

**Taxation and Revenue Department
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**Regulations Pertaining to the
WEIGHT DISTANCE TAX ACT
(Sections 7-15A-1 TO 7-15A-16 NMSA 1978)**

[3.12 NMAC]

Revised March 2010

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**3.12 NMAC
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**7-15A-1. SHORT.--Chapter 7, Article 15A NMSA 1978 may be cited as the "Weight Distance Tax Act".
(Laws 1988, Chapter 73, Section 28)**

3.12.1.8 - CITATION OF STATUTES

Unless otherwise stated, all citations of statutes within Chapter 3.12 NMAC are to the New Mexico Statutes Annotated, 1978 (NMSA 1978).
[9/14/96; 3.12.1.8 NMAC - Rn & A, 3 NMAC 12.1.8, 11/15/01]

3.12.1.9 - LEASE OPERATORS

A. Any person named on a validly-issued tax identification card is responsible for maintaining all records which demonstrate that any and all highway use taxes and fees incurred by the operation of registered vehicles on New Mexico highways have been paid.

B. When a vehicle is leased and there is no validly-issued tax identification card for it, the following persons shall be held ultimately responsible for demonstrating that all applicable fees and taxes have been paid. In the event that such payment cannot be demonstrated, these same persons shall be held financially responsible for payment of all unpaid fees and taxes due, and the vehicle may be detained until such payment has been made.

(1) If the commercial motor carrier vehicle is owned by a company which is in the business of vehicle rental or leasing and the vehicle is leased to customers without a driver, the vehicle owner (lessor) is financially responsible.

(2) If the commercial motor carrier vehicle is owned by an owner/operator and both the owner/operator (lessor) and the vehicle falls under the employment or control and custody of the lessee, the lessee is financially responsible.

[2/1/93, 4/30/97; 3.12.1.9 NMAC - Rn, 3 NMAC 12.1.9, 11/15/01]

7-15A-2. DEFINITIONS.--As used in the Weight Distance Tax Act:

A. "bus" means a motor vehicle designed and used for the transportation of a person and a motor vehicle, other than a taxicab, designed and used for the transportation of a person for compensation;

B. "declared gross weight" means the declared gross weight for purposes of the Motor Transportation Act;

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of that department exercising authority lawfully delegated to that employee by the secretary;

D. "gross vehicle weight" means the weight of a vehicle without load, plus the weight of a load upon the vehicle;

E. "motor vehicle" means a vehicle that is selfpropelled and a vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails;

F. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other association; and

(2) to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality of the federal, state or other governmental unit;

G. "registrant" means a person who has registered the vehicle pursuant to the laws of this state or another state;

H. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

I. "tax" means the weight distance tax imposed by the Weight Distance Tax Act;

J. "vehicle" means a device in, upon or by which a person or property is or may be transported or drawn upon a highway, including a frame, chassis or body of a vehicle or motor vehicle, except a device moved by human power or used exclusively upon stationary rails or tracks; and

K. "weight distance tax identification permit" means an administrative certificate that is issued by the department and that identifies a specific vehicle as subject to the tax imposed pursuant to the Weight Distance Tax Act.

(Laws 2003 – 1ST Special Session, Chapter 3, Section 3)

7-15A-3. IMPOSITION OF WEIGHT DISTANCE TAX.--A tax is imposed upon the registrants, owners and operators for the use of the highways of this state by all motor vehicles having a declared gross weight or gross vehicle weight in excess of twenty-six thousand pounds and registered in this state, registered under proportional registration or qualified under the provisions of Sections 65-1-32 and 65-1-33 NMSA 1978. This tax shall be known as the "weight distance tax".
(Laws 1988, Chapter 73, Section 30)

3.12.5.9 - OFF HIGHWAY USE NOT SUBJECT TO TAX

A. Any registrant, owner or operator of a motor vehicle who does not use that motor vehicle on the highways of this state, in whole or in part, is not subject to the tax imposed by Section 7-15A-3 NMSA 1978 to the extent that the motor vehicle is not operated on the highways of this state.

B. For the purposes of section 3.12.5.9 NMAC, "highways of this state" include those roads, highways, thoroughfares, streets and other ways generally open to the use of the public as a matter of right for the purpose of motor vehicle travel, regardless of whether it is temporarily closed for the purpose of construction, reconstruction, maintenance or repair, if the road, highway, thoroughfare, street or other way is or was constructed, reconstructed, maintained or repaired with the use of any federal, state or local government or Indian nation, tribe or pueblo government funding.

