

SUBCHAPTER 12B – GASOLINE, DIESEL, AND BLENDS

SECTION .0100 – LICENSE AND BOND

17 NCAC 12B .0101 RESERVED 17 NCAC 12B .0102 EXPORTER'S LICENSE

An exporter of motor fuel from North Carolina that is not licensed as a distributor must have an exporter's license. An applicant for an exporter's license must meet the same licensing requirements as an applicant for a distributor's license, except the requirement of filing a bond.

History Note: Authority G.S.105-262; 105-449.65(a)(5); 105-449.72;
Eff. August 1, 2003.

17 NCAC 12B .0103 LICENSED DISTRIBUTOR CONSIDERED TO BE LICENSED AS AN IMPORTER

A licensed distributor is considered to have a license as an importer when the following apply:

- (1) All motor fuel is purchased from an elective or permissive supplier; and
- (2) the person reports, in the application for a license as a distributor, each state from which the distributor intends to import motor fuel.

History Note: Authority G.S. 105-262; 105-449.65; 105-449.69;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0202 effective November 1, 2002.

17 NCAC 12B .0104 NOTICE OF ADDITIONAL STATES

A person who imports or exports from a state different from those listed on an application for license, shall give written notification to the Secretary of the name of such state.

History Note: Authority G.S. 105-262; 105-449.69(d);
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0203 effective November 1, 2002.

17 NCAC 12B .0105 AMOUNT OF BOND OR IRREVOCABLE LETTER OF CREDIT REQUIRED

The amount of motor fuel bond or irrevocable letter of credit shall be rounded to the nearest one thousand dollars (\$1,000). If the amount required is exactly between two one thousand dollar (\$1,000) increments, the amount shall be rounded to the higher of the two.

History Note: Authority G.S. 105-262; 105-449.72;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0204 effective November 1, 2002.

17 NCAC 12B .0106 TYPES OF ACCEPTABLE BONDS

A surety bond is acceptable to the Motor Fuels Tax Division if it is filed on Form Gas-1212 and executed by a surety company licensed to do business in this State. A bond secured by collateral is acceptable to the Division if it meets the requirements of 17 NCAC 12A .0303. When a financial institution provides the Division with the necessary data for a bond secured by collateral, the Division prepares a Pledge of Collateral and gives this document to the applicant for execution.

History Note: Authority G.S. 105-262; 105-449.72;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Amended Eff. August 1, 1998;
Recodified from 17 NCAC 09K .0205 Eff. November 1, 2002;

Amended Eff. August 1, 2003.

17 NCAC 12B .0107 IRREVOCABLE LETTER OF CREDIT

The Motor Fuels Division will accept an irrevocable letter of credit executed on the Department's Form Gas 1220.

*History Note: Authority G.S. 105-262; 105-449.72;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0206 effective November 1, 2002.*

SECTION .0200 – TAX AND LIABILITY

17 NCAC 12B .0201 RACING FUEL

Racing fuel that meets all of the following requirements is not considered gasoline under G.S. 105-449.60 and is not subject to the per gallon excise tax:

- (1) Has an octane rating of 110 or higher;
- (2) Contains lead;
- (3) Does not contain detergent additives;
- (4) Does not conform to the Reid Vapor Pressure standards for reformulated or oxygenated gasoline; and
- (5) Does not meet ASTM specifications for gasoline.

*History Note: Authority G.S. 105-262; 105-449.60;
Eff. August 1, 2003.*

SECTION .0300 – PAYMENT AND REPORTING

17 NCAC 12B .0301 REPORTING INFORMATION IN THE PROPER REPORTING PERIOD

All motor fuel transactions must be reported on the tax return for the month or other filing period in which the transaction occurred and may not be carried over to a return for a subsequent period. If, after filing a return, a person discovers information that affects the return, the person must file an amended return for the affected period and must pay any tax, penalty, and interest due with the amended return.

*History Note: Authority G.S. 105-262; 105-449.90;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0301 Eff. November 1, 2002;
Amended Eff. August 1, 2003.*

SECTION .0400 – REFUNDS

17 NCAC 12B .0401 DOCUMENTING SALES TO EXEMPT ENTITIES

A distributor or another vendor that sells motor fuel to an exempt entity may document the sales using third-party vendor lists or computer runs if the lists or runs are in a format the distributor cannot alter. A person that uses vendor lists or computer runs to document sales must keep copies of sales invoices to support the exempt sales.

