

CHAPTER 18

EXECUTIVE AND ADMINISTRATIVE SERVICE

Authority

N.J.S.A. 39:2-3, 39:3-4e, 39:3-43, 39:3-84, 39:4-54, 39:5-30, 39:6-25, 39:6-86, 47:1A-1 et seq., 17:33B-41, 52:14B-3(1), 54:39A-8 and 54:39A-24.

Source and Effective Date

R.1995 d.218, effective March 28, 1995.
See: 27 N.J.R. 637(a), 27 N.J.R. 1806(b).

Executive Order No. 66(1978) Expiration Date

Chapter 18, Executive and Administrative Service, expires on March 28, 2000.

Chapter Historical Note

Chapter 18, Executive and Administrative Service, was adopted, pursuant to N.J.S.A. 39:3-84, prior to September 1, 1969. Chapter 18 was repealed and replaced by R.1972 d.107, effective July 1, 1972. See: 4 N.J.R. 105(a), 4 N.J.R. 165(c). Chapter 18 was readopted with amendments pursuant to Executive Order No. 66(1978) as R.1990 d.225, effective March 30, 1990. See: Source and Effective Date. See subchapters and section levels for further rulemaking activity.

Chapter 18, Executive and Administrative Service, was filed and became effective with Subchapters 1 through 5 prior to September 1, 1969. Subchapters 1, 2 and 3 were repealed and a new Subchapter 1, Permits for Overdimensional or Overweight Vehicles, was adopted as R.1972 d.107, effective July 1, 1972. See: 4 N.J.R. 105(a), 4 N.J.R. 165(c). A new Subchapter 2, Unsatisfied Claim and Judgment Fund Board, was adopted as R.1973 d.278, effective September 25, 1973. See: 5 N.J.R. 289(c), 5 N.J.R. 390(b). A new Subchapter 3, Overwidth Vehicles, was adopted as R.1974 d.30, effective February 7, 1974. See: 6 N.J.R. 20(b), 6 N.J.R. 120(a). Subchapter 4, Registrations, Identifying Markers and Reports, was repealed and a new Subchapter 4, Motor Fuels Use Tax Act, was adopted as R.1973 d.215, effective August 8, 1973. See: 5 N.J.R. 231(a), 5 N.J.R. 317(b). Subchapter 6, Insurance, was adopted as R.1973 d.62, effective March 8, 1973. See: 5 N.J.R. 52(c), 5 N.J.R. 120(b). Subchapter 7, Payment and Collection of Bus Excise Tax, was adopted as R.1973 d.188, effective July 11, 1973. See: 5 N.J.R. 193(a), 5 N.J.R. 290(e). Subchapter 8, Overhangs, was adopted as R.1975 d.285, effective October 1, 1975. See: 7 N.J.R. 340(a), 7 N.J.R. 483(a). Subchapter 9, Uninsured Motorists, was adopted as R.1976 d.75, effective March 8, 1976. See: 8 N.J.R. 82(b), 8 N.J.R. 204(a). Subchapter 10, Unsatisfied Claim and Judgment Fund's Reimbursement of Excess Medical Expense Benefits Paid by Insurers, was adopted as R.1978 d.207, effective June 22, 1978. See: 10 N.J.R. 119(c), 10 N.J.R. 350(b). Subchapter 11, Organization of the Division of Motor Vehicles, was adopted as R.1989 d.365, effective June 14, 1989. See: 21 N.J.R. 2048(a).

Subchapter 2 and Subchapter 10 were repealed by R.1990 d.121, effective February 20, 1990. See: 21 N.J.R. 3432(a), 22 N.J.R. 662(c). Pursuant to Executive Order No. 66(1978), Chapter 18 was readopted as R.1990 d.225, effective March 30, 1990. As a part of R.1990 d.225, Subchapters 3 and 7 were repealed, effective May 7, 1990. See: 22 N.J.R. 614(a), 22 N.J.R. 1378(b). Subchapter 6 was repealed and a new Subchapter 6, Insurance Verification, was adopted as R.1991 d.289, effective June 3, 1991. See: 23 N.J.R. 973(a), 23 N.J.R. 1806(b).

Pursuant to Executive Order No. 66(1978), Chapter 18 was readopted as R.1995 d.218. See: Source and Effective Date. As a part of R.1995 d.218, Subchapter 5, Connecting Devices and Towing Methods, and Subchapter 8, Overhangs, were repealed, effective May 1, 1995. See: 27 N.J.R. 637(a), 27 N.J.R. 1806(b). See, also, section annotations.