C. Any road, highway, thoroughfare, street or other way is not a "highway of this state" if it is or was constructed, reconstructed, maintained or repaired solely with private funds.
[9/20/93, 9/14/96; 3.12.5.9 NMAC – Rn & A, 3 NMAC 12.5.9, 11/15/01]

**7-15A-4. RESPONSIBILITY FOR PAYMENT OF TAX.--The tax shall be paid by the registrant, owner or operator of a motor vehicle registered in this state to which the tax applies.
(Laws 1988, Chapter 73, Section 31)**

3.12.9.8 - LEASE OPERATIONS

A. Any person named on a valid tax identification card issued by the department is responsible for maintaining all records which demonstrate that any and all highway use taxes and fees incurred by the operation of registered vehicles on New Mexico highways have been paid.

B. When a vehicle is leased and there is no valid tax identification card issued by the department for it, the following persons shall be held ultimately responsible for demonstrating that all applicable fees and taxes have been paid. In the event that such payment cannot be demonstrated, these same persons shall be held financially responsible for payment of all unpaid fees and taxes due, and the vehicle may be detained until such payment has been made.

(1) If the commercial motor carrier vehicle is owned by a company which is in the business of vehicle rental or leasing and the vehicle is leased to customers without a driver, the vehicle owner (lessor) is financially responsible.

(2) If the commercial motor carrier vehicle is owned by an owner/operator and both the owner/operator (lessor) and the vehicle falls under the employment or control and custody of the lessee, the lessee is financially responsible.

[9/20/93, 9/14/96; 3.12.9.8 NMAC – Rn, 3 NMAC 12.9.8, 11/15/01]

7-15A-5. EXEMPTION FROM TAX.--Exempted from imposition of the weight distance tax is the use of the highways of this state by:

A. school buses;

B. buses used exclusively for the transportation of agricultural laborers;

C. buses operated by religious or nonprofit charitable organizations;

and

D. commercial motor carrier vehicles as defined in Subsection B of Section 7-15-2.1 NMSA 1978 while operating exclusively within ten miles of a border with Mexico in conjunction with crossing the border with Mexico.

(Laws 2006, Chapter 44, Section 2)

3.12.5.8 - REGISTRATION OF SCHOOL BUSES REQUIRED

Only those school buses registered under the provisions of Section 66-6-12 NMSA 1978, those buses used exclusively for the transportation of agricultural laborers registered under the provisions of Section 66-6-8 NMSA 1978, and those buses operated by religious or nonprofit charitable organizations registered under the provisions of Section 66-6-5 NMSA 1978 are exempt from the imposition of the weight distance tax under Section 7-15A-5 NMSA 1978.

[9/20/93, 9/14/96; 3.12.5.8 NMAC – Rn & A, 3 NMAC 12.5.8, 11/15/01]

**7-15A-6. TAX RATE FOR MOTOR VEHICLES OTHER THAN BUSES
--REDUCTION OF RATE FOR ONE-WAY HAULS.--**

A. For on-highway operations of motor vehicles other than buses, the weight distance tax shall be computed in accordance with the following schedule:

Declared Gross Weight (Gross Vehicle Weight)	Tax Rate (Mills per Mile)
26,001 to 28,000	11.01
28,001 to 30,000	11.88
30,001 to 32,000	12.77
32,001 to 34,000	13.64
34,001 to 36,000	14.52
36,001 to 38,000	15.39
38,001 to 40,000	16.73
40,001 to 42,000	18.05
42,001 to 44,000	19.36
44,001 to 46,000	20.69
46,001 to 48,000	22.01
48,001 to 50,000	23.33
50,001 to 52,000	24.65
52,001 to 54,000	25.96
54,001 to 56,000	27.29
56,001 to 58,000	28.62
58,001 to 60,000	29.93
60,001 to 62,000	31.24
62,001 to 64,000	32.58
64,001 to 66,000	33.90
66,001 to 68,000	35.21
68,001 to 70,000	36.52
70,001 to 72,000	37.86
72,001 to 74,000	39.26
74,001 to 76,000	40.71
76,001 to 78,000	42.21
78,001 and over	43.78.

