

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

(c) Where required by law, hearings shall be held pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

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.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

18:18-2.11 through 18:18-2.13 (Reserved)

SUBCHAPTER 3. DISTRIBUTOR'S, IMPORTER'S AND GASOLINE JOBBER'S LICENSE; BONDS REQUIRED; RECORDS

18:18-3.1 Distributor's license; application

(a) Obtaining.

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

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

(b) Any application for such license is to be made in writing on proper forms approved by the Director.

(c) A distributor licensed pursuant to this section is required to obtain a seller/user license to engage in the sale of special fuels. Such license shall be issued at no additional cost.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-17.

18:18-3.2 Refusal in certain cases

In the event that any application for a license is filed by any person whose license has at any time been revoked, or if it is determined that such application is filed by some person as a subterfuge for the real person in interest whose license has been revoked, the Director, after a hearing held pursuant to N.J.A.C. 18:18-2.6(b) (Hearings) may refuse such person a license.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-17.

18:18-3.3 Gasoline jobber's license

(a) Any gasoline jobber (see N.J.A.C. 18:18-1.1) in lieu of obtaining a wholesale license pursuant to N.J.S.A. 54:39-31, may apply for and obtain a gasoline jobber's license on proper forms approved by the Director, by payment of a license fee of \$450.00 for a three year period or part thereof and the filing of a bond in such form and amount as provided in N.J.A.C. 18:18-3.6.

(b) A gasoline jobber's license is not assignable, and is valid only for the gasoline jobber in whose name it is issued.

(c) As gasoline jobber licensed pursuant to this section is not also required to be licensed as a wholesale dealer to engage in the sale at wholesale of gasoline, but is required to obtain a seller/user license to engage in the sale of special fuels.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-6.1, 54:39-31.1.

18:18-3.4 Qualifications for license

Any person applying for a Distributor's, Importer's or Gasoline Jobber's License must meet the qualifications for such license. See N.J.A.C. 18:18-2.3 concerning issuance of licenses.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-6.1, 54:39-31.1.

18:18-3.5 Bond requirements

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

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-18.

18:18-3.6 Amount of bond required

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

(b) In fixing the total amount of the bond or bonds required to be filed by any distributor, importer or gasoline jobber, the Director may require a bond or bonds equivalent to an amount no greater than three times the tax on the greatest amount of motor fuels handled during a monthly period of the previous 12-month period in such manner as he may deem proper. The Director shall take into account the applicant's prior record as a New Jersey taxpayer and all other information as may be available to him or her which would establish the applicant's financial responsibility.

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

2. The total amount of any bond or bonds required to be filed by any distributor or gasoline jobber can never be less than \$25,000 nor more than \$1,000,000. The total amount of the bond or bonds required to be filed by any importer shall never be less than \$50,000 nor more than \$1,000,000.

3. The recovery on any bond or execution of any new bond does not invalidate any bond, and the revocation of any license is not deemed to affect the validity of any bond.

Amended by R.1982 d.140, effective May 3, 1982.
See: 14 N.J.R. 202(a), 14 N.J.R. 430(a).

(b) substantially amended; (b)2: "\$500,000" was "\$25,000".
Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-19.

18:18-3.7 Bond duration

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

1. No action on a bond shall be begun after two years from the date of revocation or cancellation of the license of which it is a part or from the date of expiration or nonrenewal of a Gasoline Jobber's License.

(b) Release and substitution of surety.

1. The surety on a bond shall be released and discharged from all liability to the State accruing on such bond after the expiration of 60 days from the date upon which such surety shall have lodged with the Director a written request to be released and discharged; but

2. This provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the 60-day period;

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

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

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-20.

18:18-3.8 Deposit in lieu of bond

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

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-21.

18:18-3.9 License issued when bond approved

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

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-22.

(b) The commissioned agent, on this arrangement, is not required to hold a Wholesale Dealer's License for this location unless he sells tax-included gasoline in his own name.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

18:18-4.8 Invoice on sales

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

1. The date of sale and delivery;
2. The kind and grade of the product;
3. The number of gallons sold;
4. The names and addresses of the seller and purchaser and the unit price per gallon.

(b) In the case of sales of kerosene by retail dealers, the dealer may maintain a daily log of sales transactions in lieu of issuing invoices to customers.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

18:18-4.9 Wholesale and retail sales require seller/user license for special fuel sales

Every person making sales of special fuels at wholesale or retail must obtain a seller/user license. Such license will be issued at no charge to a person holding a wholesale or retail dealer's license. See N.J.A.C. 18:18-5.1.

Amended by R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-31.1.

18:18-4.10 Transport licenses

(a) Registration of conveyances. Every person engaged in the business of hauling, transporting or delivering fuel, must, before entering upon the highways or waterways of this State with any conveyance, apply for the registration of conveyances with the Director.

(b) License certificates and plates. Upon receipt of an application, properly completed, the Director shall issue a license certificate and license plate for each conveyance which indicates the license number assigned and which must be displayed on the conveyance at all times and in such manner as the Director may regulate.

(c) Expiration and fee.

1. Any license issued hereunder remains in force from the date of issue until March 31, following, unless sooner revoked or suspended for cause;

2. A fee of \$50.00 is required for the licensing of each conveyance.

(d) Licensee not relieved of obligation. Nothing contained in this rule in any manner relieves or discharges any person obtaining a license hereunder from complying with any of the provisions of any other laws.