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SUBCHAPTER 1. PERMITS FOR OVERDIMENSIONAL OR OVERWEIGHT VEHICLES

13:18-1.1 Scope

(a) This Subchapter 1 replaces the following regulations previously adopted:

1. Subchapter 1 (Special Permits for Overdimensional Vehicles) of this Chapter;
2. Subchapter 2 (Permits in Book Form) of this Chapter;

3. Subchapter 3 (Special Permits for Overweight Vehicles) of this Chapter;

4. Subchapter 13 (Dimensional Restrictions) of Chapter 20 (Enforcement Service).

13:18-1.2 Requirement of permit

(a) A permit is required for each one-way trip of an oversize or overweight vehicle.

(b) In the event the vehicle is both oversize and overweight, two permits are required for each one-way trip.

13:18-1.3 Period of permit validity

(a) A permit shall be valid for a period of three days.

(b) In the event the one-way trip cannot be completed within the valid life of the permit due to hazardous road conditions or vehicle breakdown, a one-day extension may be granted provided that the request is made to the Division before the permit expires.

13:18-1.4 Reservation of Division's rights

The Division reserves the right to designate the routes of travel, speed limits, exact day and time of operation, or to impose any other restrictions which may be necessary to minimize traffic delays or safety hazards.

13:18-1.5 Fees

(a) The base fee for a permit shall be \$10.00.

(b) There shall be an additional fee of \$1.00 for each foot or fraction thereof, that the dimensions of the vehicle, including load, exceeds 14 feet in width and/or 70 feet in length.

(c) There shall be an additional fee of \$5.00 for each 2,000 pounds or fraction thereof, that the weight of the vehicle, including load, exceeds either the axle or gross weight limits—whichever is greater—set forth in Title 39 of the Revised Statutes.

(d) No fee shall be imposed for a permit issued to a vehicle owned or operated by the United States, the State, any government or local government subdivision, agency or instrumentality thereof.

As amended, R.1973 d.261, effective September 14, 1973.
See: 5 N.J.R. 289(a), 5 N.J.R. 357(a).
Amended by R.1995 d.139, effective March 6, 1995.
See: 26 N.J.R. 2521(a), 27 N.J.R. 927(a).

13:18-1.6 Liability for damage; application requirements; insurance

(a) Any person driving any vehicle, object or contrivance subject to and in excess of statutory weight limitations and permit requirements upon any highway or highway structure, whether temporary or permanent, shall be liable for all damage which the highway or highway structure may sustain as a result of any such operation, driving or moving of such vehicle, object or contrivance.

13:18-2.18 Household goods carriers

(a) A household goods carrier leasing vehicles and/or equipment from a service representative may elect to base (register) such vehicles and/or equipment in the base jurisdiction of the service representative or in that of the household goods carrier.

1. If the household goods carrier selects the base jurisdiction of the service representative as its base jurisdiction, the apportioned registration shall be in the name of the service representative as the lessor and the household goods carrier as the lessee.

i. Mileage records of both the service representative and the household goods carrier shall be used in calculating the apportionment of fees.

ii. All mileage records shall be maintained or available in the service representative's base jurisdiction.

2. If the household goods carrier selects its jurisdiction to be its base jurisdiction, the vehicles shall be registered by and in the name of the household goods carrier as the registrant and the service representative as the lessor.

i. Mileage records of both the household goods carrier and those of the service representative (which shall include those miles traveled within New Jersey as intrastate miles) shall be used to calculate the apportionment of fees.

ii. All mileage records shall be maintained or available in the base jurisdiction of the household goods carrier.

(b) If an owner-operator other than a service representative uses its vehicle(s) exclusively to transport cargo for a household goods carrier, such vehicle(s) shall be apportionally registered in the jurisdiction of the household goods carrier.

1. The name of the owner-operator as lessor and the household goods carrier as lessee shall appear in the registration record and on the cab card itself.

2. The household goods carrier shall maintain a record of the miles traveled for calculating fees.

13:18-2.19 Buses

(a) The apportionment of bus registration fees shall be based solely on the relationship of base jurisdiction miles versus total miles operated. Apportionment shall be accomplished as provided in this section.

(b) The registrant shall file an application for apportioned registration with the base jurisdiction listing buses assigned in pools.

(c) At the option of the registrant, total miles may be the sum of all actual in-jurisdiction miles or a sum equal to the scheduled route miles per jurisdiction from the farthest

point of origination to the farthest point of destination of the scheduled pool.

