

SUBCHAPTER 7. ADMINISTRATIVE COSTS OF THE CAMPAIGN

17:28-7.1 Costs of operating payroll deduction system

(a)-(b) (No change.)

(c) The appropriate disbursing officer for each local unit of government shall establish a payroll deduction system for the collection and distribution of voluntary charitable contributions by employees of the local unit of government.

17:28-7.2 Budget for other Campaign costs

(a) Proposals for campaign manager submitted to the Campaign Steering Committee shall include a budget for other Campaign costs including, but not limited to, the design, printing, or preparation, and distributions of Campaign materials and Campaign accounting and administration to be conducted by the campaign manager.

(b) The budget for other Campaign costs may not exceed [10 percent] **the statutorily designated percentage (see N.J.S.A. 52:14-15.9c12)** of the total contributions received during the prior Campaign.

17:28-7.3 Payment of other Campaign costs

(a) (No change.)

(b) Other Campaign costs shall not exceed [10 percent] **the statutorily designated percentage (see N.J.S.A. 52:14-15.9c12)** of the total amount of contributions received.

(c) (No change.)

(d) In the event that, after the actual total amount of Campaign contributions is received, the compensation deducted from the first three quarterly disbursements exceeds [10 percent] **the statutorily designated percentage (see N.J.S.A. 52:14-15.9c12)** of that total, the [campaign manager] **Campaign Manager** shall promptly reimburse the overage to the interest-bearing account for the Campaign. That amount shall be distributed to charitable agencies in the same manner as interest on the account is distributed under this chapter.

determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated.

The Division proposes to readopt these rules with necessary amendments to conform the rules to the current provisions of “An Act to Regulate the Retail Sale of Motor Fuels” (Act), N.J.S.A. 56:6-1 et seq. The Act was enacted into law by P.L. 1938, c. 163. The statute protects the interest of motorists and of retail dealers by facilitating and safeguarding the orderly distribution and marketing of motor fuels. The rules have been updated and revised periodically through internal agency review as required by changes in legislation and changes in the regulatory environment.

In 1992, it was determined that the Act and the Motor Fuels Tax Act needed to be updated. The New Jersey Commission of Investigation issued a report, dated February 1992, entitled Motor Fuel Tax Evasion. It detailed and analyzed some of the weaknesses of the then-current system. Shortly afterward, on June 22, 1992, P.L. 1992, c. 23 was enacted. It resulted in major revisions to the collection and enforcement procedures of the Motor Fuels Tax Act and the Act.

As a result of that statutory action, major amendments to the rules were adopted in order to conform them to the legislative action (see 26 N.J.R. 4512(a); 27 N.J.R. 535(a)).

In addition, P.L. 1995, c. 51, was approved March 17, 1995. That statutory change permitted a rebate in the purchase of motor fuels with respect to credits earned through purchases on a credit card. As a result, N.J.A.C. 18:19-2.3 was updated to conform the rules to the statute (see 29 N.J.R. 2693(a); 3854(a)).

The rules proposed for readoption are summarized as follows:

Subchapter 1 contains general provisions, including definitions.

Subchapter 2 deals with posted prices and signs, advertising, rebates, allowances, trademarks, and display of trade names.

Subchapter 3 sets forth fines, violations, penalties, and enforcement.

Subchapter 4 deals with totalizers and records required to be kept by retail dealers.

Subchapter 5 sets forth powers of the Director to enforce the statute.

Subchapter 6 deals with crime of the fourth degree of altering a totalizer.

The Division proposes technical amendments to correct grammar and typographical errors, to substitute plain language, and to recodify rules for the purpose of achieving clarity.

Specifically, the following changes are proposed:

N.J.A.C. 18:19-1.1 is proposed for amendment to delete the terms “seller of special fuels,” “special fuels,” and “user of special fuels” to reflect the change in the point of taxation that occurred under the Motor Fuel Tax Act in 2010 (See P.L. 2010, c. 22, § 56, effective June 29, 2010, operative Jan. 1, 2011; amended 2010, c. 79, § 29) which repealed the former Motor Fuels Tax Act, N.J.S.A. 54:39-1 et seq. (P.L. 1992, c. 23). P.L. 2010, c. 22 (sometimes hereinafter referred to as the “MFTL”), was approved June 29, 2010, and became effective for privilege periods beginning on and after January 1, 2011.

N.J.A.C. 18:19-2.1 and 2.2 are proposed for amendment to provide for digital signage in addition to a suitable bracket or slot arrangement due to changes in technology relating to signage.

N.J.A.C. 18:19-2.3 is proposed for amendment to provide for credits earned through purchases on a debit card or rewards card as set forth under N.J.S.A. 56:6-2(e) and to delete the term “prizes” in conformity with N.J.S.A. 56:6-2(f).

