



FYI Excise 5

Colorado Motor and Aviation Fuel Application, Licensing, and Reporting Requirements

WHO MUST BE LICENSED?

Any person who acts as a distributor, supplier, importer, exporter, carrier, or blender of fuel and terminal operators in this state must be licensed as such (refer to the following section for licensing requirements). A person must obtain a separate license for each of the above activities.

Licensing Requirements:

- Any broker or person who acts as a supplier, manufacturer, and distributor of fuel must be licensed as a **distributor**. In addition:
 - Any person who imports fuel into this state must be licensed as an **importer**.
 - Any person who acquires fuel in this state and delivers it to another state must be licensed as an **exporter**. Furthermore, to obtain an exporter license, one must present a copy of their fuel distributor license(s) for the destination jurisdiction(s).
 - Any person who blends fuel outside of the fuel distribution system, such as in refineries, must be licensed as a **blender**.
- Any carrier who transports fuel that they do not own must be licensed as a **common carrier**.
- A storage facility or a tank farm where fuel is stored and then removed for distribution must be licensed as a **terminal operator**.

Current licensed distributors wishing to perform any activity other than what they are currently licensed for must submit an amended application to obtain a license for the other activities. For example, if one is currently licensed as a distributor and intends to import fuel into Colorado, an application requesting an importer license will be required before such a distributor imports fuel into Colorado.

Any entity operating without a license is subject to civil penalties in the amount of a \$5,000 fine for the first offense; \$10,000 for the second offense; and \$15,000 for the third or subsequent violation.

Definitions

Blender - a person who blends fuel (gasoline/special fuel) outside the fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in the tank of any vehicle, or any rail car, trailer, truck, or other equipment suitable for ground transportation is not in the fuel distribution system.

Common Carrier or Carrier - a person, including railroad operator, who transports fuel from a terminal or transports fuel imported or exported into this state. A Colorado license is required for carriers who do not own the fuel they transport.

Distributor - a broker, or a person who acquires fuel from a supplier, importer, blender, or another distributor for the subsequent sale and distribution by tank cars, tank trucks, or both. Distributor also means any person who refines, manufactures, produces, compounds, blends, or imports fuel.

Exporter - a person who acquires fuel in this state exclusively for delivery to another state in which he or she is licensed.

Importer - a person who imports fuel in bulk or by transport load into this state from another state by truck, rail, or pipeline.

Person - every individual, firm, association, joint-stock company, syndicate, limited liability company, partnership, joint venture, corporation, estate, trust, or any group or combination thereof acting as a unit.

Pipeline - a fuel distribution system that moves product, in bulk, through a pipe, either from a refinery to a terminal, or from a terminal to another terminal.

Position Holder - the person who holds the inventory position of a motor fuel, as reflected on the records of the terminal operator. A person holds the inventory position when that person has a contractual agreement with the terminal operator for the use of storage facilities or terminaling services at the terminal. This also includes a terminal operator who owns motor fuel in their terminal.

Supplier - a person who owns and stores fuel in a pipeline terminal, terminal, or refinery in or outside of this state for sale or use within or outside the boundaries of Colorado.

Terminal - a fuel storage and distribution facility that is supplied by a pipeline, vessel, or refinery, or a tank farm from which fuel may be removed for distribution.

Terminal Operator – any person that owns, operates, or otherwise controls a terminal.

APPLICATION PROCEDURES

To become licensed as a distributor, supplier, importer, exporter, carrier, or blender in Colorado you must submit a completed Fuel Distributors License Application (DR 7064) with the appropriate license fees and bond.

After the application has been reviewed and approved by the department, a fuel license will be issued for the fuel operations of your business. Your license will indicate the operations applied for and approved. To add additional operations, an amended application form DR 7064 must be submitted to the department before operations begin. A revised license will be issued upon approval.

A *carrier license* is required for third party transporters of fuel, those who do not own the fuel or transport another entity's fuel. If you only transport your own fuel, you are not required to have a carrier license, and fuel loads are reported on your fuel distributor tax return.

Exporters and importers are required to have a fuel distributor license. Exporters are also required to have a license in the jurisdiction to which they are exporting fuel, unless the other jurisdiction does not require a license due to the point of taxation.

The review, processing, approval, and issuance of your license can take four to six weeks. Plan and provide enough time for the processing of your application to assure you have a license in time to conduct your business in Colorado. **License fees** are \$10 for each application, and \$5 for each additional location.

