

MAINE STATE LEGISLATURE

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ANTHONY J. NEVES
STATE TAX ASSESSOR

STATE OF MAINE

State Office Building, Augusta, Maine 04333

April 2, 1985

Legislative Council
c/o Sarah Diamond
Administrative Director

Dear Ms. Diamond:

This report is submitted pursuant to 36 MRSA § 3312.

The State of Maine has entered into the Regional Fuel Tax Agreement. The Agreement became effective January 1, 1985 between the States of Maine and Vermont. The State of New Hampshire has signed the Agreement and intends to join on or before January 1, 1986. The State of Connecticut has worked with the committees designing implementation procedures. However, Connecticut lacks the necessary legislation and has recently advised me that it does not anticipate pursuing membership in the Compact at this time.

In December 1984, the State Tax Assessor promulgated rules necessary to implement the Agreement. The rules (copy attached) define the criteria for tax reporting, auditing, licensing and various other provisions necessary to make the Agreement operational.

The States of Maine and Vermont have issued over 45,000 Regional Fuel Tax Agreement Fuel Identification Decals to approximately 700 participating companies. The number of participating companies will substantially increase when New Hampshire officially joins the Agreement.

It is premature to evaluate the overall effectiveness of the Agreement since the first tax return is not due until April 30, 1985. Additionally, the auditing program cannot begin until several tax reporting periods have expired. However, the data processing programs needed to process the tax returns and distribute the tax revenues have been developed and are functional.

State agencies required to evaluate the effectiveness of the Agreement will be able to present a more definitive report in January of 1986.

Sincerely,

Anthony J. Neves
State Tax Assessor

AJN:gr
Enc.

FEB 17 1987

NEW ENGLAND REGIONAL FUEL TAX AGREEMENT

.01 Purpose and Principle

- A. This multijurisdictional agreement shall be referred to, cited and known as the Regional Fuel Tax Agreement, referred to hereinafter as the Agreement.
- B. It is the purpose of this Agreement to promote and encourage the fullest and most efficient possible use of the highway system by making uniform the administration of motor fuels consumption taxation laws with respect to motor vehicles operated interstate.
- C. It is the purpose of this Agreement to enable participating jurisdictions to act cooperatively and provide mutual assistance in the administration and collection of motor fuels consumption taxes.
- D. It is the purpose of this Agreement to establish and maintain the concept of one administering base jurisdiction for each licensee, and to provide that a licensee's base jurisdiction will be the administrator of this agreement and execute all its provisions with respect to such licensee.

.02 Definitions

- A. "Applicant" is a person in whose name an application for licensing is filed with a base jurisdiction for the purpose of motor fuel tax reporting under the provisions of this Agreement.
- B. "Base Jurisdiction" shall be a jurisdiction that is a member of this agreement where qualified motor vehicles are based for registration purposes. If the person has more than one member jurisdiction with qualified vehicles registered, then the person must choose one member to be its base jurisdiction. In making the selection, consideration should be given to location of records and the number of vehicles registered in the base jurisdictions.
- C. "Calendar Quarter" means the four periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- D. "Commissioner" means the official designated by the jurisdiction to be responsible for administration of this Agreement. In respect to the State of Maine, the commissioner shall mean the State Tax Assessor.
- E. "In-Jurisdiction Miles" means the total number of taxable

miles operated by a licensee's qualified motor vehicles in a jurisdiction. In-jurisdiction miles do not include miles operated on a fuel tax permit or miles exempted from fuel taxation by a jurisdiction.

- F. "Jurisdiction" means a State of the United States, the District of Columbia or a province or territory of Canada.
- G. "Licensee" means a person who holds an uncanceled motor fuel user license issued by his/her base jurisdiction.
- H. "Motor Fuels" means diesel fuel and any blend of diesel and other fuel used or suitable for use for the generation of power for propulsion of motor vehicles. Motor fuels shall also include gasoline.
- I. "Person" means an individual, corporation, partnership, association, trust or other entity.
- J. "Qualified Motor Vehicle" means a truck having a registered or gross weight of 18,000 pounds or more if it is powered by gasoline or 7,000 pounds or more if powered by any other fuel, and passenger vehicles designed to carry twenty passengers or more for hire. Qualified motor vehicles do not include recreational vehicles.
- K. "Recreational Vehicle" means vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.
- L. "Registration" means the qualification of motor vehicles normally associated with a prepayment of licensing fees for the privilege of using the highway, such as a weight fee and the issuance of a license plate and a registration card or temporary registration containing owner and vehicle data.
- M. "Total Miles" means the total number of miles operated by a licensee's qualified motor vehicles.

