
[3.12.99.6 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.7 DEFINITIONS: As used in this rule:
A. "Department" has the same meaning as defined in Subsection F of 7-16A-2 NMSA 1978.
B. "International border commercial zone" has the same meaning as defined in Subsection D of

7-16A-19.1 NMSA 1978.

C. “Person” has the same meaning as defined in Subsection K of 7-16A-2 NMSA 1978.

D. “Special fuel user” has the same meaning as defined in Subsection R of 7-16A-2 NMSA 1978.

[3.12.99.7 NMAC - N/E, 9/25/2018]

3.12.99.8 TEMPORARY SPECIAL FUEL USER PERMIT:

A. On a form provided by the department, a special fuel user whose vehicle is not registered with the department shall acquire from the department, before operating the vehicle on New Mexico highways, a temporary special fuel user permit valid for one calendar day only or for one entry into and one exit out of New Mexico.

B. A special fuel user whose vehicle is not registered with the department, that applies for a temporary special fuel user permit valid for one calendar day only, for one entry into and one exit out of New Mexico, shall pay five dollars (\$5.00) for each motor vehicle.

C. A special fuel user operating under a temporary special fuel user permit shall pay a special fuel user tax of five cents (\$.05) per mile for each mile traveled in New Mexico.

[3.12.99.8 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.9 BORDER CROSSING SPECIAL FUEL USER PERMIT:

A. A special fuel user who operates a commercial motor carrier vehicle registered or titled in Mexico, who is engaged primarily in movement across the New Mexico-Mexico border and into or from an international border commercial zone and whose exclusive use of New Mexico highways is limited to an area within ten miles of the New Mexico-Mexico border, may apply for, on a form approved by the department, a quarterly, semi-annual or annual border crossing special fuel user permit.

B. The department shall issue the permit if it approves the application and upon payment of the fee for the border crossing special fuel user permit.

C. The fee for the border crossing special fuel user permit shall be:

(1) for a quarterly permit, one hundred twenty-five dollars (\$125);

(2) for a semi-annual permit, two hundred dollars (\$200); and

(3) for an annual permit, three hundred fifty dollars (\$350).

D. A special fuel user holding a valid border crossing special fuel user permit and operating within the specified 10 miles of the New Mexico - Mexico border, as provided above, shall be exempt from the five dollar (\$5.00) temporary special fuel user permit specified in Paragraph (1) of Subsection A and Subsection C of 7-16A-19 NMSA 1978 and exempt from the five cent (\$.05) per mile special fuel user tax pursuant to Subsections E and F of 7-16A-2.1 NMSA 1978.

E. A special fuel user holding a valid border crossing special fuel user permit and operating outside the specified 10 miles of the New Mexico-Mexico border, shall acquire a temporary special fuel user permit for a fee of five dollars (\$5.00) and shall pay the special fuel user tax of five cent (\$.05) per mile for each mile traveled in New Mexico.

[3.12.99.9 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.10 VIOLATION OF THE SPECIAL FUELS SUPPLIER TAX ACT:

A. It is a violation of the special fuels supplier tax act for a person to act as a temporary special fuel user without possessing a valid temporary special fuel user permit issued by the department.

B. It is a violation of the special fuels supplier tax act for a person holding a valid border crossing special fuel user permit to travel in the motor carrier vehicle for which the permit was issued on New Mexico highways, outside of the area in which the permit authorizes travel, unless the person may otherwise under law engage in that travel.

C. In addition to any other penalty that may apply, a person who violates the terms of use of a border crossing special fuel user permit, is subject to a fine of three hundred dollars (\$300).

[3.12.99.10 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

3.12.99.11 REVOCATION OF SPECIAL FUEL USER PERMITS:

A. After notice and a hearing, the department may revoke the border crossing special fuel user permit of a special fuel user found to have violated the special fuels supplier tax act.

B. The hearing shall be conducted pursuant to the tax administration act.

[3.12.99.11 NMAC - N/E, 9/25/2018; A, xx/xx/xxxx]

History of 3.12.99 NMAC: [RESERVED]