

18:19-2.2 Special conditions for price signs

(a) Price signs required to be used and displayed by motor fuel retail dealers on pumps or other dispensing equipment from which motor fuel is sold or offered for sale must be attached by means of a bracket or slot arrangement to the top or side of such pumps or other dispensing equipment so that the signs are readily visible to the purchaser.

(b) Waterproof case location rules are:

1. If such signs are placed on the top of a pump, the top of the waterproof case (size not less than 5½ inches × 8 inches and not more than 12 inches × 12 inches) must not be more than 14 inches above the top of such pump or other dispensing equipment;

2. If the sign is placed on the side of a pump, the bracket or slot arrangement must be attached in the upper quarter (approximately) of the side of the pump or other dispensing equipment in such a manner that the outer edge of the waterproof case is no more than 16 inches from the side of such pump or other dispensing equipment.

(c) Any Motor Fuel Retail Dealer possessing built-in masonry of such construction or operation which prohibits the attachment of the price sign in the manner or of the type set forth in this subchapter must seek instruction from the Division of Taxation. A pump sign affixed to a blending pump, multiple pump or other similar device having the capacity to dispense several types of fuel shall display the lowest and highest price of fuel dispensed from such pump, and the owner or operator of such facility shall have one large sign readable from the street which shall indicate the price of each type of fuel dispensed at such pump or pumps.

(d) In addition to the signs required to be affixed to the pumps by this chapter, a Motor Fuel Retail Dealer may install or display oversized signs referring to the per gallon or per gallon and per liter price of motor fuels. Such signs shall permit a member of the public to readily see the price of fuels as he drives into the station.

(e) See N.J.A.C. 18:19-2.1(d).

Amended by R.1979 d.137, effective April 4, 1979.

See: 11 N.J.R. 149(d), 11 N.J.R. 264(b).

Amended by R.1982 d.77, effective March 15, 1982.

See: 13 N.J.R. 855(a), 14 N.J.R. 285(c).

(b)1: "12 inches by 12 inches" was "8 inches by 10 inches". (d) added.

Amended by R.1982 d.257, effective August 16, 1982.

See: 14 N.J.R. 331(b), 14 N.J.R. 921(a).

Added last sentence to (c).

Amended by R.1995 d.79, effective February 6, 1995.

See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Historical Note

Formerly RC-1, filed 5/29/52.

Statutory References

N.J.S.A. 56:5-2.3.

18:19-2.3 Rebate of allowances, lotteries and games of chance

(a) A retail dealer must not sell motor fuel at any other price than the price, including tax, so posted. Any such price when posted shall remain posted and in effect for a period of not less than 24 hours.

(b) No retail dealer shall sell motor fuel at a price which is below the net cost of such motor fuel to the retail dealer plus all selling expenses.

(c) No rebates, allowance, concessions or benefits may be given, directly or indirectly, so as to permit any person to obtain motor fuel from a retail dealer below the posted price or at a new price lower than the posted price applicable at the time of the sale.

(d) It is unlawful for any retail dealer to use lotteries, prizes, wheels of fortune, punch-boards or other games of chance, in connection with the sale of motor fuels.

Case Notes

Director's administrative order banning all giveaways by motor fuels dealers held invalid as rulemaking in violation of the Administrative Procedure Act (also citing proposed amendment to former N.J.A.C. 18:19-14 at 2 N.J.R. 51(a)). *Glaser v. Downes*, 126 N.J.Super. 10, 312 A.2d 654 (App.Div.1973), certification denied 64 N.J. 513, 317 A.2d 726 (1974).

Vendor required to file a refund application for sales tax paid on defaulted installment contracts, rather than deduct the net amount of sales price not collected on quarterly returns; refund claims for sales taxes paid more than two years previously barred by statutory limitation period. *Commercial Refrigeration & Fixture Co., Inc. v. Director, Div. of Taxation*, 2 N.J.Tax 415, 184 N.J.Super. 387, 446 A.2d 210 (Tax.Ct. 1981).

18:19-2.4 Brand names and trade names displayed

(a) Conspicuous display.

1. All above-ground equipment for storing or dispensing motor fuel operated by a retail dealer must bear, in a conspicuous place, the name or trade mark of the product stored therein or dispensed therefrom.