.03

Taxation of Motor Fuels

- A. For the purposes of this agreement, the taxable event is the consumption of motor fuels used in the propulsion of qualified motor vehicles subject to registration.
- B. The basis for assessing the tax and measuring used in the Agreement will be a volumetric basis. The acceptable methods are on a gallon basis for fuel consumed in the United States and a liter basis for fuel consumed in Canada.
- C. Each applicant jurisdiction will declare the tax rates for

its taxable motor fuels by filing with its membership application to this Agreement a statement of tax rates for the motor fuels taxed under this Agreement.

- D. Jurisdictions shall notify every other member jurisdiction of a change in tax rate at least sixty days in advance of the due date of the calendar quarterly report for which a change of tax rate is to be effective. Failure to provide such notice will relieve other jurisdictions from being required to take extraordinary measures to implement the change. Notification shall be by return-receipt-requested mail.
- E. All motor fuel acquired which is normally subject to consumption taxation is taxable unless proof to the contrary is provided by the licensee.

.04 Application of the Agreement

- A. Any person operating a qualified motor vehicle(s) in two or more member jurisdictions is required to license under this agreement if they meet the requirements specified in Section .02-B of this agreement.
- B. Trip permits will be issued by each applicant's base jurisdiction for all member jurisdictions in accordance with the laws of the member jurisdictions in the manner prescribed by the Administrative Procedures Manual. The base jurisdiction shall collect the trip fees for each member jurisdiction. Base jurisdictions shall forward trip permit fees in accordance with Section 8.5 of the Agreement.
- C. Fuel use reporting under this Agreement shall be for qualified motor vehicles as defined in Section .02-J.

.05 Fuel User Licensing

- A. A person shall file an application for licensing with the base jurisdiction. The application shall have the same content as specified in the Administrative Procedures Manual.
- B. Operational records shall be maintained or be made available for audit in the base jurisdiction or in accordance with the provisions of section .11-D.
- C. Tax licensing under this Agreement shall be in the name of the vehicle registrant.
- D. Notwithstanding the provisions of Section .05-C, a lessor or lessee who is regularly engaged in the business of leasing or renting motor vehicles for compensation to or from persons qualified under Section .02-B, for a period of more than 30 days, may be deemed at the option of the base jurisdiction to be the licensee as evidenced by the terms of the written lease agreement. Such lessor or lessee

may be issued a license if the application has been properly filed and approved by the base jurisdiction.

- E. The base jurisdiction shall review the application and issue the license, unless:
 - 1) The applicant has been previously licensed under this Agreement and such license is still under revocation by any member jurisdiction.
 - 2) The application fails to comply with the form and content as specified in the Administrative Procedures Manual, or is fraudulent.
- F. Failure to comply with all applicable provisions of this Agreement shall be grounds for revocation of the license issued under the Agreement.
- G. A licensee may request that his/her license be cancelled.
- H. The commissioner of the base jurisdiction is authorized to revoke the license of the licensee if it is determined that the licensee is not demonstrating good faith in complying with this Agreement.
- I. An applicant who has been denied a license and a licensee who has his/her license revoked may file an appeal in accordance with Section .12.
- J. The base jurisdiction, at its discretion, may require a licensee to post bond for any or all member jurisdictions. Bonds may be required only when a licensee has failed to file timely reports, when tax has not been remitted or when an audit indicates problems severe enough that in the commissioner's discretion, a bond is required to protect the interests of the member jurisdictions.

.06

Reporting

- A. The licensee shall file a calendar quarterly report with the base jurisdiction and shall pay all taxes due to all member jurisdictions with one check to be made payable to the base jurisdiction and included with the return. The tax report shall be for the previous calendar quarter. In the event of licensing as provided by Section .05-D, both the lessor and lessee shall be jointly and severally liable for the payment of all tax, interest, and penalty.
- B. The report filed by the licensee shall be due on the last day of the month immediately following the close of the quarter for which the report is due. Reports postmarked by the due date shall be considered timely filed. Post-marked shall mean the postal cancellation issued by the

United States Post Office.

