

## DISPENSING OF MOTOR FUELS AND ASSOCIATED PENALTIES

### DISPENSING OF FUEL (N.J.A.C.5:70-3,)

**2204.2 Attended motor fuel-dispensing facilities.** Attended motor fuel-dispensing facilities shall have at least one qualified attendant on duty while the facility is open for business. The attendant's primary function shall be to supervise, observe and control the dispensing of fuel. The attendant shall prevent the dispensing of fuel into containers that do not comply with Section 2204.4.1, control sources of ignition, give immediate attention to accidental spills or releases, and be prepared to use fire extinguishers.

**2204.4 Dispensing into portable containers.** The dispensing of flammable or combustible liquids into portable approved containers shall comply with Sections 2204.4.1 through 2204.4.3

**2204.4.1 Approved containers required.** Class I, II and IIIA liquids shall not be dispensed into a portable container unless such container is of approved material and construction, and has a tight closure with screwed or spring-loaded cover so designed that the contents can be dispensed without spilling. Liquids shall not be dispensed into portable tanks or cargo tanks.

**2204.4.1.1 Portable containers.** Portable containers intended to hold 10 gallons (38L) or less and to be used for gasoline or other flammable liquid shall be red in color. The name of the flammable liquid shall be prominently displayed on the container in bold letters of a contrasting color. The containers shall be of metal or approved plastic with a spring-loaded or screw cap. Containers for kerosene shall be blue.

**2204.4.1.1.1.** Whenever flammable liquids or kerosene are dispensed into or offered for sale in containers, there shall be a prominent sign located in a conspicuous location indicating the required color and construction of this container for each product sold. The sign shall not be less than 12 inches in the least dimension.

**2204.2 Nozzle operation.** A hose nozzle valve used for dispensing Class I liquids into a portable container shall be in compliance and be manually held open during the dispensing operation.

**2204.4.3 Location of containers being filled.** Portable containers shall not be filled while located inside the trunk, passenger compartment or truck bed of a vehicle.

**2205.5 Fire extinguishers.** Approved portable fire extinguishers with a minimum rating of 2-A:20-B:C shall be provided and located such that an extinguisher is not more than 30 feet from pumps, dispensers or storage tank fill pipe openings.

**2205.7 Tank fill connections.** Delivery of flammable liquids to tanks more than 1,000 gallons (3785L) in capacity shall be made by means of approved liquid- and vapor-tight connections between the delivery hose and tank fill pipe. Where tanks are equipped with any type of vapor recovery system, all connections required to be made for the safe and proper functioning of the particular vapor recovery process shall be made. Such connections shall be made liquid and vapor tight and remain connected throughout the unloading process. Vapors shall not be discharged at grade level during delivery.

**PENALTIES (N.J.A.C.5:70-2.12)**

**N.J.A.C. 5:70-2.12 (b)** The maximum penalty for any act of omission in violation of the Act or Code that is not enumerated in this subsection shall be \$5,000 per violation per day. A violation of N.J.A.C.5:70-3 or 4 shall subject a violator to a maximum penalty of \$500.00 per violation per day.

**N.J.A.C.5:70-2.12(b)5. Failure to comply with a lawful action:**

i. A negligent or inadvertent failure to comply with a lawful order, ruling, notice or other action of the Commissioner or a local enforcing agency-a maximum of \$2,000 per occurrence.

ii. A refusal or deliberate failure to comply with a lawful order, ruling, notice or other action of the Commissioner of a local enforcing agency-a maximum of \$5,000 per occurrence.

**N.J.A.C.5:70-2.12(10). Special hazards:**

i. For any violation of N.J.A.C.5:70-3 or 4 of this Code which is not specifically enumerated above by which, under the circumstances, presents a specific hazard to life – a maximum of \$5,000 per violation per day. The violation notice must set for the basis for determining the basis of a special hazard

**N.J.A.C.5:70-2.12(c).** Each day during which the violation remains unabated after the date or time specified in the order or notice for its correction or termination shall constitute an additional and separate violation.

**N.J.A.C.5:70-2.12(e).** A violation that is recurring justifies imposition of an immediate penalty without the necessity for an interval in which correction can be made. A violation shall be deemed to be a recurring violation if a notice has been served within two years from the date that a previous notice was served and the violation, premises and responsible party are substantially the same.

**N.J.A.C.5:70-2.12A dedicated penalties**

**N.J.A.C.5:70-2.12A(a)1.** Whenever any penalty is assessed pursuant to N.J.A.C.5:70-2.12, then a dedicated penalty in like amount shall be assessed pursuant to this section.

**N.J.A.C.5:70-2.13 Compensatory penalties**

**N.J.A.C.5:70-2.13(a)** An owner who has been given notice of a violation shall be responsible for a penalty not exceeding \$150,000 or the costs of suppression any fire which directly or indirectly results from the violation, whichever is greater. To create an obligation, the violation need not have been the initial cause of the fire; it is sufficient if the violation's existence has increased the intensity of the fire or the difficulty of its extinguishment. This penalty is independent of any penalty issued in accordance with N.J.A.C.5:70-2.12 for failure to abate the violation. Suppression costs may be imposed for a fire which occurs during the period allowed for abatement.