(d) After determining the total miles as specified in (c) above, in-jurisdiction mileage percentage factors shall be derived by dividing the total miles into the in-jurisdiction miles.

(e) Miles generated outside the designated pool are deemed to be reciprocity miles and the base jurisdiction may add such miles to the base jurisdiction's mileage total.

13:18-2.20 Replacement credentials

(a) The applicant shall certify the reason for replacement of any apportioned credential.

(b) If an apportioned license plate has been reported as stolen, the corresponding apportioned cab card shall be returned to the Division.

(c) The fee for issuance of a replacement of a lost, stolen, mutilated or illegible apportioned cab card shall be \$7.00.

(d) The fee for issuance of a replacement of a lost, stolen, mutilated or illegible license plate set shall be set forth in N.J.A.C. 13:20-34.5.

13:18-2.21 Recordkeeping and preservation

(a) Apportioned registrants shall preserve all operational records for three years after the apportioned registration credential expiration date, including, but not limited to, the following:

1. All initial, replacement, renewal, supplemental, or other apportioned applications, hunter's permits, temporary authorizations, and trip permits;

2. All source documents supporting the total mileage and in-jurisdiction mileage figures reported. Source documentation shall contain the minimum following information and shall be completed for each driver of an apportioned vehicle: the date of trip (starting and ending); the trip origin and destination; the route of travel and/or beginning and ending odometer or hubometer reading of the trip; the total trip miles; the mileage by jurisdiction; the unit number, plate number or vehicle identification number; the vehicle fleet number; the registrant's name; the trailer number; and the driver's signature and/or name.

i. Registrants shall recap the source documentation into monthly and yearly summaries broken down by fleet, unit and jurisdiction.

ii. The registrant may use a computer or other electronic form of summarization only if directly supported by IVMR's.

iii. The registrant may use electronic and/or photographic processes to maintain copies of source docu-

mentation only if the review of such copies is readily available to the Division during an audit.

iv. The information recorded on the source documentation shall be accurate and readable. The mileage figures entered on the source documentation shall be obtained from the vehicle odometer or hubometer readings, state maps, standard mileage guides or household goods mileage guides. The method used to report mileage shall be consistent during the annual reporting period.

v. The registrant shall record all movement of an apportioned vehicle (interstate and intrastate) including loaded, empty, deadhead and/or bobtail miles. The registrant shall also record all miles generated while operating under a trip permit.

vi. The registrant shall provide an explanation for any discrepancies regarding mileage or lapses of vehicle movement.

vii. It shall be the responsibility of the lessor in a trip lease situation to report all miles accumulated by the apportioned units.

(b) An acceptable source document is an "Individual Vehicle Mileage Record" (IVMR).

(c) If the registrant fails to maintain required records in the prescribed manner, the Division shall provide notification that the registrant must provide such records within 30 days. Failure to comply within 30 days may result in the imposition of assessments based upon the available information and documentation.

13:18-2.22 Audits

(a) The Division shall perform audits in accordance with the International Registration Plan Agreement.

(b) The Division shall initiate and conduct audits as may be reasonably necessary to establish the existence of non-compliance with this subchapter.

(c) For the purpose of audit, investigation, or proceeding, the Division shall administer oaths, subpoena witnesses, compel attendance, take evidence and require the production of any book, log, paper, correspondence, memorandum, agreement, contract, lease, or any other document, record, or report, deemed to be relevant or material to the inquiry.

(d) If all of the operational records are not located within New Jersey, the Division shall require the registrant to fully reimburse the Division for all costs that the Division incurs in the performance of the audit.

(e) After completion of an audit, the Division shall notify all member jurisdictions in which the registrant is apportionally registered as to the accuracy of the records maintained or preserved by the registrant.

(f) If a discrepancy is found in the records of a registrant in the performance of an audit, the Division shall notify the registrant and furnish such information to the affected member jurisdictions.

13:18-2.23 On-board recording systems

(a) The use of on-board recording systems/devices is permitted under the following conditions:

1. A review of the system is performed by the Division and written approval is given by the Director; and
2. The system meets all current requirements of the IRP.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. MOTOR FUELS USE TAX ACT

13:18-4.1 Scope

(a) This regulation replaces the following regulations and all amendments and supplements thereto:

1. Registrations, identifying markers and reports (N.J.A.C. 13:18-1.1 et seq., filed July 26, 1963);
2. Amendment (N.J.A.C. 13:18-4.14, filed September 23, 1965);
3. Amendments (N.J.A.C. 13:18-4.3, 13:18-4.6, 13:18-4.7, 13:18-4.8, 13:18-4.10, 13:18-4.11, 13:18-4.17; filed May 14, 1968);
4. Supplement (N.J.A.C. 13:18-4.19, filed May 14, 1968).

