

CHAPTER 19

MOTOR FUELS—RETAIL SALES

Authority

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

Source and Effective Date

R.1999 d.86, effective February 16, 1999.

See: 30 N.J.R. 3611(a), 31 N.J.R. 777(c).

Executive Order No. 66(1978) Expiration Date

Chapter 19, Motor Fuels—Retail Sales, expires on February 16, 2004.

Chapter Historical Note

Chapter 19, Motor Fuels—Retail Sales, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 19, Motor Fuels—Retail Sales, was readopted as R.1984 d.151, effective April 6, 1984. See: 16 N.J.R. 420(a), 16 N.J.R. 1097(c).

Pursuant to Executive Order No. 66(1978), Chapter 19, Motor Fuels—Retail Sales, was readopted as R.1989 d.201, effective March 14, 1989. See: 21 N.J.R. 126(a), 21 N.J.R. 1020(b).

Pursuant to Executive Order No. 66(1978), Chapter 19, Motor Fuels—Retail Sales, was readopted as R.1994 d.188, effective March 14, 1994. See: 26 N.J.R. 778(a), 26 N.J.R. 1706(b).

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

Pursuant to Executive Order No. 66(1978), Chapter 19, Motor Fuels—Retail Sales, was readopted as R.1999 d.86, effective February 16, 1999. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

18:19-1.1 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:

"Director" means the Director of the Division of Taxation, in the State Department of the Treasury.

"Motor Fuels" means:

1. All products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline), benzol, benzene, or naphtha regardless of their classification or uses; and

2. Any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subject to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society of Test Material Designation D-86) shows not less than 10 percent distilled (recovered) below 347 Degrees Fahrenheit 175 Degrees Centigrade and not less than 95 percent distilled (recovered) below 464 Degrees Fahrenheit (240 Degrees Centigrade); and

3. Any other product or liquid sold for use as a fuel in any type of internal combustion engine furnishing power to operate a motor vehicle.

"Person" means and includes natural persons and partnerships, firms, associations, joint stock companies, syndicates and corporations and any receiver, trustee, conservator or other officer appointed pursuant to law by any court, state or Federal. The use of the singular number shall include the plural number.

“Purchase” means any acquisition of ownership.

“Retail dealer” means any person operating a service station, filling station, store, garage or other place of business for the sale of motor fuel, for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine.

“Sale” shall have its ordinary meaning and, in addition, shall include any exchange, gift, theft, or other disposition.

“Seller of special fuels” means any person who sells any fuel capable of generating power in a diesel type engine which will include, without limitation, diesel fuel, No. 2 fuel oil, and kerosene.

“Selling expense” means and includes all overhead and general business expense.

“Special fuels” means any fuel capable of generating power in a diesel type engine which will include, without limitation thereto, diesel fuel, No. 2 fuel oil, and kerosene.

“Superintendent” means the State Superintendent of Weights and Measures. The term may also include any State, county, or municipal weights and measures officer.

“User of special fuels” means any person, except the State of New Jersey and any political subdivision thereof, who maintains a storage tank or tanks of any type, including a conveyance, equipped with a dispensing device and being used for storage and dispensing diesel fuel, No. 2 fuel oil, or kerosene, for his own use. “Storage tanks” as used in this section shall not apply to a vehicle service tank used to carry motor fuels for use exclusively in propelling the vehicle carrying the tank.

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

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

Added definition of “Superintendent”.

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

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

SUBCHAPTER 2. POSTED PRICES; ADVERTISING; REBATES; ALLOWANCES AND PRIZES; TRADE MARKS

18:19-2.1 Posted price signs

(a) All signs relating to the price of motor fuels being sold or dispensed by a retail dealer must be used and displayed in accordance with the provisions of these regulations.

(b) Signs, stating the price of motor fuel for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine, must be displayed and maintained on each pump or other dispensing equipment from which motor fuel is sold.