*History Note: Authority G.S. 105-262; 105-449.105;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0501 Eff. November 1, 2002;
Amended Eff. August 1, 2003.*

17 NCAC 12B .0402 CLAIM FOR REFUND FOR SALES TO EXEMPT ENTITIES

Part 1 of Form Gas-1206 applies to a distributor or another vendor that sells tax-paid motor fuel to an exempt entity at a price that does not include the per gallon excise tax. Part 2 of Form Gas-1206 applies to a credit card company that issues a credit card to an exempt entity that allows the entity to purchase tax-paid motor fuel at a price that does not

include the per gallon excise tax. Part 3 of Form Gas-1206 applies to an exempt entity that purchases motor fuel at a price that includes the per gallon excise tax. A person who submits Form Gas-1206 must complete the applicable Part of the form and submit copies of sales or purchase invoices, as appropriate, with the form.

History Note: Authority G.S. 105-262; 105-449.105;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0502 Eff. November 1, 2002;
Amended Eff. August 1, 2003.

17 NCAC 12B .0403 OFF-HIGHWAY REFUND APPLICATION INFORMATION

The following information must be given on the application for refund of tax paid on motor fuels used for off-highway purpose:

- (1) Name of machinery or equipment in which motor fuels will be used and engine or motor number;
- (2) Type of storage equipment used for storing motor fuels used for highway and off-highway purposes and storage capacity;
- (3) If the applicant is a farmer, each kind of crop and number of acres under cultivation;
- (4) Make, type of vehicles, model and license number, if motor fuel is used in licensed motor vehicles from the same storage tank from which off-highway equipment is serviced;
- (5) Number of gallons of motor fuel on hand at the beginning of refund period and number of gallons on hand at the end of the refund period;
- (6) Number of gallons used for off-highway purposes; and if motor fuel is used from same storage to operate both licensed motor vehicles and off-highway equipment, the number of gallons used during the refund period in licensed motor vehicles.

History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0503 effective November 1, 2002.

17 NCAC 12B .0404 OFF-HIGHWAY REFUND INVOICE REQUIREMENTS

An invoice for each purchase of motor fuel must be submitted with the claim for refund for purchases made for off-highway use during the refund period. Invoices must show the date of purchase, the name of both the purchaser and seller, the address of the seller, the number of gallons purchased, the price per gallon, and the amount paid. A daily, weekly, or monthly statement of purchases of motor fuel is acceptable provided it is prepared by the seller and shows all of the information on each purchase of motor fuel that is required on an individual invoice. Invoices and statements showing alterations or erasures are not acceptable. If no claim for refund was filed for the preceding refund period, an invoice or statement must be attached to substantiate inventory at the beginning of the refund period.

History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0504 Eff. November 1, 2002.
Amended Eff. August 1, 2003.

17 NCAC 12B .0405 OFF-HIGHWAY USERS WITH COMMON STORAGE FACILITIES

No refund is due on motor fuel used to operate the engine of a motor vehicle licensed to travel on the streets and highways, unless otherwise provided by law. If motor fuel is used from the same storage tank from which both licensed motor vehicles and off-highway equipment are serviced, a daily use record must be kept to substantiate the amount withdrawn for licensed motor vehicles and non-licensed equipment. These records must be kept for three calendar years from the date the claim for refund was due to be filed.

History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;

*Recodified from 17 NCAC 09K .0505 effective November 1, 2002;
Amended Eff. August 1, 2003.*

17 NCAC 12B .0406 STATIONARY ENGINE MOUNTED ON A LICENSED MOTOR VEHICLE

No refund is due on motor fuel used to operate a stationary engine mounted on a licensed motor vehicle, except as identified in G.S. 105-449.107, if the motor fuel is used from the same storage tank mounted on the vehicle for the purpose of operating both the stationary engine and the engine used to operate a licensed motor vehicle over the streets and highways.