B. All motor vehicles for which the tax is computed under Subsection A of this section shall pay a tax that is two-thirds of the tax computed under Subsection A of this section if:

- (1) the motor vehicle is customarily used for one-way haul;**
- (2) forty-five percent or more of the mileage traveled by the motor vehicle for a registration year is mileage that is traveled empty of all load; and**
- (3) the registrant, owner or operator of the vehicle attempting to qualify under this subsection has made a sworn application to the**

department to be classified under this subsection for a registration year and has given whatever information is required by the department to determine the eligibility of the vehicle to be classified under this subsection and the vehicle has been so classified.

(Laws 2004, Chapter 59, Section 1)

3.12.6.7 - DEFINITIONS: For the purposes of this part (3.12.6 NMAC):

A. “empty miles” means the number of miles traveled on New Mexico roads when the vehicle or vehicle combination is transporting no load whatsoever;

B. “loaded miles” means the number of miles traveled on New Mexico roads when the vehicle or vehicle combination is transporting any load, regardless of whether a fee is charged for the transportation; and

C. “one-way hauler” means a vehicle described in Subsection B of 7-15A-6 NMSA 1978.

[9/20/93, 9/14/96; 3.12.6.7 NMAC – Rn & A, 3 NMAC 12.6.7, 11/15/01]

3.12.6.8 - QUALIFICATION AS ONE-WAY HAULER

A. At the time that a vehicle is registered or reregistered under the provisions of the Motor Vehicle Code, the registrant, owner or operator of the vehicle may identify the vehicle as a one-way hauler if the registrant, owner or operator reasonably believes it will be qualified during that registration year for the rate reduction provided by Subsection B of Section 7-15A-6 NMSA 1978.

B. Only those vehicles that the registrant, owner or operator can reasonably expect at the time of registration or re-registration to travel forty-five percent (45%) or more of all miles traveled in New Mexico to be traveled empty of all load may be qualified as one-way haul vehicles.

C. Identification of a specific vehicle at the time of registration or re-registration as being qualified for the rate reduction provided by Subsection B of Section 7-15A-6 NMSA 1978 does not entitle the registrant, owner or operator of the vehicle to use the rate reduction in any reporting period that the vehicle does not travel forty-five percent (45%) or more of all New Mexico miles traveled empty of all load.

[9/20/93, 9/14/96; 3.12.6.8 NMAC – Rn & A, 3 NMAC 12.6.8, 11/15/01]

3.12.6.9 - DISQUALIFICATION AS ONE-WAY HAULER

A. If any registrant, owner or operator has identified one or more vehicles as one-way haulers for a registration year, and during that year any identified vehicle does not qualify for the rate reduction provided by Subsection B of Section 7-15A-6 NMSA 1978 for at least three (3) reporting periods during the registration period, that registrant, owner or operator may not identify that vehicle as a one-way hauler for the subsequent registration year.

B. If a vehicle is disqualified as a one-way hauler under the provisions of section 3.12.6.9 NMAC for any registration year, but does travel at least forty-five percent (45%) of all miles traveled in New Mexico are empty miles, the registrant, owner or operator may file an amended return or returns and claim for refund for the difference between the tax paid and the

tax that would have been paid had the vehicle been qualified for the reduced rates provided by Subsection B of Section 7-15A-6 NMSA 1978.

[9/20/93, 9/14/96; 3.12.6.9 NMAC – Rn & A, 3 NMAC 12.6.9, 11/15/01]

3.12.6.10 - ONE-WAY HAULERS - REPORTING REQUIREMENTS

A. For each one-way hauler, the total number of empty miles in New Mexico and the total number of loaded miles traveled in New Mexico shall be reported to the Department on a quarterly basis on forms supplied by the department, unless the taxpayer has qualified for annual reporting under Section 7-15A-9 NMSA 1978.

B. For each reporting period during the registration year, tax shall be due at the rates specified in Subsection A of 7-15A-6 NMSA 1978, and not the reduced rates specified in Subsection B of 7-15A-6 NMSA 1978, for each vehicle whose reported percentage of empty miles traveled on New Mexico roads is less than forty-five percent (45%).

[9/20/93, 9/14/96; 3.12.6.10 NMAC – Rn & A, 3 NMAC 12.6.10, 11/15/01]

3.12.6.11 - ONE-WAY HAULERS - REQUIRED RECORDS

One-way haulers shall maintain the following records on a reporting period basis. All records shall be referenced by vehicle unit number:

A. Vehicle trip mileage records for each vehicle operated in New Mexico. The mileage records shall reflect the total empty miles and the total loaded miles traveled on New Mexico roads. Accurate trip mileage records indicating empty and loaded miles may include:

- (1) accurate map mileage for each trip;
- (2) hubometer or odometer readings; or
- (3) vehicle-specific log books.