2. No retail dealer may permit delivery into underground or above-ground containers, tanks or equipment of any motor fuel other than the brand represented or designated by the name or trade-mark appearing on such container or dispensing equipment attached thereto.

(b) Visible to customers.

1. The brand name or trade-mark must be placed in such a position on the pump that will be readily visible to customers approaching such pump;

2. The letters and numerals included in such brand name or trade-mark must be of such a size that they will be readily readable by a customer approaching the pump.

(c) Brand names and trade-marks must be displayed through the medium of glass globes, display panels, decalcomania, paint applications, or similar permanent devices on the pump.

(d) If the motor fuel stored in or dispensed from any above-ground equipment by a retail dealer does not have a brand name or trade-mark, the container or dispensing equipment must have, conspicuously displayed thereon the words "No Brand".

Historical Note

Formerly Reg. RC-2, filed 1/1/48.

Statutory References

N.J.S.A. 56:6-2.

18:19-2.5 Substitution of fuels prohibited

No retailer shall be a party to the substitution of one grade of motor fuel for another.

Statutory References

N.J.S.A. 56:6-2.

18:19-2.6 Other advertising requirements

(a) Any advertising of the retail price of motor fuel through any other medium which contains a reference to the per gallon price or the per liter and per gallon price thereof, must include all taxes in the price stated, and there must be included in such advertising a statement that such price includes taxes, or a statement of the amount of taxes which are included in such price.

(b) Such advertising must be identified by the name of the product, and the letters of the name shall be not less than one-half the size of the figures used in the price.

Amended by R.1982, d.77, effective March 15, 1982.

See: 13 N.J.R. 855(a), 14 N.J.R. 285(c).

Added "or the per liter and per gallon price".

Statutory References

N.J.S.A. 56:6-2.

18:19-2.7 Posted prices and brand names; cash discounts; of diesel fuel

(a) Except as provided hereinunder, the provisions of N.J.A.C. 18:19-2.1 through 2.5 as they relate to posted prices and brand names are deemed to apply in a uniform and consistent manner to each motor fuel product as such products are identified by the supplier's invoice at the time of the purchase.

(b) A retail dealer may sell similar fuels at different prices to cash and credit customers, and the price posted on top of the pump and on the pump meter shall be the credit purchase price. A conspicuous sign shall also be displayed at the pump or at the island posting the price per gallon (or per gallon and per liter) reduction for cash purchases of fuels. At his option, a dealer may also meet the cash/credit price posting requirement with a pump top split sign pursuant to N.J.A.C. 18:19-2.1(c) showing the cash price per gallon on the top half of the sign and the credit price per gallon on the bottom half of the sign having the same background colors (compare N.J.A.C. 18:19-2.1(c)1ii). If the dealer offers the same price for cash and credit customers, the dealer may substitute a message in words for one row of digits. The message would state that the same price applies for cash and credit sales. If the dealer elects to offer an island dedicated exclusively to cash sales, the price posted on top of the pumps and the pump meters at the dedicated island shall be the cash purchase price.

(c) In the case of computerized electronic pumps equipped with customer select devices, the price posting requirements for the pump meter shall be satisfied if alternative cash and credit prices for the product are clearly visible to the motorist on the face of the pump prior to the selection of cash or credit payment mode and where the motorist's selection is identified during the operation of the pump for the motorist.

(d) A retail dealer selling diesel fuel may elect to sell such fuel at different prices from pumps dedicated to self-service and from pumps where attendant service is available. The price posted on top of the pump and on the pump meter shall be the price at which such fuel is sold from that pump.

1. If, in addition, the seller of fuels elects to offer a cash discount for sales of diesel fuel, then the price at the pump and on the pump meter shall be the credit price, and notice shall be placed on the face of the pump of the price per gallon (or per gallon and per liter) reduction for cash.

2. A retail dealer electing to dedicate an island to cash sales may sell diesel fuel self-service from that island provided that the cash price is posted on top of the pump and on the pump meter.

3. If there is a sign indicating that diesel fuel will be dispensed self-service from a pump or dispensing device, the sign must include in letters of at least the same size, the words, "DIESEL ONLY".

(e) The retail dealer shall display in clear view in a portion of the premises accessible to the public a listing of all fuel prices available at such facility.

Amended by R.1982 d.369, effective October 18, 1982.

See: 14 N.J.R. 705(a), 14 N.J.R. 1166(c).