

(b)-(e) (No change.)

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Petroleum Products Gross Receipts Tax

Proposed Amendments: N.J.A.C. 18:18A-1.2, 3.1, 4.1, 5.1, 6.2, 6.3, and 7.3

Proposed Repeal and New Rule: N.J.A.C. 18:18A-5.2

Proposed New Rules: N.J.A.C. 18:18A-2.1, 5.3, 7.5, 8.1, and 9.1

Authorized By: Marita R. Sciarrotta, Director, New Jersey Division of Taxation.

Authority: N.J.S.A. 54:15B-8.c and 54:50-1.

Calendar Reference: See Summary below for exception to calendar requirement.

Proposal Number: PRN: 2026-054.

Submit written comments by December 4, 2026, to:

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The agency proposal follows:

Summary

The Division of Taxation (Division) is proposing amendments, a repeal, and new rules, including comprehensive revisions to N.J.A.C. 18:18A, to better administer and clarify various provisions at P.L. 1990, c. 42, the Petroleum Products Gross Receipts Tax Act (“PPGRTA,” “PPGRT,” or “Act”). The PPGRTA governs the taxation of petroleum-based products such as, but not limited to, gasoline, diesel, liquefied petroleum gas, fuel oil, and aviation fuel.

New examples and fact patterns are provided throughout to guide compliance, and outdated provisions are deleted or updated to reflect statutory changes. These amendments, new rules, and repeal update and expand key definitions, including “direct payment holder,” “first sale,” “petroleum products,” and “fuel oil.”

N.J.A.C. 18:18A-1.2 is amended to:

1. Clarify that a “direct payment permit holder” does not include purchasers of dyed fuel, as dyed fuel is exempt, pursuant to N.J.S.A. 54:39-141b(3). This definition is further amended to specify that the permit applies to all types of petroleum products, including highway fuel and aviation fuel;

2. Provide a definition for “flange” to identify when a petroleum product leaves the terminal and becomes subject to tax;

3. Add a definition of “fuel oil” to clarify that dyed No. 2 heating oil is not subject to tax;

4. Replace the definition of “petroleum products” to reference a petroleum refinery because these products all begin production in a petroleum refinery;

5. Replace the current definition of “use,” which focuses narrowly on storage, with a broader definition focusing on consumption and clarifying that the secondary sale constitutes a use. The definition of “use” now includes an exemption for manufacturers that use petroleum to manufacture products that do not constitute petroleum products themselves; and

6. Add a new definition of “used or sold in a taxable manner” to list common taxable uses.

New N.J.A.C. 18:18A-2, First Sale of Petroleum Products, is added to clarify the tax treatment of the first sale of petroleum products. New N.J.A.C. 18:18A-2.1(a) states that when a first sale occurs and includes

four examples, while subsection (b) states when a finished manufactured product is subject to tax and includes the three regulatory criteria and eight examples, which are intended to limit the scope of the definition.

N.J.A.C. 18:18A-3.1 is amended to clarify that a direct payment permit should be accepted in good faith, a copy of its direct payment permit should be provided to every petroleum product seller, and to add an example. In addition, “authorized” is changed to “must” in order to clarify that the holder was never exempt from filing reports on purchases of untaxed fuel.

N.J.A.C. 18:18A-4.1(a) is amended to clarify usage of export certificates, impose recordkeeping requirements, and add five examples. N.J.A.C. 18:18A-4.1(b) is amended to clarify when blanket export certificates may be accepted and revises example 1 and replaces examples 2 and 3 for greater clarity.

The heading of Subchapter 5 is amended to better detail the subchapter as amended and with the new rules, which clarify the tax treatment of fuel oil, dyed fuels, and liquefied petroleum gas.

N.J.A.C. 18:18A-5.1(a) is amended to remove a reference to No. 2 fuel oil, as it is already exempt as dyed fuel. N.J.A.C. 18:18A-5.1(b) is amended to clarify that No. 2 fuel oil or heating oil is exempt when used in a tank in a mixed fuel system that heats residential and commercial units, because No. 2 fuel oil or heating oil is tax-exempt for commercial and off-road usage. It is always tax-exempt as dyed fuel unless used as highway fuel or by boats and marinas.

N.J.A.C. 18:18A-5.2 is proposed for repeal and replacement, as propane became exempt by statute in 2016, except when used as highway fuel. N.J.A.C. 18:18A-5.2 is proposed as a new rule to clarify the taxable uses of dyed No. 2 fuel oil and dyed No. 2 diesel, with six examples.

N.J.A.C. 18:18A-5.3 is proposed to clarify that liquefied petroleum gas is taxable only when used in a taxable manner, with six examples.

The Division is proposing amendments to specifically address fuel used by marine vessels due to widespread noncompliance in the sale of fuel at marinas and fuel used by aircraft, and there is a lack of clarity from the existing rules. Accordingly, proposed amendments at N.J.A.C. 18:18A-6.2 clarify the exemption for fuel that is used by marine vessels to address widespread noncompliance.

Proposed amendments at N.J.A.C. 18:18A-6.3 implement a new methodology along with new definitions to more accurately measure the taxable “burnout portion” of the aviation fuel that is used, as required pursuant to N.J.S.A. 54:15B-2.1.a. Six examples are also proposed to be added.

Proposed amendments and new rules at Subchapter 7 establish new provisions for invoicing and refund claims, specifically addressing the vehicles with a power take-off function and the incorrect billing of tax. N.J.A.C. 18:18A-7.3(b) is replaced to allow the Director of the Division of Taxation (Director) to require supporting documentation with refund claims. New N.J.A.C. 18:18A-7.3(c) is added to establish refund procedures when the tax is incorrectly billed.

New N.J.A.C. 18:18A-7.5 is added to address refund claims for power take-off vehicles that use fuel for auxiliary, non-highway purposes.

The heading of Subchapter 8 is amended to clarify the subchapter includes regulations about all filing requirements.

New N.J.A.C. 18:18A-8.1 mandates the electronic filing of tax returns and other data submissions authorized by statute pursuant to N.J.S.A. 54:49-3.1.b, in order to modernize filing and improve efficiency.

New N.J.A.C. 18:18A-9.1 clarifies that all taxable sales must include an invoice itemizing the tax, regardless of whether the sale is the first sale in New Jersey, and it outlines the tax base and invoicing requirements for petroleum products subject to the seven percent tax rate and includes five examples.

As the Division has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, repeal, and new rules administer the Petroleum Products Gross Receipts Tax Act by clarifying and elaborating on the administration of the Act. The proposed amendments, repeal, and new rules are anticipated to have a positive social impact by increasing clarity, consistency, and fairness in the administration of the Petroleum

Products Gross Receipts Tax Act. By providing more specific definitions, examples, and guidance on the scope of taxable petroleum products, exempt uses, and documentation requirements, the rules will assist taxpayers in understanding their obligations and exercising their rights pursuant to the law. Taxpayers will have greater certainty regarding which products and uses are taxable, the proper invoicing and recordkeeping procedures, and the circumstances pursuant to which exemptions, credits, or refunds apply. These improvements will reduce confusion and disputes between taxpayers and the Division of Taxation, promoting voluntary compliance and fair treatment among similarly situated taxpayers.

