

\$100.00 for the service of government intervention that this program is offering.

RESPONSE: The Commission thanks the commenter but declines to make any amendments because the maintenance of a self-exclusion list is mandated by statute without cost to the participants. The regulatory costs related to the self-exclusion list are de minimus.

Federal Standards Statement

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the readopted rules. The Racing Commission readopts this chapter pursuant to the rulemaking authority set forth at N.J.S.A. 5:5-30 and 5:5-65.1.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:74A.

(a)

OFFICE OF HIGHWAY TRAFFIC SAFETY

Notice of Readoption

Drunk Driving Enforcement Fund

Readoption: N.J.A.C. 13:86

Authority: N.J.S.A. 27:5F-35, 39:4-50.8, 52:17B-4, and 52:17B-27; and Reorganization Plan No. 004-1992.

Authorized By: Office of Highway Traffic Safety, Gary Poedubicky, Acting Director.

Effective Date: July 20, 2017.

New Expiration Date: July 20, 2024.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 13:86 was scheduled to expire on September 29, 2017. The Drunk Driving Enforcement Fund (DDEF) is established pursuant to N.J.S.A. 39:4-50.8. The rules at N.J.A.C. 13:86 establish the administration of the DDEF and set forth the requirements for grant awards from the Fund. The Office of Highway Traffic Safety has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The DDEF statute provides, that, upon conviction for violation of the State's drunk driving statute, N.J.S.A. 39:4-50, or for violation of the State's chemical breath test statute, N.J.S.A. 39:4-50.4a, the court collects a \$100.00 surcharge from the defendant and forwards it to the New Jersey Motor Vehicle Commission. Ninety-five dollars of the \$100.00 surcharge is deposited into the DDEF and the remaining \$5.00 is used for administrative purposes. Additionally, two-thirds of the monies deposited into the Alcohol Education, Rehabilitation and Enforcement Fund in the Department of Health, N.J.S.A. 26:2B-32, for enforcement purposes, is deposited into the DDEF in two yearly installments. Therefore, pursuant to N.J.S.A. 27:5F-35 and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without amendments and shall continue in effect for a seven-year period.

TREASURY—GENERAL

(b)

RESIDENTIAL HOUSING MANAGEMENT BOARD

Procedural Guide for Occupying and Vacating Employee Housing Units

Readoption: N.J.A.C. 17:17

Proposed: May 15, 2017, at 49 N.J.R. 1180(a).

Adopted: July 17, 2017, by the Residential Housing Management Board, Cindy Bussell, Secretary.

Filed: July 19, 2017, as R.2017 d.154, **without change**.

Authority: N.J.S.A. 52:31-25.

Effective Date: July 19, 2017.

Expiration Date: July 19, 2024.

Summary of Public Comment and Agency Response:

The Residential Housing Management Board (Board) received timely written comments from Jean Publicie.

COMMENT: The commenter expresses concern that there is not a website for the public to view information about the name of the State employees that receive residential housing, the location of the housing, and the costs of the housing, so that the public can make an "intelligent statement" about the continued use of taxpayer dollars for such housing. The commenter is also concerned that the housing benefits "could be used for corrupt purposes." Additionally, the commenter states that "the public should be entitled to know who is considered so vital to the State that "they get housing at reduced prices."

RESPONSE: The comments submitted do not relate to or address the provisions of this current readoption, but question the underlying employment policies and procedures of the various departments/agencies that provide information to the Board in order to administer the readopted rules. The Board has no regulatory authority over the employment policies and procedures of the various departments/agencies. Furthermore, the Board is not required by law to have a website for the public to view the requested information. The law and rules establishing the Board are set forth at N.J.S.A. 52:31-23 et seq., and N.J.A.C. 17:17. The Board thanks the commenter for the comments.

Federal Standards Statement

No Federal standards analysis is required because the rules are not being readopted under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State law that incorporates or refers to Federal law, standards, or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:17.

TREASURY—TAXATION

(c)

DIVISION OF TAXATION

Motor Fuel Tax

Readoption with Amendments: N.J.A.C. 18:18

Adopted Repeals: N.J.A.C. 18:18-3.20, 3.22, 3.23, 3.24, 4.1, 4.2, 4.4, 4.5, 4.7, 4.9, 4.10, 5, 7.2, 7.4, 7.5, 7.10, 9, 12.6, 12.8, 12.16 through 12.19, 14, 15.1, 15.2, and 15.10

Adopted Repeal and New Rule: N.J.A.C. 18:18-3.3

Proposed: March 6, 2017, at 49 N.J.R. 402(a).

Adopted: July 24, 2017, by John J. Ficara, Acting Director, Division of Taxation.

Filed: July 26, 2017, as R.2017 d.158, **without change**.

Authority: N.J.S.A. 56:7-31.

Effective Dates: July 26, 2017, Readoption;
August 21, 2017, Amendments, New Rule, and Repeals.

Expiration Date: July 26, 2024.