B. Vehicle itineraries including the origin and destination point of each trip, and the routes taken.

[9/20/93, 9/14/96; 3.12.6.11 NMAC – Rn, 3 NMAC 12.6.11, 11/15/01]

7-15A-7. TAX RATE FOR BUSES.-- For all buses, the weight distance tax shall be computed in accordance with the following schedule:

Declared Gross Weight (Gross Vehicle Weight)	Tax Rate (Mills per Mile)
26,001 to 28,000	11.01
28,001 to 30,000	11.88
30,001 to 32,000	12.77
32,001 to 34,000	13.64
34,001 to 36,000	14.52
36,001 to 38,000	15.39
38,001 to 40,000	16.73
40,001 to 42,000	18.05
42,001 to 44,000	19.36
44,001 to 46,000	20.69
46,001 to 48,000	22.01
48,001 to 50,000	23.33
50,001 to 52,000	24.65
52,001 to 54,000	25.96
54,001 and over	27.29.

(Laws 2004, Chapter 59, Section 2)

7-15A-8. MILEAGE AND WEIGHTS TO BE USED FOR COMPUTING TAX.--

A. The total number of miles traveled on New Mexico highways during the tax payment period by the motor vehicle subject to the tax shall be used in computing the tax.

B. Registrants, owners and operators of all motor vehicles to which the tax applies shall report to the department, in the manner required by the department, the total mileage traveled in New Mexico and the total mileage traveled in all states during the tax payment period applicable to that registrant, owner or operator.

C. All motor vehicles subject to the tax shall be registered in accordance with law at the highest gross vehicle weight or combined gross vehicle weight at which the vehicle will be operated for that registration year in this state.

D. It is unlawful and a violation of the Weight Distance Tax Act for any motor vehicle to be operated on New Mexico highways at a gross vehicle weight higher than that at which the registrant declared for registration purposes pursuant to either the Motor Vehicle Code or the Motor Transportation Act. The operator of a motor vehicle operated on highways of this state at a gross weight or combination gross weight higher than that declared for registration purposes shall be subject to the penalty provisions of Section 66-7-411 NMSA 1978.

(Laws 1988, Chapter 73, Section 35)

7-15A-9. WEIGHT DISTANCE TAX--PAYMENT TO DEPARTMENT--RECORD-KEEPING REQUIREMENTS.--

A. Except as provided in Subsection B of this section, the weight distance tax shall be paid to the department by April 30 for the first quarterly period of January 1 through March 31, by July 31 for the second quarterly period of April 1 through June 30, by October 31 for the third quarterly period of July 1 through September 30 and by January 31 for the fourth quarterly period of October 1 through December 31 of each year.

B. Any registrant, owner or operator not liable for the special fuel tax whose total weight distance tax for the previous calendar year was less than five hundred dollars (\$500) may elect to pay the tax on an annual basis. Any registrant, owner or operator liable for the special fuel tax whose total combined liability for the weight distance tax and the special fuel tax for the previous calendar year was less than five hundred dollars (\$500) may elect to pay the weight distance tax on an annual basis. Election shall be made by filing a written statement of such election with the department on or before April 1 of the first year in which the election is made. Upon filing the written election with the department, the total weight distance tax due for the current calendar year shall be paid to the department by January 31 of the following year. If, however, any registrant, owner or operator is or becomes delinquent in excess of thirty days in any payment of the weight distance tax, that person shall make all future payments according to the schedule of Subsection A of this section. If any person who has made an election under this subsection has a liability for total weight distance tax or total combined weight distance tax and special fuel tax, as applicable, of five hundred dollars (\$500) or more for any calendar year, that person shall make the succeeding year's payments pursuant to Subsection A of this section.

C. Any registrant, owner or operator not liable for the special fuel tax who has not previously been liable for the weight distance tax and whose liability for the weight distance tax is expected to be less than five hundred dollars (\$500) annually may, with the approval of the secretary, pay the weight distance tax as provided in Subsection B of this section. Any registrant, owner or operator liable for the special fuel tax who has not previously been liable for the weight distance tax and whose total combined liability for the special fuel tax and weight distance tax is expected to be less than five hundred dollars (\$500) annually may, with the approval of the secretary, pay the weight distance tax as provided in Subsection B of this section. If, however, the total annual liability or combined liability, as applicable, is expected to be five hundred dollars (\$500) or more, the registrant, owner or operator shall make payments pursuant to Subsection A of this section.