- C. Any person who fails to make and file any report required or files a report and fails to pay any tax due under this agreement on or before the time the return becomes due shall be liable for a penalty of fifty dollars (\$50.00) or ten percent (10%) of the tax due, whichever is greater, and the penalty shall be payable at the time the report is filed. Said penalty shall be retained by the base jurisdiction. Thereafter, said tax but not penalty shall bear interest at the rate of one and one-half percent per month or fraction thereof from the due date of such tax to the date of payment. All interest collected on late taxes shall be remitted to the appropriate member jurisdiction or jurisdictions.
- D. The commissioner of the base jurisdiction may waive the penalty but not the interest authorized by Section .06-C when it is proven to his satisfaction that the failure to pay tax on time was due to reasonable cause and was not intentional or due to neglect.
- E. Licensees against whom a penalty has been levied may file an appeal in accordance with Section .12.
- F. Credit for tax-paid purchases must be claimed pursuant to existing jurisdictional law.
- G. The tax report format used by each member jurisdiction will be as specified in the Administrative Procedures Manual.

.07

Tax-paid Purchases

- A. Jurisdictions may require payment of motor fuels taxes on sales from retail filling stations of motor fuels delivered into the fuel tank which propels the motor vehicles.
- B. In order for the licensee to obtain credit for tax-paid purchases, a receipt or a credit card receipt must be retained by the licensee showing evidence of such purchases and tax having been paid. The content of the receipt and credit card receipt shall be as specified in the Administrative Procedures Manual.
- C. In order to obtain credit for tax-paid purchases from retail filling stations, the receipts must identify the motor vehicle into which the motor fuel was placed.
- D. Jurisdictions may require tax payments of fuel delivered into bulk storage or withdrawn from bulk storage. Motor fuels placed into the fuel tank of a qualified motor vehicle from a licensee's own bulk storage and upon which tax has been paid to the jurisdiction where the bulk fuel is located shall be considered as tax-paid purchases. The licensee's

records must identify the motor vehicle into which the fuel was placed.

.08 Base-jurisdiction Accounting

- A. The base jurisdiction shall maintain the record for licensees based in that jurisdiction. The record shall include a copy of tax reports, applications and other documents specified in the Administrative Procedures Manual.
- B. The base jurisdiction shall maintain a record of motor fuel taxes, tax credits and payments for each of its licensees for each jurisdiction. The record shall include the results of audits performed by the base jurisdiction and other jurisdictions.
- C. Each base jurisdiction shall maintain records of funds received from and transmitted to other jurisdictions. Such records shall identify licensees and remittances from each licensee.
- D. A uniform account number system shall be adopted and used by all member jurisdictions as specified in the Administrative Procedures Manual.
- E. Each jurisdiction shall forward all funds received to the appropriate jurisdictions once a month. All funds received during each month shall be forwarded by the end of the following month. Reports are required even if no funds are collected. The fund transmittal shall include a remittance listing for each state.

.09 Motor Vehicle Identification

- A. The base jurisdiction shall issue evidence of licensing under this Agreement.
- B. The commissioner of the base jurisdiction or his designee shall issue a license which shall expire December 31.
- C. The form, content, and placement of the license shall be as specified in the Administrative Procedures Manual.
- D. The base jurisdiction may collect fees for issuance of the license issued to the licensees based in the jurisdiction in accordance with existing jurisdictional laws of the member jurisdictions.
- E. Improper use of the license by the licensee may be cause for revocation of the license.

.10

Records Requirements

- A. Every licensee shall maintain records to substantiate information reported on the calendar quarterly tax report. Record requirements shall be as specified in the Administrative Procedures Manual.
- B. Every licensee shall preserve the records for a period of three years from the date of filing the report. Such records shall be made available upon request by any member jurisdiction for audit.