N.J.A.C. 18:19-4.1(b)4 and 6, and 4.2 are proposed for amendment to delete the terms “gasoline,” “seller of special fuels,” “special fuels,” and “user of special fuels” to reflect the change in the point of taxation that occurred under the Motor Fuel Tax Act in 2010.

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

Social Impact

The Motor Fuels—Retail Sales rules were originally adopted to provide motorists, oil companies, and retail dealers of motor fuels with guidance and assistance in the administration of the Act. The Act and the rules promulgated pursuant to the Act reflect a balancing of various interests including the motorists’ right to know the price of fuels available and the prevention of potentially destructive competition between and among motor fuels dealers. The marketing of motor fuels is

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Motor Fuels—Retail Sales

Proposed Readoption with Amendments: N.J.A.C. 18:19

Authorized By: John J. Ficara, Acting Director, Division of Taxation.

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

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

Proposal Number: PRN 2017-115.

Submit comments by September 1, 2017, to:

Elizabeth J. Lipari
Administrative Practice Officer
Division of Taxation
Director’s Office
50 Barrack Street
PO Box 240
Trenton, NJ 08695-0240
E-mail: Tax.RuleMakingComments@treas.nj.gov

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 18:19 was scheduled to expire on November 29, 2017. As the Division of Taxation (Division) filed this notice of proposal with the Office of Administrative Law prior to that date, the expiration date of the chapter was extended 180 days to May 28, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division has reviewed these rules and has

highly price sensitive, and patterns of demand change quickly after a change in price is made by a dealer. In this context, efforts have been made to maintain orderly sales practices.

Economic Impact

The rules proposed for readoption with amendments will continue to provide for the orderly marketing of motor fuels in New Jersey and, thus, directly affect the economy of the State and region.

Federal Standards Statement

A Federal standards analysis is not required because State regulation of the retail sales of motor fuels is not subject to Federal regulatory standards. The administration of rules addressing these issues at the State level is an independent and separate jurisdiction.

Jobs Impact

The rules proposed for readoption with amendments are not expected to result in the creation or loss of jobs in the State.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments apply to any taxpayer subject to the Act, N.J.S.A. 56:6-1 et seq., without regard to whether the taxpayer is a small business as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments are designed to implement and explain the operation of the Act, which places certain trade practice requirements on retail sellers of motor fuels, such as requirements for the display of prices. The statute on which the rules are based, N.J.S.A. 56:6-1 et seq., makes no distinction between small businesses and other types of entities.

The rules proposed for readoption with amendments do not impose additional reporting, recordkeeping, or other compliance requirements. The Division expects that no services beyond customary accounting services are needed for a business to comply with the requirements of the rules proposed for readoption with amendments. The rules relate to trade practices, such as display of signs, pricing, advertising, rebates, and allowances, and contain design, as well as performance requirements. Compliance with the rules proposed for readoption with amendments should not require complex accounting or any other complex professional services, or the expenditure of substantial capital. Each taxpayer may make individual decisions regarding the purchase of optional equipment or retaining professional services to ensure that the taxpayer is in compliance with the Act. The rules proposed for readoption with amendments are intended to benefit sellers of motor fuels by providing for fair trade practices in the sale of motor fuels.

Every person subject to the Act is required to keep receiving records, accounts payable ledgers, account 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 (cash or charge) in motor fuels by retail dealers. Where specific forms are required, the forms are provided by the Division.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not result in a change in the average costs associated with housing or on any aspect of the affordability of housing because the rules proposed for readoption with amendments deal solely with the retail sales of motor fuels.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments would not result in a change in the housing production either within Planning Areas 1 or 2, or within designated centers, nor do they have an effect on the State Development or Redevelopment Plan. This is because the rules proposed for readoption with amendments have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey. The rules proposed for readoption with amendments only involve the retail sales of motor fuels.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:19.

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

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:

“Act” means “An Act to Regulate the Retail Sale of Motor Fuels,” N.J.S.A. 56:6-1 et seq.

...

“Motor Fuels” means:

1. (No change.)

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. (No change.)

“Person” means and includes [natural persons] **individuals** 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.

...

“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.

...

[“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.]

...

[“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.]

...

[“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.]

SUBCHAPTER 2. POSTED PRICES: ADVERTISING; REBATES; ALLOWANCES; [AND PRIZES; TRADE MARKS] **TRADEMARKS**

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] **this chapter**.

(b) (No change.)

(c) No retail dealer shall sell or offer for sale any motor fuel without having a **digital display or** 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 5 1/2 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 7 1/2 inches and not more than 11 1/2 inches by 11 1/2 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.-ii. (No change.)

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.-6. (No change.)

(d) (No change.)

