

**JURISDICTION OF NEW JERSEY
FINAL DETERMINATION FINDING OF NON-COMPLIANCE**

This Final Determination Finding of Non-Compliance (“Finding”) is issued to the jurisdiction of New Jersey by the Program Compliance Review Committee (“PCRC”). The PCRC is a standing committee of the International Fuel Tax Agreement (“Agreement”). New Jersey has failed to comply with the provisions of the Agreement cited herein.

Non-Compliance History:

4. AUDIT ACCOUNTABILITY

a) Three Percent Audit Requirement

The IFTA Audit Manual, Section A310, states “Base jurisdictions will be held accountable for audits and will be required to complete audits of an average of 3 percent per year of the number of IFTA accounts required to be reported by that jurisdiction on the annual reports filed pursuant to the IFTA Procedures Manual, Section P1110.300.005 excluding new licensees, for each year of the program compliance review period, other than the jurisdiction’s IFTA implementation year. Such audits shall cover at least one registration year. This does not preclude audits of individual licensees several times during the program compliance review period. However, audits for a licensee selected that cover multiple registration years, fuel types, or both shall be counted as one audit for program compliance review purposes.”

Three Percent Audit Requirement Discussion

A review of the audit accountability indicates that New Jersey was required to complete 1478 audits during the review period but only completed 946 audits (1.91%).

Jurisdiction’s Response to Three Percent Audit Requirement Discussion

New Jersey’s Audit Unit has experienced severe downsizing during the years 2006 through 2009. Positions vacated by retirements, promotions and re-alignments are left vacant by attrition. Budget reductions and hiring freezes, due to the ongoing economic downturn add to the challenge of accomplishing the 3% average. New Jersey is facing this challenge by researching the feasibility of programs that may boost quantity. Some examples are the establishment of satellite work stations to reduce travel time, mail audits rather than site visits and audits performed by for-hire CPA firms. Once conditions improve and hiring restrictions are lifted, New Jersey will pursue filling the vacated positions with vigor.

b) High Distance Audit Requirement

The IFTA Audit Manual, Section A320.100 provides, in part: “...At least 25 percent of each member jurisdiction's audit requirement shall involve high-distance accounts. High-distance accounts are considered to be the 25 percent of the previous year's licensees who had the highest number of miles/kilometers reported in all member jurisdictions.”

High-Distance Audit Requirement Discussion

New Jersey was required to complete 370 high distance audits but only completed 262.

Jurisdiction's Response to High-Distance Audit Requirement Discussion

In an effort to fully comply with Section A320.100, addressing the high-distance ratio of accounts, New Jersey has assigned personnel to target high distance audits to achieve the 25 percent requirement.

c) Low Distance Audit Requirement

The IFTA Audit Manual, Section A320.100 provides, in part: "At least 15 percent of each member jurisdiction's audit requirement shall involve low-distance accounts. (Low-distance accounts are considered to be the 25 percent of the previous year's licensees who had the lowest number of miles/kilometers reported in all member jurisdictions)...."

Low Distance Audit Requirement Discussion

New Jersey was required to complete 222 low distance audits but only completed 189.

(Lead Reviewer's Note: Jurisdiction was previously cited in 2001 and 2005.)

Jurisdiction's Response to Low Distance Audit Requirement Discussion

In an effort to fully comply with Section A320.100, addressing the low-distance ratio of accounts, New Jersey has assigned personnel to target low distance audits to achieve the 25 percent requirement.

Follow-up issued following New Jersey's 2009 Program Compliance Review:

AUDIT ACCOUNTABILITY

ACTION	DUE DATE
New Jersey to submit to IFTA, Inc. a listing of audits completed from January 1 through June 30, 2010. The listing will include: <ul style="list-style-type: none">• Licensee Name and FEI• Date of completion• Resulting amount of assessment or refund or indication of no change• Designation of high, medium, or low distance• Date results were transmitted	September 30, 2010
IFTA, Inc. and the Committee will review the response received from New Jersey and determine next steps.	October 15, 2010
IFTA, Inc. will advise New Jersey of the results of its review.	November 19, 2010

Follow-up - UPDATED:

AUDIT ACCOUNTABILITY

ACTION	DUE DATE
<p>New Jersey to submit to IFTA, Inc. a listing of audits completed from January 1 through June 30, 2010. The listing will include:</p> <ul style="list-style-type: none"> • Licensee Name and FEI • Date of completion • Resulting amount of assessment or refund or indication of no change • Designation of high, medium, or low distance • Date results were transmitted 	September 30, 2010
<p>IFTA, Inc. and the Committee will review the response received from New Jersey and determine next steps.</p>	Open
<p>IFTA, Inc. will advise New Jersey of the results of its review.</p> <p>11-8-2010 NJ has not shown a willingness to comply with the Audit requirements. If NJ continues at the current pace, they will not come close to making their numbers. It is recommended that this issue be escalated to reassessment. NJ will need to provide to IFTA, Inc. a listing of audits completed on a quarterly basis. The listing will include:</p> <ul style="list-style-type: none"> • Licensee Name and FEI • Date of completion • Resulting amount of assessment or refund or indication of no change • Designation of high, medium, or low distance • Date results were transmitted 	<p>Open</p> <p>Due Dates: Audits completed: 7/1/2010 – 9/30/2010 10/1/2010 – 12/21/2010 Due 1/31/2011</p> <p>Audits completed: 1/1/2011 – 3/31/2011 Due 4/30/2011</p> <p>Audits Completed: 4/1/2011 – 6/30/2011 Due 7/29/2011</p>