Economic Impact

The proposed amendments, repeal, and new rules are expected to have minimal economic impact, as they primarily state and administer basic requirements of the statute. It is hoped that the proposed amendments, repeal, and new rules will have the effect of diminishing the compliance costs for taxpayers and administrative costs for the Division. Revenues from the tax are credited to a special dedicated account in the General Fund pursuant to the New Jersey Constitution, Article 8, Section 2, Paragraph 4.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking for the State petroleum products tax is independent of, and does not exceed, any Federal requirements.

Jobs Impact

The Division does not anticipate that any jobs will be generated or lost as a result of the proposed amendments, repeal, and new rules.

Agriculture Industry Impact

The proposed amendments, repeal, and new rules are not anticipated to have any impact upon the agriculture industry because the rulemaking deals with the Petroleum Products Gross Receipts Tax Act.

Regulatory Flexibility Analysis

The proposed amendments, repeal, and new rules explain reporting and recordkeeping requirements regarding the collection of tax on gross receipts from sales of petroleum products. Some of the taxpayers or users may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The requirement to pay a tax on petroleum products gross receipts was imposed pursuant to N.J.S.A. 54:15B-1 et seq., and the reporting and payment requirements are related to the tax itself. The Division anticipates that the proposed amendments, repeal, and new rules will not increase small businesses' capital costs or their need for certain professional services. No exemptions from, or differentiations in, these requirements on large or small businesses were provided, since that would not comply with the applicable statutes.

Every person subject to the Act is required to keep receiving records, accounts payable and receivable ledgers, and sales records. These records are to be complete and accurate records of all the information required in this chapter regarding all transactions in petroleum products (cash or charge), and of all transactions in warehouse receipts in New Jersey.

The proposed amendments, repeal, and new rules clarify the reporting, recordkeeping, and/or compliance requirements already required by the Division of Taxation. Taxpayers will not require the services of professional advisors to comply with the rules, however taxpayers may want to consult with professional advisors to determine if the rulemaking applies to their situation.

Housing Affordability Impact Analysis

The proposed amendments, repeal, and new rules will not result in a change in the affordability or average cost associated with housing. The proposed amendments, repeal, and new rules would have no impact on any aspect of housing because the rulemaking deals with the Petroleum Gross Receipts Tax Act.

Smart Growth Development Impact Analysis

The proposed amendments, repeal, and new rules will not affect housing production within Planning Areas 1 or 2, within designated centers, pursuant to the State Development and Redevelopment Plan, or anywhere else in the State of New Jersey. This is because the proposed

amendments, repeal, and new rules do not involve housing production, but instead, only involve administration of the Petroleum Products Gross Receipts Tax Act.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have any impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. SCOPE AND DEFINITIONS

18:18A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional words and terms are also set forth in the statute at N.J.S.A. 54:15B-2.

...
 "Direct payment permit holder" means a company licensed by the Director pursuant to N.J.S.A. 54:15B-12 [and other registered vendors, including purchasers of dyed fuel]. Direct payment permit holders [are authorized to] **must** file reports and remit applicable tax directly to the Director. **The permit does not cover purchasers of dyed fuel because dyed fuel is already exempt pursuant to State law. The permit applies to highway fuel, aviation fuel, and all other taxable petroleum products. The following examples further clarify how this definition is applied.**

...
 "Flange" means the point of separation between the terminal and pipeline, where title passes and the petroleum product exits the terminal.

"Fuel oil" means any petroleum product that is burned to generate heat or power, but does not qualify as highway fuel or aviation fuel, and it excludes dyed No. 2 heating oil.

...
 ["Petroleum products" means products that are specified as petroleum products under N.J.S.A. 54:15B-2 and may also include certain finished manufactured products. The definition does not include certain finished manufactured products that may contain petroleum as an ingredient but are not themselves deemed petroleum products.]

"Petroleum products" means products that are produced at a petroleum refinery that originate from crude oil and are the result of distilling and refining that crude oil. These products retain their petroleum identity throughout the supply chain, even after leaving the refinery and undergoing blending, compounding, and/or packaging. Accordingly, finished manufactured products, such as motor oil, that contain a distilled and refined petroleum ingredient, such as "naphtha," produced at a petroleum refinery may also be deemed petroleum products themselves, in addition to the raw petroleum.

...
 ["Use" means the exercise of any rights or power over a petroleum product by a purchaser or importer thereof including, but not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation or affixation to real or personal property, combustion or incorporation into a product for sale which product is not an identifiable petroleum product. The term "use" does not include blending, compounding, or packaging where the resulting product is also a petroleum product. The term "use" does not include storage or keeping of petroleum products held in inventory by a merchant that are exported from the State for sale or use outside the State.]

"Use" means the consumption, application, utilization, secondary sale, receipt, storage, keeping, or retention of petroleum products, highway fuel, or aviation fuel, for any length of time by a purchaser or importer, if those products are intended to be consumed, applied, utilized, or sold as a secondary sale in this State by a purchaser or importer. A secondary sale is a sale that occurs after the taxable first

sale. The term “use” excludes storage or keeping of products held in inventory that are exported from the State or intended to be exported from the State for use outside of the State. The term “use” excludes the incorporation of petroleum products as ingredients when manufacturing a product that is not an identifiable petroleum product. Manufacturers that incorporate petroleum products as ingredients to manufacture an identifiable petroleum product should apply for a direct payment permit to avoid double taxation, or they may apply for a refund on the tax paid on the petroleum product ingredients.

“Used or sold in a taxable manner” means a use or sale of highway fuel, aviation fuel, or any petroleum products for purposes not exempt pursuant to statutes or regulations. This includes, but is not limited to, use in motor vehicles on public highways, use in non-exempt marine vessels, sales to marinas without a direct payment permit, and sales to non-exempt marine vessels.

SUBCHAPTER 2. [(RESERVED)] FIRST SALE OF PETROLEUM PRODUCTS

18:18A-2.1 First sale of petroleum products within this State

(a) A first sale of petroleum products within New Jersey is further clarified in conjunction with the Motor Fuels Tax with the following examples.

Example 1: Company A sells highway fuel, aviation fuel, or other petroleum products originating in Pennsylvania to Company B for delivery to New Jersey. The products are shipped by trucks that are not owned or hired by Company B. This activity constitutes the first sale in New Jersey and Company A is responsible for the tax regardless of when title passes to Company B. However, if Company B purchases \$5,000 or more of these untaxed products, including those picked up directly by Company B from out of state during the quarter, then Company B is responsible for the tax if Company A does not remit the tax on such sales. If Company B is responsible, it must pay use tax on its purchases since it caused the importation. The \$5,000 threshold applies to both products picked up by Company B in Pennsylvania and products sold by Company A to Company B without taxes charged.