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 **displayed digitally** or 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 5 1/2 inches [x] **by** [8] **eight** inches and not more than 12 inches [x] **by** 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 **digital display**, or 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] **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] **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 **or she** drives into the station.

(e) (No change.)

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

(a)-(b) (No change.)

(c) No rebates, allowances, 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, **debit card**, or **rewards 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.

18:19-2.4 Brand names and trade names displayed

(a) Conspicuous display.

1. (No change.)

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] **trademark** appearing on such container or dispensing equipment attached thereto.

(b) Visible to customers.

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

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

(c) Brand names and [trade-marks] **trademarks** 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] **trademark**, the container or dispensing equipment must have, conspicuously displayed thereon, the words “No Brand.”[.]

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

(a) Except as provided [hereinunder] **in this section**, 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 **or her** 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] **see** N.J.A.C. 18:19-[2.1(c) 1ii]**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)-(e) (No change.)

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) (No change.)

18:19-2.9 “Retail” fixed location sales

(a) (No change.)

(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] **retail dealer’s license** in the name of the seller.

1.-2. (No change.)

[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.-2. (No change.)

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

i. (No change.)

ii. His **or her** license will be suspended for a period of not less than five days nor more than 30 days; and

iii. (No change.)

4. (No change.)

18:19-3.2 Procedure for collection of penalties

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

[1.] **i.** The [Penalties] **penalties** provided for in [these regulations] **this subchapter** will be sued for in the name of the Director;

Recodify existing 2.-5. as **ii.-v.** (No change in text.)

[6.] **vi.** 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 **or her** 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)] **2.** Officers to execute process; adjournment of hearing or trial; appearance bond.

[1.] **i.** (No change in text.)

[2.] **ii.** 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] **the defendant** 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.] **(1)** His **or her** appearance on the day to which the hearing is adjourned;

[ii.] **(2)** And [thence] **then** from day to day until the case is disposed of;

Recodify existing iii.-iv. as **(3)-(4)** (No change in text.)

[(c)] **3.** Signing and sealing of process; costs; docketing of judgment; execution.

Recodify existing 1.-2. as **i.-ii.** (No change in text.)

[3.] **iii.** 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.] **see** N.J.S.A. 56:6-4.1c**4.1.c.**

[4.] **iv.** (No change in text.)

[(d)] **4.** (No change in text.)

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 **or her** agent in order to coordinate enforcement activities pursuant to N.J.S.A. 56:6-1 et seq.

[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) (No change.)

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

1. A daily sales record [which] **that** 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.-iii. (No change.)

2. A purchase record [which] **that** 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; **and**

ii. (No change.)

3. (No change.)

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. (No change.)

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

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

5. (No change.)

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] **ensure** 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] **Motor Fuels Tax** rules provided in N.J.A.C. 18:18[-1.1 et seq].

18:19-4.2 Totalizers

(a) All [above ground] **above-ground** pumps connected to storage tanks [which] **that** 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] **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 **that** is in use, a working, sealed, gallons totalizer of at least six digits.

(b) (No change.)

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

SUBCHAPTER 5. POWERS OF THE DIRECTOR

18:19-5.2 Auditing and investigations

(a) For the purpose of administering the Act, the Director whenever he **or she** 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] **this chapter**, 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[, and his **or her** 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.

18:19-5.3 Hearings; oaths; subpoenas

(a) The Director or any employee of the Division of Taxation designated by him **or her** may conduct informal or formal hearings, administer oaths, and examine under oath any retail dealer, his **or her** agents or employees, and any other witnesses, for the purpose of investigating alleged violations of the [act] **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 **or her** 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. (No change.)

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

18:19-5.4 Refusal to obey subpoena

If any person subpoenaed to attend any hearing held pursuant to [these regulations] **this chapter** fails to appear, to be examined or answer any questions, or **to** produce any books, 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 **or her** behalf, the Director may apply to the Superior Court to compel such person to comply with the subpoena.

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] **this chapter** 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) (No change.)

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] **this chapter**, is guilty of a crime of the fourth degree.

OTHER AGENCIES

(a)

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

District Zoning Regulations Official Zoning Map

Block 451, Lots 19.01 and 20.01, in the Township of North Bergen

Proposed Amendment: N.J.A.C. 19:4-3.3

Authorized By: New Jersey Sports and Exposition Authority, Ralph J. Marra, Jr., Senior Vice President, Legal and Regulatory Affairs.

Authority: N.J.S.A. 5:10A-1 et seq., specifically 5:10A-7(b). See also N.J.A.C. 19:3-1.3 and 1.5.

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

Proposal Number: PRN 2017-119.