Summary of Public Comments and Agency Responses:

The Division of Taxation (Division) received two written comments on the notice of proposal from Eric DeGesero, of the Fuel Merchants Association of New Jersey (FMA). The comments are summarized as follows:

COMMENT: The FMA asked whether the Director could exercise the authority granted under N.J.S.A. 54:39-148(h) (which authorizes the Director to co-collect the motor fuel tax and the petroleum products

gross receipts tax) to allow a distributor who is (a) not a qualified distributor (that is, they pay the New Jersey motor fuel tax to their supplier directly upon loading the product); and (b) who pays the petroleum products gross receipts tax to their supplier (that is, they do not have a Direct Pay Permit) to no longer have to file a New Jersey Motor Fuel Tax return just as they are no longer filing a Petroleum Products Gross Receipts Tax return if they relinquished their Petroleum Products Gross Receipts Tax Direct Pay Permit. The FMA states that this is how the Federal excise tax system works and prior to the 2010 amendments, wholesale dealers licensed under the old motor fuels law did not have to file a return since they had no tax liability but gasoline jobbers who did have a tax liability had to file a return. In addition, FMA states that this is directly analogous to the distinction between a qualified distributor (no tax liability) and nonqualified distributor (tax liability to supplier in exchange for the float). Lastly, FMA believes that this proposed change will dramatically reduce needless paperwork for both small businesses and the Division. For those distributors who are qualified distributors, FMA does not believe any change to the existing collection and reporting requirements for either the New Jersey motor fuel tax or petroleum products gross receipts tax should be made.

RESPONSE: The Division disagrees that the qualified/nonqualified distributor distinction is sufficient to not require the filing of a New Jersey Motor Fuel Tax return because a nonqualified distributor may still need to file for a refund and a wholesale dealer is not directly analogous to a nonqualified distributor.

The election to be treated as a qualified distributor is set forth under N.J.S.A. 54:39-121. A qualified and nonqualified distributor have the same filing requirements as there is no real difference between a qualified distributor and a nonqualified distributor, except for the ability to defer the payment of tax to their supplier. Under the law prior to 2010, gasoline jobbers could buy tax free and remit the tax when they filed their return and wholesalers could only purchase tax included and did not have to file a return. If a distributor (qualified or nonqualified) needs to get a refund on tax exempt sales they would file their distributor return and get the refund by filing the return. Thus, there is no correlation between jobber/wholesaler and qualified distributor/nonqualified distributor because in the jobber/wholesaler context the wholesaler buys tax included and the gasoline jobber buys tax free and in the qualified/nonqualified distributor context the qualified distributor can defer the payment of tax to their supplier but the nonqualified distributor cannot.

The Division frames the issue as to whether the Division can devise a method to treat some distributors like wholesalers under the law prior to 2010 and exempt those distributors from filing a tax return. The Division cannot determine which nonqualified distributors will never file for a refund because the distinction between a qualified distributor (no tax liability) and nonqualified distributor (tax liability to supplier in exchange for the float) is not directly analogous to gasoline jobbers (could buy tax free and remit the tax when they filed their return) and wholesalers (could only purchase tax included and did not have to file a return) under the law prior to 2010.

COMMENT: FMA believes that the rule should be amended to recognize recently enacted P.L. 2016, c. 66, which allows distributors the ability to receive a credit against tax otherwise due under the New Jersey motor fuel tax for the portion of a bad debt written off that is the New Jersey motor fuel tax.

RESPONSE: The Division disagrees with this suggestion because the language in the statute set forth in N.J.S.A. 54:39-137(a) is sufficient to administer the refund process because the definition of a bad debt follows the Federal definition under IRC § 166.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law.

The rules readopted with amendments, repeals, and a new rule are not subject to a Federal standards analysis under Executive Order No. 27 (1994) because the rules readopted with amendments, repeals, and a new rule do not contain any requirement that exceeds those imposed by

Federal law. The rules readopted with amendments, repeals, and a new rule will further align New Jersey’s rules with Federal requirements under 49 U.S.C. § 14506, Identification of vehicles. N.J.A.C. 18:18-8.4, Registration of conveyances; license plates, and 12.3, Failure to register conveyance; penalty imposed, have been amended to delete a reference to State-issued license plates because those requirements exceed the requirement imposed under 49 U.S.C. § 14506.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 18:18.

Full text of the adopted amendments and new rule follows:

CHAPTER 18
MOTOR FUEL TAX

SUBCHAPTER 1. DEFINITIONS

18:18-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Blender” means and includes any person that produces blended fuel outside the terminal transfer system. As used in this definition the term “terminal transfer system” means and consists of refineries, pipelines, vessels, and qualified terminals. Motor fuel in any supply tank or any tank car, tanker, or other equipment suitable for ground transportation is not considered to be within the terminal transfer system. A person that engages in “splash blending” is not considered to be a blender within the meaning of this rule.

Example: (No change.)

“Common carrier” means any person engaged in or employed in the business of carrying fuel for others for hire. (Historical Note: Formerly Reg. M.F.-10 filed 4/30/57.)

“Distributor” means and includes every person who acquires motor fuel from a supplier, permissive supplier, or from another distributor for subsequent sale.

“Export” means the sending or carrying by any person of fuel out of New Jersey to another state or foreign country in the way of commerce. (Historical Note: Formerly Reg. M.F.-2 filed 4/30/57.)

“Fuel” means:

1.-2. (No change.)

3. The term includes, without limitation:

i. (No change.)

ii. Any liquid prepared, advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the latest revised standard method of test for distillation of gasoline, naphthas, kerosene, and similar petroleum products (American Society for Testing Materials Method D-86) shows not less than 10 percent distilled (recovered) below 347° Fahrenheit and not less than 95 percent distilled (recovered) below 464° Fahrenheit; and

iii.-iv. (No change.)

4. Provided, however, that any person dealing therein, shall at any time, and from time to time, upon written request of the Director, report his or her receipts, sales, use, and distribution of said combustible gases and other products in a manner prescribed by the Director.