13:18-4.2 Definitions

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

"Decal" means an identification marker provided for under N.J.S.A. 54:39A-10.

"Identification card" means an identification card provided for under N.J.S.A. 54:39A-10.

"Leased vehicle" means a vehicle operated, but not owned, by a user who has the right to exclusive use, possession and control of the vehicle for a period of 30 days or more by virtue of a lease, contract or other arrangement.

"Leasing company" means a person engaged in the business of leasing vehicles.

“Mileage recording instrument” means an odometer, hubometer or tachograph.

“Motor carrier” means a person who transports persons or property by vehicle as a business in itself or in the furtherance of a commercial enterprise.

“Motor vehicle” means any omnibus that has seats for more than 10 passengers in addition to the driver, or road tractor, or any truck tractor, or any truck having a gross or registered weight, whichever is greater, in excess of 18,000 pounds alone or in combination with a motor-drawn vehicle.

“Operations” means, in addition to the meaning prescribed in N.J.S.A. 54:39A-2, the operations of only those vehicles for which the registered user has purchased decals during the applicable tax year but including substitute and temporary additional vehicles; and in the case of a rental company means the operations of all vehicles not rented to a registered user and excludes the operations of other vehicles only for such periods of time when they are used by a registered user as substitute or temporary additional vehicles.

“Owner/operator” means a person who owns and drives or leases and drives a vehicle leased to a motor carrier.

“Person” means and includes natural persons and partnerships, firms, companies, associations, joint stock companies, syndicates and corporations, and any receiver, trustee, conservator or other officers appointed pursuant to law or by any court, State or Federal.

“Principal place of business” means the place where the user transacts his principal business, makes up and approves his payroll, maintains a central file of corporate records and maintains his principal executive offices. In the event that not all of the above functions are performed in one place, then that place in which the majority of such functions are performed shall be deemed to be the principal place of business. In any event, the term “Principal place of business” shall mean that place at which the user does, in fact, principally transact and control his business affairs.

“Rental company” means a person engaged in the business of renting vehicles to the general public, including motor carriers, on an hourly, daily, trip or other short-term basis of less than 30 days.

“Rental vehicle” means a vehicle owned by a rental company and rented to the general public on an hourly, daily, trip, or other short-term basis of less than 30 days.

“Special mobile equipment” means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch digging apparatus; well boring apparatus; construction and maintenance machinery such as asphalt spreaders, bituminous mixers,

bucket loaders, tractors other than truck tractors and road tractors, ditchers, levelling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, self-propelled cranes and earth moving equipment; towed tar pots, cement or mortar mixers; and utility trailers; vehicles designed, and used exclusively, for removing disabled vehicles from the highways.

“Substitute vehicle” means a vehicle owned by a leasing or rental company and used by a registered user as a temporary replacement for a particular leased or rented vehicle.

“Temporary additional vehicle” means a vehicle leased or rented to a registered user as a temporary addition to his normal fleet.

“Trip basis” means rental of a vehicle from a user for a period of less than 30 days. The vehicle operated on a trip lease basis is deemed to be a rental vehicle and the user is deemed to be a rental company.

“User” means every person, firm or corporation who or which operates or causes to be operated any motor vehicle on any highway in this State. The term shall include a rental company in the case of a rental vehicle.

Amended by R.1991 d.103, effective March 4, 1991.

See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Deletes or modifies the definitions of various terms that are inconsistent with the definitions set forth at N.J.S.A. 54:39A-2.

13:18-4.3 User registration

(a) Every user shall register as such, before operating vehicles in this State, on a form furnished by the Division providing the following information:

1. Full name of the user and the address and telephone number of his principal place of business;
2. Addresses of all places of business maintained in New Jersey;
3. Location of bulk fuel storage facilities maintained in New Jersey;
4. Name and addresses of owner, partners or corporate officers (President, Secretary, Treasurer);
5. Social security number or employer identification number;
6. Interstate Commerce Commission motor carrier identification number, if any;
7. Type of operation—Leasing company; rental company; motor carrier for hire, private, exempt, contract, owner/operator, other;
8. Whether the vehicles to be operated are leased from or to other persons;

9. Names and addresses of lessors and lessees of vehicles;

(b) The registration shall be certified by the owner, a partner or a corporate officer.

