

physical address of the facility. Incomplete applications will be returned to the applicant.

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

SUBCHAPTER 8. DETERMINATIONS AND APPEALS

16:41E-8.2 Appeals

(a) (No change.)

(b) An informal meeting shall be initiated by the submission of a letter to the Manager of the Logo Program at the following address:

[New Jersey Department of Transportation
Office of Outdoor Advertising and Wireless Services]
Division of Right-of-Way & Access Management
[TODS &] Logo Sign Program
PO Box 600
Trenton, NJ 08625
[(Fax) 609-530-2624]

The letter shall include a statement describing the nature of the appeal and the facts on which the appeal is based. The letter must be received within 30 days of the date of the Department’s denial or determination.

1. (No change.)

(c) If the dispute is not fully resolved through an informal meeting, the applicant may request a formal hearing by submitting a letter to the Director of the Division within 30 days of the issuance of the written decision from the informal meeting. The request shall be sent to:

Director, Division of Right-of-Way & Access Management
New Jersey Department of Transportation
PO Box 600
Trenton, NJ 08625
[(Fax) 609-530-2624]

1.-3. (No change.)

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Motor Fuel Tax

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

Proposed: September 3, 2024, at 56 N.J.R. 1781(a).
Adopted: November 14, 2024, by Marita Sciarrotta, Acting Director, Division of Taxation.
Filed: November 14, 2024, as R.2024 d.121, **without change, but with the proposed amendment at N.J.A.C. 18:18-7.6(c) not adopted but still pending.**

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

Effective Dates: November 14, 2024, Readoption;
December 16, 2024, Amendments.

Expiration Date: November 14, 2031.

Summary of Public Comments and Agency Responses:

Comments were received from Jean Publice and Eric DeGesero, Executive Vice President, FMA.

General Comments

1. COMMENT: A comment was received from Jean Publice and is included verbatim: “i am not in favor of extending the motor fuel taxes, which is real harm to all citizens of nj and is further overtaxation so that nj is the most heavily taxed state in this nation. the monies collected are not being used judiciously and are frittered away. our roads are in disastrous shape, so that the monies are not making any changes that help the citizens. this law should not be extendfd. all of nj needs tax relief, not more taxes pushed through in an irresponsible manner by our legislature. jean publice jxxxx1@gmail.com” (email truncated).

RESPONSE: The Division of Taxation (Division) thanks Jean Publice for her comments and the information she provided. The Motor Fuel Tax is established by statute at N.J.S.A. 54:39-101 and the enacting legislation to repeal the Motor Fuel Tax is beyond the scope of the rulemaking process.

N.J.A.C. 18:18-7.6

2. COMMENT: Due to differing methods of fuel delivery based on the type of customer served, FMA believes proposed N.J.A.C. 18:18-7.6(c) should be withdrawn until FMA and the Division have an opportunity to discuss in further detail to ensure it does not cause market disruption.

RESPONSE: The Division thanks the commenter for pointing out this issue. The Division will further evaluate any potential impacts and upon adoption, N.J.A.C. 18:18-7.6(c) will not be adopted, but will remain pending.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking authority is granted by the operative provisions of the Motor Fuel Tax Act, N.J.S.A. 54:39-101 through 150, and is 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. 18:18.

Full text of the adopted amendments follows:

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” involving only taxed liquids or *de minimis* untaxed liquids is not considered to be a blender within the meaning of this rule and N.J.S.A. 54:39-102.

Example: S heating oil company drives its tank truck to a terminal in Linden. The truck contains No. 2 heating oil. At the terminal a quantity of kerosene is added to the load. The truck drives away, and as it travels over bumps in the road, the two products mix in the tank.. Based on this activity the heating oil company does not qualify as a blender within the meaning of the term.

“Common Carrier” means any person engaged in or employed in the business of carrying fuel for others for hire.

“Splash blending” means to blend or mix motor fuel with another motor fuel, blend stock, or other liquid other than a *de minimis* amount, in a cargo tank or storage tank, or any other device or location outside the terminal transfer system.