“Persons” means and includes natural persons and partnerships, firms, associations, joint stock companies, syndicates and corporations, and any receiver, trustee, conservator, or other officer appointed pursuant to law or by any court, state or Federal; also counties, municipalities, and other political subdivisions of this State, singular or plural, and the State of New Jersey. The use of the singular number shall include the plural number.

“Sale” means, in addition to its ordinary meaning, any exchange, gift, theft or other disposition. In every case where fuel are exchanged, given, stolen or otherwise disposed of, they shall be deemed to have been sold.

SUBCHAPTER 2. LICENSING

18:18-2.1 General powers

(a) (No change.)

(b) The Director is authorized to conduct joint audits, subject to specific agreements with any agency of the United States of America, with another state, or through national or regional tax associations, of the obligations of any supplier, distributor, retail dealer, terminal operator, transporter arising out of the Motor Fuel Tax Act. Notwithstanding the provisions of N.J.S.A. 54:50-8 to the contrary, such agreements may provide for the exchange of the records and files of the Director respecting the administration of the Motor Fuel Tax Act or of any other state tax law.

(c) The Director is authorized to arrange for the institution of programs of cooperation with other departments, divisions, and agencies of the State of New Jersey, such as but not limited to Weights and Measures, and the Motor Vehicle Commission, where a program may be necessary to ensure effective and efficient administration and enforcement of the Motor Fuel Tax Act.

18:18-2.3 Issuance of licenses

The Director, upon application, issues all licenses including, but not limited to, licenses that are required to be obtained pursuant to these rules, and may refuse to issue or renew the license of any person who is in violation of N.J.S.A. 54:39-101 et seq., and 56:6-1 et seq., or upon sufficient cause being shown.

18:18-2.4 Request for hearing upon refusal to grant license

(a) Any person who makes application for a license or the renewal thereof may:

1. Within five days after refusal by the Director make a written request for a hearing; and
2. (No change.)

18:18-2.5 Revocation and cancellation of license

(a) The license held by any supplier, distributor, terminal operator, transporter, or retail dealer may be suspended or revoked by the Director for a violation of any of the provisions of these rules, or on other reasonable grounds, after five days notice of and hearing on such proposed revocation or suspension conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) Upon receipt of a written request from the holder of any license, the Director has the power to cancel such license effective as soon thereafter as it has been determined that all tax, fines, penalties, and interest properly owing to the State have been paid.

(c) If the Director finds that any person to whom a license has been issued is no longer engaged in the business for which the license was issued, the Director has the power to cancel such license by giving such person reasonable notice of such intent to cancel by mail to his or her last known address.

(d) (No change.)

18:18-2.6 Hearings

(a) The Director may personally or by delegate conduct informal or formal hearings, administer oaths, and examine any person engaged in the business of dealing in fuels as a supplier, distributor, retail dealer, terminal operator, transporter, or otherwise, and the directors, officers, agents, and employees of such person, and all other witnesses, relative to the motor fuel business of such person, in respect to any matter incident to the administration of the Act.

(b) (No change.)

18:18-2.7 Subpoenas for witnesses; records

The Director may by subpoena compel the attendance of witnesses and the production of any books, records, papers, accounts of any person who sells, uses or distributes motor fuel, either directly or indirectly, or of any person, at a hearing.

18:18-2.8 Disobedience of subpoena

If any person subpoenaed to attend any hearing fails to appear, to be examined or to answer any question, or to produce any books or papers when ordered to do so by the Director or his or her assistants designated by him to conduct such hearing, the Director or such assistant or other

official properly designated by law to do so may apply to the Superior Court for an order to compel him to do so.

18:18-2.10 Nature of hearings

(a) (No change.)

(b) At a formal hearing:

1. All evidence is taken before a court reporter and the parties are not bound by common law or statutory rules of evidence;

2. All testimony having reasonable probative value is admitted, but immaterial, irrelevant, or unduly cumulative testimony may be excluded;

3. Every party has the right to present his or her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full, true disclosure of the facts;

4. (No change.)

5. Upon reaching a determination, the Division of Taxation shall notify a taxpayer or other party of interest or his or her representative by mail of the determination made.

(c) (No change.)

SUBCHAPTER 3. SUPPLIER'S LICENSE; BONDS REQUIRED; RECORDS

18:18-3.1 Supplier's license; application

(a) Every supplier before continuing in or commencing to transact the business of a supplier, must obtain a license from the Director, permitting him or her to engage in said business within this State.

(b) Such application shall be accompanied by payment of a license fee of \$450.00 for a three-year period or part thereof and the filing of a bond in such form as the Director shall require.

(c) Any application for such license is to be made in the form and manner as the Director shall prescribe.

18:18-3.2 Refusal in certain cases

In the event that any application for a license is filed by any person whose license has at any time been revoked, or if it is determined that such application is filed by some person as a subterfuge for the real person in interest whose license has been revoked, the Director, after a hearing held pursuant to N.J.A.C. 18:18-2.6(b) may refuse such person a license.

18:18-3.3 Distributor's license

(a) Every distributor must obtain a license from the Director permitting him or her to engage in said business within this State, before continuing in or commencing to transact the business of a distributor.

(b) Such application shall be accompanied by payment of a license fee of \$450.00 for a three-year period or part thereof and the filing of a bond in such form as the Director shall require.

(c) An application for a license shall be made in the form and manner as the Director shall prescribe.