(c) In the event the name, address of the user, or other information shown in the original registration changes subsequent to its filing, the user shall file corrected information within seven days thereafter.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Requires that a user provide the telephone number of its principal place of business on the registration form filed with the Division and deletes that provision which requires the submission of information as to whether the lessor or lessee provides the fuel and pays the motor fuels use tax for leased vehicles.

13:18-4.4 Identification cards and markers

(a) Coincident with the filing of the registration form specified in these rules, and not later than one month prior to the beginning of each tax year thereafter, each user shall file an application, on a form provided by the Division, for an identification card and as many markers (decals) as he may require. The statutory fee of \$5.00 per decal shall be remitted with the application.

(b) The application shall provide the following information:

1. The name of the user and address of his principal place of business;
2. Quantity of decals ordered and total amount of fees due;
3. States which issued base motor vehicle registration plates for all vehicles, showing quantity registered in each state or province;
4. Type of fuel used—gasoline, diesel, liquified petroleum gas;
5. Where fuel will be purchased during applicable tax year—New Jersey only, other states only, or both in New Jersey and other states.

(c) If the application is acceptable the Division may issue one motor fuels user identification card to the user and as many vehicle decals for which the fees have been paid:

1. The original identification card shall be kept in the user's principal place of business. A copy of the card shall be carried in each vehicle when it is in New Jersey.
2. A decal shall be securely affixed to the outside of each vehicle in the upper half of the door on the driver's side.

(d) Any decal issued prior to the beginning of the applicable tax year may be displayed on the vehicle on or after March 1.

(e) When a vehicle has been sold, traded or otherwise passes from the control of the user, the decal shall be removed from the vehicle and surrendered to the Division within 48 hours. If the user discontinues business in this State the user shall surrender the identification card as well. The user to whom the identification card and decal were issued shall be liable for taxes applicable to the operations of the vehicles in this State up to the date on which the card and/or decal was surrendered. In the event the vehicle is that of an owner/operator who fails to surrender the decal to the user before leaving his service, the user's liability will terminate upon the date he notifies the Division by mail providing the serial number of the decal and the name and address of the person having possession of same. The provisions of this subsection shall not apply when the vehicle has been stolen or hijacked and a report of such theft or hijack has been made to the appropriate law enforcement agency.

(f) The Division will replace, upon payment by the user of the \$5.00 fee, any decal which was lost, stolen or is illegible.

(g) Issuance of an identification card and decals will be denied and any identification card and decals issued will be recalled if the user has failed to pay any moneys or file any report due under the Act or under any other law administered by the Division.

(h) A written notice of such denial or recall shall be mailed to the user's principal place of business by ordinary mail.

(i) The user shall be afforded a conference by the Division before the denial or recall is effective provided he has made a request by mail within 30 days of issuance of the notice.

(j) The sole issue to be resolved at such conference is whether or not the user in fact did fail to pay moneys due as determined by the Division or file said report. The burden of proof shall be borne by the user.

(k) The conference in such cases shall be conducted by the Manager, Motor Carriers Unit in the Division of Motor Vehicles or such of his or her subordinates as he or she may designate.

(l) Notice of the determination made at such conference shall be given to the user at the close of the conference. If the determination is adverse to the user the denial or recall shall be effective on the fifth day following the date of the conference.

(m) Identification cards and decals recalled or denied shall not again be issued until the moneys due have been paid and/or the tax report filed.

(n) A user who disagrees with the Division's determination to deny or recall an identification card or decal may, within 90 days after the date of the written determination, appeal to the Tax Court of New Jersey by filing a complaint with the Tax Court pursuant to the New Jersey Court Rules.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Provides for the payment of statutory fees for markers and implements P.L. 1989 c.116; substitutes discretionary for mandatory language; extends the time for requesting a conference and new subsection (n) sets forth user's remedy if an adverse determination is made at Division conference.

13:18-4.5 Permits

(a) Upon request by the user and payment of the \$5.00 fee, the Division may issue over the counter, by mail or collect telecommunication, an emergency permit authorizing the operation in this State of a vehicle pending the issuance of an identification card and/or decal. The decal will be issued at no additional charge.

