

ARKANSAS REGISTER



Transmittal Sheet

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SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

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Name of Agency Arkansas State Highway Commission

Department _____

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Extraordinary Session of 1987.

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Date

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Adopted by State Agency

May 11, 1988

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance With Act 434 of 1967 As Amended.

Ted Goodloe

SIGNATURE

Staff Attorney

TITLE

May 20, 1988

DATE

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Highway Truck Tax Unit
Telephone (501) 569-2159



MAY 25 9 53 AM '88

W.J. "BILL" McCUEN P.O. Box 8907
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RULES AND REGULATIONS FOR THE USERS OF TRUCKS UNDER THE PROVISIONS OF ACT 3 OF THE SECOND EXTRAORDINARY SESSION OF 1987

I. AUTHORITY

The Arkansas Highway Commission, pursuant to the authority vested in the Commission by Act 3 of the Second Extraordinary Session of 1987, does hereby promulgate the following rules and regulations for the orderly administration of said Act for the period after July 1, 1988.

II. EFFECTIVE DATE

These regulations shall be effective July 1, 1988.

III. PURPOSE

These rules and regulations are promulgated to implement and clarify Act 3 of the Second Extraordinary Session of 1987. All persons should read these regulations in their entirety because the meaning of the provision of one regulation may depend upon the provisions contained in another regulation.

IV. DEFINITIONS

- (1) **"Department"** means the Arkansas State Highway and Transportation Department.
- (2) **"Motor Vehicle"**, as used herein, means all cargo vehicles required to be registered for use upon the public highways of this State, designed, used or maintained primarily for the transportation of property and have a declared gross weight of 73,281 pounds or more. For the purpose hereof, truck-tractors, single unit trucks, semi-trailers and trailers operated in combination thereof still constitute a single vehicle. The person having the use or control, or the right to the use or control of the part of such a vehicle furnishing the motive power is the highway user with respect to the entire vehicle and is accordingly subject as such to the provisions of this Act.
- (3) **"Truck"** includes the terms "truck" or "semi-tractor" and "semi-trailer" or combinations of "trailers" or "semi-trailers" when operated in combination with a truck or truck-tractor.
- (4) **"User"** means any person or entity having the use and control, or the right to the use and control, of any motor vehicle. Use and control of a motor vehicle includes vehicles under a long-term lease and not vehicles under a trip lease. The only way an owner operator can be considered as the "User" is if that owner operator never operates under a long term lease. Owner operators who operate solely under short term trip leases can be considered as "Users" under this Act.
- (5) **"Long Term Lease"** means a lease of 30 days or more.
- (6) **"Trip Lease"** means a lease of less than 30 days.
- (7) **"Highway"** includes all highways, roads, and streets of this State generally open to the use of the public as a way for vehicular traffic.
- (8) **"Declared Gross Weight"** means the maximum gross weight at which a vehicle is authorized to operate, as shown on the vehicle license registration.
- (9) **"Gross Weight"** means the actual weight of the truck or truck-tractor, plus the actual weight of the heaviest semi-trailer or trailer combinations thereof with which it is to be operated in combination plus the actual weight of the heaviest load to be carried thereon.

- (10) **"Arkansas Registered Vehicle" or "Arkansas Registered Truck"** means a vehicle registered in Arkansas and bearing an Arkansas license plate.
- (11) **"Net Laden Miles"** means the total miles driven in Arkansas by the user vehicle less the total unladen miles traveled in Arkansas by the user vehicle.
- (12) **"Unladen Miles"** means those miles traveled with the vehicle totally empty and free of cargo. Minor equipment normally carried on the truck for handling or securing the load being hauled is not considered as cargo.
- (13) **"Exempt Vehicle(s)"** means vehicles licensed for exclusively hauling unfinished and unprocessed farm products, forest products, and clay minerals and ores, from the point of production, harvesting or severance to the point at which the same shall first undergo any processing, preparation for processing, conversion or transformation from their raw, natural or severed state, or to vehicles used exclusively for hauling animal feed by owners of livestock or poultry for consumption by livestock or poultry owned by them, or to any vehicle owned and operated by the United States of America or the State of Arkansas, or any political subdivision thereof. Also, the tax law does not apply to any motor vehicle used on an interstate trip with an origin or destination within ten (10) miles of the geographic boundaries of the State, provided the one-way travel distance in the State is not over ten (10) miles.
- (14) **"Bonded Interstate Fuel User"** means a person utilizing gasoline, diesel or LPG for the purpose of operating a vehicle as a bonded user of such fuel or fuels pursuant to the laws of the State of Arkansas.
- (15) **"Fleet"** means one or more vehicles under the control of the same user.
- (16) **"IRP Vehicle"** means a vehicle registered in accordance with the International Registration Plan.
- (17) **"Owner" or "Ownership"** means the name that appears on the certificate of title for the motor vehicle.
- (18) **"Specialty Carrier"** means a user operating motor vehicles registered in non IRP states in excess of 73,280 pounds, but by virtue of the motor vehicle configuration or products being hauled, will never operate in the State of Arkansas in excess of 73,280 pounds.
- (19) **"Fleet Miles"** means all miles generated by movements of the user's vehicles (interstate and intrastate) including loaded, empty, deadhead and/or bobtail miles. It shall be the responsibility of the lessor in a trip lease situation to report all the miles accumulated.