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

18:18-3.1 Supplier’s license; application

(a)-(c) (No change.)

(d) Licensed suppliers are authorized to act as Aviation Fuel Dealers, as defined at N.J.S.A. 54:39-102.

18:18-3.3 Distributor’s license

(a)-(c) (No change.)

(d) A licensed distributor is only permitted to engage in activities that are specifically designated on the distributor license. All licensed distributors are authorized by their license to purchase and sell motor fuel in New Jersey outside the terminal transfer system. A specified licensed distributor designation is not required to engage in this activity.

(e) A licensed distributor must possess a license with the specified designation for the following activities that occur outside the terminal transfer system, in order to engage in such activities:

1. Importing motor fuel outside the terminal transfer system from another state or country;
2. Exporting motor fuel outside the terminal transfer system to another state or country;
3. Blending, as defined at N.J.S.A. 54:39-102;

4. Acting as an Aviation Fuel Dealer by buying or selling aviation fuel outside the terminal transfer system; or

5. Acting as a qualified distributor pursuant to N.J.S.A. 54:39-121.

(f) The designated activities identified at (e) above will be displayed on each distributor license approved by the Director, in the form and manner the Director prescribes.

(g) A licensed distributor that engages in any designated activity specified at (e) above without possessing a valid license evidencing the required designation, engages in an unauthorized activity, and its license is subject to revocation or suspension, at the discretion of the Director.

(h) Any seller that sells motor fuel to a licensed distributor attempting to engage in a designated activity the distributor is not authorized to engage in, is still required to collect the motor fuel tax from the distributor, even if the distributor would be exempt from the tax if the distributor was properly licensed for the designated activity.

1. Example: Supplier X sells gasoline to Distributor Y at a NJ terminal rack and Y indicates that it is going to Pennsylvania. Distributor Y does not have the specified export designation displayed on its distributor license, which means it is not a licensed distributor for the designated export activity. As such, it does not qualify for the export motor fuel tax exemption and Supplier X must charge Distributor Y the motor fuel tax.

2. Example: Supplier X sells jet fuel to Distributor Y at a NJ terminal rack. Distributor Y is not an Aviation Fuel Dealer since its distributor license does not display an Aviation Fuel Dealer designation. As such, Supplier X must charge Distributor Y both \$.135 per gallon tax and \$.02 per gallon tax because Distributor Y does not qualify for the Aviation Fuel Dealer tax exemption and the fuel may be for distribution to a general aviation airport, respectively. If the product was aviation gasoline, Supplier X must charge Distributor Y both the \$.105 per gallon tax and the \$.02 per gallon tax.

(i) A seller must obtain a copy of a distributor's valid license and verify that a distributor is permitted to engage in a designated activity based on a valid designation on the license, in order for a seller to allow a motor fuel tax exemption on a sale to a licensed distributor. Copies of these verified licenses must be kept by the seller for a minimum of four years. Failure to support motor fuel tax exempt sales with copies of valid distributor licenses with the specified designation displayed will result in the sales being subject to motor fuel tax. The seller will be held personally liable for the motor fuel tax, unless the Director, at the Director's own discretion, can otherwise determine that the distributor was properly licensed with the appropriate designated activity.

(j) A seller must accept a license from their customer in good faith. If there is any reason to doubt the validity of any aspect of the license, the license must not be accepted and the tax must be charged. The seller may inquire with the Division regarding particular reasons for doubt that the seller may encounter, and whether or not the doubt is valid.

1. Reasons for doubt include, but are not limited to, the following:

i. The name on the license is different from the name of the customer.

ii. The license appears to have been altered and/or not created by the Division.

iii. The license effective date and expiration date span more than three years.

iv. The approved designations (Import, Export, Blending, and Aviation Fuel Dealer) on the license use incorrect wording.

v. The name of the Director on the date of issuance is incorrect.

vi. The signature for the Director is incorrect.

(k) An expired license is not a valid license unless the Director specifically determines otherwise.

18:18-3.14 Physical inventory required

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

(b) Failure to comply with the requirements of this section is grounds for revocation or suspension of the supplier, distributor, terminal operator, and retail dealer license, at the Director's discretion.