(b) A user whose vehicles in the aggregate make not more than six round trips into or through this State in any 12-month period may be issued, upon his request, an occasional operator permit for each such trip. The permit may be issued over the counter, by mail or collect telecommunication, upon payment of the \$2.50 fee. The permit shall be valid for 96 hours.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

To implement P.L. 1989 c.116 the trip permit fee is set at \$2.50; substitutes discretionary language for mandatory and deletes (c) pertaining to prepurchase.

13:18-4.6 Tax reports; evidence of timely filing

(a) The post-marked or postal meter marked date on the transmittal envelope shall be conclusive evidence of the filing date if filing is made by mail. In the event both marks appear on the envelope, the post-marked date shall be the filing date.

(b) In the event the filing is made by personal delivery, the Division's date received stamp shall be conclusive evidence of the filing date.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Changed "Bureau" to "Division".

Case Notes

Retail dealer required to keep daily record of amount of fuel sold each day and to preserve such records for one year. *Duncan Truck Stop, Inc. v. Director, Div. of Taxation*, 4 N.J.Tax 367 (Tax Ct.1982).

13:18-4.7 Tax reports; content

(a) Every user shall report with complete accuracy for the period covered by said report:

1. The total miles traveled in his operations within and without New Jersey;

2. The total fuel used in his operations within and without New Jersey;

3. The average number of miles traveled per gallon of fuel used in his operations within and without New Jersey;

4. The total miles traveled in his operations within New Jersey;

5. The number of gallons of fuel used in his operations within New Jersey determined by dividing the number of miles traveled in this State by the average miles per gallon of fuel used in his operations within and without this State;

6. The total number of gallons of fuel purchased in New Jersey on which the New Jersey motor fuels tax was paid showing separately the number of gallons withdrawn from bulk storage in this State and the number of gallons purchased at service stations;

7. The tax due on fuel used in New Jersey;

8. The tax paid on fuel purchased in New Jersey;

9. New Jersey fuel tax paid in excess of fuel use tax due;

10. New Jersey fuel tax credit claimed from prior quarter;

11. Net fuel use tax due;

12. Late filing penalty and interest due.

(b) The Division may, upon demand, require the user to submit evidence with his report to support his claim for payment of fuel tax to this State.

(c) The user shall declare on the report the address where the records required by the Act and these rules are maintained and available for examination.

13:18-4.8 Tax reports; annual in lieu of quarterly

(a) Any user who purchases in this State, and pays the motor fuels tax thereon, all fuel used in his operations within and without this State except for occasional emergency purchases, may file an annual report in lieu of quarterly reports, provided;

1. Not more than three per cent of the total fuel used was purchased outside this State.

2. He has certified in his application for decals for the applicable tax year that he will purchase said fuel only in this State.

(b) Such annual reports shall be applicable to the user's operations for the 12-month period ending March 31 and shall be filed on or before the last day of April.

13:18-4.9 Motor fuels tax; credit and refund

(a) Any user who uses fuel that was purchased in this State outside of this State may apply the fuel tax paid on

said fuel as a credit against fuel use tax liability in the next succeeding quarter provided he has records proving the fuel was not used in New Jersey and that he paid the applicable fuel tax thereon.

(b) Any user who purchases motor fuel in bulk quantities in this State and uses a portion thereof outside of this State may be refunded the motor fuels tax which he paid on fuel not used in this State provided:

1. Said fuel was stored for future use at a facility in New Jersey.
2. The records of his operations within and without this State are made available in New Jersey.
3. The quantity of fuel withdrawn from such storage facility in the applicable quarter equals or exceeds the amount of fuel used outside of New Jersey.
4. The claim exceeds the tax on 2,000 gallons of fuel or one per cent of the total fuel purchased in this State, whichever is larger.

(c) An applicant for a refund shall file his claim on a form provided by the Division within one year following the end of the reporting quarter in which the fuel was pumped into the service tanks of the vehicles.

(d) No claim for refund will be honored until an auditor of this Division has examined the claimant's records and finds that the claim is allowable in whole or in part, unless the claimant has filed a surety bond—issued by a company authorized to do business within this State—in the full amount of all unaudited claims.

(e) A refund claim shall be rejected if the claimant has not complied with all provisions of the Act and these rules.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

At (c) provision that an application for refund must be filed within one year following the end of the reporting quarter in which fuel was pumped into the service tanks of vehicles.

Case Notes

Tax refund under Motor Fuels Use Tax Act denied as claim was filed with the Tax Court out-of-time. *Riteway Rentals, Inc. v. Director, Div. of Motor Vehicles*, 2 N.J.Tax 117 (Tax Ct.1981).