.11

Auditing

- A. The president shall appoint an audit committee of at least three members. Members shall be jurisdiction audit supervisors nominated by member jurisdiction commissioners. The Audit Committee shall have the responsibility of developing and maintaining an Audit Procedures Manual which will contain guidelines, forms and audit methods in accordance with accepted audit practices. The Audit Procedures Manual, and subsequent changes to it, will be approved and adopted in accordance with Section .17. All member jurisdictions shall be in compliance with this manual.
- B. The base jurisdiction shall audit its licensees on behalf of all member jurisdictions. This shall not preclude another jurisdiction from auditing a licensee to determine the liability to that jurisdiction. If another jurisdiction requests to audit a licensee, that jurisdiction shall pay all audit expenses.
- C. A jurisdiction shall not enter this agreement without submitting documentation that it can comply with audit policies and procedures of the Agreement and shall also be required to maintain compliance with these policies and procedures. Any change in audit policies and procedures shall not be effective with less than a one year notification, unless unanimously approved for an earlier date.
- D. In the event that the licensee's records are not located in base jurisdiction and the base jurisdiction must send auditors to the place records are kept, the base jurisdiction may require the licensee to reimburse the base jurisdiction for reasonable per diem and travel expenses of its auditors as authorized by law.
- E. Upon completion of an audit, the commissioner shall notify the licensee and all member jurisdictions in which mileage was accrued of the audit findings in the format and on forms as specified in the Audit Procedures Manual.

- F. The base jurisdiction is not required to audit for tax credit claims for tax payments of fuel taxes upon withdrawal from or delivery into bulk inventory located in another jurisdiction. The base jurisdiction during an audit shall verify the receipts of tax credit claimed for purchases from retail and shall verify that tax payments were made for tax credits claimed on bulk acquisition or withdrawal.
- G. If any licensee fails to make records available upon proper request or if any licensee fails to maintain records from which his/her true liability may be determined, a jurisdiction may, thirty (30) days after requesting in writing that the records be made available or receiving notification of insufficient records, determine a tax finding for each jurisdiction based upon the commissioner's determination of the true liability of such licensee. The commissioner may make his/her determination from information furnished by the licensee and such pertinent information as may be available to the commissioner.
- H. If the base jurisdiction office or field audits the returns of any licensee, the following penalties and interest apply:
- (1) If any deficiency discovered at time of audit is due to negligence, a penalty of ten percent (10%) of the amount of such deficiency assessment or fifty dollars (\$50.00), whichever amount is greater, shall be added thereto. If any part of the deficiency for which a deficiency assessment is made is due to fraud or intent to evade a penalty of twenty-five percent (25%) of the amount of such deficiency assessment shall be added thereto. Said penalties shall be retained by the base jurisdiction.
 - (2) The amount of such deficiency assessment, exclusive of penalties shall bear interest at the rate of one and one-half percent (1½%) per month or fraction thereof from the last day of the month succeeding the quarterly period for which the amount or any portion thereof was due until the date of payment.
 - (3) The commissioner of the base jurisdiction may waive the penalties but not the interest authorized by this section when it is proven to his satisfaction that the failure to pay any tax on time was due to reasonable cause and was not intentional or due to neglect.
 - (4) The commissioner of the base jurisdiction shall give written notice to any licensee covered by this agreement of any deficiency assessment. If such notice is served by mail, it shall be addressed to the licensee at the address appearing in the records of the base jurisdiction. Except in the case of fraud, intent to evade or

failure to submit a return, such notice of a deficiency assessment shall be mailed within three (3) years after the last day of the month following the quarterly period for which the amount is assessed or within three years after the return for such period is filed, whichever is later.

(5) If, prior to the expiration of the time prescribed in subsection (d) of this section for the mailing of notice of a deficiency assessment, the taxpayer has consented in writing to the mailing of notice after such time, the notice may be mailed at any time prior to the expiration of the period agreed upon for such mailing. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of such period.

I. Each base jurisdiction may employ any and all legal remedies provided by the laws of the base jurisdiction to collect and enforce the total amount of tax, penalties and interest owed to all member jurisdictions.

