

CHAPTER 505
INTERSTATE MOTOR VEHICLE FUEL PERMITS
[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch7]

761—505.1(452A) Definitions.

“*Department*” shall mean the Iowa department of transportation.

“*Fuel(s)*” shall mean and include motor fuel and special fuel as defined in Iowa Code sections 452A.2 and 452A.33, respectively.

“*Lease*” shall mean a contract or agreement by which a vehicle owner (lessor) provides a vehicle to a person or company (lessee) for use during a specified period of time.

1. “*Long-term lease*” shall mean a lease for a period of 30 days or more.

2. “*Short-term lease*” shall mean a lease for a period of 29 days or less including trip leases. Back-to-back leases of 29 days or less are considered short-term leases.

“*Permanent fuel permit*” or “*permanent permit*” shall mean a permanent interstate fuel permit issued pursuant to Iowa Code section 452A.53.

“*Permit*” shall mean either a permanent interstate fuel permit issued pursuant to Iowa Code section 452A.53, a single trip fuel permit issued pursuant to Iowa Code section 452A.53, or both depending on the context in which used.

“*Permittee*” shall mean any person who holds an uncanceled permanent interstate fuel permit or a single trip fuel permit.

“*Quarter*” shall mean calendar quarter.

“*Temporary fuel permit*” or “*temporary permit*” shall mean a single trip fuel permit issued pursuant to Iowa Code section 452A.53.

In addition to the preceding definitions, all of the definitions contained in Iowa Code sections 452A.2, 452A.33, and 452A.57 shall govern the rules in this chapter, where not inconsistent with the above definitions.

This rule is intended to implement Iowa Code sections 452A.2, 452A.33, and 452A.57.

761—505.2(452A) General information.

505.2(1) Location. Applications, forms and information on interstate motor vehicle fuel permits are available by mail from the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; or in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa; telephone (515)237-3264.

505.2(2) Organizational data. The office of motor carrier services of the department’s motor vehicle division is authorized, pursuant to Iowa Code chapter 452A, division III, to:

a. Issue permanent or single trip interstate fuel permits.

b. Compute and collect interstate motor fuel taxes on fuel purchased outside Iowa and used within Iowa.

c. Issue refunds for fuel taxes paid on motor fuel and special fuel purchased in Iowa and not used in this state.

d. Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. In accordance with this, the department has adopted the international fuel tax agreement and all of its provisions are hereby incorporated in this chapter of rules. A copy of the agreement may be obtained by writing to the office of motor carrier services at the address in subrule 505.2(1).

This rule is intended to implement Iowa Code sections 452A.51 and 452A.56.

761—505.3(452A) General stipulations. In order to enter this state and not be in violation of Iowa Code section 452A.52, the operator of a commercial motor vehicle must do one of the following: enter the state with 30 gallons of fuel or less; enter the state with only Iowa tax paid fuel; possess a permanent fuel permit pursuant to Iowa Code section 452A.53; or purchase a temporary fuel trip permit pursuant to Iowa Code section 452A.53 and subrule 505.3(7) herein when entering or before entering the state. Distributor licenses must also meet these requirements if involved in interstate travel.

505.3(1) *Determination of fuel supply.* To determine if a vehicle has entered the state with more than 30 gallons of fuel, the total of all fuel in all tanks which could be used to fuel the power source of the vehicle shall be considered to reach a total gallonage. The fuel tank connected to a “reefer unit” which can neither be directly nor indirectly connected to the power source of the vehicle shall not be considered in arriving at the 30 gallon total.