18:18-3.4 Qualifications for license

Any person applying for a Supplier's, Distributor's, Terminal Operator's or Retail Dealer's license must meet the qualifications for such license. See N.J.A.C. 18:18-2.3 concerning issuance of licenses.

18:18-3.5 Bond requirements

Before granting a license authorizing any person to engage in business as a supplier, distributor, or as a terminal operator, the Director shall require such person to file a bond, duly executed by such person as principal, and by a corporation, approved by the Director and authorized to engage in business as a surety by the Commissioner of Insurance of this State, as surety; payable to the State of New Jersey, conditioned upon the faithful performance of all the requirements of these rules and expressly providing for the payment of all taxes, penalties, and other obligations of such person arising out of the Act.

18:18-3.6 Amount of bond required

(a) The total amount of the bond or bonds required to be filed is fixed by the Director and may be increased or reduced at any time subject to the limitations provided.

(b) In fixing the total amount of the bond or bonds required to be filed by any supplier, distributor, or terminal operator, the Director may

require a bond or bonds equivalent to an amount no greater than three times the tax on the greatest amount of motor fuel handled during a monthly period of the previous 12-month period in such manner as he or she may deem proper. The Director shall take into account the applicant's prior record as a New Jersey taxpayer and all other information as may be available to him or her which would establish the applicant's financial responsibility.

1. Where the application is made by any person who has never engaged in business in this State as a supplier, distributor, or terminal operator, prior to the filing of such application, the Director, after investigation, shall fix the total amount of such bond or bonds from such information as he or she may obtain after such investigation;

2. The total amount of any bond or bonds required to be filed by any supplier can never be less than \$25,000 or more than \$2,000,000. The total amount of the bond or bonds required for a qualified distributor can never be less than \$25,000 nor more than \$1,000,000. The total amount of the bond or bonds required to be filed by any nonqualified distributor shall never be more than \$2,000,000. The total amount of any bond or bonds required to be filed by any terminal operator can never be less than \$25,000 nor more than \$2,000,000.

3. (No change.)

18:18-3.7 Bond duration

(a) Every bond filed with and approved by the Director shall, without the necessity of periodic renewal, remain in force and effect until such time as the Supplier License, Distributor's License, or Terminal Operator's License of which it is a part, is revoked for cause or otherwise cancelled or has expired.

1. No action on a bond shall start after two years from the date of revocation or cancellation of the license of which it is a part.

(b) Release and substitution of surety.

1.-2. (No change.)

3. Upon receipt of any such request, the Director shall notify the principal who furnished the bond;

4. Unless the principal shall, on or before the expiration of the 60-day period, file a new bond, the Director shall cancel the principal's license; and

5. Sixty days after the licensee makes a written request for release to the Director, the cash deposit, letter of credit, or certificate of deposit provided by a licensee shall be cancelled as security for any obligation accruing after the expiration of the 60-day period. However, the Director may retain all or part of the bond for up to three years and one day as security for any obligations accruing before the effective date of the cancellation. The Director shall release any part not retained to the licensee. Before the expiration of the 60-day period, the licensee shall provide the Director with a bond that satisfies the requirements of N.J.S.A. 54:39-129.g or the Director shall cancel the license.

18:18-3.8 Deposit in lieu of bond

In lieu of any bond or bonds required under N.J.A.C. 18:18-3.5 through 3.7, a supplier, distributor, or terminal operator may deposit with the State Treasurer, under such terms and conditions as the Director may prescribe, a like amount of lawful money of the United States, or bonds, or other obligations of the United States, or the State of New Jersey, of an actual market value not less than the amount fixed by the Director.

18:18-3.9 License issued when bond approved

Upon the acceptance and approval of the application and bond, the Director shall issue a license permitting the conduct of business as a supplier, distributor, or terminal operator in this State, subject to cancellation as provided by law.

18:18-3.10 License not assignable

Any license so issued by the Director is not assignable, and is valid only for the supplier, distributor, or terminal operator in whose name the license is issued.

18:18-3.11 Violations for acting as a supplier, distributor, or terminal operator without a license

Any person conducting business in this State as a supplier, distributor, terminal operator, or retail dealer without first obtaining a license from

the Director, is deemed guilty of a crime of the fourth degree and subject to the penalties provided by law.

18:18-3.12 Records

Every supplier, distributor, terminal operator, and retail dealer is required to keep a record for a four-year period of all fuel sold or used, including the name of the purchaser, the number of gallons used or sold, and the date of the sale or use.

18:18-3.13 Statements with consignment

(a) Every supplier, distributor, and terminal operator must also deliver with every consignment of such fuel to a purchaser within this State, a written statement containing the date and number of gallons delivered, the kind and grade of fuel involved, and the names of the purchaser and seller, showing a separate charge for the tax on every gallon.

1. Such a statement is not required where sales of fuel are made at a service station and such fuel are delivered directly into the tank of a vehicle from which such fuel are directly supplied for the propulsion of such vehicle.

2. Such records and written statements are to be preserved by the supplier, distributor, terminal operator, and purchaser respectively for a period of four years and are to be offered for inspection upon the verbal or written demand of the Director or any of his or her duly authorized assistants.

18:18-3.14 Physical inventory required

Every supplier, distributor, terminal operator, and retail dealer is to take a physical inventory of the fuel on hand on the first or last day of every calendar month and is to keep records of such inventory for a four-year period and all other information required in these rules available at all times for the inspection of the Director or his or her assistants.