.12

Appeal Procedures

- A. A licensee or applicant may appeal an action or audit finding issued by the commissioner of the base jurisdiction by making a written request for a hearing within thirty (30) days after service of notice of the original action or finding. If the hearing is not requested within thirty (3) days in writing, the original finding or action is final.
- B. The hearing shall be held expeditiously but may be continued for reasonable cause being shown by either party. The commissioner shall give at least ten (10) days written notice of the time and place of the hearing.
- C. The commissioners will notify the appellant of the findings of fact and ruling on the appeal. In the case of any audit, if the licensee is still in disagreement with the original finding, the licensee may request any or every jurisdiction to audit the licensee's records. Each commissioner to whom a request was made may elect to accept or deny the request. Each jurisdiction electing to audit the licensee's records will audit only for its own portion of the licensee's operations. The licensee shall make records available at the office of the commissioner or a place designated by the commissioner or pay the reasonable per diem and travel expenses associated with conducting an audit at the licensee's place of business.
- D. The applicant may appear in person or be represented by counsel at the hearing and is entitled to produce witnesses, documents or other pertinent material to substantiate the

appeal.

- E. Further appeal of any jurisdiction's findings will proceed in accordance with that jurisdiction's laws.

.13

Refunds

- A. Refunds need not be made for an overpayment for which records are no longer required under this Agreement. A request for refund shall toll the records requirement date until the refund is made or denied.
- B. As a condition to issuance of a motor fuels tax license under this Agreement, an applicant will authorize on the application that refunds may be withheld if the licensee is not current on all motor fuel use taxes due to any member jurisdiction.
- C. Refunds may be made to the licensee only if all motor fuels taxes, penalty and interest governed by this Agreement due every other member jurisdiction have been paid, unless the unpaid amount is under proper appeal procedures.
- D. Interest may be paid by a jurisdiction to a licensee for a refund in accordance with jurisdictional law. The rate of interest shall be the rate specified in Section .06-C.
- E. Refunds determined to be properly due shall be paid within ninety (90) days after receipt of a request for payment from a licensee.

.14

Entry and Withdrawal

- A. A jurisdiction applying for a membership to the Agreement shall submit the prescribed adopting resolution to the President for balloting by member jurisdictions.
- B. The ballot for membership shall include the following:
 - (1) The estimated number of licensees based in the jurisdiction which could be licensed under this Agreement.
 - (2) The number of auditor personnel who will be dedicated to auditing under this Agreement.
 - (3) The number of supervisory and clerical personnel who will be dedicated to the receipting, processing and disbursing of funds received under the provisions of this Agreement.
 - (4) A copy of the enabling statute authorizing the jurisdiction to enter into this Agreement.
- C. Membership shall not be granted unless the adopting resolution receives unanimous approval from all member jurisdic-

tions. Failure of jurisdictions to submit their votes on the ballot for new membership within sixty (60) days after receipt shall be deemed to constitute approval of the application for membership. Ballots shall be mailed, return receipt requested, to the commissioner of each member jurisdiction by the President

- D. Membership shall become effective no sooner than two complete calendar quarters after approval of the application unless the new and all current members agree to an earlier effective date which shall be stated in the adopting resolution.
- E. A member may withdraw from the Agreement by giving at least two full calendar quarters' written notice of all member jurisdictions. Each member jurisdiction shall notify each of its licensees of the withdrawal at least one full calendar quarter prior to the withdrawal. However, cancellation by one jurisdiction shall not affect this Agreement between other jurisdictions. All evidence of motor fuels licensing issued under this Agreement by the cancelling jurisdiction shall be valid until the effective date of cancellation.
- F. As a condition for entry into this Agreement, a jurisdiction must employ sufficient auditors to assure that twenty-five percent (25%) of the licensees based in the jurisdiction and licensed under this Agreement will be audited at least once every three (3) years.

.15

Expulsion of a Member

- A. Any member jurisdiction may seek expulsion of another member jurisdiction. A jurisdiction initiating the request for expulsion of another member must submit an expulsion resolution in writing for balloting by the member jurisdictions. The resolution for expulsion shall contain detailed reasons for seeking expulsion and examples of noncompliance with this Agreement, if applicable.
- B. The resolution for expulsion shall be sent to the jurisdiction named in the resolution to prepare a response. This response shall be submitted to all members within thirty (30) days and may contain rebuttal, extenuating circumstances, corrective action initiated or planned or any other information pertinent to the matter.
- C. Failure of a member jurisdiction to submit its vote on the ballot for expulsion within sixty (60) days after receipt shall be deemed to constitute a vote against the resolution for expulsion.
- D. The vote of each jurisdiction on the resolution for expulsion shall be in writing. Adoption of the resolution for expulsion shall require ratification by all member jurisdictions

except the member jurisdiction at issue.