505.3(2) *Permanent fuel permit.*

a. A permanent fuel permit may be obtained from the office of motor carrier services at the address in subrule 505.2(1). The cost of a permanent fuel permit is \$10 and the application must be complete and include, but not be limited to, the following information:

- (1) Name and address of company, corporation, or owner who operates or controls the vehicle(s);
- (2) Name(s) and address(es) of principal or corporate officers;
- (3) Signature and telephone number of contact person; and
- (4) A power of attorney if someone other than an officer or employee of the permit holder will be

completing quarterly reports or requesting information from the department.

b. This permanent fuel permit remains valid until canceled or revoked. The reporting and computation procedure for a permanent fuel permit allows for the payment of taxes due and a refund of any overpayment. All persons holding an uncanceled permanent fuel permit must file quarterly reports with the Iowa department of transportation.

505.3(3) *Number of fuel permits required.* No vehicle may operate under more than one fuel permit, permanent or temporary.

505.3(4) *Possession of the permit.* The permit, either permanent (facsimile accepted) or temporary, must be carried on the vehicle operated under said permit at all times.

a. More than one vehicle may be operated and reported under a single fuel permit or each vehicle may be operated under separate permits.

b. If several vehicles are operated under a single permanent permit, a copy may be made of the permit and carried in each vehicle. The copy shall be void if altered. A duplicate permit may be obtained from the office of motor carrier services at the address in subrule 505.2(1) for a charge of 50¢ per copy.

505.3(5) *Cancellation and reissuance.*

a. If all vehicles which are operated under a permanent permit are consistently operated only within the state or only outside the state, the permittee shall request that the permit be canceled for nonuse.

b. A permanent fuel permit which has been canceled for cause pursuant to Iowa Code section 452A.68 may be issued if a bond is filed.

505.3(6) *Bond requirements.*

a. Bonds shall be required in the following situations:

(1) When a previous permanent permit holder is applying for a new permanent permit and has two or more outstanding billings due for periods within the three years previous to date of application for a new permanent permit;

(2) When a previous permanent permit holder is applying for a new permanent permit and has failed to file two or more reports for a calendar year within the three years previous to date of application for a new permanent permit; or

(3) When a previous permanent permit holder is applying for a new permanent permit and has filed reports late for two or more reporting periods for a calendar year within the three years previous to date of application for a new permanent permit.

b. Bonds required shall be in the amount of \$500 payable to the state of Iowa in case of nonpayment of any amount due from the permit holder.

c. A copy of such bond shall be filed with the office of motor carrier services at the address in subrule 505.2(1) before a new permit shall be issued. This office shall also be notified of bond cancellation 30 days before the cancellation is effective.

505.3(7) *Temporary fuel permits.*

a. A temporary fuel permit may be obtained by any person operating a commercial motor vehicle which is not otherwise covered by a permanent permit. The permit may be obtained from the office of

motor carrier services at a cost of \$12. The permit may also be obtained from wire services, such as InstaCom and Transceiver, and truck stops designated by the department. A list of these locations may be obtained from the office of motor carrier services upon request. Carriers purchasing fuel trip permits in advance of use cannot return unused permits for refund.

b. The temporary fuel trip permit is valid for 72 consecutive hours or until departure from Iowa, whichever occurs first. The permit allows unlimited travel within Iowa for the period when valid, but no refund of tax on Iowa fuel purchases shall be allowed. The 72-hour period shall become effective on the date and hour appearing on the permit.

c. Application may be made to the office of motor carrier services at the address in subrule 505.2(1), or at locations designated by the department. Alternate locations designated shall be approved “truck stops” as defined in Iowa Code section 326.23. These truck stops shall obtain prepaid permits at a cost of \$12 per permit. If a truck stop subsequently ceases to sell the permits, the remaining unissued permits purchased may be redeemed at the office of motor carrier services at the same price paid to obtain them. When the permits are purchased from the truck stop, they shall be issued at a price of \$12 plus any specific cost attributable directly to the acquisition of that permit. The effective date of the permits shall be the date and hour of purchase from the truck stop.

d. An application for a temporary fuel permit shall include, but is not limited to, the following information:

- (1) The name and address of the person who owns or controls the vehicle;
- (2) The make, year, serial number, license number, and unit number of the vehicle;
- (3) The type of fuel to be used to propel the vehicle; and
- (4) The address to which the permit is to be sent, if applicable.