Example 2: Company A sells highway fuel or aviation fuel from a Pennsylvania-qualified terminal rack, as defined in the Motor Fuels Tax Act, to Company B, destined for New Jersey as shown on the bill of lading. The trucks may be owned by Company B, hired by Company B, or neither. If Company A is an elective supplier for purposes of the Motor Fuels Tax, then it may elect to charge the Petroleum Products Gross Receipts Tax (PPGRT) on such sales, along with the Motor Fuels Tax. To become an elective supplier, Company A filed a Notice of Election for this tax with the Division, on forms prescribed by the Division, and received approval from the Division. This election applies to all customers. If Company A makes the election, it is liable for the tax, even if it fails to itemize the tax on such applicable sales. If Company A is not an elective supplier for the Motor Fuels Tax, then Company A cannot make this election for the Petroleum Products Gross Receipts Tax and as such, must not charge the tax on these sales. The Notice of Election only applies to highway fuel and aviation fuel.

Example 3: Company A, originating in Pennsylvania, sells highway fuel, aviation fuel, or other petroleum products for delivery to Company B in New Jersey. Company A did not file and get approved for a Notice of Election; therefore, it is not able to act as an elective supplier and charge the PPGRT on the highway fuel and aviation fuel, along with the Motor Fuels Tax. The products are then obtained by Company B's trucks or its carriers in Pennsylvania and transported into New Jersey as an import. This activity does not constitute the first sale in New Jersey, and instead, Company B's subsequent sale is the first sale in New Jersey. Company B is, therefore, responsible for the tax on the secondary sale. If Company B uses the product itself, it will only owe tax if it imports more than \$5,000 worth of tax-free imports — including highway fuel, aviation fuel, or other petroleum products originating in Pennsylvania — as Company B is liable for causing tax-free imports from out-of-State in

that quarter. In that case, it would owe use tax on its purchases since it imported the products.

Example 4: The \$5,000 quarterly threshold for taxable use applies to the combined total of the tax-free imports and tax-free products that were caused to be imported. If taxed, the use is applied to the purchase price even when reselling in New Jersey subsequent to the first sale in New Jersey.

(b) A petroleum product is taxable depending on both its composition and intended use.

1. A finished manufactured product qualifies as a taxable petroleum product only if it meets all three of the following criteria:

i. **Criterion 1 — Petroleum Ingredient.** The finished product's Safety Data Sheet (SDS), as required by the Occupational Safety and Health Administration (OSHA), must list at least one ingredient that was produced at a petroleum refinery from crude oil through distillation and refining. If the ingredient's percentage is given in a range, the highest percentage must be used. If the ingredient is capable of being produced from crude oil or from other sources, it will be presumed that it was produced from crude oil, unless supporting documentation demonstrates otherwise;

ii. **Criterion 2 — Internal Combustion Engine or Other Machinery Classification.** The finished product is intended for use in, on, or in connection with, but not limited to, equipment, machinery, vehicles, or building structures and components. For purposes of this definition, “vehicles” only applies to the internal and mechanical features of vehicles and does not include products relating to the exterior and interior of vehicles; and

iii. **Criterion 3 — Usage Classification.** The finished product is intended for use as a lubricant, hydraulic fluid, solvent, or engine fuel product.

2. If the finished product does not meet all three criteria at (b)1 above, it is deemed to have lost its petroleum identity and is, thus, exempt from the tax.

3. The following product types, which may meet one of the criteria at (b)1 above, but not all three, are, therefore, exempt, include, but are not limited to:

- i. Personal care;
- ii. Household sanitizers;
- iii. Vehicle interior-related products;
- iv. Vehicle body-related products;
- v. Sealants;
- vi. Adhesives;
- vii. Polishes;
- viii. Protectants; and
- ix. Cosmetics.

Example 1: Motor oil that contains 30 percent naphtha on the SDS is a taxable petroleum product. Motor oil is a lubricant used in a vehicle and naphtha is a petroleum ingredient. Thus, all three criteria at (b)1 above are satisfied.

Example 2: Motor oil that does not have any petroleum listed on the SDS is an exempt product because it does not satisfy criterion 1 at (b)1i above.

Example 3: Motor oil that contains petroleum as an ingredient and 40 percent mineral oil on the SDS but no other petroleum ingredients is a taxable petroleum product because all three criteria at (b)1 above are satisfied.

Example 4: Mineral oil sold as a finished product is an exempt product because its intended use does not satisfy criterion 2 or 3 at (b)1ii or iii above. However, mineral oil used as an ingredient in an otherwise taxable finished product that meets criterion 1 at (b)1i above and contributes to the finished product being is taxable. Mineral oil sold as “mineral oil” at a grocery store is exempt.

Example 5: “Detailer” used for cleaning a vehicle's interior or exterior is exempt because it satisfies criterion 3 at (b)1iii above as a solvent but does not satisfy criterion 2 at (b)1ii above.

Example 6: “Engine cleaner” that contains 20 percent petroleum distillates on the SDS is a product that cleans an internal part of a vehicle, and is a taxable petroleum product because it satisfies all three criteria at (b)1 above.

Example 7: Insecticide that contains 30 percent mineral oil on the SDS is an exempt product because it does not satisfy criterion 2 or 3 at (b)1ii or iii above.

Example 8: Lip balm that contains 50 percent petrolatum is an exempt product because lip balm is a personal care product that does not satisfy criterion 2 at (b)1ii above.

SUBCHAPTER 3. DIRECT PAYMENT TO PERMIT HOLDERS; CERTAIN EXEMPT SALES

18:18A-3.1 Direct payment authority

[A direct payment permit holder may elect not to avail itself of its direct pay privilege. However, if it elects not to pay such tax directly to the Director such election is binding on all its transactions. It may not choose to be a direct payer for certain vendors.] A [vendor shall] **direct payment permit holder must** retain a copy of its direct payment permit on file for the inspection of the Director. A direct payment permit, [properly executed by the purchaser,] once issued, [shall] **must** remain valid unless voided by the Director. A company **that sells to a direct payment permit holder must initially accept, in good faith, a copy of the active direct payment permit from the purchaser in order to exempt the sale. The permit holder must provide a copy of its direct payment permit to every petroleum product seller. The seller, [which] that receives a copy of a direct payment permit from [the] a purchaser [shall] must** maintain records in computerized format, or such other format as the Director must authorize, identifying all sales to the purchaser providing the permit and attributable to the permit. Such records must include date of sale, price, location of the transfer of the product, quantity of product, and type of product sold. Such supporting documentation must be made available to the Director upon request. A properly documented sale to the holder of a valid direct payment permit is not a first sale of petroleum products within this State. [When] **If the purchaser who holds a direct payment permit in turn makes a sale of petroleum products delivered to a location in New Jersey and sells to a purchaser which is not the holder of a direct payment permit, then the consideration from such sale results in gross receipts subject to tax, unless the sale otherwise qualifies for exemption, exclusion, or deduction (as a sale for exportation, for example). Such [vendor] seller must report and remit the tax to the Director in accordance with this chapter.**

Example: Company ABC has a direct payment permit and purchased gasoline, jet fuel, heating oil No. 2, and motor oil. ABC may purchase all of these products tax-free, as the permit is not restricted by certain products, uses, or transaction types.