The following information must be submitted with the Fuel License Application (Form DR 7064):

- Complete list of company owners.
- Complete financial statement.
- Corporate officers, title, and phone number.
- Colorado business locations and operations.
- Information how fuel is transported.
- Import and export information and licenses.
- Blending operation information including the products blended, purpose for blending, disposition of products, and location of the operation.

If the requested information on the application is not provided or your application is incomplete, it will be returned. A checklist, form DR 0214, is available at www.TaxColorado.com to assist with completion of the requirements.

BOND REQUIREMENTS

Your application must be accompanied by a bond that is three times your monthly tax liability for all motor and aviation fuels acquired, imported, offered for sale, or used in Colorado. The bond requirements range from a minimum bond of \$25,000 to a maximum bond amount of \$200,000.

If at any time after issuance of a fuel distributor license, the department finds you are acquiring fuel in quantities where the tax liability exceeds the current bond deposit, the Department of Revenue by written notice will demand an additional bond deposit to secure the greater tax liability. The aggregate amount of the deposit shall in no event exceed \$200,000.

Acceptable bonds include surety bonds or negotiable certificates of deposit issued by a commercial financial institution doing business in Colorado.

Surety bonds must be the original bonds with seals and notarization. The Gasoline and/or Special Fuel Distributors Bond (DR 7065) must be used when posting a surety bond.

A negotiable bond must be assigned to the Department of Revenue and cannot be released to the applicant unless the institution receives a signed release from the department.

After your account has been open for five consecutive years without any late filing of reports or late payment of taxes, a bond will not be required. If a subsequent late or non-filing penalty occurs the bond requirement may be reinstated. [§39-27-104(2.5)(a) and (b), C.R.S.].

Requests for the cancellation or change of a surety bond must come from the surety company and be the original document. Prior to cancellation of a bond or a change of the surety company, a replacement bond must be received if required, by the Colorado Department of Revenue. The old bond will remain in effect up to sixty days after written notification is received, to allow for the posting of a replacement bond. Any liability accrued or which may accrue before the expiration of 60 days shall not be discharged from the surety company.

LICENSE ISSUE AND REQUIREMENTS

After your application has been reviewed and approved by the department, you will be issued a fuel license(s). A fuel license is location specific for your operations. Each fuel license must be posted at the location of the business to which it applies. Remember it can take up to four to six weeks to process your application and issue your license(s).

Fuel licenses are valid until surrendered, suspended, or revoked.

BUSINESS/OWNERSHIP CHANGES

Any person acquiring a ten per cent equity holding in a company must notify the Colorado Department of Revenue of the acquisition within 30 days. The notification must be in writing. Any change in ownership or equity amounting to ten percent within a 12-month period will require written notification to the Department of Revenue within 30 days.

If the ownership is a change other than stocks of a publicly traded company, a new application must be submitted to the Department of Revenue. New ownership may require a new bond for financial guarantee of taxes. If a change in ownership or operations of a business requires a new Federal Employer Identification Number (FEIN), a new application must be filed with the Colorado Department of Revenue.

When any person ceases to be a distributor, supplier, importer, exporter, carrier, or blender of fuel by reason of discontinuance, sale, or transfer of the person's business at any location, the person must notify the Department of Revenue in writing at the time the discontinuance, sale, or transfer takes effect. A final fuel tax report must be filed and the payment of all taxes, fees, penalties, and interest become due with the discontinuance or sale of the business. All licenses must be surrendered to the department with the notification.

Fuel licenses are not transferable to another person who purchases your business or operations. New owners must apply for a new license.

FILING AND REPORTING REQUIREMENTS

Colorado law requires the electronic reporting of all motor fuel and aviation fuel transactions by Colorado licensed fuel distributors, blenders, exporters, importers, and suppliers. Each month, using the Colorado Fuel Tracking System (COFTS-a secure Web based application), forms DR 7050 (Distributor Tax Return), DR 7055 (Distributor Schedule of Receipts Worksheet), and DR 7056 (Distributor Schedule of Disbursements Worksheet) must be completed and filed. This information is used to track all movement of motor fuel and determines the amount of state gasoline, special fuel, aviation gasoline and aviation jet fuel excise taxes due. The reporting of the Environmental Response Surcharge Fee is also reported and paid at the same time.

Colorado fuel licensees report all operations in one electronic report, which includes all information for your operations (exporting, blending, importing, and distributing).