e. The \$12 permit fee shall also accompany the application unless a method of collection upon delivery is requested.

f. A temporary permit cannot be transferred. It is good only for the carrier and the vehicle which are described on the permit. Once a temporary permit has been issued to a commercial motor vehicle, the purchase price of \$12 is nonrefundable.

g. The temporary permit, to be valid, must be carried with the commercial motor vehicle covered by the permit at all times during the operation within the state.

h. The 72-hour period for which the temporary permit is valid may be extended for “emergencies,” such as extreme weather conditions when travel is not advisable, or other instances, at the discretion of the issuing authority.

505.3(8) Commercial motor vehicles on lease.

a. Long-term lease. Under normal circumstances the lessee is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation including the lease must be made available to confirm the responsibility.

b. Short-term lease. The lessor is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation such as a maintenance agreement or lease must be made available to confirm the responsibility.

c. Purchase receipts. Purchase receipts must be made out in the name of the lessor, lessee or cash and must identify the vehicle for which the purchase is made by showing one of the following: vehicle license number, full vehicle identification number (VIN) or fleet unit number.

This rule is intended to implement Iowa Code sections 452A.52, 452A.53, 452A.54, 452A.58 and 452A.68.

761—505.4(452A) Quarterly reports.

505.4(1) Failure to file. All holders of uncanceled permanent fuel permits shall file quarterly reports with the Iowa department of transportation. If a permittee has not traveled in Iowa, the report shall still be filed; failure to file is cause for revocation of the permit and assessment of a \$10 penalty.

505.4(2) Filing deadline. All persons holding uncanceled permanent fuel permits, pursuant to the provisions of Iowa Code section 452A.53, shall file quarterly reports with the department of transportation and either remit any tax due no later than the last day of the month following the last day

of the quarter covered by the report, or request a refund no later than the last day of the third month following the last day of the quarter covered by the report. If the claim for refund is filed late, the refund shall be disallowed.

505.4(3) Reporting multiple vehicles on single permanent permit. When several vehicles are operated under a single permanent permit, they shall be so operated and reported on a consistent basis. All operations, both interstate and intrastate, shall be reported if a vehicle is operated pursuant to a permanent permit.

505.4(4) Tax payment or refund—computation. Permanent permit holders are responsible for payment of the tax on all fuel consumed in their motor vehicles while operated on the highways of this state, less any tax-paid purchases made in this state in excess of the amount consumed. The quarterly computation of the tax due or the amount to be refunded shall be as follows:

a. Computation of the difference between the total gallons of fuel purchased and consumed in Iowa. The following computation shall be done separately for each type of fuel purchased or consumed during the quarter.

(1) The total miles traveled in all states shall be divided by the total gallons of fuel consumed in all states less any gallons of fuel used for nonhighway purposes. This quotient represents average miles per gallon.

Permanent permit holders have the burden of proof of nonhighway fuel use. Pumping credits are figured according to 701—subrule 64.7(2).

(2) The total number of miles traveled in Iowa shall be divided by the average miles per gallon derived in subparagraph 505.4(4)“a”(1) above. This quotient represents the gallons of fuel consumed in Iowa.

(3) The difference between the total gallons of fuel consumed in Iowa, and the total gallons of tax-paid purchases of fuel in Iowa (less Iowa tax refunds or credits for nonhighway use allowed by the Iowa department of revenue and finance), shall be computed. This amount shall be the gallonage upon which the tax due or the amount to be refunded shall be computed.

(4) The gallonage derived in subparagraph 505.4(4)“a”(3) above shall be multiplied by the appropriate tax rate per gallon. This represents the amount of tax due or the amount subject to refund.

b. Refunds shall be computed separately for each fuel type. If a refund for a fuel type does not exceed \$10, it shall not be processed unless there is more than one type of fuel reported on one return and the combined refunds for all fuel types exceed \$10.

c. A refund shall not be used to offset the tax which may be due on another fuel type or in another quarter.