18:18-3.15 Furnishing of statement

Whenever demanded by the Director or his or her assistants every supplier, distributor, terminal operator, and retail dealer is required to furnish a statement, under oath, reflecting the contents of any records required to be kept under these rules.

18:18-3.16 Consignment taxable disposal

Consignment transactions of fuel to be sold on a commission basis and any fuel delivered to a company-operated service station is a taxable disposal "and is not to be included in inventory".

18:18-3.17 Segregated gasoline not in inventory

Gasoline which is segregated for the exclusive use of a supplier, distributor, terminal operator, or retail dealer is not to be included in the physical inventory on hand at the beginning or end of the month, but is to be dealt with as sales for company use at time of delivery to storage.

18:18-3.18 Disposals and receipts

(a) All deliveries of motor fuel including those made on a consignment and/or a commission basis, and deliveries to retail marketing storage operated by a licensee are to be treated as sales at the time such deliveries are made.

1.-2. (No change.)

(b) Any motor fuel held in common storage with another person or persons:

1. (No change.)

2. Such fuel, when subsequently delivered by such an association, properly licensed, are deemed to be purchased at the time all such fuel are received.

(c) Any motor fuel received exclusively by a licensee, including motor fuel purchased on consignment, is to be treated as purchased at the time such fuel are received.

18:18-3.19 Terms of licenses

(a) Every license and permit required by the Act, except a transporter's license is issued for a three-year period, or unexpired portion thereof, commencing on April 1 and ending the third succeeding March 31 and is void thereafter.

1. (No change.)

2. Every transporter's license, once issued, remains in force until March 31 of the year following issuance and shall be void thereafter

unless renewed. A license, once issued, shall remain in force during the period of issuance unless suspended or revoked for cause or otherwise cancelled.

18:18-3.20 Records on transactions and invoices

(a) (No change.)

(b) All licensed motor fuel dealers in this State, on all sales of motor fuel except deliveries into the service tank of a vehicle, must give each purchaser an invoice.

1. All invoices provided to purchasers by licensed dealers shall include the following:

- i. -ii. (No change.)
 - iii. Number of gallons sold; and
 - iv. (No change.)
- 2.-3. (No change.)

SUBCHAPTER 4. RETAIL DEALERS AND TRANSPORT LICENSES

18:18-4.1 Restrictions on retail sales

(a) (No change.)

(b) Sales may be made directly into the fuel tanks of motor boats only from a fixed location properly covered by a Retail Dealer's License in the name of the seller.

1. This fixed location may be equipped either with permanent or temporary installations for the dispensing of fuel directly into the fuel tank of boats;

2. A tank truck cannot under any circumstances be licensed as a fixed place of business.

18:18-4.2 Retail dealer records required

(a) Every retail dealer purchasing fuel, taxable under the Act, is required to maintain and keep for a period of four years, a record of fuel received and sold which shall include pump meter readings, the amount of tax paid by the supplier, distributor, or terminal operator as part of the purchase price, together with delivery tickets, totalizer readings, invoices, bills of lading, monthly physical inventories, and such other records as the Director may require.

(b) Daily record; preserving.

1. Every retail dealer is required to keep a daily record which shall include pump meter readings showing the total amount of fuel sold on each business day;

2. Such records are to be preserved for a period of four years and to be open for inspection by the Director or any of his or her assistants at all times. (See N.J.A.C. 18:19-4.1 for additional required records.)

18:18-4.3 Invoice on sales

(a) On all sales of motor fuel (except as noted in (b) below) except deliveries into the service tank of a vehicle, every licensed motor fuel dealer in this State is required to give the purchaser an invoice showing:

- 1.-4. (No change.)
- (b) (No change.)

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. CORPORATIONS

18:18-6.1 Persons subject to the Act

The terms "supplier," "distributor," "terminal operator," "retail dealer," "transporter," and "person," as used in these rules, include an officer, director, stockholder, or employee of a corporation, or a member of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect to which the violation occurs.

18:18-6.3 Previous violations preclude corporation from getting license

(a) No corporation will be entitled to hold a license as a supplier, distributor, terminal operator, transporter, or retail dealer, when it appears that:

1. Any officer, director, or employee of such corporation has heretofore been convicted of violating any of these rules; or

2. (No change.)

SUBCHAPTER 7. IMPOSITION OF TAX AND TAX REPORTING

18:18-7.1 Suppliers, permissive suppliers, exporters, blenders, distributors, liquefied petroleum gas dealers, and aviation fuel dealers monthly tax reporting and payments; penalties

(a) Every supplier, permissive supplier, exporter, blender, and distributor must, on or before the 22nd day of each month, file a report with the Director, on forms prescribed, prepared, and furnished by the Director, stating the number of gallons of fuel sold or used in this State by him or her during the preceding calendar month.

1. A tax at the current rate per gallon on each gallon reported must be paid by each distributor, or any other importer and payment is to accompany the monthly report.

2. The report must contain such further information as the Director may require.

(b) If any supplier, permissive supplier, exporter, blender, or distributor fails, neglects, or refuses to file the report within the time prescribed by this rule, the Director:

1. Will note such failure, neglect, or refusal upon his or her records; and

2. Will estimate the sales, distribution, and use of said distributors, assessing the tax thereon, adding to said tax a penalty of 20 percent for the failure, neglect, or refusal to report; and

3. Such estimate is prima facie evidence of the true amount of tax due from such distributor.

(c) (No change.)