A **public hearing** on this matter will be held on Tuesday, July 25, 2017, at 10:00 A.M. at the following location:

New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Submit written comments by September 1, 2017, to:

Sara J. Sundell, P.E., P.P.
Director of Land Use Management
New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
sara.sundell@njmeadowlands.gov

It is requested (but not required) that anyone submitting written comments also include a disc or USB flash drive containing a digital version, preferably in Microsoft Word. Interested persons may obtain a copy of this notice of proposal from the New Jersey Sports and Exposition Authority (NJSEA) website, www.njmeadowlands.gov. The notice of proposal may also be inspected during normal office hours at the NJSEA, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071.

The agency proposal follows:

Summary

On January 11, 2017, a petition for rezoning was received by the New Jersey Sports and Exposition Authority from the property owner, Hanover Holdings, LLC, regarding the property identified as Block 451, Lots 19.01 and 20.01 (subject property), located within the Hackensack Meadowlands District (HMD), in the Township of North Bergen. The subject property is currently designated Environmental Conservation on the Hackensack Meadowlands District Official Zoning Map. The petition requests that the NJSEA rezone Block 451, Lots 19.01 and 20.01, from its existing zoning of Environmental Conservation (EC) to Highway Commercial (HC). Access to the subject property from New Jersey State Highway Route 3 Ramp A was granted to the property owner by the NJDOT in 1961 and noted on the "General Property Parcel Map, Route 3, (1953) Section 4, Pleasant Avenue to 8th Street, showing existing right of way and parcels to be acquired, City of Union,

Township of North Bergen and Town of Secaucus, County of Hudson," Sheets 1 and 2 of 19, dated February 1961.

The subject property is comprised of two unimproved parcels totaling approximately 18.06 acres. There are 3.57 acres of uplands on the combined two properties, which are located predominantly in the center of the subject property along the northern property line between Lot 20.01 and adjacent Lot 21. A small portion of the 3.57 acres of uplands extends along the northern property line to the east and provides access to Route 3 Ramp A, and another small portion of uplands extends into Lot 19.01. Approximately 14.49 acres of wetlands cover the remainder of the site. The petitioner has provided a Jurisdictional Determination, dated November 8, 2015, from the U.S. Army Corps of Engineers, that confirms the location of wetlands on a portion of the site; the property was formerly thought to be comprised almost entirely of wetlands. To the north, the subject property is bounded by Block 451, Lot 21, which contains 3.66 acres of uplands and was previously rezoned from the EC zone to the HC zone in 2016 (North Bergen Motel Associates, LLC/Petition for Rezoning, NJSEA File SP-719). Located directly west and south of the subject property are several lots within the EC Zone that are predominantly wetlands.

The EC zone, the current zone designation of Block 451, Lots 19.01 and 20.01, is intended to provide for the preservation and enhancement of the ecological values of wetlands, open water, and adjacent uplands within the District. The zone seeks to provide public access to these areas and encourage scientific and educational study with regard to wetland ecology. The petitioner's planning report states that the proposed rezoning to the HC zone would result in the potential ability of the applicant to develop the uplands, which will contribute to job creation and the economic vitality of the area, while still protecting adjacent wetlands. The report also states that the development of the subject property, as proposed, would allow for an orderly development of commercial space on uplands. The proposed rezoning is intended to provide for the continued protection of existing, onsite wetlands by concentrating development on the uplands.

The petitioner has indicated a desire to construct a hotel on the subject property, in accordance with the HC zone regulations. Hotels are allowed in the HC zone (per N.J.A.C. 19:4-5.59), but not in the EC zone. Any proposed development in the rezoned area would be subject to the affordable housing requirements set forth by law or court order at the time of zoning certificate application, including the payment of fees associated with the Statewide Non-Residential Development Fee Act (P.L. 2008, c. 46, §§ 32-38), signed into law on July 17, 2008.

At its regularly scheduled meeting of February 16, 2017, the NJSEA Board of Commissioners authorized staff to prepare and submit a notice of proposal to the Office of Administrative Law for publication in the New Jersey Register and conduct a public hearing to obtain public input regarding this matter.

An advance notice of rules was provided to stakeholders (in accordance with Executive Order No. 2 (2010)) prior to the filing of the notice of proposal, through in-person meetings with the Hackensack Riverkeeper and the municipal business administrator. Comments received during those meetings were taken into consideration in the preparation of the proposed rezoning.

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

Social Impact

The subject parcel proposed to be rezoned comprises approximately 18.06 acres. No notable social impact is envisioned as a result of the proposed rezoning of the parcel to the HC zone. Improvement to the subject property will direct development onto the uplands portion of the site while preserving the onsite wetlands. The proposed rezoning of the subject property adjacent to a single HC-zoned parcel at Block 451, Lot 21, would create a more comprehensive zone plan for the uplands areas in this portion of the District, thereby promoting a more cohesive development pattern on parcels with limited development potential.

The entity most impacted would be the subject property owner. The development of a hotel on a property located in the HC zone would require the submission of a zoning certificate application. If the rezoning