.16

Agreement Amendments and Interpretations

- A. Any member jurisdiction may propose amendments to this Agreement.
- B. The proposed amendment shall be placed in writing and circulated for comment to the member jurisdictions. The comment period shall be at least ninety (90) days from the date of distribution and shall include at least one open meeting of the commissioners. At the conclusion of the review period, the proposed amendment may be distributed for balloting. Each ballot shall contain the proposed amendment and comments submitted in writing by member jurisdictions.
- C. Adoption of an amendment to this Agreement requires ratification by three-fourths of the member jurisdictions.
- D. Amendments shall not be effective for at least one year from the date of notice of adoption. Amendments to be effective at an earlier date require concurrence by all member jurisdictions.
- E. Proposed amendments which have not received sufficient ballots to determine ratification or rejection within two years from the date ballots were distributed shall be void.
- F. Decisions regarding interpretations of any question at issue relating to this Agreement shall be reached by agreement of three-fourths of the member jurisdictions using the procedures as specified for adoption of amendments in this article.
- G. Votes on amendments or interpretations must be cast by the commissioner or a delegate named in writing by the commissioner.

.17

Adoption of Administrative and Audit Procedures

- A. The president shall appoint an Administrative Procedures Committee of at least three members, who shall be jurisdiction supervisors nominated by member jurisdiction commissioners. The Administrative Procedures Committee shall have the responsibility of developing and maintaining an Administrative Procedures Manual, which shall contain procedures and forms. The Administrative Procedures Manual and subsequent changes to it, shall be approved and adopted in accordance with Section .16. All member jurisdictions shall comply with the procedures in this manual.

- B. The Administrative Procedures Committee will develop and maintain an Administrative Procedures Manual to implement the terms of this Agreement. Before the manual and revisions to it become effective, they must be approved by the member jurisdictions.
- C. Adoption of administrative and audit procedures requires approval of at least three-fourths of the member jurisdictions. Proposed administrative and audit procedures shall be placed in writing and distributed to the commissioner of every member jurisdiction for review. The review period shall not exceed sixty (60) days.
- D. At the conclusion of the review period, the committee shall distribute the proposed procedure for balloting. Each ballot shall contain the proposed procedure, comments submitted by member jurisdictions and the earliest and latest voting dates which shall begin the first day after distribution and end not more than thirty (30) days later.
- E. Each jurisdiction will place its vote in writing. Failure of a jurisdiction to vote shall be construed to be a vote of approval of the proposed procedures.
- F. Adopted procedures shall become a part of this Agreement and shall be placed in writing in the Administrative and Audit Procedures Manuals.
- G. Unless otherwise specified, the effective date of an adopted procedure shall be thirty (30) days after the final date of voting.

.18

Administration

- A. The member jurisdictions may convene a regular meeting at least once every two years for the purpose of administration of this Agreement. All arrangements for the meeting shall be made by the president of the Agreement.
- B. The member jurisdictions shall elect by majority vote of those present at the regular meeting a member commissioner to be the president for administration of this Agreement.
- C. The term of the president shall be two years.
- D. The duties of the president shall include the following;
 - (1) Appointing chairpersons for the Administrative Procedures Committee, Audit Committee and other committees.
 - (2) Appointing members to standing committees and ad hoc committees.
 - (3) Other duties as specified by the members.

- E. To help defray some of the expenses associated with being the Agreement president, a membership fee may be levied on each jurisdiction. The fee shall be annual and be based upon a budget adopted by majority vote at a regular meeting. The fee shall be prorated for each member jurisdiction based upon the number of licensees based in the jurisdiction.
- F. In the event of a vacancy, a new president shall be elected as soon as practical.
- G. A president may be removed from office upon a two-thirds vote of all jurisdictions, using the procedure specified in Section .17.

.19

Implementation

- A. The effective date of implementation for the States of Maine and Vermont is January 1, 1985.
- B. The effective date of implementation for the States of New Hampshire, Maine, and Vermont is on or before January 1, 1986.