18:18-7.2 Electronic filing of motor fuel taxes

Any other provision of law to the contrary notwithstanding, suppliers, distributors, and terminal operators licensed under the Motor Fuel Tax Act must use electronic methods for filing tax returns under the motor fuel tax law. As the result of changes in technology, the Director shall determine and publish instructions regarding which electronic methods of filing returns and paying such tax satisfy the requirements imposed by this section.

18:18-7.3 Tax reports using fractions of a gallon for all taxpayers

(a) Taxpayers, when reporting transactions involving gallons of fuel, are required to increase to one gallon all fractions of 1/2 or more and to drop from accountability all fractions less than 1/2 gallon;

(b) (No change.)

18:18-7.4 Reporting gallons based on invoices for all taxpayers

Gallons listed in any line and schedule of the tax report must include only the number of gallons actually shown on the seller's invoices or memo billings on receipts and on the invoices or memo billings for disposals.

18:18-7.5 Losses listed on tax reports by licensed suppliers, distributors, and terminal operators

(a)-(b) (No change.)

18:18-7.6 Invoices delivered with sales; information required

(a) All licensed suppliers, distributors, and terminal operators in this State, on all sales of gasoline except deliveries into the service tank of a vehicle, must give each purchaser an invoice showing:

- 1.-2. (No change.)
- 3. Number of gallons sold; and
- 4. (No change.)
- (b) (No change.)

18:18-7.7 Audit

(a) The records of all licensees and registered consumers must be made available for audit upon request in this State.

(b) The examination of returns and the assessment of additional taxes, penalties, and interest shall be as provided by the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq.

(c)-(d) (No change.)

SUBCHAPTER 8. FUEL CARRIERS

18:18-8.1 Reports by fuel carriers

Every railway or railroad company, water transportation company, and person transporting fuel as herein defined, in bulk, between points within the State, and every water transportation company and person transporting fuel in bulk to a point outside the State from any point within the State, or to a point within the State from a point outside of the State, must at any time, upon written request of the Director, report, in a manner prescribed by the Director, all deliveries of fuel so made to points within or without the State.

18:18-8.2 Monthly report; contents

(a) Monthly reports by carriers of fuel must cover monthly periods and must be submitted within 30 days after the close of the month covered by the reports.

(b) The monthly report must show:

1. All the quantities of fuel delivered at points in the State or outside of the State during the month;

2.-10. (No change.)

11. The name of account requesting pick up; and

12. (No change.)

(c) (No change.)

18:18-8.3 Inspection of transporter's records

The Director or his or her authorized agents have the right at any time during the normal business hours to inspect the books of any transporter to determine if the requirements of these rules are being properly observed.

18:18-8.4 Registration of conveyances

(a) (No change.)

(b) Upon receipt of any application, the Director issues a license certificate for each conveyance which shows the license number assigned and which must be displayed in the conveyance at all times in such manner as the Director may regulate.

(c) A license fee of \$50.00 must be paid for the licensing of each conveyance.

(d)-(e) (No change.)

18:18-8.5 Delivery tickets required; Director or police may inspect

(a) The driver of any conveyance must have and possess at all times while hauling, distributing or transporting fuel a delivery ticket or other form approved by the Director, which shows the true names of the seller and purchaser and such other information as the Director may prescribe.

1. Any agent of the Director or police officer may stop any conveyance in order to determine whether or not the provisions of this rule are being observed.

(b) A delivery ticket may take the form of a loading ticket, duplicate loading ticket invoice, or any other special form, provided it contains on its face either written, or as an integral part of the printed makeup of the form, or as part of a rubber stamp notation stamped on the form, or otherwise the following:

1.-4. (No change.)

5. A statement of the assumption of tax if a New Jersey licensed distributor gives the name and distributor's license number. If not, besides the name of the company, gives the name and address of the responsible individual who is assuming the responsibility for accounting that the tax has been or will be paid;

6. (No change.)

7. Serial number of the delivery ticket; and

8. (No change.)

(c) Whenever any agent of the Director, or police officer stops any conveyance in order to determine whether or not the operator has a delivery ticket in his or her possession, the number of gallons shown on the delivery ticket must correspond with the gallons actually in the conveyance.

1. If these gallonages are not the same, the operator must have in his or her possession sales tickets or other evidence for the portion of the load already delivered.

2. (No change.)

3. Delivery tickets on loads partly returned to any plant should be surrendered by the driver of the truck to the person responsible for its loading, who should note thereon for his or her own record and future reference for the Division of Taxation, the number of gallons returned.

18:18-8.7 Vessel and vehicle carrier

(a) The master or other person in charge of any barge, tanker, or other vessel in which fuel is being transported, or of a tank truck, truck tractor, semitrailer, trailer, or other vehicle used in transporting fuel, other than fuel being transported for use in operating the engine which propels the vessel or vehicle, or for the purpose of generating power in stationary engines to operate pumps for discharge of liquid cargo, must have in his or her possession an invoice, bill of sale, or other evidence showing:

1.-3. (No change.)

(b) He or she must at the request of any agent of the Director, produce such invoice, bill of sale, or other record evidence for inspection.

1. Whenever the fuel is being transported into or between points in New Jersey, such invoice, bill of sale, or other record evidence must also contain a statement showing who has assumed or who will assume payment of the New Jersey State Tax;

i. Where a New Jersey licensed supplier, distributor, or terminal operator is assuming it, the name and address and license number of that person will be sufficient;

ii. (No change.)