Licensed fuel carriers (or third-party transporter) must file an informational report. A third-party transporter does not own the fuel transported, but hauls fuel for other entities. Licensed fuel carriers must report those loads exported from or imported into Colorado.

Colorado terminal operators are required to report the movement of all fuel through the terminal. The terminal operator report provides the state complete accountability of all fuel moving through the terminal.

The electronic filing of all fuel transactions will require the following information:

1. Inventory report including beginning inventory, total receipts, total disbursements, and ending inventory by product type.
2. Schedule of receipts by product code and position holder.
3. Schedule of disbursements by position holder.
4. Schedule of inventories by position holder.

The electronic filing of the forms, information and electronic payment of the excise tax is due on the 26th of the month following the reporting month. For example, July's fuel transactions must be reported and fuel tax paid by August 26.

To file electronically with the COFTS, you must have a signed "COFTS Electronic Trading Partner Agreement" on file. Additional information concerning the electronic filing using COFTS is available at www.cofts.com or by calling (720) 962-4569 (local) or (877) 352-2586 (toll free).

PAYMENT OF FUEL TAXES DUE

Colorado law also requires that any distributor, supplier, carrier, exporter, importer, blender, refiner, licensee, or terminal operator shall use Electronic Funds Transfer (EFT) to remit all taxes required to be remitted to the executive director of the Department of Revenue. [39-27-105.3, C.R.S.]

DIVERSION REPORTING

Loads scheduled to be delivered to a location outside of Colorado, but diverted to a Colorado location, must be reported to the National Fuel Diversion Registry within 24 hours of the diversion. This is required of all Colorado fuel licensees and third party carriers. To register a diversion, go to the Web at www.trac3.net

When a diversion is reported, you will receive a diversion tracking number to report delivery information on a diverted load. Diversions are tracked by bill of lading number, date, and TCN (terminal code number.) Information required when reporting a diverted load is:

- Carrier name and FEIN.
- Purchaser name and FEIN.
- Terminal Code where fuel was acquired and transportation mode.
- Original destination state and revised destination state.
- Document Number (Bill of Lading #) and date shipped.
- Type of fuel and gross, net, and billed gallons.

RECORDKEEPING REQUIREMENTS

Colorado law requires that you keep true and complete records of your fuel tax returns, receipts, disbursements, and activities for at least three years after filing of returns.

FUEL TAXES AND FEES

Gasoline and gasohol motor fuel taxes are due when acquired from a terminal and removed for distribution. Three tax-deferred transactions are allowed between Colorado licensed distributors after the fuel has left the terminal of origin. No more than three tax-deferred transactions are allowed. The tax is calculated on gross gallons acquired. The tax rate is 22 cents per gallon.

Aviation fuel taxes (gasoline and jet) are due when acquired and removed from the terminal rack. Three tax-deferred transactions are allowed between Colorado licensed distributors. The tax rate for aviation gasoline is 6 cents per gallon. The tax rate for aviation jet fuel is 4 cents per gallon. When reporting aviation fuel disbursements, you must provide the airport destination in Column 4 Distributor Schedule of Disbursements Worksheet (DR 7056) The Federal Aviation Administration airport code is used to report the destination airport.

The *special fuel excise tax* is due when acquired from a terminal and removed for distribution. Three tax-deferred transactions are allowed between Colorado licensed distributors. The tax is due on gross gallons acquired. The rate is 20.5 cents per gallon.

The *environmental response surcharge fee* is due from all distributors who report the acquisition of fuel in Colorado. The rate fluctuates based on revenue in the Petroleum Storage Tank Fund. See FYI Excise 11, Environmental Response Surcharge and Liquefied Petroleum Gas Inspection Fee for detailed information.

ALLOWANCES

When reporting the acquisition of gasoline and special fuel and determining the amount of excise tax due, Colorado law provides for a two percent allowance of the total amount of fuel to be deducted by the licensed distributor. The two percent allowance covers any losses in transit and in unloading the fuel and costs of collection. Out of this allowance, the licensed distributor shall make to each retailer an allowance of one percent of the amount of gasoline or special fuel delivered during each calendar month as shown by delivery invoices signed by the retailer.

SALES TAX ON AVIATION JET FUEL

Colorado state and state-collected local sales tax is due on aviation jet fuel used in turbo-propeller or jet engine aircraft. Sales tax is charged on the purchase price of fuel. The purchase price may include the cost of fuel, state and federal excise taxes, and any airport fuel flowage fees.