SUBCHAPTER 4. RETAIL DEALERS AND TRANSPORT LICENSES

18:18-4.2 Retail dealer records required

(a) (No change.)

(b) Daily record; preserving.

1. (No change.)

2. Such records are required 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.)

(c) Failure to comply with the requirements of this section is grounds for revocation or suspension of the retail dealer's license, at the Director's discretion.

SUBCHAPTER 7. IMPOSITION OF TAX AND TAX REPORTING

18:18-7.7 Audit

(a)-(d) (No change.)

(e) Motor fuel purchases made by any licensed or unlicensed purchasers are deemed to be tax free purchases when the purchaser is not able to prove that the tax was paid to a seller by means of valid supporting purchase invoices, or equivalent records deemed satisfactory by the Director. The Director may, at the Director's discretion, require any additional records deemed necessary in order to validate the purchases.

(f) Motor fuel sales made by any licensed or unlicensed sellers are deemed to be subject to tax when the seller is not able to prove that motor fuel sales were properly tax exempt. Sufficient proof can be based on valid sales invoices, equivalent records deemed satisfactory by the Director, or any such supporting documentation that the Director requires such as valid exemption or export certificates. The Director may, at the Director's discretion, also require any records necessary in order to validate the tax exempt status of the sales.

(g) If any supplier, distributor, retail dealer, or terminal operator, or anyone that should have been licensed as such, does not have valid inventory records then the Director may estimate or determine such inventories based on any available records or other means. Any formation or increase in inventory that is not established to have been purchased as tax paid is deemed to have been purchased tax free.

(h) For retail dealers that do not possess the required motor fuel tax records, such as monthly physical inventories and daily totalizer readings, the Director may use any records available or other means to estimate or determine such inventories and totalizer readings that represent sales. Any increase in inventory that is not adequately documented to have been purchased as tax paid is deemed to have been purchased tax free. Any increase in sales that is not adequately documented to be tax exempt is deemed to be subject to tax.

(i) Any additional purchases, sales, use, or inventory that the Director determines through available records or other means may have corresponding additional purchases, sales, use, or inventory that is also subject to tax.

1. Example: Distributor X is under audit. X reported 10,000 gallons in taxed purchases and 10,000 gallons in taxed sales on their tax return. The auditor analyzes the purchases and sales invoices for the return's period. The auditor logs 10,000 gallons in purchase invoices and 15,000 gallons in sales invoices. Through this analysis, 5,000 additional gallons in sales were established and deemed taxable, unless proven otherwise. However, in order to sell 5,000 gallons, X must have purchased 5,000 gallons. As such, the analysis also indirectly determined that 5,000 additional gallons were purchased, which are deemed tax free unless proven otherwise.

2. Example: Distributor X reports on their tax return 1,000 gallons in beginning inventory, 3,000 gallons in purchases, 1,500 gallons in sales, and 3,200 gallons in ending inventory. Assuming no valid adjustments or corrections are warranted, these figures entail 700 gallons of additional purchases which are deemed tax free unless proven otherwise:

$1,000 + 3,000 - 1,500 = 2,500$ gallons (calculated ending inventory)

$3,200 - 2,500 = 700$ gallons (difference between physical and calculated ending inventory)

The 700 gallons are added to purchases in order to present the calculated ending inventory in an amount that is equal to the physical ending inventory.

3. Example: Distributor X reports on their tax return 1,000 gallons in beginning inventory, 3,000 gallons in purchases, 500 gallons in sales, and 3,200 gallons in ending inventory. Assuming no valid adjustments or corrections are warranted, these figures entail 300 gallons of additional sales which are deemed taxable unless proven otherwise:

1,000 + 3,000 - 500 = 3,500 gallons (calculated ending inventory)

3,200 - 3,500 = -300 gallons (difference between physical and calculated ending inventory)

The 300 gallons are added to sales in order to present the calculated ending inventory in an amount that is equal to the physical ending inventory.

SUBCHAPTER 8. FUEL CARRIERS

18:18-8.2 Monthly report; contents

(a) (No change.)