D. **All registrants, owners or operators required to pay the weight distance tax shall preserve the records upon which the periodic payments required by Subsections A and B of this section are based for four years**

following the period for which a payment is made. Upon request of the department, the registrant, owner or operator shall make the records available to the department at the owner's office for audit as to accuracy of computations and payments. If the registrant, owner or operator keeps the records at any place outside this state, the department or the department's authorized agent may examine them at the place where they are kept. The department may make arrangements with agencies of other jurisdictions administering motor vehicle laws for joint audits of any such registrants, owners or operators.

(Laws 1999, Chapter 200, Section 1)

3.12.9.9 - WEIGHT DISTANCE TAX RETURN

The weight distance tax return shall be submitted on forms provided or approved by the department and must be signed by the taxpayer or his authorized agent.

[9/20/93, 9/14/96; 3.12.9.9 NMAC – Rn, 3 NMAC 12.9.9, 11/15/01]

3.12.9.10 - DETERMINATION OF TIMELINESS

Determination of timeliness for notices, returns, applications and payments of any tax or fee imposed under the Weight Distance Tax Act will be made in conformance with the requirements of Section 7-1-9 NMSA 1978 and the regulations thereunder.

[9/20/93, 9/14/96; 3.12.9.10 NMAC – Rn &A, 3 NMAC 12.9.10, 11/15/01]

3.12.9.11 - CHANGE OF ADDRESS – NOTICES

Taxpayers must inform the department of any change of address. Any notice to a taxpayer is presumed to be effective and binding on that taxpayer when it is sent to the last address shown in the department's records.

[9/20/93, 9/14/96; 3.12.9.11 NMAC – Rn, 3 NMAC 12.9.11, 11/15/01]

***** REPEALED EFFECTIVE JULY 1, 2004, BY LAWS OF 2003 – 1st
SPECIAL SESSION, CHAPTER 3, SECTION 30. *****

7-15A-10. ANNUAL FILING FEE.--In addition to any weight distance tax, special fuel excise tax or other use fee for the use of the public highways, every person required to pay during the prior calendar year a weight distance tax for the use of the public highways of this state with respect to any commercial motor carrier vehicle shall pay an annual fee of five dollars (\$5.00) for each commercial motor carrier vehicle. This fee is required to be paid to the department by January 31 of each year in the manner required by the department.

(Laws 1993, Chapter 272, Section 2)

3.12.10.8 – [Repealed]

[9/20/93, 9/14/96; 3.12.10.8 NMAC – Rn & A, 3 NMAC 12.10.8, 11/15/01, Repealed, 6/15/04]

3.12.10.9 – [Repealed]

[9/20/93, 9/14/96; 3.12.10.9 NMAC – Rn, 3 NMAC 12.10.9, 11/15/01, Repealed, 6/15/04]

***** REPEALED EFFECTIVE JULY 1, 1996, BY LAWS OF 1996 *****

**7-15A-11. ANNUAL SAFETY AND TRAINING FEE--SCHEDULE--
DISTRIBUTION.--**

A. In addition to any weight distance tax, use fee or annual safety and training fee for the use of the public highways, every person required to pay during the prior calendar year a weight distance tax or a use fee for the use of the public highways of this state with respect to any commercial motor carrier vehicle, as defined in the Motor Transportation Act, shall pay in January an annual fee based on the following schedule:

Number of Commercial Motor Vehicles Operated by the Taxpayer	Fee Amount
1 - 5	\$ 10.00
6 - 10	25.00
11 - 50	125.00
51 - 100	200.00
101 - 300	350.00
301 or greater	400.00.

B. In any year, the fee imposed pursuant to Subsection A of this section shall be paid with the report required to be submitted in January in connection with any weight distance tax or use fee for the use of the public highways of this state.

C. Fees collected pursuant to this section shall be deposited in the general fund.

D. The provisions of this section shall be administered pursuant to the provisions of the Tax Administration Act.

(Laws 1991, Chapter 44, Section 1)

3.12.11.8 – [Repealed]

[9/20/93, 9/14/96; 3.12.11.8 NMAC – Rn & A, 3 NMAC 12.11.8, 11/15/01, Repealed, 6/15/04]

**7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS—
SUSPENSION AND RENEWAL.--**

A. An operator of a motor vehicle registered in this state and subject to the weight distance tax shall display a weight distance tax identification permit issued for that vehicle to an enforcement officer of the department of public safety upon demand of that employee and when the vehicle passes through a port of entry.