(c) No retail dealer shall sell or offer for sale any motor fuel without having attached by a suitable bracket or slot arrangement to each pump or other dispensing equipment from which motor fuel is sold or offered for sale a weather-proof case not less than 5½ inches by eight inches and not more than 12 inches by 12 inches, on both sides of which will be displayed a card insert price sign not less than five inches by 7½ inches and not more than 11½ inches by 11½ inches, stating the price per gallon if sold by the gallon, and per gallon and per liter if sold by the liter at which motor fuel may be purchased from such pumps or other dispensing equipment.

1. Data to be shown on price signs:

i. The price signs shall show the unit price per gallon if the fuel is sold by the gallon;

ii. If the fuel is sold per liter, the signs shall show the unit price per gallon and the unit price per liter. The price per gallon shall be located on the top half of the sign and the price per liter shall be located on the bottom half of the sign on differing background colors such as black and white;

iii. If the credit price is the same as the cash price a statement in words to that effect may be included in the signage, in lieu of repeating the unit price in digits for both cash and credit prices. Such signs shall show no other data than the data required by this subsection.

2. Such unit price includes all taxes imposed, whether State or Federal. Beneath the unit price there shall be either the statement:

i. “Includes.. (insert the tax per gallon).. N.J. Tax.. (insert tax per gallon).. Federal Tax;”

ii. “Includes State and Federal Taxes”;

iii. “Includes N.J. and U.S. Taxes”;

iv. “Includes all Taxes.”

3. The size of the whole numbers and fractions which are a part of the price sign must be of such a size that will be readily readable by a customer approaching the pump.

4. The statement that all taxes are included shall be in letters at least ⅜ of an inch high.

5. The colors of all price signs shall be of such combination that the sign may be easily read by any person purchasing motor fuel from the pump or other dispensing equipment to which the sign is attached.

6. Any figure or fraction used in any price computing mechanism constituting a part of a computing pump, or any other dispensing equipment shall not be considered a price sign under the provision of the section.

(d) Upon application by an interested party, the Division may specifically find and approve for use in a particular case that a proposed pump topper sign meets the intention and spirit of the price disclosure law although the dimensions

and physical composition of the proposed signage vary slightly from that noted in this rule.

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

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

Section substantially amended.

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. 56:6-2.3.

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 net price lower than the posted price applicable at the time of the sale, except that credits earned through purchases on a credit card may be utilized by a person to receive a rebate in the purchase of motor fuels from credit card issuers.

(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.

Amended by R.1997 d.352, effective September 2, 1997.

See: 29 N.J.R. 2639(a), 29 N.J.R. 3854(a).

In (c), substituted "net price" for "new price", and provided an exception for receiving motor fuel purchase rebates from credit card issuers.

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".

Amended by R.1982 d.369, effective October 18, 1982.
See: 14 N.J.R. 705(a), 14 N.J.R. 1166(c).

(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.

Added (b)-(c) and deleted example.
 Amended by R.1983 d.257, effective July 5, 1983.
 See: 15 N.J.R. 614(a), 15 N.J.R. 1105(b).
 Added new (c) and recodified old (c) to new (d).
 Amended by R.1983 d.636, effective January 17, 1984.
 See: 15 N.J.R. 1742(a), 16 N.J.R. 148(b).
 Section substantially amended.
 Amended by R.1995 d.79, effective February 6, 1995.
 See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

18:19-2.8 Gifts with fuel purchases

(a) No motor fuel dealer shall give away anything of value when such "give-away" is conditioned upon the purchase of motor fuel and would have the tendency to produce sharp and drastic price reductions, create price wars or foster price instability throughout the industry.

(b) Any such "give-away" in connection with so-called anniversaries, grand openings, or similar occasions is prohibited.

Historical Note

Formerly RC-4, filed 5/11/61.

Statutory References

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

Case Notes

An administrative notice which amends or repeals a rule is invalid rulemaking (cited as N.J.A.C. 18:19-2(a)). *Shapiro v. Albanese*, 194 N.J.Super. 418, 477 A.2d 352 (App.Div.1984).

Rule violation affirmed in trading stamp giveaway with fuel purchase: Director's administrative order banning all giveaways by motor fuels dealers held invalid as rulemaking in violation of the Administrative Procedure Act. *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).