SUBCHAPTER 4. EXPORT TRANSACTIONS; ACCOUNTING METHODS

18:18A-4.1 Export certificates

(a) A company making a purchase of petroleum products for exportation from this State [may] **must** issue a properly executed export certificate to [a selling company] **the seller** evidencing a [sale] **purchase** for exportation to a destination outside this State **in order for the seller to exempt the sale. The exception to this export certificate requirement occurs when highway fuel is sold at a qualified terminal rack for immediate export, and the seller possesses a bill of lading (BOL) issued by the terminal stating the seller's name, customer's name, product type, number of gallons, and destination outside this State. This BOL is required for the seller to exempt the sale. If the purchaser or transporter enters the wrong destination state in error when picking up the highway fuel at a qualified terminal, or the highway fuel is diverted, in whole or in part, then the seller is required to bill the purchaser in accordance with the information on the BOL. This sequence of events is further clarified through the following examples.**

Example 1: Company ABC (ABC) sells motor oil to XYZ Enterprises (XYZ) and XYZ exports the motor oil to Pennsylvania. XYZ must provide ABC with an export certificate because motor oil is not considered motor fuel.

Example 2: ABC sells gasoline to XYZ at a qualified terminal rack and XYZ exports the gasoline to Pennsylvania. ABC receives a BOL

from the terminal showing XYZ as the purchaser and Pennsylvania as the destination. ABC must exempt the sale.

Example 3: ABC sells gasoline to XYZ from ABC's storage facility, not a qualified terminal. XYZ then exports the gasoline to Pennsylvania. XYZ must provide ABC with an export certificate because there is no applicable BOL issued by a qualified terminal identifying XYZ as the customer and Pennsylvania as the destination.

Example 4: ABC sells gasoline to XYZ at a qualified terminal rack and XYZ delivers the gasoline to a New Jersey gas station. When picking up the gasoline at the terminal, XYZ enters "Pennsylvania" as the destination in error. XYZ subsequently informs ABC of the error. ABC must still bill XYZ as if the fuel was delivered to Pennsylvania, and then it is XYZ's responsibility to document and report the correct destination of the fuel and maintain adequate supporting documentation.

Example 5: ABC sells gasoline to XYZ at a qualified terminal rack and XYZ indicates that all of the gasoline is going to New Jersey because that is where XYZ intends to deliver the gasoline. Due to unforeseen circumstances, XYZ diverts half of the fuel to Pennsylvania. XYZ cannot be rebilled by ABC to reflect half of the gasoline being exported, and it is XYZ's responsibility to document and report the correct destination of the diverted fuel and maintain adequate supporting documentation.

(b) An export certificate may take the form of a blanket certificate when the purchaser exports all purchases from a particular seller, for a particular product, from a particular location. [The] **Multiple blanket certificates can be issued to cover different products, different locations, and different sellers. If a purchaser wishes to cancel a blanket certificate issued to a seller before its expiration, it is the purchaser's responsibility to inform the seller, in writing, specifying a clear end date. If a blanket certificate is not used, then the gross receipts of the [selling company] seller resulting from sales to a customer properly issuing an export certificate [shall] must be [referenced to] supported by that certificate. The seller [shall] must** maintain records in computerized format, or such other format as the Director shall authorize, identifying all sales for export for a given customer's account and attributable to the certificate. Such records [shall] **must** include date of sale, price, quantity, type of product, and destination of the product. Such supporting documentation [shall] **must** be made available to the Director, or his or her agents, upon request. **This sequence of events is further clarified in the following examples.**

Example 1: Company ABC (ABC) makes sales of [gasoline] **motor oil** to XYZ Enterprises (XYZ). XYZ delivers [gasoline] **motor oil** within and outside New Jersey. ABC may set up two accounts for XYZ. Purchases charged to one account for [fuel] **motor oil** delivered to customers in New Jersey result in taxable gross receipts for ABC. Sales to the second account (export account) for [fuel] **motor oil** delivered entirely outside New Jersey by XYZ, do not result in taxable gross receipts for ABC provided that XYZ has been issued a proper **blanket** export certificate **for the second account.**

[Example 2: A Pennsylvania company makes purchases by truck at a New Jersey terminal. If the purchaser certifies that the product purchased will be exported outside the state as defined in these rules for sale outside the state, the seller is not required to pay any tax upon the transaction. A blanket transaction certificate may be issued from the buyer to the seller, provided that the seller's records document each transaction for export to the buyer.]

Example 3: A customer purchases motor oil from a New Jersey supplier, which is delivered to its warehouse in New Jersey. From the warehouse the motor oil is distributed to the customer's stores in five other states. When computing the portion of each delivery to the New Jersey warehouse on which the gross receipts tax should not be charged by the supplier, the customer may issue the supplier an export certificate indicating the prior month's warehouse shipments from the supplier that were subject to the petroleum products gross receipts tax and were shipped out-of-State. The customer maintains shipping reports to substantiate the exports.]

Example 2: ABC makes sales of gasoline, diesel, and motor oil to XYZ. XYZ exports all gasoline, does not export any diesel, and some motor oil. XYZ provides a blanket export certificate for gasoline if

valid BOLs (as described at (a) above) are not available and then provides individual export certificates for each motor oil purchase that is exported.

Example 3: A customer purchases motor oil from a New Jersey supplier, delivered to the customer's warehouse in New Jersey. From the warehouse, the motor oil is distributed to both New Jersey locations and to out-of-State locations. At the time of purchase, the customer cannot determine what portion will remain in New Jersey versus what will be exported. The customer, if desired, may apply for a direct payment permit and then remit the tax directly on the portion of sales destined for New Jersey locations. This is an unusual situation, and, in most cases, "exporting" alone is not a valid reason to obtain a direct payment permit.

