



ADMINISTRATIVE RULES OF MONTANA

38.3.3601 FUEL COST SURCHARGE

- (1) All intrastate motor carriers operating under commission approved tariffed rates or commission approved maximum rates may charge, in addition to such rates, a fuel cost surcharge as provided by this rule.
- (2) The commission may grant approval for a surcharge upon written request by a qualifying carrier:
 - (a) establishing that the carrier's fuel costs (for like fuel purchases) have increased by more than 6 percent from the lowest average fuel cost in any seven consecutive day period within the preceding three months;
 - (b) identifying the percentage increase in fuel costs and the percentage increase in rates necessary to offset the increased fuel costs; and
 - (c) establishing that the increase is likely to be of duration more than two months but less than six months.
- (3) The commission may grant approval for decrease or increase to an existing surcharge upon written request by a qualifying carrier establishing that fuel costs have decreased or increased by more than 3 percent since the surcharge was approved.
- (4) The surcharge or amendment to the surcharge becomes effective on the date approved by the commission and applies to all transportation after that date until expiring or being terminated by the commission.
- (5) The surcharge shall be effective for 90 days from the date of approval by the commission, but may be extended for an additional 90 days. Amendments do not extend the effective period. Before or after the expiration of the times permitted by this rule, if the carrier determines that fuel cost increases are likely to remain permanent, an application for a permanent rate increase may be made.
- (6) Fuel costs must be monitored by the motor carrier throughout the duration of the surcharge. If, at any time, it appears that fuel costs have decreased by more than 3 percent within a seven consecutive day period, the carrier shall then apply for a decrease in the surcharge.
- (7) Upon complaint by any interested person or upon the commission's own motion a surcharge may be reviewed for accuracy and compliance with this rule in both application and implementation. If the surcharge is found to be excessive, in addition to all other remedies provided by law, the carrier must provide each affected shipper with a rebate of the excessive charge.
- (8) As a condition to granting approval for a surcharge, the commission may impose any lawful terms it deems necessary restricting the application of this rule.

- (9) The provisions of this rule are not applicable to rates charged by contract carriers unless the contract for carriage so allows.
- (10) Nothing in this rule prohibits a motor carrier from filing an application for authority to increase rates on a permanent basis.
- (11) The person or entity, whether agent or contractor or other, actually incurring the cost of the fuel shall receive the benefit of any fuel surcharge approved by the commission, subject to all other provisions of this rule.
- (12) The commission determines that fuel cost increases and the surcharge relief provided herein are good cause for rate changes to be effective on less than 45 day's notice, pursuant to section 69-12-504, MCA.

Authorizing statute(s): Sec. 69-12-201, MCA

Implementing statute(s): Secs. 69-12-501 through 69-12-511, MCA

History: NEW, 1992 MAR p. 2647, Eff. 12/11/92.