18:19-2.9 "Retail" fixed location sales

(a) "Retail" sales are sales made from a fixed place of business directly into the fuel tank or tanks of the motor vehicles that consume the fuel.

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

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

2. A tank truck cannot, under any circumstances, be licensed as a fixed place of business, although it may be part of a temporary dispensing equipment used at a fixed location.

Historical Note

Formerly M.F.-12, filed 1/1/48.

Statutory References

N.J.S.A. 56:6-1.

18:19-2.10 Conversion tables

(a) The following formula is designed to assist the purchaser of motor fuels in converting liters to approximately equivalent gallons or determine tank capacity in liters:

3.785 liters = 1 gallon

1 liter = 0.2642 gallon

If greater precision is needed

3.785412 liters = 1 gallon

1 liter = 0.264172 gallon

1. The following table will help convert liters to approximately equivalent gallons or find tank capacity in liters:

Liters	Gallons
1	0.26
4	1.1
10	2.6
15	4.0
19	5.0
20	5.3
25	6.6
30	7.9
35	9.2
38	10.0
40	10.6
45	11.9
50	13.2
55	14.5
57	15.0
60	15.9
65	17.2
70	18.5
75	19.8
80	21.1
85	22.5
90	23.8
95	25.1
100	26.4

2. On the following approximate price comparison chart the gallon price equivalents are rounded to the nearest penny.

Price per liter cents	Price per gallon dollars
.28	1.06
.29	1.10
.30	1.14
.31	1.17
.32	1.21
.33	1.25
.34	1.29
.35	1.32
.36	1.36
.37	1.40
.38	1.44
.39	1.48
.40	1.51
.41	1.55
.42	1.59
.43	1.63

Price per liter cents	Price per gallon dollars
.44	1.67
.45	1.70
.46	1.74
.47	1.78
.48	1.82
.49	1.85
.50	1.89
.51	1.93
.52	1.97
.53	2.01
.54	2.04
.55	2.08
.56	2.12
.57	2.16
.58	2.20

Price per liter cents	Price per gallon cents
35.3	133.6
35.4	134.0
35.5	134.4
35.6	134.8
35.7	135.1
35.8	135.5
35.9	135.9
36.0	136.3
36.1	136.7
36.2	137.0
36.3	137.4
36.4	137.8
36.5	138.2
36.6	138.5
36.7	138.9
36.8	139.3
36.9	139.7
37.0	140.1
37.1	140.4
37.2	140.8
37.3	141.2
37.4	141.6
37.5	142.0
37.6	142.3
37.7	142.7
37.8	143.1
37.9	143.5
38.0	143.8
38.1	144.2
38.2	144.6
38.3	145.0
38.4	145.4
38.5	145.7
38.6	146.1
38.7	146.5
38.8	146.9
38.9	147.3
39.0	147.6
39.1	148.0
39.2	148.4

3. The State of New Jersey Official price per liter to price per gallon conversion chart follows:

Price per liter cents	Price per gallon cents
30.9	117.0
31.0	117.3
31.1	117.7
31.2	118.1
31.3	118.5
31.4	118.9
31.5	119.2
31.6	119.6
31.7	120.0
31.8	120.4
31.9	120.8
32.0	121.1
32.1	121.5
32.2	121.9
32.3	122.3
32.4	122.6
32.5	123.0
32.6	123.4
32.7	123.8
32.8	124.2
32.9	124.5
33.0	124.9
33.1	125.3
33.2	125.7
33.3	126.1
33.4	126.4
33.5	126.8
33.6	127.2
33.7	127.6
33.8	127.9
33.9	128.3
34.0	128.7
34.1	129.1
34.2	129.5
34.3	129.8
34.4	130.2
34.5	130.6
34.6	131.0
34.7	131.4
34.8	131.7
34.9	132.1
35.0	132.5
35.1	132.9
35.2	133.2

New Rule, R.1982 d.77, effective March 15, 1982.
See: 13 N.J.R. 855(a), 14 N.J.R. 285(c).