SUBCHAPTER 5. FUEL OIL, [AND PROPANE DEALERS] DYED NO. 2 FUEL OIL, DYED NO. 2 DIESEL, AND LIQUEFIED PETROLEUM GAS

18:18A-5.1 Fuel oil dealers

(a) Companies in the business of selling [No. 2,] No. 4[,] or No. 6 fuel oil or kerosene for exempt use (such as residential use, nonprofit, or governmental use) shall apply to the Director for a direct payment permit, in accordance with N.J.A.C. 18:18A-3.4. Upon issuance of a direct payment permit from the Director, such dealers [shall] **must** report and pay directly to the Director the tax applicable on their gross receipts from taxable sales of such fuel oil or kerosene. Such companies would qualify to purchase such fuel oil or kerosene in nontaxable transactions from registered sellers.

(b) Gross receipts from sales of [No. 2,] No. 4[,] or No. 6 fuel oil and kerosene for residential use are not subject to tax. If a company sells and dispenses **No. 4 or No. 6 fuel oil** into a single tank that operates a heating system of a building containing residential and commercial units, the entire sale [shall] **must** result in gross receipts subject to tax unless the purchaser furnishes a certification, under oath, that a portion of the fuels purchased [shall] **must** be used for nontaxable purposes. The taxable portion of the sale must be computed by multiplying the total number of gallons sold of the petroleum product by a fraction, the numerator of which must be the number of square feet in the building which are devoted to office, retail, or other nonresidential use including stairwells and halls and denominator of which [shall] **must** be the total number of square feet in the building.

[18:18A-5.2 Propane dealers

(a) Companies in the business of selling propane for exempt use (such as residential use, nonprofit, or governmental use) must apply to the Director for a direct payment permit. Upon issuance of a direct payment permit from the Director, propane dealers must be qualified to report and pay to the Director the tax applicable on their taxable receipts. Such companies would qualify to purchase propane in nontaxable transactions from registered sellers.

(b) The tax rate for propane sold as a motor fuel is \$0.04 per gallon.

(c) The tax rate for propane that is not sold for use as a motor fuel is 2 ¾ percent upon the gross receipts.]

18:18A-5.2 Dyed No. 2 diesel and dyed No. 2 fuel oil

(a) Dyed No. 2 diesel and dyed No. 2 fuel oil, also known as heating oil, are exempt from tax, unless used or sold in a taxable manner. Heating oil is subject to tax at the diesel rate if used or sold in such a taxable manner. Taxable use includes, but is not limited to, use in a vehicle on public highways or in a non-exempt boat. A taxable sale includes, but is not limited to, sales to a marina that does not hold a direct payment permit, or direct sales into a highway vehicle. This is further clarified in the following examples.

Example 1: ABC sells dyed diesel to Marina XYZ. XYZ has a direct payment permit. ABC must exempt the sale. XYZ is then responsible for remitting the tax to the State for all taxable sales to taxable boats. Exempt sales must be supported with an Exempt Use Certificate from the boat, otherwise; XYZ is liable for the tax if documentation is insufficient.

Example 2: ABC sells dyed diesel to Marina XYZ. XYZ does not have a direct payment permit. ABC must charge the tax on this sale.

XYZ then may either pass the tax to all customers, or if feasible from a recordkeeping perspective, exempt the tax on sales to exempt boats and then apply for a refund of the tax paid on purchases attributable to exempt boat sales. Exempt sales must be supported with an Exempt Use Certificate as described at Example 1.

Example 3: ABC sells dyed No. 2 heating oil to Marina XYZ. XYZ does not have a direct payment permit. ABC must charge the tax on this sale at the diesel rate.

Example 4: ABC sells dyed No. 2 heating oil to Marina XYZ. XYZ does not have a direct payment permit; however, XYZ is buying the heating oil for use in heating its building. XYZ provides an Exempt Use Certificate to ABC, and ABC must exempt the sale to XYZ.

Example 5: XYZ purchases dyed diesel in New Jersey or Pennsylvania and brings its own boat docked in New Jersey, filling it with the dyed diesel for the boat's use. The boat is not exempt. XYZ is responsible for remitting the tax to the State on the use of the dyed diesel.

Example 6: Marina sales are assumed to be for use in boats, as opposed to boats transporting the product.

(b) A school bus operator that is eligible to purchase dyed diesel pursuant to the Internal Revenue Code can use dyed diesel on public roads in their school buses. Sellers must exempt dyed diesel sales made to school bus companies, but the school bus companies must remit the tax directly on their use when they are not tax-exempt government entities.

(c) Heating oil sold for use in a building, either commercial or residential, is not a taxable sale or use.

(d) Excluding sales to marinas and boats, dyed diesel or heating oil sold to a reseller is not a taxable sale.

18:18A-5.3 Liquefied petroleum gas

Liquefied petroleum gas is exempt from the tax unless used or sold in a taxable manner. Taxable use of liquefied petroleum gas includes, but is not limited to, use in a vehicle on public highways. A taxable sale includes, but is not limited to, direct sales into a highway vehicle. Anyone that makes taxable sales of liquefied petroleum gas, or uses tax-free acquired liquefied petroleum gas in a taxable manner, must be registered for this tax and remit the tax on such sales or uses to the State. This is further clarified in the following examples.

Example 1: ABC sells propane to XYZ anywhere in New Jersey. ABC dispenses the propane into the storage tank of XYZ's fuel truck and not into XYZ's fuel tank used to propel the vehicle. ABC must exempt the sale to XYZ.

Example 2: ABC sells propane to XYZ anywhere in New Jersey. ABC dispenses the propane into the fuel tank of XYZ's fuel truck used to propel the vehicle. ABC must charge XYZ the tax.

Example 3: XYZ purchases tax-free propane in New Jersey or Pennsylvania and brings it to its own storage facility at their business address. The propane is then dispensed into XYZ's highway vehicles. XYZ is responsible for remitting the tax on the use of the propane.

Example 4: ABC sells butane to XYZ tax free. Butane cannot be utilized as a highway fuel on its own, so although it is a liquefied petroleum gas, it remains exempt when sold in isolation.

Example 5: ABC sells butane to XYZ tax free. XYZ blends the butane with gasoline, then resells the blended product. The blended product, including the butane portion, is taxable. If XYZ paid tax on its gasoline purchases, XYZ would owe the tax on the butane portion of the blended product at the gasoline rate.

Example 6: Propane sold to a reseller is not a taxable sale.

SUBCHAPTER 6. BLENDING AND SPECIAL INDUSTRIES

18:18A-6.2 Fuels used by marine vessels

(a) Sales of petroleum products bunkered into marine vessels engaged in interstate or foreign commerce do not result in taxable gross receipts. [Commercial fishing or shell fishing vessels are deemed to be vessels engaged in interstate commerce. Other vessels engaged in charter, sport fishing, or commercial party boat (head boat) fishing do not qualify for exempt purchases of fuel.]