V. OPTIONS OF QUALIFICATION

1. **ORIGINAL QUALIFICATION PERIOD**

All users of motor vehicles operating in the State of Arkansas must qualify those vehicles during the original qualification period, July 1 through August 31, of each year.

- A. A user must qualify his fleet and estimate his tax liability based on the estimate of his fleets' net laden miles to be traveled in Arkansas in the coming year. An estimate of fleet miles must be based upon records required by any Governmental Agency, i.e., IRP reports, Bonded Interstate Motor Fuel Reports, mileage records required for support of federal tax returns, etc., with consideration of expected changes in operations during the forthcoming year. A copy of the records used along with any appropriate adjustments must be submitted with AHTD Form WD-9 (Truck Qualification Application).

The User shall utilize such records with appropriate adjustments to determine the estimated number of laden miles for those motor vehicles that will be operated in Arkansas for the taxable year and by computing his yearly tax liability as determined by the following equation:

$$\text{Estimated Fleet Miles (Less) Estimated Unladen Miles} \times \$0.025 = \text{Tax Due}$$

- B. A new user (one who has not operated as a user in the State of Arkansas during the previous fiscal year) shall qualify by estimating the net laden miles expected to be traveled in the State for the period ending the next June 30, and so noting on his application that he is a "New User".
- C. Users registered in a non-IRP state or not having an apportioned plate may qualify as "Specialty Carrier" during this period by requesting and filing AHTD Form WD-8, stating under oath that the vehicles so qualified will not weigh in excess of 73,280 pounds gross vehicle weight while traveling in the State of Arkansas for the taxable year.
- D. A user, except for Arkansas licensed trucks, may qualify by purchasing a single trip permit at the following rates: 21 through 149 miles, \$8.00; 150 through 249 miles, \$16.00; 250 through 349 miles, \$24.00, etc. (\$8.00 per major fraction of 100 miles). These individual trip permits shall be issued on a form determined by the Department. A trip permit may not be obtained by a user who has failed to make any payment on a tax liability already established with the Department under this Act.

2. QUALIFICATION OF VEHICLES ADDED TO QUALIFIED FLEETS

All motor vehicles added to a user's fleet that were not qualified during the Original Qualification Period shall be qualified by one of the following methods:

- A. Pay \$0.025 per mile based upon the estimated net laden miles to be traveled by that vehicle during the remainder of the taxable year.
- B. A user may qualify the added vehicle as a "Specialty Carrier" provided he has already qualified his original fleet in this manner, and requests and submits an AHTD Form WD-6 as required.
- C. A user, except for Arkansas licensed trucks, may qualify by purchasing a single trip permit at the following rates: 21 through 149 miles, \$8.00; 150 through 249 miles, \$16.00; 250 through 349 miles, \$24.00; etc., (\$8.00 per major fraction of 100 miles). A trip permit may not be obtained by a user who has failed to make any payment on a tax liability already established with the Department under this Act.

3. SUBSEQUENT QUALIFICATION OF FLEETS NOT QUALIFIED WITHIN THE ORIGINAL QUALIFICATION PERIOD

- A. Users who do not qualify their fleets within the original qualification period will qualify in the same manner as specified under V.1. above with the following exception:

They must qualify by estimating their net laden miles that will be traveled in the State during the entire taxable period, July 1 through June 30, and subtract any miles for which they have already purchased any individual trip permits. Their remaining tax liability will be computed, as illustrated by the following formula:

1.	Total estimated laden miles for the year:	00000 ml.
2.	Less trip permit miles driven:	- 000 ml.
3.	Miles taxable at \$0.025	0000 ml.
4.	Multiplied by \$0.025 per mile	X .025
5.	Estimated Tax Liability	\$0000.00 ml.