2. Whenever the fuel is being transported to a point outside of New Jersey, there must be included on the invoice, bill of sale, or other record evidence, a statement that the New Jersey seller or consignor is exporting the fuel.

(c) (No change.)

18:18-8.8 Reports by water carriers

(a) Every water transportation company, for all shipments transported by them as a Common Carrier (one engaged in or employed in the business of carrying fuel for others for hire) into, out of or between points in New Jersey shall, when requested in writing by the Director, make a report to the Division of Taxation of all such shipments on Form TMF-10 Transporter of Motor Fuel Packet.

(b)-(c) (No change.)

18:18-8.9 Water carrier's requirements

(a) A water carrier's requirements shall include the following:

1. Calibration charts.

i. (No change in text.)

ii. These calibration charts must have been prepared by a recognized firm of gaugers and show tank number, capacity, dimensions and gallons corresponding to measurements in feet, inches, and fractions thereof for any amount of fuels in the tanks;

2. Plan.

i. (No change in text.)

ii. Such plan must show tank number, capacity and dimensions of each tank; and

3. Gauge stick.

i. All water carriers must have on board, a gauge stick properly divided in feet, inches, and fractions thereof to correspond with the measurements of each tank and calibration chart.

ii. (No change in text.)

(b) Registration. Every person operating a water carrier transporting or delivering motor fuel must apply with the Division of Taxation for its registration and shall possess the license card.

18:18-8.10 Suspension of license

The license cards issued for the operation over the public highways or waterways of this State of any conveyance used for the transporting or hauling of fuel may be suspended or revoked upon reasonable grounds by the Director in the same manner as other licenses may be suspended or revoked by the Director under these rules.

SUBCHAPTER 9. (RESERVED)

SUBCHAPTER 10. TAX PAID IN ERROR—REFUND AND APPEALS

18:18-10.1 Refunds paid out of escrow

(a) When the Director determines that any moneys received under these rules were paid in error he or she shall cause the same to be refunded, but shall refuse to authorize a refund if more than four years have elapsed from the time the erroneous payment was made.

(b) (No change.)

SUBCHAPTER 11. COLLECTION OF TAXES

18:18-11.2 Debt docketed; licensee deemed to accept procedure; appeal

(a) Certificate of indebtedness; effect.

1. As an additional or alternative remedy, the Director may issue a certificate to the clerk of the Superior Court or to any county clerk that any person is indebted under these rules in an amount named in such certificate. Thereupon the clerk to whom such certificate has been issued will immediately enter upon his or her record of docketed judgments:

i.-ii. (No change.)

2.-3. (No change.)

(b) Every person who is licensed under these rules, and every refund claimant who has applied for and received benefits under N.J.A.C. 18:18-15.1 shall, by the acceptance of such license and benefits, be deemed to have consented to the procedure set forth in this chapter.

(c) (No change.)

(d) Every person required to collect any tax imposed by these rules shall be personally liable for the tax imposed, collected or required to be paid, collected, or remitted under these rules and be the subject of a certificate issued under this section.

18:18-11.3 Release of liens; payment or deposit

(a) The Director, upon application made to him or her and upon the payment of a fee of \$25.00, may release any property from the lien of any judgment or levy procured by him or her, provided:

1. Payment is made to the Director of such sum as he or she deems adequate consideration for such release; or

2. A deposit is made with the Director of such bond or other security as he or she deems adequate to secure the payment of any judgment, the lien of which is sought to be released.

SUBCHAPTER 12. OFFENSES, FINES, AND PENALTIES

18:18-12.1 Failure to procure licenses; penalty

Every person who engages in business as a supplier, distributor, terminal operator, transporter or retail dealer without first obtaining a license from the Director and every person who engages in business as a retail dealer without first applying to the Director for a license, as required by these rules, or continues in business as a retailer after the end of the 14th day following the date of such application without having obtained the license and displayed it at the establishment being operated, will be subject to a civil penalty of \$1,000.

18:18-12.2 Failure to keep records or permit inspection

(a) Any person who fails to furnish an invoice, keep the records required to be kept by virtue of N.J.S.A. 54:39-135 and 54:39-139, or who refuses or fails to permit inspection of such records by the Director or any of his or her agents will be subject to a civil penalty of \$1,000.

(b) For failure to pay the penalty after conviction, he or she may be imprisoned for a period of not less than five nor more than 30 days.

(c) Any person who shall refuse to permit any inspection or audit shall be subject to a civil penalty of \$5,000 in addition to any penalty imposed by any other provision.

18:18-12.3 Failure to register conveyance; penalty imposed

(a) Any person engaged in the business of hauling, transporting, or delivering fuel who causes to be operated any conveyance without having a license certificate displayed thereon as provided by N.J.S.A. 54:39-107 will be subject to a civil penalty of \$1,000.

(b) For failure to pay such penalty after conviction he or she may be imprisoned for a period of not less than five nor more than 30 days.

18:18-12.4 Failure to have shipping papers or delivery tickets; penalty imposed

(a) The driver of any conveyance used for the transportation or hauling of fuel who fails to have and possess at all times while hauling or transporting fuel a delivery ticket containing the information provided for by N.J.S.A. 54:39-107 and 54:39-139 will be subject:

1. For the first offense to a penalty of \$500.00; and

2. For the second offense and thereafter, to a penalty of \$5,000.

(b) For failure to pay such penalty after conviction, he or she may be imprisoned for a period of not less than five nor more than 30 days.