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.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Statutory References

N.J.S.A. 54:39-32, 41.

Case Notes

Persons owning and operating trucks or truck tractors are required to keep all records, including fuel purchase invoices, which were received from their vendors and which reflect the total number of gallons of fuel purchased in New Jersey. *Duncan Truck Stop, Inc. v. Director, Div. of Taxation*, 4 N.J.Tax 367 (Tax Ct.1982).

SUBCHAPTER 5. SELLER OF SPECIAL FUELS LICENSE, USER OF SPECIAL FUELS LICENSE (I.E., SELLER/USER), STORAGE FACILITY LICENSE

18:18-5.1 Seller/user license

(a) Every seller of special fuels and every user of special fuels shall apply for and obtain a seller of special fuels license or a user of special fuels license (herein sometimes referred to as a seller/user license) on forms to be prescribed by the Director. Primary points to be included in the seller/user license application form include in addition the usual name, address, name of person responsible for filing reports, ID number, business name, and names of officers, the following information: a list of the applicant's suppliers of special fuels, any and all transporters utilized to deliver product, an estimated average of taxable sales for a 12 month period. The license, unless cancelled or revoked, shall remain in effect for three years and may be renewed at that time.

(b) A licensed distributor, importer, gasoline jobber, wholesale dealer, and retail dealer who sells and/or uses any fuel capable of generating power in a diesel type engine shall register as such with the Director, Division of Taxation at such time as such licensee applies for any other applicable license. No separate charge shall be made for this registration. Reporting requirements will be included in connection with reports required for such primary license.

(c) A person, not otherwise excluded by these rules, who acquires kerojet (turbine) fuel and/or kerosene for commercial use is subject to the licensing requirement under (a) above.

Recodification and New Rule, R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Prior text, "Special license 'A' required; tax reports and payments", recodified to 18:18-3.20.

18:18-5.2 Reporting; tax payment

(a) Every seller of special fuels and every user of special fuels upon whom a tax is imposed by the Motor Fuels Act shall, on or before the 20th day of each month render a report to the Director on forms prescribed by the Director showing such information as the Director may require. The report form for sellers/users of special fuels shall include the items set forth at N.J.S.A. 54:39-64.4.

(b) A tax is imposed at the current rate per gallon on the total number of gallons of special fuels:

1. Delivered or placed into the fuel supply tank or other fueling receptacle or device of a motor vehicle for use to propel the vehicle over the public highways; or
2. Used within the meaning assigned by this chapter; or
3. Sold to unlicensed buyers.

(c) The tax under (b) above shall be paid to the State but once in respect to any fuels used within the State.

Repeal and New Rule, R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Section was "Importing fuels, presumption of tax liability; penalty for violation".

18:18-5.3 Sales not subject to tax

(a) The tax imposed shall not apply to the following:

1. Fuels not within the taxing power of this State under the Constitution of the United States;
2. Fuel that is used by or sold and delivered to the United States government, when such sales and deliveries are supported by documentary evidence satisfactory to the Division;
3. Fuels not in excess of 150 gallons brought into this State in the fuel supply tanks or other fueling receptacles or devices of a motor vehicle;
4. Fuels used by, or sold or delivered to, the State of New Jersey or its political subdivisions when such sales and deliveries are supported by documentary evidence satisfactory to the Division; or

5. Fuel sold to diplomatic missions and diplomatic personnel under a program administered by the Director and predicated upon the United States Department of State, Office of Foreign Missions or successor office's national tax exemption program.

Repeal and New Rule, R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Section was "Bond, bond term and license 'A' term".

18:18-5.4 Separate account; personal liability

(a) The user or seller of special fuels shall maintain a separate trustee account to be credited daily with taxes due on amounts of fuels used on that day.

(b) The tax to be paid to the seller of special fuels is paid as a trustee for and on account of the State. The account shall be maintained for and on account of the State.

(c) Every person required to collect any tax imposed by this chapter shall be personally liable for the tax imposed, collected, or required to be paid, collected or remitted under the Motor Fuels Tax Act.

Recodification and New Rule, R.1995 d.79, effective February 6, 1995.
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

Prior text, "Records on transactions and invoices", recodified to 18:18-3.21.

18:18-5.5 Bonds; form; amount

(a) The Director may require a seller of special fuels or a user of special fuels to file a bond with the Director. Whether or not the Director shall require a bond in a particular instance shall depend upon the taxpayer's prior filing history, if any, with the Division; whether the taxpayer holds motor fuels licenses or has other motor fuels surety bonds, such as a distributor bond, jobber or importer; the amount of the taxpayer's monthly motor fuels tax liability; and such other factors as the Director shall consider.

(b) The amount of the bond required to be filed with the Director shall be in an amount not greater than three times the tax on the greatest amount of motor fuels handled during any one month of the previous 12 months, provided that in no case shall the bond be less than \$1,000 nor greater than \$1 million.

(c) Such bond shall be in such form as approved by the Director, shall be executed by a surety company duly licensed to do business under the laws of the State of New Jersey, and be conditioned upon the prompt filing of true reports and the payment by the licensee to the Director of all motor fuels taxes which are now or which hereafter may be levied or imposed by the State of New Jersey, together with any and all penalties and interest thereon, and generally upon faithful compliance with the provisions of this chapter.