18:19-2.11 through 18:19-2.19 (Reserved)

SUBCHAPTER 3. PREPARATION OF FINES

18:19-3.1 Violations and penalties

(a) Rules concerning violations and penalties follow:

1. Every retail dealer who fails to post and publicly display in the manner required by this chapter, a sign or signs stating the price per gallon or per gallon and per liter of all motor fuel sold by said retail dealer; or

2. Who sells motor fuel at a price other than the per gallon or per gallon and per liter price, as provided by N.J.S.A. 56:6-2; or

3. Who violates any other provisions of N.J.S.A. 56:6-2, shall, upon conviction:

- i. Be subject to a penalty of not less than \$50.00 nor more than \$200.00 for each offense; and
- ii. His license will be suspended for a period of not less than five days nor more than 30 days; and
- iii. In default of the payment of such penalty shall be imprisoned for a period not to exceed 30 days.

4. If there is a conviction upon a second or subsequent offense, the license of the convicted retail dealer will be revoked.

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

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

(a)1: Added "or signs" and "or per gallon and per liter"; (a)2: Added "or per gallon and per liter."

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. 56:6-3.

18:19-3.2 Procedure for collection of penalties

The following procedure will be followed in actions for the enforcement of penalties set forth in N.J.A.C. 18:19-3.1.

(a) Proceeding: complaint; process; summary hearing; judgment; payment of judgment and costs.

1. The Penalties provided for in these regulations will be sued for in the name of the Director;

2. The Superior Court and every municipal court is authorized, upon the filing of a complaint in writing, duly verified by the Director, or by any assistant or employee of the Director, which may be made upon information or belief, that any retail dealer has violated any of the requirements of N.J.A.C. 18:19-2 to issue process at the suit of the Director as plaintiff;

3. Such process will be either in the nature of a summons or warrant, which may be issued without any order of the court or judge first obtained against the person or persons so charged;

4. When such process is in the nature of a warrant it will be returnable forthwith, and when in the nature of a summons, it will be returnable in not less than five nor more than 10 days;

5. Such process must specify the section of the Act which is alleged to have been violated by the defendant or defendants, and upon the return of such process or at any time to which the trial is adjourned, the court will proceed and summarily hear the testimony and without the filing of any pleadings, determine the matter and give judgment,

without a jury, either for the plaintiff for the recovery of such penalty with costs or for the defendant;

6. If a judgment is rendered for the plaintiff, the court will cause any defendant, who may refuse or fail to pay forthwith the amount of the judgment rendered against him and all costs and charges incident thereto, to be committed to the county jail for any period not exceeding the period mentioned in N.J.A.C. 18:19-3.1.

(b) Officers to execute process; adjournment of hearing or trial; appearance bond.

1. The officers to serve and execute all process under the Act will be officers authorized to serve all process out of such court;

2. The court has the power to adjourn the hearing or trial in any case from time to time, but in such case, except in case where the first process was a summons, it is the duty of the judge of such court, to detail the defendant in safe custody, unless he enters into a bond to the Director with at least one sufficient surety, in a sum fixed by the court which will not be less than \$50.00 nor more than \$200.00, conditioned on:

i. His appearance on the day to which the hearing is adjourned;

ii. And thence from day to day until the case is disposed of;

iii. And then to abide by the judgment of the said court; and

iv. Such bond if forfeited may be prosecuted by the Director.

(c) Signing and sealing of process; costs; docketing of judgment; execution.

1. The clerk of court may sign and seal any process required to issue under the Act, except a warrant of commitment;

2. The costs recoverable in any such proceeding will be the same as the costs taxed in actions in said court and will be recoverable by the Director in the event of the conviction of the defendant;

3. Any judgment recovered for a penalty under the provisions of the Act in any municipal court may be docketed with the Superior Court as other judgments of said court are docketed; cf. N.J.S.A. 56:6-4.1c.

4. An execution may be issued for the collection of any judgment obtained under the Act against the goods and chattels and body of the defendant without any order first obtained for such purpose.

(d) Injunction.

1. The Director may file a bill in the Superior Court for an injunction to prohibit any habitual violation of the Act, or any of the orders or rules made by the Director, and every such action will proceed in the Superior Court according to the rules and practice of that court;

2. In cases of emergency such actions have precedence over other litigation pending at the time in such Court, and a final hearing may be had within such time and on such notice as the court may direct.