13:18-4.10 Records required

(a) Every user shall maintain a summary sheet for each tax quarter on which is shown:

1. Each vehicle subject to the Act identified by its fleet number, serial number or license plate number, vehicle type—tractor, truck or bus—and type of fuel used;
2. Readings for each vehicle at beginning and end of quarter taken from mileage recording instrument;
3. Total mileage traveled by each vehicle in all States, including New Jersey;

4. Total mileage traveled by all vehicles in all States, including New Jersey;

5. Number of gallons of fuel delivered into the service tanks of each vehicle in all States from bulk storage or purchased on the road;

6. Total gallons of fuel delivered into the service tanks of all vehicles in all States;

7. Number of gallons of fuel delivered into service tanks of each vehicle in New Jersey from bulk storage or purchased on the road;

8. Total gallons of fuel delivered into service tanks of all vehicles in New Jersey from bulk storage or purchased on the road.

(b) Every user shall maintain the following source records segregated by quarter and filed chronologically:

1. Trip record for each trip by each vehicle showing beginning and ending readings from mileage recording instrument; total miles traveled; miles traveled in New Jersey; points of origin; destination and turn around; points of entry and exit from New Jersey;

2. Driver's logs required to be kept by any governmental agency;

3. Copies of mileage and fuel use reports made to any State or Federal government agency;

4. Shipping manifests, freight bills, or bills of lading;

5. Payroll records where driver's wages are affected by miles traveled;

6. Records of payments based on mileage made to leasing companies;

7. Fuel purchase receipts;

8. Bulk fuel storage record for each storage facility within and without New Jersey showing inventory at beginning of quarter, purchases made during quarter, withdrawals by individual vehicle and inventory at the end of the quarter.

(c) In the event it becomes necessary to repair or replace the mileage recording instrument of any vehicle because of malfunction, the mileage traveled by said vehicle within and without New Jersey during the period when the instrument is inoperative is deemed to be the average daily mileage traveled by that vehicle during that period of the same quarter when the instrument was operative. If the instrument is not repaired or replaced within ten days it is deemed that the vehicle consumed 40 gallons of fuel in New Jersey each day of the entire period when the instrument was inoperative.

(d) The records required by the Act and these rules shall be retained for a period of three years following the end of the applicable quarter and shall be available for examination by an employee of the Division at any time during normal business hours. The records may be destroyed after such examination provided the user has not appealed from any determination of the Division based on said records.

Case Notes

Persons owning or operating trucks or truck tractors required to keep all records. *Duncan Truck Stop, Inc. v. Director, Div. of Taxation*, 4 N.J.Tax 367 (Tax Ct.1982).

13:18-4.11 Field audits; assessments and refund claims

(a) An audit by an employee of the Division will be made of any user's records by the sampling method or in total as may be deemed necessary for the Division to verify the accuracy of tax reports or refund claims.

(b) A notice by ordinary mail of not less than ten days will be made to the user of the Division's intention to make such audit. No such notice will be given if the Division has reason to believe the user intends to discontinue operating in this State or to do any other act which may hinder the Division's efforts to collect moneys due.

(c) Upon the auditor's appearance at the location where the required records are kept the user shall produce said records upon demand. If said records are not produced within one hour the auditor will depart. In such case the Division will make an assessment or reject the refund claim in the manner prescribed by the Act.

(d) If the records are produced as required but are found not in conformance with the applicable provisions of the Act or these rules, an assessment or rejection of refund claim will be made in the manner prescribed by the Act.

(e) Upon completion of his examination the auditor shall, if the user so desires, discuss his findings with said user and shall offer him the opportunity to present additional data which may affect the audit findings.

(f) The auditor will submit a report to the Division showing his findings and making a recommendation as to the disposition of the matter.

(g) The Division will review the auditor's report and make such determination as the facts may warrant. Notice of such determination shall be sent to the user by ordinary mail.

13:18-4.12 Desk audits; assessments

(a) When in the opinion of the Division it is impractical to make an audit of the user's records at his premises, a desk audit will be made in the following manner:

1. The user will be given 15-days notice by ordinary mail to submit by mail or personal delivery the summary

sheets required to be kept by these rules, a statement of operations showing number of trips and routes traveled in New Jersey and all original receipts for purchase of fuel in New Jersey made during the applicable period.

2. The Division will review the data submitted by the user and make such determination as it may warrant. Notice of such determination shall be sent to the user by ordinary mail.