B. The department may suspend or decline to renew a weight distance tax identification permit for a motor vehicle if the owner or operator of the vehicle does not comply with the provisions of the Weight Distance Tax Act. (Laws 2003 – 1st Special Session, Chapter 3, Section 6)

7-15A-13. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT ADMINISTRATIVE FEE.--

A. A person that obtains a weight distance tax identification permit shall pay an administrative fee to the department for the reasonable and necessary expense that the department incurs for processing and issuing a weight distance tax identification permit. The fee shall be paid in addition to a weight distance tax, special fuel excise tax and other use fee imposed for the use of public highways of this state. The department shall determine the amount of the fee pursuant to regulation. The fee shall not exceed ten dollars (\$10.00).

B. The department shall deposit to the weight distance tax identification permit administration fund all proceeds from administrative fees collected by the department pursuant to this section.

(Laws 2003 – 1st Special Session, Chapter 3, Section 7)

3.12.12.8 - WEIGHT DISTANCE TAX IDENTIFICATION PERMIT TO BE ISSUED:

A. Upon receipt of an approved application by a motor carrier, the department will issue weight distance tax identification permit(s) to the motor carrier for the number of vehicles they own that are subject to the weight distance tax. The motor carrier will be required to identify each permit they receive to a specific vehicle by indicating the unit and vehicle identification numbers on the face of the permit.

B. The weight distance tax identification permit is an administrative certificate that will be issued on non-reproducible paper to motor carriers who submit an approved application.

C. Weight distance tax identification permits issued by the department will only be valid for the calendar year for which they are issued.

[3.12.12.8 NMAC – N, 7/1/04]

3.12.12.9 - WEIGHT DISTANCE TAX IDENTIFICATION PERMIT – ADMINISTRATIVE FEE:

Any person that applies for and receives a weight distance tax identification permit shall pay an administrative fee that shall not exceed \$10.00. The administrative fee shall be \$5.50 upon the effective date of this regulation. The administrative fee may be increased or decreased by the secretary after due consideration of the costs of issuing and administering weight distance tax identification permits and of enforcing permits use. Persons who have current weight distance tax identification permits will be notified if the secretary changes the fee at least 30 days prior to effective date of a change in the fee. The administrative fee will be deposited in the weight distance tax identification permit fund to pay the costs of issuing and administering weight distance tax identification permits and costs incurred by the department and the motor transportation division of the department of public safety to enforce the use of such permits by motor carriers in accordance with the Weight Distance Tax Act. The administrative fee will be imposed for every permit, including annual renewals and replacements.

[3.12.12.9 NMAC – N, 7/1/04; A, 9/30/09]

7-15A-14. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT FUND.--The "weight distance tax identification permit fund" is created in the state treasury. The purpose of the fund is to provide an account from which the department may pay the costs of issuing and administering weight distance tax identification permits and of enforcing weight distance tax identification permit use. The fund shall consist of administrative fees collected pursuant to the Weight Distance Tax Act. Money in the fund shall be appropriated to the department to pay for the cost of issuance and administration of weight distance tax identification permits and of enforcement by the department or the motor transportation division of the department of public safety of weight distance tax identification permit use for motor carriers that do not comply with the provisions of the Weight Distance Tax Act. Disbursements from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the secretary or the secretary's authorized representative. Money in the fund shall not revert to the general fund at the end of a fiscal year.

(Laws 2006, Chapter 33, Section 1)

7-15A-15. TAXPAYERS OF WEIGHT DISTANCE TAX--SURETY BOND REQUIRED--EXCEPTIONS.--

A. Except as required in Subsection H of this section, every taxpayer with a commercial domicile not located in an International Fuel Tax Agreement jurisdiction shall file with the department a bond on a form approved by the attorney general with a surety company authorized by the public regulation commission to transact business in New Mexico as a surety and upon which bond the taxpayer is the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the taxpayer to the department of all taxes levied by the Weight Distance Tax Act, together with all applicable penalties and interest on the taxes.

B. In lieu of the bond, the taxpayer may elect to file with the department cash or bonds of the United States or New Mexico or of any political subdivision of the state.