18:18-12.6 (Reserved)

18:18-12.8 (Reserved)

18:18-12.10 False refund claims; failure to keep records on refund claims

(a) Any person who:

1. (No change.)

2. Collects or causes to be repaid to him or her or to any other person any such reimbursement or refund without being entitled to the same shall be guilty of a crime. (See N.J.A.C. 18:18-15.4).

(b) Failure of a refund claimant to maintain and preserve required records, furnish proof requested, or to comply with the demand for examination by the Director, or any of his or her representatives shall constitute a waiver of all rights to the claim or claims questioned and such subsequent claims as the Director may determine. See N.J.A.C. 18:18-15.5.

18:18-12.11 Obtaining tax-free fuel illegally from U.S. Government, State of New Jersey, any political subdivision of the State, or department or agency of either for disposal

It is unlawful for any person to use or conspire with any government official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which he or she is not specifically entitled by government regulations for the purpose of obtaining any such fuel, upon which the tax has not been paid.

SUBCHAPTER 13. PROCEDURE FOR COLLECTION OF FINES AND PENALTIES

18:18-13.2 Suit by Director; jurisdiction; process

(a) The Director shall initiate legal proceedings in order to collect any penalty or fine imposed due to the violation of any provision of these rules as noted in N.J.A.C. 18:18-13.1.

(b) (No change.)

(c) The proceedings will be summary and in accordance with the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.) and process shall be either in the nature of a summons or a warrant.

18:18-13.3 Judgment; commitment for nonpayment

If judgment is rendered for the plaintiff the court will cause any defendant who may refuse or fail to pay the amount or the judgment rendered against him or her and all costs and charges incident thereto, to be committed to the county jail for any period not exceeding the period mentioned in these rules.

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. REFUNDS

18:18-15.1 (Reserved)

18:18-15.2 (Reserved)

18:18-15.3 Invoices required with claims; Director may permit otherwise

(a) Refund claims shall have attached to them, in support thereof, the original invoices of all the claimant's purchases of fuel made from every source during the month for which the refund claim is being submitted.

(b) Invoices secured at the time of purchase of fuel for taxable purposes, such as for use in automobiles, trucks, etc., must be included as well as those secured at the time of purchase of fuel for refundable purposes.

(c) (No change.)

18:18-15.4 Payment of refunds; time limit; false statements and/or fraudulent payments; crimes

(a) (No change.)

(b) The application for reimbursements and repayments must be filed with the Director on or before the last business day of the sixth month following that in which the fuel in question were purchased.

(c) Any person or member of any firm or the officer or agent of a corporation who makes any false statement in any application required for the reimbursement and repayment of any taxes, or who collects or causes to be repaid to him or her or to any other person any such reimbursement or refund without being entitled to the same shall be guilty of a crime. See N.J.A.C. 18:18-12.10.

18:18-15.5 Records establishing claims

(a) Every refund claimant must keep a monthly written record of all purchases, showing:

1.-2. (No change.)

3. The number of gallons of each purchase; and

4. The kind of material and the manner in which the fuel are used.

(b)-(c) (No change.)

(d) Failure of the claimant to maintain and preserve such records, furnish such additional proof or to comply with the demand for such examination by the Director, or any of his or her representatives, constitutes a waiver of all rights to the claim or claims questioned and such subsequent claims as the Director may determine.

18:18-15.8 Rural free delivery carriers

(a) N.J.S.A. 54:39-112.a(6) states that fuel used by Rural Free Delivery Carriers in the dispatch of their business is subject to refund.

(b)-(c) (No change.)

(d) The qualified substitute rural carrier operating during the vacation, sick leave, or days off, of the rural carriers, must apply for his or her own refund, covering his or her particular activities.

(e) Refund claims submitted by Rural Free Delivery Carriers must, hereafter, have attached to them, in support of their claims, the receipted invoices covering all purchases of fuel made by the carrier, irrespective of whether the fuel is used in the vehicle operating over the rural route or in any other vehicle owned by the carrier.

(f) Refund of the motor fuel tax will be allowed only on that fuel used in the dispatch of the carrier's official business.

1.-2. (No change.)

(g) (No change.)

18:18-15.10 (Reserved)

18:18-15.11 Separate invoices where refund claimed

When fuel is sold to any person who claims to be entitled to a refund of the tax imposed, the seller of such fuel must furnish the purchaser with an invoice, or invoices, in conformity with the requirements pertaining to invoices set forth under N.J.S.A. 54:39-114.

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION Regulations of the Election Law Enforcement Commission

Readoption: N.J.A.C. 19:25

Proposed: May 1, 2017 at 49 N.J.R. 1014(a).

Adopted: July 18, 2017, by the Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Filed: July 19, 2017, as R.2017 d.153, **without change**.

Authority: N.J.S.A. 19:27A-17, 19:44A-6, 19:44A-38, 19:44B-7, and 52:13C-23.2.

Effective Date: July 19, 2017.

Expiration Date: July 19, 2024.

Summary of Public Comment and Agency Response:

The period for receipt of written comments regarding the notice of proposal for readoption of Commission rules expired on June 30, 2017, and no written comments were received. The sitting Commission voted on July 18, 2017, to adopt the notice of proposal without change. The record of opportunity for the public to be heard may be reviewed by contacting Michelle R. Levy, Esq., Assistant Legal Counsel, Election Law Enforcement Commission, PO Box 185, Trenton, New Jersey 08625-0185.

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules concern New Jersey filing entities. The rules are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:25.