505.4(5) Refunds of tax on fuel purchased in Iowa and consumed out of Iowa. Even though fuel is purchased in Iowa, fuel tax is paid in Iowa, and the excess fuel tax paid is subject to refund under the provisions of Iowa Code chapter 452A, division III, relating to interstate motor vehicle operation, the refund is not subject to state sales tax.

505.4(6) Timely filing of report.

a. The interstate fuel tax report required under Iowa Code section 452A.54 shall be deemed timely filed if postpaid, properly addressed, and postmarked by the United States Postal Service on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the filing deadline.

b. All reports and remittances shall be addressed to: Iowa Department of Transportation, P.O. Box 10345, Des Moines, Iowa 50306.

c. If a report or remittance is not received by the department, but the taxpayer can prove by competent evidence that the return or remittance was timely filed, the report shall be considered timely filed. For the purpose of this rule, competent evidence means evidence in addition to the testimony of the sender sufficient or adequate to prove that the document was mailed on a specific date.

505.4(7) Extension of time to file. The department may grant an extension for the filing of any required report or tax payment. In order for an extension to be granted, the application requesting such extension must be filed with the department of transportation prior to the due date of the report or remittance. In determining whether an application for extension is timely filed, the provisions of

subrules 505.4(2) and 505.4(6) shall apply. The application for extension shall be accompanied by an explanation of the circumstances justifying an extension. Any extension granted shall be documented on a form issued by the department indicating the length of the extension. This form shall be attached to the report when it is filed. If an extension is granted, the penalties under Iowa Code section 452A.65 applicable to a late-filed report or remittance shall not accrue until the expiration of the extension period.

505.4(8) Penalties.

a. When a person fails to remit at least 90 percent of the taxes by the due date, a penalty of 5 percent of the taxes due shall be added.

b. If the quarterly report shows no taxes owed or a refund due, the penalty for filing a late report is \$10.

505.4(9) Rescinded, effective 3/6/85.

505.4(10) Interest. Interest at the rate established pursuant to Iowa Code chapter 421 shall be assessed against the taxpayer for each month the tax remains unpaid. The interest shall accrue from the date the return was required to be filed. Interest shall not apply to any penalty. Each fraction of a month shall be considered a full month for the computation of interest.

505.4(11) Application of remittance. All payments shall be first applied to the interest, then to the penalty and then the balance, if any, on the amount of tax then due.

If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of such payment shall apply to the tax, and any penalty or interest subsequently assessed shall be based on the unpaid portion of the tax.

If the department determines there is additional tax due from a taxpayer, interest and penalty shall accrue on that amount from the date it should have been reported and paid.

505.4(12) Reports, records and variations. The department shall prescribe and furnish all forms upon which reports, claims for refund, and permit applications shall be made under Iowa Code chapter 452A, division III.

a. If the information required in these documents is presented to the department on forms or in a manner other than on the prescribed form, the report, application or claim shall not be deemed "filed."

b. The fact that the reporting party does not have the prescribed form shall not be an adequate reason for failure to file. The office of motor carrier services at the address in subrule 505.2(1) may be contacted to request copies of any forms needed. The department may also prescribe the form of the records which the reporting parties are required to keep in support of the reports they file.

505.4(13) Estimate gallonage. It is the duty of the department of transportation to collect all taxes on fuel relating to interstate activities due the state of Iowa.

a. In the event the taxpayer's records are lacking or inadequate to support any report filed by such taxpayer or to determine the tax liability, the department shall have the power to estimate the gallonage upon which tax is due. This estimation shall be based upon such factors as, but not limited to, the following:

- (1) Prior experience of the taxpayer,
- (2) Taxpayers in similar situations,
- (3) Industry averages,
- (4) Records of suppliers or customers, or
- (5) Such other pertinent information as the department may possess, obtain or examine.

b. The findings of the department of transportation as to the amount of fuel taxes due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the department of transportation shall be admitted in evidence, shall be considered to be true and accurate unless shown otherwise by an objecting party and shall impose upon the other party the burden of showing any error in the department's finding and the extent thereof, or that the finding was contrary to law.