C. The total amount of the bond, cash or securities required of a taxpayer shall be fixed by the department and may be increased or reduced by the department at any time, subject to the limitations provided in this section.

D. In fixing the total amount of the bond, cash or securities required of a taxpayer required to post a bond, the department shall require an amount equivalent to the total estimated tax due for two quarters; provided, however, that the total amount of bond, cash or securities required of a taxpayer shall never be less than five hundred dollars (\$500) per motor vehicle on which the weight distance tax is imposed.

E. In the event the department determines that the amount of the existing bond, cash or securities is insufficient to ensure payment to New Mexico of the amount of the weight distance tax and penalties and interest for which a taxpayer is or may at any time become liable, the taxpayer, upon written demand from the department mailed to the last known address of the taxpayer as shown on the records of the department, shall file an additional bond, cash or securities in the manner, form and amount determined by the department to be necessary to secure at all times the payment by the taxpayer of all taxes, penalties and interest due pursuant to the Weight Distance Tax Act.

F. A surety on a bond furnished by a taxpayer as required by this section shall be released and discharged from all liability accruing on the bond after the expiration of ninety days from the date upon which the surety files with the department a written request to be released and discharged; provided, however, that the request shall not operate to release or discharge the surety from liability already accrued or that shall accrue before the expiration of the ninety-day period, unless a new bond is filed during the ninety-day period, in which case the previous bond may be canceled as of the effective date of the new bond. On receipt of notice of the request to cancel the bond due to filing of a new bond, the department shall promptly notify the taxpayer who furnished the bond that the taxpayer, on or before the expiration of the ninety-day period, shall file with the department a new

bond with a surety satisfactory to the department in the amount and form required in this section.

G. A taxpayer who is required to file a bond with or provide cash or securities to the department in accordance with this section and who is required by another state law to file another bond with or provide cash or securities to the department may elect to file a combined bond or provide cash or securities applicable to the provision of both this section and the other law, with the approval of the secretary. The amount of the combined bond, cash or securities shall be determined by the department, and the form of the combined bond shall be approved by the attorney general.

H. A taxpayer who is required to file a bond pursuant to the provisions of this section and who for the eight consecutive quarters preceding the date of request has not been a delinquent taxpayer pursuant to the Weight Distance Tax Act may request to be exempt from the requirement to file a bond beginning with the first day of the first quarter following the end of the eight-quarter period. If a taxpayer exempted pursuant to this subsection subsequently becomes a delinquent taxpayer, the department may terminate the exemption and require the filing of a bond in accordance with this section. If the department terminates the exemption, the termination shall not be effective any earlier than ten days after the date the department notifies the taxpayer in writing of the termination.

I. As used in this section, "taxpayer" means a registrant, owner or operator of a motor vehicle on whom the weight distance tax is imposed.
(Laws 2007, Chapter 110, Section 2)

7-15A-16. CIVIL PENALTIES--UNDER-MILEAGE REPORTERS -- UNDER-WEIGHT REPORTERS.--Any person required to file a report pursuant to Subsection B of Section 7-15A-8 NMSA 1978 that is determined to have reported less than the mileage actually traveled on New Mexico highways during a tax payment period or less than the actual gross vehicle weight traveled during a tax payment period shall, in addition to any other applicable fees, penalties and interest, pay an additional penalty computed in accordance with the following schedule:

Weight Distance Tax Owed Per Period	Penalty
\$1 to \$99	\$ 100
\$100 to \$499	\$ 500
\$500 to \$999	\$1,000
\$1,000 to \$1,499	\$1,500
\$1,500 to \$1,999	\$2,000
\$2,000 to \$2,499	\$2,500
\$2,500 to \$2,999	\$3,000
\$3,000 and over	\$4,000.

(Laws 2009, Chapter 196, Section 1)

3.12.13.8 - WHEN CIVIL PENALTIES ARE IMPOSED: The civil penalties under Section 7-15A-16 NMSA 1978 will be imposed only in connection with audits conducted by the New Mexico taxation and revenue department showing that a commercial motor carrier has underreported declared gross vehicle weight or miles driven in New Mexico. The types of audits include, but are not limited to, field audits and limited scope audits. Reporting of additional gross vehicle weight or miles driven in New Mexico on amended returns prepared by the taxpayer or taxpayer's representative and managed audits will not be subject to the civil penalties under Section 7-15A-16 NMSA 1978.

[3.12.13.8 NMAC – N, 3/15/10]