(b) The monthly report must show all information presented on the forms as prescribed by the Director including, but not limited to, the following:

1.-12. (No change.)

(c) (No change.)

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Regulations of the Election Law Enforcement Commission

Campaign Cost Index Adjustments and Independent Expenditure Committees

Adopted Amendments: N.J.A.C. 19:25-1.7, 1.9, 3.3, 4.4, 4.5, 4.8, 5.1, 5.3, 5.4, 6.1, 6.4, 7.1, 8.4, 8.6, 8.6A, 8.8, 8.9, 8.10, 9.2, 9.3, 9.4, 9.4A, 10.6, 10.7, 10.8, 11.2, 11.4, 11.5, 11.7, 12.7, 12.8, 12.8A, 13.3, 13.4, 14.4, 17.3, and 17.3A

Adopted New Rules: N.J.A.C. 19:25-4.9, 8.2B, 8A, 12.7A, and 13.2A

Proposed: August 19, 2024, at 56 N.J.R. 1684(a).

Adopted: November 19, 2024, by the Election Law Enforcement Commission, Amanda S. Haines, Executive Director.

Filed: November 19, 2024, as R.2024 d.125, **without change**.

Authority: N.J.S.A. 19:44A-6.b.

Effective Date: December 16, 2024.

Expiration Date: May 22, 2031.

Summary of Hearing Officer’s Recommendations and Agency’s Response:

A public hearing on the notice of proposal was conducted before the New Jersey Election Law Enforcement Commission (Commission) on October 15, 2024. No persons appeared to testify. Advance written notice of the hearing was circulated on or about September 11, 2024, to the State House press corps and other interested individuals. To view the hearing record, contact the Election Law Enforcement Commission, 25 South Stockton St., 5th Floor, Trenton, NJ 08608. The Commission voted on November 19, 2024, to adopt the notice of proposal without change.

Summary of Public Comment and Agency Response:

The period for receipt of written comments expired on October 18, 2024, and no written comments were received.

Federal Standards Statement

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

Full text of the adoption follows:

SUBCHAPTER 1. GENERAL PROVISIONS

19:25-1.7 Definitions

The following words and terms, when used in this chapter and in the interpretation of the Act, shall have the following meanings unless a different meaning clearly appears from the context.

“Continuing political committee” includes any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes, or expects to contribute, at least \$8,600 to aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association, or other organization has been determined by the Commission to be a continuing political committee in accordance with N.J.S.A. 19:44A-8.b. A continuing political committee does not include:

1. A candidate committee, joint candidates committee, political committee, political party committee, legislative leadership committee, or an independent expenditure committee.

2. A contributor not involved in fundraising (that is, not soliciting or accepting contributions to aid or promote candidates, or the passage or defeat of public questions), and not conducting any election-related activity other than making contributions from its own funds to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or an independent expenditure committee.

“Contribution” includes every loan, gift, subscription, advance, or transfer of money or other thing of value, including any in-kind contribution, made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required pursuant to the provisions of the Act, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made, or liability assumed. Funds or other benefits received solely for the purpose of determining whether an individual should become a candidate are contributions.

“Depository,” “campaign depository,” and “organizational depository” mean any bank account, whether checking, savings, or other, that is established by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee for the purpose of receiving contributions and making expenditures to aid or promote a candidate in an election, or to support or oppose a public question.

“Independent expenditure committee” means a person or group organized pursuant to Section 527 of the Federal Internal Revenue Code (26 U.S.C. § 527) or pursuant to paragraph (4) or paragraph (6) of subsection (c) of Section 501 of the Federal Internal Revenue Code (26 U.S.C. § 501) that makes independent expenditures in excess of \$7,500, in the aggregate, in an election. An independent expenditure committee does not include:

1. An entity that falls within the definition of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.

2. A contributor not involved in fundraising (that is, not soliciting or accepting contributions to aid or promote candidates, or the passage or defeat of public questions), and not conducting any election-related activity other than making contributions from its own funds to a candidate committee, joint candidates committee, political committee, continuing