505.4(14) Information confidential. Iowa Code section 452A.63, which makes all information obtained from reports or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, deputies, auditors, agents, officers, or other employees of the department. However, any person having acquired information disclosed in a taxpayer's filed report

shall be bound by the same rules of confidentiality. The information may only be divulged to the appropriate public officials enumerated in Iowa Code section 452A.63.

505.4(15) *Taxes erroneously or illegally collected.* Any permit holder shall be entitled to a return of taxes, penalties, or interest erroneously or illegally collected by the department. The written request for the refund of the taxes, penalties or interest must be filed with the department within one year of the time the taxes, penalties or interest were paid, filed by the permit holder who remitted the taxes, penalties or interest to the department and accompanied by evidence to support the claim showing that the remittance for taxes, penalties or interest was submitted or collected in error. If the erroneous collection was the result of a computational error on the part of the taxpayer and that error is discovered by the department, the taxes shall be credited or refunded and a written request shall not be necessary. If the request for refund includes the return of penalties or interest, the interest or penalties shall be refunded in the same proportion as the tax.

505.4(16) *Supplemental billings.* Billings shall be generated by the department for the collection of additional amounts due in the following circumstances. The amount due shall be due and payable upon receipt of the billing by the taxpayer.

- a. Penalties are assessed under the provisions of subrule 505.4(8).
- b. Interest is assessed under the provisions of subrule 505.4(10).
- c. An error in the computation on the front of the report results in additional tax due.
- d. There is a failure to remit payment for part or all of the tax due with the filed report.
- e. A check is remitted for payment and the check is subsequently not honored by the taxpayer's bank.
- f. A payment of application fees is by check and the check is subsequently not honored by the taxpayer's bank.
- g. Taxes, penalties or interest are assessed as the result of an audit.

This rule is intended to implement Iowa Code sections 452A.54, 452A.55, 452A.60, 452A.61, 452A.63, 452A.64, and 452A.65.

761—505.5(452A) Audits—required records.

505.5(1) *Delegation to audit and examine.* Pursuant to Iowa Code sections 452A.53, 452A.55, and 452A.62, the department of transportation reserves the right to examine returns and records, make audits and determine the correct amount of tax due.

505.5(2) *Statute of limitations.* Within three years after a return is filed, the department may audit the return to determine the accuracy of taxes paid. There is no time limitation on collection activities for any tax, penalty or interest due the department of transportation.

505.5(3) *Outstanding tax, penalty, or interest for canceled and inactive permits.* Any outstanding taxes, penalties, or interest must be paid before a new permanent fuel permit shall be issued.

505.5(4) *Audit period—records—costs.* The statute of limitations on the determination of any additional tax liability shall be three years after a return is filed; therefore, all records must be kept for three years after a return is filed.

a. For the purpose of verifying the correctness of a return filed or for estimating the tax liability of any taxpayer, the department shall:

- (1) Have the right and duty to examine or cause to be examined the books, papers, records, memoranda, or documents of a taxpayer which relate in any manner to fuel taxes.
- (2) Have the authority to require, at a hearing, the attendance of the taxpayer and other witness and the production of books, papers, records, memoranda or documents.

b. The cost of an audit shall be at the taxpayer's expense when:

- (1) The records are maintained outside the state of Iowa and the state in which they are kept charges Iowa-based taxpayers in similar situations; or
- (2) An audit reveals an additional tax liability exceeding \$500.