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. 56:6-4.

18:19-3.3 Enforcement

The Superintendent, who, together with the Director, has been given enforcement authority pursuant to N.J.S.A. 56:6-4.1 shall, periodically at the request of the Director, meet with or appoint a representative to meet with, the Director or his agent in order to coordinate enforcement activities pursuant to N.J.S.A. 56:6-1 et seq.

New Rule, R.1982 d.77, effective March 15, 1982.
See: 13 N.J.R. 855(a), 14 N.J.R. 285(c).

18:19-3.4 through 18:19-3.8 (Reserved)**SUBCHAPTER 4. RECORDS REQUIRED;
TOTALIZERS****18:19-4.1 Records required to be kept by retail dealer, and seller and user of special fuels**

(a) Every retail dealer must keep records as described in this section and as are necessary to the determination of whether or not such retail dealer has observed the provisions of this chapter.

1. All records must be safely preserved for a period of four years in such manner as to insure their security and accessibility for inspection by the Director or any employee of the Division of Taxation engaged in the administration of these rules;

2. The Director may consent to the destruction of any such records at any time within said period.

(b) Every retail dealer, seller of special fuels and user of special fuels must keep the following records:

1. A daily sales record which shows the total quantity of each product sold each day, the unit price of each product and the total money, per product, collected on such sales:

i. The total money, per product, collected includes both cash and charge or credit sales;

ii. Supporting detail records may be kept in any manner the dealer elects;

iii. Since motor fuels sales and/or use are recorded by meter (that is, totalizer), allowance must be made for pump priming and meter testing. Pump totalizer readings, as part of the sales records, shall be kept on a daily basis.

2. A purchase record which must include a file of all invoices or delivery tickets covering all merchandise purchased for resale:

i. Every such invoice or delivery ticket must show on its face the kind of product and the quantity purchased, the unit price and the total amount of the invoice;

ii. Gasoline invoices or tickets must show the New Jersey tax paid.

3. If monthly statements are received in place of daily invoices or delivery tickets, every such statement must show on its face the same detail as required herein with respect to invoices and delivery tickets:

i. All such monthly statements must be retained;

ii. Cancelled checks and stubs must be retained as receipts for payment of merchandise;

iii. Daily invoices and delivery tickets shall be maintained for a period of four years unless the Director consents to a destruction of such records at any time within such period.

4. A monthly expense record, which may be in any manner that the dealer may elect, must include all overhead and general business expenses:

i. Cancelled checks and stubs must be retained as receipts for all expense items;

ii. If no checking account is kept, receipts are required showing payment of major expense items (e.g., rent, salaries, light, heat and power, major repairs, insurance and taxes);

iii. Gasoline or special fuels drawn from the dealer's pumps and used in the conduct of his business (operating delivery or towing vehicles, cleaning equipment, etc.), is to be charged to an expense and not included in sales.

5. A monthly physical inventory record, which shows a record of the number of gallons of each kind of motor fuel product on hand at the close of each month's business:

i. In addition to gasoline, it must include kerosene and any diesel oil or other product, which will later be sold for use or used in a motor vehicle;

ii. Such record must be the result of actual measurement taken at the end of the last day of each month.

6. All records kept by retail dealers, sellers or users of special fuels must be safely preserved for a period of four years in such a manner as to insure their security and accessibility for inspection by the Director or any employee of the Division of Taxation engaged in the administration of the motor fuels tax rules provided in N.J.A.C. 18:18-1.1 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).

Historical Note

Formerly RC-3, filed 1/1/48.

Statutory References

N.J.S.A. 56:6-6, 12.

N.J.S.A. 54:39-33.

18:19-4.2 Totalizers

(a) All above ground pumps connected to storage tanks which are used to dispense fuels by a retail dealer or a seller of special fuels or a user of special fuels, as defined in chapter 39 of Title 54 of the Revised Statutes who delivers or places fuels into the fuel supply tank or other fueling receptacles or devices of a motor vehicle, or who uses fuels within the meaning of the word "use" as defined in that chapter, or who makes sales to unlicensed buyers, shall have in operation at all times the pump is in use, a working, sealed, gallons totalizer of at least six digits.