- B. In the event of an audit of those users who have qualified after the original qualification period, any Arkansas miles reflected by the users records that were incurred prior to the date of application and issuance of the tax decal that are not covered by individual trip permits, will be assessed at the rate specified for the issuance of those trip permits. It is considered that the election was made at that time to operate under this elective option instead of the "decal" option which allows travel at a lower rate, while any under reported miles incurred after the date of decal qualification will be assessed at the \$0.025 rate per mile.

VI. TRANSFERABILITY AND/OR REPLACEMENT OF DECALS

It is the express intent of these regulations that tax decals are nontransferable. However, because of the various means by which a vehicle that has a tax decal attached may be permanently taken out of service (accident, fire, trading vehicles, etc.), there are circumstances that will allow the owner of a decal to replace it with another one when the vehicle is permanently taken out of service.

1. A tax decal qualifies the vehicle under the use and control of a given user and is nontransferable unless that vehicle is destroyed, sold, or replaced by another unit without an increase in the total number of units within the fleet. In order to have a new decal reissued without cost, a "NOTICE OF CHANGE IN FLEET VEHICLES" must be submitted to the Tax Unit of the Department under the name and federal identification number of the user originally qualifying the vehicle and accompanied by the remains of the old decal sufficient to identify the decal along with the cab card for the vehicle. If one of these items is not available, the sworn statement provided by the Department attesting to its unavailability must be completed.
2. Vehicles qualified under the Mileage, or Specialty Carrier options, are no longer qualified upon leaving the fleet under which they qualified, and it is the responsibility of the qualifying party to obtain the remains of the decal and cab card. Replacement decals at no cost may only be obtained through the provisions of Section VI1.
3. Any user who allows a vehicle to leave his fleet without properly removing the decal and cab card and retaining the same in his possession will be charged a flat \$25.00 per month or part thereof from the time the vehicle left the control of the user until the end of the tax year on June 30.
4. All decals must be affixed on the right (passenger) side of the cab of the vehicle with the corresponding Vehicle Identification Number (VIN) as shown on the cab card. It will be the responsibility of the user to assure that the necessary procedures are followed to obtain replacement decals at no cost. The operator of any vehicle bearing an improperly assigned decal will be fined according to the law.

VII. METHODS OF PAYMENT

1. Payments must be made with valid U.S. Currency, check or money order; however, only cash, certified check, company check, or money orders will be accepted at the permanent weigh stations or by an Arkansas Highway Police roving unit.
2. **ALL TRUCKS SHOULD QUALIFY AT THE FOLLOWING OFFICES:**
Arkansas State Highway and Transportation Department
Tax Unit
10324 Interstate 30
P.O. Box 8907
Little Rock, Arkansas 72219
Telephone (501) 569-2159

OR
Trip permits may be purchased from any permanent weigh station, or any Arkansas Highway Police roving unit.
3. **PAYMENT ELECTIONS**
Each user must render payment, in full, for their full years' tax liability by one of the following methods:
 - A. Payment in full upon original qualification for the total estimated tax liability.
 - B. Four equal quarterly payments of his estimated annual tax liability due on the first day of each quarter as follows:
 1. First quarter - due July 1 - upon original qualification.
 2. Second quarter - due October 1.
 3. Third quarter - due January 1.
 4. Fourth quarter - due April 1.

NOTICE: QUARTERLY PAYMENTS SHALL BE MADE BY THE USER ELECTING THIS OPTION WITHOUT THE AHTD ISSUING ANY TYPE OF BILLINGS TO THAT USER.

C. **QUARTERLY PAYMENT OPTION MAY BE REVOKED FOR THE FOLLOWING REASONS:**

- (1) Failure to make quarterly payments the month the payment is due will result in penalties and interest set out in Section VIII of these Regulations. The User Company will no longer be considered qualified under the quarterly payment option and the decals will be cancelled and ordered surrendered.
- (2) User companies failing to pay a tax assessment as the result of an audit.
- (3) Insufficient check, submitted as payment for the Arkansas Truck Tax.
- (4) Companies that have filed for bankruptcy or have been declared insolvent.