1. Tugboats are deemed to be engaged in interstate commerce;

2. Transactions that occur in the terminal do not qualify as interstate or foreign commerce sales for purposes of the exclusion;

3. Transactions that occur “at the flange” are not in the terminal, and as such, may qualify as interstate or foreign commerce sales for purposes of the exclusion; and

4. Highway fuel sold for use in the following types of boats is exempt:

- i. Commercial fishing and shell fishing vessels;
- ii. Motorboats or motor vessels used exclusively for the propagation, planting, preservation, or gathering of oysters and clams in the tidal waters of New Jersey;
- iii. Motorboats or motor vessels, while being used for hire for fishing parties, sightseeing, or excursion parties; and
- iv. Motorboats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America.

18:18A-6.3 Aviation fuels

(a) Aviation fuels used by common carriers in interstate or foreign commerce are not subject to tax, except for the “burnout” portion [of the fuel used and consumed in New Jersey. The portion of the fuel used and consumed in New Jersey includes all fuel consumed in a flight that originates and terminates in New Jersey].

(b) Definitions. The following words and terms, as used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

1. “Burnout portion” means the following equation, which represents the estimated fuel gallons consumed in New Jersey during the taxiing and takeoff path. The equation is based on a study conducted jointly by members of the airline industry and the Division and is applied to departures of common carrier aircraft engaged in interstate or foreign commerce and rounded to the nearest gallon:

$$\text{Burnout portion} = (.0008x + 19.1056) * \text{FEF}$$

The burnout portion, as defined, does not allow for any deductions or adjustments.

2. “x” in the burnout portion equation means the maximum landing weight (MLW) measured in pounds for the aircraft variant, as documented on the variant’s approved Federal Aviation Administration Type Certificate Data Sheet (TCDS). The TCDS must be kept on file for a minimum of four years from the later of the due date of the return or the date the return was filed.

3. “FEF” in the burnout portion equation means the fuel efficiency factor and is a single value established as “1” upon implementation to reflect current engine fuel efficiencies. This value is subject to updates.

4. “Taxiing and takeoff path” means the phase of an aircraft’s departure beginning when the aircraft leaves the gate and continuing until it reaches 1,500 feet above the takeoff surface. This metric is derived from the Federal Aviation Administration’s definition of “takeoff path,” as set forth at 14 CFR 25.111.

5. “Engine fuel efficiency” means the weighted average of the Thrust Specific Fuel Consumption (TSFC) rates at 15 degrees Celsius of the leading aircraft type from the leading airline, weighted by the number of Newark Liberty International Airport departures and MLW of the variants, as determined at the Director’s discretion.

6. “Leading airline” means the airline with the highest market share of commercial passenger aircraft departures at Newark Liberty International Airport as of June 30th of the update year.

7. “Leading aircraft type” means the leading airline’s most used aircraft type in New Jersey as of June 30th of the update year.

8. “Aircraft type” means the overall aircraft design, such as the “B737,” applicable to all B737 aircraft.

9. “Variant” means the most specific aircraft model as listed on the TCDS; for example, the B737-800 as opposed to the B737.

10. “Update year” means the year in which the FEF is updated, to take effect on January 1st of the following year, occurring once every 10 years starting in 2034.

Example 1: The Y aircraft type includes three variants: the Y-100, Y-200, and Y-300. In 2025, Airline ABC is determining the burnout rate for its Y aircraft type, which includes two of the variants, the Y-100 and Y-200. The MLW of Y-100 is 100,000 pounds, and the MLW

of Y-200 is 110,000 pounds. The MLW of the Y-300 is 120,000 pounds. Assume no other Y variants exist.

If ABC tracks departures by Y-100 and Y-200, the burnout calculations are as follows:

$$\text{Y-100: } (.0008(100,000) + 19.1056) * 1 = 99 \text{ gallons}$$

$$\text{Y-200: } (.0008(110,000) + 19.1056) * 1 = 107 \text{ gallons}$$

If ABC can demonstrate it only operates the Y-100 and Y-200 but does not track departures more specifically than at the Y aircraft type level, it must use 107 gallons, the highest MLW applicable at that level of tracking.

If ABC only identifies its aircraft as Y type, with no knowledge of specific variants, it must use the Y-300 MLW to calculate the burnout, as this is the highest MLW variant in the Y aircraft type family. When multiple variants of an aircraft exist, but the airline cannot identify, specifically, which variant is used, the airline must use the highest MLW. If the airline knows which variants it uses but does not track when each is used, the highest MLW must be used.

Example 2: Airline ABC was designated the initial leading airline in 2024. The B737 was the initial leading aircraft type in 2024. On June 30, 2034, ABC remains the leading airline. The B737 remains the leading aircraft type. By September 30, 2034, ABC must submit an updated FEF Worksheet for the B737.

Example 3: On June 30, 2034, ABC remains the leading airline. The A320 has become the leading aircraft type. By September 30, 2034, ABC must submit an updated FEF Worksheet for the B737 and an FEF Worksheet for the A320.

Example 4: On June 30, 2034, ABC is no longer the leading airline. XYZ is now the leading airline. The A320 is the leading aircraft type. By September 30, 2034, ABC must submit an updated FEF Worksheet for the B737, and XYZ must submit an FEF Worksheet for the A320.

Example 5: On June 30, 2034, ABC is no longer the leading airline. XYZ is now the leading airline. The B737 is the leading aircraft type for XYZ. By September 30, 2034, ABC must submit an updated FEF Worksheet for the B737, and XYZ must submit an FEF Worksheet for its B737 operations.

Example 6: In 2024, the Division calculated efficiency based on the FEF worksheets submitted as 0.8. In 2034, updated efficiency data resulted in a new efficiency calculation of 0.7, representing a 12.5 percent improvement in efficiency. This percentage change is applied to the active FEF (which is “1” in 2034), resulting in an adjusted FEF of 0.875. Effective January 1, 2035, the updated equation would be posted on the Division’s website as follows: $(.0008x + 19.1056) * 0.875$. This reflects a 12.5 percent reduction in the FEF value from 1 to 0.875.

SUBCHAPTER 7. RECORDS, ASSESSMENTS, AND CLAIMS

18:18A-7.3 Refund claim

(a) (No change.)

(b) In a case where a company has erroneously paid a tax, before that company applies for a refund from the Division of Taxation, such company must seek a credit from its supplier. A refund claim should be filed only if a credit is not available from the supplier. If a refund claim by a company is made, it must contain the statement that the company has applied for and not been able to receive a credit from its supplier. Any credit or refund claimed by a supplier/taxpayer from the Division of Taxation must contain the statement that an appropriate credit or refund has been given to its customer. The goal and purpose of this procedure is ease and efficiency of administration. Form PPT-5 must be used in connection with claims for credit under the Act for an exempt use.

Example: Township P buys 1,000 gallons of gasoline from Dealer Y who does not have a direct pay permit and charges the township the tax equivalent amount and remits the tax to the State. When the invoice is processed by the township six weeks later, Dealer Y is no longer the township’s supplier since Dealer M agreed to supply the township at a better price. Dealer Y refuses to give the township the tax refund and take a credit on its return. The township makes a claim for refund with the Division for a refund of tax paid since it was unable to recover the amount from Dealer Y.]