505.5(5) *Taxpayers required to keep records.* The records required to be kept by this rule shall be preserved for a period of three years after a return is filed unless otherwise stated and shall be open for examination by the department during this period of time. A permittee shall retain invoices or other

proofs of purchase which meet the requirements of subrule 505.5(6). The fact that the tax has been paid shall appear on the proof of purchase. These invoices and other records required to be kept shall be retained for a period of three years after a return is filed. In the case of an interstate operator who uses a motor vehicle special fuel holding tank, as defined in Iowa Code section 452A.33, the invoices covering the special fuel placed in the holding tank shall be retained for the three-year period following the date on which a return is filed.

505.5(6) *Records to be kept and preserved.*

a. Every person required to file a quarterly report under Iowa Code section 452A.54 shall keep and preserve the following records:

- (1) Fuel invoices;
- (2) Log books; and
- (3) Trip sheets.

b. Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A or these rules, the following shall be the minimal requirements which must be complied with:

- (1) It must include the seller's name and address.
- (2) It must include the purchaser's name and address.
- (3) It must contain a vehicle serial number, fleet unit number or vehicle license number.
- (4) It must include the calendar date of purchase.
- (5) It must indicate the type of fuel purchased.
- (6) It must indicate the quantity of fuel purchased.
- (7) It must indicate the total purchase price.
- (8) If the purchase is of special fuel, the fact that the fuel tax is included in the purchase price must be indicated.

c. Whenever an invoice is required to be kept under Iowa Code chapter 452A or these rules, the original or duplicate copy must be kept. If the original or duplicate copy is lost or destroyed, a copy, certified by the seller as being a true copy of the original, shall be acceptable.

d. A copy of any invoice, which is required to be kept by the purchaser, must be kept by the seller for the same period of time.

e. Credit card invoices are acceptable if they meet all the requirements listed in paragraphs 505.5(6) "b," "c," and "d" above.

505.5(7) *New permanent permittees.* When a person is issued a new permanent permit, the department of transportation may, within one year of issuance of the permit, audit the records of the new permittee for a period going back two years from the date of issuance. After the one year has expired, the audit period is again three years. (See subrule 505.5(6) for the records required to be kept.)

505.5(8) *Nonpermit holders.* All persons who bring into the state an excess of 30 gallons of fuel in a commercial motor vehicle, upon which the Iowa tax on said fuel has not been paid, are operating within the purview of these rules as stated in Iowa Code section 452A.55. They are therefore subject to audit and must keep the same records required of permit holders.

505.5(9) *Interstate—intrastate operators—motor vehicle special fuel holding tanks.* If a person operates one or more commercial motor vehicles under a permanent permit and also operates one or more commercial motor vehicles which are not operated under the permanent permit, record keeping regarding the fuel consumed from the special holding tank may be performed in either of the following ways:

a. Operators of interstate vehicles shall be given an invoice that meets the standards set forth in Iowa Code section 452A.17, subsection 3, for each tank fill, and the vehicle operator must then log the mileage; or

b. The permit holder shall report total miles driven and total fuel used from the bulk tank, including both interstate and intrastate vehicles.

This rule is intended to implement Iowa Code sections 452A.53, 452A.55, 452A.60, 452A.62, and 452A.69.

761—505.6(452A) Hearings.

505.6(1) *Conduct of hearings.* Hearings are conducted in accordance with Iowa Code section 452A.69.

505.6(2) *Circumstances for holding hearings.*

a. When there is reasonable cause to believe that there is an evasion of fuel taxes, the department may cause a hearing to be held to determine the amount of fuel taxes due, if any. The person who is suspected of evading fuel taxes shall be sent at least ten days' notice of the hearing. The provisions of Iowa Code section 452A.64 and subrule 505.4(13), paragraph "b," shall apply.

b. If a permit holder disputes the findings of an investigation or audit by the department, the permit holder may request a hearing to present further evidence, information or records to support the claim. The written request for hearing shall be directed to the attention of the director of the office of motor carrier services at the address in subrule 505.2(1) within 30 days of the date of notice of audit results issued by the department.

This rule is intended to implement Iowa Code sections 452A.64 and 452A.69.

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