*History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0506 effective November 1, 2002;
Amended Eff. August 1, 2003.*

17 NCAC 12B .0407 OFF-HIGHWAY USERS WITH SEPARATE TANKS

If separate tanks are used for storage of motor fuels for highway and off-highway use, the seller must indicate on the invoices at the time of delivery whether the motor fuel is for highway or off-highway use.

*History Note: Authority G.S. 105-262; 205-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0507 effective November 1, 2002.*

17 NCAC 12B .0408 DEALERS DELIVERING FUEL INTO OFF-HIGHWAY EQUIPMENT

Dealers of off-highway equipment powered by motor fuel may receive a refund on motor fuel placed into their equipment provided there is no charge for the fuel when the equipment is sold. If the motor fuel is sold, the purchaser may receive a refund on the motor fuel purchased and used.

*History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0508 effective November 1, 2002.*

17 NCAC 12B .0409 VEHICLES WITH SPECIAL MOBILE EQUIPMENT LICENSE

A claimant operating a vehicle with a special mobile equipment tag is not entitled to a refund on any fuel that is used in operating the motor vehicle on the streets and highway.

*History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0509 effective November 1, 2002.*

17 NCAC 12B .0410 REMOVAL OF LICENSE PLATE

(a) In order to obtain a refund, a person may remove his license plates and surrender the plates to the Commissioner of Motor Vehicles, or his agents, or the Motor Fuel Tax Division, North Carolina Department of Revenue, for the period the vehicles will not be operating on the streets and highways.

(b) Any person requesting a refund on tax paid motor fuel used in motor vehicles on which the license plates have not been removed and surrendered will have the refund claim disallowed.

*History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0510 effective November 1, 2002.*

17 NCAC 12B .0411 MUNICIPAL CORPORATION AND CITY TRANSIT SYSTEM

(a) Municipal Corporation. -- A municipal corporation exempt under G.S. 105-449.88 is an entity identified by statute as a municipal corporation or an entity that meets the definition of "municipality" in G.S. 105-273.

(b) City Transit System. -- The Department determines the area that is included within a city transit system in accordance with Rule R2-69 of the North Carolina Utilities Commission. This Rule is incorporated by reference and the incorporation includes any future changes to the rule. The rule can be obtained free of charge from the Chief Clerk at the Utilities Commission, (919) 733-7328.

History Note: Authority G.S. 105-262; 105-449.88; 105-449.106;
Eff. March 1, 1996;
Amended Eff. August 1, 1998;
Recodified from 17 NCAC 09K .0511 Eff. November 1, 2002;
Amended Eff. August 1, 2003.

17 NCAC 12B .0412 PROPORTIONAL REFUNDS

(a) Operators of vehicles identified in G.S. 105-449.107 must file Form Gas-1200C to obtain a refund of tax paid motor fuel used in the operation of these vehicles.

(b) The claim for refund requires an accounting of tax paid motor fuel purchased and used. Invoices for tax paid motor fuel must be submitted with the claim for refund.

(c) The following records must be kept to support a claim for refund:

- (1) Mileage records by vehicle. The records must include odometer or hubmeter readings.
- (2) Fuel records by vehicle.
- (3) Cubic yards of concrete mix delivered, by vehicle; or tons of compacted waste hauled, by vehicle; or tons of bulk feed or fertilizer hauled, by vehicle; or tons of mulch or other similar materials hauled, by vehicle.
- (4) Withdrawal records kept in accordance with 17 NCAC 12B .0405, if withdrawals of motor fuel from bulk storage are used to service vehicles for which a refund is requested.

History Note: Authority G.S. 105-262; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0512 effective November 1, 2002;
Amended Eff. August 1, 2003.

17 NCAC 12B .0413 OFF-HIGHWAY AND TAXICAB REFUNDS

(a) In order to obtain a refund of tax paid on motor fuel, the following claims for refund must be filed:

- (1) Persons using tax paid motor fuel, in other than licensed vehicles, must file Form Gas-1201; or
- (2) Volunteer fire departments, volunteer rescue squads, "sheltered workshop" organizations recognized by the Department of Human Resources, city transit systems, and private non-profit organizations transporting passengers under contract with or at the express designation of units of local government must file Form Gas-1200; or
- (3) Operators of taxicabs must file Form Gas-1200B to obtain a refund for tax paid motor fuel used in transporting fare-paying passengers.