4. **ADJUSTMENTS TO ORIGINAL MILEAGE ESTIMATES:**

- A. Each user may make adjustments to their initial estimate of net laden miles at the time that quarterly payments are due as set out under VII. 3. B. without being charged a penalty, unless it has been determined through an audit that the initial estimate was purposefully understated in order to delay the major portion of the annual tax liability until a subsequent period.
- B. At the end of the fiscal year, June 30, each user must submit a reconciliation of estimated net laden miles and actual net laden miles. If that user has understated their total tax liability by more than twenty percent (20%), there will be added in addition to the additional taxes due, a ten percent (10%) penalty of the amount understated. If the user has overstated his estimate of the total tax liability, he has the option of requesting a refund, or a credit which can be applied to his next year's tax liability. This election must be made at the time the reconciliation is submitted or the refund option is lost and a credit will be issued.

VIII. **PENALTIES**

- A. If, at the end of the qualification period, the difference between the "estimated" net laden miles and the actual net laden miles supported by the user's records, exceeds twenty percent (20%), a ten percent (10%) penalty may be imposed. Ten percent (10%) of the total difference.)

Failure to submit the required fiscal year end reconciliation will result in the refusal, by the Department, to qualify the user's fleet in the next taxable year, (until the reconciliation is completed and returned) in accordance with the provisions of Section 3, Subsection (f) of Act 3 of the Second Extraordinary Session of 1987.

- B. Any user electing to make quarterly payments who fails to make such quarterly payments, may, after a hearing before the Department Hearing Officer, be assessed a five percent (5%) penalty (5% of the amount of the payment past due) in addition to the simple annual interest computed against the amount due.

At the end of the quarterly payment periods, user's whose quarterly payments are overdue will automatically be scheduled for a hearing on the 10th calendar day of the following month.

FAILURE TO MAKE QUARTERLY PAYMENTS AS PROVIDED BY THESE REGULATIONS SHALL RESULT IN THE CANCELLATION BY THE DEPARTMENT OF THE USER'S AUTHORITY TO OPERATE ANY MOTOR VEHICLES IN EXCESS OF 73,280 POUNDS WITHIN THE STATE OF ARKANSAS UNDER THE EXISTING DECALS PURCHASED BY THAT USER.

- C. In addition to the specific penalties outlined above, any user who neglects or refuses to pay the Tax as set forth in Section V shall be liable for the full tax amount owed plus interest at the annual rate of ten percent (10%), computed from the time the tax was due to the time at which it is paid.

IX. **TEMPORARY TRAVEL AUTHORITY**

Temporary Travel Authority will be issued only to holders of mileage and speciality carrier decals, in order to allow time for qualification of added units and will be issued on a **ONE TIME BASIS BY VEHICLE IDENTIFICATION NUMBER (VIN) AND FOR A PERIOD NOT TO EXCEED FOURTEEN (14) DAYS. TEMPORARY TRAVEL AUTHORITY WILL NOT BE ISSUED FOR ERRORS IN PLACEMENT OF DECALS ON THE WRONG VEHICLES OR OTHER ERRORS ON THE PART OF THE USER.**

X. AUDITING POWERS

The Department shall have the right to inspect and audit, at all reasonable times, at any place, without prior notice, the books, records and documents of any User required to pay the Tax imposed by Act 3 of the Second Extraordinary Session of 1987. Specific records must be maintained by the User showing actual Arkansas miles traveled supported by source documents, such as trip reports containing beginning and ending odometer or hub-meter readings, and specific routes traveled, with both laden and unladen miles identified, etc. A User failing to maintain adequate records from which the true liability can be determined is subject to an assessment computed from whatever records are available without being able to claim any unladen miles whatsoever.

XI. Hearings will be conducted in conformity to the Administrative Procedures Act.

C E R T I F I C A T E

STATE OF ARKANSAS)
COUNTY OF PULASKI) ss

I, Lindy A. Hobson, Secretary and Custodian of the Records of Proceedings of the Arkansas State Highway Commission do hereby certify and state under oath, that the foregoing copy of the Regulations for the Users of Heavy Trucks Under the Provisions of Act 3 of the Second Extraordinary Session of 1987, which were adopted by Highway Commission Minute Orders 88-082 and 88-189, is a true, complete, and perfect copy of the original on file in my office.

Lindy A. Hobson
Arkansas State Highway Commission

Subscribed and sworn to before me this 20th day of May, 1988.

Linda Chivers
Notary Public

My Commission Expires: 2-4-93