Reassessment issued:

AUDIT ACCOUNTABILITY

ACTION	DUE DATE
<p>New Jersey to submit to IFTA, Inc. a listing of audits completed from January 1 through June 30, 2010. The listing will include:</p> <ul style="list-style-type: none"> • Licensee Name and FEI • Date of completion • Resulting amount of assessment or refund or indication of no change • Designation of high, medium, or low distance • Date results were transmitted 	September 30, 2010
<p>IFTA, Inc. and the Committee will review the response received from New Jersey and determine next steps.</p>	Open
<p>IFTA, Inc. will advise New Jersey of the results of its review.</p> <p>11-8-2010 NJ has not shown a willingness to comply with the Audit requirements. If NJ continues at the current pace, they will not come close to making their numbers. It is recommended that this issue be escalated to reassessment. NJ will need to provide to IFTA, Inc. a listing of audits completed on a quarterly basis. The listing will include:</p>	<p>Open</p> <p>Due Dates: Audits completed: 7/1/2010 – 9/30/2010 10/1/2010 – 12/21/2010 Due 1/31/2011</p>

<ul style="list-style-type: none"> • Licensee Name and FEI • Date of completion • Resulting amount of assessment or refund or indication of no change • Designation of high, medium, or low distance • Date results were transmitted <p>8-2-2011 Reassessment – Audit Numbers are not near what is required. Monthly report to IFTA, Inc. through 12/31/2011.</p>	<p>Audits competed: 1/1/2011 – 3/31/2011 Due 4/30/2011</p> <p>Audits Completed: 4/1/2011 – 6/30/2011 Due 7/29/2011</p> <p><u>Monthly</u> July and August due 9/15/2011 September due 10/14/2011 October due 11/15/2011 November due 12/15/2011 December due 1/16/2012</p>
---	---

New Jersey has provided detailed audit accountability information however the number of audits completed as shown below is not compliant with the IFTA Audit Manual, Section A310.

			New	# of Audits	# of Audits	
Jurisdiction	Year	Accounts	Licenses	Required	Completed	%
NJ	2006	13,038		387	261	2.02%
NJ	2007	13,677	2387	391	245	1.88%
NJ	2008	13,229	1908	339	175	1.55%
NJ	2009	12,547	1651	340	192	1.70%
NJ	2010	12,282	1486	327	138	1.27%
NJ	2011	11,309	1536	324	103	0.95%

New Jersey has provided detailed audit accountability information, except for 2009. The number of high and low audits completed as shown below is not compliant with the IFTA Audit Manual, Section A320.

Year	IFTA Requirements		Actual # of Audits Completed	
	High Distance %	Low Distance %	High Distance Audits Completed	Low Distance Audits Completed
2006	97	58	77	42
2007	98	59	73	47
2008	85	51	33	46
2009	85	51	0	0
2010	82	49	36	12
2011	82	49	29	31

Conclusion:

The jurisdiction of New Jersey has been cited for failure to meet the requirements of the IFTA Audit Manual, Section A310 which provides:

***A310 NUMBER OF AUDITS**

Base jurisdictions will be held accountable for audits and will be required to complete audits of an average of 3 percent per year of the number of IFTA accounts required to be reported by that jurisdiction on the annual reports filed pursuant to the IFTA Procedures Manual, Section P1110.300.005 excluding new licensees, for each year of the program compliance review period, other than the jurisdiction's IFTA implementation year. Such audits shall cover at least one license year. This does not preclude audits of individual licensees several times during the program compliance review period. However, audits for a licensee selected that cover multiple license years, fuel types, or both shall be counted as one audit for program compliance review purposes.

The jurisdiction of New Jersey has been cited for failure to meet the requirements of the IFTA Audit Manual, Section A320 which provides:

***A320 SELECTION OF AUDITS**

The following guidelines shall be used in selecting audits to fulfill the IFTA auditing requirements:

.100 Low-Distance/High-Distance Accounts Requirement

At least 15 percent of each member jurisdiction's audit requirement shall involve low-distance accounts. (Low-distance accounts are considered to be the 25 percent of the previous year's licensees who had the lowest number of miles/kilometers reported in all member jurisdictions). At least 25 percent of each member jurisdiction's audit requirement shall involve high-distance accounts. (High-distance accounts are considered to be the 25 percent of the previous year's licensees who had the highest number of miles/kilometers reported in all member jurisdictions.)

.200 Low-Distance/High-Distance Computations

Low-distance computations and high-distance computations shall be based on total miles/kilometers reported by all IFTA licensees included on the annual report filed by the jurisdiction pursuant to the IFTA Procedures Manual, Section P1110.300.005 excluding new licensees, but including licensees who report no operations during a quarter, for the first three quarters of each calendar year.

Due to New Jersey's failure to comply with the IFTA Audit Manual, the PCRC discussed the issuance of a Final Determination Finding of Non-compliance as per the ratified Review Guide. On the March 3, 2012 the PCRC voted unanimously to move forward with issuance of a Final Determination Finding of Non-Compliance of the requirements found in the IFTA Audit Manual, Sections A310 and A320. These issues fall into the disputable category as prescribed in the IFTA Articles of Agreement, Section R1555. The matter will go before the IFTA membership for vote to determine whether this matter moves forward to the Dispute Resolution Committee.

ISSUED THIS 16th DAY OF April, 2012.



John Szilagyi (CT), Chair