(b) At the Director's discretion, refund applications may be required to include purchase invoices, along with any other supporting documentation or clarifications deemed necessary. The amount of tax paid on such invoices, or otherwise remitted to the State, must be clearly documented or the refund will be denied. This is further clarified in the following example.

Example: ABC purchased motor oil and paid tax to its seller. ABC brings the motor oil to its New Jersey warehouse. ABC subsequently exports the motor oil to Pennsylvania. ABC applies for a refund with the State and provides purchase invoices that do not itemize the tax, but instead state "PPGRT remitted to New Jersey." This is not enough information for the State to refund the tax to ABC. ABC must get a written and signed statement or other documentation from its seller, or its prior sellers, confirming the amount of tax that was included in the sale to ABC. If ABC is unable to provide confirmation of the amount, the refund will be denied.

(c) If a seller incorrectly charges tax, the buyer must ask the seller for a rebill. If the seller refuses to rebill without the tax, the buyer should request a signed letter from the seller indicating the refusal. If the seller refuses to provide such a letter, the buyer must attest to this with a signed letter from the buyer. This refusal from the seller or affirmation from the buyer regarding the seller's refusal must be included with any refund application submitted by the buyer in this situation. These procedures do not apply when a buyer at a New Jersey terminal rack purchases motor fuel and incorrectly indicates a state other than New Jersey as the destination.

18:18A-7.5 Power take-off (PTO)

(a) New Jersey treats a portion of taxed fuel used in certain PTO vehicles as eligible for a refund based on the exemption for stationary machinery and vehicles or implements not designed to transport persons or property on the public highways pursuant to N.J.S.A. 54:15B-2.1.b(12). The rates for refundable gallons are determined by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 11144-PTO Report, (July 2007). The list of eligible vehicles and their associated percentage rates of exemption are found at Appendices E and F, in the "PTO Rate" column. This is further clarified in the following example.

Example: The exemption rate for concrete mixers eligible for a refund is 30.2 percent.

(b) Each qualifying vehicle type found at Appendices E and F must be equipped with equipment that is unrelated to the transportation function of the vehicle and does not have a separate fuel tank for the equipment function. The Director, at their discretion, may deny exemption for vehicles that technically match a listed PTO category but do not include PTO equipment.

(c) The percentage rate must be applied to the amount of fuel purchased for use in that particular vehicle. If the amount of fuel used in PTO operations is unknown or unsubstantiated, the Division shall deny any associated refund claim. This is further clarified in the following examples.

Example 1: ABC has a concrete mixer that it fills with taxed diesel. ABC is eligible for a refund of 30.2 percent of the diesel that is dispensed into the concrete mixer.

Example 2: ABC has a concrete mixer that it fills with taxed diesel. ABC also purchases diesel for its pickup trucks that are licensed and used on roads. ABC does not keep records that allow it to identify how much fuel purchased was used in the concrete mixer as opposed to the pickup trucks. ABC would not be issued a refund.

(d) Exception to the percentage table. If there is a separate fuel tank for the equipment function of a PTO vehicle, then Appendices E and F shall not be used, and instead 100 percent of the taxed fuel purchased for the equipment is exempt and eligible for a refund. This is further clarified in the following example.

Example: ABC owns and operates a PTO vehicle. It has two fuel tanks, one to propel the vehicle over roads and the other to fuel the equipment function. ABC applies for a refund of all fuel purchased for use in the PTO vehicle, using the PTO rate from Appendices E and F. If ABC did not track how much fuel was specifically purchased

for the fuel tank of the separate equipment function of the PTO vehicle, the refund will be denied.

SUBCHAPTER 8. FILING [DATES] REQUIREMENTS

18:18A-8.1 [(Reserved)] Electronic filing requirement

Notwithstanding any other provision of law, the Director may require taxpayers subject to the Petroleum Products Gross Receipts Tax Act, N.J.S.A. 54:15B-1 et seq., to file tax returns, supporting schedules, and other transactional data electronically. The Director shall determine and publish the specific electronic methods, formats, and procedures for filing and payment that satisfy this requirement. Electronic filing shall not be required until such time as the Division has made the necessary systems and instructions available and has provided notice to taxpayers. Any return submitted electronically shall not be deemed filed unless and until it complies with the published requirements and, if necessary, is corrected and resubmitted in accordance with Division guidelines.

SUBCHAPTER 9. TAX BASE AND TAXABLE SALES PRICE

18:18A-9.1 Tax base and invoicing

(a) Except for sales at fixed retail stations, all non-exempt sales of highway fuel, aviation fuel, and fuel oil must include an invoice that itemizes the tax, regardless of whether the sale is the first sale in New Jersey.

(b) Taxable first sales of petroleum products subject to the seven percent rate must include an invoice that either itemizes the tax or the statement: "PPGRT remitted to NJ." Subsequent sales that are not the first sale in New Jersey must also be accompanied by invoices with either the tax amount from the first sale itemized or the statement: "PPGRT remitted to NJ." If a subsequent seller itemizes tax at seven percent of its own sale price, rather than carrying forward the tax from the first sale, the seller is liable for any excess tax it collected beyond the amount charged on the first sale. This is further clarified in the following examples.

Example 1: ABC sells motor oil to XYZ. It is the first sale in New Jersey. ABC must charge XYZ the tax and either itemize the seven percent tax or include the statement "PPGRT remitted to NJ" on the invoice.

Example 2: ABC sells motor oil to XYZ. It is the first sale in New Jersey. ABC itemizes the seven percent tax on the invoice to XYZ. XYZ then sells to Buyer 1. On the invoice from XYZ to Buyer 1, XYZ may either itemize the tax it paid to ABC or include the statement "PPGRT remitted to NJ" if the sale to Buyer 1 is not exempt.

Example 3: ABC sells motor oil to XYZ. It is the first sale in New Jersey. ABC itemizes the seven percent tax on the invoice to XYZ. XYZ then sells to Buyer 1. Buyer 1 then sells to Buyer 2 and itemizes tax as seven percent of its own sale price to Buyer 2. Buyer 1 must have either itemized the tax from the first sale or used the statement, "PPGRT remitted to NJ" on the invoice. By itemizing tax as seven percent of its own sale price, Buyer 1 collected additional tax beyond the tax charged with the first sale and is, therefore, liable for the difference.

Example 4: ABC sells motor oil to XYZ, totaling \$100.00 as the sale price. ABC may either itemize an additional \$7.00 in tax, bringing the invoice total to \$107.00, or include the statement, "PPGRT remitted to NJ." In either case, ABC must remit \$7.00 in tax to the Division.