(b) The six digits are measured from the left of the decimal point and do not represent tenths or fractions of a gallon.

(c) Users of special fuels whose monthly usage does not exceed 7,500 gallons are not required to have sealed totalizers.

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

SUBCHAPTER 5. POWERS OF THE DIRECTOR

18:19-5.1 Injunction to prohibit violations

The Director may file a bill in the Superior Court of this State for an injunction to prohibit any habitual violation of the Act, or any of the orders, rules, regulations made by the Director, and every such action will proceed in the Superior Court according to the rules and practice of that Court, and in cases of emergency have precedence over other litigation pending at that time, and a final hearing may be had within such time and on such notice as the Court directs.

Statutory References

N.J.S.A. 56:6-4(e).

18:19-5.2 Auditing and investigations

(a) For the purpose of administering the Act, the Director whenever he deems it expedient, may make or cause to be made, by an employee of the Division of Taxation engaged in the administration of these regulations, an audit, examination or investigation of the books, records, papers, vouchers, accounts and documents of any retail dealer.

(b) It is the duty of every retail dealer, his agents or employees, to exhibit to the Director or to any such employee of the Division of Taxation all such books, records, papers, vouchers, accounts and documents of the retail dealer and to facilitate any such audit, examination or investigation so far as it may be in his or their power so to do.

Amended by R.1979 d.137, effective April 4, 1979.
See: 11 N.J.R. 149(d), 11 N.J.R. 264(b).

Statutory References

N.J.S.A. 56:6-7.

18:19-5.3 Hearings; oaths; subpoenas

(a) The Director or any employee of the Division of Taxation designated by him may conduct informal or formal hearings, administer oaths and examine under oath any retail dealer, his agents or employees and any other witnesses, for the purpose of investigating alleged violations of the act, or for the purpose of asserting facts, which will enable the Director to administer the provisions of the Act.

(b) The Director or any employee of the Division of Taxation designated by him has the power by subpoena, signed by the Director and served in the same manner as like process in civil actions in the Supreme Court, to compel the attendance of witnesses and the production of any books, records, papers, vouchers, accounts or documents of any retail dealer at any hearings held pursuant to the provisions of the Act.

1. The fees of witnesses required to attend any such hearing are the same as those allowed to witnesses appearing in the Supreme Court;

2. Such fees are paid in the manner provided for the payment of other expenses incident to the administration of these regulations. (See N.J.A.C. 18:18-2.10 for informal and formal hearing procedure.)

Statutory References

N.J.S.A. 56:6-8, 9.

18:19-5.4 Refusal to obey subpoena

If any person subpoenaed to attend any hearing held pursuant to these regulations fails to appear, to be examined or answer any questions or produce any book, records, papers, vouchers, accounts or documents properly subpoenaed by the Director or employee of the Division of Taxation designated by the Director to act in his behalf, the Director may apply to the Superior Court to compel such person to comply with the subpoena.

Statutory References

N.J.S.A. 56:6-10.

18:19-5.5 Suspension and revocation of license

(a) The Director may suspend or revoke the license held by any retail dealer for a violation of any of the provisions of these rules or on other reasonable ground or grounds, after five days' notice of such proposed revocation or suspension, and the ground or grounds thereof to such retail dealer.

(b) Said notice will be served personally or by registered mail upon the retail dealer and will set forth the date, time, and place of hearing to be conducted under the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for that purpose.

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. 56:6-14.

18:19-5.6 Power to seal totalizers

The Director or his or her assistants may, by the use of seals or sealing devices, ensure that totalizers or seals cannot be removed, altered, or manipulated.

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

SUBCHAPTER 6. CRIME

18:19-6.1 Altering totalizer

Any person who, without permission or authority and for the purpose of evading or circumventing any law of this State, alters, manipulates, replaces, or in any other manner tampers or interferes with or causes to be altered, manipulated, replaced, tampered or interfered with, a totalizer, or who operates a pump not equipped with a sealed totalizer required by these rules, is guilty of a crime of the fourth degree.