(b) The claims for refund require an accounting of tax paid motor fuel purchased and used. Invoices for tax paid motor fuel must be submitted with the claim for refund.

History Note: Authority G.S. 105-262; 105-449.106; 105-449.107;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Recodified from 17 NCAC 09K .0513 Eff. November 1, 2002;
Amended Eff. August 1, 2003.

17 NCAC 12B .0414 ELIGIBILITY FOR REFUNDS

To enable the Secretary or a person designated by the Secretary to prepare audits, bulk-end users, retailers, and users of motor fuel must maintain the following records for a period of three years:

- (1) Users:
 - (a) All fuel receipts, highway and non-tax-paid;
 - (b) Quarterly odometer readings, regardless of weight classification;
 - (c) Purchase and disposition dates of fleet vehicles with beginning and ending odometer readings;
 - (d) List of current vehicles by registered gross weight; and
 - (e) List of motor carrier decals received, indicating the decals applied to vehicles and those still on hand.
- (2) Bulk-End Users:
 - (a) All fuel receipts, highway and non-tax-paid;
 - (b) Withdrawal statements of highway and non-highway fuel from bulk storage facilities;
 - (c) Quarterly odometer readings, regardless of weight classification;
 - (d) Purchase and disposition dates of fleet vehicles with beginning and ending odometer readings;
 - (e) List of current vehicles by registered gross weight;
 - (f) Quarterly beginning and ending inventory of highway and non-highway fuel; and
 - (g) List of motor carrier decals received, indicating the decals applied to vehicles and those still on hand.
- (3) Retailers:
 - (a) All fuel receipts and bills of lading;
 - (b) Quarterly totalizer meter readings;
 - (c) Fuel availability schedules;
 - (d) Intrastate mileage records; and
 - (e) Quarterly beginning and ending inventory of highway and non-highway fuel.

*History Note: Authority G.S. 105-262; 105-449.121;
 Temporary Adoption Eff. January 1, 1996;
 Eff. March 1, 1996;
 Recodified from 17 NCAC 09K .0514 Eff. November 1, 2002;
 Amended Eff. August 1, 2003.*

SECTION .0500 – ENFORCEMENT AND ADMINISTRATION

17 NCAC 12B .0501 RESERVED

**17 NCAC 12B .0502 RECORD-KEEPING REQUIREMENTS OF BULK-END USERS, RETAILERS,
 AND USERS**

To enable the Secretary or a person designated by the Secretary to prepare audits, bulk-end users, retailers, and users of motor fuels must maintain the following records for a period of three years:

- (1) Users:
 - (a) All fuel receipts, highway and non-tax-paid;
 - (b) Quarterly odometer readings, regardless of weight classification;
 - (c) Purchase and disposition dates of fleet vehicles; and
 - (d) List of current vehicles by registered gross weight.
- (2) Bulk-End Users:
 - (a) All fuel receipts, highway and non-tax-paid;
 - (b) Withdrawal statements of highway fuel from non-tax-paid bulk storage facilities;
 - (c) Quarterly odometer readings, regardless of weight classification;
 - (d) Purchase and disposition dates of fleet vehicles; and
 - (e) List of current vehicles by registered gross weight.
- (3) Retailers:
 - (a) All fuel receipts and bills of lading;
 - (b) Meter readings;
 - (c) Fuel availability schedules; and
 - (d) Intrastate mileage records.

History Note: Authority G.S. 105-262; 105-449.121;
Temporary Adoption Eff. January 1, 1996;
Eff. March 1, 1996;
Amended Eff. July 1, 2000;
Recodified from 17 NCAC 09K .0602 effective November 1, 2002.

17 NCAC 12B .0503 LICENSED VEHICLES USING DYED DIESEL FUEL

The penalties set out in G.S. 105-449.117 for using dyed diesel fuel in a highway vehicle that is licensed or required to be licensed may be assessed whenever the presence of dye is detected in a sample taken from the fuel tank of the vehicle.

History Note: Authority G.S. 105-262; 105-449.117;
Eff. August 1, 2003.