Example 5: ABC sells motor oil to XYZ, totaling \$100.00 and itemizing \$7.00 in tax. XYZ then sells to Buyer 1, who then sells to Government Z, but does not itemize the \$7.00 tax or include the statement, "PPGRT remitted to NJ." Buyer 1 goes out of business. By comparing costs from other sellers, Z believes that Buyer 1 incorrectly incorporated the tax into its cost. Z is not entitled to a refund, as its invoice shows no indication of tax. Z is entitled to a refund when the sale from Buyer 1 to Z includes the statement, "PPGRT remitted to NJ" and the actual amount of tax that was paid or Z obtains a written and signed certification from Buyer 1 that states the actual amount of tax associated with the motor oil or the sale.

(c) Charges for shipping and/or sales tax may be stated separately. These amounts, if stated separately, are not subject to PPGRT and are excluded from the taxable sales price on the first sale.

OTHER AGENCIES

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Authority Assistance Programs Aspire Program

Proposed Readoption of Specially Adopted Amendments: N.J.A.C. 19:31V

Proposed Readoption of Specially Adopted New Rule: N.J.A.C. 19:31V-1.14

Authorized By: New Jersey Economic Development Authority, Lisa Almeida, Chief Counsel.

Authority: P.L. 2020, c. 156, P.L. 2021, c. 60, P.L. 2023, c. 98, and P.L. 2025, c. 2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2026-063.

Submit written comments by December 4, 2026, to:

Alyson Jones, Managing Director of Legislative and
Regulatory Affairs
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
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Take notice that in accordance with P.L. 2020, c. 156, P.L. 2021, c. 60, P.L. 2023, c. 98, and P.L. 2025, c. 2, the New Jersey Economic Development Authority (“NJEDA” or “Authority”) readopted the proposed new rule and amendments filed concurrently with the specially adopted new rule and amendments, as originally filed with the Office of Administrative Law (OAL) on July 30, 2025, and originally published in the September 2, 2025 New Jersey Register to implement the provisions of the New Jersey Economic Recovery Act of 2020, establishing the New Jersey Aspire Program (Program), sections 54 through 67 at P.L. 2020, c. 156, as amended at P.L. 2021, c. 160, P.L. 2023, c. 98, and P.L. 2025, c. 2.

The specially adopted new rule and amendments proposed to be permanent through this rulemaking are effective until January 26, 2027, pursuant to N.J.S.A. 52:14B-5.1. The specially adopted new rule and amendments will become permanent upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f)), if filed on or before October 5, 2027.

Summary of the Rulemaking and Legislative History:

The New Jersey Economic Recovery Act of 2020, P.L. 2020, c. 156, created a package of tax incentive, financing, and grant programs to address the ongoing economic impacts of the COVID-19 pandemic and build a stronger, fairer New Jersey economy, including the Aspire Program. The Aspire Program is a gap financing tax incentive program to encourage the development of commercial, mixed use, and residential real estate projects in New Jersey by providing tax credits in an amount based on a percentage of the project’s costs.

On November 15, 2021, the NJEDA submitted specially adopted and concurrently proposed Aspire Program rules, pursuant to section 67 at P.L. 2020, c. 156, as amended at P.L. 2021, c. 160 (N.J.S.A. 34:1B-335 et seq.), to the OAL for publication in the New Jersey Register. The specially adopted rules became effective upon acceptance for filing by OAL and were published in the December 20, 2021 New Jersey Register. See 53 N.J.R. 2252(a). The initial expiration date for the specially adopted rules

was 180 days from the date of filing, or May 14, 2022. The rules were concurrently proposed in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The concurrent notice of proposal extended the expiration of the rules by an additional 180 days to November 10, 2022. See N.J.S.A. 52:14B-5.1.c.

Significant public comments were received. Pursuant to N.J.S.A. 52:14B-5.1.d(1), Governor Phillip D. Murphy, on October 31, 2022, directed that the expiration date of the Aspire Program rules be extended for a period of 12 months, from November 10, 2022 to November 10, 2023.

Additional subsequent legislative changes were enacted. On July 6, 2023, Governor Murphy signed S4023 into law as P.L. 2023, c. 98 (Chapter 98). Chapter 98 modified the Program in numerous ways, including, but not limited to, revising the maximum amount of tax credits that may be awarded to redevelopment and transformative projects pursuant to the Program, revising the square footage requirement for commercial projects, adopting rules concerning the establishment and administration of affordability controls for residential projects pursuant to the Program, and revising the circumstances in which a developer would be exempt from the Program’s community benefits agreement (CBA) requirement. Thereafter, on December 5, 2023, the NJEDA submitted specially adopted amendments to the Aspire Program rules and concurrently proposed rule amendments to the OAL for publication in the New Jersey Register. These specially adopted rule amendments became effective upon acceptance for filing by OAL and were published in the January 2, 2024 New Jersey Register. See 56 N.J.R. 60(a). The initial expiration date for the specially adopted rule amendments was 365 days from the date of filing, or December 4, 2024. The rule amendments were concurrently proposed in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The concurrent notice of proposal extended the expiration of the rule amendments by an additional 180 days through June 2, 2025. See N.J.S.A. 52:14B-5.1(c).

Significant public comments were received. Pursuant to N.J.S.A. 52:14B-5.1(d), Governor Phillip D. Murphy, on June 6, 2025, directed that the expiration date of the Aspire Program rules be extended for a period of 180 days, from June 2, 2025 to November 29, 2025. The notice of adoption adopting the proposed readoption of N.J.A.C. 19:31V was filed with the OAL on November 28, 2025 (see 58 N.J.R. 111(a)). Therefore, the expiration of N.J.A.C. 19:31V is November 28, 2032, pursuant to N.J.S.A. 52:14B-5.1, and the readoption of the chapter as a whole is not part of this instant rulemaking.

In the interim, further legislative changes were enacted. On January 23, 2025, Governor Phillip D. Murphy signed S1323 into law as P.L. 2025, c. 2 (Chapter 2). Chapter 2 modified the Aspire Program in numerous ways, including, but not limited to:

Special Mission Non-Profit Projects

Chapter 2 adds the concept of “special mission non-profit projects,” which is defined in the new law as a project that serves a special mission to accomplish the public purpose of a non-profit that is a developer of or affiliated with the project; and that includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or social services. The new law permits these projects to have no more than 25,000 square feet of commercial space for on-site social service programs that require a license from the Department of Children and Families as a child care center. The new law further stipulates that “special mission non-profit projects” are exempt from the net benefit test requirement, affordable housing requirements, and the market study requirement.

Sale of Buildings

Chapter 2 creates a new provision permitting a developer to sell one or more buildings that are part of the redevelopment project during the eligibility period, in accordance with this rulemaking adopted by the Authority.

Changes to Eligibility Requirements

Chapter 2 amends the requirement that developers and co-applicants of commercial projects must maintain an average occupancy rate of at