3. Upon receipt of payment of any assessment made, the Division will return the fuel purchase receipts to the user.

13:18-4.13 Demand for payment

When the Division has determined that moneys are due the State from any user, it will issue a demand for payment within 15 days following the date of notice.

13:18-4.14 Interest, assessments and refund recovery

(a) Interest, compounded annually at the end of each year, at the rate of three percentage points above the prime rate per month or fraction thereof shall accrue on all moneys due, whether from assessment or refund recovery, from the date on which the taxes were originally due, or when the refund was paid to the user, to the date said moneys due are paid.

(b) In the case of payments made by mail the postmarked date on the transmittal envelope shall be considered the date paid.

Amended by R.1991 d.103, effective March 4, 1991.

See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Provided for the payment of 1½ percent interest per month on unpaid taxes. This amendment implements P.L. 1985, c. 7, § 5 (N.J.S.A. 54:39A-14) which increased the interest rate owing on unpaid taxes from one percent to 1½ percent.

Amended by R.1995 d.218, effective May 1, 1995.

See: 27 N.J.R. 637(a), 27 N.J.R. 1806(b).

13:18-4.15 (Reserved)

R.1973 d.291, effective October 11, 1973.

See: 5 N.J.R. 317(a), 5 N.J.R. 390(c).

Repealed by R.1991 d.103, effective March 4, 1991.

See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

13:18-4.16 Notice of address change

Users must notify the Division of any change in name and/or address within seven days following the date of such change.

Amended by R.1991 d.103, effective March 4, 1991.

See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Changed term "motor carriers" to "users".

13:18-4.17 Preservation of records

(a) The records required to be kept by every user under the provisions of the Act or of this subchapter shall be preserved for a period of three years or until audited and

written permission has been given for their sooner destruction by an authorized representative of the Director.

(b) Said records shall be made available for examination by the Director's representative upon 30-day written notice, at the time said representative appears at the place where the user has informed the Division that such records are kept.

(c) If said records are not immediately available the Division will make an assessment of the user's tax liability from whatever information is obtainable, or in the case of a refund claim the claim shall be disallowed.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).
Changed term "motor carriers" to "users".

13:18-4.18 (Reserved)

Repealed by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

13:18-4.19 Refunds application

(a) Application for refunds provided for by authority of N.J.S.A. 54:39A-8 shall be made on forms supplied by the Division of Motor Vehicles.

(b) Claims for refund shall be denied if the information requested on the application form is inaccurate or incomplete.

(c) The application for refund shall be considered as received within the statutory filing period if the envelope in which the application is transmitted is postmarked before the end of that period.

Amended by R.1991 d.103, effective March 4, 1991.
See: 22 N.J.R. 3104(b), 23 N.J.R. 702(b).

Deletes obsolete subsections pertaining to credit and refund procedures for foreign taxes (see P.L. 1973, c.117 and P.L. 1985, c.7, § 2).

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. INSURANCE VERIFICATION

13:18-6.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

"Cancellation for nonpayment of premium" means the termination of a policy during the policy term due to the failure of the named insured to discharge when due any of his or her obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

"Commercial lines insurer" means a person authorized to transact the business of private passenger automobile insurance in New Jersey pursuant to a commercial lines rating system filed in accordance with N.J.S.A. 17:29A-1 et seq.

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety.

"Effective date of policy cancellation" means the date designated by the insurer's notice of cancellation pursuant to N.J.A.C. 11:3-7.6 or the date cancellation takes effect pursuant to N.J.S.A. 17:16D-13.

"FAIR Act" means the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

"Insurer" means an entity authorized or admitted to transact the business of personal private passenger automobile insurance in New Jersey.

"Newly issued policy" means any contract or endorsement of personal private passenger automobile insurance that provides liability coverage for an automobile not previously covered by a contract of liability insurance issued by the insurer, or that was previously covered by a policy issued by the insurer which was cancelled for nonpayment of premium.

"Nonfleet" describes an automobile insurance policy issued by a commercial lines insurer that provides coverage to less than five vehicles, or less than such other number of vehicles as is provided by the insurer's filed rating system.

"Person" means any natural person or persons, corporation, association, partnership or company authorized by the laws of this State to transact the business of insurance in this State.

"Personal lines insurer" means a person authorized to transact the business of private passenger automobile insurance in New Jersey pursuant to a personal lines rating system filed and approved in accordance with N.J.S.A. 17:29A-1 et seq.

"Private passenger automobile insurance" means direct insurance on private passenger automobiles as defined in N.J.S.A. 39:6A-2, but excluding excess liability insurance.