The amount of aviation jet fuel sold (retail sales) is reported when the retailer/distributor files their Colorado Aviation Fuel Tax Return and Reporting Form. Retail sales tax filers will report on form DR 1510, retailer's use tax filers will report on form DR 1520 and consumer use tax filers will report on form DR 1530. For additional information, see FYI Sales 57, Sales and Use Tax Applicable to Gasoline and Special Fuels.

EXEMPT SALES

Only Colorado fuel licensees (distributor, supplier, blender, or importer) responsible for the collection of the excise tax can sell fuel, which is exempt from the Colorado fuel excise tax, to users.

Gasoline can only be sold without excise tax to *government entities*. The gasoline must be requisitioned and used by the government entity and paid for with funds drawn from the government entity. Government entities must apply for and receive an exemption certificate from the Colorado Department of Revenue before they can purchase fuel tax exempt. Government entities can apply for an exemption certificate by completing the Application for Fuel Tax Exemption Certificate for Government or Political Subdivision (DR 0241) available at www.TaxColorado.com

Special fuel can be sold without excise tax to government entities, and the same guidelines as gasoline apply. All other sales of clear diesel fuel must include the excise tax. If purchasers feel they have an exempt use of the fuel, they can apply to the Department of Revenue for a refund See FYI Excise 7, Tax Refunds for Exempt Use of Fuel.

Dyed diesel fuel is sold without excise tax to be used for exempt purposes off road such as agricultural, home heating, or commercial manufacturing. Dyed diesel is not exempt from the Environmental Response Surcharge fee.

Aviation fuel is exempt from fuel excise tax when sold to commercial and scheduled air carriers that are exempt from the federal aviation fuel taxes. Aviation fuel sold to government entities is exempt from the Colorado aviation excise tax.

The *Environmental Response Surcharge fee* is collected on all fuel sold in Colorado, with the exception of: aviation fuel, fuel exported out of Colorado and fuel sold to railroads for off road use.

All other deliveries and sales of fuel must be sold tax collected and be reported as such when filing the Distributor Tax Return (DR 7050). The entities purchasing tax-paid fuel and using the fuel for exempt purposes may apply for an exempt fuel tax refund. See FYI Excise 7, Tax Refunds for Exempt Use of Fuel, for application procedures and claiming refunds.

Refund Process for Fuel Licensees

Colorado fuel licensees responsible for collecting, reporting, and remitting the fuel excise tax may claim a fuel tax refund for the following reasons:

- Mathematical error on the return
- Mistake of fact or law
- Gasoline or special fuel lost beyond the control of the distributor, such as by fire, explosion, or accident.

The fuel licensee must retain records supporting the error or loss, and the documentation must be available upon request or submitted with a refund claim.

Supporting documentation includes the original delivery and receipt information, the distributor tax return, letter of credit from the Department of Revenue, amended returns, receipts and disbursement schedules, and any documentation supporting the loss of fuel.

Destroyed gasoline or special fuel credit is allowed for tax paid or accrued on gasoline or special fuel that is lost or destroyed by fire, lightning, flood, windstorm, explosion, accident or other cause beyond the control of the distributor or transporter of such fuel. To obtain a credit or refund, the distributor paying the tax on the load must:

- Within 30 days of the loss or destruction, notify the Department of Revenue.
- Within 30 days of the loss or destruction, file with the department any proof of the loss or destruction that may be required.

Notification must include place, time, and an explanation of the accident or loss, the type of fuel, number of gallons, and company name and address. Written proof of loss would be an accident report, insurance claim or report, or other documented information to support the claim for loss.

Exempt Fuel Use Refunds

Fuel used to power equipment off road for commercial purposes may qualify for a fuel tax refund. These fuel users must apply to the Colorado Department of Revenue, obtain a fuel tax refund permit account, and submit claims for refunds. For more information, see FYI Excise 7, Tax Refunds for Exempt Use of Fuel. If you have customers that may qualify for a fuel tax refund, you can download FYI Excise 7, the application form (DR 7189), and the refund claim form (DR 7118) at www.TaxColorado.com or order by calling (303) 205-8205.

If you have questions regarding gasoline and fuel taxes, visit any Taxpayer Service Center, or call (303) 205-8205.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed, and/or approved these FYIs.